

103^D CONGRESS
1ST SESSION

H. R. 1164

To amend the Forest and Rangeland Renewable Resources Planning Act of 1974, the Federal Land Policy and Management Act of 1976, the National Wildlife Refuge System Administration Act of 1966, the National Indian Forest Resources Management Act, and title 10, United States Code, to strengthen the protection of native biodiversity and to place restraints upon clearcutting and certain other cutting practices on the forests of the United States.

IN THE HOUSE OF REPRESENTATIVES

MARCH 2, 1993

Mr. BRYANT (for himself, Mr. PORTER, Mr. OLVER, Mr. PETE GEREN of Texas, Mr. TORRES, Mr. RAVENEL, Mr. BLACKWELL, Mr. PAYNE of New Jersey, Mr. NADLER, Mr. COLEMAN, Mr. CONYERS, Mr. HAMBURG, Mr. CARDIN, Mr. MACTLEY, Mr. STARK, Mr. POSHARD, Mr. BERMAN, Mr. FILNER, Mr. DELLUMS, Mr. MORAN, Mr. WALSH, Ms. NORTON, Mr. BEILENSON, Mr. WAXMAN, Mrs. KENNELLY, Mr. HENRY, Mr. ANDREWS of Texas, Mr. FROST, and Mrs. MALONEY) introduced the following bill; which was referred jointly to the Committees on Natural Resources, Agriculture, Merchant Marine and Fisheries, and Armed Services

MAY 26, 1993

Additional sponsors: Mr. FRANKS of New Jersey, Mr. WASHINGTON, Mr. EVANS, Mr. SERRANO, Ms. BYRNE, Mr. NEAL of Massachusetts, Ms. ESHOO, Mr. SCHUMER, Mr. SMITH of Texas, Mr. ACKERMAN, Mr. BACCHUS of Florida, Mr. MCCLOSKEY, Mr. JACOBS, Mr. RANGEL, Mr. MINETA, Mr. MARKEY, Mrs. LOWEY, Mr. BORSKI, and Mr. BROWN of California

SEPTEMBER 17, 1993

Additional sponsors: Ms. ROYBAL-ALLARD, Mr. ENGEL, Mr. YATES, Mrs. MORELLA, Mr. EDWARDS of California, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. ANDREWS of New Jersey, Miss COLLINS of Michigan, Mr. HORN, Mr. FRANK of Massachusetts, Mr. FARR of California, Mr. TORRICELLI, Mr. GENE GREEN of Texas, Mr. SHAYS, Mr. BECERRA, Mr. BARRETT of Wisconsin, Mr. GILCHREST, Mr. COSTELLO, and Mr. CLAY

A BILL

To amend the Forest and Rangeland Renewable Resources Planning Act of 1974, the Federal Land Policy and Management Act of 1976, the National Wildlife Refuge System Administration Act of 1966, the National Indian Forest Resources Management Act, and title 10, United States Code, to strengthen the protection of native biodiversity and to place restraints upon clearcutting and certain other cutting practices on the forests of the United States.

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.**

4 This Act may be cited as the “Forest Biodiversity
5 and Clearcutting Prohibition Act of 1993”.

6 **SEC. 2. PURPOSES AND FINDINGS.**

7 (a) PURPOSES.—The purposes of this Act are, in all
8 timberland owned or operated by the United States where
9 logging is permitted, to conserve native biodiversity and
10 to protect all native ecosystems against losses that result
11 from clearcutting and other forms of even-age logging.

12 (b) FINDINGS.—Congress finds the following:

13 (1) Federal agencies of the United States that
14 engage in even-age logging practices include the
15 Forest Service of the Department of Agriculture, the
16 United States Fish and Wildlife Service, Bureau of
17 Land Management, and Bureau of Indian Affairs of

1 the Department of the Interior, and the Army,
2 Navy, and Air Force of the Department of Defense.

3 (2) Even-age logging causes a substantial re-
4 duction in native biodiversity by emphasizing the
5 production of a limited number of commercial spe-
6 cies of trees on each site, generally only one; by ma-
7 nipulating the vegetation toward greater relative
8 density of such commercial species, by suppressing
9 competing species, and by planting, on numerous
10 sites, a commercial strain that was developed to re-
11 duce the relative diversity of genetic strains that
12 previously occurred within the species on the same
13 sites.

14 (3) Even-age logging kills immobile species and
15 the very young of mobile species of wildlife and de-
16 pletes the habitat of deep-forest species of animals,
17 including endangered species.

18 (4) Even-age logging exposes the soil to direct
19 sunlight, impact of rains, disruption of surface, and
20 compaction of organic layers, and disrupts the run-
21 off restraining capabilities of roots and low-lying
22 vegetation, resulting in soil erosion, leaching out of
23 nutrients, reduction in biological content of the soil,
24 and impoverishment of the soil, with long-range dele-

1 terious effect on all land resources, even timber
2 production.

3 (5) Even-age logging decreases the capability of
4 the soil to retain carbon and, during the critical pe-
5 riods of felling and site preparation, reduces the ca-
6 pacity of the biomass to process and to store carbon,
7 with a result of loss of such carbon to the atmos-
8 phere, thereby aggravating global warming.

9 (6) Even-age logging renders the soil increas-
10 ingly sensitive to acid deposition by causing decline
11 of soil wood and coarse woody debris, reducing site
12 capacity for retention of water and nutrients, in-
13 creasing soil heat, and impairing the maintenance of
14 protective carbon compounds on the soil surface.

15 (7) Even-age logging results in increased
16 stream sedimentation, siltation of stream bottoms,
17 decline in water quality, impairment of life cycles
18 and spawning processes of aquatic life from benthic
19 organisms to large fish, thereby depleting the sports
20 and commercial fisheries of the United States.

21 (8) Even-age logging results in lessening resist-
22 ance in the plant community, including the commer-
23 cial tree crop, to insects and diseases, under the eco-
24 logical principle that as the relative density of a spe-
25 cies in a given area approaches totality the popu-

1 lation of that species in that area becomes increas-
2 ingly susceptible to insects and diseases.

3 (9) Even-age logging increases harmful edge ef-
4 fects, including blowdowns, invasions by weed spe-
5 cies, and heavier losses to predators and competi-
6 tors, from raccoons and hawks to ratsnakes and
7 cowbirds.

8 (10) Even-age logging decreases recreational di-
9 versity, reducing deep, canopied, variegated, perma-
10 nent forests, where the public can fulfill an expand-
11 ing need for recreation. Even-age logging replaces
12 such forests with a surplus of clearings that grow
13 into relatively impenetrable thickets of saplings, and
14 then into monotonous plantations.

15 (11) Human beings depend on native biological
16 resources, including plants, animals, and micro-orga-
17 nisms, for food, medicine, shelter, and other impor-
18 tant products, and as a source of intellectual and
19 scientific knowledge, recreation, and aesthetic pleas-
20 ure.

21 (12) Reduction in native biodiversity has seri-
22 ous consequences for human welfare as America
23 irretrievably loses resources for research and agricul-
24 tural, medicinal, and industrial development.

1 (13) Reduction of biological diversity in Federal
2 forests adversely affects the functions of ecosystems
3 and critical ecosystem processes that moderate cli-
4 mate, govern nutrient cycles and soil conservation
5 and production, control pests and diseases, and
6 degrade wastes and pollutants.

7 (14) The harm of even-age logging to the natu-
8 ral resources of this Nation and the quality of life
9 of its people are substantial, severe, and avoidable.

10 (15) By substituting selection management and
11 native biodiversity protection, as prescribed in this
12 Act, for the even-age system, the Federal agencies
13 now engaged in even-age logging would substantially
14 reduce or eliminate devastation to the environment,
15 would maintain vital native ecosystems in Federal
16 forests, and would improve the quality of life of the
17 American people.

18 (16) Selection logging is more job intensive,
19 therefore providing more employment than even-age
20 cutting for managing the same amount of timber
21 production, and produces higher quality sawlogs.

22 (17) The court remedies now available for citi-
23 zens to utilize in the enforcement of Federal forest
24 laws are inadequate, and should be strengthened by
25 providing for actions by citizens for injunctions, de-

1 claratory judgments, civil penalties, and reasonable
2 costs of suit.

3 **SEC. 3. AMENDMENT OF RANGELAND AND RENEWABLE RE-**
4 **SOURCES PLANNING ACT OF 1974 RELATING**
5 **TO NATIONAL FOREST SYSTEM LANDS.**

6 (a) CONSERVATION OF NATIVE BIODIVERSITY.—Sec-
7 tion 6(g)(3)(B) of the Forest and Rangeland Renewable
8 Resources Planning Act of 1974 (16 U.S.C.
9 1604(g)(3)(B)) is amended to read as follows:

10 “(B) in each stand that is managed or op-
11 erated for timber purposes, throughout each
12 forested area, provide for the conservation or
13 restoration of native biodiversity except during
14 the extraction stage of authorized mineral de-
15 velopment or during authorized construction
16 projects, in which events the Secretary shall
17 conserve native biodiversity to the extent pos-
18 sible;”.

19 (b) COMMITTEE OF SCIENTISTS.—Section 6(h)(1) of
20 the Forest and Rangeland Renewable Resources Planning
21 Act of 1974 (16 U.S.C. 1604(h)(1)) is amended to read
22 as follows:

23 “(h) COMMITTEE OF SCIENTISTS.—(1) In carrying
24 out the purposes of subsection (g) of this section, the Sec-
25 retary shall appoint a committee of scientists who are not

1 officers or employees of the Forest Service nor of any
2 other public entity, nor of any entity engaged in whole
3 or in part in the production of wood or wood products,
4 and have not contracted with or represented any of such
5 entities within a period of 5 years prior to serving on such
6 committee. The committee shall provide scientific and
7 technical advice and counsel on proposed guidelines and
8 procedures to assure that an effective interdisciplinary ap-
9 proach is proposed and adopted. The committee shall ter-
10 minate after the expiration of 10 years from the date of
11 enactment of this paragraph.”.

12 (c) RESTRICTION ON USE OF CERTAIN LOGGING
13 PRACTICES.—Section 6 of the Forest and Rangeland Re-
14 newable Resources Planning Act of 1974 (16 U.S.C.
15 1604) is amended by adding at the end the following:

16 “(n) RESTRICTION ON USE OF CERTAIN LOGGING
17 PRACTICES.—(1) In each stand that is managed or oper-
18 ated for timber purposes throughout each forested area,
19 the guidelines under subsection (g)(3)(F) shall prohibit
20 any even-age logging and any even-age management after
21 one year after the date of enactment of this subsection.

22 “(2) On each site already under even-age manage-
23 ment, the Secretary shall (A) prescribe a shift to selection
24 management within one year, or (B) cease managing for
25 timber purposes and actively restore the native

1 biodiversity, or permit each site to regain its native
2 biodiversity.

3 “(3) For the purposes of this subsection:

4 “(A) The term ‘native biodiversity’ means the
5 full range of variety and variability within and
6 among living organisms and the ecological complexes
7 in which they would have occurred in the absence of
8 significant human impact, and encompasses diver-
9 sity, within a species (genetic), within a community
10 of species (within-community), between communities
11 of species (between-communities), within a total area
12 such as a watershed (total area), along a plane from
13 ground to sky (vertical), and along the plane of the
14 earth-surface (horizontal). Vertical and horizontal
15 diversity apply to all the other aspects of diversity.

16 “(B) The terms ‘conserve’ and ‘conservation’
17 refer to protective measures for maintaining existing
18 native biological diversity and active measures for
19 restoring diversity through management efforts, in
20 order to protect, restore, and enhance as much of
21 the variety of species and communities as possible in
22 abundances and distributions that provide for their
23 continued existence and normal functioning, includ-
24 ing the viability of populations throughout their
25 natural geographic distributions.

1 “(C) The term ‘within-community diversity’
2 means the distinctive assemblages of species and ec-
3 ological processes that occur in different physical
4 settings of the biosphere and distinct parts of the
5 world.

6 “(D) The term ‘genetic diversity’ means the dif-
7 ferences in genetic composition within and among
8 populations of a given species.

9 “(E) The term ‘species diversity’ means the
10 richness and variety of native species in a particular
11 location of the world.

12 “(F) The term ‘group selection’ means a form
13 of selection management that emphasizes the peri-
14 odic removal of trees, including mature, undesirable,
15 and cull trees in small groups, where they occur that
16 way, with a result of (i) creating openings not to ex-
17 ceed in width in any direction the height of the tall-
18 est tree standing within 10 feet of the edge of the
19 group cut, and (ii) maintaining different age groups
20 in a given stand. In no event will more than 30 per-
21 cent of a stand be felled within 30 years.

22 “(G) The term ‘stand’ means a forest commu-
23 nity with enough identity by location, topography, or
24 dominant species to be managed as a unit, not to ex-
25 ceed 100 acres.

1 “(H) The term ‘clearcutting’ means the logging
2 of the commercial trees in a patch or stand in a
3 short period of time.

4 “(I) The term ‘even-age management’ means
5 the growing of commercial timber so that all trees
6 in a patch or stand are generally within 10 years of
7 the same age. Except for designated leave trees, or
8 clumps of trees, the patch or stand is logged, com-
9 pletely in any acre within a period of 30 years, by
10 clearcutting, salvage logging, seed-tree cutting or
11 shelterwood cutting, or any system other than selec-
12 tion management.

13 “(J) The term ‘salvage logging’ means the fell-
14 ing or further damaging, within any 30-year period,
15 of a greater basal area than 30 square feet per acre
16 of dead, damaged, or other trees, or any combination
17 of such trees.

18 “(K) The term ‘seed-tree cut’ means a logging
19 operation that leaves one or more seed trees, gen-
20 erally 6 to 10 per acre.

21 “(L) The term ‘selection management’ means
22 the application of logging and other actions needed
23 to maintain continuous high forest cover where such
24 cover naturally occurs, recurring natural regenera-
25 tion of all native species on the site, and the orderly

1 growth and development of trees through a range of
2 diameter or age classes to provide a sustained yield
3 of forest products. Cutting methods that develop and
4 maintain selection stands are individual-tree and
5 group selection. A goal of selection is improvement
6 of quality by continuously harvesting trees less likely
7 to contribute to the long-range health of the stand.

8 “(M) The term ‘shelterwood cut’ means an
9 even-aged silvicultural regeneration method under
10 which a minority of the mature stand is retained as
11 a seed source or protection during the regeneration
12 period. The standing mature trees, usually 10 to 20
13 per acre, are later removed in one or more cuttings.

14 “(N) The term ‘timber purposes’ shall include
15 the use, sale, lease, or distribution of trees, or the
16 felling of trees or portions of trees except to create
17 land space for a structure or other use.

18 “(4)(A)(i) The purpose of this paragraph is to foster
19 the widest possible enforcement of subsection (g)(3)(B)
20 and this subsection.

21 “(ii) Congress finds that all people of the United
22 States are injured by actions on lands to which subsection
23 (g)(3)(B) and this subsection apply.

24 “(B) The provisions of subsection (g)(3)(B) and this
25 subsection shall be enforced by the Secretary of Agri-

1 culture and the Attorney General of the United States
2 against any person who violates either of them.

3 “(C)(i) Any citizen may enforce any provision of sub-
4 section (g)(3)(B) and this subsection by bringing an action
5 for declaratory judgment, temporary restraining order, in-
6 junction, civil penalty, and other remedies against any al-
7 leged violator including the United States, in any district
8 court of the United States.

9 “(ii) The court, after determining a violation of either
10 of such subsections, shall impose a penalty of not less than
11 \$5,000 and not more than \$50,000 per violation, shall
12 issue one or more injunctions and other equitable relief
13 and shall award to the plaintiffs reasonable costs of litiga-
14 tion including attorney’s fees, witness fees and other nec-
15 essary expenses.

16 “(D) The penalty authorized by subparagraph (C)(ii)
17 shall be paid by the violator or violators designated by the
18 court. If that violator is the United States of America or
19 a Federal agency or officer, the penalty shall be paid to
20 the Judgment Fund, as provided by Congress under sec-
21 tion 1304 of title 31, United States Code.

22 “(E) The penalty shall be paid from the Judgment
23 Fund within 40 days after judgment to the person or per-
24 sons designated to receive it, to be applied in protecting
25 or restoring native biodiversity in or adjoining Federal

1 land. Any award of costs of litigation and any award of
2 attorney fees shall be paid within 40 days after judgment.

3 “(F) The United States, including its agents and em-
4 ployees waives its sovereign immunity in all respects in
5 all actions under subsection (g)(3)(B) and this subsection.
6 No notice is required to enforce this subsection.

7 “(5) No roads shall be constructed or reconstructed
8 in any roadless area, as defined in the second United
9 States Department of Agriculture Forest Service Roadless
10 Area Review and Evaluation (RARE II, 1978) or in a land
11 and resource management plan prepared pursuant to this
12 section.

13 (d) CONFORMING AMENDMENT.—Section 6(g)(2)(F)
14 of the Forest and Rangeland Renewable Resource Plan-
15 ning Act of 1974 (16 U.S.C. 1604(g)(2)(F)) is amended
16 by inserting “in accordance with subsection (g) and” after
17 “National Forest System lands.”.

18 **SEC. 4. AMENDMENT OF FEDERAL LAND POLICY AND MAN-**
19 **AGEMENT ACT OF 1976 RELATING TO THE**
20 **PUBLIC LANDS.**

21 (a) CONSERVATION OF NATIVE BIODIVERSITY.—Sec-
22 tion 202(c) of the Federal Land Policy and Management
23 Act of 1976 (43 U.S.C. 1712(c)) is amended—

24 (1) by redesignating paragraphs (8) and (9) as
25 paragraphs (9) and (10), respectively; and

1 (2) by inserting after paragraph (7) the follow-
2 ing new paragraph (8):

3 “(8) in each stand that is managed or operated
4 for timber purposes throughout each forested area
5 provide for the conservation or restoration of native
6 biodiversity except during the extraction stage of au-
7 thorized mineral development or during authorized
8 construction projects, in which events the Secretary
9 shall conserve native biodiversity to the extent pos-
10 sible;”.

11 (b) RESTRICTION ON USE OF CERTAIN LOGGING
12 PRACTICES.—Section 202 of the Federal Land Policy and
13 Management Act of 1976 (43 U.S.C. 1712) is amended
14 by adding at the end the following:

15 “(g) RESTRICTION ON USE OF CERTAIN LOGGING
16 PRACTICES.—(1) In each stand that is managed or oper-
17 ated for timber purposes throughout each forested area,
18 the Secretary under subsection (c)(8) shall prohibit any
19 even-age logging and any even-age management after one
20 year after the date of enactment of this subsection.

21 “(2) On each site already under even-age manage-
22 ment, the Secretary shall (A) prescribe a shift to selection
23 management within one year, or (B) cease managing for
24 timber purposes and actively restore the native

1 biodiversity, or permit each site to regain its native
2 biodiversity.

3 “(3) For the purposes of this subsection:

4 “(A) The term ‘native biodiversity’ means the
5 full range of variety and variability within and
6 among living organisms and the ecological complexes
7 in which they would have occurred in the absence of
8 significant human impact, and encompasses diver-
9 sity, within a species (genetic), within a community
10 of species (within-community), between communities
11 of species (between-communities), within a total area
12 such as a watershed (total area), along a plane from
13 ground to sky (vertical), and along the plane of the
14 earth-surface (horizontal). Vertical and horizontal
15 diversity apply to all the other aspects of diversity.

16 “(B) The terms ‘conserve’ and ‘conservation’
17 refer to protective measures for maintaining existing
18 native biological diversity and active measures for
19 restoring diversity through management efforts, in
20 order to protect, restore, and enhance as much of
21 the variety of species and communities as possible in
22 abundances and distributions that provide for their
23 continued existence and normal functioning, includ-
24 ing the viability of populations throughout their
25 natural geographic distributions.

1 “(C) The term ‘within-community diversity’
2 means the distinctive assemblages of species and ec-
3 ological processes that occur in different physical
4 settings of the biosphere and distinct parts of the
5 world.

6 “(D) The term ‘genetic diversity’ means the dif-
7 ferences in genetic composition within and among
8 populations of a given species.

9 “(E) The term ‘species diversity’ means the
10 richness and variety of native species in a particular
11 location of the world.

12 “(F) The term ‘group selection’ means a form
13 of selection management that emphasizes the peri-
14 odic removal of trees, including mature, undesirable,
15 and cull trees in small groups, where they occur that
16 way, with a result of (i) creating openings not to ex-
17 ceed in width in any direction the height of the tall-
18 est tree standing within 10 feet of the edge of the
19 group cut, and (ii) maintaining different age groups
20 in a given stand. In no event will more than 30 per-
21 cent of a stand be felled within 30 years.

22 “(G) The term ‘stand’ means a forest commu-
23 nity with enough identity by location, topography, or
24 dominant species to be managed as a unit, not to ex-
25 ceed 100 acres.

1 “(H) The term ‘clearcutting’ means the logging
2 of the commercial trees in a patch or stand in a
3 short period of time.

4 “(I) The term ‘even-age management’ means
5 the growing of commercial timber so that all trees
6 in a patch or stand are generally within 10 years of
7 the same age. Except for designated leave trees, or
8 clumps of trees, the patch or stand is logged, com-
9 pletely in any acre within a period of 30 years, by
10 clearcutting, salvage logging, seed-tree cutting or
11 shelterwood cutting, or any system other than selec-
12 tion management.

13 “(J) The term, ‘salvage logging’ means the fell-
14 ing or further damaging, within any 30-year period,
15 of a greater basal area than 30 square feet per acre
16 of dead, damaged, or other trees, or any combination
17 of such trees.

18 “(K) The term ‘seed-tree cut’ means a logging
19 operation that leaves one or more seed trees, gen-
20 erally 6 to 10 per acre.

21 “(L) The term ‘selection management’ means
22 the application of logging and other actions needed
23 to maintain continuous high forest cover where such
24 cover naturally occurs, recurring natural regenera-
25 tion of all native species on the site, and the orderly

1 growth and development of trees through a range of
2 diameter or age classes to provide a sustained yield
3 of forest products. Cutting methods that develop and
4 maintain selection stands are individual-tree and
5 group selection. A goal of selection is improvement
6 of quality by continuously harvesting trees less likely
7 to contribute to the long-range health of the stand.

8 “(M) The term ‘shelterwood cut’ means an
9 even-aged silvicultural regeneration method under
10 which a minority of the mature stand is retained as
11 a seed source or protection during the regeneration
12 period. The standing mature trees, usually 10 to 20
13 per acre, are later removed in one or more cuttings.

14 “(N) The term ‘timber purposes’ shall include
15 the use, sale, lease, or distribution of trees, or the
16 felling of trees or portions of trees except to create
17 land space for a structure or other use.

18 “(4)(A)(i) The purpose of this paragraph is to foster
19 the widest possible enforcement of subsection (c)(8) and
20 this subsection.

21 “(ii) Congress finds that all people of the United
22 States are injured by actions on lands to which subsection
23 (c)(8) and this subsection apply.

24 “(B) The provisions of subsection (c)(8) and this sub-
25 section shall be enforced by the Secretary of the Interior

1 and the Attorney General of the United States against any
2 person who violates either of them.

3 “(C)(i) Any citizen may enforce any provision of sub-
4 section (c)(8) and this subsection by bringing an action
5 for declaratory judgment, temporary restraining order, in-
6 junction, civil penalty, and other remedies against any al-
7 leged violator including the United States, in any district
8 court of the United States.

9 “(ii) The court, after determining a violation of either
10 of such subsections, shall impose a penalty of not less than
11 \$5,000 and not more than \$50,000 per violation, shall
12 issue one or more injunctions and other equitable relief
13 and shall award to the plaintiffs reasonable costs of litiga-
14 tion including attorney’s fees, witness fees and other
15 necessary expenses.

16 “(D) The penalty authorized by subparagraph (C) (ii)
17 shall be paid by the violator or violators designated by the
18 court. If that violator is the United States of America or
19 a Federal agency or officer, the penalty shall be paid to
20 the Judgment Fund, as provided by Congress under
21 section 1304 of title 31, United States Code.

22 “(E) The penalty shall be paid from the Judgment
23 Fund within 40 days after judgment to the person or per-
24 sons designated to receive it, to be applied in protecting
25 or restoring native biodiversity in or adjoining Federal

1 land. Any award of costs of litigation and any award of
2 attorney fees shall be paid within 40 days after judgment.

3 “(F) The United States, including its agents and em-
4 ployees waives its sovereign immunity in all respects in
5 all actions under subsection (c)(8) and this subsection. No
6 notice is required to enforce this subsection.

7 “(5) No roads shall be constructed or reconstructed
8 in any Bureau of Land Management roadless areas
9 inventoried pursuant to this Act.”.

10 (c) REPEAL.—Subsection (b) of section 701 of the
11 Federal Land Policy and Management Act of 1976 (43
12 U.S.C. 1701 note) is hereby repealed.

13 **SEC. 5. AMENDMENT OF NATIONAL WILDLIFE REFUGE SYS-**
14 **TEM ADMINISTRATION ACT OF 1966 RELAT-**
15 **ING TO THE NATIONAL WILDLIFE REFUGE**
16 **SYSTEM.**

17 Section 4 of the National Wildlife Refuge System Ad-
18 ministration Act of 1966 (16 U.S.C. 668dd) is amended
19 by adding at the end the following:

20 “(j) CONSERVATION OF NATIVE BIODIVERSITY.—In
21 each stand that is managed or operated for timber pur-
22 poses throughout each forested area within the System,
23 the Secretary shall provide for the conservation or restora-
24 tion of native biodiversity, except during the extraction
25 stage of authorized mineral development or during author-

1 ized construction projects, in which events the Secretary
2 shall conserve native biodiversity to the extent possible.

3 “(k) RESTRICTION ON USE OF CERTAIN LOGGING
4 PRACTICES.—(1) In each stand that is managed or oper-
5 ated for timber purposes throughout each forested area
6 within the System, the Secretary under subsection (j) shall
7 prohibit any even-age logging and any even-age manage-
8 ment after one year after the date of enactment of this
9 subsection.

10 “(2) On each site already under even-age manage-
11 ment, the Secretary shall (A) prescribe a shift to selection
12 management within one year, or (B) cease managing for
13 timber purposes and actively restore the native
14 biodiversity, or permit each site to regain its native
15 biodiversity.

16 “(3) For the purposes of this subsection:

17 “(A) The term ‘native biodiversity’ means the
18 full range of variety and variability within and
19 among living organisms and the ecological complexes
20 in which they would have occurred in the absence of
21 significant human impact, and encompasses diver-
22 sity, within a species (genetic), within a community
23 of species (within-community), between communities
24 of species (between-communities), within a total area
25 such as a watershed (total area), along a plane from

1 ground to sky (vertical), and along the plane of the
2 earth-surface (horizontal). Vertical and horizontal
3 diversity apply to all the other aspects of diversity.

4 “(B) The terms ‘conserve’ and ‘conservation’
5 refer to protective measures for maintaining existing
6 native biological diversity and active measures for
7 restoring diversity through management efforts, in
8 order to protect, restore, and enhance as much of
9 the variety of species and communities as possible in
10 abundances and distributions that provide for their
11 continued existence and normal functioning, includ-
12 ing the viability of populations throughout their
13 natural geographic distributions.

14 “(C) The term ‘within-community diversity’
15 means the distinctive assemblages of species and ec-
16 ological processes that occur in different physical
17 settings of the biosphere and distinct parts of the
18 world.

19 “(D) The term ‘genetic diversity’ means the dif-
20 ferences in genetic composition within and among
21 populations of a given species.

22 “(E) The term ‘species diversity’ means the
23 richness and variety of native species in a particular
24 location of the world.

1 “(F) The term ‘group selection’ means a form
2 of selection management that emphasizes the peri-
3 odic removal of trees, including mature, undesirable,
4 and cull trees in small groups, where they occur that
5 way, with a result of (i) creating openings not to ex-
6 ceed in width in any direction the height of the tall-
7 est tree standing within 10 feet of the edge of the
8 group cut, and (ii) maintaining different age groups
9 in a given stand. In no event will more than 30 per-
10 cent of a stand be felled within thirty years.

11 “(G) The term ‘stand’ means a forest commu-
12 nity with enough identity by location, topography, or
13 dominant species to be managed as a unit, not to ex-
14 ceed 100 acres.

15 “(H) The term ‘clearcutting’ means the logging
16 of the commercial trees in a patch or stand in a
17 short period of time.

18 “(I) The term ‘even-age management’ means
19 the growing of commercial timber so that all trees
20 in a patch or stand are generally within 10 years of
21 the same age. Except for designated leave trees, or
22 clumps of trees, the patch or stand is logged, com-
23 pletely in any acre within a period of 30 years, by
24 clearcutting, salvage logging, seed-tree cutting or

1 shelterwood cutting, or any system other than selec-
2 tion management.

3 “(J) The term, ‘salvage logging’ means the fell-
4 ing or further damaging, within a 30-year period, of
5 a greater basal area than 30 square feet per acre of
6 dead, damaged, or other trees, or any combination
7 of such trees.

8 “(K) The term ‘seed-tree cut’ means a logging
9 operation that leaves one or more seed trees, gen-
10 erally 6 to 10 per acre.

11 “(L) The term ‘selection management’ means
12 the application of logging and other actions needed
13 to maintain continuous high forest cover where such
14 cover naturally occurs, recurring natural regenera-
15 tion of all native species on the site, and the orderly
16 growth and development of trees through a range of
17 diameter or age classes to provide a sustained yield
18 of forest products. Cutting methods that develop and
19 maintain selection stands are individual-tree and
20 group selection. A goal of selection is improvement
21 of quality by continuously harvesting trees less likely
22 to contribute to the long-range health of the stand.

23 “(M) The term ‘shelterwood cut’ means an
24 even-aged silvicultural regeneration method under
25 which a minority of the mature stand is retained as

1 a seed source or protection during the regeneration
2 period. The standing mature trees, usually 10 to 20
3 per acre, are later removed in one or more cuttings.

4 “(N) The term ‘timber purposes’ shall include
5 the use, sale, lease, or distribution of trees, or the
6 felling of trees or portions of trees except to create
7 land space for a structure or other use.

8 “(4)(A)(i) The purpose of this paragraph is to foster
9 the widest possible enforcement of subsection (j) and this
10 subsection.

11 “(ii) Congress finds that all people of the United
12 States are injured by actions on lands to which subsection
13 (j) and this subsection apply.

14 “(B) The provisions of subsection (j) and this sub-
15 section shall be enforced by the Secretary of the Interior
16 and the Attorney General of the United States against any
17 person who violates either of them.

18 “(C)(i) Any citizen may enforce any provision of this
19 subsection by bringing an action for declaratory judgment,
20 temporary restraining order, injunction, civil penalty, and
21 other remedies against any alleged violator including the
22 United States, in any district court of the United States.

23 “(ii) The court, after determining a violation of either
24 of such subsections, shall impose a penalty of not less than
25 \$5,000 and not more than \$50,000 per violation, shall

1 issue one or more injunctions and other equitable relief
2 and shall award to the plaintiffs reasonable costs of litiga-
3 tion including attorney’s fees, witness fees and other nec-
4 essary expenses.

5 “(D) The penalty authorized by subparagraph (C)(ii)
6 shall be paid by the violator or violators designed by the
7 court. If that violator is the United States of America or
8 a Federal agency or officer, the penalty shall be paid to
9 the Judgment Fund, as provided by Congress under sec-
10 tion 1304 of title 31, United States Code.

11 “(E) The penalty should be paid from the Judgment
12 Fund within 40 days after judgment to the person or per-
13 sons designated to receive it, to be applied in protecting
14 or restoring native biodiversity in or adjoining Federal
15 land. Any award of costs of litigation and any award of
16 attorney fees shall be paid within 40 days after judgment.

17 “(F) The United States, including its agents and em-
18 ployees waives its sovereign immunity in all respects in
19 all actions under subsection (j) and this subsection. No
20 notice is required to enforce this subsection.”.

1 **SEC. 6. AMENDMENT OF NATIONAL INDIAN FOREST RE-**
2 **SOURCES MANAGEMENT ACT RELATING TO**
3 **INDIAN LANDS.**

4 Section 305 of the National Indian Forest Resources
5 Management Act (25 U.S.C. 4535) is amended by adding
6 at the end the following new subsections:

7 “(c) CONSERVATION OF NATIVE BIODIVERSITY.—In
8 each stand that is managed or operated for timber pur-
9 poses in each forested area on Indian lands, the Secretary
10 shall provide for the conservation or restoration of native
11 biodiversity in each stand that is managed or operated for
12 timber purposes in each forested area on Indian lands ex-
13 cept during the extraction stage of authorized mineral de-
14 velopment or during authorized construction projects in
15 which events the Secretary shall conserve native
16 biodiversity to the extent possible.

17 “(d) RESTRICTION ON USE OF CERTAIN LOGGING
18 PRACTICES.—(1) In each stand that is managed or oper-
19 ated for timber purposes throughout each forested area
20 on Indian forest lands, the Secretary under subsection (c)
21 shall prohibit any even-age logging and any even-age man-
22 agement after one year after the date of enactment of this
23 subsection.

24 “(2) On each site already under even-age manage-
25 ment, the Secretary shall (A) prescribe a shift to selection
26 management within one year, or (B) cease managing for

1 timber purposes and actively restore the native
2 biodiversity, or permit each site to regain its native
3 biodiversity.

4 “(3) For the purposes of this section:

5 “(A) The term ‘native biodiversity’ means the
6 full range of variety and variability within and
7 among living organisms and the ecological complexes
8 in which they would have occurred in the absence of
9 significant human impact, and encompasses diver-
10 sity, within a species (genetic), within a community
11 of species (within-community), between communities
12 of species (between-communities), within a total area
13 such as a watershed (total area), along a plane from
14 ground to sky (vertical), and along the plane of the
15 earth-surface (horizontal). Vertical and horizontal
16 diversity apply to all the other aspects of diversity.

17 “(B) The terms ‘conserve’ and ‘conservation’
18 refer to protective measures for maintaining existing
19 native biological diversity and active measures for
20 restoring diversity through management efforts, in
21 order to protect, restore, and enhance as much of
22 the variety of species and communities as possible in
23 abundances and distributions that provide for their
24 continued existence and normal functioning, includ-

1 ing the viability of populations throughout their nat-
2 ural geographic distributions.

3 “(C) The term ‘within-community diversity’
4 means the distinctive assemblages of species and ec-
5 ological processes that occur in different physical
6 settings of the biosphere and distinct parts of the
7 world.

8 “(D) The term ‘genetic diversity’ means the dif-
9 ferences in genetic composition within and among
10 populations of a given species.

11 “(E) The term ‘species diversity’ means the
12 richness and variety of native species in a particular
13 location of the world.

14 “(F) The term ‘group selection’ means a form
15 of selection management that emphasizes the peri-
16 odic removal of trees, including mature, undesirable,
17 and cull trees in small groups, where they occur that
18 way, with a result of (i) creating openings not to ex-
19 ceed in width in any direction the height of the tall-
20 est tree standing within 10 feet of the edge of the
21 group cut, and (ii) maintaining different age groups
22 in a given stand. In no event will more than 30 per-
23 cent of a stand be felled within 30 years.

24 “(G) The term ‘stand’ means a forest commu-
25 nity with enough identity by location, topography, or

1 dominant species to be managed as a unit, not to ex-
2 ceed 100 acres.

3 “(H) The term ‘clearcutting’ means the logging
4 of the commercial trees in a patch or stand in a
5 short period of time.

6 “(I) The term ‘even-age management’ means
7 the growing of commercial timber so that all trees
8 in a patch or stand are generally within 10 years of
9 the same age. Except for designated leave trees, or
10 clumps of trees, the patch or stand is logged, com-
11 pletely in any acre within a period of 30 years, by
12 clearcutting, salvage logging, seed-tree cutting or
13 shelterwood cutting, or any system other than selec-
14 tion management.

15 “(J) The term, ‘salvage logging’ means the fell-
16 ing or further damaging, within any 30-year period,
17 of a greater basal area than 30 square feet per acre
18 of dead, damaged, or other trees, or any combination
19 of such trees.

20 “(K) The term ‘seed-tree cut’ means a logging
21 operation that leaves one or more seed trees, gen-
22 erally 6 to 10 per acre.

23 “(L) The term ‘selection management’ means
24 the application of logging and other actions needed
25 to maintain continuous high forest cover where such

1 cover naturally occurs, recurring natural regenera-
2 tion of all native species on the site, and the orderly
3 growth and development of trees through a range of
4 diameter or age classes to provide a sustained yield
5 of forest products. Cutting methods that develop and
6 maintain selection stands are individual-tree and
7 group selection. A goal of selection is improvement
8 of quality by continuously harvesting trees less likely
9 to contribute to the long-range health of the stand.

10 “(M) The term ‘shelterwood cut’ means an
11 even-aged silvicultural regeneration method under
12 which a minority of the mature stand is retained as
13 a seed source or protection during the regeneration
14 period. The standing mature trees, usually 10 to 20
15 per acre, are later removed in one or more cuttings.

16 “(N) The term ‘timber purposes’ shall include
17 the use, sale, lease, or distribution of trees, or the
18 felling of trees or portions of trees except to create
19 land space for a structure or other use.

20 “(4)(A)(i) The purpose of this paragraph is to foster
21 the widest possible enforcement of subsection (c) and this
22 subsection.

23 “(ii) Congress finds that all people of the United
24 States are injured by actions on lands to which subsection
25 (c) and this subsection apply.

1 “(B) The provisions of subsection (c) and this sub-
2 section shall be enforced by the Secretary of the Interior
3 and the Attorney General of the United States against any
4 person who violates either of them.

5 “(C)(i) Any citizen may enforce any provision of sub-
6 section (c) and this subsection by bringing an action for
7 declaratory judgment, temporary restraining order, in-
8 junction, civil penalty, and other remedies against any al-
9 leged violator including the United States, in any district
10 court of the United States.

11 “(ii) The court, after determining a violation of either
12 of such subsections shall impose a penalty of not less than
13 \$5,000 and not more than \$50,000 per violation, shall
14 issue one or more injunctions and other equitable relief
15 and shall award to the plaintiffs reasonable costs of litiga-
16 tion including attorney’s fees, witness fees and other nec-
17 essary expenses.

18 “(D) The penalty authorized by subparagraph (C)(ii)
19 shall be paid by the violator or violators designated by the
20 court. If that violator is the United States of America or
21 a Federal agency or officer, the penalty shall be paid to
22 the Judgment Fund, as provided by Congress under sec-
23 tion 1304 of title 31, United States Code.

24 “(E) The penalty should be paid from the Judgment
25 Fund within 40 days after judgment to the person or per-

1 sons designated to receive it, to be applied in protecting
2 or restoring native biodiversity in or adjoining Federal
3 land. Any award of costs of litigation and any award of
4 attorney fees shall be paid within 40 days after judgment.

5 “(F) The United States, including its agents and em-
6 ployees waives its sovereign immunity in all respects in
7 all actions under subsection (c) and this subsection. No
8 notice is required to enforce this subsection.”.

9 **SEC. 7. AMENDMENT OF TITLE 10, UNITED STATES CODE,**
10 **RELATING TO FOREST MANAGEMENT ON**
11 **MILITARY LANDS.**

12 (a) IN GENERAL.—Chapter 159 of title 10, United
13 States Code, is amended by adding at the end the follow-
14 ing new section:

15 **“§ 2693. Conservation of native biodiversity**

16 “(a) CONSERVATION OF NATIVE BIODIVERSITY.—In
17 each stand that is operated for timber purposes through-
18 out each forested area on a military installation or projects
19 administered by the Army Corps of Engineers, the Sec-
20 retary concerned shall provide for the conservation or res-
21 toration of native biodiversity, except during authorized
22 construction projects in which events the Secretary shall
23 conserve native biodiversity to the extent possible.

24 “(b) RESTRICTION ON USE OF CERTAIN LOGGING
25 PRACTICES.—(1) In each stand that is managed or oper-

1 ated for timber purposes throughout each forested area
2 on a military installation or reservation and on a project
3 administered by the Army Corps of Engineers, the Sec-
4 retary under subsection (a) shall prohibit any even-age
5 logging and any even-age management after one year after
6 the date of enactment of this subsection.

7 “(2) On each site already under even-age manage-
8 ment, the Secretary shall (A) prescribe a shift to selection
9 management within one year, or (B) cease managing for
10 timber purposes and actively restore the native
11 biodiversity, or permit each site to regain its native
12 biodiversity.

13 “(3) In this section:

14 “(A) The term ‘native biodiversity’ means the
15 full range of variety and variability within and
16 among living organisms and the ecological complexes
17 in which they would have occurred in the absence of
18 significant human impact, and encompasses diver-
19 sity, within a species (genetic), within a community
20 of species (within-community), between communities
21 of species (between-communities), within a total area
22 such as a watershed (total area), along a plane from
23 ground to sky (vertical), and along the plane of the
24 earth-surface (horizontal). Vertical and horizontal
25 diversity apply to all the other aspects of diversity.

1 “(B) The terms ‘conserve’ and ‘conservation’
2 refer to protective measures for maintaining existing
3 native biological diversity and active measures for
4 restoring diversity through management efforts, in
5 order to protect, restore, and enhance as much of
6 the variety of species and communities as possible in
7 abundances and distributions that provide for their
8 continued existence and normal functioning, includ-
9 ing the viability of populations throughout their nat-
10 ural geographic distributions.

11 “(C) The term ‘within-community diversity’
12 means the distinctive assemblages of species and ec-
13 ological processes that occur in different physical
14 settings of the biosphere and distinct parts of the
15 world.

16 “(D) The term ‘genetic diversity’ means the dif-
17 ferences in genetic composition within and among
18 populations of a given species.

19 “(E) The term ‘species diversity’ means the
20 richness and variety of native species in a particular
21 location of the world.

22 “(F) The term ‘group selection’ means a form
23 of selection management that emphasizes the peri-
24 odic removal of trees, including mature, undesirable,
25 and cull trees in small groups, where they occur that

1 way, with a result of (i) creating openings not to ex-
2 ceed in width in any direction the height of the tall-
3 est tree standing within 10 feet of the edge of the
4 group cut, and (ii) maintaining different age groups
5 in a given stand. In no event will more than 30 per-
6 cent of a stand be felled within 30 years.

7 “(G) The term ‘stand’ means a forest commu-
8 nity with enough identity by location, topography, or
9 dominant species to be managed as a unit, not to ex-
10 ceed 100 acres.

11 “(H) The term ‘clearcutting’ means the logging
12 of the commercial trees in a patch or stand in a
13 short period of time.

14 “(I) The term ‘even-age management’ means
15 the growing of commercial timber so that all trees
16 in a patch or stand are generally within 10 years of
17 the same age. Except for designated leave trees, or
18 clumps of trees, the patch or stand is logged com-
19 pletely in any acre within a period of 30 years, by
20 clearcutting, salvage logging, seed-tree cutting or
21 shelterwood cutting, or any system other than selec-
22 tion management.

23 “(J) The term, ‘salvage logging’ means the fell-
24 ing or further damaging, within any 30-year period,
25 of a greater basal area than 30 square feet per acre

1 of dead, damaged, or other trees, or any combination
2 of such trees.

3 “(K) The term ‘seed-tree cut’ means a logging
4 operation that leaves one or more seed trees, gen-
5 erally 6 to 10 per acre.

6 “(L) The term ‘selection management’ means
7 the application of logging and other actions needed
8 to maintain continuous high forest cover where such
9 cover naturally occurs, recurring natural regenera-
10 tion of all native species on the site, and the orderly
11 growth and development of trees through a range of
12 diameter or age classes to provide a sustained yield
13 of forest products. Cutting methods that develop and
14 maintain selection stands are individual-tree and
15 group selection. A goal of selection is improvement
16 of quality by continuously harvesting trees less likely
17 to contribute to the long-range health of the stand.

18 “(M) The term ‘shelterwood cut’ means an
19 even-aged silvicultural regeneration method under
20 which a minority of the mature stand is retained as
21 a seed source or protection during the regeneration
22 period. The standing mature trees, usually 10 to 20
23 per acre, are later removed in one or more cuttings.

24 “(N) The term ‘timber purposes’ shall include
25 the use, sale, lease, or distribution of trees, or the

1 felling of trees or portions of trees except to create
2 land space for a structure or other use.

3 “(4)(A)(i) The purpose of this paragraph is to foster
4 the widest possible enforcement of this section.

5 “(ii) Congress finds that all people of the United
6 States are injured by actions on lands to which this section
7 applies.

8 “(B) The provisions of this section shall be enforced
9 by the Secretary of Defense and the Attorney General of
10 the United States against any person who violates this sec-
11 tion.

12 “(C)(i) Any citizen may enforce any provision of this
13 section by bringing an action for declaratory judgment,
14 temporary restraining order, injunction, civil penalty, and
15 other remedies against any alleged violator including the
16 United States, in any district court of the United States.

17 “(ii) The court, after determining a violation of this
18 section, shall impose a penalty of not less than \$5,000 and
19 not more than \$50,000 per violation, shall issue one or
20 more injunctions and other equitable relief and shall
21 award to the plaintiffs reasonable costs of litigation in-
22 cluding attorney’s fees, witness fees and other necessary
23 expenses.

24 “(D) The penalty authorized by subparagraph (C)(ii)
25 shall be paid by the violator or violators designated by the

1 court. If that violator is the United States of America or
2 a Federal agency or officer, the penalty shall be paid to
3 the Judgment Fund, as provided by Congress under sec-
4 tion 1304 of title 31, United States Code.

5 “(E) The penalty should be paid from the Judgment
6 Fund within 40 days after judgment to the person or per-
7 sons designated to receive it, to be applied in protecting
8 or restoring native biodiversity in or adjoining Federal
9 land. Any award of costs of litigation and any award of
10 attorney fees shall be paid within 40 days after judgment.

11 “(F) The United States, including its agents and em-
12 ployees waives its sovereign immunity in all respects in
13 all actions under this section. No notice is required to en-
14 force this section.”.

15 (b) CONFORMING AMENDMENT.—The table of sec-
16 tions for chapter 159 of title 10, United States Code, is
17 amended by adding at the end the following new item:

“2693. Conservation of native biodiversity.”.

18 **SEC. 8. EFFECTIVE DATE.**

19 The amendments made by this Act shall not apply
20 with respect to any contract to sell timber which was
21 awarded on or before the date of enactment of this Act.

○

HR 1164 SC—2

HR 1164 SC—3