To discourage litigation against the Forest Service and the Bureau of Land Management relating to land management projects, to require the Secretary of the Interior to develop a categorical exclusion for covered vegetative management activities carried out to establish or improve habitat for greater sage-grouse and mule deer, to address the forest health crisis on National Forest System land, to expedite and prioritize forest management activities to achieve ecosystem restoration objectives, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 2, 2017

Mr. Barrasso (for himself, Mr. Hatch, Mr. Thune, and Mr. Daines) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To discourage litigation against the Forest Service and the Bureau of Land Management relating to land management projects, to require the Secretary of the Interior to develop a categorical exclusion for covered vegetative management activities carried out to establish or improve habitat for greater sage-grouse and mule deer, to address the forest health crisis on National Forest System land, to expedite and prioritize forest management activities to achieve ecosystem restoration objectives, and for other purposes.
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Wildfire Prevention and Mitigation Act of 2017”.

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

Sec. 1. Short title; table of contents.
Sec. 2. Definition of Secretary.

TITLE I—LITIGATION RELIEF FOR FOREST MANAGEMENT PROJECTS


TITLE II—SAGE-GROUSE AND MULE DEER HABITAT CONSERVATION AND RESTORATION

Sec. 201. Definitions.
Sec. 202. Improvement of habitat for greater sage-grouse and mule deer.

TITLE III—FOREST HABITAT AND ECOSYSTEM IMPROVEMENT

Sec. 301. Definitions.

Subtitle A—General Provisions

Sec. 311. Environmental assessments.
Sec. 312. Good neighbor authority.
Sec. 313. Stewardship end result contracting projects.
Sec. 314. Pilot alternative dispute process.

Subtitle B—Ecosystem Restoration

Sec. 321. Definitions.
Sec. 322. Ecosystem restoration projects.
Sec. 323. National restoration treatment acreage.
Sec. 324. Performance measures; annual reports.

Subtitle C—Categorical Exclusions

Sec. 331. Definitions.
Sec. 332. Categorical exclusion to expedite certain critical response actions.
Sec. 333. Categorical exclusion to meet forest plan goals for early seral and early successional forests.
Sec. 334. Categorical exclusion to improve wildlife habitats.
Sec. 335. Categorical exclusion to thin forests.
Sec. 336. Expansion of categorical exclusion for insect and disease infestation.
SEC. 2. DEFINITION OF SECRETARY.

In this Act, the term “Secretary” means the Secretary of Agriculture, acting through the Chief of the Forest Service.

TITLE I—LITIGATION RELIEF FOR FOREST MANAGEMENT PROJECTS


(a) Consultation Regarding Land Management Plans.—Section 6(d) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(d)) is amended—

(1) by striking “(d) The Secretary” and inserting the following:

“(d) Public Participation and Consultation.—

“(1) In general.—The Secretary”; and

(2) by adding at the end the following:

“(2) No Additional Consultation Required After Approval of Land Management Plans.—

“(A) In general.—Notwithstanding any other provision of law, the Secretary shall not be required to engage in consultation under this subsection or any other provision of law (including section 7 of Public Law 93–205 (16 U.S.C.
1536) and section 402.16 of title 50, Code of Federal Regulations (or a successor regulation)) with respect to—

“(i) the listing of a species as threatened or endangered, or a designation of critical habitat pursuant to Public Law 93–205 (16 U.S.C. 1531 et seq.), if a land management plan has been adopted by the Secretary as of the date of listing or designation; or

“(ii) any provision of a land management plan adopted as described in clause (i).

“(B) Effect of Paragraph.—Nothing in this paragraph affects any applicable requirement of the Secretary to consult with the head of any other Federal department or agency—

“(i) regarding any project to implement a land management plan, including a project carried out, or proposed to be carried out, in an area designated as critical habitat pursuant to Public Law 93–205 (16 U.S.C. 1531 et seq.); or

“(ii) with respect to the development of a modification to a land management
plan that would result in a significant change (within the meaning of subsection (f)(4)) in the land management plan.”.

(b) Definition of Secretary; Conforming Amendments.—

(1) Definition of Secretary.—Section 3(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1601(a)) is amended, in the first sentence of the matter preceding paragraph (1), by inserting “(referred to in this Act as the ‘Secretary’)” after “Secretary of Agriculture”.

(2) Conforming Amendments.—The Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.) is amended, in sections 4 through 9, 12, 13, and 15, by striking “Secretary of Agriculture” each place it appears and inserting “Secretary”.

SEC. 102. FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976.

Section 202(f) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712(f)) is amended—

(1) by striking “(f) The Secretary” and inserting the following:

“(f) Public Involvement.—
“(1) IN GENERAL.—The Secretary”; and

(2) by adding at the end the following:

“(2) NO ADDITIONAL CONSULTATION REQUIRED AFTER APPROVAL OF LAND USE PLANS.—

“(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall not be required to engage in consultation under this subsection or any other provision of law (including section 7 of Public Law 93–205 (16 U.S.C. 1536) and section 402.16 of title 50, Code of Federal Regulations (or a successor regulation)), with respect to—

“(i) the listing of a species as threatened or endangered, or a designation of critical habitat, pursuant to Public Law 93–205 (16 U.S.C. 1531 et seq.), if a land use plan has been adopted by the Secretary as of the date of listing or designation; or

“(ii) any provision of a land use plan adopted as described in clause (i).

“(B) EFFECT OF PARAGRAPH.—

“(i) DEFINITION OF SIGNIFICANT CHANGE.—In this subparagraph, the term ‘significant change’ means a significant
change within the meaning of section 219.13(b)(3) of title 36, Code of Federal Regulations (as in effect on the date of enactment of this subparagraph), except that—

“(I) any reference contained in that section to a land management plan shall be deemed to be a reference to a land use plan;

“(II) any reference contained in that section to the Forest Service shall be deemed to be a reference to the Bureau of Land Management; and

“(III) any reference contained in that section to the National Forest Management Act of 1976 (Public Law 94–588; 90 Stat. 2949) shall be deemed to be a reference to this Act.

“(ii) EFFECT.—Nothing in this paragraph affects any applicable requirement of the Secretary to consult with the head of any other Federal department or agency—

“(I) regarding a project carried out, or proposed to be carried out, with respect to a species listed as
threatened or endangered, or in an area designated as critical habitat, pursuant to Public Law 93–205 (16 U.S.C. 1531 et seq.); or

“(II) with respect to the development of a new land use plan or the revision of or other significant change to an existing land use plan.”.

TITLE II—SAGE-GROUSE AND MULE DEER HABITAT CONSERVATION AND RESTORATION

SEC. 201. DEFINITIONS.

In this title:

(1) Covered vegetation management activity.—

(A) In general.—The term “covered vegetation management activity” means any activity described in subparagraph (B) that—

(i) meets the objectives of the order of the Secretary numbered 3336 and dated January 5, 2015;

(ii) conforms to an applicable land use plan;
(iii) protects, restores, or improves greater sage-grouse or mule deer habitat;

(iv) will not permanently impair—

(I) the natural state of the treated area;

(II) outstanding opportunities for solitude;

(III) outstanding opportunities for primitive, unconfined recreation;

(IV) economic opportunities consistent with multiple-use management; or

(V) the identified values of a unit of the National Landscape Conservation System; and

(v)(I) restores native vegetation following a natural disturbance;

(II) prevents the expansion into greater sage-grouse or mule deer habitat of—

(aa) juniper, piñon pine, or any other conifer; or

(bb) nonnative or invasive vegetation;

(III) reduces the risk of loss of greater sage-grouse or mule deer habitat from
wildfire or any other natural disturbance;

or

(IV) provides emergency stabilization of soil resources after a natural disturbance.

(B) DESCRIPTION OF ACTIVITIES.—An activity referred to in subparagraph (A) is—

(i) manual cutting and removal of juniper trees, piñon pine trees, other conifers, or other nonnative or invasive vegetation;

(ii) mechanical mastication, cutting, or mowing, mechanical piling and burning, chaining, broadcast burning, or yarding;

(iii) removal of cheat grass, medusa head rye, other nonnative vegetation, or an invasive species;

(iv) collection and seeding or planting of native vegetation using a manual, mechanical, or aerial method;

(v) seeding of nonnative vegetation only for the purpose of emergency stabilization;

(vi) use of an herbicide, pesticide, or biological control agent, subject to the con-
dition that the use shall be in accordance with applicable legal requirements, Federal agency procedures, and land use plans;

(vii) targeted livestock grazing to mitigate hazardous fuels and control noxious and invasive weeds;

(viii) temporary removal of wild horses or burros in the area in which the activity is being carried out to ensure treatment objectives are met;

(ix) modification or adjustment of permissible usage under an annual plan of use of a grazing permit issued by the Secretary, in coordination with the affected permit holder, to achieve restoration treatment objectives;

(x) installation of new, or modification of existing, fencing or water sources intended to control use or improve wildlife habitat; or

(xi) construction of temporary roads.

(C) Exclusions.—The term “covered vegetation management activity” does not include—
(i) any activity conducted in a wilderness area or wilderness study area; or

(ii) any activity for the construction of a permanent road or permanent trail.

(2) Secretary.—The term “Secretary” means the Secretary of the Interior.

(3) Temporary Road.—The term “temporary road” means a road that is—

(A) authorized—

(i) by a contract, permit, lease, other written authorization; or

(ii) pursuant to an emergency operation;

(B) not intended to be part of the permanent transportation system of a Federal department or agency;

(C) not necessary for long-term resource management; and

(D) designed in accordance with standards appropriate for the intended use of the road, taking into consideration—

(i) safety;

(ii) the cost of transportation; and

(iii) impacts to land and resources.
SEC. 202. IMPROVEMENT OF HABITAT FOR GREATER SAGE-GROUSE AND MULE DEER.

(a) CATEGORICAL EXCLUSION.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall develop one or more categorical exclusions (as defined in section 1508.4 of title 40, Code of Federal Regulations (or a successor regulation)) for covered vegetative management activities carried out to establish or improve habitat for greater sage-grouse and mule deer.

(2) ADMINISTRATION.—In developing and administering a categorical exclusion under paragraph (1), the Secretary shall—

(A) be consistent with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B) apply the extraordinary circumstances procedures under section 220.6 of title 36, Code of Federal Regulations (or a successor regulation), in determining whether to use the categorical exclusion; and

(C) consider—

(i) the relative efficacy of landscape-scale habitat projects;
(ii) the likelihood of continued declines in the populations of greater sage-grouse and mule deer in the absence of landscape-scale vegetation management; and

(iii) the need for habitat restoration activities after wildfire or other natural disturbances.

(b) Long-Term Monitoring and Maintenance.—Before commencing any covered vegetative management activity that is covered by a categorical exclusion under subsection (a), the Secretary shall develop a long-term monitoring and maintenance plan, covering at least the 20-year period beginning on the date of commencement, to ensure that management of the treated area does not degrade the habitat gains secured by the covered vegetative management activity.

(c) Disposal of Vegetative Material.—Subject to applicable local restrictions, any vegetative material resulting from a covered vegetation management activity that is covered by a categorical exclusion under subsection (a) may be—

(1) used for—

(A) fuel wood; or

(B) other products; or
(2) piled or burned, or both.

(d) **TREATMENT FOR TEMPORARY ROADS.**—

(1) **IN GENERAL.**—A temporary road constructed in connection with a covered vegetation management activity that is a categorical exclusion under subsection (a) shall be treated to ensure the reestablishment of native vegetative cover by artificial or natural means, as necessary to minimize erosion from any area disturbed by the construction or use of the temporary road.

(2) **REQUIREMENT.**—A treatment under paragraph (1) shall be designed to reestablish vegetative cover—

(A) as soon as practicable; but

(B) not later than 10 years after the date of completion of the applicable covered vegetation management activity.

**TITLE III—FOREST HABITAT AND ECOSYSTEM IMPROVEMENT**

**SEC. 301. DEFINITIONS.**

In this title:

(1) **FOREST PLAN.**—The term “forest plan” means a land and resource management plan prepared by the Forest Service in accordance with sec-

(2) NATIONAL FOREST SYSTEM.—

(A) IN GENERAL.—The term “National Forest System” has the meaning given the term in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)).

(B) EXCLUSION.—The term “National Forest System” does not include—

(i) any forest reserve not created from the public domain; or

(ii) any national grassland or land utilization project administered under title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010 et seq.).

Subtitle A—General Provisions

SEC. 311. ENVIRONMENTAL ASSESSMENTS.

(a) APPLICABILITY OF NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—The Secretary shall prepare an environmental assessment in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for each project under this title.

(b) PUBLIC NOTICE AND COMMENT.—In preparing an environmental assessment for a project under sub-
section (a), the Secretary shall provide public notice of, and an opportunity to comment regarding, the applicable project.

(e) CONSIDERATION OF ALTERNATIVES.—The Secretary shall study, develop, and describe in each environmental assessment under subsection (a)—

(1) the project as the proposed action; and

(2) a no-action alternative, the analysis of which shall include a description of the resulting environmental effects of taking no action on—

(A) forest health;

(B) habitat diversity;

(C) wildfire potential;

(D) insect and disease potential;

(E) municipal water supplies; and

(F) other economic and social factors.

(d) LIMITATIONS.—The Secretary shall limit each environmental assessment under this section to a length of not more than 100 pages.

(e) DEADLINE FOR COMPLETION.—

(1) IN GENERAL.—Not later than 180 days after the date on which the Secretary publishes a notice regarding an ecosystem restoration project in accordance with subsection (b), the Secretary shall
complete the environmental assessment for the project.

(2) NO SUPPLEMENTAL ANALYSIS REQUIRED.—No supplemental analysis of an ecosystem restoration project that is the subject of an environmental assessment under paragraph (1) shall be required after the date on which that environmental assessment is complete.

SEC. 312. GOOD NEIGHBOR AUTHORITY.

(a) IN GENERAL.—Section 8206 of the Agricultural Act of 2014 (16 U.S.C. 2113a) is amended—

(1) in subsection (a)(3)—

(A) by redesignating subparagraph (B) as subparagraph (C);

(B) by inserting after subparagraph (A) the following:

“(B) INCLUSION.—The term ‘forest, rangeland, and watershed restoration services’ includes construction, reconstruction, repair, or restoration of permanent roads.”; and

(C) in subparagraph (C)(i) (as redesignated by subparagraph (A)), by striking “or permanent”; and

(2) in subsection (b)—
(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following:

“(3) PERMANENT ROAD CLOSURE.—

“(A) IN GENERAL.—The Secretary may close a permanent road under a good neighbor agreement without carrying out with respect to the permanent road authorized restoration services if the permanent road would allow future access for firefighting or other appropriate agency use, as determined by the applicable forest supervisor.

“(B) INTACTNESS.—If a permanent road is closed under subparagraph (A), the permanent road shall be closed to the public according to the applicable forest plan, but shall remain intact.”.

(b) REPEAL.—Section 331 of the Department of the Interior and Related Agencies Appropriations Act, 2001 (16 U.S.C. 1011 note) is repealed.
SEC. 313. STEWARDSHIP END RESULT CONTRACTING PROJECTS.

(a) HEALTHY FORESTS RESTORATION.—Section 604 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6591c) is amended—

(1) in subsection (c), by adding at the end the following:

“(8) Retention of existing wood products infrastructure.”;

(2) in subsection (d)—

(A) in paragraph (1), by inserting “, or lowest-cost-technically-acceptable,” after “best-value”; and

(B) by adding at the end the following:

“(8) PERMANENT ROAD CLOSURE.—

“(A) IN GENERAL.—The Secretary of Agriculture may close a permanent road under a contract entered into under this section without achieving with respect to the permanent road the restoration activities included in the land management goals described in subsection (c) if the permanent road would allow future access for firefighting or other appropriate agency use, as determined by the applicable forest supervisor.
“(B) Intactness.—If a permanent road is closed under subparagraph (A), the permanent road shall be closed to the public according to the applicable forest plan, but shall remain intact.”; and

(3) in subsection (c)(2)(A), by inserting “, subject to the condition that 25 percent of the gross receipts shall be disbursed to the county in which the project site is located” before “; and”.

SEC. 314. PILOT ALTERNATIVE DISPUTE PROCESS.

(a) Arbitration.—

(1) IN GENERAL.—The Secretary shall establish within the Forest Service a 5-year arbitration pilot program as an alternative dispute resolution process in lieu of judicial review for the projects described in subsection (b).

(2) Notification to Objectors.—On issuance of an appeal response to an objection filed with respect to a project subject to an objection at the project level under part 218 of title 36, Code of Federal Regulations (as in effect on the date of enactment of this Act), the Secretary shall notify each applicable individual or entity that submitted the objection (referred to in this section as the “objector”)
that any further appeal may be subject to arbitration in accordance with this section.

(b) DESCRIPTION OF PROJECTS.—The Secretary, in coordination with the head of the applicable Region of the Forest Service, may designate any type of project under this title for arbitration under this section.

(c) ARBITRATORS.—

(1) APPOINTMENT.—The Secretary shall develop and publish a list of not fewer than 20 individuals eligible to serve as arbitrators for the pilot program under this section.

(2) QUALIFICATIONS.—In order to be eligible to serve as an arbitrator under this subsection, an individual shall be currently certified by the American Arbitration Association.

(d) INITIATION OF ARBITRATION.—

(1) IN GENERAL.—Not later than 7 days after the date of receipt of a notice of intent to file suit challenging a project, the Secretary shall notify each applicable objector and the court of jurisdiction that the project has been designated for arbitration in accordance with this section.

(2) DEMAND FOR ARBITRATION.—

(A) IN GENERAL.—An objector that sought judicial review of a project that has been des-
ignated by the Secretary for arbitration under this section may file a demand for arbitration in accordance with—

(i) sections 571 through 584 of title 5, United States Code; and

(ii) this paragraph.

(B) REQUIREMENTS.—A demand for arbitration under subparagraph (A) shall—

(i) be filed not later than the date that is 30 days after the date of the notification by the Secretary under paragraph (1); and

(ii) include an alternative proposal to the applicable project that describes each modification sought by the objector with respect to the project.

(c) SELECTION OF ARBITRATOR.—For each arbitration commenced under this section, the Secretary and each applicable objector shall agree on a mutually acceptable arbitrator from the list published under subsection (c)(1).

(f) RESPONSIBILITIES OF ARBITRATOR.—

(1) IN GENERAL.—An arbitrator selected under subsection (e)—
(A) shall address each demand filed for arbitration with respect to a project under this section; but

(B) may consolidate into a single arbitration all demands for arbitration by all objectors with respect to a project.

(2) SELECTION OF PROPOSALS.—An arbitrator shall make a decision regarding each applicable demand for arbitration under this section by selecting—

(A) the project, as approved by the Secretary;

(B) an alternative proposal submitted by the applicable objector; or

(C) neither proposal.

(3) LIMITATIONS.—

(A) ADMINISTRATIVE RECORD.—A decision of an arbitrator under this subsection shall be based solely on the administrative record for the project.

(B) NO MODIFICATIONS TO PROPOSALS.—An arbitrator may not modify any proposal contained in a demand for arbitration of an objector under this section.
(g) **Deadline for Completion of Arbitration.**—Not later than 90 days after the date on which a demand for arbitration is filed under subsection (d)(2), the arbitration process shall be completed.

(h) **Effect of Arbitration Decision.**—A decision of an arbitrator under this section—

1. shall not be considered to be a major Federal action;
2. shall be binding; and
3. shall not be subject to judicial review, except as provided in section 10(a) of title 9, United States Code.

(i) **Termination of Effectiveness.**—The authority provided by this section terminates effective January 1, 2023.

**Subtitle B—Ecosystem Restoration**

**SEC. 321. Definitions.**

In this subtitle:

1. **Community Wildfire Protection Plan.**—The term “community wildfire protection plan” has the meaning given the term in section 101 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6511).

2. **Restoration.**—
(A) **IN GENERAL.**—The term “restoration”, with respect to an ecosystem, means to carry out any activity that helps to recover, establish, or maintain the resilience or adaptive capacity of an ecosystem.

(B) **INCLUSIONS.**—The term “restoration” includes any activity described in subsection (a) relating to—

(i) timber harvesting;

(ii) thinning;

(iii) prescribed fire; or

(iv) other vegetation manipulation in the National Forest System.

**SEC. 322. ECOSYSTEM RESTORATION PROJECTS.**

(a) **IN GENERAL.**—Subject to subsection (b), the Secretary shall identify, prioritize, and carry out ecosystem restoration projects on National Forest System land in accordance with applicable land and resource management plans prepared by the Secretary for units of the National Forest System under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604), if any, to accomplish one or more of the following objectives:

(1) To restore terrestrial habitat.
(2) To sustain water quality, water flows, or watershed health and function.

(3) To create, improve, or increase early seral habitat.

(4) To carry out a needed timber stand improvement.

(5) To reduce the risk or extent of insect or disease infestation.

(6) To reduce wildland fire severity potential.

(7) To implement a community wildfire protection plan.

(8) To establish, recover, or maintain ecosystem resiliency.

(b) EXCLUSIONS.—The Secretary may not carry out an ecosystem restoration project under this section on any area of National Forest System land—

(1) that is a component of the National Wilderness Preservation System; or

(2) on which removal of vegetation is prohibited by law.

SEC. 323. NATIONAL RESTORATION TREATMENT ACREAGE.

(a) IN GENERAL.—For fiscal year 2018 and each fiscal year thereafter, the Secretary shall establish a 5-year schedule to achieve the ecosystem restoration objectives described in section 322(a).
(b) SCHEDULE GOALS.—The schedule established under subsection (a) shall—

(1) by the end of the first 5-year period, result in at least a doubling of the acres subject to an ecosystem restoration project under this subtitle, as compared to the number of acres subject to an ecosystem restoration project in fiscal year 2017; and

(2) be consistent with any applicable forest plan.

(c) ASSIGNMENT.—Not later than 90 days after the date of enactment of this Act, and annually thereafter, the Secretary shall assign the annual acreage for restoration treatments, by National Forest System region, described in subsection (a).

(d) PUBLICATION.—As soon as practicable after the date of each assignment of acreage for restoration treatments under subsection (c), the Secretary shall publish the acreage that will apply, by National Forest System region, on the Internet website of the Forest Service.

SEC. 324. PERFORMANCE MEASURES; ANNUAL REPORTS.

(a) PERFORMANCE MEASURES.—The Secretary shall annually evaluate the degree to which the Secretary is achieving—

(1) the purposes of this subtitle, including—
(A) the number of acres covered by ecosystem restoration projects;

(B) the number of acres treated by mechanical methods under ecosystem restoration projects;

(C) the number of acres treated using stewardship contracts and stewardship agreements under ecosystem restoration projects;

(D) the number of acres treated using timber sales under ecosystem restoration projects;

(E) the number of acres treated by prescribed fire, mowing, and other noncommercial product producing activities under ecosystem restoration projects; and

(F) to the extent practicable, a summary of acres receiving more than 1 type of treatment; and

(2) the acreage requirements established under section 323(b)(1).

(b) ANNUAL REPORTS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the Senate and the Committee on Natural Resources of the House of Representatives—
(1) a report that describes, with respect to the preceding year, the results of evaluations using the performance measures described in subsection (a); and

(2) a report that describes, with respect to the preceding year—

(A) the number and substance of projects that are subject to arbitration under section 314; and

(B) the outcomes of the arbitrations under that section.

Subtitle C—Categorical Exclusions

SEC. 331. DEFINITIONS.

In this subtitle:

(1) CATASTROPHIC EVENT.—The term “catastrophic event” means any natural disaster (such as hurricane, tornado, windstorm, snow or ice storm, rain storm, high water, wind-driven water, tidal wave, earthquake, volcanic eruption, landslide, mudslide, drought, or insect or disease outbreak), or any fire, flood, or explosion, regardless of cause.

(2) CATEGORICAL EXCLUSION.—The term “categorical exclusion” means an exclusion from the requirement to prepare an environmental assessment or an environmental impact statement under section
102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) for a category of forest management activities.

(3) **Forest management activity.**—The term “forest management activity” means a project or activity carried out by the Secretary on National Forest System land, consistent with the forest plan covering that land.

(4) **Salvage operation.**—The term “salvage operation” means a forest management activity carried out in response to a catastrophic event, the primary purpose of which is—

(A) to prevent wildfire as a result of the catastrophic event, or, if the catastrophic event was wildfire, to prevent a reburn of the fire-impacted area;

(B) to provide an opportunity for use of forest materials damaged as a result of the catastrophic event; or

(C) to provide a funding source for reforestation and other restoration activities for the National Forest System land impacted by the catastrophic event.
SEC. 332. CATEGORICAL EXCLUSION TO EXPEDITE CERTAIN CRITICAL RESPONSE ACTIONS.

(a) In General.—Not later than 1 year after the date of enactment of this Act, the Secretary shall develop a categorical exclusion (as defined in section 1508.4 of title 40, Code of Federal Regulations (or a successor regulation)) to carry out a forest management activity on National Forest System land in any case in which at least 2 of the primary purposes of the forest management activity are—

(1) to address an insect or disease infestation;

(2) to treat land at risk of insect or disease infestation;

(3) to reduce hazardous fuel loads;

(4) to protect a municipal water source;

(5) to maintain, enhance, or modify critical habitat to protect the habitat from catastrophic disturbances;

(6) to increase water yield;

(7) to achieve salvage operation objectives; or

(8) any combination of the purposes specified in paragraphs (1) through (7).

(b) Administration.—In developing and administering a categorical exclusion under subsection (a), the Secretary shall—
(1) be consistent with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(2) apply the extraordinary circumstances procedures under section 220.6 of title 36, Code of Federal Regulations (or a successor regulation), in determining whether to use the categorical exclusion.

SEC. 333. CATEGORICAL EXCLUSION TO MEET FOREST PLAN GOALS FOR EARLY SERAL AND EARLY SUCCESSIONAL FORESTS.

(a) AVAILABILITY OF CATEGORICAL EXCLUSION.—A categorical exclusion is available to the Secretary to develop and carry out a forest management activity on National Forest System land in any case in which the primary purpose of the forest management activity is modifying, improving, enhancing, or creating an early seral or early successional forest, in accordance with the applicable forest plan.

(b) ACREAGE LIMITATIONS.—A forest management activity covered by the categorical exclusion granted by subsection (a) may not contain harvest units exceeding a total of 6,000 acres.

(c) EXTRAORDINARY CIRCUMSTANCES.—The Secretary may apply the extraordinary circumstances procedures under section 220.6 of title 36, Code of Federal
Regulations (or a successor regulation), in determining whether to use a categorical exclusion under subsection (a).

(d) Consistency.—In carrying out forest management activities using the categorical exclusions under subsection (a), the Secretary shall ensure that the forest management activities are consistent with the applicable forest plans.

(e) Cumulative Impacts.—The Secretary shall not be required to conduct a cumulative impact analysis in an environmental document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for a forest management activity carried out using a categorical exclusion made available to the Secretary under subsection (a) or any other provision of law (including regulations).

SEC. 334. CATEGORICAL EXCLUSION TO IMPROVE WILDLIFE HABITATS.

(a) Availability of Categorical Exclusion.—A categorical exclusion is available to the Secretary to conduct a forest management activity the purpose of which is the improvement of wildlife habitat.

(b) Acreage Limitations.—A forest management activity covered by the categorical exclusion granted by
subsection (a) may not contain harvest units exceeding a total of 6,000 acres.

(c) **EXTRAORDINARY CIRCUMSTANCES.**—The Secretary may apply the extraordinary circumstances procedures under section 220.6 of title 36, Code of Federal Regulations (or a successor regulation), in determining whether to use a categorical exclusion under subsection (a).

(d) **CONSISTENCY.**—In carrying out forest management activities using the categorical exclusions under subsection (a), the Secretary shall ensure that the forest management activities are consistent with the applicable forest plans.

(e) **CUMULATIVE IMPACTS.**—The Secretary shall not be required to conduct a cumulative impact analysis in an environmental document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for a forest management activity carried out using a categorical exclusion made available to the Secretary under subsection (a) or any other provision of law (including regulations).

**SEC. 335. CATEGORICAL EXCLUSION TO THIN FORESTS.**

(a) **AVAILABILITY OF CATEGORICAL EXCLUSION.**—A categorical exclusion is available to the Secretary to conduct a forest management activity the purpose of which
is commercial thinning of forest stands on suited timberland, including—

(1) the incidental removal of trees for landings, skid trails, and road clearing; and

(2) the construction of a temporary road that is not longer than 1 mile to carry out that commercial thinning.

(b) ACREAGE LIMITATIONS.—A forest management activity covered by the categorical exclusion granted by subsection (a) may not contain harvest units exceeding a total of 6,000 acres.

(c) EXTRAORDINARY CIRCUMSTANCES.—The Secretary may apply the extraordinary circumstances procedures under section 220.6 of title 36, Code of Federal Regulations (or a successor regulation), in determining whether to use a categorical exclusion under subsection (a).

(d) CONSISTENCY.—In carrying out forest management activities using the categorical exclusions under subsection (a), the Secretary shall ensure that the forest management activities are consistent with the applicable forest plans.

(e) CUMULATIVE IMPACTS.—The Secretary shall not be required to conduct a cumulative impact analysis in an environmental document prepared under the National En-
environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for a forest management activity carried out using a categorical exclusion made available to the Secretary under subsection (a) or any other provision of law (including regulations).

SEC. 336. EXPANSION OF CATEGORICAL EXCLUSION FOR INSECT AND DISEASE INFESTATION.

(a) PERMANENT AUTHORITY.—Section 602(f) of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6591a(f)) is amended by striking “each of fiscal years 2014 through 2024.” and inserting “each fiscal year.”.

(b) ADMINISTRATIVE REVIEW.—Section 603 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6591b) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by striking “described in subsection (b)”;

(2) by striking subsection (b);

(3) by redesignating subsections (c) through (g) as subsections (b) through (f), respectively; and

(4) in subsection (b) (as so redesignated)—

(A) in paragraph (1), by striking “3000” and inserting “6,000”; and

(B) in paragraph (2), by striking “shall be” in the matter preceding subparagraph (A)
and all that follows through the period at the end of subparagraph (B) and inserting “may be carried out in any area designated under section 602(b), including areas in Fire Regime Groups IV and V.”.