

105TH CONGRESS
1ST SESSION

H. R. 1861

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

JUNE 11, 1997

Mr. HINCHEY (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 1997”.

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 evenage logging.

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

13 (1) Federal agencies of the United States that
14 engage in evenage logging practices include the For-
15 est 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) Evenage 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) Evenage 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) Evenage 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) Evenage 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) Evenage 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) Evenage logging results in increased stream
6 sedimentation, siltation of stream bottoms, decline in
7 water quality, impairment of life cycles and spawn-
8 ing processes of aquatic life from benthic organisms
9 to large fish, thereby depleting the sports and com-
10 mercial fisheries of the United States.

11 (8) Evenage 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) Evenage logging decreases recreational val-
17 ues, reducing deep, canopied, variegated, permanent
18 forests, where the public can fulfill an expanding
19 need for recreation. Evenage 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 evenage 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 evenage system, the
19 Federal agencies now engaged in evenage 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 evenage
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 OF
14 1973.—In the event of any conflict between a provision
15 of this Act, or an amendment made by this Act, and the
16 Endangered Species Act of 1973 (16 U.S.C. 1531), the
17 latter 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 bio-
25 diversity to assure that an effective interdisciplinary ap-

1 proach is proposed and adopted. The committee shall ter-
 2 minate after the expiration of 10 years from the date of
 3 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
 11 evenage logging and any evenage management after the
 12 date of enactment of this subsection.

13 “(2) On each site already under evenage 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 biodiver-
 17 sity, or permit each site to regain its native biodiversity.

18 “(3) For the purposes of this Act:

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

1 (within-community diversity), between communities
2 of species (between-communities diversity), within a
3 total area such as a watershed (total area diversity),
4 along a plane from ground to sky (vertical diversity),
5 and along the plane of the earth-surface (horizontal
6 diversity). Vertical and horizontal diversity apply to
7 all the other aspects of 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 ‘between-community diversity’
5 means the distinctive assemblages of communities
6 and ecological processes that occur in different phys-
7 ical settings of the biosphere and distinct parts of
8 the world.

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

12 “(G) 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 “(H) 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 “(I) 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 (G) or in a stand of any size in a short period of
11 time.

12 “(J) The term ‘evenage management’ means
13 the growing of timber so that all trees in a patch or
14 stand are generally within 10 years of the same age.
15 Except for designated leave trees, or clumps of trees
16 comprising less than two-thirds of the patch or
17 stand, the patch or stand is logged, completely in
18 any acre within a period of 30 years, by clearcutting,
19 salvage logging, seed-tree cutting or shelterwood cut-
20 ting, two-age management or high grading, or any
21 system other than selection management.

22 “(K) The term ‘salvage logging’ means the fell-
23 ing or further damaging, within any 30-year period,
24 of more than one-half the volume per acre of dead,

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

3 “(L) The term ‘seed-tree cut’ means an evenage
4 logging operation that leaves a small minority of
5 seed trees in a stand for any period of time.

6 “(M) 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. An essential element of selection is
16 improvement of quality by continuously felling trees
17 less likely to contribute to the long-range health of
18 the stand.

19 “(N) The term ‘shelterwood cut’ means an
20 evenaged logging operation that leaves a minority
21 (larger than in a seed-tree cut) of the stand as a
22 seed source or protection cover remaining standing
23 for any period of time.

24 “(O) 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 Agriculture and the Attorney General
10 of the United States against any person who violates ei-
11 ther of them.

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

18 “(ii) The court, after determining a violation of either
19 of such subsections, shall impose a penalty of not less than
20 \$5,000 and not more than \$50,000 per violation, shall
21 issue one or more injunctions and other equitable relief
22 and shall award to the plaintiffs reasonable costs of litiga-
23 tion including attorney’s fees, witness fees and other nec-
24 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 shall 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 this section. No notice is required to en-
19 force this subsection.

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

1 (d) CONFORMING AMENDMENT.—(1) Section
 2 6(g)(3)(F) of the Forest and Rangeland Renewable Re-
 3 source Planning Act of 1974 (16 U.S.C. 1604(g)(3)(F))
 4 is amended to read as follows:

5 “(F) ensure that the Secretary shall, with-
 6 out use of evenage management practices, re-
 7 store the native biodiversity of manipulated
 8 evenage stands within a reasonable period of
 9 time.”.

10 (2) Section 6 of the Forest and Rangeland Renewable
 11 Resource Planning Act of 1974 (16 U.S.C. 1604) is fur-
 12 ther amended by adding at the end the following new sub-
 13 section:

14 “(o) RESTORATION OF BIODIVERSITY OF EVENAGE
 15 STANDS.—The Secretary shall carry out all management
 16 practices on the ground in such a way as to protect, inso-
 17 far as possible, soil, watersheds, fish, wildlife, recreation,
 18 native biodiversity, and esthetic resources, and the trees
 19 that are not cut.”.

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

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

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

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

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

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

17 “(g) RESTRICTION ON USE OF CERTAIN LOGGING
18 PRACTICES.—(1) In each stand and watershed throughout
19 each forested area, the Secretary shall prohibit any
20 evenage logging and any evenage management after the
21 date of enactment of this subsection.

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

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

3 “(3) For the purposes of this Act:

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 diversity
9 within a species (genetic diversity), among species
10 (species diversity), within a community of species
11 (within-community diversity), between communities
12 of species (between-communities diversity), within a
13 total area such as a watershed (total area diversity),
14 along a plane from ground to sky (vertical diversity),
15 and along the plane of the earth-surface (horizontal
16 diversity). Vertical and horizontal diversity apply to
17 all the other aspects of diversity.

18 “(B) The terms ‘conserve’ and ‘conservation’
19 refer to protective measures for maintaining existing
20 native biological diversity and active and passive
21 measures for restoring diversity through manage-
22 ment efforts, in order to protect, restore, and en-
23 hance as much of the variety of species and commu-
24 nities as possible in abundances and distributions
25 that provide for their continued existence and nor-

1 mal functioning, including the viability of popu-
2 lations throughout their natural geographic distribu-
3 tions.

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

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

12 “(E) The term ‘between-community diversity’
13 means the distinctive assemblages of communities
14 and ecological processes that occur in different phys-
15 ical settings of the biosphere and distinct parts of
16 the world.

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

20 “(G) 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 “(H) 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 “(I) 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 (G) or in a stand of any size in a short period of
19 time.

20 “(J) The term ‘evenage management’ means
21 the growing of timber so that all trees in a patch or
22 stand are generally within 10 years of the same age.
23 Except for designated leave trees, or clumps of trees
24 comprising less than two-thirds of the patch or
25 stand, the patch or stand is logged, completely in

1 any acre within a period of 30 years, by clearcutting,
2 salvage logging, seed-tree cutting or shelterwood cut-
3 ting, two-age management or high grading, or any
4 system other than selection management.

5 “(K) The term ‘salvage logging’ means the fell-
6 ing or further damaging, within any 30-year period,
7 of more than one-half the volume per acre of dead,
8 damaged, or other trees, or any combination of such
9 trees.

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

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

1 “(N) The term ‘shelterwood cut’ means an
2 evenaged logging operation that leaves a minority
3 (larger than in a seed-tree cut) of the stand as a
4 seed source or protection cover remaining standing
5 for any period of time.

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

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

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

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

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

1 “(ii) The court, after determining a violation of either
2 of such subsections, shall impose a penalty of not less than
3 \$5,000 and not more than \$50,000 per violation, shall
4 issue one or more injunctions and other equitable relief
5 and shall award to the plaintiffs reasonable costs of litigation
6 including attorney’s fees, witness fees and other
7 necessary expenses.

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

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

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

23 “(F) The United States, including its agents and employees
24 waives its sovereign immunity in all respects in

1 all actions under subsection (c)(8) and this subsection. No
 2 notice is required to enforce this subsection.

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

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

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

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

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

1 “(k) RESTRICTION ON USE OF CERTAIN LOGGING
2 PRACTICES.—(1) In each stand and watershed throughout
3 each forested area, the Secretary shall prohibit any
4 evenage logging and any evenage management after the
5 date of enactment of this subsection.

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

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

12 “(A) The term ‘native biodiversity’ means the
13 full range of variety and variability within and
14 among living organisms and the ecological complexes
15 in which they would have occurred in the absence of
16 significant human impact, and encompasses diversity
17 within a species (genetic diversity), among species
18 (species diversity), within a community of species
19 (within-community diversity), between communities
20 of species (between-communities diversity), within a
21 total area such as a watershed (total area diversity),
22 along a plane from ground to sky (vertical diversity),
23 and along the plane of the earth-surface (horizontal
24 diversity). Vertical and horizontal diversity apply to
25 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 and passive
4 measures for restoring diversity through manage-
5 ment efforts, in order to protect, restore, and en-
6 hance as much of the variety of species and commu-
7 nities as possible in abundances and distributions
8 that provide for their continued existence and nor-
9 mal functioning, including the viability of popu-
10 lations throughout their natural geographic distribu-
11 tions.

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

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

20 “(E) The term ‘between-community diversity’
21 means the distinctive assemblages of communities
22 and ecological processes that occur in different phys-
23 ical settings of the biosphere and distinct parts of
24 the world.

1 “(F) The term ‘species diversity’ means the
2 richness and variety of native species in a particular
3 location of the world.

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

20 “(H) The term ‘stand’ means a biological com-
21 munity with enough identity by location, topography,
22 or dominant species to be managed as a unit, not to
23 exceed 100 acres.

24 “(I) The term ‘clearcutting’ means the logging
25 of more than one-half of the commercial trees in a

1 patch larger than a group defined in subparagraph
2 (G) or in a stand of any size in a short period of
3 time.

4 “(J) The term ‘evenage management’ means
5 the growing of timber so that all trees in a patch or
6 stand are generally within 10 years of the same age.
7 Except for designated leave trees, or clumps of trees
8 comprising less than two-thirds of the patch or
9 stand, the patch or stand is logged, completely in
10 any acre within a period of 30 years, by clearcutting,
11 salvage logging, seed-tree cutting or shelterwood cut-
12 ting, two-age management or high grading, or any
13 system other than selection management.

14 “(K) The term ‘salvage logging’ means the fell-
15 ing or further damaging, within a 30-year period, of
16 more than one-half the volume per acre of dead,
17 damaged, or other trees, or any combination of such
18 trees.

19 “(L) The term ‘seed-tree cut’ means an evenage
20 logging operation that leaves a small minority of
21 seed trees in a stand for any period of time.

22 “(M) The term ‘selection management’ means
23 the application of logging and other actions needed
24 to maintain continuous high forest cover where such
25 cover naturally occurs, recurring natural regenera-

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

10 “(N) The term ‘shelterwood cut’ means an
11 evenaged logging operation that leaves a minority
12 (larger than in a seed-tree cut) of the stand as a
13 seed source or protection cover remaining standing
14 for any period of time.

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

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

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

1 “(B) The provisions of subsection (j) 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 harmed by a violation of this Act
6 may enforce any provision of this subsection by bringing
7 an action for declaratory judgment, temporary restraining
8 order, injunction, civil penalty, and other remedies against
9 any alleged violator including the United States, in any
10 district 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 “(iii) The standard of proof in all actions brought
19 under this subparagraph shall be the preponderance of the
20 evidence and the trial shall be de novo.

21 “(D) The penalty authorized by subparagraph (C)(ii)
22 shall be paid by the violator or violators designed by the
23 court. If that violator is the United States of America or
24 a Federal agency or officer, the penalty shall be paid to

1 the Judgment Fund, as provided by Congress under sec-
 2 tion 1304 of title 31, United States Code.

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

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

13 **SEC. 6. AMENDMENT OF NATIONAL INDIAN FOREST RE-**
 14 **SOURCES MANAGEMENT ACT RELATING TO**
 15 **INDIAN LANDS.**

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

19 “(c) CONSERVATION OF NATIVE BIODIVERSITY.—
 20 Regardless of any other provision in this Act, in each
 21 stand and each watershed throughout each stand that is
 22 managed or operated for timber purposes in each forested
 23 area on Indian lands except during the extraction stage
 24 of authorized mineral development or during authorized

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

3 “(d) RESTRICTION ON USE OF CERTAIN LOGGING
4 PRACTICES.—(1) In each stand and watershed throughout
5 each forested area, the Secretary shall prohibit any
6 evenage logging and any evenage management after the
7 date of enactment of this subsection.

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

13 “(3) For the purposes of 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 diversity
19 within a species (genetic diversity), among species
20 (species diversity), within a community of species
21 (within-community diversity), between communities
22 of species (between-communities diversity), within a
23 total area such as a watershed (total area diversity),
24 along a plane from ground to sky (vertical diversity),
25 and along the plane of the earth-surface (horizontal

1 diversity). Vertical and horizontal diversity apply to
2 all the other aspects of diversity.

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

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 ‘between-community diversity’
23 means the distinctive assemblages of communities
24 and ecological processes that occur in different phys-

1 ical settings of the biosphere and distinct parts of
2 the world.

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

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

22 “(H) The term ‘stand’ means a biological com-
23 munity with enough identity by location, topography,
24 or dominant species to be managed as a unit, not to
25 exceed 100 acres.

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

6 “(J) The term ‘evenage management’ means
7 the growing of timber so that all trees in a patch or
8 stand are generally within 10 years of the same age.
9 Except for designated leave trees, or clumps of trees
10 comprising less than two-thirds of the patch or
11 stand, the patch or stand is logged, completely in
12 any acre within a period of 30 years, by clearcutting,
13 salvage logging, seed-tree cutting or shelterwood cut-
14 ting, two-age management or high grading, or any
15 system other than selection management.

16 “(K) The term ‘salvage logging’ means the fell-
17 ing or further damaging, within any 30-year period,
18 of more than one-half the volume per acre of dead,
19 damaged, or other trees, or any combination of such
20 trees.

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

24 “(M) The term ‘selection management’ means
25 the application of logging and other actions needed

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

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

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

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

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

4 “(B) The provisions of subsection (c) and this sub-
5 section shall be enforced by the Secretary of the Interior
6 and the Attorney General of the United States against any
7 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 (c) and this sub-
10 section 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 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 subsection (c) and this subsection. No
 14 notice is required to enforce this subsection.”.

15 **SEC. 7. AMENDMENT OF TITLE 10, UNITED STATES CODE,**
 16 **RELATING TO FOREST MANAGEMENT ON**
 17 **MILITARY LANDS.**

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

21 **“§ 2695. Conservation of native biodiversity**

22 “(a) CONSERVATION OF NATIVE BIODIVERSITY.—
 23 Regardless of any other provision in this Act, in each
 24 stand and each watershed throughout each forested area
 25 on a military installation or projects administered by the

1 Army Corps of Engineers, the Secretary concerned shall
2 provide for the conservation or restoration of native bio-
3 diversity, except during authorized construction projects
4 in which events the Secretary shall conserve native bio-
5 diversity to the extent possible.

6 “(b) RESTRICTION ON USE OF CERTAIN LOGGING
7 PRACTICES.—(1) In each stand and watershed throughout
8 each forested area, the Secretary shall prohibit any
9 evenage logging and any evenage management after the
10 date of enactment of this subsection.

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

16 “(3) In this section:

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 diversity
22 within a species (genetic diversity), among species
23 (species diversity), within a community of species
24 (within-community diversity), between communities
25 of species (between-communities diversity), within a

1 total area such as a watershed (total area diversity),
2 along a plane from ground to sky (vertical diversity),
3 and along the plane of the earth-surface (horizontal
4 diversity). Vertical and horizontal diversity apply to
5 all the other aspects of diversity.

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

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

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

1 “(E) The term ‘between-community diversity’
2 means the distinctive assemblages of communities
3 and ecological processes that occur in different phys-
4 ical settings of the biosphere and distinct parts of
5 the world.

6 “(F) The term ‘species diversity’ means the
7 richness and variety of native species in a particular
8 location of the world.

9 “(G) The term ‘group selection’ means a form
10 of selection management that emphasizes the peri-
11 odic removal of trees, including mature, undesirable,
12 and cull trees in small groups, where they occur that
13 way, with a result of (i) creating openings not to ex-
14 ceed in width in any direction the height of the tall-
15 est tree standing within 10 feet outside the edge of
16 the group cut, and (ii) maintaining different age
17 groups in a given stand. In no event will more than
18 30 percent of the basal area of a stand be felled
19 within 40 years. The foregoing limitation shall not
20 be deemed to establish a 100-year projected felling
21 age as the standard at which individual trees in a
22 stand are to be cut, nor shall native biodiversity be
23 limited to that which occurs within the context of a
24 100-year projected felling age.

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

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

10 “(J) The term ‘evenage management’ means
11 the growing of timber so that all trees in a patch or
12 stand are generally within 10 years of the same age.
13 Except for designated leave trees, or clumps of trees
14 comprising less than two-thirds of the patch or
15 stand, the patch or stand is logged, completely in
16 any acre within a period of 30 years, by clearcutting,
17 salvage logging, seed-tree cutting or shelterwood cut-
18 ting, two-age management or high grading, or any
19 system other than selection management.

20 “(K) The term ‘salvage logging’ means the fell-
21 ing or further damaging, within any 30-year period,
22 of more than one-half the volume per acre of dead,
23 damaged, or other trees, or any combination of such
24 trees.

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

4 “(M) 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. An essential element of selection is
14 improvement of quality by continuously felling trees
15 less likely to contribute to the long-range health of
16 the stand.

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

22 “(O) The term ‘timber purposes’ shall include
23 the use, sale, lease, or distribution of trees, or the
24 felling of trees or portions of trees except to create
25 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 this section.

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

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

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

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

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

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

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

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

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

“2695. Conservation of native biodiversity.”.

20 **SEC. 8. EFFECTIVE DATE.**

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

1 (b) APPLICATION TO EMERGENCY SALVAGE TIMBER
2 SALE PROGRAM.—The amendments made by this Act
3 shall apply with respect to any timber salvage sale under
4 section 2001 of Public Law 104–19 (109 Stat. 240) which
5 has not been awarded as of the date of the enactment of
6 this Act, notwithstanding any provision of that section
7 2001.

○