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112TH CONGRESS
2D SESSION

H. R. 5744

To address the forest health, public safety, and wildlife habitat threat presented by the risk of wildfire, including catastrophic wildfire, on National Forest System lands and public lands managed by the Bureau of Land Management by requiring the Secretary of Agriculture and the Secretary of the Interior to expedite forest management projects relating to hazardous fuels reduction, forest health, and economic development, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 15, 2012

Mr. GOSAR (for himself, Mr. MATHESON, Mr. ROSS of Arkansas, Mr. WALDEN, Mr. AMODEI, Mr. TIPTON, Mr. BISHOP of Utah, Mr. PEARCE, Mrs. MCMORRIS RODGERS, Mrs. LUMMIS, Mr. DUFFY, Mr. BERG, Mr. THOMPSON of Pennsylvania, Mr. DENHAM, Mr. SCHWEIKERT, Mr. SESSIONS, Mr. LONG, Mr. JOHNSON of Ohio, Mr. POMPEO, Mr. COLE, Mr. NUNES, Mr. CARTER, Mr. KING of Iowa, Mr. DESJARLAIS, Mr. FRANKS of Arizona, Mr. GARDNER, Mr. FLAKE, and Mr. QUAYLE) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Agriculture, 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 forest health, public safety, and wildlife habitat threat presented by the risk of wildfire, including catastrophic wildfire, on National Forest System lands and public lands managed by the Bureau of Land Management by requiring the Secretary of Agriculture and the Secretary of the Interior to expedite forest management projects relating to hazardous fuels reduction, for-

est health, and economic development, 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 AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Catastrophic Wildfire Prevention Act of 2012''.

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

Sec. 1. Short title and table of contents.
Sec. 2. Purposes.
Sec. 3. Definitions.
Sec. 4. Authorized wildfire prevention projects.
Sec. 5. Public review and environmental analysis.
Sec. 6. Administrative and judicial review.
Sec. 7. Threatened and endangered species designations.

SEC. 2. PURPOSES.

The purposes of this Act are as follows:

(1) Expedite wildfire prevention projects to reduce the chances of wildfire, including catastrophic wildfire, on certain Federal lands.

(2) Reduce threats to endangered species from wildfires.

(3) Provide efficiency tools to the Secretary of Agriculture and the Secretary of the Interior to streamline projects to reduce the potential for wildfires.

SEC. 3. DEFINITIONS.

In this Act:

(1) AT-RISK COMMUNITY.—The term ''at-risk community'' has the meaning given that term in section 101 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6511).

(2) AT-RISK FOREST.—The term ''at-risk forest'' means—

(A) Federal land where there exists a high risk of losing an at-risk community, key ecosystem, wildlife, or wildlife habitat to wildfire, including catastrophic wildfire and post-fire disturbances, as documented by the Secretary concerned; or

(B) Federal land in condition class II or III, as those classes were developed by the Forest Service Rocky Mountain Research Station in the general technical report titled ''Development of Coarse-Scale Spatial Data for Wildland Fire and Fuel Management'' (RMRS–87) and dated April 2000 or any subsequent revision of the report.

(3) AUTHORIZED WILDFIRE PREVENTION PROJECT.—The term ''authorized wildfire prevention project'' means the measures and methods developed for a project to be carried out in an at-risk forest or on threatened and endangered species habitat by

the Secretary concerned for the purpose of hazardous fuels reduction, forest health, forest restoration, watershed restoration, or threatened and endangered species habitat protection. An authorized wildfire prevention project may include livestock grazing and timber harvest projects carried out for one or more of such purposes.

(4) FEDERAL LAND.—

(A) COVERED LAND.—The term ''Federal land'' means—

(i) land of the National Forest System (as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a))); or

(ii) public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)).

(B) EXCLUDED LAND.—The term does not include land in which the removal of vegetation is specifically prohibited by Federal law unless the land is in an inventoried roadless area or wilderness study area.

(5) SECRETARY CONCERNED.—The term ''Secretary concerned'' means—

(A) the Secretary of Agriculture, in the case of National Forest System land; and

(B) the Secretary of the Interior, in the case of public lands.

(6) THREATENED AND ENDANGERED SPECIES HABITAT.—The term ''threatened and endangered species habitat'' means Federal land regarding which natural fire regimes are identified as being important for, or wildfire is identified as a threat to, an endangered species, a threatened species, or habitat of an endangered species or threatened species in—

(A) a species recovery plan prepared under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533); or

(B) a notice published in the Federal Register determining a species to be an endangered species or a threatened species or designating critical habitat for an endangered species or a threatened species.

SEC. 4. AUTHORIZED WILDFIRE PREVENTION PROJECTS.

(a) PROJECTS AUTHORIZED.—As soon as practicable after the date of the enactment of this Act, the Secretary concerned shall implement authorized wildfire prevention projects in at-risk forests and on threatened and endan-

gered species habitat in a manner that focuses on surface, ladder, and canopy fuels reduction activities.

(b) PROJECT ELEMENTS.—

(1) THREATENED AND ENDANGERED SPECIES HABITAT.—In the case of an authorized wildfire prevention project carried out on threatened and endangered species habitat, the project shall be carried out—

(A) to provide enhanced protection from wildfire, including catastrophic wildfire, for the endangered species, threatened species, or habitat of the endangered species or threatened species; and

(B) in compliance with any applicable guidelines specified in the species recovery plan prepared under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533).

(2) AT-RISK FORESTS.—In the case of an authorized wildfire prevention project carried out in an at-risk forest, the project shall be carried out to move Federal land in condition class II or III toward condition class I.

(c) GRAZING.—Domestic livestock grazing may be used in an authorized wildfire prevention project to reduce surface fuel loads and to recover burned areas. Utilization

standards shall not apply when domestic livestock grazing is used in an authorized wildfire prevention project.

(d) TIMBER HARVESTING AND THINNING.—Timber harvesting and thinning may be used in an authorized wildfire prevention project to reduce ladder and canopy fuel loads to prevent wildfire, including catastrophic wildfire.

(e) RELATION TO LAND AND RESOURCE MANAGEMENT PLANS AND LAND USE PLAN.—Nothing in this section requires the Secretary concerned, as a condition of conducting an authorized wildfire prevention project, to revise or amend the land and resource management plan applicable to the National Forest System lands or the land use plan applicable to the public lands on which the project will be conducted.

(f) CONSIDERATION OF PUBLIC PETITIONS.—Not later than 60 days after receiving a public petition for the designation of Federal land as an at-risk forest or as threatened and endangered species habitat, the Secretary concerned shall—

(1) review the petition; and

(2) make a determination regarding such designation.

SEC. 5. PUBLIC REVIEW AND ENVIRONMENTAL ANALYSIS.

(a) PUBLIC NOTICE AND COMMENT.—

(1) PROPOSED PROJECTS.—The Secretary concerned shall publish in the Federal Register notice of a proposed authorized wildfire prevention project. The public may submit to the Secretary specific written comments that relate to the project within 30 days after the date of publication of the notice.

(2) FINAL DECISION.—Not later than 60 days after the date on which notice was published under paragraph (1) with regard to a proposed authorized wildfire prevention project and after taking into account any comments received under such paragraph, the Secretary concerned shall designate the final project and publish in the Federal Register notice of final designated project. Only persons who submitted comments regarding the proposed project under paragraph (1) may submit to the Secretary specific written comments that relate to the final designated project. Any comments regarding the final designated prevention project must be submitted within 30 days after the date of the publication of the notice.

(b) ENVIRONMENTAL ANALYSIS GENERALLY.—Except as otherwise provided in this Act, the Secretary concerned shall comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other appli-

cable laws in planning and conducting an authorized wildfire prevention project.

(c) INTERAGENCY COOPERATION.—The informal consultation requirements of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), as codified in section 402.05 of title 50, Code of Federal Regulations shall apply to an authorized wildfire prevention project.

(d) SPECIAL RULES FOR CERTAIN PROJECTS.—

(1) COVERED PROJECTS; DEADLINE.—If an authorized wildfire prevention project includes timber harvesting or grazing, the Secretary concerned shall prepare an environmental assessment within 30 days after the date on which notice was published under subsection (a)(1) for the proposed agency action under section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)).

(2) EFFECT OF FAILURE TO MEET DEADLINE.—The authorized wildfire prevention project shall be deemed compliant with all requirements of the National Environmental Policy Act of 1969 if the Secretary concerned fails to meet the deadline specified in paragraph (1).

(3) PROJECT LENGTHS.—In the case of a livestock grazing project, the environmental assessment shall be deemed sufficient for a minimum of 10

years. In the case of a timber harvest project, the environmental assessment shall be deemed sufficient for a minimum of 20 years.

(4) ALTERNATIVES.—Nothing in this section requires the Secretary concerned to study, develop, or describe any alternative to the proposed agency action in the environmental assessment conducted under paragraph (1).

(e) EFFECT OF COMPLIANCE.—Compliance with this section shall be deemed to satisfy the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.), section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528 et seq.).

SEC. 6. ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) ADMINISTRATIVE REVIEW.—Administrative review of an authorized wildfire prevention project shall occur in accordance with the special administrative review process established under section 105 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6515).

(b) JUDICIAL REVIEW.—Judicial review of an authorized wildfire prevention project shall occur in accord-

ance with section 106 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6516).

SEC. 7. THREATENED AND ENDANGERED SPECIES DESIGNATIONS.

Before listing any species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the Secretary concerned shall conduct research to find what impact a listing would have on forest fuel loads, both forage and timber. Endangered species recovery plans and critical habitat determinations shall include wildfire risk assessment analysis.

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