

105TH CONGRESS  
1ST SESSION

# S. 1253

To provide to the Federal land management agencies the authority and capability to manage effectively the Federal lands in accordance with the principles of multiple use and sustained yield, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 3, 1997

Mr. CRAIG introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To provide to the Federal land management agencies the authority and capability to manage effectively the Federal lands in accordance with the principles of multiple use and sustained yield, and for other purposes.

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; TABLE OF CONTENTS.**

4       (a) **SHORT TITLE.**—This Act may be cited as the  
5       “Public Lands Management Improvement Act of 1997”.

6       (b) **TABLE OF CONTENTS.**—The table of contents of  
7       this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.

Sec. 4. Supplemental authority.

Sec. 5. Transition.

#### TITLE I—ENSURING THE EFFECTIVENESS AND IMPLEMENTATION OF FEDERAL LAND PLANNING

Sec. 101. Purposes.

##### PART A—IN GENERAL

Sec. 102. Mission of the land management agencies.

Sec. 103. Scientific basis for Federal lands decisions.

##### PART B—RESOURCE MANAGEMENT AND MANAGEMENT ACTIVITY PLANNING

Sec. 104. Levels of planning.

Sec. 105. Contents of planning and allocation of decisions to each planning level.

Sec. 106. Planning deadlines.

Sec. 107. Plan amendments and revisions.

Sec. 108. Disclosure of funding constraints on planning and management.

Sec. 109. Consideration of Federal lands-dependent communities.

Sec. 110. Participation of local, multi-interest committees.

Sec. 111. Ecosystem management principles.

Sec. 112. Fully allocated costs.

Sec. 113. Citizen petitions for plan amendments or revisions.

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Sec. 115. Monitoring and maintenance of planning; adaptive management.

##### PART C—CHALLENGES TO PLANNING

Sec. 116. Administrative appeals.

Sec. 117. Judicial review.

#### TITLE II—COORDINATION AND COMPLIANCE WITH OTHER ENVIRONMENTAL LAWS

Sec. 201. Purposes.

Sec. 202. Environmental analysis.

Sec. 203. Wildlife protection.

Sec. 204. Water quality protection.

Sec. 205. Air quality protection.

Sec. 206. Meetings with users of the Federal lands.

#### TITLE III—DEVELOPMENT OF ECOREGION ASSESSMENTS

Sec. 301. Purpose.

Sec. 302. Authorization and notice of assessments.

Sec. 303. Status, effect, and application of assessments.

Sec. 304. Applicability of other laws.

Sec. 305. Report to Congress.

Sec. 306. Pacific Northwest Forest Plan review.

#### TITLE IV—DEVELOPMENT OF A GLOBAL RENEWABLE RESOURCES ASSESSMENT

Sec. 401. Purposes.

Sec. 402. Global Renewable Resources Assessment.

- Sec. 403. National Council on Renewable Resources Policy.  
 Sec. 404. Repeal of certain provisions of the Forest and Rangeland Renewable Resources Planning Act.

#### TITLE V—ADMINISTRATION

##### PART A—IN GENERAL

- Sec. 501. Confirmation of the Chief of the Forest Service.  
 Sec. 502. Monitoring funds.  
 Sec. 503. Interagency transfer and interchange authority.  
 Sec. 504. Fees for processing records requests.  
 Sec. 505. Off-budget study.

##### PART B—NONFEDERAL LANDS

- Sec. 506. Access to adjacent or intermingled non-Federal lands.  
 Sec. 507. Exchanges of Federal lands for non-Federal lands.

##### PART C—THE FOREST RESOURCE

- Sec. 508. Forest health credits in sales of forest products.  
 Sec. 509. Special funds.  
 Sec. 510. Private contractors.  
 Sec. 511. Non-harvested forest products sales.  
 Sec. 512. Exemption from strict liability for the recovery of fire suppression costs.

#### TITLE VI—MISCELLANEOUS

- Sec. 601. Regulations.  
 Sec. 602. Authorization for appropriations.  
 Sec. 603. Effective date.  
 Sec. 604. Savings clauses.  
 Sec. 605. Severability.

### 1 **SEC. 2. FINDINGS.**

2       The Congress finds as follows:

3           (1) The Bureau of Land Management, Depart-  
 4       ment of the Interior, and the Forest Service, De-  
 5       partment of Agriculture, are comprised of profes-  
 6       sionals with considerable expertise and judgment to  
 7       manage Federal lands within their jurisdictions.

8           (2) In 1976, the Congress enacted the Federal  
 9       Land Planning and Management Act and the Na-  
 10      tional Forest Management Act which declared mul-

1        multiple use and sustained yield to be the basic prin-  
2        ciples under which the two land management agen-  
3        cies are to manage their Federal lands.

4            (3) These principles of multiple use and sus-  
5        tained yield enjoy strong support from the American  
6        public and among the diverse stakeholders in Fed-  
7        eral land management.

8            (4) These same Management Acts established  
9        resource management planning processes as the  
10       method for engaging the land management agencies'  
11       expertise and professional judgment in, applying the  
12       multiple use and sustained yield principles to, and  
13       obtaining the views of the public on, management of  
14       these Federal lands.

15           (5) Nevertheless, in the two decades since the  
16       Management Acts were passed, fundamental flaws in  
17       the planning and decision making processes estab-  
18       lished by these Acts have become apparent and have  
19       caused all stakeholders, whether they favor resource  
20       protection or resource extraction, to express increas-  
21       ing dissatisfaction with and distrust of these proc-  
22       esses.

23           (6) These numerous flaws threaten the integrity  
24       of the Federal lands planning and decision making  
25       processes and undermine the ability of the agencies

1 to fulfill their statutory land management respon-  
2 sibilities and accomplish management that is well  
3 grounded in science.

4 (7) The intent of the Congress that the land  
5 management agencies would complete the planning  
6 required by the Management Acts within a discrete  
7 time frame and the new resource management plans  
8 would provide secure guidance for subsequent man-  
9 agement activities has not been met.

10 (8) Although mid-eighties deadlines were set by  
11 statute or regulation for completing the new re-  
12 source management plan, initial planning remains  
13 unfinished twenty years after enactment of the Man-  
14 agement Acts even as new planning is undertaken.

15 (9) The land management agencies are engaged  
16 in a perpetual cycle of planning through the continu-  
17 ous preparation of interim policies, plan amend-  
18 ments, and plan revisions that preclude the provision  
19 to both agency professionals and the public of any  
20 secure guidance for predictable management of the  
21 Federal lands.

22 (10) Although the Management Acts antici-  
23 pated and directed that only two layers of plan-  
24 ning—multiple-use resource management planning  
25 for each national forest, Bureau of Land Manage-

1       ment district, or other designated planning unit, and  
2       site-specific planning for management activities—be  
3       undertaken, the agencies have engaged in planning  
4       at multiple layers—regional, ecoregion, watershed,  
5       etc.—without license or direction from statute or  
6       regulation.

7               (11) These new layers of planning have not  
8       been applied uniformly on the Federal lands; fre-  
9       quently have ignored the multiple use mandates of  
10      the Management Acts and, instead, have focussed  
11      narrowly on a single resource, even a single species  
12      of wildlife; have been undertaken without consistent  
13      agency-wide direction; have been conducted without  
14      the meaningful opportunities for public participation  
15      established for planning by the Management Acts;  
16      and have resulted in guidance that often conflicts  
17      with the planning that is prescribed by the Manage-  
18      ment Acts.

19              (12) The procedures and requirements of other  
20      environmental laws often burden with increased  
21      costs and delays, conflict with, and frustrate the  
22      planning and management processes established by  
23      the Management Acts; effectively transfer the plan-  
24      ning and management decision making authority  
25      from the professionals in the land management

1 agencies to officials of other agencies; and sanction  
2 decisions by those officials who are not expert in  
3 land management and are less familiar with the af-  
4 fected resources, activities, and sites. Without doubt,  
5 Congress has failed to reconcile the procedures and  
6 requirements of other environmental laws with the  
7 planning and management processes established by  
8 the Management Acts.

9 (13) Increasingly, even after the land manage-  
10 ment agencies reach decisions on the planning and  
11 management of Federal lands implementation of  
12 those decisions is barred by administrative appeals  
13 and litigation. These myriad administrative appeals  
14 and lawsuits have delayed substantially completion  
15 of planning; encumbered and, at times, paralyzed  
16 plan implementation and management activities;  
17 drained scarce agency resources; and, on several oc-  
18 casions, compelled the Congress to enact emergency  
19 provisions to restore land management authority to  
20 the agencies.

21 (14) The loss in goods and services from Fed-  
22 eral lands resulting from these numerous flaws in  
23 Federal land planning and decisionmaking has in-  
24 creased this Nation's dependency on foreign sources  
25 for certain resources and has encouraged imports

1 from countries with land management policies and  
2 priorities that are far less environmentally respon-  
3 sive.

4 (15) New concepts in Federal land manage-  
5 ment, such as ecosystem management and adaptive  
6 management, are not recognized in the Management  
7 Acts and are being imposed on or incorporated in  
8 Federal land planning and management without  
9 statutory authority.

10 (16) New processes developed by stakeholders  
11 to better participate in Federal land planning and  
12 decision making, such as the community-based col-  
13 laborative deliberations of the Quincy Library Group  
14 and Applegate Partnership, are not recognized or  
15 encouraged by the Management Acts.

16 (17) The provisions of section 322 of Public  
17 Law 102–381 (106 Stat. 1419) requiring the Forest  
18 Service to establish a streamlined administrative ap-  
19 peals process for management activities has expired  
20 and these well-received Congressional requirements  
21 for processing administrative appeals should be re-  
22 stored and expanded to include appeals of decisions  
23 concerning planning, as well as decisions on manage-  
24 ment activities, made by the Bureau of Land Man-  
25 agement, as well as the Forest Service.

1           (18) The Management Acts were passed at a  
2 time when the ecosystems on the Federal lands were  
3 regarded generally as healthy, but now many, exten-  
4 sive forested areas of Federal lands are undergoing  
5 or are threatened by an unprecedented forest health  
6 crisis.

7           (19) These numerous flaws in the laws pertain-  
8 ing to Federal land management and in the planning  
9 and decisionmaking for Federal lands, particularly  
10 the multiple layers and perpetual existence of plan-  
11 ning, the increasing intervention of other agencies,  
12 and the constant barrage of administrative and judi-  
13 cial challenges, have escalated the land management  
14 agencies' costs of managing the Federal lands even  
15 as their ability to secure actual management accom-  
16 plishments on these lands has diminished substan-  
17 tially.

18           (20) All stakeholders have incurred injuries—  
19 both environmental and economic—from these plan-  
20 ning and decision making flaws, but none more than  
21 the local resource dependent communities, which  
22 have little or no protection under the Management  
23 Acts and have experienced the loss of wages, reve-  
24 nues, and public services, and resultant social insta-  
25 bility.

1           (21) Although the Management Acts and their  
2           implementing regulations contain detailed instruc-  
3           tions to the land management agencies on planning  
4           procedures and contents, they are virtually silent in  
5           providing guidance or authority to enable the agen-  
6           cies to implement resource management plans,  
7           thereby devaluing the term “Management” common  
8           to both their titles.

9           (22) As described in the United States General  
10          Accounting Office report, “Forest Service Decision-  
11          making: A Framework for Improving Performance,”  
12          April 1997, these flaws in the laws pertaining to  
13          Federal land management and in the planning and  
14          decision making for Federal lands, and the increas-  
15          ing distrust in the laws and decision making experi-  
16          enced by virtually all stakeholders in the Federal  
17          lands, have both contributed to and been  
18          compounded by the lack of a clear mission statement  
19          for the land management agencies.

20          (23) Additional Congressional direction for the  
21          planning of, and implementation of planning on, the  
22          Federal lands is required to ensure that the predict-  
23          ability in Federal land management intended by the  
24          Management Acts is achieved, that the land manage-  
25          ment agencies are able to exercise fully their consid-

1 erable management expertise and judgment, that the  
2 public can be heard in land management decisions,  
3 and that the adverse environmental effects and eco-  
4 nomic and social dislocation which result from the  
5 present flaws in the planning processes are avoided.

6 **SEC. 3. DEFINITIONS.**

7 (a) **SPECIFIC TERMS.**—As used in this Act, the  
8 term—

9 (1) “Agencies” means the Bureau of Land  
10 Management, Department of the Interior, with re-  
11 spect to the lands described in paragraph (4)(A),  
12 and the Forest Service, Department of Agriculture,  
13 with respect to the lands described in paragraph  
14 (4)(B).

15 (2) “Committees of Congress” means the Com-  
16 mittee on Resources and Committee on Agriculture  
17 of the House of Representatives, and the Committee  
18 on Energy and Natural Resources and the Commit-  
19 tee on Agriculture, Nutrition, and Forestry of the  
20 United States Senate;

21 (3) “ecosystem management” means an ap-  
22 proach to implementation of the principles of mul-  
23 tiple-use and sustained-yield on the Federal lands  
24 which employs current understanding of ecosystem  
25 processes to evaluate the effects of management

1 strategies on ecosystem health and productivity in  
2 conjunction with attainment of planned outputs of  
3 goods, services, and amenities.

4 (4) “Federal lands” means—

5 (A) those lands managed by the Bureau of  
6 Land Management and defined in section  
7 103(e) of the Federal Land Policy and Manage-  
8 ment Act of 1976 (43 U.S.C. § 1702(e)); and

9 (B) those lands in the National Forest  
10 System, including units of the national grass-  
11 lands, managed by the Forest Service and de-  
12 fined in section 11(a) of the Forest and Range-  
13 land Renewable Resources Planning Act of  
14 1974 (16 U.S.C. § 1609(a));

15 (5) “resource management plans” means land  
16 use plans prepared by the Bureau of Land Manage-  
17 ment for units of the lands described in paragraph  
18 (4)(A) pursuant to section 202 of the Federal Land  
19 Policy and Management Act of 1976 (43 U.S.C.  
20 § 1712) and this Act, and land and resource man-  
21 agement plans prepared by the Forest Service for  
22 units of the lands described in paragraph (4)(B)  
23 pursuant to section 6 of the Forest and Rangeland  
24 Renewable Resources Planning Act of 1974, as

1 amended by the National Forest Management Act of  
2 1976 (16 U.S.C. § 1604), and this Act; and

3 (6) “Secretaries” or “Secretary” means the  
4 Secretary of the Interior with respect to the lands  
5 described in paragraph (4)(A) and the Secretary of  
6 Agriculture with respect to the lands described in  
7 paragraph (4)(B).

8 (b) OTHER TERMS.—Terms used in this Act shall  
9 have the same meaning they are accorded in the Federal  
10 Land Policy and Management Act of 1976 (43 U.S.C.  
11 § 1701 et seq.) with respect to the lands described in para-  
12 graph (4)(A) and in the Forest and Rangeland Renewable  
13 Resources Planning Act of 1974 (16 U.S.C. § 1600 et  
14 seq.) with respect to the lands described in paragraph  
15 (4)(B).

16 **SEC. 4. SUPPLEMENTAL AUTHORITY.**

17 The provisions of this Act apply to all Federal lands  
18 and supplement the Federal Land Policy and Management  
19 Act of 1976 (43 U.S.C. § 1701 et seq.), the Forest and  
20 Rangeland Renewable Resources Planning Act of 1974, as  
21 amended by the National Forest Management Act of 1976  
22 (16 U.S.C. § 1600 et seq.), and other laws applicable to  
23 the Federal lands. Except as otherwise provided in this  
24 Act, in the event of conflict or inconsistency between this  
25 Act and any other law referred to in this section, this Act

1 shall prevail: *Provided*, That, for any Federal lands des-  
2 ignated as units of the National Wilderness Preservation  
3 System, National Wild and Scenic Rivers System, or Na-  
4 tional Trails System, the provisions of law governing man-  
5 agement of those systems or specific units shall prevail  
6 whenever such provisions conflict or are inconsistent with  
7 this Act.

8 **SEC. 5. TRANSITION.**

9 Except as otherwise provided in this Act, any plan,  
10 policy, or guidance of the Agencies with respect to the  
11 Federal lands in effect on the date of enactment of this  
12 Act shall continue to apply to such lands until such plan,  
13 policy, or guidance is revised, amended, changed, or termi-  
14 nated in accordance with the provisions of this Act.

15 **TITLE I—ENSURING THE EFFEC-**  
16 **TIVENESS AND IMPLEMENTA-**  
17 **TION OF FEDERAL LAND**  
18 **PLANNING**

19 **SEC. 101. PURPOSES.**

20 The purposes of this title are to establish a mission  
21 for the Agencies in the management of the Federal lands;  
22 to provide Congressional direction on, and eliminate fun-  
23 damental flaws in, the conducting and implementing of  
24 planning for the Federal lands; to avoid the environ-  
25 mental, economic, and social injuries that result from

1 those flaws and the past absence of direction; and to  
2 achieve predictability in the management of, and timely  
3 and cost-effective accomplishment of management activi-  
4 ties on, the Federal lands.

5 **PART A—IN GENERAL**

6 **SEC. 102. MISSION OF THE LAND MANAGEMENT AGENCIES.**

7 The mission of the Secretary of Agriculture and the  
8 Forest Service, and of the Secretary of the Interior and  
9 the Bureau of Land Management, shall be to manage the  
10 Federal lands under their respective jurisdictions to fur-  
11 nish a sustainable flow of multiple goods, services, and  
12 amenities while protecting and providing a full range and  
13 diversity of natural habitats of native species in a dynamic  
14 manner over the landscape.

15 **SEC. 103. SCIENTIFIC BASIS FOR FEDERAL LANDS DECISIONS.**

16  
17 In rendering decisions concerning resource manage-  
18 ment plans for and management activities on Federal  
19 lands, each Secretary shall utilize the best scientific and  
20 commercial data available to the Secretary.

1           **PART B—RESOURCE MANAGEMENT AND**  
2           **MANAGEMENT ACTIVITY PLANNING**

3   **SEC. 104. LEVELS OF PLANNING.**

4           (a) **PLANNING LEVELS.**—Subject to subsection (c),  
5 the Secretaries shall conduct no more than two levels of  
6 planning for the Federal lands, comprised of—

7               (1) multiple-use planning in the form of re-  
8               source management plans for planning units; and

9               (2) site or area specific planning for manage-  
10              ment activities.

11          (b) **PLANNING UNIT SIZE.**—Each Secretary may des-  
12          ignate planning units of whatever size and number the  
13          Secretary deems appropriate.

14          (c) **OTHER ANALYSES OR ASSESSMENTS.**—Each Sec-  
15          retary may conduct analyses or assessments for geographi-  
16          cal areas larger or smaller than the designated planning  
17          units, including ecoregion assessments pursuant to title  
18          III, but shall not apply the results of such analyses or  
19          assessments to the affected Federal lands unless the re-  
20          source management plans for the planning units encom-  
21          passing such lands are amended or revised in accordance  
22          with this Act and other applicable law.

23          (d) **NONCOMPLYING PLANS.**—(1) The Secretaries  
24          shall have three years from the date of enactment of this  
25          Act to amend or revise resource management plans in ac-  
26          cordance with this Act to modify and incorporate any poli-

1 cies contained in any plans applicable to the Federal lands  
2 which are effective on the date of enactment of this Act  
3 and which do not comply with subsection (a).

4 (2) All noncomplying plans referred to in paragraph  
5 (1) shall terminate three years from the date of enactment  
6 of this Act.

7 (3) A noncomplying plan referred to in paragraph (1)  
8 shall no longer apply to Federal lands in a planning unit  
9 upon its termination date established by paragraph (2) or  
10 when the resource management plan for such lands has  
11 been amended pursuant to paragraph (1), whichever is  
12 earlier.

13 **SEC. 105. CONTENTS OF PLANNING AND ALLOCATION OF**  
14 **DECISIONS TO EACH PLANNING LEVEL.**

15 (a) PLAN CONTENTS.—(1) Each resource manage-  
16 ment plan shall contain the following basic elements which  
17 shall be accorded equal consequence by the Secretary con-  
18 cerned:

19 (A) a statement of goals and objectives for the  
20 management of the Federal lands to which the plan  
21 applies during the term of the plan;

22 (B) the allocation of land uses to areas of the  
23 Federal lands to which the plan applies;

1 (C) determinations of outputs of goods and  
2 services from the Federal lands to which the plan  
3 applies annually and for the term of the plan; and

4 (D) policies necessary to ensure compliance  
5 with the requirements of this Act and other applica-  
6 ble law for the conservation of the resources and  
7 protection of the environment on the Federal lands  
8 to which the plan applies: *Provided*, That, to the  
9 maximum extent feasible consistent with this Act  
10 and other applicable law, such policies shall not be  
11 prescriptive requirements generally applicable to the  
12 planning unit and, instead, shall provide guidance  
13 for the determination, during the planning for each  
14 management activity, of specific requirements that  
15 are addressed to the precise conditions of the lands  
16 and resources to be affected by such activity.

17 (2) Each resource management plan also shall con-  
18 tain—

19 (A) a statement of historical uses, and trends  
20 in conditions, of the resources on the Federal lands  
21 subject to the plan;

22 (B) a schedule and procedure for monitoring  
23 the implementation of the plan, the management of  
24 the Federal lands subject to the plan, and trends in  
25 the conditions and uses of resources on the Federal

1 lands subject to the plan, as required by section  
2 115(b)(1); and

3 (C) criteria for determining when circumstances  
4 on the Federal lands subject to the plan warrant  
5 adaptive management of the resources of such lands  
6 pursuant to section 115(b).

7 (b) ASSIGNMENT OF DECISIONS TO PLANNING LEV-  
8 ELS.—(1)(A) Each Secretary shall promulgate regulations  
9 that assign to each level of planning for Federal lands au-  
10 thorized by section 104(a) the analyses and decisions to  
11 be made at that level.

12 (B) All analyses and decisions to be conducted in the  
13 levels of planning for Federal lands authorized in sub-  
14 section (a) shall be assigned exclusively to a specific level  
15 and may not be conducted or made, or reconsidered, at  
16 the level to which they are not assigned.

17 (2) The regulations required by paragraph (1) shall  
18 provide that, among other matters—

19 (A) in resource management plans: in addition  
20 to the matters specified in subsection (a) and sec-  
21 tions 108, 109, 111, and 112, resource inventories  
22 and analyses of cumulative effects of planning deci-  
23 sions and subsequent management activities shall be  
24 conducted; the relationship of each plan to relevant  
25 State and local plans shall be discussed; Federal

1 land which may be exchanged or otherwise made  
2 available for disposal shall be identified; and deci-  
3 sions concerning wilderness, lands unsuitable for cer-  
4 tain activities, and visual objectives, shall be made;  
5 and

6 (B) in the planning for specific management ac-  
7 tivities: Analyses of site specific resources and ef-  
8 fects shall be conducted; decisions concerning the de-  
9 sign of and requirements for a management activity,  
10 including decisions related to water quality, method  
11 for harvesting forest products, and revenue benefits  
12 from other economic matters pertaining to the activ-  
13 ity, shall be made; and a schedule and procedures  
14 for monitoring the effects of the activity shall be es-  
15 tablished.

16 **SEC. 106. PLANNING DEADLINES.**

17 (a) Except as provided in section 104(d), the dead-  
18 lines for completing planning and management activities  
19 and all decisions associated therewith on the Federal lands  
20 shall be:

21 (1) for preparation of a resource management  
22 plan, 30 months;

23 (2) for development of an amendment to a re-  
24 source management plan which is determined to be  
25 significant, 12 months, and for development of an

1 amendment to a resource management plan which is  
2 determined not to be significant, 9 months;

3 (3) for revision of a resource management plan,  
4 24 months; and

5 (4) for a decision on a management activity  
6 which is determined to be significant in accordance  
7 with regulations that define significant, 9 months,  
8 and for a decision on a management activity which  
9 is determined not be significant in accordance with  
10 regulations that define not significant, 6 months.

11 (b) The deadline established in subsection (a) for any  
12 activity or decision deemed to be a “rule” as defined in  
13 5 U.S.C. § 804(3) shall be the date on which such activity  
14 or decision is submitted to each House of the Congress  
15 and the Comptroller General pursuant to 5 U.S.C.  
16 § 801(a)(1)(A).

17 **SEC. 107. PLAN AMENDMENTS AND REVISIONS.**

18 (a) INCONSISTENT OR CONFLICTING PLAN PROVI-  
19 SIONS OR FEDERAL LANDS POLICIES OR DECISIONS.—  
20 Except as provided in subsection (b), no policy may be  
21 applied to or decision made on a resource management  
22 plan or a management activity, or the Federal lands sub-  
23 ject to such plan or activity, if that policy or decision is  
24 inconsistent with any provisions of the plan, including any  
25 of the basic elements specified in section 105(a)(1).

1 (b) RESTORING PLAN CONFORMITY; MAKING RE-  
2 QUIRED PLANNING CHANGES.—(1) Whenever, as a result  
3 of monitoring the implementation of a resource manage-  
4 ment plan pursuant to section 115(b), planning a manage-  
5 ment activity on Federal lands to which the plan applies,  
6 or other circumstance, the Secretary concerned determines  
7 that a conflict exists between any of the provisions of the  
8 plan or that a policy or decision the Secretary would other-  
9 wise establish or make is inconsistent with a provision of  
10 the plan, whether the provision concerns a goal, land allo-  
11 cation, output determination, or environmental require-  
12 ment, the Secretary shall initiate immediately the process  
13 to amend or revise the plan to eliminate the conflict, in-  
14 consistency, or departure: *Provided*, That the Secretary,  
15 for a single specific management activity within any class  
16 of management activities, may waive any provision in a  
17 resource management plan without an amendment to or  
18 revision of the plan if such provision does not implement  
19 a nondiscretionary statutory requirement and the Sec-  
20 retary determines in writing that the waiver is in the pub-  
21 lic interest.

22 (2) Any change in the management of any Federal  
23 lands that is required by a law enacted, regulation promul-  
24 gated, or court order issued, or is warranted by new infor-  
25 mation that becomes available, after the resource manage-

1 ment plan which applies to such lands is adopted shall  
2 be effected by an amendment to or revision of the plan,  
3 and, except where the Secretary determines such law or  
4 court order requires otherwise and publishes the deter-  
5 mination in the Federal Register, shall not become effec-  
6 tive until the amendment or revision is adopted.

7 (c) PLAN REVISIONS.—Whenever a resource manage-  
8 ment plan is revised, the Secretary shall consider all provi-  
9 sions of the plan and all Federal lands and resources sub-  
10 ject to the plan in the decision and environmental analysis  
11 documents associated with the revision and may not ad-  
12 dress only those provisions, lands, or resources which may  
13 be identified by the Agency, any other Federal agency, or  
14 any segment of the public at the time of revision as requir-  
15 ing review or alteration.

16 (d) CONTINUATION OF MANAGEMENT ACTIVITIES  
17 DURING PLANNING.—(1) No management activities shall  
18 be stayed during the process of preparing an amendment  
19 to or revision of a resource management plan in anticipa-  
20 tion of changes to be made by the amendment or revision,  
21 except as otherwise required by this Act, court order, or  
22 a formal declaration of the Secretary published in the Fed-  
23 eral Register: *Provided*, That a specific management activ-  
24 ity may be stayed by the responsible agency official for

1 a purpose that is unrelated to the purpose or likely effect  
2 of the amendment or revision.

3 (2) The authority for a formal declaration pursuant  
4 to paragraph (1) may not be delegated.

5 (3) Except as provided in paragraph (1) or required  
6 by court order, an amendment to or revision of a resource  
7 management plan shall not become effective until final de-  
8 cisions on management activities on the Federal lands to  
9 which the plan applies that are scheduled to be made dur-  
10 ing the amendment or revision process have been made.

11 (e) EFFECT OF PLAN AMENDMENT OR REVISION.—  
12 Whenever a resource management plan is amended or re-  
13 vised, the Secretary shall consider, and discuss in the envi-  
14 ronmental analysis documents, associated with the amend-  
15 ment or revision, any effect which such amendment or re-  
16 vision may have on the basic elements, as identified in sec-  
17 tion 105(a)(1), that are contained in the plan prior to  
18 completion of the amendment or revision process. The de-  
19 cision document on the amendment or revision shall in-  
20 clude a discussion of the reasons why such effect is nec-  
21 essary and any steps that were or shall be undertaken to  
22 ameliorate any adverse economic or social consequences  
23 which will or could result from such effect.

1 **SEC. 108. DISCLOSURE OF FUNDING CONSTRAINTS ON**  
2 **PLANNING AND MANAGEMENT.**

3 The environmental analysis accompanying each re-  
4 source management plan, or amendment to or revision of  
5 a resource management plan, shall consider generally for  
6 each alternative, and the decision on such plan shall deter-  
7 mine specifically for the plan, how implementation of the  
8 alternative or plan will be affected by, and what goals and  
9 objectives, land allocations, outputs, and policies as set  
10 forth in section 105(a)(1) shall be effective for the alter-  
11 native or plan, within a range of possible levels of funding  
12 of Agency programs determined reasonable by the Sec-  
13 retary, with at least one level which provides less funds  
14 annually, and one level which provides more funds annu-  
15 ally, than the level of funding for the current fiscal year.

16 **SEC. 109. CONSIDERATION OF FEDERAL LANDS-DEPEND-**  
17 **ENT COMMUNITIES.**

18 (a) **RESPONSIBILITY FOR CONSIDERATION OF COM-**  
19 **MUNITIES.**—In preparing, amending, or revising a re-  
20 source management plan, the Secretary shall consider if,  
21 and explain whether, the plan maintains to the maximum  
22 extent feasible under this Act and other applicable law the  
23 stability of each community dependent on the resources  
24 of the Federal lands to which the plan applies.

25 (b) **PROCEDURE.**—The Secretary shall conduct dur-  
26 ing, and publish in the environmental analysis document

1 prepared in, the process of preparing a resource manage-  
2 ment plan, or an amendment to or revision of such a plan,  
3 an analysis for each community dependent on the re-  
4 sources of the Federal lands to which the plan applies  
5 that: (i) Examines the impacts of planning alternatives on  
6 the community, including its revenues and budget, the  
7 level and quality of its public services, wages for its resi-  
8 dents, and its social conditions; (ii) explains how resource  
9 allocations for the planning alternatives would comport  
10 with or differ from historic community expectations; and  
11 (iii) describe how those impacts were considered in select-  
12 ing a preferred alternative.

13 (c) DEFINITION.—(1) The term “community depend-  
14 ent on the resources of the Federal lands” means a com-  
15 munity which is located in a proximity to Federal lands  
16 and is significantly affected socially, economically, or envi-  
17 ronmentally by the allocation of uses of one or more of  
18 the resources of those lands.

19 (2) The Secretaries, in consultation with the Sec-  
20 retaries of Commerce and Labor, shall establish by regula-  
21 tions the criteria for identifying communities dependent  
22 on the resources of the Federal lands as defined in para-  
23 graph (1).

1 **SEC. 110. PARTICIPATION OF LOCAL, MULTI-INTEREST**  
2 **COMMITTEES.**

3 (a) INDEPENDENT COMMITTEES.—(1) The Secretar-  
4 ies shall include and analyze in any documentation under  
5 section 102(2) of the National Environmental Policy Act  
6 of 1969 (42 U.S.C. § 4332(2)) related to the development  
7 of a resource management plan, or an amendment of or  
8 revision to such plan, and consider and discuss in any de-  
9 cision document on such plan, amendment, or revision,  
10 any alternative for such plan, amendment, or revision de-  
11 veloped by an independent committee of local interests as  
12 defined in paragraph (5).

13 (2) If more than two independent committees of local  
14 interests are established and submit alternatives pursuant  
15 to paragraph (1), the Secretary shall conduct the analysis  
16 required by paragraph (1) on the alternative submitted by  
17 each of the two committees which the Secretary deter-  
18 mines to be most broadly representative of the various  
19 local interests likely to be affected by the plan, amend-  
20 ment, or revision referred to in paragraph (1). The Sec-  
21 retary shall endeavor to consolidate for analysis or other-  
22 wise discuss alternatives propounded by committees other  
23 than the two selected committees.

24 (3) If the entirety or a significant part of an alter-  
25 native of an independent committee of local interests ana-  
26 lyzed pursuant to paragraph (1) is adopted by the Sec-

1 retary, the Secretary may provide to the committee ade-  
2 quate monies from the appropriate fund established pur-  
3 suant to section 502 or, if such monies are insufficient,  
4 appropriated funds to enable the committee to monitor the  
5 implementation and effects of the plan, amendment, or re-  
6 vision in accordance with the schedule and procedures for  
7 monitoring provided in the plan, amendment, revision, or  
8 activity referred to in paragraph (1).

9 (4) Independent committees of local interests shall  
10 not be established or funded by either Secretary and shall  
11 not be subject to the provisions of the Federal Advisory  
12 Committee Act (5 U.S.C. App.).

13 (5) For purposes of this section “independent com-  
14 mittee of local interests” shall mean a committee or other  
15 entity formed by and composed of representatives of two  
16 or more interests active on the Federal lands to which the  
17 plan, amendment, revision, or activity referred to in para-  
18 graph (1) would apply: *Provided*, That at least one such  
19 interest shall be concerned principally with the production  
20 of a commodity resource or resources from such lands and  
21 at least one such interest shall be concerned principally  
22 with use or protection of a noncommodity resource or re-  
23 sources on such lands.

24 (b) COMMITTEES ESTABLISHED BY THE SECRETAR-  
25 IES.—(1) Each Secretary is authorized and encouraged to

1 establish committees corresponding to the planning units  
2 established pursuant to section 104.

3 (2) The membership of each committee established  
4 pursuant to paragraph (1) shall be broadly representative  
5 of the various local interests likely to be affected by the  
6 planning and management of the Federal lands within the  
7 planning unit for which the committee is established.

8 (3) Each committee established pursuant to para-  
9 graph (1) is authorized to—

10 (A) advise each Secretary prior to any decision  
11 by the Secretary to adopt a resource management  
12 plan, or an amendment to or revision of the resource  
13 management plan, applicable to the planning unit  
14 for which the committee is established; and

15 (B) monitor the implementation of the plan,  
16 amendment, or revision.

17 (4) Each Secretary shall—

18 (A) in accordance with procedures established  
19 by regulation, seek the advice of the committees es-  
20 tablished pursuant to paragraph (1) as provided in  
21 paragraph (3)(A); and

22 (B) provide to the committees established pur-  
23 suant to paragraph (1) adequate monies from the  
24 appropriate fund established pursuant to section 502  
25 or, if such monies are insufficient, appropriated

1 funds to permit the committees to conduct the mon-  
2 itoring provided for in paragraph (3)(B).

3 **SEC. 111. ECOSYSTEM MANAGEMENT PRINCIPLES.**

4 The Secretaries shall consider and discuss in the en-  
5 vironmental analysis documents prepared for resource  
6 management plans, and amendments to and revisions of  
7 such plans, ecosystem management principles. Such prin-  
8 ciples shall be consistent, and shall not be authority for  
9 noncompliance, with the other requirement of this Act and  
10 other law applicable to resource management plan docu-  
11 ments and decisions.

12 **SEC. 112. FULLY ALLOCATED COSTS ANALYSIS.**

13 The Secretaries shall specify, in the environmental  
14 analysis documents prepared for resource management  
15 plans, and amendments to and revisions of such plans, the  
16 fully allocated cost including foregone revenues, expressed  
17 as a user or cost-per-beneficiary, of each noncommodity  
18 output from the Federal lands to which the plans apply.

19 **SEC. 113. CITIZEN PETITIONS FOR PLAN AMENDMENTS OR**  
20 **REVISIONS.**

21 (a) PETITION FILING.—(1) A person may challenge  
22 a resource management plan, or an amendment to or revi-  
23 sion of such plan, after the deadline for filing an adminis-  
24 trative appeal thereof established pursuant to section  
25 116(b)(3) solely—

1           (A) on the basis of new information, law, or  
2           regulation, as defined in this section, that is perti-  
3           nent to the issue on which challenge is based; and

4           (B) by a petition to the concerned Secretary of  
5           amendment or revision of the plan.

6           (2) The petition shall be filed in accordance with reg-  
7           ulations adopted by the Secretary.

8           (b) PETITION DECISION.—(1) The Secretary shall  
9           accept or deny a petition pursuant to subsection (a) in  
10          writing within 90 days of receipt thereof.

11          (2) The decision of the Secretary to accept or deny  
12          a petition shall be subject to section 7 of the Endangered  
13          Species Act of 1973 (16 U.S.C. § 1536) and shall not be  
14          subject to section 102 of the National Environmental Pol-  
15          icy Act of 1969 (42 U.S.C. § 4332).

16          (c) EFFECT OF PETITION DECISION.—(1) If the Sec-  
17          retary accepts a petition pursuant to subsection (a), the  
18          amendment or revision process shall begin on the date of  
19          acceptance.

20          (2) If the Secretary denies a petition pursuant to sub-  
21          section (a), or fails to render a decision on such petition  
22          within 90 days of receipt thereof, the petition may seek  
23          immediate judicial review pursuant to section 117.

24          (d) DEFINITION.—For purposes of this section, “new  
25          information, law, or regulation” means any material and

1 significant information related to resource management  
2 plan, or an amendment to or revision of such plan, that  
3 was not known to and considered by the Secretary in the  
4 development of the plan, amendment, or revision, and any  
5 law or regulation not in effect when the decision was made  
6 to adopt the plan, amendment, or revision.

7 **SEC. 114. BUDGET AND COST DISCLOSURES.**

8 (a) **PLAN IMPLEMENTATION.**—Commencing with the  
9 fiscal budget for the fiscal year following enactment of this  
10 Act, the requests presented by the President to the Con-  
11 gress governing the planning and management of Federal  
12 lands shall include as an appendix to the budget a state-  
13 ment of what funds would be required to achieve 100  
14 percentum of annual outputs specified in, and otherwise  
15 implement fully, the resource management plan for each  
16 planning unit of the Federal lands.

17 (b) **PLAN PREPARATION.**—On or before July 1 of  
18 each year after the date of enactment of this Act, each  
19 Secretary shall submit a report to the Committees of Con-  
20 gress that provides the total cost and costs per function  
21 or procedure incurred in the preparation of each resource  
22 management plan, ecoregion assessment, and significant  
23 amendment to or revision of any such plan or assessment,  
24 which is published in the preceding calendar year. Such  
25 costs shall include the costs of the Agency responsible for

1 preparation of the plan, amendment, or revision and of  
2 any other Federal agency which participates in the prepara-  
3 tion of the plan, amendment, or revision or prepares an  
4 opinion, report, or comments on the compliance of the  
5 plan, amendment, or revision with any Federal law or reg-  
6 ulation administered by such agency.

7 **SEC. 115. MONITORING AND MAINTENANCE OF PLANNING;**  
8 **ADAPTIVE MANAGEMENT.**

9 (a) **PLAN CONTRIBUTION STATEMENT.**—Each Sec-  
10 retary shall report in writing in each decision to undertake  
11 a management activity on the Federal lands that such de-  
12 cision contributes to or, at a minimum does not preclude,  
13 achievement of the goals, land allocations, outputs, or poli-  
14 cies of the applicable resource management plan.

15 (b) **MONITORING FOR PLAN COMPLIANCE.**—(1)  
16 Using monies from the Monitoring Funds established pur-  
17 suant to section 502 and, where such monies are insuffi-  
18 cient, appropriated funds, each Secretary shall monitor,  
19 on a schedule established by each resource management  
20 plan but no less than every two years, the implementation  
21 of the plan and management of the Federal lands subject  
22 to the plan and trends in the conditions or uses of the  
23 resources on such lands to—

24 (A) ensure that no goal, land allocation, output,  
25 or policy of the plan is constructively changed

1 through a pattern of management activities or of  
2 failures to undertake management activities; and

3 (B) determine if circumstances warrant adapt-  
4 ive management of any of the resources, to be au-  
5 thorized either—

6 (i) in accordance with requirements and  
7 procedures prescribed in the plan, if such man-  
8 agement will not require or result in any change  
9 in the basic elements of the plan as described  
10 in section 105(a), or

11 (ii) by amendment to or revision of the  
12 plan.

13 (2)(A) If the Secretary finds that a change described  
14 in paragraph (1)(A) has occurred, the Secretary shall di-  
15 rect that corrective management activities be undertaken  
16 to restore compliance with the affected resource manage-  
17 ment plan or that the plan be amended or revised.

18 (B) If the Secretary finds the circumstances de-  
19 scribed in paragraph (1)(B) to exist and to require an  
20 amendment to or revision of the plan, the plan shall be  
21 amended or revised.

## 22 **PART C—CHALLENGES TO PLANNING**

### 23 **SEC. 116. ADMINISTRATIVE APPEALS.**

24 (a) APPEALS REGULATIONS.—Each Secretary shall  
25 promulgate regulations to govern administrative appeals

1 of decisions to approve resource management plans, and  
2 amendments to and revisions of such plans, and to ap-  
3 prove or disapprove management activities for or on the  
4 Federal lands.

5 (b) APPEALS REQUIREMENTS.—The regulations re-  
6 quired by subsection (a) shall—

7 (1) provide that any person may bring an ad-  
8 ministrative appeal of a decision to approve a re-  
9 source management plan, or amendment to or revi-  
10 sion of such a plan, or to approve, disapprove, or  
11 otherwise take final action on a management activity  
12 if he or she has submitted written comments during  
13 the preparation of such plan, amendment, revision,  
14 or activity on the issue or issues for which adminis-  
15 trative review is sought: *Provided*, That this para-  
16 graph shall not apply when no opportunity is ac-  
17 corded to the public to present such written com-  
18 ments;

19 (2) provide that an administrative appeal of a  
20 decision to approve a resource management plan, or  
21 amendment to or revision of such a plan, may not  
22 challenge any analysis or decision assigned to man-  
23 agement activities pursuant to section 105(b)(2)(B)  
24 and an administrative appeal of a decision to ap-  
25 prove, disapprove, or otherwise take final action on

1 a management activity may not challenge any analy-  
2 sis or decision assigned to resource management  
3 plans pursuant to section 105(b)(2)(A).

4 (3) require that a person who seeks administra-  
5 tive review of a resource management plan, or an  
6 amendment to or revision of such plan, on the basis  
7 of new information, law, or regulation as defined in  
8 section 113(d) must petition for an amendment or  
9 revision of the affected plan in accordance with such  
10 section;

11 (4) establish deadlines after the final decisions  
12 to adopt a plan, amendment, or revision, or to ap-  
13 prove, disapprove, or take final action on an activity,  
14 by which any administrative appeal, other than a pe-  
15 tition pursuant to section 113, must be filed: *Pro-*  
16 *vided*, That such deadlines shall be not more than  
17 120 days after a plan or revision decision, 90 days  
18 after an amendment decision, and 45 days after an  
19 activity decision;

20 (5) establish deadlines after the filing of admin-  
21 istrative appeals pursuant to paragraph (4) by which  
22 final decision on the appeals must be rendered: *Pro-*  
23 *vided*, That such deadlines shall be not more than  
24 120 days after the date of filing of an appeal of a  
25 plan or a revision, 90 days after the date of filing

1 of an appeal of an amendment, and 45 days after  
2 the date of filing of an appeal of an activity: *Pro-*  
3 *vided further*, That the Secretary may extend the  
4 deadline for a specific appeal for more than 15 days  
5 by a written statement which provides the reasons  
6 for such extension;

7 (6) provide that, in the event of a failure to  
8 render a final decision on an administrative appeal  
9 by the deadline established pursuant to paragraph  
10 (5), the decision on which the appeal is based is  
11 deemed to be a final agency action for the purpose  
12 of chapter 7 of title 5, United States Code;

13 (7) provide that the Secretary shall consider  
14 and balance the environmental and/or economic in-  
15 jury to any affected persons in determining whether  
16 to issue a stay pending the appeal or petition;

17 (8) provide that no administrative stay shall ex-  
18 tend beyond, or be imposed after—

19 (A) the conclusion of the applicable period  
20 for filing an administrative appeal established  
21 pursuant to paragraph (4) if no appeal is timely  
22 filed;

23 (B) 30 days from the date of, or deadline  
24 established pursuant to paragraph (4) for a  
25 final decision on an appeal of a resource man-

1           agement plan or an amendment to or revision  
2           of such a plan;

3           (C) 30 days from the date of, or deadline  
4           established pursuant to paragraph (5); and

5           (D) 15 days from the date of, or deadline  
6           established pursuant to paragraph (5) for, a  
7           final decision on an appeal of a management  
8           activity; and

9           (9) establish categories of or criteria for man-  
10          agement activities which, because of emergency,  
11          time-sensitive, or other exigent circumstances, shall  
12          not be eligible for administrative appeals and for  
13          which lawsuits may be filed immediately after the  
14          decisions to authorize such activities.

15          (c) REPEALER.—The regulations required of the For-  
16          est Service by this section shall replace any regulations  
17          promulgated pursuant to section 322 of Public Law 102–  
18          381 (106 Stat. 1419–1420). Upon the effective date of  
19          the regulations of the Forest Service required by this sec-  
20          tion, such section 322 is repealed.

21          **SEC. 117. JUDICIAL REVIEW.**

22          (a) VENUES.—(1) Any suit to challenge a resource  
23          management plan, or an amendment of or a revision to  
24          such a plan, shall be filed in the United States Circuit  
25          Court of Appeals for the circuit in which are located the

1 Federal lands to which the plan applies: *Provided*, That  
2 if the Federal lands to which a plan applies are located  
3 in more than one circuit, the suit shall be filed in the  
4 Court of Appeals for the circuit which contains the largest  
5 portion of such lands.

6 (2) Any suit filed to challenge a management activity  
7 or decision to deny a petition for amendment or revision  
8 of a resource management plan shall be filed in the United  
9 States district court for the district in which are located  
10 the Federal lands on which the activity would occur or  
11 to which the plan applies: *Provided*, That if the Federal  
12 lands to which the plan applies are located in more than  
13 one district, the suit shall be filed in the district court  
14 for the district which contains the largest portion of such  
15 lands.

16 (b) STANDING.—(1) Subject to paragraph (2), any  
17 person (including a person that sustains economic injury  
18 as a direct or indirect result of the implementation of, or  
19 a violation of, this Act, the Federal Land Policy and Man-  
20 agement Act of 1976 (43 U.S.C. § 1701 et seq.), or the  
21 Forest and Rangeland Renewable Resources Planning Act  
22 of 1974 (16 U.S.C. § 1600 et seq.), or a regulation issued  
23 under any such Act by the United States or any agency  
24 or official of the United States) may—

1           (A) To the full extent permitted by the Con-  
2           stitution without regard to any prudential limita-  
3           tions, commence a civil suit to—

4                   (i) remedy any violation of any such Act or  
5                   a regulation issued under any such Act by the  
6                   United States or any agency or official of the  
7                   United States; or

8                   (ii) challenge any such Act or a regulation  
9                   issued under any such Act or the implementa-  
10                  tion of the Act or the regulation; and

11          (B) intervene as a matter of right in any suit  
12          brought under any such Act that threatens to cause  
13          injury to the person or relates to any injury sus-  
14          tained by the person, which intervenor shall have the  
15          same right to present argument and to accept or re-  
16          ject potential settlements as do the parties to the  
17          suit.

18          (2) Standing to obtain judicial review of a resource  
19          management plan, an amendment of or a revision to such  
20          a plan, or a management activity shall be available only  
21          to persons who have—

22                   (A) participated in the preparation of such  
23                   plan, amendment, revision, or activity through the  
24                   submission of written comments on the issue or is-  
25                   sues for which judicial review is sought, unless an

1 opportunity to submit such comments was not pro-  
2 vided to the public;

3 (B) raised such issue or issues in seeking ad-  
4 ministrative review pursuant to section 116 of such  
5 plan, amendment, revision, or activity, other than an  
6 activity subject to section 116(b)(9); and

7 (C) exhausted the opportunities for administra-  
8 tive review pursuant to section 116, except for an  
9 activity subject to section 116(b)(9).

10 (c) DEADLINES.—(1) Any suit brought pursuant to  
11 this section must be filed not more than 90 days after  
12 the final decision on the administrative appeal of a re-  
13 source management plan, or an amendment or a revision  
14 of such plan, and not more than 30 days after the decision  
15 to deny a petition for amendment or revision of a resource  
16 management plan, the final decision on an administrative  
17 appeal of a management activity not subject to section  
18 116(b)(9), or the decision to approve or disapprove a man-  
19 agement activity subject to section 116(b)(9): *Provided,*  
20 That, for any suit based on a law which requires advanced  
21 notice of suit, the notice must be filed by the applicable  
22 deadline and the suit must be filed within 7 days after  
23 the conclusion of the notice period.

24 (2) Except as provided in subsection (d), the plan,  
25 amendment, revision, activity, or petition shall not be

1 reviewable either directly or indirectly as part of any other  
2 decision concerning the Federal lands for compliance with  
3 any provision of law or regulation in existence at the con-  
4 clusion of the applicable period established by paragraph  
5 (1).

6 (d) SUITS BASED ON NEW INFORMATION, LAW, OR  
7 REGULATION.—A suit brought pursuant to this section  
8 shall not allege or rely upon new information, law, or regu-  
9 lation as defined in section 113(d) unless the party has  
10 petitioned the Secretary pursuant to such section and the  
11 Secretary has denied such petition or approved such peti-  
12 tion and completed the amendment or revision process.

13 (e) ADMINISTRATIVE RECORD.—The record before  
14 the court in any suit brought pursuant to this section shall  
15 be limited to the administrative record and such additional  
16 written evidence as the court shall permit.

17 **TITLE II—COORDINATION AND**  
18 **COMPLIANCE WITH OTHER**  
19 **ENVIRONMENTAL LAWS**

20 **SEC. 201. PURPOSES.**

21 The purposes of this title are to coordinate, and elimi-  
22 nate conflicting, procedures of the Federal land manage-  
23 ment and other environmental laws; to assign clear re-  
24 sponsibility for meeting the standards and requirements  
25 of such laws, and securing protection of the environment

1 and resources, on the Federal lands; and to reduce the  
2 time and cost, and thereby improve the efficiency and ef-  
3 fectiveness, in achieving such protection.

4 **SEC. 202. ENVIRONMENTAL ANALYSIS.**

5 (a) RESOURCE MANAGEMENT PLAN ANALYSIS.—(1)  
6 In developing a resource management plan or a revision  
7 to such a plan, the Secretary shall prepare an environ-  
8 mental impact statement pursuant to section 102(2)(C)  
9 of the National Environmental Policy Act of 1969 (42  
10 U.S.C. § 4332(2)(C)).

11 (2) The environmental impact statement required by  
12 paragraph (1) shall analyze all matters in the resource  
13 management plan, including those assigned to resource  
14 management plans by subsections (a) and (c)(1), and by  
15 regulation pursuant to subsection (b), of section 103 of  
16 this Act, and contain all other analyses required to be in-  
17 cluded in environmental impact statements by this Act  
18 and the National Environmental Policy Act of 1969 (42  
19 U.S.C. § 4321, et seq.).

20 (3) In developing an amendment to a resource man-  
21 agement plan, the Secretary shall prepare either an envi-  
22 ronmental impact statement or an environmental assess-  
23 ment as may be required by section 102(2) of the National  
24 Environmental Policy Act of 1969 (42 U.S.C. § 4332(2)).  
25 The statement or assessment shall contain all analyses re-

1 quired by this Act and the National Environmental Policy  
2 Act of 1969 (42 U.S.C. § 4321, et seq.).

3 (b) MANAGEMENT ACTIVITY ANALYSIS.—(1) In plan-  
4 ning a management activity on the Federal lands, other  
5 than an activity which the Secretary determines to be cat-  
6 egorically excluded from the requirements of section  
7 102(2) of the National Environmental Policy Act of 1969  
8 (42 U.S.C. § 4332(2)), the Secretary shall prepare an en-  
9 vironmental assessment pursuant to section 102(2)(E) of  
10 such Act (42 U.S.C. § 4332(2)(E)) which shall be tiered  
11 to, and incorporate by reference the relevant analysis in,  
12 the environmental impact statement on the applicable re-  
13 source management plan: *Provided*, That, if the Secretary,  
14 in the discretion of, and in accordance with regulations  
15 promulgated by, the Secretary, determines that the nature  
16 or scope of potential environmental consequences of a  
17 management activity is substantially different from or  
18 greater than the nature or scope of the consequences con-  
19 sidered in the environmental impact statement on the ap-  
20 plicable resource management plan, the environmental  
21 analysis document for the activity shall be an environ-  
22 mental impact statement pursuant to section 102(2)(C)  
23 of such Act.

24 (2) The environmental assessment or environmental  
25 impact statement required by paragraph (1) shall analyze

1 the matters associated with the management activity  
2 which are assigned to management activities by subsection  
3 (c)(2), and by regulation pursuant to subsection (b), of  
4 section 105.

5 **SEC. 203. WILDLIFE PROTECTION.**

6 (a) ENDANGERED SPECIES ACT ANALYSIS.—(1) In  
7 developing a resource management plan, an amendment  
8 to or revision of such a plan, or a management activity  
9 on the Federal lands, the Agency, on the basis of the best  
10 scientific and commercial data available, shall ensure, pur-  
11 suant to section 7 of the Endangered Species Act of 1973  
12 (16 U.S.C. § 1536), that the plan, amendment, revision,  
13 or activity is not likely to jeopardize the continued exist-  
14 ence of any species determined to be endangered or threat-  
15 ened, or result in the destruction or adverse modification  
16 of habitat of such species designated as critical, pursuant  
17 to section 4 of such Act, except that the Agency, upon  
18 certification pursuant to paragraph (2), shall perform all  
19 functions in the processes established in subsections (a)  
20 through (c) of such section 7 (16 U.S.C. § 1536(a)–(c))  
21 which are assigned by such subsections or implementing  
22 regulations to the Secretary of the Interior (other than  
23 functions to be performed by the Bureau of Land Manage-  
24 ment) or the Secretary of Commerce, or their designees.

1           (2)(A) Each Agency may apply to the Director, U.S.  
2 Fish and Wildlife Service, to be certified to perform, pur-  
3 suant to paragraph (1), all functions in the processes es-  
4 tablished in subsection (a) through (c) of section 7 of the  
5 Endangered Species Act of 1973. The application shall  
6 contain a detailed summary of the personnel and funds  
7 available to, and the procedures adopted by, the Agency  
8 to perform such functions.

9           (B) The Director shall have 30 days from the date  
10 of submission to notify the Agency of any further informa-  
11 tion required by the Director to consider the application  
12 submitted pursuant to subparagraph (A).

13           (C) The Director, in consultation with the Director  
14 of the National Marine Fisheries Service, shall render a  
15 decision on an application submitted pursuant to subpara-  
16 graph (A) within 90 days of the receipt thereof or of the  
17 submission by the Agency of further information pursuant  
18 to subparagraph (B), whichever is later: *Provided*, That  
19 if the Director fails to render a decision by such date, the  
20 Agency shall be deemed certified to perform the functions  
21 described in subparagraph (A).

22           (D) The decision of the Director on an application  
23 submitted pursuant to subparagraph (A) shall provide a  
24 detailed explanation of the reasons therefor and be pub-  
25 lished in the Federal Register.

1           (E) The decision of the Director on an application  
2 submitted pursuant to paragraph (A) shall not be subject  
3 to subsections (a) through (c) of section 7 of the Endan-  
4 gered Species Act of 1973 and section 102(2) of the Na-  
5 tional Environmental Policy Act of 1969 (42 U.S.C.  
6 § 4332(2)).

7           (F) If an application of an Agency to be certified pur-  
8 suant to this paragraph is denied, the Agency may file  
9 a subsequent application or applications pursuant to sub-  
10 paragraph (B) until such time as it receives certification.

11           (b) EFFECT ON MANAGEMENT ACTIVITIES.—(1)  
12 Whenever a species is determined to be an endangered  
13 species or threatened species, or critical habitat is des-  
14 igned, pursuant to section 4 of the Endangered Species  
15 Act of 1973 (16 U.S.C. § 1533) and the species or habitat  
16 is located on Federal lands, the Agency with jurisdiction  
17 over such lands shall determine whether the procedure es-  
18 tablished by section 7(a)(2) of such Act (16 U.S.C.  
19 § 1536(a)(2)) and subsection (a) of this section is required  
20 on each resource management plan applicable to such  
21 lands within 90 days of the date of the determination or  
22 designation. Any amendment to or revision of a resource  
23 management plan resulting from the determination or des-  
24 ignation which requires such procedure shall be completed

1 within 12 months or 18 months, respectively, from the  
2 date of the determination or designation.

3 (2) If the procedure prescribed by section 7(a)(2) of  
4 such Act and subsection (a) of this section is required on  
5 a resource management plan (or an amendment to or revi-  
6 sion of the plan), the Agency implementing the plan may  
7 authorize, fund, or carry out any agency action that is  
8 consistent with the plan prior to completion of the proce-  
9 dure on the plan if the procedure prescribed by such sec-  
10 tion 7(a)(2) and subsection (a) of this section concerning  
11 the same species or critical habitat is conducted on the  
12 action or if such procedure is not required on the action.

13 **SEC. 204. WATER QUALITY PROTECTION.**

14 Any management activity on the Federal lands which  
15 constitutes a nonpoint source of water pollution, including,  
16 but not limited to, any activity associated with the harvest-  
17 ing and transporting of forest products, which is certified  
18 by the State in which such Federal lands are located to  
19 meet best management practices or the functional equiva-  
20 lent thereof shall be deemed to be in compliance with any  
21 applicable requirements arising from any area wide waste  
22 treatment management plan under section 208, and any  
23 management program under section 319(b), of the Clean  
24 Water Act (33 U.S.C. §§ 1288 and 1329(b)): *Provided,*

1 That the Agency is not required to seek such certification  
2 for any management activity.

3 **SEC. 205. AIR QUALITY PROTECTION.**

4 Notwithstanding the provisions of section 118(a) of  
5 the Clean Air Act (42 U.S.C. § 7418), upon a finding  
6 by a forest supervisor of the Forest Service or a district  
7 manager of the Bureau of Land Management that a pre-  
8 scribed use of fire on Federal lands within the jurisdiction  
9 of such official would reduce the risk of greater emissions  
10 from a wildfire and will be conducted in a manner that  
11 minimizes impacts on air quality to the extent practicable,  
12 such use shall be deemed to be in compliance with any  
13 applicable requirements of any State implementation plan  
14 under section 110 of such Act (42 U.S.C. § 7410), and  
15 any requirements imposed by the U.S. Environmental  
16 Protection Agency under such Act.

17 **SEC. 206. MEETINGS WITH USERS OF THE FEDERAL LANDS.**

18 To improve and coordinate the management of Fed-  
19 eral lands, the Secretary may, in his discretion, meet to  
20 discuss matters of mutual concern with one or more: hold-  
21 ers of or applicants for permits, leases, contracts, or other  
22 authorizations for use of the Federal lands; other persons  
23 who conduct activities on the Federal lands; persons who  
24 own or manage lands adjacent to the Federal lands; or  
25 representatives thereof. The Federal Advisory Committee

1 Act (5 U.S.C. App.) shall not apply to meetings with any  
2 such individuals under this section: *Provided*, That noth-  
3 ing in this section shall be deemed to affect the exemption  
4 from the Federal Advisory Committee Act provided for  
5 meetings with elected officers of State, local and tribal  
6 governments by section 204(b) of the Unfunded Mandates  
7 Reform Act of 1995 (2 U.S.C. § 1534(b)).

8 **TITLE III—DEVELOPMENT OF**  
9 **ECOREGION ASSESSMENTS**

10 **SEC. 301. PURPOSE.**

11 The purpose of this title is to authorize the develop-  
12 ment, and prescribe the use, of assessments of manage-  
13 ment issues that transcend the boundaries of Federal land  
14 planning units established pursuant to section 102 and  
15 land ownerships in order to inform resource management  
16 planning and the planning of management activities on the  
17 Federal lands.

18 **SEC. 302. AUTHORIZATION AND NOTICE OF ASSESSMENTS.**

19 (a) **AUTHORIZATION.**—Each Secretary is authorized  
20 to prepare or participate in the preparation of ecoregion  
21 assessments, which, in the Secretary’s discretion, may en-  
22 compass all Federal lands and lands of other ownership  
23 within a region specified by the Secretary: *Provided*, That  
24 non-Federal lands may be included in an assessment only

1 upon the written concurrence of the Governor or Gov-  
2 ernors in whose States the lands are located.

3 (b) CONGRESSIONAL AND PUBLIC NOTIFICATION.—

4 (1) Ninety days prior to initiating any ecoregion assess-  
5 ment pursuant to subsection (a), the Secretary or Sec-  
6 retaries shall submit to the Committees of Congress as  
7 defined in section 3(2) and publish in the Federal Register  
8 a notice of intention to prepare the assessment.

9 (2) The notice required by paragraph (1) shall in-  
10 clude a description of the region and lands to be included  
11 in the assessment; the officials to be responsible for the  
12 ecoregion assessment; the estimated cost of, and deadlines  
13 for, the assessment; the charter for, or other instructions  
14 concerning, the conduct and substance of the assessment;  
15 the procedures for ensuring participation of the affected  
16 States, local governments, and tribes and the public in the  
17 preparation of the assessment; a thorough explanation of  
18 how the ecoregion was identified and the attributes which  
19 establish the ecoregion; and the detailed reasons for the  
20 decision to initiate the assessment.

21 **SEC. 303. STATUS, EFFECT, AND APPLICATION OF ASSESS-**  
22 **MENTS.**

23 (a) NON-DECISIONAL STATUS.—The assessments  
24 prepared pursuant to section 302 shall not contain any  
25 decisions concerning resource management planning or

1 management activities on the Federal lands. Any decision  
2 concerning resource management planning or manage-  
3 ment activities which reflects or employs information or  
4 analyses contained in an assessment prepared pursuant to  
5 section 302 shall be made in accordance with section  
6 104(c) and this section.

7 (b) APPLICATION OF ASSESSMENTS.—(1) Within 180  
8 days of the completion of an assessment pursuant to sec-  
9 tion 302, each Forest Supervisor of the Forest Service and  
10 State Director of the Bureau of Land Management with  
11 jurisdiction over Federal lands to which the assessment  
12 applies shall review the assessment and determine whether  
13 the information contained therein warrants an amendment  
14 to or revision of any resource management plan applicable  
15 to such lands as required by section 104(c).

16 (2) If an amendment or revision is determined war-  
17 ranted pursuant to paragraph (1), such amendment or re-  
18 vision shall be completed within the applicable deadline es-  
19 tablished by section 106 and otherwise comply with the  
20 requirements of this Act and other applicable law.

21 (3) Until an amendment of or revision to a resource  
22 management plan based on an assessment is completed  
23 pursuant to paragraph (2), no management activity on  
24 Federal lands to which the plan applies shall be delayed  
25 or altered on the basis of the assessment.

1 (4) No Federal official shall use an assessment, or  
2 any documents prepared pursuant to this title, to regulate,  
3 or otherwise apply the assessment or documents to, non-  
4 Federal lands.

5 **SEC. 304. APPLICABILITY OF OTHER LAWS.**

6 In accordance with the limited status provided in sec-  
7 tion 303(a) for an assessment prepared pursuant to this  
8 title, each such assessment shall not be subject to section  
9 102(2) of the National Environmental Policy Act of 1969  
10 (42 U.S.C. § 4332(2)), and subsections (a) through (d) of  
11 section 7 of the Endangered Species Act of 1973 (16  
12 U.S.C. § 1536(a)–(d)).

13 **SEC. 305. REPORT TO CONGRESS.**

14 Each Secretary shall submit a report to the Commit-  
15 tees of Congress as defined in section 3(a)(2) on or before  
16 January 1, 1998, and January 1 of each second year  
17 thereafter, on any assessments prepared pursuant to sec-  
18 tion 302, any implications for Federal land management  
19 derived from such assessments, and any amendments of  
20 or revisions to resource management plans based on such  
21 assessments. Each report also shall contain an analysis  
22 by the Secretary of the benefits and detriments of such  
23 assessments and any recommendations of the Secretary  
24 for improving the content and application of such assess-  
25 ments.

1 **SEC. 306. PACIFIC NORTHWEST FOREST PLAN REVIEW.**

2 (a) REVIEW.—With funds appropriated pursuant to  
3 subsection (d) or other Act, the Consortium of Regional  
4 Forest Assessment Centers, through the University of  
5 Washington, (hereinafter in this section referred to as the  
6 “Consortium”) is authorized to conduct a review of the  
7 Pacific Northwest Forest Plan, and supporting docu-  
8 mentation, including the April 13, 1994, “Record of Deci-  
9 sion for Amendments to Forest Service and Bureau of  
10 Land Management Planning Documents Within the  
11 Range of the Northern Spotted Owl”; February 1994  
12 “Final Environmental Impact Statement on Management  
13 of Habitat for Late-Successional and Old-Growth Forest  
14 Related Species Within the Range of the Northern Spotted  
15 Owl”; and the July 1993 Report of the Forest Ecosystem  
16 Management Assessment Team, entitled “Forest Eco-  
17 system Management: An Ecological, Economic, and Social  
18 Assessment” (hereinafter in this section referred to as the  
19 “Plan”).

20 (b) CONTENTS.—The review authorized by subsection  
21 (a) shall include assessments of the following—

22 (1) the significance, validity, and appropriate-  
23 ness of the scientific information, assumptions, and  
24 modelling employed in the decision to adopt the  
25 Plan;

1           (2) the significance, validity, and appropriate-  
2           ness of any pertinent information, assumptions, and  
3           modelling not employed in the decision to adopt the  
4           Plan;

5           (3) whether the Plan will achieve the resource  
6           protection purposes, goals, or objectives established  
7           in, or underlying, it;

8           (4) whether the Plan is achieving and will  
9           achieve the resource production purposes, goals, or  
10          objectives established in, or underlying, it;

11          (5) the operational and cost efficiencies to be  
12          effected by the Plan and whether other methods or  
13          alternative approaches would be more efficient; and

14          (6) any recommendations for changes in the  
15          Plan, including any suggestions for administrative or  
16          legislative action.

17          (c) COMPLETION AND SUBMISSION.—(1) The review  
18          authorized by subsection (a) shall be completed not later  
19          than 180 days after receipt of the funds appropriated pur-  
20          suant to subsection (d).

21          (2) The review authorized by subsection (a) shall be  
22          submitted by the Consortium to the Committees of Con-  
23          gress.

24          (3) The Consortium shall not submit, nor shall any  
25          officer or agency of the United States have any authority

1 to require the Consortium to submit, the review authorized  
2 by subsection (a), or any testimony concerning the review,  
3 to any officer or agency of the United States for approval,  
4 comments, or review prior to the submission of the review  
5 or testimony to the Committees of Congress.

6 (d) APPROPRIATION AUTHORIZATION.—There are  
7 authorized to be appropriated for use by the Consortium  
8 to conduct the review authorized by subsection (a) such  
9 sums as are necessary, but not more than \$5,000,000.  
10 Such sums shall be disbursed to the Consortium by the  
11 Secretary of the Treasury.

12 (e) AGENCY COOPERATION.—Each department,  
13 agency, or instrumentality of the executive branch of the  
14 Federal government shall respond promptly and fully to  
15 any request for information or documents pertaining to  
16 the Plan submitted to it by the Consortium.

17 **TITLE IV—DEVELOPMENT OF A**  
18 **GLOBAL RENEWABLE RE-**  
19 **SOURCES ASSESSMENT**

20 **SEC. 401. PURPOSES.**

21 The purposes of this title are to eliminate a level of  
22 Forest Service planning in accordance with section 104(a);  
23 to repeal the provisions of the Forest and Rangeland Re-  
24 newable Resources Planning Act of 1974 concerning the  
25 Renewable Resources Assessment and Renewable Re-

1 source Program, which continually have been altered by  
2 other agencies and political appointees within the Execu-  
3 tive Branch and routinely have been ignored by the Forest  
4 Service as a guide to the development of resource manage-  
5 ment plans and management activities; to provide for the  
6 preparation of a Global Renewable Resources Assessment;  
7 and to establish an independent National Council on Re-  
8 newable Resources Policy to be responsible for the Assess-  
9 ment.

10 **SEC. 402. GLOBAL RENEWABLE RESOURCES ASSESSMENT.**

11 (a) ASSESSMENT.—(1) In recognition of the vital im-  
12 portance of renewable resources of the forest, range, and  
13 other associated lands to national and international social,  
14 economic, and environmental well-being, and of the neces-  
15 sity for a long term perspective in the use and conserva-  
16 tion of such resources and lands, the National Council on  
17 Renewable Resources Policy established under section 403  
18 shall prepare a Global Renewable Resources Assessment  
19 (hereinafter in this title referred to as the “Assessment”).

20 (2) The Assessment shall be prepared and submitted  
21 to the Committees of Congress not later than five years  
22 from the date of enactment of this Act and within each  
23 successive five year period thereafter.

24 (b) ASSESSMENT CONTENTS.—The Assessment shall  
25 include but not be limited to—

1           (1) an analysis of present and anticipated na-  
2           tional and international uses, demand for, and sup-  
3           ply of the renewable resources, with an emphasis on  
4           pertinent supply and demand and price relationship  
5           trends;

6           (2) an inventory of present and potential na-  
7           tional and international renewable resources, and an  
8           evaluation of opportunities for improving their yield  
9           of tangible and intangible goods and services, to-  
10          gether with estimates of investment costs and direct  
11          and indirect returns the various governments;

12          (3) an analysis of the environmental con-  
13          straints, and the effects thereof, on production of  
14          the renewable resources in the United States and in  
15          other countries;

16          (4) an analysis of the extent to which the pro-  
17          grams of other countries for management of renew-  
18          able resources ensure sustainable use and production  
19          of such resources;

20          (5) a description of national and international  
21          programs and responsibilities in research on renew-  
22          able resources and management of public and pri-  
23          vate forest, range, and other associated lands;

24          (6) a discussion of important policy consider-  
25          ations, laws, regulations, and other factors expected

1 to influence and affect significantly the use, owner-  
2 ship, and management of public and private forest,  
3 range, and other associated lands; and

4 (7) recommendations for administrative or leg-  
5 islative changes or initiatives to be undertaken by  
6 the Agencies or Congress.

7 **SEC. 403. NATIONAL COUNCIL ON RENEWABLE RESOURCES**  
8 **POLICY.**

9 (a) ESTABLISHMENT.—There is hereby established a  
10 National Council on Renewable Resources Policy (herein-  
11 after in this title referred to as the “Council”) to perform  
12 the functions authorized in subsection (b).

13 (b) FUNCTIONS.—The functions of the Council shall  
14 be—

15 (1) to prepare and submit to the Committees of  
16 Congress of the Global Renewable Resources Assess-  
17 ment required by section 402;

18 (2) from time to time during the five year peri-  
19 ods between each Assessment, as it deems appro-  
20 priate, to submit recommendations for administra-  
21 tive changes or initiatives to the Agencies or legisla-  
22 tive changes or initiatives to the Committees of Con-  
23 gress; and

24 (3) to conduct such analyses as requested by  
25 the Committees of Congress or the Agencies.

1           (c) MEMBERSHIP; CHAIR.—(1) The Council shall be  
2 composed of fifteen members, including five members ap-  
3 pointed by the President, five members appointed by the  
4 President pro tempore of the Senate, and five members  
5 appointed by the Speaker of the House of Representatives.

6           (2) The Chair of the Council shall be selected from  
7 among its members.

8           (d) TERMS; VACANCIES.—(1) Except as provided in  
9 paragraphs (2) and (3), each member of the Council shall  
10 hold office for a term of seven years and until a successor  
11 is appointed.

12           (2) Any member appointed to fill a vacancy occurring  
13 prior to the expiration of the term for which the member's  
14 predecessor was appointed shall be appointed for the re-  
15 mainder of such term.

16           (3) The terms of the five members appointed by each  
17 official which first take office after the enactment of this  
18 Act shall expire as designated by the official at the time  
19 of the appointment, one at the end of three years, one  
20 at the end of four years, one at the end of five years, one  
21 at the end of six years, and one at the end of seven years.

22           (4) A vacancy in the Council shall not impair the  
23 right of the remaining members to perform the functions  
24 authorized in subsection (b).

1           (e) EXECUTIVE DIRECTOR.—(1) The Council shall  
2 have an Executive Director, who shall be appointed (with-  
3 out regard to the provisions of title 5, United States Code,  
4 governing appointments in the competitive service) by the  
5 Council and serve at the pleasure of the Council.

6           (2) The Executive Director shall report to the Council  
7 and assume such duties as the Council may assign.

8           (f) COMPENSATION.—(1) The members of the Coun-  
9 cil who are not officers or employees of the United States,  
10 while attending conferences, hearings, or meetings of the  
11 Council or while otherwise serving at the request of the  
12 Chair shall each be entitled to receive compensation at a  
13 rate not in excess of the maximum rate of pay for grade  
14 GS–18, as provided in the General Schedule under section  
15 5332 of title 5, United States Code, including travel time,  
16 and while away from their homes or regular places of busi-  
17 ness shall each be reimbursed for travel expenses, includ-  
18 ing per diem in lieu of subsistence as authorized by section  
19 5703 of title 5, United States Code, for persons in Govern-  
20 ment service employed intermittently.

21           (2) The Executive Director shall be paid at a rate  
22 of pay not in excess of the rate of pay for grade GS–18,  
23 as provided in the General Schedule under section 5332  
24 of title 5, United States Code.

1           (g) CONTRACT AUTHORITY; FEDERAL AGENCY CO-  
2 OPERATION.—(1) In the performance of its functions, the  
3 Council is authorized to contract with the National Acad-  
4 emy of Sciences and the National Academy of Engineering  
5 (acting through the National Research Council), the Con-  
6 sortium of Regional Forest Assessment Centers, and other  
7 nongovernmental entities, for the investigation of matters  
8 within their competence.

9           (2) The heads of the departments, agencies, and in-  
10 strumentalities of the executive branch of the Federal  
11 Government shall cooperate with the Council in the per-  
12 formance of its functions, and shall furnish to the Council  
13 such information as the Council deems necessary to carry  
14 out its functions. To the maximum extent feasible, the  
15 Council shall avoid undertaking, and shall incorporate in  
16 the Assessment as warranted, survey, inventory, or data  
17 collection activities otherwise conducted or capable of  
18 being conducted by agencies of the executive branch of the  
19 Federal Government, including the Forest Inventory and  
20 Analysis prepared by the Forest Service.

21           (h) APPOINTMENT OF PERSONNEL.—In addition to  
22 authority to appoint personnel subject to the provisions  
23 of title 5, United States Code, governing appointments in  
24 the competitive service, and to pay such personnel in ac-  
25 cordance with the provisions of chapter 51 and subchapter

1 III of chapter 53 of such title relating to classification and  
2 General Schedule pay rates, the Council shall have author-  
3 ity to enter into contracts with private or public organiza-  
4 tions who may furnish the Council with such administra-  
5 tive and technical personnel as may be necessary to carry  
6 out the purposes of this title. Personnel furnished by such  
7 organizations under this subsection are not, and shall not  
8 be considered to be, Federal employees for any purposes,  
9 but in the performance of their duties shall be guided by  
10 the standards which apply to employees of the legislative  
11 branches under rules 41 and 43 of the Senate and House  
12 of Representatives, respectively.

13 (i) RULES AND POWERS OF THE COUNCIL.—(1) The  
14 Council is authorized to establish such procedural and ad-  
15 ministrative rules as are necessary for the performance of  
16 its functions.

17 (2) The Council, by one or more of its members or  
18 by such agents as it may designate, may conduct any hear-  
19 ing or other inquiry necessary or appropriate to its func-  
20 tions.

21 (j) TRANSMITTALS OF THE ASSESSMENT, BUDGET  
22 REQUESTS, AND LEGISLATIVE RECOMMENDATIONS.—(1)  
23 Whenever the Council submits any budget estimate or re-  
24 quest to the President or the Office of Management and  
25 Budget, it shall transmit concurrently copies of that esti-

1 mate or request to the Appropriations Committees of the  
2 Senate and House of Representatives.

3       (2) Whenever the Council transmits the Assessment,  
4 analyses, or recommendations referred to in subsection (b)  
5 or any testimony or any comments on legislation to the  
6 Agencies, the President, or the Office of Management and  
7 Budget, it shall transmit concurrently copies thereof to the  
8 Committees of Congress. No officer or agency of the Unit-  
9 ed States shall have any authority to require the Council  
10 to submit its Assessment, analyses, recommendations re-  
11 ferred to in subsection (b), or any testimony or any com-  
12 ments on legislation, to any officer or agency of the United  
13 States for approval, comments, or review prior to the sub-  
14 mission of the Assessment, analyses, recommendations,  
15 testimony or comments to the Committees of Congress.  
16 In instances where the Council voluntarily seeks to obtain  
17 such comments or review of any officer or agency of the  
18 United States, the Council shall include a description of  
19 such actions in the Assessment, analyses, recommenda-  
20 tions, testimony, or comments which it transmits to the  
21 Congress.

1 **SEC. 404. REPEAL OF CERTAIN PROVISIONS OF THE FOR-**  
2 **EST AND RANGELAND RENEWABLE RE-**  
3 **SOURCES PLANNING ACT.**

4 The following sections of the Forest and Rangeland  
5 Renewable Resources Planning Act (16 U.S.C. §§ 1601 et  
6 seq.) (as redesignated by section 2 of, and otherwise  
7 amended by, the National Forest Management Act of  
8 1976 (90 Stat. 2949) are amended—

9 (1) in section 3—

10 (A) by deleting subsections (a), (b), and  
11 (c);

12 (B) in subsection (d)—

13 (i) by redesignating paragraphs (1),  
14 (2), and (3) as subsections (a), (b), (c), re-  
15 spectively;

16 (ii) in paragraph (1), redesignated as  
17 subsection (a) by clause (i), by deleting  
18 “budget together with the annual report  
19 provided for under section 8(c) of this  
20 Act,” and inserting “budget,”; and

21 (iii) in paragraph (3), redesignated as  
22 subsection (c) by clause (i), by deleting  
23 “subsection (d)” and inserting “section”;  
24 and

25 (C) by redesignating subsection (e) as sub-  
26 section (d);

1 (2) by deleting section 4 in its entirety;

2 (3) in section 5, by deleting “As a part of the  
3 Assessment, the” and inserting “The”;

4 (4) in section 6—

5 (A) in subsection (a), by deleting “As a  
6 part of the Program provided for by section 3  
7 of this Act, the” and inserting “The”; and

8 (B) in subsection (g)(3), by deleting “de-  
9 veloped to achieve the goals of the Program”;

10 (5) in section 7, by deleting “Assessment, re-  
11 source surveys, and Program” and inserting “re-  
12 source surveys”; and

13 (6) by deleting section 8 in its entirety.

14 TITLE V—ADMINISTRATION

15 PART A—IN GENERAL

16 SEC 501. CONFIRMATION OF THE CHIEF OF THE FOREST  
17 SERVICE.

18 (a) CONFIRMATION.—The Forest Service, Depart-  
19 ment of Agriculture, shall be headed by the Chief who  
20 shall be appointed by the President, by and with the advice  
21 and consent of the Senate. As an exercise of the rule-  
22 making power of the Senate, any nomination of the Chief  
23 submitted to the Senate for confirmation, and referred to  
24 a committee, shall be referred to the Committee on Agri-  
25 culture, Nutrition, and Forestry and the Committee on

1 Energy and Natural Resources. No person may undertake  
2 the functions or exercise the authority of a Chief for more  
3 than 180 days without the advice and consent of the Sen-  
4 ate.

5 (b) QUALIFICATIONS.—In nominating a Chief for ap-  
6 pointment pursuant to paragraph (1), the President shall  
7 select a person who is exceptionally qualified for such posi-  
8 tion by virtue of:

9 (1) Possession of a degree in a scientific or en-  
10 gineering discipline that is relevant to decisions con-  
11 cerning management of the Federal lands;

12 (2) for a period of not less than 5 years, having  
13 had direct responsibility for, and possessed and exer-  
14 cised authority to make decisions concerning, the  
15 management, or research pertaining to the manage-  
16 ment, of Federal lands or other lands administered  
17 for purposes that are not dissimilar to the purposes  
18 for which Federal lands are managed; and

19 (3) for a period of not less than 5 years, having  
20 administered a program or office which has or had  
21 a number of employees equal to or greater than the  
22 average number of full-time equivalent employees in  
23 national forest supervisors' offices of the Forest  
24 Service on or about the date of the appointment.

1 **SEC. 502. MONITORING FUNDS.**

2 (a) ESTABLISHMENT OF FUNDS.—The Secretary of  
3 the Interior shall establish a Public Lands Monitoring  
4 Fund and the Secretary of Agriculture shall establish a  
5 Forest Lands Monitoring Fund.

6 (b) PAYMENT INTO FUNDS.—(1) Any revenues from  
7 Federal lands described in section 3(a)(4)(A) received by  
8 the Secretary of the Interior in any fiscal year in excess  
9 of revenues from such lands projected for the Bureau of  
10 Land Management in the baseline budget of the President  
11 for such fiscal year, minus the funds necessary to make  
12 payments to States or local governments under other laws  
13 concerning the distribution of revenues derived from such  
14 lands, shall be deposited into the Public Lands Monitoring  
15 Fund.

16 (2) Any revenues from Federal lands described in sec-  
17 tion 3(a)(4)(B) received by the Secretary of Agriculture  
18 in any fiscal year in excess of revenues from such lands  
19 projected for the Forest Service in the baseline budget of  
20 the President for such fiscal year, minus the funds nec-  
21 essary to make payments to States or local governments  
22 under other laws concerning the distribution of revenues  
23 derived from such lands, shall be deposited in the Forest  
24 Lands Monitoring Fund.

25 (c) USE OF FUND MONIES.—(1) Funds deposited  
26 into the Public Lands Monitoring Fund shall be available,

1 without fiscal year limitation or further appropriation, to  
2 the Secretary of the Interior to conduct the monitoring  
3 required by section 115(b) or pursuant to section  
4 110(a)(3) or 110(b)(4)(B).

5 (2) Funds deposited in the Forest Lands Monitoring  
6 Fund shall be available, without fiscal year limitation or  
7 further appropriation, to the Secretary of Agriculture to  
8 conduct the monitoring required by section 115(b) or pur-  
9 suant to section 110(a)(3) or 110(b)(4)(B).

10 **SEC. 503. INTERAGENCY TRANSFER AND INTERCHANGE AU-**  
11 **THORITY.**

12 (a) TRANSFER AND INTERCHANGE AUTHORITY.—To  
13 facilitate land management or achieve other authorized  
14 public purposes, the Secretary of the Interior, with respect  
15 to Federal lands described in section 3(a)(4)(A) which are  
16 within or adjacent to Federal lands described in section  
17 3(a)(4)(B), and the Secretary of Agriculture, with respect  
18 to Federal lands described in section 3(a)(4)(B) which are  
19 within or adjacent to Federal lands described in section  
20 3(a)(4)(A), are authorized to transfer to the other Sec-  
21 retary jurisdiction over lands not exceeding 5,000 acres  
22 in size or to interchange jurisdiction over lands not exceed-  
23 ing an aggregate of 10,000 acres per transaction.

1 (b) CONDITIONS.—(1) Transfers or interchanges  
2 made pursuant to this section shall be without reimburse-  
3 ment or transfer of funds.

4 (2) Lands transferred or interchanged pursuant to  
5 this section shall become a part of the unit and managed  
6 in accordance with the laws, rules, and regulations of the  
7 agency and administrative unit to which jurisdiction has  
8 been transferred.

9 (3) A transfer or interchange pursuant to this section  
10 shall not alter, amend, or modify any legislative designa-  
11 tion or provisions applicable to the affected lands prior  
12 to the transaction.

13 (4) The transfer of lands under this section shall be  
14 subject to valid existing rights.

15 (c) PUBLIC NOTICE.—The Secretaries shall publish  
16 in the Federal Register at least 30 days prior to any trans-  
17 fer or interchange to be made pursuant to this section a  
18 notice of such transaction, together with a description of  
19 the resource management objectives or public interest to  
20 be served by such transaction.

21 **SEC. 504. FEES FOR PROCESSING RECORDS REQUESTS.**

22 Notwithstanding any other provision of law, the Sec-  
23 retaries may not waive or reduce any fee applicable to the  
24 processing of a request that exceeds \$1,000, or of multiple  
25 requests from the same company, organization, or other

1 entity, including any affiliates or members of the same  
2 company, organization or other entity, that exceed \$1,000  
3 within a 6-month period, for records under section 1 of  
4 the Act of September 6, 1996, as amended (5 U.S.C.  
5 § 552).

6 **SEC. 505. OFF-BUDGET STUDY.**

7       Within twelve months from the date of enactment of  
8 this Act, the United States General Accounting Office  
9 shall conduct, and report to the Committees of Congress  
10 the results of, a study of the feasibility and likely effects  
11 of prohibiting any appropriations of funds to the Forest  
12 Service and Bureau of Land Management, except for ac-  
13 tivities of such agencies conducted on or related to non-  
14 Federal lands, and permitting such agencies to retain for  
15 their use, without further approval of, or appropriation by,  
16 Congress and without fiscal year limitation, all revenues  
17 collected from the Federal lands, with revenues from min-  
18 eral activities on Federal lands identified in section  
19 3(a)(4)(B) retained by the Forest Service, minus the  
20 funds necessary to make payments to State and local gov-  
21 ernments under other laws concerning the distribution of  
22 revenues from the Federal lands.

**PART B—NON-FEDERAL LANDS****SEC. 506. ACCESS TO ADJACENT OR INTERMINGLED NON-FEDERAL LANDS.**

(a) DEADLINES.—(1) Each Secretary shall process any application for access over, upon, under, or through Federal lands within the jurisdiction of the Secretary to nonFederal land pursuant to section 1323 of the Alaska National Interest Lands Conservation Act (16 U.S.C. § 3210) within 180 days of receipt of a complete application.

(2)(A) Each Secretary shall notify in writing an applicant for access in accordance with this section whether an application is complete within 15 days of receipt thereof.

(B) If a Secretary finds an application for access in accordance with this section to be incomplete, the Secretary shall describe in detail in the notice required by subparagraph (A) what additional information is necessary to render the application complete.

(3)(A) If an application for access in accordance with this section has not been fully processed by the deadline established in paragraph (1), it shall be deemed approved as described in the application.

(B) If the Secretary fails to notify an applicant for access in accordance with this section by the deadline es-

1 tablished in paragraph (2)(A), the application shall be  
2 deemed complete.

3 (b) ENVIRONMENTAL ANALYSIS AND REQUIRE-  
4 MENTS.—(1) The environmental analysis documents re-  
5 quired by section 102(2) of the National Environmental  
6 Policy Act of 1969 (42 U.S.C. § 4332(2)) and section 7  
7 of the Endangered Species Act of 1973 (16 U.S.C. § 1536)  
8 shall consider the environmental effects of the construc-  
9 tion, maintenance and use of the access across the Federal  
10 lands and shall not consider the use of the non-Federal  
11 lands to be accessed.

12 (2) Any limitation or condition on the access which  
13 the Secretary is permitted to impose pursuant to section  
14 1323 of the Alaska National Interests Lands Conservation  
15 Act shall limit or condition solely the construction, mainte-  
16 nance, or use of the access across the Federal lands and  
17 not the use of the non-Federal lands to be accessed.

18 **SEC. 507. EXCHANGES OF FEDERAL LANDS FOR NON-**  
19 **FEDERAL LANDS.**

20 Section 206 of the Federal Land Policy and Manage-  
21 ment Act of 1976 (43 U.S.C. § 1716) is amended:

22 (1) In subsection (b), by inserting “(1)” after  
23 “(b)” and adding at the end thereof the following  
24 paragraphs:

1           “(2)(A) An environmental assessment shall be  
2 the document prepared for any exchange under this  
3 Act pursuant to section 102(2) of the National Envi-  
4 ronmental Policy Act of 1969 (42 U.S.C. § 4332(2)).  
5 Such document shall not include any assessment of  
6 the future use or development of the Federal land  
7 after it is conveyed by exchange, except for consider-  
8 ation of any plans or proposals for such land avail-  
9 able to the Secretary concerned prior to publication  
10 of the environmental assessment.

11           “(B) For any land exchange required by an Act  
12 of Congress in which the specific lands or interests  
13 in lands to be exchanged are described, unless other-  
14 wise required by such Act, no documentation pursu-  
15 ant to section 102(2) of the National Environmental  
16 Policy Act of 1969 (42 U.S.C. § 4332(2)) shall be  
17 required.

18           “(C) Any procedure required for an exchange  
19 under this Act pursuant to section 7(a) of the En-  
20 dangered Species Act of 1973 (16 U.S.C. § 1536(a))  
21 shall be completed within 45 days after the date on  
22 which the procedure is initiated.

23           “(D) After completion of an exchange under  
24 this Act, the Secretary concerned shall not, except as  
25 otherwise provided by law or regulation, undertake

1 or authorize any action on the non-Federal land or  
2 interest in land acquired in the exchange until the  
3 Secretary has complied with section 102(2) of the  
4 National Environmental Policy Act of 1969 and sec-  
5 tion 7(a) of the Endangered Species Act of 1973  
6 concerning such action, and completed any necessary  
7 amendment to or revision of the land management  
8 plan applicable to such land.

9 “(3) The Secretary concerned shall complete  
10 processing, and make a final decision, on any ex-  
11 change under this Act within one year from the date  
12 of submission of the application for the exchange.

13 “(4) The non-Federal land or interest in land  
14 to be included in any exchange under this Act shall  
15 be valued without the application of any Federal or  
16 State restriction concerning an environmental value  
17 or resource the protection of which is considered by  
18 the Secretary concerned as a public benefit to be ob-  
19 tained by the exchange.

20 “(5) The Secretary concerned may employ com-  
21 petitive methods to dispose by exchange of Federal  
22 lands or interests in lands which are unique in char-  
23 acter, which have values atypical of the general mar-  
24 ket, for which market data is limited, or for which  
25 competitive interest is demonstrated. The Secretary

1 concerned is not obligated to select the highest value  
2 property offered in exchange for such Federal lands  
3 or interests and may reject any and all proposals for  
4 exchange.

5 “(6) The Secretary concerned may prequalify  
6 Federal lands or interests in lands for exchange as  
7 a means of preliminary identification of lands or in-  
8 terests suitable for disposal. For the purposes of this  
9 paragraph, the term “prequalify” means conducting  
10 the necessary assessments and inventories for lands  
11 or interests with the recognition that such assess-  
12 ments and inventories may need to be updated or  
13 completed in greater detail to reflect changes occur-  
14 ring after the date on which the Secretary  
15 prequalified the lands or interests.

16 “(7) For Federal lands or interests in lands ac-  
17 quired by a State in exchange for school trust lands  
18 held by the State, the Secretary concerned, in lieu  
19 of conducting a cultural assessment under section  
20 106 of the National Historic Preservation Act (16  
21 U.S.C. 470f ) on such lands or interests prior to  
22 their transfer, may enter into an agreement with the  
23 State which provides for protection of archaeological  
24 resources and sites known or later discovered on

1 such lands or interests to the maximum extent prac-  
2 ticable under State law.

3 “(8) Existing exchange authorities of the Sec-  
4 retary of Agriculture may be used to exchange feder-  
5 ally owned subsurface rights underlying non-Federal  
6 surface lands located within the boundaries of a unit  
7 of the National Forest System, or where the Federal  
8 subsurface rights were acquired under the  
9 Bankhead-Jones Farm Tenant Act of 1937 (7  
10 U.S.C. 1010–1012) which are administered as part  
11 of the National Forest System. Any such exchange  
12 shall not conflict with any prior Federal sale or lease  
13 of subsurface resources as determined through con-  
14 sultation between the Secretary of Agriculture and  
15 the Secretary of the Interior prior to any such ex-  
16 change.

17 “(9)(A) Amounts received by the Secretary con-  
18 cerned under paragraph (1) shall be deposited in  
19 special funds established in the Treasury of the  
20 United States for the Bureau of Land Management  
21 and Forest Service, subject to subparagraph (B).  
22 Amounts in each fund, subject to appropriations,  
23 shall be available to the Secretary concerned for  
24 processing land exchanges, including cash equali-  
25 zation.

1           “(B) Amounts in each fund referred to in sub-  
2           paragraph (A) may not exceed \$12,000,000 at any  
3           time. Amounts received by the Secretary concerned  
4           under this section which, but for this subparagraph,  
5           would be added to each fund shall instead be covered  
6           into the Treasury of the United States as mis-  
7           cellaneous receipts.”.

8           (2) In subsection (h), by striking out “\$150,000”  
9           and inserting in lieu thereof “\$500,000”.

## 10           **PART C—THE FOREST RESOURCE**

### 11   **SEC. 508. FOREST HEALTH CREDITS IN SALES OF FOREST** 12           **PRODUCTS.**

13           (a) **AUTHORITY TO ISSUE FOREST HEALTH CRED-**  
14   **ITS.—**(1) The Secretaries are authorized to require, as a  
15   condition of any specific salvage sale of forest products  
16   from the Federal lands or any sale of forest products con-  
17   stituting a forest health enhancement project pursuant to  
18   section 509, that the purchaser undertake a forest health  
19   management activity or activities as defined in subsection  
20   (j) which address effects of the operation of the sale or  
21   past sales of forest products or involve vegetation manage-  
22   ment within the area of the sale or the area in which such  
23   effects are located.

1           (2) A condition described in paragraph (1) may be  
2 included in a contract of sale only when the Secretary de-  
3 termines that—

4           (A) the land management objectives of the for-  
5 est health management activity or activities can be  
6 accomplished most efficiently when performed as  
7 part of the sale contract; and

8           (B) it is unlikely that the forest health manage-  
9 ment activity or activities will be performed except  
10 under the authority of this section.

11          (3) The original term of any sale contract with a con-  
12 dition described in paragraph (1) shall not exceed three  
13 years.

14          (b) FINANCING AND SUPPLEMENTAL FUNDING.—(1)  
15 Financing of the forest health management activity or ac-  
16 tivities in a contract for a sale under the authority of sub-  
17 section (a) shall be accomplished by including provisions  
18 in the contract for amortization of the cost of such activity  
19 or activities through issuance of forest health credits to  
20 the purchaser which offset such cost against the pur-  
21 chaser's payment for the forest products materials.

22          (2)(A) Appropriated funds may be used to assist the  
23 forest health management activity or activities in a con-  
24 tract for sale under the authority of subsection (a) if such  
25 funds are provided by the resource function or functions

1 that directly benefit from the performance of the activity  
2 or activities and are available from the annual appropria-  
3 tion of such function or functions during the fiscal year  
4 in which the sale is offered.

5 (B) The amount to be paid from appropriated funds  
6 for each forest health management activity shall be in-  
7 cluded in the prospectus, and published in the advertise-  
8 ment, for the sale.

9 (c) DETERMINING FOREST HEALTH CREDITS.—(1)  
10 Prior to the advertisement of a sale under the authority  
11 of subsection (a), the Secretary shall determine the  
12 amount of forest health credits to be allocated to each for-  
13 est health management activity to be performed by the  
14 purchaser under the contract.

15 (2) A description of the forest health management ac-  
16 tivity or activities to be performed by the purchaser, and  
17 the amount of forest health credits allocated to each activ-  
18 ity, shall be included in the prospectus, and published in  
19 the advertisement, for the sale.

20 (d) CHANGED CONDITIONS.—The Secretary, with the  
21 concurrence of the purchaser of a sale under the authority  
22 of subsection (a), may alter the scope of work of a forest  
23 health management activity or activities, and the amount  
24 of forest health credits for the activity or activities, in the

1 sale after award of the sale and prior to operation of the  
2 sale when warranted by a change in conditions.

3 (e) TRANSFER OF FOREST HEALTH CREDITS.—

4 Each Secretary may permit the transfer of unused forest  
5 health credits from one sale under the authority of sub-  
6 section (a) to another such sale held by the same pur-  
7 chaser if such other sale applies to Federal lands that are  
8 under the jurisdiction of such Secretary and located in the  
9 same State as the original sale.

10 (f) EXISTING PROCEDURES.—To the extent feasible,

11 in preparing, awarding, and administering sales under the  
12 authority of subsection (a), each Secretary shall adhere  
13 to the procedures and requirements developed by the For-  
14 est Service for sales of forest products requiring road con-  
15 struction by sale purchasers pursuant to section 4(2) of  
16 the National Forest Roads and Trails Act (16 U.S.C.  
17 § 535(2)): *Provided*, That nothing in this section shall be  
18 deemed to require or authorize any alteration in the proce-  
19 dures or requirements for sales of forest products under  
20 section 4(2) including the applicable provisions of the  
21 small business set-aside program and procedures for cal-  
22 culating payments to counties of a portion of sale receipts.

23 (g) COST CONSIDERATIONS.—Sales under the au-

24 thority of subsection (a) shall not be precluded because  
25 the costs of such sales are likely to exceed the revenues

1 derived from such sales nor shall such sales be considered  
2 in any calculations concerning the revenue effects of forest  
3 products sales programs for the Federal lands or units  
4 thereof.

5 (h) MONITORING AND REPORT.—The Secretaries  
6 shall monitor the performance of contracts for sales issued  
7 under the authority of subsection (a) and submit a joint  
8 report to the committees of Congress no later than the  
9 date four years from the date of enactment of this Act  
10 which assesses the effectiveness of such contracts, dis-  
11 cusses whether continued use of such contracts is advis-  
12 able, and offers any changes in the law or regulations gov-  
13 erning, or in the administration of, such contracts which  
14 the Secretaries deem appropriate.

15 (i) TERMINATION OF AUTHORITY.—(1) The author-  
16 ity to offer sales of forest products pursuant to this section  
17 shall terminate five years after the date of enactment of  
18 this Act.

19 (2) Any contract for sale under the authority of sub-  
20 section (a) that is issued prior to, and is in effect at, the  
21 end of such five year period shall remain in effect under  
22 its terms thereafter.

23 (j) DEFINITION.—For purposes of this section, the  
24 term “forest health management activity” means any  
25 thinning, salvage, forest stand improvement, reforestation,

1 prescribed burning (including natural ignition) or other  
2 fuels management, insect or disease control, riparian or  
3 other habitat improvement, or other activity, the purpose  
4 of which is to—

5           (1) arrest the decline in forest health and re-  
6           store forest health in the area in which the activity  
7           is to be undertaken to a condition capable of sup-  
8           porting and sustaining the uses of the area within  
9           the historic range of variability of such area or as  
10          determined in the land management plan or plans  
11          applicable to such area;

12          (2) safeguard human life, property, and com-  
13          munities on and near the Federal lands, particularly  
14          in wildland/urban interface areas;

15          (3) protect the various forest resources of the  
16          Federal lands placed at risk by adverse forest health  
17          conditions, including air and water quality, wildlife,  
18          and recreation and visual values;

19          (4) restore, maintain, or enhance the integrity  
20          of ecosystems, watersheds, and habitats damaged or  
21          placed at risk by adverse forest health conditions; or

22          (5) protect existing Federal investments in the  
23          forest resources of the Federal lands, and future  
24          Federal, State, and local revenues that otherwise  
25          would be foregone.

1 **SEC. 509. SPECIAL FUNDS.**

2 (a) BUREAU OF LAND MANAGEMENT.—The Sec-  
3 retary of the Interior shall maintain a special fund estab-  
4 lished pursuant to Public Law 102–381, which shall be  
5 derived from the Federal share of all monies received from  
6 the salvage sales of forest products from all lands adminis-  
7 tered by the Bureau of Land Management, Department  
8 of the Interior, and which shall be available, without fur-  
9 ther appropriation, for the purposes of planning and pre-  
10 paring salvage sales of forest products, the administration  
11 of salvage sales, and subsequent site preparation and re-  
12 forestation, and forest health enhancement projects, in-  
13 cluding, but not limited to, prescribed burning (including  
14 natural ignition) or other fuels management, site prepara-  
15 tion, tree planting, protection of seedlings from animals  
16 and other environmental elements, release from competing  
17 vegetation, and stand thinning. The Federal share of any  
18 revenues received from forest health enhancement projects  
19 shall be returned to the special fund and be made available  
20 for the purposes provided in this subsection.

21 (b) FOREST SERVICE.—The Federal share of all  
22 monies received from the salvage sales of forest products  
23 from, and any other activities funded pursuant to this sub-  
24 section on, lands within the National Forest System may  
25 be credited to the Forest Service Permanent Appropria-  
26 tions to the expended for: salvage sales of forest products

1 from any national forest; preparation of sales of forest  
2 products to replace sales lost to fire or other causes; prep-  
3 aration of sales of forest products to replace sales inven-  
4 tory on the shelf for any national forest to a level sufficient  
5 to maintain new sales availability equal to a rolling 5-year  
6 average of the total sales offering; design, engineering, and  
7 supervision of construction of roads lost to fire or other  
8 causes associated with the sales programs described in this  
9 subsection; watershed assessment activities; and forest  
10 health enhancement projects, including, but not limited to  
11 prescribed burning (including natural ignition or other  
12 fuels management, site preparation, tree planting, protec-  
13 tion of seedlings from animals and other environmental  
14 elements, release from competing vegetation, and stand  
15 thinning.

16 (c) PAYMENTS TO LOCAL GOVERNMENTS.—Moneys  
17 received from the salvage sales of forest products, and  
18 other activities funded, pursuant to this section shall be  
19 considered as money received for purposes of computing  
20 and distributing payments to State and local governments  
21 under other law concerning the distribution of revenues  
22 derived from forest resources from the affected lands.

23 **SEC. 510. PRIVATE CONTRACTORS.**

24 To preserve budgetary and personnel resources, each  
25 Secretary shall use to the maximum extent feasible private

1 contractors to prepare sales for forest products: *Provided*,  
2 That—

3 (1) any work conducted by a contractor on a  
4 sale shall be reviewed and approved by the Secretary  
5 before any decision on the design of, conditions for,  
6 or approval or disapproval of the sale may be made  
7 by the Secretary;

8 (2) a contractor who worked on a sale may not  
9 submit comments on, or otherwise participate in,  
10 any decision by the Secretary on the design, condi-  
11 tions for, or approval or disapproval of the sale; and

12 (3) a contractor who conducted work on a sale,  
13 any entity owned or controlled by the contractor, or  
14 any member of the family of the contractor, may not  
15 bid on the sale or provide any information to poten-  
16 tial bidders and bidders on the sale prior to award  
17 of the sale.

18 **SEC. 511. NON-HARVESTED FOREST PRODUCTS SALES.**

19 (a) QUALIFYING SALES.—Notwithstanding any other  
20 provision of law, a purchaser of a sale of forest products  
21 from the Federal lands, other than a sale pursuant to sec-  
22 tion 508(a) or section 509 or a sale which has its primary  
23 purpose vegetative management or land management  
24 other than the disposal of forest products, may elect not  
25 to harvest the stand or stands of trees subject to the sale

1 (hereinafter referred to in this section as “an election  
2 sale”).

3 (b) CONTRACT TERM.—Any election sale shall have  
4 a term the length of which corresponds to the expected  
5 silvicultural rotation in a sale designed to regenerate even-  
6 aged stands or the period prior to the next scheduled entry  
7 for a sale designed to develop and maintain uneven-aged  
8 stands.

9 (c) CONTRACT TERMINATION.—If, during the con-  
10 tract term of an election sale, the stand or stands of trees  
11 subject to the sale are substantially damaged by fire,  
12 windthrow, disease, insect infestation, or other natural  
13 event, and the Secretary determines, after an opportunity  
14 for public hearing, that harvesting of the stand or stands  
15 is necessary to avoid damage to adjacent forested areas,  
16 the Secretary may terminate the contract and return a  
17 pro-rata share of the purchase price, together with interest  
18 thereon, to the purchaser. The decision to terminate a con-  
19 tract pursuant to this subsection shall not be subject to  
20 section 102(2) of the National Environmental Policy Act  
21 of 1969 (42 U.S.C. § 4332(2)) or section 7 of the Endan-  
22 gered Species Act of 1973 (16 U.S.C. § 1536): *Provided*,  
23 That any new sale of the stand or stands of trees subject  
24 to the contract shall comply with such provisions of law.

1           (d) SALE ANNOUNCEMENT.—The notice of sale for  
2 each sale of forest products from the Federal lands shall  
3 disclose if the sale is offered pursuant to section 508(a)  
4 or section 509 or for the primary purpose of land manage-  
5 ment or treatment. If the sale is qualified to be an election  
6 sale, the notice shall also state the term of the contract  
7 for any purchaser who intends not to harvest the stand  
8 or stands of trees subject to the sale.

9           (e) NOTICE OF INTENT.—A prospective purchaser of  
10 a sale of forest products from the Federal lands qualified  
11 to be an election sale which intends not to harvest the  
12 stand or stands subject to the sale shall provide written  
13 notice of such intention to the Agency with the submission  
14 of its bid for the sale.

15           (f) WINNING BID DETERMINATION.—In determining  
16 the winning bidder for an election sale that has specifica-  
17 tions for road construction or reconstruction, the Sec-  
18 retary shall deduct from the bid of any prospective pur-  
19 chaser which has provided notice of intent not to harvest  
20 pursuant to subsection (e) the estimated cost of such con-  
21 struction or reconstruction.

22           (g) DEFINITION.—Within 90 days of enactment of  
23 this Act, each Secretary shall publish in the Federal Reg-  
24 ister a definition of the term “vegetative management or  
25 land management other than disposal of forest products”

1 in subsection (a) and guidance concerning the determina-  
2 tion of whether a sale of forest products from the Federal  
3 lands meets such definition.

4 **SEC. 512. EXEMPTION FROM STRICT LIABILITY FOR THE**  
5 **RECOVERY OF FIRE SUPPRESSION COSTS.**

6 Section 504(h) of the Federal Land Policy and Man-  
7 agement Act of 1976 (43 U.S.C. § 1764(h)) is amended  
8 by adding at the end thereof the following new paragraph:

9 “(3) No regulation shall impose liability without  
10 fault for fire suppression costs with respect to a  
11 right-of-way granted, issued, or renewed under this  
12 Act to or for a non-profit entity, including a non-  
13 profit entity that uses such right-of-way for the de-  
14 livery of electricity to parties having an equity inter-  
15 est in such entity.”.

16 **TITLE VI—MISCELLANEOUS**

17 **SEC. 601. REGULATIONS.**

18 Not later than eighteen months from the date of en-  
19 actment of this Act, each Secretary shall promulgate any  
20 regulations necessary to carry out the purposes and provi-  
21 sions of this Act.

22 **SEC. 602. AUTHORIZATION OF APPROPRIATIONS.**

23 There are authorized to be appropriated in the fiscal  
24 year in which this Act is enacted and each fiscal year for  
25 ten fiscal years thereafter such sums as may be necessary

1 to carry out the provisions of this Act. Notwithstanding  
2 any other provision of law, all other authorizations for ap-  
3 propriations for the management of Federal lands shall  
4 expire on the same date as the expiration of the appropria-  
5 tions authority of this section.

6 **SEC. 603. EFFECTIVE DATE.**

7 The provisions of this Act shall take effect on the  
8 date of enactment of this Act. No decision or action re-  
9 quired or authorized by this Act shall be delayed pending  
10 promulgation of any regulation to carry out the provisions  
11 of this Act.

12 **SEC. 604. SAVINGS CLAUSES.**

13 (a) O & C LANDS ACT.—Notwithstanding any provi-  
14 sion of this Act, except title VI, in the event of conflict  
15 with or inconsistency between this Act and the Acts of  
16 August 28, 1937 (50 Stat. 874; 43 U.S.C. §§ 1181a–  
17 1181j) and May 24, 1939 (53 Stat. 753), the latter Acts  
18 shall prevail.

19 (b) LAND USE RIGHTS AND AUTHORIZATIONS.—  
20 Nothing in this Act shall be construed as terminating any  
21 valid lease, permit, patent, right-of-way, or other right of,  
22 or authorization for, use of the Federal lands, including  
23 any Native American treaty right, existing on the date of  
24 enactment of this Act.

1           (c) VALID EXISTING RIGHTS.—All actions taken by  
2 the Secretaries under this Act shall be subject to valid ex-  
3 isting rights.

4 **SEC. 605. SEVERABILITY.**

5           If any provision of this Act or the application thereof  
6 is held invalid, the remainder of the Act, or any other ap-  
7 plication thereof, shall not be affected thereby.

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