

AMENDMENT NO. _____ Calendar No. _____

Purpose: To authorize the Secretary of Agriculture to carry out emergency actions to respond to emergency situations with respect to National Forest System land.

IN THE SENATE OF THE UNITED STATES—117th Cong., 1st Sess.

S. _____

To invest in the energy and outdoor infrastructure of the United States to deploy new and innovative technologies, update existing infrastructure to be reliable and resilient, and secure energy infrastructure against physical and cyber threats, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. DAINES

Viz:

1 At the end of title VIII, add the following:

2 **SEC. 8 ____ . EMERGENCY ACTIONS.**

3 (a) DEFINITIONS.—In this section:

4 (1) AUTHORIZED EMERGENCY ACTION.—The
5 term “authorized emergency action” means an ac-
6 tion carried out pursuant to an emergency situation
7 determination to mitigate the harm to life, property,
8 or important natural or cultural resources on Na-
9 tional Forest System land or adjacent land.

1 (2) EMERGENCY SITUATION.—The term “emer-
2 gency situation” means a situation on National For-
3 est System land for which immediate implementation
4 of 1 or more authorized emergency actions is nec-
5 essary to achieve 1 or more of the following results:

6 (A) Relief from hazards threatening
7 human health and safety.

8 (B) Mitigation of threats to natural re-
9 sources on National Forest System land or ad-
10 jacent land.

11 (3) EMERGENCY SITUATION DETERMINATION.—
12 The term “emergency situation determination”
13 means a determination made by the Secretary under
14 subsection (b)(1)(A).

15 (4) LAND AND RESOURCE MANAGEMENT
16 PLAN.—The term “land and resource management
17 plan” means a plan developed under section 6 of the
18 Forest and Rangeland Renewable Resources Plan-
19 ning Act of 1974 (16 U.S.C. 1604).

20 (5) NATIONAL FOREST SYSTEM LAND.—The
21 term “National Forest System land” means land of
22 the National Forest System (as defined in section
23 11(a) of the Forest and Rangeland Renewable Re-
24 sources Planning Act of 1974 (16 U.S.C 1609(a))).

1 (6) SECRETARY.—The term “Secretary” means
2 the Secretary of Agriculture.

3 (b) AUTHORIZED EMERGENCY ACTIONS TO RESPOND
4 TO EMERGENCY SITUATIONS.—

5 (1) DETERMINATION.—

6 (A) IN GENERAL.—The Secretary may
7 make a determination that an emergency situa-
8 tion exists with respect to National Forest Sys-
9 tem land.

10 (B) REVIEW.—An emergency situation de-
11 termination shall not be subject to objection
12 under the predecisional administrative review
13 processes under part 218 of title 36, Code of
14 Federal Regulations (or successor regulations).

15 (C) APPLICABILITY.—An emergency situa-
16 tion determination shall not be subject to the
17 National Environmental Policy Act of 1969 (42
18 U.S.C. 4321 et seq.) or any other applicable
19 law.

20 (2) AUTHORIZED EMERGENCY ACTIONS.—After
21 making an emergency situation determination with
22 respect to National Forest System land, the Sec-
23 retary may carry out authorized emergency actions
24 on that National Forest System land, including
25 through—

1 (A) the salvage of dead or dying trees;

2 (B) the harvest of trees damaged by wind
3 or ice;

4 (C) the commercial and noncommercial
5 sanitation harvest of trees to control insects or
6 disease, including trees already infested with in-
7 sects or disease;

8 (D) the reforestation or replanting of fire-
9 impacted areas through planting, control of
10 competing vegetation, or other activities that
11 enhance natural regeneration and restore forest
12 species;

13 (E) the removal of hazardous trees in close
14 proximity to roads and trails;

15 (F) the removal of hazardous fuels;

16 (G) the restoration of water sources or in-
17 frastructure;

18 (H) the reconstruction of existing utility
19 lines; and

20 (I) the replacement of underground cables.

21 (3) RELATION TO LAND AND RESOURCE MAN-
22 AGEMENT PLANS.—To the maximum extent prac-
23 ticable, any authorized emergency action carried out
24 under paragraph (2) shall be conducted consistent
25 with the land and resource management plan.

1 (4) ACREAGE LIMITATIONS.—A treatment area
2 covered by an emergency situation determination on
3 which an authorized emergency action is carried out
4 pursuant to paragraph (2) shall consist of not more
5 than 10,000 acres of National Forest System land.

6 (c) ENVIRONMENTAL ANALYSIS.—

7 (1) ENVIRONMENTAL ASSESSMENT OR ENVI-
8 RONMENTAL IMPACT STATEMENT.—If the Secretary
9 determines that an authorized emergency action re-
10 quires an environmental assessment or an environ-
11 mental impact statement pursuant to section 102(2)
12 of the National Environmental Policy Act of 1969
13 (42 U.S.C. 4332(2)), the Secretary shall study, de-
14 velop, and describe only—

15 (A) the proposed agency action; and

16 (B) the alternative of no action.

17 (2) PUBLIC NOTICE.—The Secretary shall pro-
18 vide notice of each authorized emergency action that
19 the Secretary determines requires an environmental
20 assessment or environmental impact statement
21 under paragraph (1), in accordance with applicable
22 regulations and administrative guidelines.

23 (3) PUBLIC COMMENT.—The Secretary shall
24 provide an opportunity for public comment during
25 the preparation of any environmental assessment or

1 environmental impact statement under paragraph
2 (1).

3 (4) SAVINGS CLAUSE.—Nothing in this sub-
4 section prohibits the Secretary from making an
5 emergency situation determination, including a de-
6 termination that an emergency exists pursuant to
7 section 218.21(a) or 220.4(b) of title 36, Code of
8 Federal Regulations (or successor regulations), that
9 makes it necessary to take an emergency action be-
10 fore preparing an environmental assessment or envi-
11 ronmental impact statement under the National En-
12 vironmental Policy Act of 1969 (42 U.S.C. 4321 et
13 seq.).

14 (d) ADMINISTRATIVE REVIEW OF AUTHORIZED
15 EMERGENCY ACTIONS.—An authorized emergency action
16 carried out under this section shall not be subject to objec-
17 tion under the predecisional administrative review proc-
18 esses established under section 105 of the Healthy Forests
19 Restoration Act of 2003 (16 U.S.C. 6515) and section 428
20 of the Department of the Interior, Environment, and Re-
21 lated Agencies Appropriations Act, 2012 (16 U.S.C. 6515
22 note; Public Law 112–74).

23 (e) JUDICIAL REVIEW OF EMERGENCY ACTIONS.—

24 (1) IN GENERAL.—Section 106 of the Healthy
25 Forests Restoration Act of 2003 (16 U.S.C. 6516)

1 shall apply to an authorized emergency action car-
2 ried out under this section.

3 (2) REQUIREMENT FOR INJUNCTION.—A court
4 shall not enjoin an authorized emergency action
5 under this section if the court determines that the
6 plaintiff is unable to demonstrate that the claim of
7 the plaintiff is likely to succeed on the merits.

8 (f) NOTIFICATION AND GUIDANCE.—The Secretary
9 shall provide notification and guidance to each local field
10 office of the Forest Service to ensure awareness of, compli-
11 ance with, and appropriate use of the authorized emer-
12 gency action authority under this section.