

109TH CONGRESS  
1ST SESSION

# H. R. 3919

To amend the Federal Land Policy and Management Act to enhance the reliability of the electricity grid and reduce the threat of wildfires to electric transmission and distribution facilities on Federal lands by authorizing vegetation management on such lands.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 27, 2005

Mr. SHADEGG introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Federal Land Policy and Management Act to enhance the reliability of the electricity grid and reduce the threat of wildfires to electric transmission and distribution facilities on Federal lands by authorizing vegetation management on such lands.

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. VEGETATION MANAGEMENT ON FEDERAL**  
2 **LANDS CONTAINING ELECTRIC TRANS-**  
3 **MISSION AND DISTRIBUTION FACILITIES.**

4 (a) IN GENERAL.—Title V of the Federal Land Pol-  
5 icy and Management Act of 1976 (43 U.S.C. 1761 et seq.)  
6 is amended by adding at the end the following new section:

7 **“SEC. 512. VEGETATION MANAGEMENT RELATING TO ELEC-**  
8 **TRIC TRANSMISSION AND DISTRIBUTION FA-**  
9 **CILITY RIGHTS-OF-WAY.**

10 “(a) GENERAL DIRECTION.—In order to enhance the  
11 reliability of the electricity grid and reduce the threat of  
12 wildfires to electric transmission and distribution facilities,  
13 the Secretary of the Interior, with respect to public lands  
14 and other lands under the jurisdiction of the Secretary,  
15 and the Secretary of Agriculture, with respect to National  
16 Forest System lands, shall provide direction to ensure that  
17 existing and future authorizations of rights-of-way and  
18 easements for electrical transmission and distribution fa-  
19 cilities on such lands include provisions for utility vegeta-  
20 tion management activities that, while consistent with ap-  
21 plicable law—

22 “(1) are developed in consultation with the  
23 holder of the right-of-way or easement;

24 “(2) enable the owner or operator of a facility  
25 to comply with Federal and State electric system re-  
26 liability and fire safety requirements, including reli-

1 ability standards established by the North American  
2 Electric Reliability Council or the Electric Reliability  
3 Organization certified under section 215 of the Fed-  
4 eral Power Act;

5 “(3) minimize the need for case-by-case or an-  
6 nual approvals for—

7 “(A) routine vegetation management ac-  
8 tivities within permitted electrical transmission  
9 corridors; and

10 “(B) utility vegetation management activi-  
11 ties that are necessary to control hazard trees  
12 within or adjacent to electrical transmission  
13 corridors;

14 “(4) provide for expedited review, whenever re-  
15 view is required, and expedited approval, to the max-  
16 imum extent practicable, for utility vegetation man-  
17 agement activities, especially activities requiring  
18 prompt action to avoid an adverse impact on safety  
19 or electric reliability.

20 “(b) INTEGRATED VEGETATION MANAGEMENT  
21 PLANS.—

22 “(1) DEVELOPMENT AND SUBMISSION.—Con-  
23 sistent with subsection (a), the Secretary of the In-  
24 terior and the Secretary of Agriculture shall provide  
25 owners and operators of electric transmission and

1 distribution facilities located on lands described in  
2 such subsection with the option to develop and sub-  
3 mit an integrated vegetation management plan for  
4 approval to the Secretary with jurisdiction over the  
5 lands. An integrated vegetation management plan  
6 shall enable the owner or operator of a facility, at  
7 a minimum, to comply with applicable Federal and  
8 State electric system reliability and fire safety re-  
9 quirements, as provided in subsection (a)(2). The  
10 Secretaries shall not have the authority to modify  
11 those requirements.

12 “(2) REVIEW AND APPROVAL PROCESS.— The  
13 Secretary of the Interior and the Secretary of Agri-  
14 culture shall jointly develop a consolidated and co-  
15 ordinated process for review and approval of—

16 “(A) integrated vegetation management  
17 plans submitted under paragraph (1) that—

18 “(i) assures timely approval;

19 “(ii) is consistent with applicable law;

20 and

21 “(iii) to the maximum extent prac-  
22 ticable, minimizes the costs of the process  
23 to the reviewing agency and the person  
24 submitting the plan; and

1           “(B) amendments to an integrated vegeta-  
2           tion management plan in a timely manner in  
3           the event that changed conditions warrant a  
4           modification to a plan.

5           “(3) NOTIFICATION.—The review and approval  
6           process under paragraph (2) shall—

7                   “(A) include notification by the agency of  
8                   any changed conditions that warrant a modi-  
9                   fication to an integrated vegetation manage-  
10                  ment plan;

11                  “(B) provide an opportunity for the owner  
12                  or operator to submit a proposed plan amend-  
13                  ment to address directly the changed condition;  
14                  and

15                  “(C) to the maximum extent practicable,  
16                  allow the owner or operator to continue to im-  
17                  plement those elements of the approved plan  
18                  that do not directly and adversely affect the  
19                  condition precipitating the need for modifica-  
20                  tion.

21           “(4) IMPLEMENTATION.—An approved inte-  
22           grated vegetation management plan shall become  
23           part of the authorization governing the covered  
24           right-of-way or easement. If an integrated vegetation  
25           management plan is proposed for an existing trans-

mission and distribution facility concurrent with the siting of a new transmission or distribution facility, necessary reviews shall be completed as part of the siting process. Once the plan is approved, the owner or operator shall provide the agency with only a notification of activities to be undertaken in the coming year, a description of those activities, and certification that the activities are in accordance with the plan.

“(5) DEFINITION.—In this section, the term ‘integrated vegetation management plan’ means a plan that—

“(A) is prepared by the owner or operator of an electrical transmission or distribution facility to cover one or more electric transmission and distribution rights-of-way or easements; and

“(B) provides for the long-term, cost-effective, sustainable, ecosystem-based management of vegetation within the permitted width of the covered rights-of-way and easements to enhance electricity reliability, promote public safety, and avoid fire hazards.

“(c) RESPONSE TO EMERGENCY CONDITIONS.—If vegetation on lands within a right-of-way or easement

1 granted by the Secretary of the Interior or the Secretary  
2 of Agriculture does not meet clearance requirements under  
3 standards established by the North American Electric Re-  
4 liability Council or the Electric Reliability Organization  
5 and the Secretary having jurisdiction over the lands has  
6 acted, or failed to act, to allow a transmission or distribu-  
7 tion facility owner or operator to conduct vegetation man-  
8 agement activities within three business days after receiv-  
9 ing a request to allow such activities, the owner or oper-  
10 ator may, after notifying the Secretary, conduct such vege-  
11 tation management activities to meet clearance require-  
12 ments under such standards.

13 “(d) LIABILITY WAIVER.—

14 “(1) WAIVER.—If the Secretary of the Interior  
15 or the Secretary of Agriculture fails to authorize a  
16 transmission or distribution facility owner or oper-  
17 ator to manage vegetation within a right-of-way or  
18 easement on lands under the jurisdiction of the Sec-  
19 retary in order to comply with Federal and State  
20 electric system reliability and fire safety require-  
21 ments, including reliability standards established by  
22 the North American Electric Reliability Council or  
23 the Electric Reliability Organization, and the vegeta-  
24 tion causes or contributes to wildfire damage, loss,  
25 or injury, the owner or operator of the facility in-

1       volved shall not be liable to the United States di-  
2       rectly, through indemnification, or otherwise for  
3       such damage, loss, or injury, including for the cost  
4       of fire suppression.

5           “(2) EXCEPTION.—The owner or operator of a  
6       transmission or distribution facility in a right-of-way  
7       or easement on lands under the jurisdiction of the  
8       Secretary of the Interior or the Secretary of Agri-  
9       culture shall continue to be liable for a portion of  
10      the damages caused by a wildfire described in para-  
11      graph (1) and the cost of fire suppression if the  
12      owner or operator was contributorily negligent and  
13      the law of the jurisdiction in which the damages or  
14      costs occurred applies the comparative negligence  
15      doctrine.

16       “(e) TRAINING AND GUIDANCE.—In consultation  
17      with the electric utility industry, the Secretary of the Inte-  
18      rior and the Secretary of Agriculture are encouraged to  
19      develop a program to train personnel of the Department  
20      of the Interior and the Forest Service involved in vegeta-  
21      tion management decisions relating to transmission and  
22      distribution facilities to ensure that such personnel—

23           “(1) understand electric system reliability and  
24      fire safety requirements, including reliability stand-  
25      ards established by the North American Electric Re-



1 liability Council or the Electric Reliability Organiza-  
2 tion; and

3 “(2) assist owners and operators of trans-  
4 mission and distribution facilities to comply with ap-  
5 plicable electric reliability and fire safety require-  
6 ments.”.

7 (b) IMPLEMENTATION.—Not later than one year  
8 after the date of the enactment of this Act, the Secretary  
9 of the Interior and the Secretary of Agriculture shall pre-  
10 scribe regulations, or amend existing regulations, to imple-  
11 ment section 512 of the Federal Land Policy and Manage-  
12 ment Act of 1976, as added by subsection (a).

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