IN THE HOUSE OF REPRESENTATIVES

Mr. Gosar introduced the following bill; which was referred to the Committee on _______________________

A BILL

To [to be provided, and for other purposes.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Improving Species Health Through Active Management Act of 2019”.

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CATEGORICAL EXCLUSIONS

Sec. 101. Forest plans not considered major federal actions.
Sec. 102. Consultation under the Endangered Species Act.
Sec. 103. Categorical exclusion to expedite certain critical response actions.
Sec. 104. Categorical exclusion to expedite salvage operations in response to catastrophic events.
Sec. 105. Categorical exclusion to meet forest plan goals for early successional forests.
Sec. 106. Categorical exclusion for hazard trees.
Sec. 107. Categorical exclusion to improve or restore National Forest System lands or public land or reduce the risk of wildfire.
Sec. 108. Categorical exclusion for forest restoration.
Sec. 109. Categorical exclusion for infrastructure forest management activities.
Sec. 110. Categorical exclusion for developed recreation sites.
Sec. 111. Categorical exclusion for administrative sites.
Sec. 112. Categorical exclusion for special use authorizations.
Sec. 113. Clarification of existing categorical exclusion authority related to insect and disease infestation.
Sec. 114. Definitions.

TITLE II—ADDITIONAL PROVISIONS

Sec. 201. Exemption of certain wildfire mitigation activities from certain environmental requirements.
Sec. 202. Analysis of only two alternatives (action versus no action) in proposed collaborative forest management activities.
Sec. 203. Injunctive relief [This section conflicts with section 206, which states this Act is not subject to judicial review].
Sec. 204. [Forest management activities].
Sec. 205. Presence of listed species or critical habitat.
Sec. 206. Timber sales.
Sec. 207. Judicial review.
Sec. 208. Definitions.

TITLE I—CATEGORICAL EXCLUSIONS

SEC. 101. FOREST PLANS NOT CONSIDERED MAJOR FEDERAL ACTIONS.

The development, maintenance, amendment, and revision of a forest plan shall not be considered a major Federal action for purposes of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).
SEC. 102. CONSULTATION UNDER THE ENDANGERED SPECIES ACT.

(a) No Consultation if Action Not Likely to Adversely Affect a Listed Species or Designated Critical Habitat.—With respect to a forest management activity carried out pursuant to this title, consultation under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) shall not be required if the Secretary concerned determines that such forest management activity is not likely to adversely affect a listed species or designated critical habitat.

(b) Expedited Consultation.—With respect to a forest management activity carried out pursuant to this title, consultation required under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) shall be concluded within the 90-day period beginning on the date on which such consultation was requested by the Secretary concerned.

SEC. 103. CATEGORICAL EXCLUSION TO EXPEDITE CERTAIN CRITICAL RESPONSE ACTIONS.

(a) Categorical Exclusion Established.—Forest management activities described in subsection (b) are a category of actions hereby designated as being categorically excluded from the preparation of an environmental assessment or an environmental impact statement under

[Discussion Draft]

(b) Forest Management Activities Designated for Categorical Exclusion.—The category of forest management activities designated under this section for a categorical exclusion are forest management activities carried out by the Secretary concerned on National Forest System lands or public lands where the primary purpose of such activity is—

(1) to address an insect or disease infestation;

(2) to reduce hazardous fuel loads;

(3) to protect a municipal water source;

(4) to maintain, enhance, or modify critical habitat to protect it from catastrophic disturbances;

(5) to increase water yield; or

(6) any combination of the purposes specified in paragraphs (1) through (5).

(c) Availability of Categorical Exclusion.—On and after the date of the enactment of this Act, the Secretary concerned may use the categorical exclusion established under subsection (a) in accordance with this section.

(d) Acreage Limitations.—A forest management activity covered by the categorical exclusion established
under subsection (a) may not contain treatment units exceeding a total of 6,000 acres.

SEC. 104. CATEGORICAL EXCLUSION TO EXPEDITE SALVAGE OPERATIONS IN RESPONSE TO CATASTROPHIC EVENTS.

(a) CATEGORICAL EXCLUSION ESTABLISHED.—Salvage operations carried out by the Secretary concerned on National Forest System lands or public lands are a category of actions hereby designated as being categorically excluded from the preparation of an environmental assessment or an environmental impact statement under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

(b) AVAILABILITY OF CATEGORICAL EXCLUSION.—On and after the date of the enactment of this Act, the Secretary concerned may use the categorical exclusion established under subsection (a) in accordance with this section.

(c) ACREAGE LIMITATION.—A salvage operation covered by the categorical exclusion established under subsection (a) may not contain treatment units exceeding a total of 6,000 acres.

(d) ADDITIONAL REQUIREMENTS.—

(1) STREAM BUFFERS.—A salvage operation covered by the categorical exclusion established
under subsection (a) shall comply with the standards and guidelines for stream buffers contained in the applicable forest plan, except that the Regional For-ester, in the case of National Forest System lands, or the State Director of the Bureau of Land Man-agement, in the case of public lands, may, on a case-by-case basis, waive the standards and guidelines.

(2) Reforestation Plan.—A reforestation plan shall be developed under section 3 of the Act of June 9, 1930 (commonly known as the Knutson-Vandenberg Act; (16 U.S.C. 576b)), as part of a sal-
vage operation covered by the categorical exclusion established under subsection (a).

SEC. 105. CATEGORICAL EXCLUSION TO MEET FOREST PLAN GOALS FOR EARLY SUCCESSIONAL FORESTS.

(a) Categorical Exclusion Established.—For-
est management activities described in subsection (b) are a category of actions hereby designated as being categori-
cally excluded from the preparation of an environmental assessment or an environmental impact statement under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

(b) Forest Management Activities Designated for Categorical Exclusion.—The category of forest
management activities designated under this section for
a categorical exclusion are forest management activities
carried out by the Secretary concerned on National Forest
System lands or public lands where the primary purpose
of such activity is to improve, enhance, or create early suc-
cessional forests for wildlife habitat improvement and
other purposes, consistent with the applicable forest plan.

(c) Availability of Categorical Exclusion.—
On and after the date of the enactment of this Act, the
Secretary concerned may use the categorical exclusion es-
tablished under subsection (a) in accordance with this sec-
tion.

(d) Project Goals.—To the maximum extent prac-
ticable, the Secretary concerned shall design a forest man-
agement activity under this section to meet early succes-
sional forest goals in such a manner so as to maximize
production and regeneration of priority species, as identi-
fied in the forest plan and consistent with the capability
of the activity site.

(e) Acreage Limitations.—A forest management
activity covered by the categorical exclusion established
under subsection (a) may not contain treatment units ex-
ceeding a total of 6,000 acres.
SEC. 106. CATEGORICAL EXCLUSION FOR HAZARD TREES.

(a) Categorical Exclusion Established.—Forest management activities carried out by the Secretary concerned to remove hazard trees for purposes of the protection of public health or safety, water supply, or public infrastructure are a category of actions hereby designated as being categorically excluded from the preparation of an environmental assessment or an environmental impact statement under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

(b) Availability of Categorical Exclusion.—On and after the date of the enactment of this Act, the Secretary concerned may use the categorical exclusion established under subsection (a) in accordance with this section.

SEC. 107. CATEGORICAL EXCLUSION TO IMPROVE OR RESTORE NATIONAL FOREST SYSTEM LANDS OR PUBLIC LAND OR REDUCE THE RISK OF WILDFIRE.

(a) Categorical Exclusion Established.—Forest management activities described in subsection (b) are a category of actions hereby designated as being categorically excluded from the preparation of an environmental assessment or an environmental impact statement under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).
(b) FOREST MANAGEMENT ACTIVITIES DESIGNATED FOR CATEGORICAL EXCLUSION.—

(1) DESIGNATION.—The category of forest management activities designated under this section for a categorical exclusion are forest management activities described in paragraph (2) that are carried out by the Secretary concerned on National Forest System lands or public lands where the primary purpose of such activity is to improve or restore such lands or reduce the risk of wildfire on those lands.

(2) ACTIVITIES AUTHORIZED.—The following forest management activities may be carried out pursuant to the categorical exclusion established under subsection (a):

(A) Removal of juniper trees, medusahead rye, conifer trees, piñon pine trees, cheatgrass, and other noxious or invasive weeds specified on Federal or State noxious weeds lists through late-season livestock grazing, targeted livestock grazing, prescribed burns, and mechanical treatments.

(B) Performance of hazardous fuels management.

(C) Creation of fuel and fire breaks.
(D) Modification of existing fences in order to distribute livestock and help improve wildlife habitat.

(E) Stream restoration and erosion control, including the installation of erosion control devices.

(F) Construction of new and maintenance of permanent infrastructure, including stock ponds, water catchments, and water spring boxes used to benefit livestock and improve wildlife habitat.

(G) Performance of soil treatments, native and non-native seeding, and planting of and transplanting sagebrush, grass, forb, shrub, and other species.

(H) Use of herbicides, so long as the Secretary concerned determines that the activity is otherwise conducted consistently with agency procedures, including any forest plan applicable to the area covered by the activity.

(c) AVAILABILITY OF CATEGORICAL EXCLUSION.—On and after the date of the enactment of this Act, the Secretary concerned may use the categorical exclusion established under subsection (a) in accordance with this section.
(d) ACREAGE LIMITATIONS.—A forest management activity covered by the categorical exclusion established under subsection (a) may not contain treatment units exceeding a total of 6,000 acres.

SEC. 108. CATEGORICAL EXCLUSION FOR FOREST RESTORATION.

(a) CATEGORICAL EXCLUSION ESTABLISHED.—Forest management activities described in subsection (b) are a category of actions hereby designated as being categorically excluded from the preparation of an environmental assessment or an environmental impact statement under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

(b) FOREST MANAGEMENT ACTIVITIES DESIGNATED FOR CATEGORICAL EXCLUSION.—

(1) DESIGNATION.—The category of forest management activities designated under this section for categorical exclusion are forest management activities described in paragraph (2) that are carried out by the Secretary concerned on National Forest System lands or public lands where the primary purpose of such activity is—

(A) to improve forest health and resiliency to disturbances;

(B) to reduce hazardous fuels; or
(C) to improve wildlife and aquatic habitat.

(2) Activities Authorized.—The following forest management activities may be carried out pursuant the categorical exclusion established under subsection (a):

(A) Timber harvests, including commercial and pre-commercial timber harvest, salvage harvest, and regeneration harvest.

(B) Hazardous fuels reduction.

(C) Prescribed burning.

(D) Improvement or establishment of wildlife and aquatic habitat.

(E) Stream restoration and erosion control.

(F) Road and trail decommissioning.

(e) Availability of Categorical Exclusion.—On and after the date of the enactment of this Act, the Secretary concerned may use the categorical exclusion established under subsection (a) in accordance with this section.

(d) Acreage Limitations.—A forest management activity covered by the categorical exclusion established under subsection (a) may not contain treatment units exceeding a total of 6,000 acres.

(e) Limitations on Road Building.—
(1) **PERMANENT ROADS.**—A forest management activity covered by the categorical exclusion established by subsection (a) may include—

(A) the construction of permanent roads not to exceed 3 miles; and

(B) the maintenance and reconstruction of existing permanent roads and trails, including the relocation of segments of existing roads and trails to address resource impacts.

(2) **TEMPORARY ROADS.**—Any temporary road constructed for a forest management activity covered by the categorical exclusion established by subsection (a) shall be decommissioned not later than 3 years after the date on which the project is completed.

**SEC. 109. CATEGORICAL EXCLUSION FOR INFRASTRUCTURE FOREST MANAGEMENT ACTIVITIES.**

(a) **Categorical Exclusion Established.**—Forest management activities described in subsection (b) are a category of actions hereby designated as being categorically excluded from the preparation of an environmental assessment or an environmental impact statement under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

(b) **Forest Management Activities Designated for Categorical Exclusion.**—The category of forest
management activities designated under this section for
categorical exclusion are forest management activities car-
ried out by the Secretary of Agriculture on National For-
est System lands where the primary purpose of such activ-
ity is—

(1) constructing, reconstructing, or decommis-
sioning National Forest System roads not exceeding
3 miles;

(2) adding an existing road to the forest trans-
portation system;

(3) reclassifying a National Forest System road
at a different maintenance level;

(4) reconstructing, rehabilitating, or decommis-
sioning bridges;

(5) removing dams; or

(6) maintaining facilities through the use of
pesticides as authorized by applicable Federal and
State law and as applied in accordance with label in-
structions.

c) Availability of Categorical Exclusion.—

On and after the date of the enactment of this Act, the
Secretary of Agriculture may use the categorical exclusion
established under subsection (a) in accordance with this
section.
SEC. 110. CATEGORICAL EXCLUSION FOR DEVELOPED RECREATION SITES.

(a) CATEGORICAL EXCLUSION ESTABLISHED.—Forest management activities described in subsection (b) are a category of actions hereby designated as being categorically excluded from the preparation of an environmental assessment or an environmental impact statement under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

(b) FOREST MANAGEMENT ACTIVITIES DESIGNATED FOR CATEGORICAL EXCLUSION.—

(1) DESIGNATION.—The category of forest management activities designated under this section for a categorical exclusion are forest management activities described in paragraph (2) carried out by the Secretary of Agriculture on National Forest System lands where the primary purpose of such activity is to operate, maintain, modify, reconstruct, or decommission existing developed recreation sites.

(2) ACTIVITIES AUTHORIZED.—The following forest management activities may be carried out pursuant to the categorical exclusion under subsection (a):

(A) Constructing, modifying, or reconstructing toilet or shower facilities.
(B) Constructing, modifying, or reconstructing fishing piers, wildlife viewing platforms, docks, or other constructed recreation sites or facilities.

(C) Constructing, reconstructing, or maintaining, parking areas, National Forest System roads, or National Forest System trails within or connecting to recreation sites, including paving and road and trail rerouting, except that—

(i) permanent roads constructed under this section may not exceed 3 miles; and

(ii) temporary roads constructed for projects covered by this section shall be decommissioned within 3 years of completion of the project.

(D) Modifying or reconstructing existing water or waste disposal systems.

(E) Constructing, modifying, or reconstructing single or group use sites.

(F) Decommissioning recreation facilities or portions of recreation facilities.

(G) Decommissioning National Forest System roads or National Forest System trails not
exceeding 3 miles within or connecting to developed recreation sites.

(H) Constructing, modifying, or reconstructing boat landings.

(I) Reconstructing existing ski lifts.

(K) Modifying or reconstructing a recreation lodging rental.

(c) **Availability of Categorical Exclusion.**—On and after the date of the enactment of this Act, the Secretary of Agriculture may use the categorical exclusion established under subsection (a) in accordance with this section.

**SEC. 111. CATEGORICAL EXCLUSION FOR ADMINISTRATIVE SITES.**

(a) **Categorical Exclusion Established.**—Forest management activities described in subsection (b) are a category of actions hereby designated as being categorically excluded from the preparation of an environmental assessment or an environmental impact statement under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

(b) **Forest Management Activities Designated for Categorical Exclusion.**—The category of forest management activities designated under this section for a categorical exclusion are forest management activities
carried out by the Secretary of Agriculture on National Forest System lands where the primary purpose of such activity is to construct, reconstruct, maintain, decommission, relocate, or dispose of an administrative site.

(c) **Availability of Categorical Exclusion.**—On and after the date of the enactment of this Act, the Secretary of Agriculture may use the categorical exclusion established under subsection (a) in accordance with this section.

(d) **Limitations.**—

(1) **Permanent Roads.**—A project covered by the categorical exclusion established by subsection (a) may include—

(A) the construction of permanent roads not to exceed 3 miles; and

(B) the maintenance and reconstruction of existing permanent roads and trails, including the relocation of segments of existing roads and trails to address resource impacts.

(2) **Temporary Roads.**—Any temporary road constructed for a project covered by the categorical exclusion established by subsection (a) shall be decommissioned not later than 3 years after the date on which the project is completed.
(3) PESTICIDES.—Pesticides may only be used to carry out a project covered by the categorical exclusion established by subsection (a) as authorized by applicable Federal and State law and as applied in accordance with label instructions.

SEC. 112. CATEGORICAL EXCLUSION FOR SPECIAL USE AUTHORIZATIONS.

(a) CATEGORICAL EXCLUSION ESTABLISHED.—Forest management activities described in subsection (b) are a category of actions hereby designated as being categorically excluded from the preparation of an environmental assessment or an environmental impact statement under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

(b) FOREST MANAGEMENT ACTIVITIES DESIGNATED FOR CATEGORICAL EXCLUSION.—The category of forest management activities designated under this section for a categorical exclusion are forest management activities carried out by the Secretary of Agriculture on National Forest System lands where the primary purpose of such activity is:

(1) Issuance of a new special use authorization for an existing or expired special use authorization, without any substantial change in the scope and scale of the authorized use and occupancy when—
(A) the issuance is a purely ministerial action to account for administrative changes, such as a change in ownership or expiration of the current authorization; and

(B) the applicant or holder is in compliance with the terms and conditions of the existing or expired special use authorization.

(2) Modification, removal, repair, maintenance, reconstruction, or replacement of a facility or improvement for an existing special use authorization.

(3) Issuance of a new special use authorization or amendment to an existing special use authorization for activities that will occur on existing roads, trails, facilities, or areas approved for use in a land management plan or other documented decision.

(4) Approval, modification, or continuation of minor, short-term (5 years or less) special uses of National Forest System lands or public lands.

(5) Issuance of a special use authorization for an existing unauthorized use or occupancy that has not been deemed in trespass where no new ground disturbance is proposed.

(6) Approval or modification of minor special uses of National Forest System lands or public lands that require less than 20 contiguous acres.
(7) Approval of vegetative management plans, and vegetation management activities in accordance with an approved vegetation management plan, under a special use authorization for an electric transmission and distribution facility right-of-way.

(c) Availability of Exclusion.—On and after the date of the enactment of this Act, the Secretary of Agriculture may use the categorical exclusion established under subsection (a) in accordance with this section.

(d) Document Requirements.—The Secretary of Agriculture shall not be required to prepare a project file or decision memorandum to categorically exclude a forest management activity described under paragraphs (1) through (4) of subsection (b).

SEC. 113. CLARIFICATION OF EXISTING CATEGORICAL EXCLUSION AUTHORITY RELATED TO INSECT AND DISEASE INFESTATION.


SEC. 114. DEFINITIONS.

In this title:
(1) **Administrative Site.**—The term “administrative site” has the meaning given the term in section 502(1) of the Forest Service Facility Re-alignment and Enhancement Act of 2005 (16 U.S.C. 580d note).

(2) **Hazardous Fuels Management.**—The term “hazardous fuels management” means any vegetation management activities that reduce the risk of wildfire.

(3) **Late-Season Grazing.**—The term “late-season grazing” means grazing activities that occur after both the invasive species and native perennial species have completed their current-year annual growth cycle until new plant growth begins to appear in the following year.

(4) **Targeted Livestock Grazing.**—The term “targeted livestock grazing” means grazing used for purposes of hazardous fuels management.

**TITLE II—ADDITIONAL PROVISIONS**

**SEC. 201. EXEMPTION OF CERTAIN WILDFIRE MITIGATION ACTIVITIES FROM CERTAIN ENVIRONMENTAL REQUIREMENTS.**

(a) **In General.**—Wildfire mitigation activities of the Secretary of the Interior and Secretary of Agriculture
may be carried out without regard to the provisions of law specified in subsection (b).

(b) PROVISIONS OF LAW SPECIFIED.—The provisions of law specified in this section are all Federal, State, or other laws, regulations, and legal requirements of, deriving from, or related to the subject of, the following laws:

(1) Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).


SEC. 202. ANALYSIS OF ONLY TWO ALTERNATIVES (ACTION VERSUS NO ACTION) IN PROPOSED COLLABORATIVE FOREST MANAGEMENT ACTIVITIES.

(a) APPLICATION TO CERTAIN ENVIRONMENTAL ASSESSMENTS AND ENVIRONMENTAL IMPACT STATEMENTS.—This section shall apply whenever the Secretary concerned prepares an environmental assessment or an environmental impact statement pursuant to section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) for a forest management activity that—

(1) is developed through a collaborative process;

(2) is proposed by a resource advisory committee;

(3) will occur on lands identified by the Secretary concerned as suitable for timber production;
(4) will occur on lands designated by the Secretary (or designee thereof) pursuant to section 602(b) of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6591a(b)), notwithstanding whether such forest management activity is initiated prior to September 30, 2018; or

(5) is covered by a community wildfire protection plan.

(b) CONSIDERATION OF ALTERNATIVES.—In an environmental assessment or environmental impact statement described in subsection (a), the Secretary concerned shall study, develop, and describe only the following two alternatives:

(1) The forest management activity.

(2) The alternative of no action.

(c) ELEMENTS OF NO ACTION ALTERNATIVE.—In the case of the alternative of no action, the Secretary concerned shall consider whether to evaluate—

(1) the effect of no action on—

(A) forest health;

(B) habitat diversity;

(C) wildfire potential;

(D) insect and disease potential; and

(E) timber production; and
(2) the implications of a resulting decline in forest health, loss of habitat diversity, wildfire, or insect or disease infestation, given fire and insect and disease historic cycles, on—

(A) domestic water supply in the project area;

(B) wildlife habitat loss; and

(C) other economic and social factors.

SEC. 203. INJUNCTIVE RELIEF [THIS SECTION CONFLICTS WITH SECTION 206, WHICH STATES THIS ACT IS NOT SUBJECT TO JUDICIAL REVIEW].

(a) Balancing Short- and Long-Term Effects of Forest Management Activities in Considering Injunctive Relief.—As part of its weighing the equities while considering any request for an injunction that applies to any agency action as part of a forest management activity the court reviewing the agency action shall balance the impact to the ecosystem likely affected by the forest management activity of—

(1) the short- and long-term effects of undertaking the agency action; against

(2) the short- and long-term effects of not undertaking the action.

(b) Time Limitations for Injunctive Relief.—
(1) IN GENERAL.—Subject to paragraph (2) the length of any preliminary injunctive relief and stays pending appeal that applies to any agency action as part of a forest management activity, shall not exceed 60 days.

(2) RENEWAL.—

(A) IN GENERAL.—A court of competent jurisdiction may issue one or more renewals of any preliminary injunction, or stay pending appeal, granted under paragraph (1).

(B) UPDATES.—In each renewal of an injunction in an action, the parties to the action shall present the court with updated information on the status of the authorized forest management activity.

SEC. 204. [FOREST MANAGEMENT ACTIVITIES].

(a) COORDINATION.—

(1) IN GENERAL.—In conducting forest management activities, the Secretary shall, as appropriate, coordinate with the Administrator and State and local agencies and organizations, including local fire departments and volunteer groups.

(2) GOALS.—The coordination of activities under subparagraph (A) should aim to increase effi-
ciencies and maximize the compatibility of management practices across public property boundaries.

(b) MULTIPLE BENEFITS.—

(1) IN GENERAL.—In conducting forest management activities, the Secretary shall conduct the activities in a manner that, except as provided in subparagraph (B), attains multiple ecosystem benefits, including—

(A) reducing fossil fuels;

(B) maintaining biological diversity;

(C) improving wetland and water quality, including in Stream Environment Zones; and

(D) increasing resilience to changing water temperature and precipitation.

(2) EXCEPTION.—Notwithstanding subparagraph (A)(i), the attainment of multiple ecosystem benefits shall not be required if the Secretary determines that management for multiple ecosystem benefits would excessively increase the cost of a program in relation to the additional ecosystem benefits gained from the management activity.

(c) GROUND DISTURBANCE.—Consistent with applicable Federal law, the Secretary shall establish post-program ground condition criteria for ground disturbance caused by forest management activities.
(d) Availability of Categorical Exclusion for Certain Forest Management Projects.—A forest management activity conducted for the purpose of reducing forest fuels is categorically excluded from the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if the forest management activity—

(1) notwithstanding section 423 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2009 (division E of Public Law 111-8; 123 Stat. 748), does not exceed 10,000 acres, including not more than 3,000 acres of mechanical thinning; and/or

(2) is developed—

(A) in coordination with impacted parties, specifically including representatives of local governments, such as county supervisors or county commissioners;

(B) in consultation with other interested parties; and

(C) was there supposed to be a third clause?].
SEC. 205. PRESENCE OF LISTED SPECIES OR CRITICAL HABITAT.

[Notwithstanding any other provision of law,] the presence of a threatened or endangered species, or designated critical habitat, shall not preclude any of the authorities granted in this Act.

SEC. 206. TIMBER SALES.

(a) IN GENERAL.—Subsections (d) and (g) of section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a) shall not apply to this Act.

(b) APPROVAL OF SILVICULTURE PRESCRIPTIONS AND MARKING GUIDES.—The Secretary shall provide or approve all silviculture prescriptions and marking guides to be applied on National Forest System land described in any timber sale project conducted as a result of this Act.

SEC. 207. JUDICIAL REVIEW.

The authorities authorized by this Act are not subject to judicial review.

SEC. 208. DEFINITIONS.

(a) FOREST MANAGEMENT ACTIVITY.—In this title, the term “forest management activity” includes the following activities:

(1) Prescribed burning for ecosystem health and hazardous fuel reduction.

(2) Mechanical and minimum tool treatment.
(3) Stream environment zone restoration and other watershed and wildlife habitat enhancements.

(4) Nonnative invasive species management.

(5) Other practices consistent with Forest Service practices, as the Secretary determines to be appropriate.

(b) WILDFIRE MITIGATION ACTIVITY.—In this title, the term “wildfire mitigation activity”—

(1) is an activity conducted on Federal land that is—

(A) under the administration of the Director of the National Park System, the Director of the Bureau of Land Management, or the Chief of the Forest Service; and

(B) within 300 feet of any permanent or temporary road, as measured from the center of such road; and

(2) includes forest thinning, hazardous fuel reduction, prescribed burning, and vegetation management.