

104TH CONGRESS
1ST SESSION

S. 1259

To authorize the Secretary of Agriculture to use stewardship contracting in a demonstration program to restore and maintain the ecological integrity and productivity of forest ecosystems to insure that the land and resources are passed to future generations in better condition than they were found.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 19 (legislative day, SEPTEMBER 5), 1995

Mr. BAUCUS introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To authorize the Secretary of Agriculture to use stewardship contracting in a demonstration program to restore and maintain the ecological integrity and productivity of forest ecosystems to insure that the land and resources are passed to future generations in better condition than they were found.

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 Ecosystem
5 Stewardship Demonstration Act of 1995”.

1 **SEC. 2. FINDINGS, PURPOSES, AND DEFINITIONS.**

2 (a) FINDINGS.—Congress makes the following find-
3 ing:

4 (1) In many of the units of the National Forest
5 System, current conditions—such as unnatural fuel
6 loads, high tree density, threat of catastrophic fires,
7 disease, and insect infestations, habitat loss, and
8 loss of historic species, stand diversity and integ-
9 rity—adversely affect the biodiversity, health, and
10 sustainability of the forest ecosystems of such units.

11 (2) A new and innovative contracting process
12 for the National Forest System is required to meet
13 Federal goals of improving forest resource conditions
14 through implementation of ecosystem management.

15 (3) Ecosystem management is not just a bio-
16 logical concept. It is the convergence of a set of ac-
17 tivities that is simultaneously ecologically sound, eco-
18 nomically viable, and socially responsible.

19 (4) The improvement of the health and natural
20 functioning of the forest resource is vital to the long-
21 term viability of species found on National Forest
22 System lands.

23 (5) Ecosystem restoration and conservation
24 work performed with revenues from forest activities
25 would improve employment opportunities in commu-
26 nities near units of the National Forest System to

1 the benefit of long-term economic sustainability and
2 community viability.

3 (b) PURPOSES.—The purposes of this Act are as
4 follows:

5 (1) To improve and restore the health of forest
6 resources through implementation of ecosystem man-
7 agement.

8 (2) To provide for employment opportunities
9 and economic health and viability for rural commu-
10 nities near units of the National Forest System.

11 (3) To provide for flexibility in procurement
12 and funding practices to enter into stewardship con-
13 tracts to achieve management objectives and require-
14 ments prescribed in the following provisions of law:

15 (A) The Act of June 4, 1897 (commonly
16 known as the Organic Administration Act; 16
17 U.S.C. 473–475, 477–482, 551).

18 (B) The Multiple-Use Sustained Yield Act
19 of 1960 (16 U.S.C. 528–531).

20 (C) The Forest and Rangeland Renewable
21 Resources Act of 1974 (16 U.S.C. 1600–1614).

22 (D) Section 14 of the National Forest
23 Management Act of 1976 (16 U.S.C. 472a).

1 (E) The Act of May 23, 1908, and section
2 13 of the Act of March 1, 1911 (16 U.S.C.
3 500).

4 (F) The Federal Grants and Agreements
5 Act of 1977 (31 U.S.C. 6303–6308).

6 (G) National Forest Fund Act of March 4,
7 1907 (16 U.S.C. 499).

8 (c) DEFINITIONS.—For purposes of this Act:

9 (1) ACCOUNT.—The term “Account” means the
10 Stewardship Account established under section 4.

11 (2) DESIGN SPECIFICATION CONTRACT.—The
12 term “design specification contract” is used to de-
13 scribe contracts in which the contracting entity spe-
14 cifically identifies all the tasks to be performed, and
15 the contractor performs per the designed specifica-
16 tions.

17 (3) FOREST STEWARDSHIP COUNCIL.—The
18 term “Forest Stewardship Council” means any one
19 of the local councils established under section 3(f) of
20 this Act to, in cooperation with resource managers:
21 prioritize and select stewardship projects, set oper-
22 ational goals in the context of current national forest
23 management policies and local forest plans, evaluate
24 contractor performance and accomplishments, rec-
25 ommend progress payments for work successfully

1 completed by contractors, and make recommenda-
2 tions for the improvement of the stewardship con-
3 tract process.

4 (4) PERFORMANCE SPECIFICATION CON-
5 TRACT.—The term “performance specification con-
6 tract” is used to describe contracts in which the con-
7 tracting entity identifies the parameters of the
8 project, and the contractor identifies the method to
9 accomplish the work.

10 (5) RESOURCE ACTIVITIES.—The term “re-
11 source activities” includes area access, site prepara-
12 tion, replanting, fish and wildlife habitat restoration
13 or enhancement, silvicultural treatments, watershed
14 improvement, fuel treatments (including prescribed
15 burning), and road closure or obliteration.

16 (6) RESOURCE MANAGER.—The term “resource
17 manager” refers to the line officer responsible for
18 management decisions associated with project imple-
19 mentation on a national forest.

20 (7) ROADSIDE SALE.—The term “roadside
21 sale” refers to the sale by the Forest Service to the
22 highest bidder(s) of all contract-designated products
23 of the forest removed as part of the management ac-
24 tivities conducted under a stewardship contract.
25 (Non-designated products may be assigned to the

1 contractor for salvage.) A roadside sale is a com-
2 pletely separate transaction from the awarding of
3 the stewardship contract itself.

4 (8) SECRETARY.—The term “Secretary” means
5 the Secretary of Agriculture.

6 (9) STATEMENT OF WORK CONTRACT.—The
7 term “statement of work contract” is used to de-
8 scribe contracts in which the contracting entity gives
9 a general overview of the project, and the bidding
10 contractor provides the specifics on how he/she envi-
11 sions the project and the end result he/she would ob-
12 tain using his/her particular approach to land stew-
13 ardship.

14 (10) STEWARDSHIP CONTRACT.—The term
15 “stewardship contract” means a contract for carry-
16 ing out resource activities for the improvement and
17 restoration of forest ecosystems of units of the Na-
18 tional Forest System and to encourage or enhance
19 the economic sustainability and the viability of rural
20 and regional communities. A stewardship contract
21 could use a design specification format (definition 2,
22 above), a performance specification format (defini-
23 tion 4, above), a statement of work format (defini-
24 tion 9, above), or some combination thereof.

1 **SEC. 3. USE OF STEWARDSHIP CONTRACTS.**

2 (a) USE AUTHORIZED.—The Secretary shall estab-
3 lish and implement in the Forest Service a demonstration
4 program through which forest- and/or district-level re-
5 source managers use stewardship contracts to carry out
6 resource activities in a comprehensive manner to restore
7 and preserve the ecological integrity and productivity of
8 forest ecosystems within the National Forest System and
9 to encourage or enhance the economic sustainability and
10 the viability of nearby rural communities. The resource ac-
11 tivities undertaken should be consistent with the precepts
12 of ecosystem management and with the forest's manage-
13 ment plan for achieving the desired future conditions of
14 the area being treated.

15 (b) USE LIMITED.—Within the limits of available fi-
16 nancial resources, each forest within the National Forest
17 System may use stewardship contracts to carry out eco-
18 system management projects, if those contracts:

19 (1) Provide for payment to the contractor based
20 on the number of acres satisfactorily treated in ac-
21 cordance with an approved plan to create a desired
22 future condition on the land.

23 (2) Are used for projects where the harvest of
24 timber is secondary to creating specific resource con-
25 ditions (e.g., wildlife habitat enhancement, water-
26 shed improvement, insect and disease control).

1 (3) Are not used for projects involving the con-
2 struction of new permanent roads or entries into
3 roadless areas.

4 (4) Will result in the removal of no more than
5 300,000 board feet of merchantable timber per
6 project.

7 (5) Provide for the roadside sale of all contract-
8 designated merchantable timber which is extracted.

9 (6) Are awarded competitively to qualified con-
10 tractors with no more than 25 employees.

11 (7) Include stewardship skill and experience
12 qualification requirements which have been estab-
13 lished by the local Forest Stewardship Council and
14 approved by the Forest Service.

15 (8) Are monitored not only by the Forest Serv-
16 ice, but also by the local Forest Stewardship Coun-
17 cil.

18 (9) Provide for periodic progress payments to
19 contractors based on successful completion of con-
20 tract activities on a per acre basis. The acceptability
21 of the contractor's work shall be determined by the
22 Forest Service, taking into account the recommenda-
23 tion of the local Forest Stewardship Council.

24 (c) DEMONSTRATION RESEARCH OBJECTIVES.—The
25 Secretary shall insure that in the carrying out of the provi-

1 sions of this Act enough flexibility is provided to resource
2 managers to enable them to test various approaches to
3 solving questions left unresolved in previous demonstra-
4 tions of stewardship and end results contracts authorized
5 in fiscal year 1991 and 1992 through the Department of
6 the Interior and Related Appropriation Acts. These ques-
7 tions include, but are not limited to:

8 (1) The need for the bonding of stewardship
9 contractors and/or possible alternatives which could
10 reduce the financial burden on small businesses.

11 (2) Preferred methods of marketing timber or
12 other products of the forest removed as a result of
13 stewardship contract activities.

14 (3) The standards to be used in evaluating the
15 quality and acceptability of the work performed by
16 a stewardship contractor.

17 (4) The desirability of multi-year contracts for
18 stewardship projects.

19 (5) The relative merits of using design speci-
20 fications, performance specifications, or statements
21 of work in offering, awarding, and evaluating stew-
22 ardship contracts.

23 (6) The costs, benefits, problems, and opportu-
24 nities resulting from increased community involve-

1 ment in the design and monitoring of stewardship
2 contracts.

3 (7) The benefits and problems resulting from
4 restricting stewardship contracts to very small (no
5 more than 25 employees) contractors.

6 (8) The extent to which local economic sustain-
7 ability and rural community viability are affected by
8 the use of stewardship contracts.

9 (9) The difference between estimated and ac-
10 tual revenues derived from roadside sales of timber.

11 (10) The level of utilization of timber and other
12 products of the forest derived from stewardship con-
13 tract projects as compared with conventional timber
14 sales.

15 (11) The extent to which stewardship contract-
16 ing contributes to the achievement of forest eco-
17 system management plans.

18 (12) The extent to which the revenues from
19 stewardship contracts cover the cost of such con-
20 tracts or are offset by the costs which could reason-
21 ably be expected to result if the contracts are not
22 carried out (e.g., fire suppression costs in areas with
23 heavy fuel loads).

24 (13) The administrative costs or savings in-
25 volved in the use of stewardship contracts.

1 (14) The benefits and/or disadvantages of using
2 local Forest Stewardship Councils as part of the
3 stewardship contracting process.

4 (15) The benefits and/or disadvantages of var-
5 ious methods of selecting members, organizing, ad-
6 ministering, and conducting the business of local
7 Forest Stewardship Councils.

8 (d) DEVELOPMENT AND USE OF CONTRACTS.—Each
9 resource manager of a unit of the National Forest System
10 may enter into stewardship contracts with qualified non-
11 Federal entities (as established in regulations relating to
12 procurement by the Federal Government or as determined
13 by the Secretary.) The local Forest Stewardship Council,
14 in cooperation with the Forest Service resource manager,
15 shall select the type of stewardship contract that is most
16 suitable to local conditions. Contracts should clearly de-
17 scribe the desired future condition for each resource man-
18 aged under the contract and the evaluation criteria to be
19 used to determine acceptable performance. The length of
20 a stewardship contract shall be consistent with the re-
21 quirements of section 14 of the National Forest Manage-
22 ment Act of 1976 (16 U.S.C. 472a).

23 (e) SELECTION OF AREAS FOR CONTRACTS.—In se-
24 lecting areas within units of the National Forest System
25 to be subject to stewardship contracts, the Secretary, re-

1 source managers, and local Forest Stewardship Councils
2 shall base the selection on the need to improve forest
3 health, maintain and improve soil and water quality, and
4 improve fisheries and wildlife habitat. Priorities for activi-
5 ties within individual units will be established by local re-
6 source managers, in consultation with the appropriate
7 local Forest Stewardship Council.

8 (f) ESTABLISHMENT OF LOCAL FOREST STEWARD-
9 SHIP COUNCILS.—Local Forest Stewardship Councils
10 shall be established for each unit of the National Forest
11 System which offers stewardship contracts. The role of a
12 Forest Stewardship Council will be to, in cooperation with
13 the resource managers, prioritize and select stewardship
14 projects, set operational goals in the context of current
15 national forest management policies and local forest plans,
16 evaluate contractor performance and accomplishments,
17 recommend progress payments for work successfully com-
18 pleted by contractors, and make recommendations for the
19 improvement of the stewardship contract process. Each
20 participating National Forest System unit shall establish,
21 after soliciting the comments of local citizens, the size of
22 the local council, the method of selection or election of
23 council members, the terms of service of members, and
24 the council administrative budget, if any. At least 51 per-
25 cent of members of any Forest Stewardship Council shall

1 be drawn from the private sector, in a manner which in-
2 sures representation of a broad range of public interests.
3 The functioning of the Forest Stewardship Councils must
4 assure a continuing and open process and must in no way
5 interfere with the broad public involvement in Federal re-
6 source management decision making required under the
7 National Environmental Policy Act of 1976.

8 (g) APPLICATION OF CONTRACTS.—Subject to sub-
9 section (h), the revenue received from the sale of timber
10 or any other products of the forest resulting to the Federal
11 Government as a result of work carried out under a stew-
12 ardship contract shall be deposited into a Stewardship Ac-
13 count as established in section 4(a).

14 (h) EFFECT ON OTHER REVENUE REQUIRE-
15 MENTS.—Twenty-five percent of the revenues received
16 from roadside sale of products extracted through steward-
17 ship contract activities shall remain available for payments
18 to States, as required under the Act of May 23, 1908,
19 and section 13 of the Act of March 1, 1991 (16 U.S.C.
20 500). The Secretary shall first collect revenues to make
21 such payments before exercising the authority provided in
22 subsection g.

1 **SEC. 4. STEWARDSHIP CONTRACT RECEIPTS AND EXPENDI-**
2 **TURES.**

3 (a) RECEIPTS.—Monetary receipts received as pay-
4 ment for contract-designated timber and other products
5 of the forest extracted through stewardship contract ac-
6 tivities shall be deposited in a designated fund to be known
7 as the “Stewardship Account”. Amounts in the Account
8 shall be used to make payments to States under the Act
9 of May 23, 1908, and section 13 of the Act of March 1,
10 1911 (16 U.S.C. 500), and to fund resource activities.
11 Amounts in the Account are hereby appropriated and shall
12 be available to the Secretary until expended, except that
13 those amounts found by the Secretary to be in excess of
14 the needs of the Secretary shall be transferred to mis-
15 cellaneous receipts in the Treasury of the United States.
16 Any additional revenues made available through direct ap-
17 propriations to the Forest Service for stewardship con-
18 tracting and ecosystem management purposes also shall
19 be deposited in the Account.

20 (b) EXPENDITURES.—Not less than 80 percent of
21 amounts in the Account available for resource activities
22 shall be used for the direct costs of such resource activi-
23 ties. The revenues received from sales of contract-des-
24 igned products resulting from stewardship contracts
25 shall be returned to the national forest from which they
26 were generated, to be used to fund additional stewardship

1 contracts. To the extent that additional revenues are re-
2 ceived in the Account from direct appropriations by the
3 Congress of funds for stewardship contract activities, such
4 funds shall be made available to those forest units using
5 stewardship contracts through a process to be developed
6 by the Secretary.

7 (c) REPORTING.—As part of the annual report of the
8 Secretary to Congress, the Secretary shall include an ac-
9 counting of revenues, expenditures, and accomplishments
10 related to the stewardship contracts.

11 **SEC. 5. RELATION TO OTHER LAWS.**

12 All stewardship contracts shall comply with existing
13 applicable laws, and nothing in this Act may be construed
14 as modifying the provisions of any other law except as ex-
15 plicitly provided in this Act.

16 **SEC. 6. EFFECTIVE DATE.**

17 This Act shall be effective upon passage.

18 **SEC. 7. TERMINATION DATE.**

19 Unless extended by a subsequent act of the Congress,
20 this Act shall terminate five years from its effective date.

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