

*John Barrasso*  
S.L.C.

115TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

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.

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IN THE SENATE OF THE UNITED STATES

*with Sen. Hatch, Sen. Thune, and Sen. Daines*

Mr. BARRASSO introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**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.

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; TABLE OF CONTENTS.**

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

6 (b) TABLE OF CONTENTS.—The table of contents for  
 7 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**

Sec. 101. Forest and Rangeland Renewable Resources Planning Act of 1974.

Sec. 102. Federal Land Policy and Management Act of 1976.

**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.

1 **SEC. 2. DEFINITION OF SECRETARY.**

2 In this Act, the term "Secretary" means the Sec-  
3 retary of Agriculture, acting through the Chief of the For-  
4 est Service.

5 **TITLE I—LITIGATION RELIEF**  
6 **FOR FOREST MANAGEMENT**  
7 **PROJECTS**

8 **SEC. 101. FOREST AND RANGELAND RENEWABLE RE-**  
9 **SOURCES PLANNING ACT OF 1974.**

10 (a) CONSULTATION REGARDING LAND MANAGEMENT  
11 PLANS.—Section 6(d) of the Forest and Rangeland Re-  
12 newable Resources Planning Act of 1974 (16 U.S.C.  
13 1604(d)) is amended—

14 (1) by striking "(d) The Secretary" and insert-  
15 ing the following:

16 "(d) PUBLIC PARTICIPATION AND CONSULTATION.—

17 "(1) IN GENERAL.—The Secretary"; and

18 (2) by adding at the end the following:

19 "(2) NO ADDITIONAL CONSULTATION RE-  
20 QUIRED AFTER APPROVAL OF LAND MANAGEMENT  
21 PLANS.—

22 "(A) IN GENERAL.—Notwithstanding any  
23 other provision of law, the Secretary shall not  
24 be required to engage in consultation under this  
25 subsection or any other provision of law (includ-  
26 ing section 7 of Public Law 93-205 (16 U.S.C.

1 1536) and section 402.16 of title 50, Code of  
2 Federal Regulations (or a successor regulation))  
3 with respect to—

4 “(i) the listing of a species as threat-  
5 ened or endangered, or a designation of  
6 critical habitat pursuant to Public Law  
7 93–205 (16 U.S.C. 1531 et seq.), if a land  
8 management plan has been adopted by the  
9 Secretary as of the date of listing or des-  
10 ignation; or

11 “(ii) any provision of a land manage-  
12 ment plan adopted as described in clause  
13 (i).

14 “(B) EFFECT OF PARAGRAPH.—Nothing  
15 in this paragraph affects any applicable require-  
16 ment of the Secretary to consult with the head  
17 of any other Federal department or agency—

18 “(i) regarding any project to imple-  
19 ment a land management plan, including a  
20 project carried out, or proposed to be car-  
21 ried out, in an area designated as critical  
22 habitat pursuant to Public Law 93–205  
23 (16 U.S.C. 1531 et seq.); or

24 “(ii) with respect to the development  
25 of a modification to a land management



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

2 (2) by adding at the end the following:

3 “(2) NO ADDITIONAL CONSULTATION RE-  
4 QUIRED AFTER APPROVAL OF LAND USE PLANS.—

5 “(A) IN GENERAL.—Notwithstanding any  
6 other provision of law, the Secretary shall not  
7 be required to engage in consultation under this  
8 subsection or any other provision of law (includ-  
9 ing section 7 of Public Law 93–205 (16 U.S.C.  
10 1536) and section 402.16 of title 50, Code of  
11 Federal Regulations (or a successor regula-  
12 tion)), with respect to—

13 “(i) the listing of a species as threat-  
14 ened or endangered, or a designation of  
15 critical habitat, pursuant to Public Law  
16 93–205 (16 U.S.C. 1531 et seq.), if a land  
17 use plan has been adopted by the Sec-  
18 retary as of the date of listing or designa-  
19 tion; or

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

22 “(B) EFFECT OF PARAGRAPH.—

23 “(i) DEFINITION OF SIGNIFICANT  
24 CHANGE.—In this subparagraph, the term  
25 ‘significant change’ means a significant

1 change within the meaning of section  
2 219.13(b)(3) of title 36, Code of Federal  
3 Regulations (as in effect on the date of en-  
4 actment of this subparagraph), except  
5 that—

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

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

14 “(III) any reference contained in  
15 that section to the National Forest  
16 Management Act of 1976 (Public Law  
17 94-588; 90 Stat. 2949) shall be  
18 deemed to be a reference to this Act.

19 “(ii) EFFECT.—Nothing in this para-  
20 graph affects any applicable requirement of  
21 the Secretary to consult with the head of  
22 any other Federal department or agency—

23 “(I) regarding a project carried  
24 out, or proposed to be carried out,  
25 with respect to a species listed as

1 threatened or endangered, or in an  
2 area designated as critical habitat,  
3 pursuant to Public Law 93–205 (16  
4 U.S.C. 1531 et seq.); or

5 “(II) with respect to the develop-  
6 ment of a new land use plan or the re-  
7 vision of or other significant change to  
8 an existing land use plan.”.

9 **TITLE II—SAGE-GROUSE AND**  
10 **MULE DEER HABITAT CON-**  
11 **SERVATION AND RESTORA-**  
12 **TION**

13 **SEC. 201. DEFINITIONS.**

14 In this title:

15 (1) COVERED VEGETATION MANAGEMENT AC-  
16 TIVITY.—

17 (A) IN GENERAL.—The term “covered  
18 vegetation management activity” means any ac-  
19 tivity described in subparagraph (B) that—

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

23 (ii) conforms to an applicable land use  
24 plan;

- 1 (iii) protects, restores, or improves  
2 greater sage-grouse or mule deer habitat;
- 3 (iv) will not permanently impair—
- 4 (I) the natural state of the treat-  
5 ed area;
- 6 (II) outstanding opportunities for  
7 solitude;
- 8 (III) outstanding opportunities  
9 for primitive, unconfined recreation;
- 10 (IV) economic opportunities con-  
11 sistent with multiple-use management;
- 12 or
- 13 (V) the identified values of a unit  
14 of the National Landscape Conserva-  
15 tion System; and
- 16 (v)(I) restores native vegetation fol-  
17 lowing a natural disturbance;
- 18 (II) prevents the expansion into great-  
19 er sage-grouse or mule deer habitat of—
- 20 (aa) juniper, piñon pine, or any  
21 other conifer; or
- 22 (bb) nonnative or invasive vegeta-  
23 tion;
- 24 (III) reduces the risk of loss of great-  
25 er sage-grouse or mule deer habitat from

1 wildfire or any other natural disturbance;  
2 or

3 (IV) provides emergency stabilization  
4 of soil resources after a natural disturb-  
5 ance.

6 (B) DESCRIPTION OF ACTIVITIES.—An ac-  
7 tivity referred to in subparagraph (A) is—

8 (i) manual cutting and removal of ju-  
9 niper trees, piñon pine trees, other conif-  
10 ers, or other nonnative or invasive vegeta-  
11 tion;

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

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

18 (iv) collection and seeding or planting  
19 of native vegetation using a manual, me-  
20 chanical, or aerial method;

21 (v) seeding of nonnative vegetation  
22 only for the purpose of emergency sta-  
23 bilization;

24 (vi) use of an herbicide, pesticide, or  
25 biological control agent, subject to the con-

1                   dition that the use shall be in accordance  
2                   with applicable legal requirements, Federal  
3                   agency procedures, and land use plans;

4                   (vii) targeted livestock grazing to  
5                   mitigate hazardous fuels and control nox-  
6                   ious and invasive weeds;

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

11                  (ix) modification or adjustment of  
12                  permissible usage under an annual plan of  
13                  use of a grazing permit issued by the Sec-  
14                  retary, in coordination with the affected  
15                  permit holder, to achieve restoration treat-  
16                  ment objectives;

17                  (x) installation of new, or modification  
18                  of existing, fencing or water sources in-  
19                  tended to control use or improve wildlife  
20                  habitat; or

21                  (xi) construction of temporary roads.

22                  (C) EXCLUSIONS.—The term “covered  
23                  vegetation management activity” does not in-  
24                  clude—

## 12

1 (i) any activity conducted in a wilder-  
2 ness area or wilderness study area; or

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

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

7 (3) TEMPORARY ROAD.—The term “temporary  
8 road” means a road that is—

9 (A) authorized—

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

12 (ii) pursuant to an emergency oper-  
13 ation;

14 (B) not intended to be part of the perma-  
15 nent transportation system of a Federal depart-  
16 ment or agency;

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

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

22 (i) safety;

23 (ii) the cost of transportation; and

24 (iii) impacts to land and resources.

1 **SEC. 202. IMPROVEMENT OF HABITAT FOR GREATER SAGE-**  
2 **GROUSE AND MULE DEER.**

3 (a) **CATEGORICAL EXCLUSION.—**

4 (1) **IN GENERAL.—**Not later than 1 year after  
5 the date of the enactment of this Act, the Secretary  
6 shall develop 1 or more categorical exclusions (as de-  
7 fined in section 1508.4 of title 40, Code of Federal  
8 Regulations (or a successor regulation)) for covered  
9 vegetative management activities carried out to es-  
10 tablish or improve habitat for greater sage-grouse  
11 and mule deer.

12 (2) **ADMINISTRATION.—**In developing and ad-  
13 ministering a categorical exclusion under paragraph  
14 (1), the Secretary shall—

15 (A) be consistent with the National Envi-  
16 ronmental Policy Act of 1969 (42 U.S.C. 4321  
17 et seq.);

18 (B) apply the extraordinary circumstances  
19 procedures under section 220.6 of title 36, Code  
20 of Federal Regulations (or a successor regula-  
21 tion), in determining whether to use the cat-  
22 egorical exclusion; and

23 (C) consider—

24 (i) the relative efficacy of landscape-  
25 scale habitat projects;

1                   (ii) the likelihood of continued de-  
2                   clines in the populations of greater sage-  
3                   grouse and mule deer in the absence of  
4                   landscape-scale vegetation management;  
5                   and

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

9           (b) LONG-TERM MONITORING AND MAINTENANCE.—  
10 Before commencing any covered vegetative management  
11 activity that is covered by a categorical exclusion under  
12 subsection (a), the Secretary shall develop a long-term  
13 monitoring and maintenance plan, covering at least the  
14 20 year-period beginning on the date of commencement,  
15 to ensure that management of the treated area does not  
16 degrade the habitat gains secured by the covered vegeta-  
17 tive management activity.

18           (c) DISPOSAL OF VEGETATIVE MATERIAL.—Subject  
19 to applicable local restrictions, any vegetative material re-  
20 sulting from a covered vegetation management activity  
21 that is covered by a categorical exclusion under subsection  
22 (a) may be—

23                   (1) used for—

24                           (A) fuel wood; or

25                           (B) other products; or

1 (2) piled or burned, or both.

2 (d) TREATMENT FOR TEMPORARY ROADS.—

3 (1) IN GENERAL.—A temporary road con-  
4 structed in connection with a covered vegetation  
5 management activity that is a categorical exclusion  
6 under subsection (a) shall be treated to ensure the  
7 reestablishment of native vegetative cover by artifi-  
8 cial or natural means, as necessary to minimize ero-  
9 sion from any area disturbed by the construction or  
10 use of the temporary road.

11 (2) REQUIREMENT.—A treatment under para-  
12 graph (1) shall be designed to reestablish vegetative  
13 cover—

14 (A) as soon as practicable; but

15 (B) not later than 10 years after the date  
16 of completion of the applicable covered vegeta-  
17 tion management activity.

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

20 **SEC. 301. DEFINITIONS.**

21 In this title:

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

1       tion 6 of the Forest and Rangeland Renewable Re-  
2       sources Planning Act of 1974 (16 U.S.C. 1604).

3               (2) NATIONAL FOREST SYSTEM.—

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

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

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

13                      (ii) any national grassland or land uti-  
14                      lization project administered under title III  
15                      of the Bankhead-Jones Farm Tenant Act  
16                      (7 U.S.C. 1010 et seq.).

## 17       **Subtitle A—General Provisions**

### 18       **SEC. 311. ENVIRONMENTAL ASSESSMENTS.**

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

24               (b) PUBLIC NOTICE AND COMMENT.—In preparing  
25       an environmental assessment for a project under sub-

1 section (a), the Secretary shall provide public notice of,  
2 and an opportunity to comment regarding, the applicable  
3 project.

4 (c) CONSIDERATION OF ALTERNATIVES.—The Sec-  
5 retary shall study, develop, and describe in each environ-  
6 mental assessment under subsection (a)—

7 (1) the project as the proposed action; and

8 (2) a no-action alternative, the analysis of  
9 which shall include a description of the resulting en-  
10 vironmental effects of taking no action on—

11 (A) forest health;

12 (B) habitat diversity;

13 (C) wildfire potential;

14 (D) insect and disease potential;

15 (E) municipal water supplies; and

16 (F) other economic and social factors.

17 (d) LIMITATIONS.—The Secretary shall limit each en-  
18 vironmental assessment under this section to a length of  
19 not more than 100 pages.

20 (e) DEADLINE FOR COMPLETION.—

21 (1) IN GENERAL.—Not later than 180 days  
22 after the date on which the Secretary publishes a no-  
23 tice regarding an ecosystem restoration project in  
24 accordance with subsection (b), the Secretary shall

1 complete the environmental assessment for the  
2 project.

3 (2) NO SUPPLEMENTAL ANALYSIS REQUIRED.—  
4 No supplemental analysis of an ecosystem restora-  
5 tion project that is the subject of an environmental  
6 assessment under paragraph (1) shall be required  
7 after the date on which that environmental assess-  
8 ment is complete.

9 **SEC. 312. GOOD NEIGHBOR AUTHORITY.**

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

12 (1) in subsection (a)(3)—

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

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

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

21 (C) in subparagraph (C)(i) (as redesign-  
22 ated by subparagraph (A)), by striking “or  
23 permanent”; and

24 (2) in subsection (b)—

1           (A) by redesignating paragraph (3) as  
2 paragraph (4); and

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

5           “(3) PERMANENT ROAD CLOSURE.—

6           “(A) IN GENERAL.—The Secretary may  
7 close a permanent road under a good neighbor  
8 agreement without carrying out with respect to  
9 the permanent road authorized restoration serv-  
10 ices if the permanent road would allow future  
11 access for firefighting or other appropriate  
12 agency use, as determined by the applicable for-  
13 est supervisor.

14           “(B) INTACTNESS.—If a permanent road  
15 is closed under subparagraph (A), the perma-  
16 nent road shall be closed to the public according  
17 to the applicable forest plan, but shall remain  
18 intact.”.

19           (b) REPEAL.—Section 331 of the Department of the  
20 Interior and Related Agencies Appropriations Act, 2001  
21 (16 U.S.C. 1011 note) is repealed.

1 **SEC. 313. STEWARDSHIP END RESULT CONTRACTING**  
2 **PROJECTS.**

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

6 (1) in subsection (e), by adding at the end the  
7 following:

8 “(8) Retention of existing wood products infra-  
9 structure.”;

10 (2) in subsection (d)—

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

14 (B) by adding at the end the following:

15 “(8) **PERMANENT ROAD CLOSURE.**—

16 “(A) **IN GENERAL.**—The Secretary of Ag-  
17 riculture may close a permanent road under a  
18 contract entered into under this section without  
19 achieving with respect to the permanent road  
20 the restoration activities included in the land  
21 management goals described in subsection (e) if  
22 the permanent road would allow future access  
23 for firefighting or other appropriate agency use,  
24 as determined by the applicable forest super-  
25 visor.

1           “(B) INTACTNESS.—If a permanent road  
2           is closed under subparagraph (A), the perma-  
3           nent road shall be closed to the public according  
4           to the applicable forest plan, but shall remain  
5           intact.”; and

6           (3) in subsection (e)(2)(A), by inserting “, sub-  
7           ject to the condition that 25 percent of the gross re-  
8           ceipts shall be disbursed to the county in which the  
9           project site is located” before “; and”.

10 **SEC. 314. PILOT ALTERNATIVE DISPUTE PROCESS.**

11           (a) ARBITRATION.—

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

17           (2) NOTIFICATION TO OBJECTORS.—On  
18           issuance of an appeal response to an objection filed  
19           with respect to a project subject to an objection at  
20           the project level under part 218 of title 36, Code of  
21           Federal Regulations (as in effect on the date of en-  
22           actment of this Act), the Secretary shall notify each  
23           applicable individual or entity that submitted the ob-  
24           jection (referred to in this section as the “objector”)

1       that any further appeal may be subject to arbitra-  
2       tion in accordance with this section.

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

7       (c) ARBITRATORS.—

8             (1) APPOINTMENT.—The Secretary shall de-  
9       velop and publish a list of not fewer than 20 individ-  
10      uals eligible to serve as arbitrators for the pilot pro-  
11      gram under this section.

12            (2) QUALIFICATIONS.—In order to be eligible to  
13      serve as an arbitrator under this subsection, an indi-  
14      vidual shall be currently certified by the American  
15      Arbitration Association.

16      (d) INTIMATION OF ARBITRATION.—

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

23            (2) DEMAND FOR ARBITRATION.—

24              (A) IN GENERAL.—An objector that sought  
25      judicial review of a project that has been des-

1           ignated by the Secretary for arbitration under  
2           this section may file a demand for arbitration  
3           in accordance with—

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

6                   (ii) this paragraph.

7           (B) REQUIREMENTS.—A demand for arbi-  
8           tration under subparagraph (A) shall—

9                   (i) be filed not later than the date  
10                  that is 30 days after the date of the notifi-  
11                  cation by the Secretary under paragraph  
12                  (1); and

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

17           (e) SELECTION OF ARBITRATOR.—For each arbitra-  
18           tion commenced under this section, the Secretary and each  
19           applicable objector shall agree on a mutually acceptable  
20           arbitrator from the list published under subsection (e)(1).

21           (f) RESPONSIBILITIES OF ARBITRATOR.—

22                   (1) IN GENERAL.—An arbitrator selected under  
23           subsection (e)—

1           (A) shall address each demand filed for ar-  
2           bitration with respect to a project under this  
3           section; but

4           (B) may consolidate into a single arbitra-  
5           tion all demands for arbitration by all objectors  
6           with respect to a project.

7           (2) SELECTION OF PROPOSALS.—An arbitrator  
8           shall make a decision regarding each applicable de-  
9           mand for arbitration under this section by select-  
10          ing—

11          (A) the project, as approved by the Sec-  
12          retary;

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

15          (C) neither proposal.

16          (3) LIMITATIONS.—

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

21          (B) NO MODIFICATIONS TO PROPOSALS.—  
22          An arbitrator may not modify any proposal con-  
23          tained in a demand for arbitration of an objec-  
24          tor under this section.

1 (g) DEADLINE FOR COMPLETION OF ARBITRA-  
2 TION.—Not later than 90 days after the date on which  
3 a demand for arbitration is filed under subsection (d)(2),  
4 the arbitration process shall be completed.

5 (h) EFFECT OF ARBITRATION DECISION.—A decision  
6 of an arbitrator under this section—

7 (1) shall not be considered to be a major Fed-  
8 eral action;

9 (2) shall be binding; and

10 (3) shall not be subject to judicial review, ex-  
11 cept as provided in section 10(a) of title 9, United  
12 States Code.

13 (i) TERMINATION OF EFFECTIVENESS.—The author-  
14 ity provided by this section terminates effective January  
15 1, 2023.

## 16 **Subtitle B—Ecosystem Restoration**

### 17 **SEC. 321. DEFINITIONS.**

18 In this subtitle:

19 (1) COMMUNITY WILDFIRE PROTECTION  
20 PLAN.—The term “community wildfire protection  
21 plan” has the meaning given the term in section 101  
22 of the Healthy Forests Restoration Act of 2003 (16  
23 U.S.C. 6511).

24 (2) RESTORATION.—

1 (A) IN GENERAL.—The term “restora-  
2 tion”, with respect to an ecosystem, means to  
3 carry out any activity that helps to recover, es-  
4 tablish, or maintain the resilience or adaptive  
5 capacity of an ecosystem.

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

- 9 (i) timber harvesting;  
10 (ii) thinning;  
11 (iii) prescribed fire; or  
12 (iv) other vegetation manipulation in  
13 the National Forest System.

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

15 (a) IN GENERAL.—Subject to subsection (b), the Sec-  
16 retary shall identify, prioritize, and carry out ecosystem  
17 restoration projects on National Forest System land in ac-  
18 cordance with applicable land and resource management  
19 plans prepared by the Secretary for units of the National  
20 Forest System under section 6 of the Forest and Range-  
21 land Renewable Resources Planning Act of 1974 (16  
22 U.S.C. 1604), if any, to accomplish 1 or more of the fol-  
23 lowing objectives:

- 24 (1) To restore terrestrial habitat.

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

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

5           (4) To carry out a needed timber stand im-  
6 provement.

7           (5) To reduce the risk or extent of insect or dis-  
8 ease infestation.

9           (6) To reduce wildland fire severity potential.

10          (7) To implement a community wildfire protec-  
11 tion plan.

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

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

17           (1) that is a component of the National Wilder-  
18 ness Preservation System; or

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

21 **SEC. 323. NATIONAL RESTORATION TREATMENT ACREAGE.**

22          (a) **IN GENERAL.**—For fiscal year 2018 and each fis-  
23 cal year thereafter, the Secretary shall establish a 5-year  
24 schedule to achieve the ecosystem restoration objectives  
25 described in section 322(a).

1 (b) SCHEDULE GOALS.—The schedule established  
2 under subsection (a) shall—

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

8 (2) be consistent with any applicable forest  
9 plan.

10 (c) ASSIGNMENT.—Not later than 90 days after the  
11 date of enactment of this Act, and annually thereafter,  
12 the Secretary shall assign the annual acreage for restora-  
13 tion treatments, by National Forest System region, de-  
14 scribed in subsection (a).

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

20 **SEC. 324. PERFORMANCE MEASURES; ANNUAL REPORTS.**

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

24 (1) the purposes of this subtitle, including—

1           (A) the number of acres covered by eco-  
2 system restoration projects;

3           (B) the number of acres treated by me-  
4 chanical methods under ecosystem restoration  
5 projects;

6           (C) the number of acres treated using  
7 stewardship contracts and stewardship agree-  
8 ments under ecosystem restoration projects;

9           (D) the number of acres treated using tim-  
10 ber sales under ecosystem restoration projects;

11          (E) the number of acres treated by pre-  
12 scribed fire, mowing, and other noncommercial  
13 product producing activities under ecosystem  
14 restoration projects; and

15          (F) to the extent practicable, a summary  
16 of acres receiving more than 1 type of treat-  
17 ment; and

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

20          (b) ANNUAL REPORTS.—Not later than 1 year after  
21 the date of enactment of this Act, and annually thereafter,  
22 the Secretary shall submit to the Committee on Energy  
23 and Natural Resources and the Committee on Environ-  
24 ment and Public Works of the Senate and the Committee  
25 on Natural Resources of the House of Representatives—

1 (1) a report that describes, with respect to the  
2 preceding year, the results of evaluations using the  
3 performance measures described in subsection (a);  
4 and

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

7 (A) the number and substance of projects  
8 that are subject to arbitration under section  
9 314; and

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

## 12 **Subtitle C—Categorical Exclusions**

### 13 **SEC. 331. DEFINITIONS.**

14 In this subtitle:

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

22 (2) **CATEGORICAL EXCLUSION.**—The term “cat-  
23 egorical exclusion” means an exclusion from the re-  
24 quirement to prepare an environmental assessment  
25 or an environmental impact statement under section

1       102 of the National Environmental Policy Act of  
2       1969 (42 U.S.C. 4332) for a category of forest man-  
3       agement activities.

4           (3) FOREST MANAGEMENT ACTIVITY.—The  
5       term “forest management activity” means a project  
6       or activity carried out by the Secretary on National  
7       Forest System land, consistent with the forest plan  
8       covering that land.

9           (4) SALVAGE OPERATION.—The term “salvage  
10       operation” means a forest management activity car-  
11       ried out in response to a catastrophic event, the pri-  
12       mary purpose of which is—

13           (A) to prevent wildfire as a result of the  
14       catastrophic event, or, if the catastrophic event  
15       was wildfire, to prevent a reburn of the fire-im-  
16       pacted area;

17           (B) to provide an opportunity for use of  
18       forest materials damaged as a result of the cat-  
19       astrophic event; or

20           (C) to provide a funding source for refor-  
21       estation and other restoration activities for the  
22       National Forest System land impacted by the  
23       catastrophic event.

1 **SEC. 332. CATEGORICAL EXCLUSION TO EXPEDITE CER-**  
2 **TAIN CRITICAL RESPONSE ACTIONS.**

3 (a) **IN GENERAL.**—Not later than 1 year after the  
4 date of enactment of this Act, the Secretary shall develop  
5 a categorical exclusion (as defined in section 1508.4 of  
6 title 40, Code of Federal Regulations (or a successor regu-  
7 lation)) to carry out a forest management activity on Na-  
8 tional Forest System land in any case in which at least  
9 2 of the primary purposes of the forest management activ-  
10 ity are—

11 (1) to address an insect or disease infestation;

12 (2) to treat land at risk of insect or disease in-  
13 festation;

14 (3) to reduce hazardous fuel loads;

15 (4) to protect a municipal water source;

16 (5) to maintain, enhance, or modify critical  
17 habitat to protect the habitat from catastrophic dis-  
18 turbances;

19 (6) to increase water yield;

20 (7) to achieve salvage operation objectives; or

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

23 (b) **ADMINISTRATION.**—In developing and admin-  
24 istering a categorical exclusion under subsection (a), the  
25 Secretary shall—

1           (1) be consistent with the National Environ-  
2           mental Policy Act of 1969 (42 U.S.C. 4321 et seq.);  
3           and

4           (2) apply the extraordinary circumstances pro-  
5           cedures under section 220.6 of title 36, Code of Fed-  
6           eral Regulations (or a successor regulation), in de-  
7           termining whether to use the categorical exclusion.

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

11           (a) **AVAILABILITY OF CATEGORICAL EXCLUSION.**—A  
12           categorical exclusion is available to the Secretary to de-  
13           velop and carry out a forest management activity on Na-  
14           tional Forest System land in any case in which the pri-  
15           mary purpose of the forest management activity is modi-  
16           fying, improving, enhancing, or creating an early seral or  
17           early successional forest, in accordance with the applicable  
18           forest plan.

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

23           (c) **EXTRAORDINARY CIRCUMSTANCES.**—The Sec-  
24           retary may apply the extraordinary circumstances proce-  
25           dures under section 220.6 of title 36, Code of Federal

1 Regulations (or a successor regulation), in determining  
2 whether to use a categorical exclusion under subsection  
3 (a).

4 (d) **CONSISTENCY.**—In carrying out forest manage-  
5 ment activities using the categorical exclusions under sub-  
6 section (a), the Secretary shall ensure that the forest man-  
7 agement activities are consistent with the applicable forest  
8 plans.

9 (e) **CUMULATIVE IMPACTS.**—The Secretary shall not  
10 be required to conduct a cumulative impact analysis in an  
11 environmental document prepared under the National En-  
12 vironmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)  
13 for a forest management activity carried out using a cat-  
14 egorical exclusion made available to the Secretary under  
15 subsection (a) or any other provision of law (including reg-  
16 ulations).

17 **SEC. 334. CATEGORICAL EXCLUSION TO IMPROVE WILD-**  
18 **LIFE HABITATS.**

19 (a) **AVAILABILITY OF CATEGORICAL EXCLUSION.**—A  
20 categorical exclusion is available to the Secretary to con-  
21 duct a forest management activity the purpose of which  
22 is the improvement of wildlife habitat.

23 (b) **ACREAGE LIMITATIONS.**—A forest management  
24 activity covered by the categorical exclusion granted by

1 subsection (a) may not contain harvest units exceeding a  
2 total of 6,000 acres.

3 (c) EXTRAORDINARY CIRCUMSTANCES.—The Sec-  
4 retary may apply the extraordinary circumstances proce-  
5 dures under section 220.6 of title 36, Code of Federal  
6 Regulations (or a successor regulation), in determining  
7 whether to use a categorical exclusion under subsection  
8 (a).

9 (d) CONSISTENCY.—In carrying out forest manage-  
10 ment activities using the categorical exclusions under sub-  
11 section (a), the Secretary shall ensure that the forest man-  
12 agement activities are consistent with the applicable forest  
13 plans.

14 (e) CUMULATIVE IMPACTS.—The Secretary shall not  
15 be required to conduct a cumulative impact analysis in an  
16 environmental document prepared under the National En-  
17 vironmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)  
18 for a forest management activity carried out using a cat-  
19 egorical exclusion made available to the Secretary under  
20 subsection (a) or any other provision of law (including reg-  
21 ulations).

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

23 (a) AVAILABILITY OF CATEGORICAL EXCLUSION.—A  
24 categorical exclusion is available to the Secretary to con-  
25 duct a forest management activity the purpose of which

1 is commercial thinning of forest stands on suited  
2 timberland, including—

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

5 (2) the construction of a temporary road that  
6 is not longer than 1 mile to carry out that commer-  
7 cial thinning.

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

12 (c) EXTRAORDINARY CIRCUMSTANCES.—The Sec-  
13 retary may apply the extraordinary circumstances proce-  
14 dures under section 220.6 of title 36, Code of Federal  
15 Regulations (or a successor regulation), in determining  
16 whether to use a categorical exclusion under subsection  
17 (a).

18 (d) CONSISTENCY.—In carrying out forest manage-  
19 ment activities using the categorical exclusions under sub-  
20 section (a), the Secretary shall ensure that the forest man-  
21 agement activities are consistent with the applicable forest  
22 plans.

23 (e) CUMULATIVE IMPACTS.—The Secretary shall not  
24 be required to conduct a cumulative impact analysis in an  
25 environmental document prepared under the National En-

1 vironmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)  
2 for a forest management activity carried out using a cat-  
3 egorical exclusion made available to the Secretary under  
4 subsection (a) or any other provision of law (including reg-  
5 ulations).

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

8 (a) **PERMANENT AUTHORITY.**—Section 602(f) of the  
9 Healthy Forests Restoration Act of 2003 (16 U.S.C.  
10 6591a(f)) is amended by striking “each of fiscal years  
11 2014 through 2024.” and inserting “each fiscal year.”.

12 (b) **ADMINISTRATIVE REVIEW.**—Section 603 of the  
13 Healthy Forests Restoration Act of 2003 (16 U.S.C.  
14 6591b) is amended—

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

18 (2) by striking subsection (b);

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

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

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

24 (B) in paragraph (2), by striking “shall  
25 be” in the matter preceding subparagraph (A)

1           and all that follows through the period at the  
2           end of subparagraph (B) and inserting “may be  
3           carried out in any area designated under sec-  
4           tion 602(b), including areas in Fire Regime  
5           Groups IV and V.”.