

TRAIL RESPONSIBILITY AND ACCOUNTABILITY FOR THE
IMPROVEMENT OF LANDS ACT (OR TRAIL ACT)

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JUNE 14, 2005.—Ordered to be printed
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Mr. POMBO, from the Committee on Resources,
submitted the following

R E P O R T

[To accompany H.R. 975]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 975) to provide consistent enforcement authority to the Bureau of Land Management, the National Park Service, the United States Fish and Wildlife Service, and the Forest Service to respond to violations of regulations regarding the management, use, and protection of public lands under the jurisdiction of these agencies, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 975 is to provide consistent enforcement authority to the Bureau of Land Management, the National Park Service, the United States Fish and Wildlife Service, and the Forest Service to respond to violations of regulations regarding the management, use, and protection of public lands under the jurisdiction of these agencies and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

Each of the four federal land management agencies have different penalties for violations carried out on public lands. For example, typically a violation on Bureau of Land Management land would result in a tougher penalty than a violation on Forest Service land. This legislation would provide consistent laws for the violation of provisions under the four land management agencies' organic acts or any regulation issued under those acts. Because in

general the public does not distinguish between different land management agencies, the consistency in these laws will aid in clearing up confusion with the public while also serving as a deterrent.

More specifically, H.R. 975 would create two general classes of fines and penalties (which already exist under the criminal code at 18 U.S.C. 3571) for those who are guilty of such crimes on federal lands. The two classes are as follows:

Class B Misdemeanor—Any individual found guilty of violating regulations will be subject to a fine of not more than \$5,000 and/or imprisonment of up to six months. Any group found guilty of violating regulations will be subject to a fine of not more than \$10,000 and/or imprisonment of up to six months.

Class A Misdemeanor—Any individual found guilty of “knowingly and willfully” violating governing regulations will be subject to a fine of not more than \$100,000 and/or imprisonment of up to one year. Any group found guilty of “knowingly and willfully” violating regulations will be subject to a fine of not more than \$200,000 and/or imprisonment of up to one year. A defendant charged with a Class A misdemeanor has the right to a jury trial.

Additionally, the bill states the Secretary of Agriculture may issue regulations to protect National Forest System lands from destruction, namely wildfire destruction, and that anyone who knowingly violates such regulations shall be guilty of a Class A misdemeanor. Any person who otherwise violates such a regulation shall be subject to a Class B misdemeanor. In both cases, the person violating such regulation may also be subject to paying the cost of the proceedings.

H.R. 975 also establishes a \$500 minimum fine for anyone, who as a result of reckless conduct, starts a fire in an area subject to a complete ban on open fires. This provision is in response to several human-caused fires, campfires or other, started while a fire ban was in effect and there was an extreme risk of wildfire. In one example, citizens called the local land management agency asking to pay the “fine” in advance to start a campfire. This is meant to serve as a stronger deterrent to starting a fire during a fire ban and therefore prevent some wildfires.

COMMITTEE ACTION

H.R. 975 was introduced on February 17, 2005, by Congressman Tom Tancredo (R-CO). The bill was referred primarily to the Committee on Resources and additionally to the Committee on Agriculture. Within the Resources Committee, the bill was referred to the Subcommittees on Forests and Forest Health, National Parks, and Fisheries and Oceans. On March 16, 2005, the Subcommittee on Forests and Forest Health held a hearing on the bill. On May 18, 2005, the Full Resources Committee met to consider the bill. The Subcommittees were discharged from further consideration of the bill by unanimous consent. No amendments were offered and the bill was ordered favorably reported to the House of Representatives by unanimous consent.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Re-

sources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in tax expenditures. According to the Congressional Budget Office, enactment of this bill could change the amount of revenue to the United States, but it is estimated that any such change would be less than \$500,000 annually.

3. General Performance Goals and Objectives. This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 975—Trail Responsibility and Accountability for the Improvement of Lands Act

H.R. 975 would amend existing laws that govern the protection of federal lands to provide land-management agencies with consistent enforcement authorities. Specifically, the bill would standardize penalty amounts, sentences, and other terms for certain misdemeanor violations established under regulation by the U.S. Forest Service, the Bureau of Land Management, the National Park Service, and the U.S. Fish and Wildlife Service.

CBO estimates that enacting H.R. 975 would have no significant net impact on the federal budget. Implementing the penalties established by the bill could change the amount of revenue collected from fines and penalties, but CBO expects that any net change would be less than \$500,000 annually.

H.R. 975 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Deborah Reis. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**SECTION 303 OF THE FEDERAL LAND POLICY AND
MANAGEMENT ACT OF 1976**

ENFORCEMENT AUTHORITY

SEC. 303. (a)(1) The Secretary shall issue regulations necessary to implement the provisions of this Act with respect to the management, use, and protection of the public lands, including the property located thereon. **[Any person who knowingly and willfully violates any such regulation which is lawfully issued pursuant to this Act shall be fined no more than \$1,000 or imprisoned no more than twelve months, or both.]** Any person charged with a violation of such regulation may be tried and sentenced by any United States magistrate designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions and limitations as provided for in section 3401 of title 18 of the United States Code.

(2) Any person who knowingly violates or fails to comply with any of the provisions of this Act or any regulation issued under this Act shall be guilty of a Class A misdemeanor, subject to fine as provided in section 3571 of title 18, United States Code, or imprisonment as provided in section 3581 of that title, or both.

(3) Any person who otherwise violates or fails to comply with any of the provisions of this Act or any regulation issued under this Act shall be guilty of a Class B misdemeanor, subject to fine or imprisonment, or both, as provided in such sections. A person who violates any such provision or regulation may also be adjudged to pay all costs of the proceedings.

(4) In the case of a regulation issued under this section regarding the use of fire by individuals on the public lands, if the violation of the regulation was the result of reckless conduct, occurred in an area subject to a complete ban on open fires, and resulted in damage to public or private property, the fine may not be less than \$500.

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SECTION 3 OF THE NATIONAL PARK SERVICE ORGANIC ACT

(Act of August 25, 1916)

SEC. 3. [That the Secretary] *(a) REGULATIONS FOR USE AND MANAGEMENT OF NATIONAL PARK SYSTEM; ENFORCEMENT.*—(1) *The Secretary of the Interior shall make and publish such rules and regulations as he may deem necessary or proper for the use and management of the parks, monuments, and reservations under the jurisdiction of the National Park [Service, and any violation of any of the rules and regulations authorized by this Act shall be punished by a fine of not more than \$500 or imprisonment for not exceeding six months, or both, and be adjudged to pay all cost of the proceedings.] Service.*

(2) Any person who knowingly violates or fails to comply with any rule or regulation issued under this section shall be guilty of a Class A misdemeanor, subject to fine as provided in section 3571 of title 18, United States Code, or imprisonment as provided in section 3581 of that title, or both.

(3) Any person who otherwise violates or fails to comply with any rule or regulation issued under this section shall be guilty of a Class B misdemeanor, subject to fine or imprisonment, or both, as provided in such sections. A person who violates any such rule or regulation may also be adjudged to pay all costs of the proceedings.

(4) In the case of a rule or regulation issued under this subsection regarding the use of fire by individuals on such lands, if the violation of the rule or regulation was the result of reckless conduct, occurred in an area subject to a complete ban on open fires, and resulted in damage to public or private property, the fine may not be less than \$500.

[He may also] *(b) SPECIAL MANAGEMENT AUTHORITIES.*—*The Secretary of the Interior may, upon terms and conditions to be fixed by him, sell or dispose of timber in those cases where in his judgment the cutting of such timber is required in order to control the attacks of insects or diseases or otherwise conserve the scenery or the natural or historic objects in any such park, monument, or reservation. [He may also] The Secretary may provide in his discretion for the destruction of such animals and of such plant life as may be detrimental to the use of any of said parks, monuments, or reservations.*

[No natural,] *(c) LEASE AND PERMIT AUTHORITIES.*—*No natural curiosities, wonders, or objects of interest shall be leased, rented, or granted to anyone on such terms as to interfere with free access to them by the public: Provided, however, That the Secretary of the Interior may, under such rules and regulations and on such terms as he may prescribe, grant the privilege to graze live stock within any national park, monument, or reservation herein referred to when in his judgment such use is not detrimental to the primary purpose for which such park, monument, or reservation was created, except that this provision shall not apply to the Yellowstone National Park: And provided further, That the Secretary of the Interior may grant said privileges, leases, and permits and enter into contracts relating to the same with responsible persons, firms, or corporations without advertising and without securing competitive bids: And provided further, That no contract, lease, permit, or*

privilege granted shall be assigned or transferred by such grantees, permittees, or licensees, without the approval of the Secretary of the Interior first obtained in writing.

**SECTION 4 OF THE NATIONAL WILDLIFE REFUGE
SYSTEM ADMINISTRATION ACT OF 1966**

SEC. 4. (a) * * *

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(f) PENALTIES.—

(1) **KNOWING VIOLATIONS.**—Any person who knowingly violates or fails to comply with any of the provisions of this Act or any regulations issued thereunder shall be [fined under title 18, United States Code, or imprisoned for not more than 1 year, or both.] *guilty of a Class A misdemeanor, subject to fine as provided in section 3571 of title 18, United States Code, or imprisonment as provided in section 3581 of that title, or both. A person who violates any such provision or regulation may also be adjudged to pay all costs of the proceedings.*

(2) **OTHER VIOLATIONS.**—Any person who otherwise violates or fails to comply with any of the provisions of this Act (including a regulation issued under this Act) shall be [fined under title 18, United States Code, or imprisoned not more than 180 days, or both.] *guilty of a Class B misdemeanor, subject to fine as provided in section 3571 of title 18, United States Code, or imprisonment as provided in section 3581 of that title, or both. A person who violates any such provision or regulation may also be adjudged to pay all costs of the proceedings.*

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ACT OF JUNE 4, 1897

CHAP. 2.—AN ACT making appropriations for sundry civil expenses of the Government of the fiscal year ending June thirtieth, eighteen hundred and ninety-eight, and for other purposes.

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UNDER THE DEPARTMENT OF THE INTERIOR.

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SURVEYING THE PUBLIC LANDS.

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[The Secretary of the Interior shall make provisions for the protection against destruction by fire and depredations upon the public forests and forest reservations which may have been set aside or which may be hereafter set aside under the said Act of March third, eighteen hundred and ninety-one, and which may be continued; and he may make such rules and regulations and establish such service as will insure the objects of such reservations, namely, to regulate their occupancy and use and to preserve the forests thereon from destruction; and any violation of the provisions of this Act or such rules and regulations shall be punished by a fine of not more than \$500 or imprisonment for not more than six months, or

both. Any person charged with the violation of such rules and regulations may be tried and sentenced by any United States commissioner specially designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided for in title 18, United States Code, section 3401, subsections (b), (c), (d), and (e), as amended.】

SEC. 551. PROTECTION OF NATIONAL FOREST SYSTEM LANDS; REGULATIONS.

(a) *REGULATIONS FOR USE AND PROTECTION OF NATIONAL FOREST SYSTEM.*—The Secretary of Agriculture shall make provisions for the protection of the National Forest System (as defined in section 11 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609)) against destruction by fire and depletions. The Secretary may issue such regulations and establish such service as will insure the objects of the National Forest System, namely, to regulate their occupancy and use and to protect National Forest System lands from destruction.

(b) *VIOLATIONS; PENALTIES.*—(1) Any person who knowingly violates any regulation issued under subsection (a) shall be guilty of a Class A misdemeanor and shall be subject to a fine as provided in section 3571 of title 18, United States Code, or imprisonment as provided in section 3581 of that title, or both.

(2) Any person who otherwise violates any regulation issued under subsection (a) shall be guilty of a Class B misdemeanor and shall be subject to a fine as provided in section 3571 of title 18, United States Code, or imprisonment as provided in section 3581 of that title, or both.

(3) A person who violates any regulation issued under subsection (a) may also be adjudged to pay all costs of the proceedings.

(3) In the case of a regulation issued under subsection (a) regarding the use of fire by individuals on National Forest System lands, if the violation of the regulation was the result of reckless conduct, occurred in an area subject to a complete ban on open fires, and resulted in damage to public or private property, the fine may not be less than \$500.

(c) *PROCEDURE.*—Any person charged with the violation of a regulation issued under subsection (a) may be tried and sentenced by any United States magistrate judge specially designated for that purpose by the court by which the magistrate judge was appointed, in the same manner and subject to the same conditions as provided for in subsections (b) through (e) of section 3401 of title 18, United States Code.

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COMMITTEE CORRESPONDENCE

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, June 9, 2005.

Hon. BOB GOODLATTE,
*Chairman, Committee on Agriculture,
Longworth House Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: I ask your cooperation to help schedule early consideration by the House of Representatives of H.R. 975, the Trail Responsibility and Accountability for the Improvement of Lands Act. H.R. 975 was referred primarily to the Committee on Resources and additionally to your Committee. It is very similar to legislation which was passed by the House of Representatives in the 108th Congress. The Committee on Resources ordered the bill favorably reported by unanimous consent on May 18, 2005, and I have transmitted a copy of the draft bill report to your staff for review.

In hopes of giving the Senate more time to act on the measure, I ask that you allow the Committee on Agriculture to be discharged from further consideration of this bill to expedite Floor scheduling. Of course, this action would not be considered as precedent for any future referrals of similar measures. Moreover, if the bill is conferenced with the Senate, I would support naming Agriculture Committee members to the conference committee. I would also be pleased to include this letter and your response in the report on the bill.

Mr. Chairman, I have been very pleased with the tremendous degree of cooperation between our two Committees these past two Congresses on the many bills which affect our national forests. Your staff has been responsive and thoughtful, and my staff very much appreciates their support and teamwork. I hope you will give my request serious consideration and I look forward to your response.

Sincerely,

RICHARD W. POMBO,
Chairman.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, DC, June 10, 2005.

Hon. RICHARD W. POMBO,
*Chairman, Committee on Resources,
Longworth House Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for forwarding a draft copy of the Committee on Resources reports to accompany H.R. 599 and H.R. 975, as ordered reported by your Committee on May 18, 2005. As you are aware, the Committee on Agriculture was granted an additional referral of these pieces of legislation on those provisions that fall within the jurisdiction of this Committee.

Knowing of your interest in expediting both pieces of legislation and in maintaining the continued consultation between our Committees on these matters, I agree to discharge both H.R. 599 and

H.R. 975 from further consideration by the Committee on Agriculture. I do so with the understanding that by discharging the bill, the Committee on Agriculture does not waive any future jurisdictional claim over these or similar measures. In addition, in the event a conference with the Senate is requested on this matter, the Committee on Agriculture reserves the right to seek appointment of conferees, if it should become necessary.

Once again, I am grateful for the cooperative spirit in which you have worked regarding this matter and others between our respective committees.

Sincerely,

BOB GOODLATTE,
Chairman.

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