



# Congress of the United States

House of Representatives

Washington, DC 20515

November 3, 2005

Dear Fellow Coloradan:

Last month, local elected officials joined representatives of the Forest Service, the timber and ski industries, homeowners, and others in a meeting with Mark Udall to discuss issues and concerns about the impacts of bark beetles on Colorado's forests and the resulting increase in the likelihood of severe forest fires.

Based on the input received at this meeting and from other sources, we have developed the enclosed draft legislation.

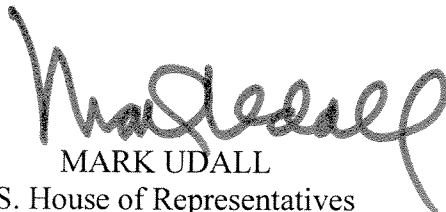
**We would appreciate receiving your comments, suggestions or other input about this draft legislation. Because we want to proceed without unnecessary delay, we would like to hear from you by November 17th.**

You can send your comments or make suggestions to Mark Udall's office at P.O. Box 325 in Minturn, CO 81645 or call Dan Gibbs at 970- 827-4154 or Doug Young at 303- 650-7820 or send a fax to Mark Udall at 303-650-7827.

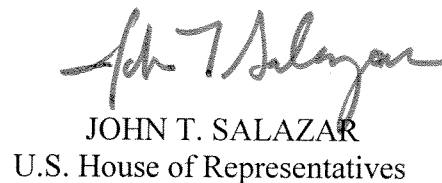
You also can send comments or suggestions to John Salazar's office at 700 Main Ave, Suite F, Durango, CO 81301 or call John Whitney at 970-375-3264 or Shane Schulz in the Washington, D.C. office at 202-225-4761 or send a fax to John Salazar at 970-375-3265.

Thank you for reviewing this material. We look forward to hearing from you.

Sincerely,



MARK UDALL  
U.S. House of Representatives



JOHN T. SALAZAR  
U.S. House of Representatives

**CONGRESSMEN MARK UDALL AND JOHN SALAZAR**  
**DRAFT BARK BEETLE RESPONSE LEGISLATION**

This document is designed to provide narrative explaining how the concepts in the legislative outline would work, and respond to the specific issues and concerns raised at the town meeting.

***Concern #1: A federal court decision has halted or hampered the use of “categorical exclusions” — that is, streamlined environmental reviews — under the National Environmental Policy Act (NEPA) for fuels reduction projects under the Healthy Forests Restoration Act.***

The proposed bill would address this concern by making projects under the Healthy Forests Restoration Act — as well as those authorized under the legislation’s new provisions to address bark beetle impacts — exempt from the application of the Judge’s Order. As a result, these projects could continue to move forward under the streamlined “categorical exclusion” process as well as new procedures created by the proposed legislation.

***Concern #2: Many areas in Colorado are facing urgent problems associated with bark beetles—such as dead and dying trees that could present an increased wildfire hazard. There needs to be a way to help provide prompt response to addressing the impacts of dead and dying trees from the beetle epidemic.***

The proposed bill would amend the Healthy Forests Restoration Act to allow state governors to request that the Forest Service declare areas as “insect-infested areas.” When this designation is declared, certain actions are allowed—such as forest thinning projects, community protection projects—under a streamlined environmental review process within the area covered by a “community wildlife protection plan” (CWPP).

***Concern #3: The cost of removing trees killed by beetles — or to otherwise reduce the build-up of fuel loads — is more than the value of the trees and fuel removed. Efforts should be made to address this issue so as to attract more private sector involvement in removing this material.***

The proposed bill would exempt a certain amount of the income derived from the removal of beetle-killed trees or other fuel reduction projects from income taxes. This would apply to both the cutters and the haulers. This tax-exempt income could help make the removal of this material more economical and thus more attractive to people willing and able to do the work.

In addition, the proposed bill directs the Forest Service to give a preference to anyone seeking a federal grant to convert removed biomass (e.g. beetle-killed trees) into energy to those that secure that biomass under a project to reduce the affects of an insect-infested area.

***Concern #4: Resources are scarce to implement projects or develop CWPPs. More resources should be made available to this effort.***

The proposed bill would direct that \$5 million annually for 5 years produced from the royalties from on-shore oil and gas development be applied to grants to help communities develop a required CWPP. This would help communities pay for plans that would aid rapid response to beetle impacts.

***Concern #5: The Forest Service lacks the resources—in terms of funding and staff—to develop projects to reduce fuel loads from beetle-killed trees.***

The proposed bill would authorize the Forest Service redirect existing personnel from other regions to help respond to a beetle emergency in the Rocky Mountain Region.

## **DRAFT LEGISLATION SECTION-BY-SECTION EXPLANATION**

### **SECTION 1 – Short Title, Findings, and Purpose**

This section states several findings that explain the reason for the bill, and states the bill’s purpose – “to facilitate swifter actions to reduce the increased risk of severe wildfires to communities in the Rocky Mountain region resulting from the effects of widespread infestations of bark beetles and other insects.”

### **SECTION 2 – Amendments to Title I of the Healthy Forests Restoration Act of 2003**

Subsection 2(a) would add definitions of the terms “insect infested area,” “Rocky Mountain region,” and “insect emergency.” It also would revise the current definition of “community wildfire protection plan” to add a requirement that community wildfire protection plans include a fire-behavior analysis prepared by a qualified expert.

Subsection 2(b) would increase to 70% the minimum amount of funds allocated for fuel-reduction projects in the Rocky Mountain region that would have to be spent on work on lands in the Urban-Wildland interface and land covered by community wildfire protection plans.

Subsection 2(c) would amend section 104(d)(2) of the current Act to allow the streamlined NEPA analysis now applicable to projects within 1.5 miles of a community boundary to be used for projects on other lands covered by a community wildfire protection plan for a community in or adjacent to an insect-infested area.

Subsection 2(d) would add a new section to Title I to address “insect emergencies.” Under this new section, if the Governor of a State in the Rocky Mountain Region so requested, the Secretary of Agriculture, in consultation with the Secretary of the Interior and appropriate state and local officials, would determine whether an insect emergency exists or is likely to exist within one year after the date of the Governor’s request on Federal lands in that state on which a hazardous fuel reduction project could be conducted pursuant to section 102 of the current Act, and, if so, which such Federal lands are affected.

By definition, an insect emergency determination could apply only onto to lands covered by a community wildfire protection plan. And, because it would be limited to lands eligible for a fuel-reduction project, it would not apply to wilderness, wilderness study areas, or other Federal lands on which the removal of vegetation is prohibited or restricted by law or Presidential proclamation.

If the Secretary of Agriculture determines that an insect emergency exists, the affected lands could be treated under section 404 of the current Act – meaning that the treatment would be categorically excluded from NEPA analysis. However, unlike section 404 projects, these treatments would not be subject to an acreage limit (because community wildfire protection plans are not so limited).

Also, after an insect emergency determination, the Forest Service, BLM, or other agency would be required to seek to enter into one or more stewardship contracting projects to implement the treatment of the affected lands.

An insect emergency determination would be subject to the streamlined appeal and judicial review provisions of Sections 105 and 106 of the current Act.

And this subsection would authorize the Forest Service to reassign existing staff from other regions to the Rocky Mountain Region to help develop projects or otherwise assist in addressing an insect emergency.

Subsection 2(e) would add another new section to Title I of the current Act, to authorize the Forest Service to make grants to communities in the Rocky Mountain region to assist with the preparation or revision of community wildfire protection plans.

### **SECTION 3 – Priority Grants for Biomass Projects**

This section would amend Section 203 (a) of the Healthy Forests Restoration Act of 2003. That section authorizes grants to people operating generating facilities that burn biomass to help offset the costs of purchasing the biomass. The amendment would require that priority be given to people who purchase biomass removed from Federal lands in insect-infested areas.

### **SECTION 4 – Addresses the Court Order regarding “categorical exclusions” under NEPA**

This section would state exempt insect-emergency determinations and administrative-review regulations under the Healthy Forests Restoration Act from any challenge that they are inconsistent with the Forest Service Decision Making and Appeals Reform Act.

### **SECTION 5 – FEMA Assistance**

This section would amend the Federal Fire Protection and Control Act of 1974 to make clear that FEMA’s authority to help fund fire prevention programs includes assistance with the development of community wildfire protection plans.

### **SECTION 6 – Federal Funding Assistance**

This section would amend the Mineral Leasing Act to provide that in each of the fiscal years 2007 through 2010, \$5 million dollars of the federal share of onshore oil and gas lease revenues would go directly to the Forest Service to fund the new program of assistance for preparing community protection plans that would be established by subsection 2(e) of the bill.

### **SECTION 7 – Tax Exempt Income for Hazardous Fuels Reduction Projects**

This section would make exempt from federal income tax amounts up to \$\_\_\_\_\_ paid by the United States to individuals or corporations—including haulers—for work done as part of a hazardous fuels reduction project or (in areas affected by an insect emergency) a silvicultural assessment or similar treatment.

.....  
(Original Signature of Member)

109TH CONGRESS  
1ST 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 mountain pine 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 mountain pine 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 AND FINDINGS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the  
3 “Rocky Mountain Forest Insects Response Enhancement  
4 and Support Act of 2005” or the “Rocky Mountain  
5 **FIRES Act**”.

6 (b) **FINDINGS.**—Congress finds the following:

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

12 (2) However, in various parts of the Rocky  
13 Mountain region, large-scale infestations of beetles  
14 and other insects, in combination with other factors,  
15 have increased the likelihood of unusually severe  
16 wildfires that pose a threat to lives and property in  
17 nearby communities.

18 (3) This increased wildfire danger is the result  
19 of the following factors:

20 (A) A century-long policy of suppressing  
21 even small fires on Federal lands, which com-  
22 bined with a more recent reduction in the quan-  
23 tity of timber harvesting on Federal lands, has  
24 resulted in unusually dense vegetation that can  
25 provide fuel for unusually severe wildfires.



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

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

10 (4) The Healthy Forests Restoration Act of  
11 2003 (Public Law 108–148; 16 U.S.C. 6501 et seq)  
12 addressed the need to reduce the volume of fuel that  
13 can feed the most severe fires that threaten commu-  
14 nities.

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

20 (e) PURPOSE.—The purpose of this Act is to facili-  
21 tate a swifter response by the Secretary of Agriculture and  
22 the Secretary of the Interior to reduce the increased risk  
23 of severe wildfires to communities in the Rocky Mountain  
24 region resulting from the effects of widespread infestations  
25 of mountain pine beetles and other insects.



1 **SEC. 3. RESPONSE TO WIDESPREAD INFESTATIONS OF**  
2 **MOUNTAIN PINE BEETLES AND OTHER IN-**  
3 **SECTS ON FEDERAL LAND IN ROCKY MOUN-**  
4 **TAIN REGION.**

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

8 (1) in paragraph (3)—

9 (A) by redesignating subparagraphs (B)  
10 and (C) as subparagraphs (C) and (D), respec-  
11 tively; and

12 (B) by inserting after subparagraph (A)  
13 the following new subparagraph:

14 “(B) includes a fire-behavior analysis uti-  
15 lizing a methodology approved by an analyst  
16 certified by the National Wildfire Coordinating  
17 Group;”;

18 (2) by redesignating paragraphs (3) through  
19 (16) as paragraphs (5) through (15) and (17), (18),  
20 and (19), respectively;

21 (3) by inserting after paragraph (2) the fol-  
22 lowing new paragraphs

23 “(3) **BEETLE EMERGENCY.**—The term ‘beetle  
24 emergency’ means an infestation of mountain pine  
25 beetles or other insects in the Rocky Mountain re-  
26 gion of an intensity that has contributed to Federal



1 lands identified for fuel reduction treatments in a  
2 community wildfire protection plan to be in condi-  
3 tion class 3.

4 “(4) BEETLE-INFESTED AREA.—The term ‘bee-  
5 tle-infested area’ means Federal land in the Rocky  
6 Mountain region that the Secretary determines is  
7 subject to a widespread infestation of mountain pine  
8 beetles or other insects that has created the poten-  
9 tial for a wildfire likely to endanger an at-risk com-  
10 munity.”; and

11 (4) by inserting after paragraph (15), as redes-  
12 igned by paragraph (3), the following new para-  
13 graph:

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

18 (b) FUNDING ALLOCATION PRIORITIZATION FOR  
19 FEDERAL LANDS IN ROCKY MOUNTAIN REGION.—Sec-  
20 tion 103(d)(1)(B) of the Healthy Forests Restoration Act  
21 of 2003 (16 U.S.C. 6513(d)(1)(B)) is amended by adding  
22 at the end the following new sentence: “The Secretary  
23 shall allocate not less than 70 percent of the funds allo-  
24 cated for authorized hazardous fuel reduction projects in  
25 the Rocky Mountain region for projects in the wildland-



1 urban interface and on lands identified for such projects  
2 in community wildfire protection plans.”.

3 (c) ALTERNATIVE ANALYSIS PROCESS.—Section  
4 104(d)(2) of the Healthy Forests Restoration Act of 2003  
5 (16 U.S.C. 6514(d)(2)) is amended by inserting after “at-  
6 risk community” the following: “or on any other lands  
7 identified for such a project in a community wildfire pro-  
8 tection plan for an at-risk community in or adjacent to  
9 a beetle-infested area”.

10 (d) BEETLE EMERGENCIES.—Title I of the Healthy  
11 Forests Restoration Act of 2003 is amended—

12 (1) by redesignating sections 107 and 108 as  
13 sections 108 and 109, respectively; and

14 (2) by inserting after section 106 the following  
15 new section:

16 **“SEC. 107. RESPONSE TO BEETLE EMERGENCIES.**

17 “(a) DETERMINATION OF EMERGENCY.—At the re-  
18 quest of the Governor of a State in the Rocky Mountain  
19 region, the Secretary of Agriculture shall determine  
20 whether a beetle emergency exists on Federal land in the  
21 State or is likely to exist on Federal land in the State  
22 within one year after the date of the Governor’s request.  
23 As part of the determination, the Secretary of Agriculture  
24 shall also determine whether the beetle-infested area is



1 Federal land on which authorized hazardous fuel reduction  
2 projects could be conducted pursuant to section 102.

3 “(b) CONSULTATION AND PUBLIC COMMENT.—The  
4 Secretary of Agriculture shall make the determinations re-  
5 quired by subsection (a) in consultation with the Secretary  
6 of the Interior and appropriate State and local officials.  
7 The Secretary of Agriculture shall provide public notice  
8 of any request received under such subsection and shall  
9 seek public comments on the request.

10 “(c) EFFECT OF DETERMINATION.—

11 “(1) APPLIED SILVICULTURAL ASSESSMENT.—

12 If the Secretary of Agriculture determines under  
13 subsection (a) that a beetle emergency exists on  
14 Federal lands, the affected Federal lands shall be el-  
15 igible for an applied silvicultural assessment under  
16 section 404. The applied silvicultural assessment on  
17 the lands shall be subject to the requirements and  
18 limitations of such section, except that paragraphs  
19 (2) and (3) of subsection (d) of such section shall  
20 not apply.

21 “(2) STEWARDSHIP PROJECTS .—If the Sec-  
22 retary of Agriculture determines under subsection  
23 (a) that a beetle emergency exists on Federal lands,  
24 the Secretary having jurisdiction over the lands shall  
25 seek to enter into one or more stewardship con-



1       tracting projects under section 347 of the Depart-  
2       ment of the Interior and Related Agencies Appro-  
3       priations Act, 1999 (as contained in section 101(e)  
4       of division A of Public Law 105–277; 16 U.S.C.  
5       2104 note) to facilitate the applied silvicultural as-  
6       sessment or for other actions that would be taken to  
7       conduct an authorized hazardous fuel reduction  
8       project on the lands. Notwithstanding subsection  
9       (c)(2) of such section, the duration of the steward-  
10      ship contract may exceed 10 years, but may not ex-  
11      ceed 15 years.

12      “(d) **REVIEW OF DETERMINATIONS.**—Any adminis-  
13      trative or judicial review of a determination made under  
14      subsection (a) that a beetle emergency exists shall be sub-  
15      ject to regulations issued pursuant to section 105 and to  
16      the provisions of section 106.

17      “(e) **PERSONNEL AUTHORITY.**—The Secretary of Ag-  
18      riculture may relocate or reassign personnel of the Forest  
19      Service in order to provide additional personnel to prepare  
20      and carry out applied silvicultural assessments under sec-  
21      tion 404 in response to a beetle emergency or to prepare  
22      and implement other appropriate actions involving Federal  
23      lands subject to a beetle emergency.”.

24      “(e) **RELATION TO APPEALS REFORM ACT.**—Section  
25      105 of the Healthy Forests Restoration Act of 2003 (16



1 U.S.C. 6515) is amended by adding at the end the fol-  
2 lowing new subsection:

3 “(d) **RELATION TO APPEALS REFORM ACT.**—Noth-  
4 ing in section 322 of the Department of the Interior and  
5 Related Agencies Appropriations Act, 1999 (Public Law  
6 102–381; 16 U.S.C. 1612 note) shall be construed to re-  
7 quire administrative review procedures different from, or  
8 in addition to, the procedures established by regulations  
9 issued pursuant to this section for administrative review  
10 of an authorized hazardous fuel reduction project con-  
11 ducted pursuant to section 102 or a determination made  
12 pursuant to section 107.”.

13 **SEC. 4. COMMUNITY WILDFIRE PROTECTION PLAN DEVEL-**  
14 **OPMENT ASSISTANCE FOR AT-RISK COMMU-**  
15 **NITIES IN THE ROCKY MOUNTAIN REGION.**

16 (a) **AVAILABILITY OF ASSISTANCE.**—Section 103 of  
17 the Healthy Forests Restoration Act of 2003 (16 U.S.C.  
18 6513) is amended by adding at the end the following new  
19 subsection:

20 “(e) **PLANNING ASSISTANCE FOR AT-RISK COMMU-**  
21 **NITIES.**—Using amounts made available to the Secretary  
22 of Agriculture under section 35(c) of the Mineral Leasing  
23 Act (30 U.S.C. 191(c)), the Secretary of Agriculture shall  
24 make grants to at-risk communities in the Rocky Moun-  
25 tain region to assist the at-risk communities to prepare



1 or revise a community wildfire protection plan. The Sec-  
2 retary of Agriculture shall make such grants in consulta-  
3 tion with appropriate State agencies.”.

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

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

14 **SEC. 5. ADDITIONAL ASSISTANCE FOR PREPARATION OF**  
15 **COMMUNITY WILDFIRE PROTECTION PLANS.**

16 Subparagraph (L) of section 33(b)(3) of the Federal  
17 Fire Prevention and Control Act of 1974 (15 U.S.C.  
18 2229(b)(3)) is amended to read as follows:

19 “(L) To fund fire prevention programs, in-  
20 cluding the development of community wildfire  
21 protection plans (as defined in section 101 of  
22 the Healthy Forests Restoration Act of 2003  
23 (16 U.S.C. 6511)).”.



1 **SEC. 6. BIOMASS COMMERCIAL UTILIZATION GRANT PRO-**  
2 **GRAM.**

3 Section 203 of the Healthy Forests Restoration Act  
4 of 2003 (16 U.S.C. 6531) is amended—

5 (1) by redesignating subsection (b) as sub-  
6 section (c); and

7 (2) by inserting after subsection (a) the fol-  
8 lowing new subsection:

9 “(b) GRANT PRIORITIES.—In making grants under  
10 subsection (a), the Secretary shall give priority to applica-  
11 tions submitted by persons who purchase biomass removed  
12 from Federal lands in beetle-infested areas through an au-  
13 thorized hazardous fuel reduction project carried out pur-  
14 suant to section 102.”.

15 **SEC. 7. PARTIAL EXCLUSION FROM GROSS INCOME OF PAY-**  
16 **MENTS RECEIVED AS COMPENSATION FOR**  
17 **SILVICULTURAL ACTIVITIES IN RESPONSE TO**  
18 **BEETLE EMERGENCIES.**

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



1 **“SEC. 139B. COMPENSATION FOR SILVICULTURAL ACTIVI-**  
2 **TIES IN RESPONSE TO BEETLE EMER-**  
3 **GENCIES.**

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 silvicul-  
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 response to a beetle emer-  
22 gency, or

23 “(B) a silvicultural assessment or other  
24 treatment conducted under section 404 of such  
25 Act (16 U.S.C. 6554) on Federal lands affected  
26 by a beetle emergency.





# HOW THE DRAFT BILL WOULD CHANGE CURRENT LAW

(new language to existing law shown in **bold**; the bill's proposed new sections that would not change existing law are not shown below)

## HEALTHY FORESTS RESOTRATION ACT OF 2003 TITLE I—HAZARDOUS FUEL REDUCTION ON FEDERAL LAND SEC. 101. DEFINITIONS.

In this title:

\* \* \*

**“( ) Insect Infested Area. – The term “insect infested area” means Federal land in the Rocky Mountain region that the Secretary of Agriculture (with respect to lands managed by the Forest Service) or the Secretary of the Interior (with respect to other Federal land) determines is subject to a widespread infestation of Mountain Pine Beetles or other insects that has created the potential for wildfire behavior endangering an at-risk community.”**

**“( ) Rocky Mountain Region. – The term “Rocky Mountain region” means the States of Arizona (?), Colorado, Montana (?), New Mexico (?), North Dakota (?), South Dakota(?), Utah (?), and Wyoming (?).**

**“( ) Insect Emergency. – The term insect emergency means an insect infestation in the Rocky Mountain region of an intensity that has caused affected Federal lands identified for hazardous fuel reduction treatments in a community wildlife protection plan to be in condition class 3**

(3) Community Wildfire Protection Plan. – The term “community wildfire protection plan” a plan for an at- risk community that--

(A) is developed within the context of the collaborative agreements and the guidance established by the Wildland Fire Leadership Council and agreed to by the applicable local government, local fire department, and State agency responsible for forest management, in consultation with interested parties and the Federal land management agencies managing land in the vicinity of the at-risk community;

**(B) includes a fire-behavior analysis utilizing a methodology approved by an analyst certified by the National Wildfire Coordinating Group;**

(C) identifies and prioritizes areas for hazardous fuel reduction treatments and recommends the types and methods of treatment on Federal and non-Federal land that will protect 1 or more at-risk communities and essential infrastructure; and

(D) recommends measures to reduce structural ignitability throughout the at-risk community.

\* \* \*

SEC. 103. PRIORITIZATION.

\* \* \*

(d) Funding Allocation.—

(1) Federal land.—

(A) In general.—Subject to subparagraph (B), the Secretary shall use not less than 50 percent of the funds allocated for authorized hazardous fuel reduction projects in the wildland-urban interface.

(B) Applicability and allocation.—The funding allocation in subparagraph (A) shall apply at the national level. The Secretary may allocate the proportion of funds differently than is required under subparagraph (A) within individual management units as appropriate, in particular to conduct authorized hazardous fuel reduction projects on land described in section 102(a)(4), **and shall allocate not less than 70 per cent of the funds allocated for authorized hazardous fuel reduction projects in the Rocky Mountain region for projects in the wildland-urban interface and on lands identified for such projects in a community wildfire protection plan for a community.**

\* \* \*

SEC. 104. ENVIRONMENTAL ANALYSIS.

\* \* \*

d) Alternative Analysis Process for Projects in Wildland-Urban Interface.—

(A) Proposed agency action and 1 action alternative.—For an authorized hazardous fuel reduction project that is proposed to be conducted in the wildland-urban interface, the Secretary is not required to study, develop, or describe more than the proposed agency action and 1 action alternative in the environmental assessment or environmental impact statement prepared pursuant to section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)).

(A) Proposed agency action.—Notwithstanding paragraph (1), but subject to paragraph (3), if an authorized hazardous fuel reduction project proposed to be conducted in the wildland-urban interface is located no further than 1½ miles from the boundary of an at-risk community, **or on any other lands that have been identified for such a project in a community wildfire protection plan for a community in or adjacent to an insect-infested area**, the Secretary is not required to study, develop, or describe any alternative to the proposed agency action in the environmental assessment or environmental impact statement prepared pursuant to section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)).

(A) Proposed agency action and community wildfire protection plan alternative.—In the case of an authorized hazardous fuel reduction project described in paragraph (2), if the at-risk community has adopted a community wildfire protection

plan and the proposed agency action does not implement the recommendations in the plan regarding the general location and basic method of treatments, the Secretary shall evaluate the recommendations in the plan as an alternative to the proposed agency action in the environmental assessment or environmental impact statement prepared pursuant to section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)).

\* \* \*

**SEC. 108. – INSECT EMERGENCIES. – (a) Request by Governor. – If requested to do so by the Governor of a State in the Rocky Mountain Region, the Secretary of Agriculture, in consultation with the Secretary of the Interior and appropriate state and local officials, shall determine whether an insect emergency exists or is likely to exist within one year after the date of the Governor’s request on Federal lands in that state on which a hazardous fuel reduction project could be conducted pursuant to section 102 and, if so, which such Federal lands are affected.**

**(b) Effect of Determination. – If the Secretary of Agriculture, pursuant to subsection (a), determines that an insect emergency exists –**

**(1) the affected Federal lands shall be eligible for a applied silvicultural assessment pursuant to section 404 of this Act; and**

**(2) The appropriate Secretary shall seek to enter into one or more stewardship contracting projects, pursuant to section 347 of P.L. 105-277 as amended by section 323 of P.L. 108-7, to facilitate such applied silvicultural assessment or for other actions that would be taken to conduct an authorized hazardous fuel reduction project on such lands.**

**(c) Actions on Affected Lands – An applied silvicultural assessment on Federal lands affected by a beetle emergency shall be subject to the requirements and limitations of section 404 of this Act, except that neither section 404 (d)(2) nor section 404 (d)(3) shall apply.**

**(d) Review of Determinations. – Any administrative or judicial review of a determination pursuant to this subsection that an insect emergency exists shall be subject to regulations issued pursuant to section 105 and to the provisions of section 106.**

**(e) Personnel Authority. – The Secretary of Agriculture may relocate or reassign personnel of the Forest Service in order to provide additional personnel to prepare and carry out applied silvicultural assessments under section 404 in response to a beetle emergency or to prepare and implement other appropriate actions involving Federal lands subject to a beetle emergency.**

**SEC. 109 PLANNING ASSISTANCE FOR CERTAIN AT-RISK COMMUNITIES. – The Secretary of Agriculture, acting through the Chief of the Forest Service and in consultation with appropriate State agencies, may make a grant to an at-risk community in the Rocky Mountain region for use in connection with the preparation or revision of a community wildfire protection plan.**

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SECTION 203. BIOMASS COMMERCIAL UTILIZATION GRANT PROGRAM.

(a) In General.--In addition to any other authority of the Secretary of Agriculture to make grants to a person that owns or operates a facility that uses biomass as a raw material to produce electric energy, sensible heat, transportation fuel, or substitutes for petroleum-based products, the Secretary may make grants to a person that owns or operates a facility that uses biomass for wood-based products or other commercial purposes to offset the costs incurred to purchase biomass. **The Secretary shall give priority to application for grants by persons who purchase biomass removed from Federal lands in insect-infested areas through authorized hazardous fuel reduction projects carried out pursuant to Section 102 of this Act.**

(b) Authorization of Appropriations.--There is authorized to be appropriated to carry out this section \$5,000,000 for each of fiscal years 2004 through 2008.

CHANGE IN MINERAL LEASING ACT:

TITLE 30 - MINERAL LANDS AND MINING

Sec. 191. Disposition of moneys received

(a) All money received from sales, bonuses, royalties including interest charges collected under the Federal Oil and Gas Royalty Management Act of 1982 [30 U.S.C. 1701 et seq.], and rentals of the public lands under the provisions of this chapter and the Geothermal Steam Act of 1970 [30 U.S.C. 1001 et seq.], ~~shall be paid into the Treasury of the United States; and,~~ **subject to shall be paid into the Treasury of the United States. For each fiscal year ending prior to October 1, 2010, five million dollars thereof shall be made available to the Secretary of Agriculture, without further appropriation, for obligation or expenditure pursuant to section 109 of the Healthy Forests Restoration Act of 2003, as amended.** Subject to the provisions of subsection (b) of this section, 50 per centum thereof shall be paid by the Secretary of the Treasury to the State other than Alaska within the boundaries of which the leased lands or deposits are or were located...

CHANGE IN INTERNAL REVENUE CODE

Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by inserting after section 139A the following new subsection:

**SEC. 139B COMPENSATION FOR SILVICULTURAL ACTIVITIES IN RESPONSE TO BEETLE EMERGENCIES.**

- (a) **GENERAL RULE.** – Gross income shall not include any qualified silvicultural payments.
- (b) **DOLLAR LIMITATION.** – The aggregate of the payments which may be taken into account under subsection (a) with respect to a taxpayer shall not exceed –
  - (1) in the case of a taxable year beginning in 2006, \$\_\_\_\_\_ (\$\_\_\_\_\_ in the case of a joint return), and
  - (2) in the case of a taxable year beginning after 2006, \$\_\_\_\_\_ (\$\_\_\_\_\_ in the case of a joint return).
- (c) **QUALIFIED SILVICULTURAL PAYMENTS.** –For purposes of this subsection

- (1) IN GENERAL.** – The term “qualified silvicultural payment” means any amount received by the taxpayer as compensation for work performed in the Rocky Mountain region as part of –
- (A)** an authorized hazardous fuels reduction project conducted pursuant to section 102 of the Healthy Forests Restoration Act of 2002 (16 U.S.C. 6512) in response to a beetle emergency; or
  - (B)** a silvicultural assessment or other treatment conducted under section 404 of such Act (16 U.S.C. 6554) on Federal lands affected by a beetle emergency.
- (2) DEFINITIONS.** – The terms “authorized hazardous fuels reduction project”, “beetle emergency”, and “Rocky Mountain Region” have the meanings given those terms in section 101 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6511).”