

104TH CONGRESS
1ST SESSION

H. R. 2407

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

SEPTEMBER 27, 1995

Mr. BRYANT of Texas (for himself and Mr. SHAYS) introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committees on Resources and National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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 Act of 1995”.

6 **SEC. 2. PURPOSES, FINDINGS, CONFLICT WITH ENDAN-**
7 **GERED SPECIES ACT.**

8 (a) PURPOSES.—The purposes of this Act are, on all
9 Federal public lands, 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
18 the Department of the Interior, and the Army,
19 Navy, and Air Force of the Department of Defense.

20 (2) Even-age logging causes substantial alter-
21 ations in native biodiversity by emphasizing the pro-
22 duction of a limited number of commercial species of
23 trees on each site, generally only one; by manipulat-
24 ing the vegetation toward greater relative density of
25 such commercial species, by suppressing competing

1 species, and by planting, on numerous sites, a com-
2 mercial strain that was developed to reduce the rel-
3 ative diversity of genetic strains that previously oc-
4 curred within the species on the same sites.

5 (3) Even-age logging kills immobile species and
6 the very young of mobile species of wildlife and de-
7 pletes the habitat of deep-forest species of animals,
8 including endangered species.

9 (4) Even-age logging exposes the soil to direct
10 sunlight, impact of rains, disruption of surface, and
11 compaction of organic layers, and disrupts the run-
12 off restraining capabilities of roots and low-lying
13 vegetation, resulting in soil erosion, leaching out of
14 nutrients, reduction in biological content of the soil,
15 and impoverishment of the soil, with long-range dele-
16 terious effect on all land resources, even timber
17 production.

18 (5) Even-age logging decreases the capability of
19 the soil to retain carbon and, during the critical pe-
20 riods of felling and site preparation, reduces the ca-
21 pacity of the biomass to process and to store carbon,
22 with a result of loss of such carbon to the atmos-
23 phere, thereby aggravating global warming.

24 (6) Even-age logging renders the soil increas-
25 ingly sensitive to acid deposition by causing decline

1 of soil wood and coarse woody debris, reducing site
2 capacity for retention of water and nutrients, in-
3 creasing soil heat, and impairing the maintenance of
4 protective carbon compounds on the soil surface.

5 (7) Even-age logging results in increased
6 stream sedimentation, siltation of stream bottoms,
7 decline in water quality, impairment of life cycles
8 and spawning processes of aquatic life from benthic
9 organisms to large fish, thereby depleting the sports
10 and commercial fisheries of the United States.

11 (8) Even-age logging increases harmful edge ef-
12 fects, including blowdowns, invasions by weed spe-
13 cies, and heavier losses to predators and competi-
14 tors, from raccoons and hawks to ratsnakes and
15 cowbirds.

16 (9) Even-age logging decreases recreational val-
17 ues, reducing deep, canopied, variegated, permanent
18 forests, where the public can fulfill an expanding
19 need for recreation. Even-age logging replaces such
20 forests with a surplus of clearings that grow into rel-
21 atively impenetrable thickets of saplings, and then
22 into monotonous plantations.

23 (10) Human beings depend on native biological
24 resources, including plants, animals, and micro-orga-
25 nisms, for food, medicine, shelter, and other impor-

1 tant products, and as a source of intellectual and
2 scientific knowledge, recreation, and aesthetic
3 pleasure.

4 (11) Alteration of native biodiversity has seri-
5 ous consequences for human welfare as America
6 irretrievably loses resources for research and agricul-
7 tural, medicinal, and industrial development.

8 (12) Alteration of biological diversity in Federal
9 forests adversely affects the functions of ecosystems
10 and critical ecosystem processes that moderate cli-
11 mate, govern nutrient cycles and soil conservation
12 and production, control pests and diseases, and
13 degrade wastes and pollutants.

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

17 (14) By substituting selection management, as
18 prescribed in this Act, for the even-age system, the
19 Federal agencies now engaged in even-age logging
20 would substantially reduce devastation to the envi-
21 ronment and would improve the quality of life of the
22 American people.

23 (15) By protecting native biodiversity, as pre-
24 scribed in this Act, Federal agencies would maintain

1 vital native ecosystems and would improve the qual-
2 ity of life of the American people.

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

7 (17) The court remedies now available for citi-
8 zens to utilize in the enforcement of Federal forest
9 laws are inadequate, and should be strengthened by
10 providing for actions by citizens for injunctions, de-
11 claratory judgments, civil penalties, and reasonable
12 costs of suit.

13 (c) CONFLICT WITH ENDANGERED SPECIES ACT.—
14 In the event of any conflict between a provision of this
15 Act, or an amendment made by this Act, and the Endan-
16 gered Species Act of 1973 (16 U.S.C. 1531), the latter
17 shall prevail.

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

21 (a) CONSERVATION OF NATIVE BIODIVERSITY.—Sec-
22 tion 6(g)(3)(B) of the Forest and Rangeland Renewable
23 Resources Planning Act of 1974 (16 U.S.C.
24 1604(g)(3)(B)) is amended to read as follows:

1 “(B) regardless of any other provision in
2 this Act, in each stand and each watershed
3 throughout each forested area, the Secretary
4 shall provide for the conservation or restoration
5 of native biodiversity except during the extrac-
6 tion stage of authorized mineral development or
7 during authorized construction projects, in
8 which events the Secretary shall conserve native
9 biodiversity to the extent possible;”.

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

14 “(h) COMMITTEE OF SCIENTISTS.—(1) In carrying
15 out the purposes of subsection (g) of this section, the Sec-
16 retary shall appoint a committee of scientists who are not
17 officers or employees of the Forest Service nor of any
18 other public entity, nor of any entity engaged in whole
19 or in part in the production of wood or wood products,
20 and have not contracted with or represented any of such
21 entities within a period of 5 years prior to serving on such
22 committee. The committee shall provide scientific and
23 technical advice and counsel on proposed guidelines and
24 procedures and all other issues involving forestry and
25 biodiversity to assure that an effective interdisciplinary

1 approach is proposed and adopted. The committee shall
2 terminate after the expiration of 10 years from the date
3 of enactment of this paragraph.”.

4 (c) RESTRICTION ON USE OF CERTAIN LOGGING
5 PRACTICES.—Section 6 of the Forest and Rangeland Re-
6 newable Resources Planning Act of 1974 (16 U.S.C.
7 1604) is amended by adding at the end the following:

8 “(n) RESTRICTION ON USE OF CERTAIN LOGGING
9 PRACTICES.—(1) In each stand and watershed throughout
10 each forested area, the Secretary shall prohibit any even-
11 age logging and any even-age management after the date
12 of enactment of this subsection.

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

19 “(3) For the purposes of this Act:

20 “(A) The term ‘native biodiversity’ means the
21 full range of variety and variability within and
22 among living organisms and the ecological complexes
23 in which they would have occurred in the absence of
24 significant human impact, and encompasses diversity
25 within a species (genetic or species), within a com-

1 community of species (within-community), between com-
2 munities of species (between-communities), within a
3 total area such as a watershed (total area), along a
4 plane from ground to sky (vertical), and along the
5 plane of the earth-surface (horizontal). Vertical and
6 horizontal diversity apply to all the other aspects of
7 diversity.

8 “(B) The terms ‘conserve’ and ‘conservation’
9 refer to protective measures for maintaining existing
10 native biological diversity and active and passive
11 measures for restoring diversity through manage-
12 ment efforts, in order to protect, restore, and en-
13 hance as much of the variety of species and commu-
14 nities as possible in abundances and distributions
15 that provide for their continued existence and nor-
16 mal functioning, including the viability of popu-
17 lations throughout their natural geographic distribu-
18 tions.

19 “(C) The term ‘within-community diversity’
20 means the distinctive assemblages of species and ec-
21 ological processes that occur in different physical
22 settings of the biosphere and distinct parts of the
23 world.

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

4 “(E) The term ‘species diversity’ means the
5 richness and variety of native species in a particular
6 location of the world.

7 “(F) The term ‘group selection’ means a form
8 of selection management that emphasizes the peri-
9 odic removal of trees, including mature, undesirable,
10 and cull trees in small groups, where they occur that
11 way, with a result of (i) creating openings not to ex-
12 ceed in width in any direction the height of the tall-
13 est tree standing within 10 feet outside the edge of
14 the group cut, and (ii) maintaining different age
15 groups in a given stand. In no event will more than
16 30 percent of the basal area of a stand be felled
17 within 40 years. The foregoing limitation shall not
18 be deemed to establish a 100-year projected felling
19 age as the standard at which individual trees in a
20 stand are to be cut, nor shall native biodiversity be
21 limited to that which occurs within the context of a
22 100-year projected felling age.

23 “(G) The term ‘stand’ means a biological com-
24 munity with enough identity by location, topography,

1 or dominant species to be managed as a unit, not to
2 exceed 100 acres.

3 “(H) The term ‘clearcutting’ means the logging
4 of more than one-half of the commercial trees in a
5 patch larger than a group defined in subparagraph
6 (F) or in a stand of any size in a short period of
7 time.

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

17 “(J) The term ‘salvage logging’ means the fell-
18 ing or further damaging, within any 30-year period,
19 of a greater basal area than 20 square feet per acre
20 of dead, damaged, or other trees, or any combination
21 of such trees.

22 “(K) The term ‘seed-tree cut’ means an even-
23 age logging operation that leaves a small minority of
24 seed trees in a stand for any period of time.

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

13 “(M) The term ‘shelterwood cut’ means an
14 even-aged logging operation that leaves a minority
15 (larger than in a seed-tree cut) of the stand as a
16 seed source or protection cover remaining standing
17 for any period of time.

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

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

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

4 “(B) The provisions of subsection (g)(3)(B) and this
5 subsection shall be enforced by the Secretary of Agri-
6 culture and the Attorney General of the United States
7 against any person who violates either of them.

8 “(C)(i) Any citizen harmed by a violation of this Act
9 may enforce any provision of subsection (g)(3)(B) and this
10 subsection by bringing an action for declaratory judgment,
11 temporary restraining order, injunction, civil penalty, and
12 other remedies against any alleged violator including the
13 United States, in any district court of the United States.

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

21 “(iii) The standard of proof in all actions brought
22 under this subparagraph shall be the preponderance of the
23 evidence and the trial shall be de novo.

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 shall 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 subsection (g)(3)(B) and this subsection.
14 No notice is required to enforce this subsection.

15 “(5) No roads shall be constructed or reconstructed
16 in any roadless area, as defined in the second United
17 States Department of Agriculture Forest Service Roadless
18 Area Review and Evaluation (RARE II, 1978) or in a land
19 and resource management plan prepared pursuant to this
20 section.”.

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

1 **SEC. 4. AMENDMENT OF FEDERAL LAND POLICY AND MAN-**
2 **AGEMENT ACT OF 1976 RELATING TO THE**
3 **PUBLIC LANDS.**

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

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

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

11 “(8) regardless of any other provision in this
12 Act, in each stand and each watershed throughout
13 each forested area, the Secretary shall provide for
14 the conservation or restoration of native biodiversity
15 except during the extraction stage of authorized
16 mineral development or during authorized construc-
17 tion projects, in which events the Secretary shall
18 conserve native biodiversity to the extent possible;”.

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

23 “(g) RESTRICTION ON USE OF CERTAIN LOGGING
24 PRACTICES.—(1) In each stand and watershed throughout
25 each forested area, the Secretary shall prohibit any even-

1 age logging and any even-age management after the date
2 of enactment of this subsection.

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

9 “(3) For the purposes of this Act:

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

23 “(B) The terms ‘conserve’ and ‘conservation’
24 refer to protective measures for maintaining existing
25 native biological diversity and active and passive

1 measures for restoring diversity through manage-
2 ment efforts, in order to protect, restore, and en-
3 hance as much of the variety of species and commu-
4 nities as possible in abundances and distributions
5 that provide for their continued existence and nor-
6 mal functioning, including the viability of popu-
7 lations throughout their natural geographic distribu-
8 tions.

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

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

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

20 “(F) The term ‘group selection’ means a form
21 of selection management that emphasizes the peri-
22 odic removal of trees, including mature, undesirable,
23 and cull trees in small groups, where they occur that
24 way, with a result of (i) creating openings not to ex-
25 ceed in width in any direction the height of the tall-

1 est tree standing within 10 feet outside the edge of
2 the group cut, and (ii) maintaining different age
3 groups in a given stand. In no event will more than
4 30 percent of the basal area of a stand be felled
5 within 40 years. The foregoing limitation shall not
6 be deemed to establish a 100-year projected felling
7 age as the standard at which individual trees in a
8 stand are to be cut, nor shall native biodiversity be
9 limited to that which occurs within the context of a
10 100-year projected felling age.

11 “(G) The term ‘stand’ means a biological com-
12 munity with enough identity by location, topography,
13 or dominant species to be managed as a unit, not to
14 exceed 100 acres.

15 “(H) The term ‘clearcutting’ means the logging
16 of more than one-half of the commercial trees in a
17 patch larger than a group defined in subparagraph
18 (F) or in a stand of any size in a short period of
19 time.

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

1 clearcutting, salvage logging, seed-tree cutting or
2 shelterwood cutting, or any system other than selec-
3 tion management.

4 “(J) The term ‘salvage logging’ means the fell-
5 ing or further damaging, within any 30-year period,
6 of a greater basal area than 20 square feet per acre
7 of dead, damaged, or other trees, or any combination
8 of such trees.

9 “(K) The term ‘seed-tree cut’ means an even-
10 age logging operation that leaves a small minority of
11 seed trees in a stand for any period of time.

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

24 “(M) The term ‘shelterwood cut’ means an
25 even-aged logging operation that leaves a minority

1 (larger than in a seed-tree cut) of the stand as a
2 seed source or protection cover remaining standing
3 for any period of time.

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 (c)(8) and
10 this subsection.

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

14 “(B) The provisions of subsection (c)(8) 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 harmed by a violation of this Act
19 may enforce any provision of subsection (c)(8) and this
20 subsection by bringing an action for declaratory judgment,
21 temporary restraining order, injunction, civil penalty, and
22 other remedies against any alleged violator including the
23 United States, in any district court of the United States.

24 “(ii) The court, after determining a violation of either
25 of such subsections, shall impose a penalty of not less than

1 \$5,000 and not more than \$50,000 per violation, shall
2 issue one or more injunctions and other equitable relief
3 and shall award to the plaintiffs reasonable costs of litiga-
4 tion including attorney’s fees, witness fees and other
5 necessary expenses.

6 “(iii) The standard of proof in all actions brought
7 under this subparagraph shall be the preponderance of the
8 evidence and the trial shall be de novo.

9 “(D) The penalty authorized by subparagraph (C) (ii)
10 shall be paid by the violator or violators designated by the
11 court. If that violator is the United States of America or
12 a Federal agency or officer, the penalty shall be paid to
13 the Judgment Fund, as provided by Congress under
14 section 1304 of title 31, United States Code.

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

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

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

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

7 **SEC. 5. AMENDMENT OF NATIONAL WILDLIFE REFUGE SYS-**
8 **TEM ADMINISTRATION ACT OF 1966 RELAT-**
9 **ING TO THE NATIONAL WILDLIFE REFUGE**
10 **SYSTEM.**

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

14 “(j) CONSERVATION OF NATIVE BIODIVERSITY.—Re-
15 gardless of any other provision in this Act, in each stand
16 and each watershed throughout each forested area within
17 the System, the Secretary shall provide for the conserva-
18 tion or restoration of native biodiversity, except during the
19 extraction stage of authorized mineral development or dur-
20 ing authorized construction projects, in which events the
21 Secretary shall conserve native biodiversity to the extent
22 possible.

23 “(k) RESTRICTION ON USE OF CERTAIN LOGGING
24 PRACTICES.—(1) In each stand and watershed throughout
25 each forested area, the Secretary shall prohibit any even-

1 age logging and any even-age management after the date
2 of enactment of this subsection.

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

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

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

23 “(B) The terms ‘conserve’ and ‘conservation’
24 refer to protective measures for maintaining existing
25 native biological diversity and active and passive

1 measures for restoring diversity through manage-
2 ment efforts, in order to protect, restore, and en-
3 hance as much of the variety of species and commu-
4 nities as possible in abundances and distributions
5 that provide for their continued existence and nor-
6 mal functioning, including the viability of popu-
7 lations throughout their natural geographic distribu-
8 tions.

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

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

17 “(E) The term ‘species diversity’ means the
18 richness and variety of native species in a particular
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20 “(F) The term ‘group selection’ means a form
21 of selection management that emphasizes the peri-
22 odic removal of trees, including mature, undesirable,
23 and cull trees in small groups, where they occur that
24 way, with a result of (i) creating openings not to ex-
25 ceed in width in any direction the height of the tall-

1 est tree standing within 10 feet outside the edge of
2 the group cut, and (ii) maintaining different age
3 groups in a given stand. In no event will more than
4 30 percent of the basal area of a stand be felled
5 within 40 years. The foregoing limitation shall not
6 be deemed to establish a 100-year projected felling
7 age as the standard at which individual trees in a
8 stand are to be cut, nor shall native biodiversity be
9 limited to that which occurs within the context of a
10 100-year projected felling age.

11 “(G) The term ‘stand’ means a biological com-
12 munity with enough identity by location, topography,
13 or dominant species to be managed as a unit, not to
14 exceed 100 acres.

15 “(H) The term ‘clearcutting’ means the logging
16 of more than one-half of the commercial trees in a
17 patch larger than a group defined in subparagraph
18 (F) or in a stand of any size in a short period of
19 time.

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

1 clearcutting, salvage logging, seed-tree cutting or
2 shelterwood cutting, or any system other than selec-
3 tion management.

4 “(J) The term ‘salvage logging’ means the fell-
5 ing or further damaging, within a 30-year period, of
6 a greater basal area than 20 square feet per acre of
7 dead, damaged, or other trees, or any combination
8 of such trees.

9 “(K) The term ‘seed-tree cut’ means an even-
10 age logging operation that leaves a small minority of
11 seed trees in a stand for any period of time.

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

24 “(M) The term ‘shelterwood cut’ means an
25 even-aged logging operation that leaves a minority

1 (larger than in a seed-tree cut) of the stand as a
2 seed source or protection cover remaining standing
3 for any period of time.

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 harmed by a violation of this Act
19 may enforce any provision of this subsection by bringing
20 an action for declaratory judgment, temporary restraining
21 order, injunction, civil penalty, and other remedies against
22 any alleged violator including the United States, in any
23 district court of the United States.

24 “(ii) The court, after determining a violation of either
25 of such subsections, shall impose a penalty of not less than

1 \$5,000 and not more than \$50,000 per violation, shall
2 issue one or more injunctions and other equitable relief
3 and shall award to the plaintiffs reasonable costs of litiga-
4 tion including attorney's fees, witness fees and other nec-
5 essary expenses.

6 “(iii) The standard of proof in all actions brought
7 under this subparagraph shall be the preponderance of the
8 evidence and the trial shall be de novo.

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

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

21 “(F) The United States, including its agents and em-
22 ployees waives its sovereign immunity in all respects in
23 all actions under subsection (j) and this subsection. No
24 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.—
8 Regardless of any other provision in this Act, in each
9 stand and each watershed throughout each stand that is
10 managed or operated for timber purposes in each forested
11 area on Indian lands except during the extraction stage
12 of authorized mineral development or during authorized
13 construction projects in which events the Secretary shall
14 conserve native biodiversity to the extent possible.

15 “(d) RESTRICTION ON USE OF CERTAIN LOGGING
16 PRACTICES.—(1) In each stand and watershed throughout
17 each forested area, the Secretary shall prohibit any even-
18 age logging and any even-age management after the date
19 of enactment of this subsection.

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

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

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

14 “(B) The terms ‘conserve’ and ‘conservation’
15 refer to protective measures for maintaining existing
16 native biological diversity and active and passive
17 measures for restoring diversity through manage-
18 ment efforts, in order to protect, restore, and en-
19 hance as much of the variety of species and commu-
20 nities as possible in abundances and distributions
21 that provide for their continued existence and nor-
22 mal functioning, including the viability of popu-
23 lations throughout their natural geographic distribu-
24 tions.

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 outside the edge of
19 the group cut, and (ii) maintaining different age
20 groups in a given stand. In no event will more than
21 30 percent of the basal area of a stand be felled
22 within 40 years. The foregoing limitation shall not
23 be deemed to establish a 100-year projected felling
24 age as the standard at which individual trees in a
25 stand are to be cut, nor shall native biodiversity be

1 limited to that which occurs within the context of a
2 100-year projected felling age.

3 “(G) The term ‘stand’ means a biological com-
4 munity with enough identity by location, topography,
5 or dominant species to be managed as a unit, not to
6 exceed 100 acres.

7 “(H) The term ‘clearcutting’ means the logging
8 of more than one-half of the commercial trees in a
9 patch larger than a group defined in subparagraph
10 (F) or in a stand of any size in a short period of
11 time.

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

21 “(J) The term ‘salvage logging’ means the fell-
22 ing or further damaging, within any 30-year period,
23 of a greater basal area than 20 square feet per acre
24 of dead, damaged, or other trees, or any combination
25 of such trees.

1 “(K) The term ‘seed-tree cut’ means an even-
2 age logging operation that leaves a small minority of
3 seed trees in a stand for any period of time.

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

16 “(M) The term ‘shelterwood cut’ means an
17 even-aged logging operation that leaves a minority
18 (larger than in a seed-tree cut) of the stand as a
19 seed source or protection cover remaining standing
20 for any period of time.

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

1 “(4)(A)(i) The purpose of this paragraph is to foster
2 the widest possible enforcement of subsection (c) and this
3 subsection.

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

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

11 “(C)(i) Any citizen harmed by a violation of this Act
12 may enforce any provision of subsection (c) and this sub-
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 either
18 of such subsections shall impose a penalty of not less than
19 \$5,000 and not more than \$50,000 per violation, shall
20 issue one or more injunctions and other equitable relief
21 and shall award to the plaintiffs reasonable costs of litiga-
22 tion including attorney’s fees, witness fees and other nec-
23 essary expenses.

1 “(iii) The standard of proof in all actions brought
2 under this subparagraph shall be the preponderance of the
3 evidence and the trial shall be de novo.

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

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

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

20 **SEC. 7. AMENDMENT OF TITLE 10, UNITED STATES CODE,**
21 **RELATING TO FOREST MANAGEMENT ON**
22 **MILITARY LANDS.**

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

1 **“§ 2694. Conservation of native biodiversity**

2 “(a) CONSERVATION OF NATIVE BIODIVERSITY.—
3 Regardless of any other provision in this Act, in each
4 stand and each watershed throughout each forested area
5 on a military installation or projects administered by the
6 Army Corps of Engineers, the Secretary concerned shall
7 provide for the conservation or restoration of native
8 biodiversity, except during authorized construction
9 projects in which events the Secretary shall conserve na-
10 tive biodiversity to the extent possible.

11 “(b) RESTRICTION ON USE OF CERTAIN LOGGING
12 PRACTICES.—(1) In each stand and watershed throughout
13 each forested area, the Secretary shall prohibit any even-
14 age logging and any even-age management after the date
15 of enactment of this subsection.

16 “(2) On each site already under even-age manage-
17 ment, the Secretary shall (A) prescribe a shift to selection
18 management within one year, or (B) cease managing for
19 timber purposes and actively restore the native
20 biodiversity, or permit each site to regain its native
21 biodiversity.

22 “(3) In this section:

23 “(A) The term ‘native biodiversity’ means the
24 full range of variety and variability within and
25 among living organisms and the ecological complexes
26 in which they would have occurred in the absence of

1 significant human impact, and encompasses diversity
2 within a species (genetic or species), within a com-
3 munity of species (within-community), between com-
4 munities of species (between-communities), within a
5 total area such as a watershed (total area), along a
6 plane from ground to sky (vertical), and along the
7 plane of the earth-surface (horizontal). Vertical and
8 horizontal diversity apply to all the other aspects of
9 diversity.

10 “(B) The terms ‘conserve’ and ‘conservation’
11 refer to protective measures for maintaining existing
12 native biological diversity and active and passive
13 measures for restoring diversity through manage-
14 ment efforts, in order to protect, restore, and en-
15 hance as much of the variety of species and commu-
16 nities as possible in abundances and distributions
17 that provide for their continued existence and nor-
18 mal functioning, including the viability of popu-
19 lations throughout their natural geographic distribu-
20 tions.

21 “(C) The term ‘within-community diversity’
22 means the distinctive assemblages of species and ec-
23 ological processes that occur in different physical
24 settings of the biosphere and distinct parts of the
25 world.

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

4 “(E) The term ‘species diversity’ means the
5 richness and variety of native species in a particular
6 location of the world.

7 “(F) The term ‘group selection’ means a form
8 of selection management that emphasizes the peri-
9 odic removal of trees, including mature, undesirable,
10 and cull trees in small groups, where they occur that
11 way, with a result of (i) creating openings not to ex-
12 ceed in width in any direction the height of the tall-
13 est tree standing within 10 feet outside the edge of
14 the group cut, and (ii) maintaining different age
15 groups in a given stand. In no event will more than
16 30 percent of the basal area of a stand be felled
17 within 40 years. The foregoing limitation shall not
18 be deemed to establish a 100-year projected felling
19 age as the standard at which individual trees in a
20 stand are to be cut, nor shall native biodiversity be
21 limited to that which occurs within the context of a
22 100-year projected felling age.

23 “(G) The term ‘stand’ means a biological com-
24 munity with enough identity by location, topography,

1 or dominant species to be managed as a unit, not to
2 exceed 100 acres.

3 “(H) The term ‘clearcutting’ means the logging
4 of more than one-half of the commercial trees in a
5 patch larger than a group defined in subparagraph
6 (F) or in a stand of any size in a short period of
7 time.

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

17 “(J) The term ‘salvage logging’ means the fell-
18 ing or further damaging, within any 30-year period,
19 of a greater basal area than 20 square feet per acre
20 of dead, damaged, or other trees, or any combination
21 of such trees.

22 “(K) The term ‘seed-tree cut’ means an even-
23 age logging operation that leaves a small minority of
24 seed trees in a stand for any period of time.

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

13 “(M) The term ‘shelterwood cut’ means an
14 even-aged logging operation that leaves a minority
15 (larger than in a seed-tree cut) of the stand as a
16 seed source or protection cover remaining standing
17 for any period of time.

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

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

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

4 “(B) The provisions of this section shall be enforced
5 by the Secretary of Defense and the Attorney General of
6 the United States against any person who violates this sec-
7 tion.

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

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

21 “(iii) The standard of proof in all actions brought
22 under this subparagraph shall be the preponderance of the
23 evidence and the trial shall be de novo.

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:

“2694. Conservation of native biodiversity.”.

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

19 (a) IN GENERAL.—The amendments made by this
20 Act shall not apply with respect to any contract to sell
21 timber which was awarded on or before the date of enact-
22 ment of this Act.

23 (b) APPLICATION TO EMERGENCY SALVAGE TIMBER
24 SALE PROGRAM.—The amendments made by this Act
25 shall apply with respect to any timber salvage sale under

1 section 2001 of Public Law 104-19 (109 Stat. 240) which
2 has not been awarded as of the date of the enactment of
3 this Act, notwithstanding any provision of that section
4 2001.

○

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HR 2407 IH—3

HR 2407 IH—4