

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 6089

To address the bark beetle epidemic, drought, deteriorating forest health conditions, and high risk of wildfires on National Forest System land and land under the jurisdiction of the Bureau of Land Management in the United States by expanding authorities established in the Healthy Forest Restoration Act of 2003 to provide emergency measures for high-risk areas identified by such States, to make permanent Forest Service and Bureau of Land Management authority to conduct good-neighbor cooperation with States to reduce wildfire risks, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 9, 2012

Mr. TIPTON (for himself, Mr. COFFMAN of Colorado, Mr. GARDNER, Mr. GOSAR, Mr. LAMBORN, and Mr. WALDEN) introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committee on Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To address the bark beetle epidemic, drought, deteriorating forest health conditions, and high risk of wildfires on National Forest System land and land under the jurisdiction of the Bureau of Land Management in the United States by expanding authorities established in the Healthy Forest Restoration Act of 2003 to provide emergency measures for high-risk areas identified by such States, to make permanent Forest Service and Bureau of Land Management authority to conduct good-neighbor

cooperation with States to reduce wildfire risks, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
 5 “Healthy Forest Management Act of 2012”.

6 (b) TABLE OF CONTENTS.—The table of contents for  
 7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

Sec. 3. Congressional declaration of bark beetle epidemic, drought, deteriorating forest health conditions, and high risk of wildfires in States as imminent threat.

Sec. 4. State designation of high-risk areas of National Forest System and public lands.

Sec. 5. Designation of high-risk areas by the Secretary concerned.

Sec. 6. Use of emergency hazardous fuels reduction projects for high-risk areas.

Sec. 7. Applicability of expedited procedures and authorities of Healthy Forests Restoration Act of 2003 to emergency hazardous fuels reduction projects.

Sec. 8. Forest Service and Bureau of Land Management good-neighbor cooperation with States to reduce wildfire risks.

Sec. 9. Stewardship end result contracting project authority.

8 **SEC. 2. DEFINITIONS.**

9 In this Act:

10 (1) EMERGENCY HAZARDOUS FUELS REDUC-  
 11 TION PROJECT.—The term “emergency hazardous  
 12 fuels reduction project” means a project or activity  
 13 carried out in a high-risk area to address the bark  
 14 beetle epidemic, drought, or deteriorating forest  
 15 health conditions and the resulting imminent risk of  
 16 devastating wildfires.

1           (2) HIGH-RISK AREA.—The term “high-risk  
2           area” means an area of National Forest System  
3           land or public lands identified under section 4 as an  
4           area suffering from the bark beetle epidemic,  
5           drought, or deteriorating forest health conditions,  
6           with the resulting imminent risk of devastating  
7           wildfires, or otherwise at high risk for bark beetle  
8           infestation, drought, or wildfire.

9           (3) NATIONAL FOREST SYSTEM.—The term  
10          “National Forest System” has the meaning given  
11          that term in section 11(a) of the Forest and Range-  
12          land Renewable Resources Planning Act of 1974 (16  
13          U.S.C. 1609(a)).

14          (4) PUBLIC LANDS.—The term “public lands”  
15          has the meaning given that term in section 103(e)  
16          of the Federal Land Policy and Management Act of  
17          1976 (43 U.S.C. 1702(e)).

18          (5) SECRETARY CONCERNED.—The term “Sec-  
19          retary concerned” means—

20                 (A) the Secretary of Agriculture, with re-  
21                 spect to the National Forest System; and

22                 (B) the Secretary of the Interior, with re-  
23                 spect to public lands.

24          (6) The term “State” means any of the several  
25          States containing National Forest System land or

1 public lands. The term includes the Commonwealth  
2 of Puerto Rico.

3 **SEC. 3. CONGRESSIONAL DECLARATION OF BARK BEETLE**  
4 **EPIDEMIC, DROUGHT, DETERIORATING FOR-**  
5 **EST HEALTH CONDITIONS, AND HIGH RISK**  
6 **OF WILDFIRES IN STATES AS IMMINENT**  
7 **THREAT.**

8 Congress hereby declares that the bark beetle epi-  
9 demic, drought, and deteriorating forest health conditions  
10 on National Forest System land and public lands in the  
11 States, with the resulting imminent risk of devastating  
12 wildfires that pose a significant threat to the economic sta-  
13 bility of communities in the affected areas and the health,  
14 safety, and well-being of residents, firefighters, and visi-  
15 tors to the areas, is an “imminent threat” within the  
16 meaning of section 294.12(b)(1) of title 36, Code of Fed-  
17 eral Regulations (2002 Edition) and any existing or pend-  
18 ing roadless area management rule applicable to a State.

19 **SEC. 4. STATE DESIGNATION OF HIGH-RISK AREAS OF NA-**  
20 **TIONAL FOREST SYSTEM AND PUBLIC LANDS.**

21 (a) DESIGNATION AUTHORITY.—The Governor of a  
22 State may designate high-risk areas of the National For-  
23 est System and public lands in the State for the purposes  
24 of addressing—

1           (1) deteriorating forest health conditions in ex-  
2           istence as of the date of the enactment of this Act  
3           due to the bark beetle epidemic or drought, with the  
4           resulting imminent risk of devastating wildfires; and

5           (2) the future risk of insect infestations or dis-  
6           ease outbreaks through preventative treatments to  
7           improve forest health conditions.

8           (b) CONSULTATION.—In designating high-risk areas,  
9           the Governor of a State shall consult with county govern-  
10          ment from affected counties and with affected Indian  
11          tribes.

12          (c) EXCLUSION OF CERTAIN AREAS.—The following  
13          National Forest System land or public lands may not be  
14          designated as a high-risk area:

15                (1) A component of the National Wilderness  
16                Preservation System.

17                (2) A National Monument.

18          (d) STANDARDS FOR DESIGNATION.—Designation of  
19          high-risk areas shall be consistent with standards and  
20          guidelines contained in the land and resource management  
21          plan or land use plan for the unit of the National Forest  
22          System or public lands for which the designation is being  
23          made, except that the Secretary concerned may modify  
24          such standards and guidelines to correspond with a spe-  
25          cific high-risk area designation.

1           (e) TIME FOR INITIAL DESIGNATIONS.—The first  
2 high-risk areas should be designated not later than 60  
3 days after the date of the enactment of this Act but may  
4 be designated at any time consistent with subsection (a).

5           (f) DURATION OF DESIGNATION.—The designation of  
6 a high-risk area in a State shall expire 20 years after the  
7 date of the designation, unless earlier terminated by the  
8 Governor of the State.

9           (g) REDESIGNATION.—The expiration of the 20-year  
10 period specified in subsection (f) does not prohibit the  
11 Governor from redesignating an area of the National For-  
12 est System land or public lands as a high-risk area under  
13 this section if the Governor determines that the area of  
14 National Forest System land or public lands continues to  
15 be subject to the terms of this section

16           (h) RECOGNITION OF VALID AND EXISTING  
17 RIGHTS.—The designation of a high-risk area shall not  
18 be construed to limit or restrict—

19                 (1) access to National Forest System land or  
20 public lands included in the area for hunting, fish-  
21 ing, and other related purposes; or

22                 (2) valid and existing rights regarding the Na-  
23 tional Forest System land or public lands.

1 **SEC. 5. DESIGNATION OF HIGH-RISK AREAS BY THE SEC-**  
2 **RETARY CONCERNED.**

3 (a) DESIGNATION AUTHORITY.—The Secretary con-  
4 cerned may designate high-risk areas of the National For-  
5 est System and the public lands for the purposes of ad-  
6 dressing—

7 (1) deteriorating forest health conditions in ex-  
8 istence as of the date of the enactment of this Act  
9 due to the bark beetle epidemic or drought, with the  
10 resulting imminent risk of devastating wildfires; and

11 (2) the future risk of insect infestations or dis-  
12 ease outbreaks through preventative treatments to  
13 improve forest health conditions.

14 (b) CONSULTATION.—In designating high-risk areas,  
15 the Secretary concerned shall consult with Governors of  
16 affected States, county government from affected counties,  
17 and with affected Indian tribes.

18 (c) EXCLUSION OF CERTAIN AREAS.—The following  
19 National Forest System land or public lands may not be  
20 designated as a high-risk area:

21 (1) A component of the National Wilderness  
22 Preservation System.

23 (2) A National Monument.

24 (d) STANDARDS FOR DESIGNATION.—Designation of  
25 high risk areas shall be consistent with standards and  
26 guidelines contained in the land and resource management

1 plan or land use plan for the unit of the National Forest  
2 System or public lands for which the designation is being  
3 made, except that the Secretary concerned may modify  
4 such standards and guidelines to correspond with a spe-  
5 cific high-risk area designation.

6 (e) TIME FOR INITIAL DESIGNATIONS.—The first  
7 high-risk areas should be designated not later than 60  
8 days after the date of the enactment of this Act but may  
9 be designated at any time consistent with subsection (a).

10 (f) DURATION OF DESIGNATION.—The designation of  
11 a high-risk area in a State shall expire 20 years after the  
12 date of the designation, unless earlier terminated by the  
13 Secretary concerned.

14 (g) REDESIGNATION.—The expiration of the 20-year  
15 period specified in subsection (f) does not prohibit the Sec-  
16 retary concerned from redesignating an area of the Na-  
17 tional Forest System or public lands as a high-risk area  
18 if the Secretary determines that the National Forest Sys-  
19 tem land or public lands continues to be subject to the  
20 terms of this section, except that such redesignation is  
21 subject to consultation with Governors from affected  
22 States, county government from affected counties, and af-  
23 fected Indian tribes.



1 (h) RECOGNITION OF VALID AND EXISTING  
2 RIGHTS.—The designation of a high-risk area shall not  
3 be construed to limit or restrict—

4 (1) access to National Forest System land or  
5 public lands included in the area for hunting, fish-  
6 ing, and other related purposes; or

7 (2) valid and existing rights regarding the Na-  
8 tional Forest System land or public lands.

9 **SEC. 6. USE OF EMERGENCY HAZARDOUS FUELS REDUC-**  
10 **TION PROJECTS FOR HIGH-RISK AREAS.**

11 (a) PROJECT PROPOSALS.—

12 (1) PROPOSALS AUTHORIZED.—Upon designa-  
13 tion of a high-risk area in a State, the Governor of  
14 the State may provide for the development of pro-  
15 posed emergency hazardous fuels reduction projects  
16 for the high-risk area. The Secretary concerned also  
17 may develop emergency hazardous fuels reduction  
18 projects.

19 (2) PROJECT CRITERIA.—In preparing proposed  
20 emergency hazardous fuels reduction projects, the  
21 Governor of a State and the Secretary concerned  
22 shall—

23 (A) take into account managing for rights  
24 of way, protection of watersheds, protection of  
25 wildlife and endangered species habitat, safe-

1           guarding water resources, and protecting local  
2           communities from wildfires; and

3                   (B) emphasize activities that thin the for-  
4           est to provide the greatest health and longevity  
5           of the forest.

6           (b) PROHIBITION ON CERTAIN ACTIVITIES.—An  
7           emergency hazardous fuels reduction project may not in-  
8           clude clear cutting of timber.

9           (c) CONSULTATION.—In preparing proposed emer-  
10          gency hazardous fuels reduction projects, the Governor of  
11          a State shall consult with county government from af-  
12          fected counties, and with affected Indian tribes. If the Sec-  
13          retary concerned develops a proposal, the Secretary con-  
14          cerned shall consult with the Governor of the affected  
15          State, county government from affected counties, and af-  
16          fected Indian tribes.

17          (d) SUBMISSION AND IMPLEMENTATION.—The Gov-  
18          ernor of a State shall submit proposed emergency haz-  
19          ardous fuels reduction projects to the Secretary concerned  
20          for implementation.

21          (e) IMPLEMENTATION OF PROJECTS.—

22                   (1) STATE PROPOSED PROJECTS.—The Sec-  
23          retary concerned shall implement hazardous fuels re-  
24          duction projects proposed by Governors within 60

1 days of the date on which the Secretary receives the  
2 proposal.

3 (2) SECRETARY PROPOSED PROJECTS.—The  
4 Secretary concerned shall implement hazardous fuels  
5 reduction projects proposed by the Secretary con-  
6 cerned within 60 days of the date on which the pro-  
7 posal is finalized.

8 **SEC. 7. APPLICABILITY OF EXPEDITED PROCEDURES AND**  
9 **AUTHORITIES OF HEALTHY FORESTS RES-**  
10 **TORATION ACT OF 2003 TO EMERGENCY HAZ-**  
11 **ARDOUS FUELS REDUCTION PROJECTS.**

12 (a) APPLICABILITY.—Subject to subsections (b)  
13 through (e), title I of the Healthy Forests Restoration Act  
14 of 2003 (16 U.S.C. 6511 et seq.) (including the environ-  
15 mental analysis requirements of section 104 of that Act  
16 (16 U.S.C. 6514), the special administrative review proc-  
17 ess under section 105 of that Act (16 U.S.C. 6515), and  
18 the judicial review process under section 106 of that Act  
19 (16 U.S.C. 6516)), shall apply to all emergency hazardous  
20 fuels reduction projects developed under section 6.

21 (b) APPLICATION OF OTHER LAW.—Section 322 of  
22 Public Law 102–381 (16 U.S.C. 1612 note; 106 Stat.  
23 1419) shall not apply to Forest Service emergency haz-  
24 ardous fuels reduction projects.

1           (c) REQUIRED MODIFICATIONS.—In applying title I  
2 of the Healthy Forests Restoration Act of 2003 (16  
3 U.S.C. 6511 et seq.) to emergency hazardous fuels reduc-  
4 tion projects, the Secretary concerned shall make the fol-  
5 lowing modifications:

6           (1) The authority shall apply to the entire high-  
7 risk area, including land that is outside of a  
8 wildland-urban interface area or that does not sat-  
9 isfy any of the other eligibility criteria specified in  
10 section 102(a) of that Act (16 U.S.C. 6512(a)).

11           (2) All projects and activities of the Secretary  
12 concerned, including necessary connected actions (as  
13 described in section 1508.25(a)(1) of title 40, Code  
14 of Federal Regulations), of the emergency hazardous  
15 fuels reduction project shall be deemed to be an au-  
16 thorized hazardous fuel reduction project for pur-  
17 poses of applying the title.

18           (d) FOREST MANAGEMENT PLANS.—All projects and  
19 activities carried out as part of an emergency hazardous  
20 fuels reduction project in a designated high-risk area shall  
21 be consistent with standards and guidelines contained in  
22 the land and resource management plan or land use plan  
23 for the unit of the National Forest System or public lands  
24 for which the designation is made, except that the Sec-  
25 retary concerned may modify such standards and guide-

1 lines to correspond with a specific high-risk area designa-  
2 tion.

3 (e) RETENTION OF NEPA RESPONSIBILITIES.—Any  
4 decision required to be made under the National Environ-  
5 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with  
6 respect to any project or activity to be carried out as part  
7 of an emergency hazardous fuels reduction project in a  
8 high-risk area shall not be delegated to a State forester  
9 or any other officer or employee of the State in which the  
10 emergency hazardous fuels reduction project will be car-  
11 ried out.

12 (f) CATEGORICAL EXCLUSION.—If a project or activ-  
13 ity to be carried out as part of an emergency hazardous  
14 fuels reduction project in a high-risk area involves the re-  
15 moval of insect-infected trees or other hazardous fuels  
16 within 500 feet of utility or telephone infrastructure,  
17 campgrounds, roadsides, heritage sites, recreation sites,  
18 schools, or other infrastructure, the project or activity is  
19 categorically excluded from the requirement to prepare an  
20 environmental assessment or an environmental impact  
21 statement under the National Environmental Policy Act  
22 of 1969 (42 U.S.C. 4321 et seq.) so long as the project  
23 or activity is otherwise conducted consistently with agency  
24 and departmental procedures and the applicable land and  
25 resource management plan or land use plan.

1 **SEC. 8. FOREST SERVICE AND BUREAU OF LAND MANAGE-**  
2 **MENT GOOD-NEIGHBOR COOPERATION WITH**  
3 **STATES TO REDUCE WILDFIRE RISKS.**

4 (a) DEFINITIONS.—In this section:

5 (1) ELIGIBLE STATE.—The term “eligible  
6 State” means a State that contains National Forest  
7 System land.

8 (2) SECRETARY.—The term “Secretary” means  
9 the Secretary of Agriculture.

10 (3) STATE FORESTER.—The term “State for-  
11 ester” means the head of a State agency with juris-  
12 diction over State forestry programs in an eligible  
13 State.

14 (b) COOPERATIVE AGREEMENTS AND CONTRACTS.—

15 (1) IN GENERAL.—The Secretary may enter  
16 into a cooperative agreement or contract (including  
17 a sole source contract) with a State forester to au-  
18 thorize the State forester to provide the forest,  
19 rangeland, and watershed restoration and protection  
20 services described in paragraph (2) on National For-  
21 est System land in the eligible State.

22 (2) AUTHORIZED SERVICES.—The forest,  
23 rangeland, and watershed restoration and protection  
24 services referred to in paragraph (1) include the con-  
25 duct of—

26 (A) activities to treat insect infected trees;

1 (B) activities to reduce hazardous fuels;  
2 and

3 (C) any other activities to restore or im-  
4 prove forest, rangeland, and watershed health,  
5 including fish and wildlife habitat.

6 (3) STATE AS AGENT.—Except as provided in  
7 paragraph (6), a cooperative agreement or contract  
8 entered into under paragraph (1) may authorize the  
9 State forester to serve as the agent for the Secretary  
10 in providing the restoration and protection services  
11 authorized under that paragraph.

12 (4) SUBCONTRACTS.—In accordance with appli-  
13 cable contract procedures for the eligible State, a  
14 State forester may enter into subcontracts to provide  
15 the restoration and protection services authorized  
16 under a cooperative agreement or contract entered  
17 into under paragraph (1).

18 (5) TIMBER SALES.—Subsections (d) and (g) of  
19 section 14 of the National Forest Management Act  
20 of 1976 (16 U.S.C. 472a) shall not apply to services  
21 performed under a cooperative agreement or con-  
22 tract entered into under paragraph (1).

23 (6) RETENTION OF NEPA RESPONSIBILITIES.—  
24 Any decision required to be made under the Na-  
25 tional Environmental Policy Act of 1969 (42 U.S.C.

1 4321 et seq.) with respect to any restoration and  
2 protection services to be provided under this section  
3 by a State forester on National Forest System land  
4 shall not be delegated to a State forester or any  
5 other officer or employee of the eligible State.

6 (7) APPLICABLE LAW.—The restoration and  
7 protection services to be provided under this section  
8 shall be carried out on a project-to-project basis  
9 under existing authorities of the Forest Service.

10 **SEC. 9. STEWARDSHIP END RESULT CONTRACTING**  
11 **PROJECT AUTHORITY.**

12 (a) EXTENSION OF AUTHORITY.—Section 347(a) of  
13 the Department of the Interior and Related Agencies Ap-  
14 propriations Act, 1999 (as contained in section 101(e) of  
15 division A of Public Law 105–277; 16 U.S.C. 2104 note)  
16 is amended by striking “2013” and inserting “2017”.

17 (b) DURATION OF CONTRACTS.—Section 347(c)(2) of  
18 the Department of the Interior and Related Agencies Ap-  
19 propriations Act, 1999 (as contained in section 101(e) of  
20 division A of Public Law 105–277; 16 U.S.C. 2104 note)  
21 is amended by striking “10 years” and inserting “20  
22 years”.

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