

109TH CONGRESS
2^D SESSION

H. R. _____

To amend the Healthy Forests Restoration Act of 2003 to help reduce the increased risk of severe wildfires to communities in forested areas affected by infestations of bark beetles and other insects, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. UDALL of Colorado (for himself and Mr. SALAZAR) introduced the following bill; which was referred to the Committee on

A BILL

To amend the Healthy Forests Restoration Act of 2003 to help reduce the increased risk of severe wildfires to communities in forested areas 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,*

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Rocky Mountain Forest Insects Response Enhancement
6 and Support Act” or the “Rocky Mountain FIRES Act”.

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



- Sec. 1. Short title and table of contents.
Sec. 2. Findings and purpose.
Sec. 3. Response to widespread infestations of bark beetles and other insects on Federal land in Rocky Mountain region.
Sec. 4. Community wildfire protection plan development assistance for at-risk communities in the Rocky Mountain region.
Sec. 5. Additional assistance for preparation of community wildfire protection plans.
Sec. 6. Biomass commercial utilization grant program and biomass collection.
Sec. 7. Cooperation with certain private landowners.
Sec. 8. Partial exclusion from gross income of payments received as compensation for silvicultural activities in response to insect-infestation emergencies.

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—Congress finds the following:

3 (1) Fire, bark beetles, and other insects that
4 feed on trees are natural parts of the Rocky Moun-
5 tain forest ecology that have some beneficial effects
6 and help shape the forests by thinning dense tree
7 stands and promoting cyclical re-growth.

8 (2) However, in various parts of the Rocky
9 Mountain region, large-scale infestations of bark
10 beetles and other insects, in combination with other
11 factors, have increased the likelihood of unusually
12 severe wildfires that pose a threat to lives and prop-
13 erty in nearby communities.

14 (3) This increased wildfire danger is the result
15 of the following factors:

16 (A) A century-long policy of suppressing
17 even small fires on Federal lands, which com-
18 bined with a more recent reduction in the quan-
19 tity of timber harvesting on Federal lands, has



1 resulted in unusually dense vegetation that can
2 provide fuel for unusually severe wildfires.

3 (B) A pronounced and prolonged drought
4 that has weakened trees and made them more
5 susceptible to both wildfire and insects.

6 (C) Population growth in mountain com-
7 munities adjacent to Federal lands and the de-
8 velopment of ski areas and other recreational
9 facilities on and in the vicinity of Federal lands,
10 with a resulting increase in the number of peo-
11 ple, homes, and businesses at risk;

12 (4) The Healthy Forests Restoration Act of
13 2003 (Public Law 108–148; 16 U.S.C. 6501 et seq)
14 addressed the need to reduce the volume of fuel that
15 can feed the most severe fires that threaten commu-
16 nities.

17 (5) However, provisions of the Healthy Forests
18 Restoration Act of 2003 and other laws need to be
19 modified to help further reduce the risks to commu-
20 nities in the Rocky Mountain region associated with
21 current insect infestations.

22 (b) PURPOSE.—The purpose of this Act is to facili-
23 tate a swifter response by the Secretary of Agriculture and
24 the Secretary of the Interior to reduce the increased risk
25 of severe wildfires to communities in the Rocky Mountain



1 region resulting from the effects of widespread infestations
2 of bark beetles and other insects.

3 **SEC. 3. RESPONSE TO WIDESPREAD INFESTATIONS OF**
4 **BARK BEETLES AND OTHER INSECTS ON FED-**
5 **ERAL LAND IN ROCKY MOUNTAIN REGION.**

6 (a) DEFINITIONS.—Section 101 of the Healthy For-
7 ests Restoration Act of 2003 (16 U.S.C. 6511) is
8 amended—

9 (1) by redesignating paragraphs (12) through
10 (16) as paragraphs (13), (14), (16), (17), and (18),
11 respectively;

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 Federal land in the
16 Rocky Mountain region that—

17 “(A) the Secretary determines is subject to
18 a widespread infestation of bark beetles or
19 other insects;

20 “(B) is identified for hazardous fuel reduc-
21 tion treatment in a community wildfire protec-
22 tion plan; and

23 “(C) is characterized by insect-induced tree
24 mortality that the Secretary determines has, or
25 within one year will have, produced a condition



1 such that an immediate reduction in hazardous
2 fuels is required in order to reduce the risks to
3 human life and property or to a municipal
4 water supply from a severe wildfire. ”; and

5 (3) by inserting after paragraph (14), as reded-
6 ignated by paragraph (2), the following new para-
7 graph:

8 “(16) ROCKY MOUNTAIN REGION.—The term
9 ‘Rocky Mountain region’ means the States of Ari-
10 zona, Colorado, Idaho, Montana, New Mexico, North
11 Dakota, South Dakota, Utah, and Wyoming.”.

12 (b) FUNDING ALLOCATION PRIORITIZATION FOR
13 FEDERAL LANDS IN ROCKY MOUNTAIN REGION.—Sec-
14 tion 103(d)(1) of the Healthy Forests Restoration Act of
15 2003 (16 U.S.C. 6513(d)(1)(B)) is amended by adding at
16 the end the following new subparagraph:

17 “(D) SPECIAL RULE FOR ROCKY MOUN-
18 TAIN REGION.—The Secretary shall allocate not
19 less than 70 percent of the funds allocated for
20 authorized hazardous fuel reduction projects in
21 the Rocky Mountain region for—

22 “(i) projects in the wildland-urban
23 interface; and

24 “(ii) lands that are in proximity to a
25 municipal water supply system or a stream



1 feeding such a system within a municipal
2 watershed and that have been identified for
3 such projects in community wildfire protec-
4 tion plans.”.

5 (c) ALTERNATIVE ANALYSIS PROCESS.—Section
6 104(d)(2) of the Healthy Forests Restoration Act of 2003
7 (16 U.S.C. 6514(d)(2)) is amended by inserting after “at-
8 risk community” the following: “or on any other lands
9 identified for such a project in a community wildfire pro-
10 tection plan for an at-risk community in or adjacent to
11 an insect-emergency area”.

12 (d) INSECT EMERGENCIES.—Title I of the Healthy
13 Forests Restoration Act of 2003 is amended—

14 (1) by redesignating sections 107 and 108 as
15 sections 109 and 110, respectively; and

16 (2) by inserting after section 106 the following
17 new section:

18 **“SEC. 107. ACTIONS RELATED TO INSECT-EMERGENCY**
19 **AREAS.**

20 “(a) DESIGNATION.—

21 “(1) DESIGNATION AUTHORITY.—The Secretary
22 may designate insect-emergency areas. The designa-
23 tion shall be made on the basis of the best informa-
24 tion available, including observation of relevant in-
25 sect infestations.



1 “(2) INITIATION.—The designation of an in-
2 sect-emergency area may be made on the initiative
3 of the Secretary or in response to a request by any
4 State agency or any political subdivision of a State.

5 “(3) DEADLINE.—If a State agency or a polit-
6 ical subdivision of a State requests an area to be
7 designated as an insect-emergency area pursuant to
8 paragraph (2), the decision regarding such request
9 shall be made no later than 90 days after receipt of
10 the request.

11 “(4) LIMITATION ON DELEGATION.—In the
12 case of National Forest System lands, the authority
13 to make a designation under this subsection may be
14 delegated only to a Regional Forester.

15 “(b) CONSULTATION AND PUBLIC COMMENT.—Be-
16 fore making a determination to designate an insect-emer-
17 gency area, the Secretary shall—

18 “(1) consult with any Federal agency respon-
19 sible for management of lands within a relevant
20 community wildfire protection plan and appropriate
21 State and local officials; and

22 “(2) provide public notice and seek public com-
23 ments.

24 “(c) REVIEW OF DESIGNATION.—Any administrative
25 or judicial review of a designation made pursuant to sub-



1 section (a) shall be subject to regulations issued pursuant
2 to section 105 and to the provisions of section 106.

3 “(d) EFFECT OF DETERMINATION.—

4 “(1) AUTHORIZED HAZARDOUS FUEL REDUC-
5 TION PROJECTS.—An authorized hazardous fuel re-
6 duction project involving lands within an area des-
7 ignated as an insect-emergency area may be cat-
8 egorically excluded from documentation in an envi-
9 ronmental impact statement and environmental as-
10 sessment under the National Environmental Policy
11 Act of 1969 (42 U.S.C. 4321 et seq.) if—

12 “(A) the project involves only lands that
13 are identified for hazardous-fuel reduction
14 treatment in a community wildfire protection
15 plan; and

16 “(B) the decision to categorically exclude
17 the project is made in accordance with applica-
18 ble extraordinary circumstances procedures es-
19 tablished pursuant to section 1508.4 of title 40,
20 Code of Federal Regulations.

21 “(2) STEWARDSHIP PROJECTS .—A stewardship
22 contracting project under section 347 of the Depart-
23 ment of the Interior and Related Agencies Appro-
24 priations Act, 1999 (as contained in section 101(e)
25 of Public Law 105–277; 16 U.S.C. 2104 note) to



1 implement a hazardous fuel reduction project in an
2 insect-emergency area may exceed 10 years, but may
3 not exceed 15 years.

4 “(e) PERSONNEL AUTHORITY.—The Secretary of Ag-
5 riculture may relocate or reassign personnel of the Forest
6 Service in order to provide additional personnel to prepare
7 and carry out applied silvicultural assessments under sec-
8 tion 404 in response to an insect emergency or to prepare
9 and implement other appropriate actions involving Federal
10 lands subject to an insect emergency.”.

11 (e) RELATION TO APPEALS REFORM ACT.—Section
12 105 of the Healthy Forests Restoration Act of 2003 (16
13 U.S.C. 6515) is amended by adding at the end the fol-
14 lowing new subsection:

15 “(d) RELATION TO APPEALS REFORM ACT.—Noth-
16 ing in section 322 of the Department of the Interior and
17 Related Agencies Appropriations Act, 1999 (Public Law
18 102–381; 16 U.S.C. 1612 note) shall be construed to re-
19 quire administrative review procedures different from, or
20 in addition to, the procedures established by regulations
21 issued pursuant to this section for administrative review
22 of an authorized hazardous fuel reduction project con-
23 ducted pursuant to section 102 or the designation of an
24 insect-emergency area pursuant to section 107.”.



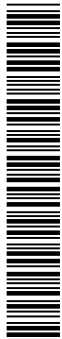
1 **SEC. 4. COMMUNITY WILDFIRE PROTECTION PLAN DEVEL-**
2 **OPMENT ASSISTANCE FOR AT-RISK COMMU-**
3 **NITIES IN THE ROCKY MOUNTAIN REGION.**

4 (a) AVAILABILITY OF ASSISTANCE.—Section 103 of
5 the Healthy Forests Restoration Act of 2003 (16 U.S.C.
6 6513) is amended by adding at the end the following new
7 subsection:

8 “(e) PLANNING ASSISTANCE FOR AT-RISK COMMU-
9 NITIES.—Using amounts made available to the Secretary
10 of Agriculture under section 35(e) of the Mineral Leasing
11 Act (30 U.S.C. 191(e)), the Secretary of Agriculture shall
12 make grants to at-risk communities in the Rocky Moun-
13 tain region to assist the at-risk communities to prepare
14 or revise a community wildfire protection plan. The Sec-
15 retary of Agriculture shall make such grants in consulta-
16 tion with appropriate State agencies.”.

17 (b) FUNDING SOURCE.—Section 35 of the Mineral
18 Leasing Act (30 U.S.C. 191) is amended by adding at the
19 end the following new subsection:

20 “(c) Notwithstanding subsection (a), \$5,000,000 of
21 the monies paid into the Treasury under such subsection
22 for each of the fiscal years 2006 through 2010 shall be
23 made available to the Secretary of Agriculture, without
24 further appropriation and until expended, for obligation
25 and expenditure pursuant to section 103(e) of the Healthy
26 Forests Restoration Act of 2003 (16 U.S.C. 6513).”.



1 **SEC. 5. ADDITIONAL ASSISTANCE FOR PREPARATION OF**
2 **COMMUNITY WILDFIRE PROTECTION PLANS.**

3 Subparagraph (L) of section 33(b)(3) of the Federal
4 Fire Prevention and Control Act of 1974 (15 U.S.C.
5 2229(b)(3)) is amended to read as follows:

6 “(L) To fund fire prevention programs, in-
7 cluding the development of community wildfire
8 protection plans (as defined in section 101 of
9 the Healthy Forests Restoration Act of 2003
10 (16 U.S.C. 6511)).”.

11 **SEC. 6. BIOMASS COMMERCIAL UTILIZATION GRANT PRO-**
12 **GRAM AND BIOMASS COLLECTION.**

13 (a) GRANT PROGRAM.—Section 203 of the Healthy
14 Forests Restoration Act of 2003 (16 U.S.C. 6531) is
15 amended to read as follows:

16 **“SEC. 203. BIOMASS COMMERCIAL UTILIZATION GRANT**
17 **PROGRAM.**

18 “(a) PROGRAM AUTHORIZED.—The Secretary of Ag-
19 riculture may make grants to the owners or operators of
20 facilities that use biomass—

21 “(1) as a raw material to produce electricity,
22 sensible heat, transportation fuel, or substitutes for
23 petroleum-based products;

24 “(2) for wood-based products; or

25 “(3) for other commercial purposes.



1 point for the placement of vegetative material removed
2 from Federal or other lands as part of hazardous fuel re-
3 duction projects under title I. No collection point shall be
4 established on any lands not owned by the United States
5 without the consent of the owner of such lands.

6 “(b) USE.—Vegetative material placed at a collection
7 point established under this section may be sold, donated,
8 or otherwise made available to any party who will remove
9 the material from the collection point.

10 “(c) DEFINITION.—In this section, the term “Sec-
11 retary” means—

12 “(1) the Secretary of Agriculture with respect
13 to lands managed by the Forest Service; and

14 “(2) the Secretary of the Interior with respect
15 to lands managed by any agency of the Department
16 of the Interior.”.

17 **SEC. 7. COOPERATION WITH CERTAIN PRIVATE LAND-**
18 **OWNERS.**

19 Title I of the Healthy Forests Restoration Act of
20 2003 is amended by inserting after section 107, as added
21 by section 3(d), the following new section:

22 **“SEC. 108. COOPERATION WITH CERTAIN PRIVATE LAND-**
23 **OWNERS.**

24 “(a) USE OF PRIVATE LANDOWNERS.—The Sec-
25 retary may award stewardship contracts to or enter into



1 agreements with owners of lands contiguous to Federal
2 lands managed by the Secretary under which the land-
3 owners may carry out a fuel-reduction project or other ac-
4 tivities on the contiguous Federal lands in order to reduce
5 the extent to which the Federal lands or other lands could
6 be affected by wildfires. The agreement shall include such
7 terms and conditions as the Secretary considers appro-
8 priate with regard to activities to be performed on the
9 Federal lands.

10 “(b) REIMBURSEMENT.—A stewardship contract or
11 other agreement under this section may provide for reim-
12 bursement by the Secretary for costs incurred by the land-
13 owner related to the fuel-reduction project or other activi-
14 ties on the Federal lands. If reimbursement is not pro-
15 vided, the cost incurred by the landowner shall be treated
16 as a donation to the United States for purposes of the
17 Internal Revenue Code of 1986.”

18 **SEC. 8. PARTIAL EXCLUSION FROM GROSS INCOME OF PAY-**
19 **MENTS RECEIVED AS COMPENSATION FOR**
20 **SILVICULTURAL ACTIVITIES IN RESPONSE TO**
21 **INSECT-INFESTATION EMERGENCIES.**

22 (a) IN GENERAL.—Part III of subchapter B of chap-
23 ter 1 of the Internal Revenue Code of 1986 (relating to
24 items specifically excluded from gross income) is amended
25 by inserting after section 139A the following new section:



1 **“SEC. 139B. COMPENSATION FOR SILVICULTURAL ACTIVI-**
2 **TIES IN RESPONSE TO INSECT-INFESTATION**
3 **EMERGENCIES.**

4 “(a) GENERAL RULE.—Gross income shall not in-
5 clude any qualified silvicultural payments.

6 “(b) DOLLAR LIMITATION.—The aggregate of the
7 payments which may be taken into account under sub-
8 section (a) with respect to a taxpayer for a taxable year
9 shall not exceed \$10,000 (\$20,000 in the case of a joint
10 return).

11 “(c) QUALIFIED SILVICULTURAL PAYMENTS.—For
12 purposes of this section—

13 “(1) IN GENERAL.—The term ‘qualified silvicult-
14 tural payment’ means any amount received by the
15 taxpayer during the taxable year as compensation
16 for work performed in the Rocky Mountain region as
17 part of—

18 “(A) an authorized hazardous fuels reduc-
19 tion project conducted pursuant to section 102
20 of the Healthy Forests Restoration Act of 2003
21 (16 U.S.C. 6512) in an insect-emergency area,
22 or

23 “(B) a silvicultural assessment or other
24 treatment conducted under section 404 of such
25 Act (16 U.S.C. 6554) in an insect-emergency
26 area.



