

Calendar No. 161

118TH CONGRESS
1ST SESSION

S. 1540

[Report No. 118–77]

To amend the Forest and Rangeland Renewable Resources Planning Act of 1974 and the Federal Land Policy and Management Act of 1976 to provide for circumstances under which reinitiation of consultation is not required under a land and resource management plan or land use plan under those Acts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 10, 2023

Mr. DAINES (for himself, Mr. RISCH, Mr. CRAPO, Mr. KING, and Mr. TESTER) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

JULY 25, 2023

Reported by Mr. MANCHIN, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

A BILL

To amend the Forest and Rangeland Renewable Resources Planning Act of 1974 and the Federal Land Policy and Management Act of 1976 to provide for circumstances under which reinitiation of consultation is not required under a land and resource management plan or land use plan under those Acts, 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. CONSULTATION UNDER CERTAIN LAND AND**
 4 **RESOURCE MANAGEMENT PLANS AND LAND**
 5 **USE PLANS.**

6 (a) NATIONAL FOREST SYSTEM LAND AND RE-
 7 SOURCE MANAGEMENT PLAN.—Section 6 of the Forest
 8 and Rangeland Renewable Resources Planning Act of
 9 1974 (16 U.S.C. 1604) is amended by adding at the end
 10 the following:

11 “(n) COMPLETED FEDERAL ACTION.—A land and
 12 resource management plan for a unit of the National For-
 13 est System approved, amended, or revised under this sec-
 14 tion shall not—

15 “(1) be considered to be a continuing Federal
 16 agency action; or

17 “(2) constitute a discretionary Federal involve-
 18 ment or control for a distinct Federal purpose.”.

19 (b) BUREAU OF LAND MANAGEMENT LAND USE
 20 PLANS.—Section 202 of the Federal Land Policy and
 21 Management Act of 1976 (43 U.S.C. 1712) is amended
 22 by adding at the end the following:

23 “(g) COMPLETED FEDERAL ACTION.—A land man-
 24 agement plan approved, amended, or revised under this
 25 section shall not—

1 ~~“(1) be considered to be a continuing Federal~~
 2 ~~agency action; or~~

3 ~~“(2) constitute a discretionary Federal involve-~~
 4 ~~ment or control for a distinct Federal purpose.”.~~

5 **SECTION 1. CONSULTATION UNDER CERTAIN LAND AND**
 6 **RESOURCE MANAGEMENT PLANS AND LAND**
 7 **USE PLANS.**

8 (a) *NATIONAL FOREST SYSTEM LAND AND RESOURCE*
 9 *MANAGEMENT PLANS.*—*Section 6(d) of the Forest and*
 10 *Rangeland Renewable Resources Planning Act of 1974 (16*
 11 *U.S.C. 1604(d)) is amended by striking paragraph (2) and*
 12 *inserting the following:*

13 ~~“(2) NO ADDITIONAL CONSULTATION REQUIRED~~
 14 ~~AFTER APPROVAL OF LAND MANAGEMENT PLANS.—~~
 15 ~~Notwithstanding any other provision of law, the Sec-~~
 16 ~~retary shall not be required to reinitiate consultation~~
 17 ~~under section 7 of the Endangered Species Act of~~
 18 ~~1973 (16 U.S.C. 1536) or section 402.16 of title 50,~~
 19 ~~Code of Federal Regulations (or a successor regula-~~
 20 ~~tion), on a completed land and resource management~~
 21 ~~plan that has no on-the-ground effects when—~~

22 ~~“(A) a new species is listed or a new crit-~~
 23 ~~ical habitat is designated under that Act (16~~
 24 ~~U.S.C. 1531 et seq.); or~~

1 “(B) new information reveals effects of the
 2 land and resource management plan that may
 3 affect a species listed or critical habitat des-
 4 ignated under that Act in a manner or to an ex-
 5 tent not previously considered.”.

6 (b) *BUREAU OF LAND MANAGEMENT LAND USE*
 7 *PLANS.*—Section 202 of the *Federal Land Policy and Man-*
 8 *agement Act of 1976 (43 U.S.C. 1712)* is amended by add-
 9 *ing at the end the following:*

10 “(g) *NO ADDITIONAL CONSULTATION REQUIRED*
 11 *AFTER APPROVAL OF LAND USE PLANS.*—Notwithstanding
 12 any other provision of law, the Secretary shall not be re-
 13 quired to reinitiate consultation under section 7 of the *En-*
 14 *dangered Species Act of 1973 (16 U.S.C. 1536)* or section
 15 402.16 of title 50, *Code of Federal Regulations* (or a suc-
 16 cessor regulation), on a completed land use plan that has
 17 no on-the-ground effects when—

18 “(1) a new species is listed or a new critical
 19 habitat is designated under that Act (16 U.S.C. 1531
 20 *et seq.*); or

21 “(2) new information reveals effects of the land
 22 use plan that may affect a species listed or critical
 23 habitat designated under that Act in a manner or to
 24 an extent not previously considered.”.

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