

[DISCUSSION DRAFT]

116TH CONGRESS
1ST SESSION

H. R. _____

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

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.]

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 “Improving Species Health Through Active Management
6 Act of 2019”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 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.

1 **TITLE I—CATEGORICAL**
 2 **EXCLUSIONS**
 3 **SEC. 101. FOREST PLANS NOT CONSIDERED MAJOR FED-**
 4 **ERAL ACTIONS.**

5 The development, maintenance, amendment, and re-
 6 vision of a forest plan shall not be considered a major Fed-
 7 eral action for purposes of section 102 of the National En-
 8 vironmental Policy Act of 1969 (42 U.S.C. 4332).

1 **SEC. 102. CONSULTATION UNDER THE ENDANGERED SPE-**
2 **CIES ACT.**

3 (a) NO CONSULTATION IF ACTION NOT LIKELY TO
4 ADVERSELY AFFECT A LISTED SPECIES OR DESIGNATED
5 CRITICAL HABITAT.—With respect to a forest manage-
6 ment activity carried out pursuant to this title, consulta-
7 tion under section 7 of the Endangered Species Act of
8 1973 (16 U.S.C. 1536) shall not be required if the Sec-
9 retary concerned determines that such forest management
10 activity is not likely to adversely affect a listed species or
11 designated critical habitat.

12 (b) EXPEDITED CONSULTATION.—With respect to a
13 forest management activity carried out pursuant to this
14 title, consultation required under section 7 of the Endan-
15 gered Species Act of 1973 (16 U.S.C. 1536) shall be con-
16 cluded within the 90-day period beginning on the date on
17 which such consultation was requested by the Secretary
18 concerned.

19 **SEC. 103. CATEGORICAL EXCLUSION TO EXPEDITE CER-**
20 **TAIN CRITICAL RESPONSE ACTIONS.**

21 (a) CATEGORICAL EXCLUSION ESTABLISHED.—For-
22 est management activities described in subsection (b) are
23 a category of actions hereby designated as being categori-
24 cally excluded from the preparation of an environmental
25 assessment or an environmental impact statement under

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

3 (b) FOREST MANAGEMENT ACTIVITIES DESIGNATED
4 FOR CATEGORICAL EXCLUSION.—The category of forest
5 management activities designated under this section for
6 a categorical exclusion are forest management activities
7 carried out by the Secretary concerned on National Forest
8 System lands or public lands where the primary purpose
9 of such activity is—

10 (1) to address an insect or disease infestation;

11 (2) to reduce hazardous fuel loads;

12 (3) to protect a municipal water source;

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

15 (5) to increase water yield; or

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

18 (c) AVAILABILITY OF CATEGORICAL EXCLUSION.—
19 On and after the date of the enactment of this Act, the
20 Secretary concerned may use the categorical exclusion es-
21 tablished under subsection (a) in accordance with this sec-
22 tion.

23 (d) ACREAGE LIMITATIONS.—A forest management
24 activity covered by the categorical exclusion established

1 under subsection (a) may not contain treatment units ex-
2 ceeding a total of 6,000 acres.

3 **SEC. 104. CATEGORICAL EXCLUSION TO EXPEDITE SAL-**
4 **VAGE OPERATIONS IN RESPONSE TO CATA-**
5 **STROPHIC EVENTS.**

6 (a) CATEGORICAL EXCLUSION ESTABLISHED.—Sal-
7 vage operations carried out by the Secretary concerned on
8 National Forest System lands or public lands are a cat-
9 egory of actions hereby designated as being categorically
10 excluded from the preparation of an environmental assess-
11 ment or an environmental impact statement under section
12 102 of the National Environmental Policy Act of 1969 (42
13 U.S.C. 4332).

14 (b) AVAILABILITY OF CATEGORICAL EXCLUSION.—
15 On and after the date of the enactment of this Act, the
16 Secretary concerned may use the categorical exclusion es-
17 tablished under subsection (a) in accordance with this sec-
18 tion.

19 (c) ACREAGE LIMITATION.—A salvage operation cov-
20 ered by the categorical exclusion established under sub-
21 section (a) may not contain treatment units exceeding a
22 total of 6,000 acres.

23 (d) ADDITIONAL REQUIREMENTS.—

24 (1) STREAM BUFFERS.—A salvage operation
25 covered by the categorical exclusion established

1 under subsection (a) shall comply with the standards
2 and guidelines for stream buffers contained in the
3 applicable forest plan, except that the Regional For-
4 ester, in the case of National Forest System lands,
5 or the State Director of the Bureau of Land Man-
6 agement, in the case of public lands, may, on a case-
7 by-case basis, waive the standards and guidelines.

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

14 **SEC. 105. CATEGORICAL EXCLUSION TO MEET FOREST**
15 **PLAN GOALS FOR EARLY SUCCESSIONAL**
16 **FORESTS.**

17 (a) CATEGORICAL EXCLUSION ESTABLISHED.—For-
18 est management activities described in subsection (b) are
19 a category of actions hereby designated as being categori-
20 cally excluded from the preparation of an environmental
21 assessment or an environmental impact statement under
22 section 102 of the National Environmental Policy Act of
23 1969 (42 U.S.C. 4332).

24 (b) FOREST MANAGEMENT ACTIVITIES DESIGNATED
25 FOR CATEGORICAL EXCLUSION.—The category of forest

1 management activities designated under this section for
2 a categorical exclusion are forest management activities
3 carried out by the Secretary concerned on National Forest
4 System lands or public lands where the primary purpose
5 of such activity is to improve, enhance, or create early suc-
6 cessional forests for wildlife habitat improvement and
7 other purposes, consistent with the applicable forest plan.

8 (c) AVAILABILITY OF CATEGORICAL EXCLUSION.—
9 On and after the date of the enactment of this Act, the
10 Secretary concerned may use the categorical exclusion es-
11 tablished under subsection (a) in accordance with this sec-
12 tion.

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

20 (e) ACREAGE LIMITATIONS.—A forest management
21 activity covered by the categorical exclusion established
22 under subsection (a) may not contain treatment units ex-
23 ceeding a total of 6,000 acres.

1 **SEC. 106. CATEGORICAL EXCLUSION FOR HAZARD TREES.**

2 (a) CATEGORICAL EXCLUSION ESTABLISHED.—For-
3 est management activities carried out by the Secretary
4 concerned to remove hazard trees for purposes of the pro-
5 tection of public health or safety, water supply, or public
6 infrastructure are a category of actions hereby designated
7 as being categorically excluded from the preparation of an
8 environmental assessment or an environmental impact
9 statement under section 102 of the National Environ-
10 mental Policy Act of 1969 (42 U.S.C. 4332).

11 (b) AVAILABILITY OF CATEGORICAL EXCLUSION.—

12 On and after the date of the enactment of this Act, the
13 Secretary concerned may use the categorical exclusion es-
14 tablished under subsection (a) in accordance with this sec-
15 tion.

16 **SEC. 107. CATEGORICAL EXCLUSION TO IMPROVE OR RE-**
17 **STORE NATIONAL FOREST SYSTEM LANDS OR**
18 **PUBLIC LAND OR REDUCE THE RISK OF**
19 **WILDFIRE.**

20 (a) CATEGORICAL EXCLUSION ESTABLISHED.—For-
21 est management activities described in subsection (b) are
22 a category of actions hereby designated as being categori-
23 cally excluded from the preparation of an environmental
24 assessment or an environmental impact statement under
25 section 102 of the National Environmental Policy Act of
26 1969 (42 U.S.C. 4332).

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

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

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

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

22 (B) Performance of hazardous fuels man-
23 agement.

24 (C) Creation of fuel and fire breaks.

1 (D) Modification of existing fences in order
2 to distribute livestock and help improve wildlife
3 habitat.

4 (E) Stream restoration and erosion con-
5 trol, including the installation of erosion control
6 devices.

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

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

16 (H) Use of herbicides, so long as the Sec-
17 retary concerned determines that the activity is
18 otherwise conducted consistently with agency
19 procedures, including any forest plan applicable
20 to the area covered by the activity.

21 (c) AVAILABILITY OF CATEGORICAL EXCLUSION.—
22 On and after the date of the enactment of this Act, the
23 Secretary concerned may use the categorical exclusion es-
24 tablished under subsection (a) in accordance with this sec-
25 tion.

1 (d) ACREAGE LIMITATIONS.—A forest management
2 activity covered by the categorical exclusion established
3 under subsection (a) may not contain treatment units ex-
4 ceeding a total of 6,000 acres.

5 **SEC. 108. CATEGORICAL EXCLUSION FOR FOREST RES-**
6 **TORATION.**

7 (a) CATEGORICAL EXCLUSION ESTABLISHED.—For-
8 est management activities described in subsection (b) are
9 a category of actions hereby designated as being categori-
10 cally excluded from the preparation of an environmental
11 assessment or an environmental impact statement under
12 section 102 of the National Environmental Policy Act of
13 1969 (42 U.S.C. 4332).

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

16 (1) DESIGNATION.—The category of forest
17 management activities designated under this section
18 for categorical exclusion are forest management ac-
19 tivities described in paragraph (2) that are carried
20 out by the Secretary concerned on National Forest
21 System lands or public lands where the primary pur-
22 pose of such activity is—

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

25 (B) to reduce hazardous fuels; or

1 (C) to improve wildlife and aquatic habitat.

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

6 (A) Timber harvests, including commercial
7 and pre-commercial timber harvest, salvage har-
8 vest, and regeneration harvest.

9 (B) Hazardous fuels reduction.

10 (C) Prescribed burning.

11 (D) Improvement or establishment of wild-
12 life and aquatic habitat.

13 (E) Stream restoration and erosion con-
14 trol.

15 (F) Road and trail decommissioning.

16 (c) AVAILABILITY OF CATEGORICAL EXCLUSION.—
17 On and after the date of the enactment of this Act, the
18 Secretary concerned may use the categorical exclusion es-
19 tablished under subsection (a) in accordance with this sec-
20 tion.

21 (d) ACREAGE LIMITATIONS.—A forest management
22 activity covered by the categorical exclusion established
23 under subsection (a) may not contain treatment units ex-
24 ceeding a total of 6,000 acres.

25 (e) LIMITATIONS ON ROAD BUILDING.—

1 (1) PERMANENT ROADS.—A forest management
2 activity covered by the categorical exclusion estab-
3 lished by subsection (a) may include—

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

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

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

15 **SEC. 109. CATEGORICAL EXCLUSION FOR INFRASTRUC-**
16 **TURE FOREST MANAGEMENT ACTIVITIES.**

17 (a) CATEGORICAL EXCLUSION ESTABLISHED.—For-
18 est management activities described in subsection (b) are
19 a category of actions hereby designated as being categori-
20 cally excluded from the preparation of an environmental
21 assessment or an environmental impact statement under
22 section 102 of the National Environmental Policy Act of
23 1969 (42 U.S.C. 4332).

24 (b) FOREST MANAGEMENT ACTIVITIES DESIGNATED
25 FOR CATEGORICAL EXCLUSION.—The category of forest

1 management activities designated under this section for
2 categorical exclusion are forest management activities car-
3 ried out by the Secretary of Agriculture on National For-
4 est System lands where the primary purpose of such activ-
5 ity is—

6 (1) constructing, reconstructing, or decommis-
7 sioning National Forest System roads not exceeding
8 3 miles;

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

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

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

15 (5) removing dams; or

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

20 (c) AVAILABILITY OF CATEGORICAL EXCLUSION.—

21 On and after the date of the enactment of this Act, the
22 Secretary of Agriculture may use the categorical exclusion
23 established under subsection (a) in accordance with this
24 section.

1 **SEC. 110. CATEGORICAL EXCLUSION FOR DEVELOPED**
2 **RECREATION SITES.**

3 (a) CATEGORICAL EXCLUSION ESTABLISHED.—For-
4 est management activities described in subsection (b) are
5 a category of actions hereby designated as being categori-
6 cally excluded from the preparation of an environmental
7 assessment or an environmental impact statement under
8 section 102 of the National Environmental Policy Act of
9 1969 (42 U.S.C. 4332).

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

12 (1) DESIGNATION.—The category of forest
13 management activities designated under this section
14 for a categorical exclusion are forest management
15 activities described in paragraph (2) carried out by
16 the Secretary of Agriculture on National Forest Sys-
17 tem lands where the primary purpose of such activ-
18 ity is to operate, maintain, modify, reconstruct, or
19 decommission existing developed recreation sites.

20 (2) ACTIVITIES AUTHORIZED.—The following
21 forest management activities may be carried out
22 pursuant to the categorical exclusion under sub-
23 section (a):

24 (A) Constructing, modifying, or recon-
25 structing toilet or shower facilities.

1 (B) Constructing, modifying, or recon-
2 structing fishing piers, wildlife viewing plat-
3 forms, docks, or other constructed recreation
4 sites or facilities.

5 (C) Constructing, reconstructing, or main-
6 taining, parking areas, National Forest System
7 roads, or National Forest System trails within
8 or connecting to recreation sites, including pav-
9 ing and road and trail rerouting, except that—

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

13 (ii) temporary roads constructed for
14 projects covered by this section shall be de-
15 commissioned within 3 years of completion
16 of the project.

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

19 (E) Constructing, modifying, or recon-
20 structing single or group use sites.

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

23 (G) Decommissioning National Forest Sys-
24 tem roads or National Forest System trails not

1 exceeding 3 miles within or connecting to devel-
2 oped recreation sites.

3 (H) Constructing, modifying, or recon-
4 structing boat landings.

5 (I) Reconstructing existing ski lifts.

6 (K) Modifying or reconstructing a recre-
7 ation lodging rental.

8 (c) AVAILABILITY OF CATEGORICAL EXCLUSION.—
9 On and after the date of the enactment of this Act, the
10 Secretary of Agriculture may use the categorical exclusion
11 established under subsection (a) in accordance with this
12 section.

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

15 (a) CATEGORICAL EXCLUSION ESTABLISHED.—For-
16 est management activities described in subsection (b) are
17 a category of actions hereby designated as being categori-
18 cally excluded from the preparation of an environmental
19 assessment or an environmental impact statement under
20 section 102 of the National Environmental Policy Act of
21 1969 (42 U.S.C. 4332).

22 (b) FOREST MANAGEMENT ACTIVITIES DESIGNATED
23 FOR CATEGORICAL EXCLUSION.—The category of forest
24 management activities designated under this section for
25 a categorical exclusion are forest management activities

1 carried out by the Secretary of Agriculture on National
2 Forest System lands where the primary purpose of such
3 activity is to construct, reconstruct, maintain, decommis-
4 sion, relocate, or dispose of an administrative site.

5 (c) AVAILABILITY OF CATEGORICAL EXCLUSION.—
6 On and after the date of the enactment of this Act, the
7 Secretary of Agriculture may use the categorical exclusion
8 established under subsection (a) in accordance with this
9 section.

10 (d) LIMITATIONS.—

11 (1) PERMANENT ROADS.—A project covered by
12 the categorical exclusion established by subsection
13 (a) may include—

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

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

20 (2) TEMPORARY ROADS.—Any temporary road
21 constructed for a project covered by the categorical
22 exclusion established by subsection (a) shall be de-
23 commissioned not later than 3 years after the date
24 on which the project is completed.

1 (3) PESTICIDES.—Pesticides may only be used
2 to carry out a project covered by the categorical ex-
3 clusion established by subsection (a) as authorized
4 by applicable Federal and State law and as applied
5 in accordance with label instructions.

6 **SEC. 112. CATEGORICAL EXCLUSION FOR SPECIAL USE AU-**
7 **THORIZATIONS.**

8 (a) CATEGORICAL EXCLUSION ESTABLISHED.—For-
9 est management activities described in subsection (b) are
10 a category of actions hereby designated as being categori-
11 cally excluded from the preparation of an environmental
12 assessment or an environmental impact statement under
13 section 102 of the National Environmental Policy Act of
14 1969 (42 U.S.C. 4332).

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

22 (1) Issuance of a new special use authorization
23 for an existing or expired special use authorization,
24 without any substantial change in the scope and
25 scale of the authorized use and occupancy when—

1 (A) the issuance is a purely ministerial ac-
2 tion to account for administrative changes, such
3 as a change in ownership or expiration of the
4 current authorization; and

5 (B) the applicant or holder is in compli-
6 ance with the terms and conditions of the exist-
7 ing or expired special use authorization.

8 (2) Modification, removal, repair, maintenance,
9 reconstruction, or replacement of a facility or im-
10 provement for an existing special use authorization.

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

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

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

23 (6) Approval or modification of minor special
24 uses of National Forest System lands or public lands
25 that require less than 20 contiguous acres.

1 (1) ADMINISTRATIVE SITE.—The term “admin-
2 istrative site” has the meaning given the term in
3 section 502(1) of the Forest Service Facility Re-
4 alignment and Enhancement Act of 2005 (16 U.S.C.
5 580d note).

6 (2) HAZARDOUS FUELS MANAGEMENT.—The
7 term “hazardous fuels management” means any
8 vegetation management activities that reduce the
9 risk of wildfire.

10 (3) LATE-SEASON GRAZING.—The term “late-
11 season grazing” means grazing activities that occur
12 after both the invasive species and native perennial
13 species have completed their current-year annual
14 growth cycle until new plant growth begins to ap-
15 pear in the following year.

16 (4) TARGETED LIVESTOCK GRAZING.—The
17 term “targeted livestock grazing” means grazing
18 used for purposes of hazardous fuels management.

19 **TITLE II—ADDITIONAL** 20 **PROVISIONS**

21 **SEC. 201. EXEMPTION OF CERTAIN WILDFIRE MITIGATION** 22 **ACTIVITIES FROM CERTAIN ENVIRONMENTAL** 23 **REQUIREMENTS.**

24 (a) IN GENERAL.—Wildfire mitigation activities of
25 the Secretary of the Interior and Secretary of Agriculture

1 may be carried out without regard to the provisions of law
2 specified in subsection (b).

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

7 (1) Section 102(2)(C) of the National Environ-
8 mental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

9 (2) The Endangered Species Act of 1973 (16
10 U.S.C. 1531 et seq.).

11 **SEC. 202. ANALYSIS OF ONLY TWO ALTERNATIVES (ACTION**
12 **VERSUS NO ACTION) IN PROPOSED COLLABO-**
13 **RATIVE FOREST MANAGEMENT ACTIVITIES.**

14 (a) APPLICATION TO CERTAIN ENVIRONMENTAL AS-
15 SESSMENTS AND ENVIRONMENTAL IMPACT STATE-
16 MENTS.—This section shall apply whenever the Secretary
17 concerned prepares an environmental assessment or an en-
18 vironmental impact statement pursuant to section 102 of
19 the National Environmental Policy Act of 1969 (42 U.S.C.
20 4332) for a forest management activity that—

21 (1) is developed through a collaborative process;

22 (2) is proposed by a resource advisory com-
23 mittee;

24 (3) will occur on lands identified by the Sec-
25 retary concerned as suitable for timber production;

1 (4) will occur on lands designated by the Sec-
2 retary (or designee thereof) pursuant to section
3 602(b) of the Healthy Forests Restoration Act of
4 2003 (16 U.S.C. 6591a(b)), notwithstanding wheth-
5 er such forest management activity is initiated [prior
6 to September 30, 2018]; or

7 (5) is covered by a community wildfire protec-
8 tion plan.

9 (b) CONSIDERATION OF ALTERNATIVES.—In an envi-
10 ronmental assessment or environmental impact statement
11 described in subsection (a), the Secretary concerned shall
12 study, develop, and describe only the following two alter-
13 natives:

14 (1) The forest management activity.

15 (2) The alternative of no action.

16 (c) ELEMENTS OF NO ACTION ALTERNATIVE.—In
17 the case of the alternative of no action, the Secretary con-
18 cerned shall consider whether to evaluate—

19 (1) the effect of no action on—

20 (A) forest health;

21 (B) habitat diversity;

22 (C) wildfire potential;

23 (D) insect and disease potential; and

24 (E) timber production; and

1 (2) the implications of a resulting decline in
2 forest health, loss of habitat diversity, wildfire, or in-
3 sect or disease infestation, given fire and insect and
4 disease historic cycles, on—

5 (A) domestic water supply in the project
6 area;

7 (B) wildlife habitat loss; and

8 (C) other economic and social factors.

9 **SEC. 203. INJUNCTIVE RELIEF** [*THIS SECTION CONFLICTS WITH*
10 *SECTION 206, WHICH STATES THIS ACT IS NOT SUB-*
11 *JECT TO JUDICIAL REVIEW*].

12 (a) **BALANCING SHORT- AND LONG-TERM EFFECTS**
13 **OF FOREST MANAGEMENT ACTIVITIES IN CONSIDERING**
14 **INJUNCTIVE RELIEF.**—As part of its weighing the equities
15 while considering any request for an injunction that ap-
16 plies to any agency action as part of a forest management
17 activity the court reviewing the agency action shall balance
18 the impact to the ecosystem likely affected by the forest
19 management activity of—

20 (1) the short- and long-term effects of under-
21 taking the agency action; against

22 (2) the short- and long-term effects of not un-
23 dertaking the action.

24 (b) **TIME LIMITATIONS FOR INJUNCTIVE RELIEF.**—

1 (1) IN GENERAL.—Subject to paragraph (2) the
2 length of any preliminary injunctive relief and stays
3 pending appeal that applies to any agency action as
4 part of a forest management activity, shall not ex-
5 ceed 60 days.

6 (2) RENEWAL.—

7 (A) IN GENERAL.—A court of competent
8 jurisdiction may issue one or more renewals of
9 any preliminary injunction, or stay pending ap-
10 peal, granted under paragraph (1).

11 (B) UPDATES.—In each renewal of an in-
12 junction in an action, the parties to the action
13 shall present the court with updated informa-
14 tion on the status of the authorized forest man-
15 agement activity.

16 **SEC. 204. [FOREST MANAGEMENT ACTIVITIES].**

17 (a) COORDINATION.—

18 (1) IN GENERAL.—In conducting forest man-
19 agement activities, the Secretary shall, as appro-
20 priate, coordinate with the Administrator and State
21 and local agencies and organizations, including local
22 fire departments and volunteer groups.

23 (2) GOALS.—The coordination of activities
24 under subparagraph (A) should aim to increase effi-

1 ciencies and maximize the compatibility of manage-
2 ment practices across public property boundaries.

3 (b) MULTIPLE BENEFITS.—

4 (1) IN GENERAL.—In conducting forest man-
5 agement activities, the Secretary shall conduct the
6 activities in a manner that, except as provided in
7 subparagraph (B), attains multiple ecosystem bene-
8 fits, including—

9 (A) reducing fossil fuels;

10 (B) maintaining biological diversity;

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

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

15 (2) EXCEPTION.—Notwithstanding subpara-
16 graph (A)(i), the attainment of multiple ecosystem
17 benefits shall not be required if the Secretary deter-
18 mines that management for multiple ecosystem ben-
19 efits would excessively increase the cost of a pro-
20 gram in relation to the additional ecosystem benefits
21 gained from the management activity.

22 (c) GROUND DISTURBANCE.—Consistent with appli-
23 cable Federal law, the Secretary shall establish post-pro-
24 gram ground condition criteria for ground disturbance
25 caused by forest management activities.

1 (d) AVAILABILITY OF CATEGORICAL EXCLUSION FOR
2 CERTAIN FOREST MANAGEMENT PROJECTS.—A forest
3 management activity conducted for the purpose of reduc-
4 ing forest fuels is categorically excluded from the require-
5 ments of the National Environmental Policy Act of 1969
6 (42 U.S.C. 4321 et seq.) if the forest management activ-
7 ity—

8 (1) notwithstanding [section 423 of the De-
9 partment of the Interior, Environment, and Related
10 Agencies Appropriations Act, 2009 (division E of
11 Public Law 111-8; 123 Stat. 748),] does not exceed
12 10,000 acres, including not more than 3,000 acres
13 of mechanical thinning; [*and/or?*]

14 (2) is developed—

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

19 (B) in consultation with other interested
20 parties; and

21 (C) [*was there supposed to be a third*
22 *clause?*].

1 **SEC. 205. PRESENCE OF LISTED SPECIES OR CRITICAL**
2 **HABITAT.**

3 **【**Notwithstanding any other provision of law,**】** the
4 presence of a threatened or endangered species, or des-
5 ignated critical habitat, shall not preclude any of the au-
6 thorities granted in this Act.

7 **SEC. 206. TIMBER SALES.**

8 (a) **IN GENERAL.**—Subsections (d) and (g) of section
9 14 of the National Forest Management Act of 1976 (16
10 U.S.C. 472a) shall not apply to this Act.

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

17 **SEC. 207. JUDICIAL REVIEW.**

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

20 **SEC. 208. DEFINITIONS.**

21 (a) **FOREST MANAGEMENT ACTIVITY.**—In this title,
22 the term “forest management activity” includes the fol-
23 lowing activities:

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

26 (2) Mechanical and minimum tool treatment.

1 (3) Stream environment zone restoration and
2 other watershed and wildlife habitat enhancements.

3 (4) Nonnative invasive species management.

4 (5) Other practices consistent with Forest Serv-
5 ice practices, as the Secretary determines to be ap-
6 propriate.

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

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

11 (A) under the administration of the Direc-
12 tor of the National Park System, the Director
13 of the Bureau of Land Management, or the
14 Chief of the Forest Service; and

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

18 (2) includes forest thinning, hazardous fuel re-
19 duction, prescribed burning, and vegetation manage-
20 ment.