

115TH CONGRESS  
1ST SESSION

# H. R. 2921

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 1, 2017

Received; read twice and referred to the Committee on Agriculture, Nutrition,  
and Forestry

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## AN ACT

To establish a vegetation management pilot program on National Forest System land to better protect utility infrastructure from passing wildfire, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “National Forest Sys-  
3 tem Vegetation Management Pilot Program Act of 2017”.

4 **SEC. 2. UTILITY INFRASTRUCTURE RIGHTS-OF-WAY VEGE-**  
5 **TATION MANAGEMENT PILOT PROGRAM.**

6 (a) **PILOT PROGRAM REQUIRED.**—To encourage  
7 owners or operators of rights-of-way on National Forest  
8 System land to partner with the Forest Service to volun-  
9 tarily perform vegetation management on a proactive basis  
10 to better protect utility infrastructure from potential pass-  
11 ing wildfires, the Secretary shall conduct a limited, vol-  
12 untary pilot program, in the manner described in this sec-  
13 tion, to permit vegetation management projects on Na-  
14 tional Forest System land adjacent to or near such rights-  
15 of-way.

16 (b) **ELIGIBLE PARTICIPANTS.**—A participant in the  
17 pilot program must have a right-of-way on National For-  
18 est System land. In selecting participants, the Secretary  
19 shall give priority to holders of a right-of-way who have  
20 worked with Forest Service fire scientists and used tech-  
21 nologies, such as Light Detection and Ranging surveys,  
22 to improve utility infrastructure protection prescriptions.

23 (c) **PROJECT ELEMENTS.**—A vegetation management  
24 project under the pilot program involves limited and selec-  
25 tive vegetation management activities, which—

1           (1) shall create the least amount of disturbance  
2           reasonably necessary to protect utility infrastructure  
3           from passing wildfires based on applicable models,  
4           including Forest Service fuel models;

5           (2) may include thinning, fuel reduction, cre-  
6           ation and treatment of shaded fuel breaks, and other  
7           measures as appropriate;

8           (3) shall only take place adjacent to the partici-  
9           pant's right-of-way or within 75 feet of the partici-  
10          pant's right-of-way;

11          (4) shall not take place in any designated wil-  
12          derness area, wilderness study area, or inventoried  
13          roadless area; and

14          (5) shall be subject to approval by the Forest  
15          Service in accordance with this Act.

16          (d) **PROJECT COSTS.**—A participant in the pilot pro-  
17          gram shall be responsible for all costs, as determined by  
18          the Secretary, incurred in participating in the pilot pro-  
19          gram, unless the Secretary determines that it is in the  
20          public interest for the Forest Service to contribute funds  
21          for a vegetation management project conducted under the  
22          pilot program.

23          (e) **LIABILITY.**—

1           (1) IN GENERAL.—Participation in the pilot  
2 program does not affect any existing legal obliga-  
3 tions or liability standards that—

4           (A) arise under the right-of-way for activi-  
5 ties in the right-of-way; or

6           (B) apply to fires resulting from causes  
7 other than activities conducted pursuant to an  
8 approved vegetation management project.

9           (2) PROJECT WORK.—A participant shall not be  
10 liable to the United States for damage proximately  
11 caused by activities conducted pursuant to an ap-  
12 proved vegetation management project unless—

13           (A) such activities were carried out in a  
14 manner that was grossly negligent or that vio-  
15 lated criminal law; or

16           (B) the damage was caused by the failure  
17 of the participant to comply with specific safety  
18 requirements expressly imposed by the Forest  
19 Service as a condition of participating in the  
20 pilot program.

21           (f) IMPLEMENTATION.—The Secretary shall utilize  
22 existing laws and regulations in the conduct of the pilot  
23 program and, in order to implement the pilot program in  
24 an efficient and expeditious manner, may waive or modify  
25 specific provisions of the Federal Acquisition Regulation,

1 including modifications to allow for formation of contracts  
2 or agreements on a noncompetitive basis.

3 (g) TREATMENT OF PROCEEDS.—Notwithstanding  
4 any other provision of law, the Secretary may—

5 (1) retain any funds provided to the Forest  
6 Service by a participant in the pilot program; and

7 (2) use such funds, in such amounts as may be  
8 appropriated, in the conduct of the pilot program.

9 (h) DEFINITIONS.—In this section:

10 (1) NATIONAL FOREST SYSTEM LAND.—The  
11 term “National Forest System land” means land  
12 within the National Forest System, as defined in  
13 section 11(a) of the Forest and Rangeland Renew-  
14 able Resources Planning Act of 1974 (16 U.S.C.  
15 1609(a)) exclusive of the National Grasslands and  
16 land utilization projects designated as National  
17 Grasslands administered pursuant to the Act of July  
18 22, 1937 (7 U.S.C. 1010–1012).

19 (2) PASSING WILDFIRE.—The term “passing  
20 wildfire” means a wildfire that originates outside the  
21 right-of-way.

22 (3) RIGHT-OF-WAY.—The term “right-of-way”  
23 means a special use authorization issued by the For-  
24 est Service allowing the placement of utility infra-  
25 structure.

1           (4) SECRETARY.—The term “Secretary” means  
2           the Secretary of Agriculture.

3           (5) UTILITY INFRASTRUCTURE.—The term  
4           “utility infrastructure” means electric transmission  
5           lines, natural gas infrastructure, or related struc-  
6           tures.

7           (i) DURATION.—The authority to conduct the pilot  
8           program, and any vegetation management project under  
9           the pilot program, expires December 21, 2027.

10          (j) REPORT TO CONGRESS.—Not later than Decem-  
11          ber 31, 2019, and every two years thereafter, the Sec-  
12          retary shall issue a report to the Committee on Energy  
13          and Natural Resources of the Senate, the Committee on  
14          Agriculture, Nutrition, and Forestry of the Senate, the  
15          Committee on Natural Resources of the House of Rep-  
16          resentatives, and the Committee on Agriculture of the  
17          House of Representatives on the status of the program  
18          and any projects established under this section.

          Passed the House of Representatives October 31,  
2017.

Attest:

KAREN L. HAAS,

*Clerk.*