

NATIONAL FOREST SYSTEM VEGETATION MANAGEMENT
PILOT PROGRAM ACT OF 2017

OCTOBER 19, 2017.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. CONAWAY, from the Committee on Agriculture,
submitted the following

R E P O R T

[To accompany H.R. 2921]

[Including cost estimate of the Congressional Budget Office]

The Committee on Agriculture, to whom was referred the bill (H.R. 2921) to establish a vegetation management pilot program on National Forest System land to better protect utility infrastructure from passing wildfire, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

BRIEF EXPLANATION

The National Forest System Vegetation Management Pilot Program Act of 2017 establishes a pilot program on National Forest System land to better protect utility infrastructure from passing wildfire.

PURPOSE AND NEED FOR LEGISLATION

H.R. 2921 addresses the need for collaboration in maintaining our U.S. Forest Service (USFS) lands and energy infrastructure rights-of-way that local communities and businesses rely upon.

Deteriorating forest health, particularly in the western United States, has increased the frequency and severity for forest fires in recent years. This has resulted in increased fire threat to electric transmission and associated utility infrastructure across USFS land.

The Government Accountability Office has found that fuel reduction treatment projects reduce flammable vegetation, minimize the

severity of wildland fires, increase landscape resiliency to fire, and provide firefighter access during fire suppression activities.

If a fire destroys utility infrastructure, there are several known and potential costs, including: infrastructure replacement, costs to customers for electric outages, government disaster funding, and supplemental appropriations.

H.R. 2921 would create a pilot program to conduct limited and selective vegetation management near utility infrastructure outside of a right-of-way. To incentivize private participation, it creates a separate off-right-of-way liability standard from the current strict liability standard to a gross negligence standard for this voluntary work. The 10-year program—funded entirely by interested utility companies—allows vegetation management on USFS lands—approved by the Secretary of Agriculture—up to 75 feet beyond the utility’s right-of-way to better protect utility infrastructure and reduce the risk of forest fires.

SECTION-BY-SECTION ANALYSIS OF LEGISLATION

H.R. 2921 THE NATIONAL FOREST SYSTEM VEGETATION MANAGEMENT PILOT PROGRAM ACT OF 2017

Section 1. Short title

Section 1 of the bill designates the title of the bill as the “National Forest System Vegetation Management Pilot Program Act of 2017”.

Section 2. Utility Infrastructure Right-of-Way Vegetation Management Pilot Program

Subsection (a) of section 2 establishes a limited, voluntary pilot program to encourage land owners and operators to perform vegetation management on a proactive basis. The pilot program permits vegetation management projects on National Forest System land that is adjacent to or near rights-of-way.

Subsection (b) requires that eligible participants have rights-of-way on National Forest System land. The subsection further gives priority to eligible participants who have worked with the Forest Service to improve utility infrastructure protection prescriptions.

Subsection (c) provides for the elements of a project under the pilot program. A project involves limited and select management activities that shall create the least amount of disturbance to protect utility infrastructure from wildfire; shall take place directly adjacent to or within 75 feet of the participant’s right-of-way; and shall be subject to approval by the Forest Service. A project is prohibited from taking place within a designated wilderness area, wilderness study area, or inventoried roadless area. Activities under the pilot program may include thinning, fuel reduction, creation and treatment of shaded fuel breaks.

Subsection (d) requires that a participant be responsible for all costs incurred by participating unless the Secretary determines that it is in the public interest for the Forest Service to contribute funds.

Subsection (e) is a rule of construction that participation in the program does not affect any existing legal obligations of liability standards related to the right-of-way or fires resulting from causes other than activities performed under the project. A participant is

not liable for damages caused by activities under the project unless in cases of gross negligence, in violation of criminal law, or where damages were caused by failure of the participant to comply with safety requirements imposed by the Forest Service as a condition of participation.

Subsection (f) directs the Secretary to use existing laws and regulations to conduct the pilot program. It further allows the Secretary to waive or modify specific provisions of the Federal Acquisition Regulation in order to implement the pilot program in an efficient and expeditious manner.

Subsection (g) allows the Secretary to retain funds provided to the Forest Service by a participant and use such funds, in amounts as may be appropriated, in the conduct of the pilot program, notwithstanding any other provision of law.

Subsection (h) provides the relevant definitions for the Act.

Subsection (i) sunsets the authority to conduct the pilot program on December 21, 2027.

Subsection (j) requires the Secretary to report to Congress, every two years, on the status of the pilot program and any related projects.

COMMITTEE CONSIDERATION

I. HEARINGS

No hearings were held by the Committee on H.R. 2921, National Forest System Vegetation Management Pilot Program Act of 2017.

II. FULL COMMITTEE

The Committee on Agriculture met, pursuant to notice, with a quorum present, on October 4, 2017, to consider H.R. 2921, National Forest System Vegetation Management Pilot Program Act of 2017.

H.R. 2921 was placed before the Committee for consideration. Without objection, a first reading of the bill was waived and it was open for amendment at any point.

Chairman Conaway and Mr. Peterson were recognized for statements. There being no amendments, Mr. Peterson was recognized to offer a motion that the bill H.R. 2921 be reported favorably to the House with recommendation that it do pass. The motion was subsequently approved by voice vote.

At the conclusion of the meeting, Chairman Conaway advised Members that pursuant to the rules of the House of Representatives Members had until October 6, 2017, to file any supplemental, minority, additional, or dissenting views with the Committee.

Without objection, staff was given permission to make any necessary clerical, technical or conforming changes to reflect the intent of the Committee. Chairman Conaway thanked all the Members and adjourned the meeting.

COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the House of Representatives, H.R. 2921 was reported by voice vote with a majority quorum present. There was no request for a recorded vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Agriculture's oversight findings and recommendations are reflected in the body of this report.

BUDGET ACT COMPLIANCE (SECTIONS 308, 402, AND 423)

The provisions of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a)(1) of the Congressional Budget Act of 1974 (relating to estimates of new budget authority, new spending authority, new credit authority, or increased or decreased revenues or tax expenditures) are not considered applicable. The estimate and comparison required to be prepared by the Director of the Congressional Budget Office under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and sections 402 and 423 of the Congressional Budget Act of 1974 submitted to the Committee prior to the filing of this report are as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 17, 2017.

Hon. K. MICHAEL CONAWAY,
*Chairman, Committee on Agriculture,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2921, the National Forest System Vegetation Management Pilot Program Act of 2017.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jeff LaFave.

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 2921—National Forest System Vegetation Management Pilot Program Act of 2017

H.R. 2921 would establish a pilot program that would permit electric utilities to conduct vegetation management projects, including tree thinning and fuel reduction, within 75 feet of their rights-of-way on lands administered by the Forest Service. Firms participating in the pilot program would be required to cover any costs incurred by the Forest Service to administer the program. The agency would be authorized to retain the receipts from such cost recovery, but because those amounts would not be available to be spent until appropriated by the Congress enacting the bill would have the effect of reducing direct spending.

The bill also would exempt an electric utility from legal liability if the utility causes damage while carrying out a vegetation management project approved by the Forest Service, unless the damage was caused by gross negligence or failure to comply with safety requirements imposed by the Forest Service. Based on information provided by the agency regarding damages caused by similar activities in recent years, CBO estimates that enacting this provision would have a negligible effect on the amount of funds the federal government would receive.

CBO estimates that implementing the bill would have no significant effect on the federal budget. Because enacting H.R. 2921 would increase offsetting receipts (and thus decrease direct spending), pay-as-you-go procedures apply. However CBO estimates that additional receipts under the bill would total less than \$500,000 a year. Enacting the bill would not affect revenues.

CBO estimates that enacting the bill would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 2921 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

H.R. 2921 does not authorize funding, therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives is inapplicable.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the Committee report incorporates the cost estimate prepared by the Director of the Congressional Budget Office pursuant to sections 402 and 423 of the Congressional Budget Act of 1974.

ADVISORY COMMITTEE STATEMENT

No advisory committee within the meaning of section 5(b) of the Federal Advisory Committee Act was created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104-1).

FEDERAL MANDATES STATEMENT

The Committee adopted as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104-4).

EARMARK STATEMENT REQUIRED BY CLAUSE 9 OF RULE XXI OF THE RULES OF THE HOUSE OF REPRESENTATIVES

H.R. 2921 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI of the Rules of the House Representatives.

DUPLICATION OF FEDERAL PROGRAMS

This bill does not establish or reauthorize a program of the Federal Government known to be duplicative of another Federal pro-

gram, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee does not believe that the legislation directs an executive branch official to conduct any specific rule making proceedings within the meaning of 5 U.S.C. 551.