

110TH CONGRESS
2D SESSION

H. R. 5241

To amend the Healthy Forests Restoration Act of 2003 to authorize the Secretary of Agriculture and the Secretary of the Interior to take expedited action to reduce the increased risk of severe wildfires to Colorado communities, water supplies, and infrastructure in or near forested areas most severely affected by infestations of bark beetles and other insects, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 6, 2008

Mr. UDALL of Colorado 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

A BILL

To amend the Healthy Forests Restoration Act of 2003 to authorize the Secretary of Agriculture and the Secretary of the Interior to take expedited action to reduce the increased risk of severe wildfires to Colorado communities, water supplies, and infrastructure in or near forested areas most severely affected by infestations of bark beetles and other insects, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Colorado Forest Insect
3 Emergency Response Act of 2008”.

4 **SEC. 2. RESPONSE TO SEVERE INFESTATIONS OF BARK**
5 **BEETLES AND OTHER INSECTS ON FEDERAL**
6 **LAND IN COLORADO.**

7 (a) FINDINGS.—The Congress finds the following:

8 (1) Fire and bark beetles and other insects that
9 feed on trees are natural parts of Colorado’s forest
10 ecology that have some beneficial effects and help
11 shape the forests by thinning dense tree stands and
12 promoting cyclical re-growth.

13 (2) However, in various parts of Colorado,
14 large-scale infestations of bark beetles and other in-
15 sects, in combination with other factors, have in-
16 creased the likelihood of unusually severe wildfires
17 that pose a threat to lives and property in nearby
18 communities and to municipal water supplies and
19 other infrastructure.

20 (3) The Healthy Forests Restoration Act of
21 2003 (Public Law 108–148; 16 U.S.C. 6501 et seq.)
22 was enacted to address the need to reduce the vol-
23 ume of fuel that can feed the most severe wildfires
24 that threaten communities.

25 (4) The modification of some provisions of the
26 Healthy Forests Restoration Act of 2003 will help to

1 further expedite action to reduce the risks of severe
2 wildfires to Colorado communities, water supplies,
3 and infrastructure in or near forested areas most se-
4 verely affected by infestations of bark beetles and
5 other insects.

6 (b) INSECT-EMERGENCY AREA DEFINED.—Section
7 101 of the Healthy Forests Restoration Act of 2003 (16
8 U.S.C. 6511) is amended—

9 (1) by redesignating paragraphs (12) through
10 (16) as paragraphs (13) through (17), respectively;
11 and

12 (2) by inserting after paragraph (11) the fol-
13 lowing new paragraph:

14 “(12) INSECT-EMERGENCY AREA.—The term
15 ‘insect-emergency area’ means an area of Federal
16 land in Colorado designated by the Secretary pursu-
17 ant to section 107.”.

18 (c) ALTERNATIVE ANALYSIS PROCESS.—Section
19 104(d)(2) of the Healthy Forests Restoration Act of 2003
20 (16 U.S.C. 6514(d)(2)) is amended by inserting after “at-
21 risk community” the following: “or on any other lands
22 identified for such a project in a community wildfire pro-
23 tection plan for an at-risk community in or adjacent to
24 an insect-emergency area”.

1 (d) RESPONSE TO INSECT EMERGENCIES.—Title I of
2 the Healthy Forests Restoration Act of 2003 is amend-
3 ed—

4 (1) by redesignating sections 107 and 108 as
5 sections 108 and 109, respectively; and

6 (2) by inserting after section 106 (16 U.S.C.
7 6516) the following new section:

8 **“SEC. 107. COLORADO INSECT-EMERGENCY AREAS.**

9 “(a) DESIGNATION OF INSECT-EMERGENCY
10 AREAS.—

11 “(1) DESIGNATION AUTHORITY.—The Secretary
12 may designate an area of Federal land in Colorado
13 as an insect-emergency area if—

14 “(A) the Secretary determines that the
15 area is subject to a widespread infestation of
16 bark beetles or other insects;

17 “(B) the Secretary determines that the
18 area is characterized by insect-induced tree
19 mortality that has, or within one year of the de-
20 termination will have, produced a condition
21 such that an immediate reduction in hazardous
22 fuels is required in order to reduce the risks to
23 human life and property or to a municipal
24 water supply from a severe wildfire; and

1 “(C) the area is identified for hazardous
2 fuel reduction treatment in a community wild-
3 fire protection plan.

4 “(2) CRITERIA.—The determinations required
5 by subparagraphs (A) and (B) of paragraph (1)
6 shall be made on the basis of the best information
7 available, including observation of relevant insect in-
8 festations.

9 “(3) LIMITATION ON DELEGATION.—In the
10 case of National Forest System lands, the authority
11 to designate an insect-emergency area may be dele-
12 gated only to a Regional Forester.

13 “(b) INITIATION OF DESIGNATION PROCESS.—

14 “(1) INITIATION.—The designation of an in-
15 sect-emergency area may be made on the initiative
16 of the Secretary or in response to a request by any
17 agency of the State of Colorado or a political sub-
18 division thereof.

19 “(2) DEADLINE.—If a request for designation
20 is initiated by the State or a political subdivision
21 thereof, the Secretary shall issue a decision regard-
22 ing the request not later than 90 days after receipt
23 of the request.

24 “(c) CONSULTATION AND PUBLIC COMMENT.—Be-
25 fore making the determinations required by subpara-

1 graphs (A) and (B) of paragraph (1) of subsection (a)
2 with respect to an area, the Secretary shall—

3 “(1) consult with any Federal agency respon-
4 sible for management of lands within a relevant
5 community wildfire protection plan and appropriate
6 State and local officials; and

7 “(2) provide public notice and seek public com-
8 ments on the possible determinations.

9 “(d) REVIEW OF DESIGNATION.—Any administrative
10 or judicial review of the decision of the Secretary to des-
11 ignate an insect-emergency area shall be subject to regula-
12 tions issued pursuant to section 105 and to the provisions
13 of section 106.

14 “(e) AUTHORIZED HAZARDOUS FUEL REDUCTION
15 PROJECTS IN DESIGNATED AREAS.—An authorized haz-
16 ardous fuel reduction project involving only lands within
17 an insect-emergency area may be categorically excluded
18 from documentation in an environmental impact state-
19 ment and environmental assessment under the National
20 Environmental Policy Act of 1969 (42 U.S.C. 4321 et
21 seq.) if—

22 “(1) the project involves only lands that are
23 identified for hazardous-fuel reduction treatment in
24 a community wildfire protection plan; and

1 “(2) the decision to categorically exclude the
2 project is made in accordance with applicable ex-
3 traordinary circumstances procedures established
4 pursuant to section 1508.4 of title 40, Code of Fed-
5 eral Regulations.”.

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