

114TH CONGRESS
1ST SESSION

H. R. 2358

To amend the Federal Land Policy and Management Act of 1976 to enhance the reliability of the electricity grid and reduce the threat of wildfires to and from electric transmission and distribution facilities on Federal lands by facilitating vegetation management on such lands.

IN THE HOUSE OF REPRESENTATIVES

MAY 15, 2015

Mr. ZINKE (for himself and Mr. SCHRADER) introduced the following bill; which was referred to the Committee on Natural 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

A BILL

To amend the Federal Land Policy and Management Act of 1976 to enhance the reliability of the electricity grid and reduce the threat of wildfires to and from electric transmission and distribution facilities on Federal lands by facilitating 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Electricity Reliability
5 and Forest Protection Act”.

1 **SEC. 2. VEGETATION MANAGEMENT, FACILITY INSPECTION,**
2 **AND OPERATION AND MAINTENANCE ON**
3 **FEDERAL LANDS CONTAINING ELECTRIC**
4 **TRANSMISSION AND DISTRIBUTION FACILI-**
5 **TIES.**

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

9 **“SEC. 512. VEGETATION MANAGEMENT, FACILITY INSPEC-**
10 **TION AND OPERATION, AND MAINTENANCE**
11 **RELATING TO ELECTRIC TRANSMISSION AND**
12 **DISTRIBUTION FACILITY RIGHTS-OF-WAY.**

13 “(a) GENERAL DIRECTION.—In order to enhance the
14 reliability of the electricity grid and reduce the threat of
15 wildfires to and from electric transmission and distribu-
16 tion rights-of-way and related facilities and adjacent prop-
17 erty, the Secretary, with respect to public lands and other
18 lands under the jurisdiction of the Secretary, and the Sec-
19 retary of Agriculture, with respect to National Forest Sys-
20 tem lands, shall provide direction to ensure that all exist-
21 ing and future rights-of-way, however established (includ-
22 ing by grant, special use authorization, and easement), for
23 electrical transmission and distribution facilities on such
24 lands include provisions for utility vegetation manage-
25 ment, facility inspection, and operation and maintenance
26 activities that, while consistent with applicable law—

1 “(1) are developed in consultation with the
2 holder of the right-of-way;

3 “(2) enable the owner or operator of a facility
4 to operate and maintain the facility in good working
5 order and to comply with Federal, State and local
6 electric system reliability and fire safety require-
7 ments, including reliability standards established by
8 the North American Electric Reliability Corporation
9 and plans to meet such reliability standards;

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

12 “(A) routine vegetation management, facil-
13 ity inspection, and operation and maintenance
14 activities within existing electrical transmission
15 and distribution rights-of-way; and

16 “(B) utility vegetation management activi-
17 ties that are necessary to control danger trees
18 within or adjacent to electrical transmission and
19 distribution rights-of-way; and

20 “(4) when review is required, provide for expedited review and approval of utility vegetation management, facility inspection, and operation and maintenance activities, especially activities requiring prompt action to avoid an adverse impact on human safety or electric reliability to avoid fire hazards.

1 “(b) VEGETATION MANAGEMENT, FACILITY INSPEC-
2 TION AND OPERATION AND MAINTENANCE PLANS.—

3 “(1) DEVELOPMENT AND SUBMISSION.—Con-
4 sistent with subsection (a), the Secretary and the
5 Secretary of Agriculture shall provide owners and
6 operators of electric transmission and distribution
7 facilities located on lands described in such sub-
8 section with the option to develop and submit a
9 vegetation management, facility inspection, and op-
10 eration and maintenance plan, that at each owner or
11 operator’s transmission discretion may cover some or
12 all of the owner or operator’s transmission and dis-
13 tribution rights-of-way on Federal lands, for ap-
14 proval to the Secretary with jurisdiction over the
15 lands. A plan under this paragraph shall enable the
16 owner or operator of a facility, at a minimum, to
17 comply with applicable Federal, State, and local elec-
18 tric system reliability and fire safety requirements,
19 as provided in subsection (a)(2). The Secretaries
20 shall not have the authority to modify those require-
21 ments.

22 “(2) REVIEW AND APPROVAL PROCESS.—The
23 Secretary and the Secretary of Agriculture shall
24 jointly develop a consolidated and coordinated proc-
25 ess for review and approval of—

1 “(A) vegetation management, facility in-
2 spection, and operation and maintenance plans
3 submitted under paragraph (1) that—

4 “(i) assures prompt review and ap-
5 proval not to exceed 30 days;

6 “(ii) includes timelines and bench-
7 marks for approval of such plans;

8 “(iii) is consistent with applicable law;
9 and

10 “(iv) minimizes the costs of the proc-
11 ess to the reviewing agency and the entity
12 submitting the plans; and

13 “(B) amendments to the plans in a prompt
14 manner if changed conditions necessitate a
15 modification to a plan.

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

18 “(A) include notification by the agency of
19 any changed conditions that warrant a modi-
20 fication to a plan;

21 “(B) provide an opportunity for the owner
22 or operator to submit a proposed plan amend-
23 ment to address directly the changed condition;
24 and

1 “(C) allow the owner or operator to con-
2 tinue to implement those elements of the ap-
3 proved plan that do not directly and adversely
4 affect the condition precipitating the need for
5 modification.

6 “(4) CATEGORICAL EXCLUSION PROCESS.—The
7 Secretary and the Secretary of Agriculture shall
8 apply his or her categorical exclusion process under
9 the National Environmental Policy Act of 1969 (42
10 U.S.C. 4321 et seq.) to plans developed under this
11 subsection on existing transmission and distribution
12 rights-of-way under this subsection.

13 “(5) IMPLEMENTATION.—A plan approved
14 under this subsection shall become part of the au-
15 thorization governing the covered right-of-way and
16 danger trees adjacent to the right-of-way. If a vege-
17 tation management plan is proposed for an existing
18 transmission and distribution facility concurrent
19 with the siting of a new transmission or distribution
20 facility, necessary reviews shall be completed as part
21 of the siting process or sooner. Once the plan is ap-
22 proved, the owner or operator shall provide the agen-
23 cy with only a notification of activities anticipated to
24 be undertaken in the coming year, a description of

1 those activities, and certification that the activities
2 are in accordance with the plan.

3 “(6) DEFINITIONS.—In this subsection:

4 “(A) VEGETATION MANAGEMENT, FACIL-
5 ITY INSPECTION AND OPERATION AND MAINTENANCE PLAN.—The term ‘vegetation manage-
6 ment, facility inspection and operation and
7 maintenance plan’ means a plan that—
8

9 “(i) is prepared by the owner or oper-
10 ator of one or more electrical transmission
11 or distribution facilities to cover one or
12 more electric transmission and distribution
13 rights-of-way; and

14 “(ii) provides for the long-term, cost-
15 effective, efficient and timely management
16 of facilities and vegetation within the width
17 of the right-of-way and adjacent Federal
18 lands to enhance electricity reliability, pro-
19 mote public safety, and avoid fire hazards.

20 “(B) OWNER OR OPERATOR.—The terms
21 ‘owner’ and ‘operator’ include contractors or
22 other agents engaged by the owner or operator
23 of a facility.

24 “(C) DANGER TREE.—The term ‘danger
25 tree’ means any tree inside the right-of-way or

1 located outside the right-of-way that would
2 come within 10 feet or less of an electric power
3 line or related structure if it fell.

4 “(c) RESPONSE TO EMERGENCY CONDITIONS.—If
5 vegetation on Federal lands within, or danger trees adja-
6 cent to, an electrical transmission or distribution right-
7 of-way granted by the Secretary or the Secretary of Agri-
8 culture has contacted or is in imminent danger of con-
9 tacting one or more electric transmission or distribution
10 lines, the owner or operator of the transmission or dis-
11 tribution lines—

12 “(1) may prune or remove the vegetation to
13 avoid the disruption of electric service and risk of
14 fire; and

15 “(2) shall notify the appropriate local agent of
16 the relevant Secretary not later than 24 hours after
17 such removal.

18 “(d) COMPLIANCE WITH APPLICABLE RELIABILITY
19 AND SAFETY STANDARDS.—If vegetation on Federal
20 lands within or adjacent to an electrical transmission or
21 distribution right-of-way under the jurisdiction of each
22 Secretary does not meet clearance requirements under
23 standards established by the North American Electric Re-
24 liability Corporation, or by State and local authorities, and
25 the Secretary having jurisdiction over the lands has failed

1 to act to allow a transmission or distribution facility owner
2 or operator to conduct vegetation management activities
3 within 3 business days after receiving a request to allow
4 such activities, the owner or operator may, after notifying
5 the Secretary, conduct such vegetation management ac-
6 tivities to meet those clearance requirements.

7 “(e) REPORTING REQUIREMENT.—The Secretary or
8 Secretary of Agriculture shall report requests and actions
9 made under subsections (c) and (d) annually on each Sec-
10 retary’s website.

11 “(f) LIABILITY.—If the Secretary or the Secretary of
12 Agriculture fails to authorize a transmission or distribu-
13 tion facility owner or operator to manage vegetation on
14 Federal lands under the Secretary’s jurisdiction within or
15 adjacent to a transmission or distribution right-of-way in
16 order to comply with Federal, State, or local electric sys-
17 tem reliability and fire safety requirements, including reli-
18 ability standards established by the North American Elec-
19 tric Reliability Corporation and the vegetation causes or
20 contributes to wildfire damage, loss, or injury, the owner
21 or operator of the facility involved shall not be liable to
22 the United States or other parties directly, through indem-
23 nification, or otherwise for such damage, loss, or injury,
24 including for the cost of fire suppression.

1 “(g) TRAINING AND GUIDANCE.—In consultation
2 with the electric utility industry, the Secretary and the
3 Secretary of Agriculture are encouraged to develop a pro-
4 gram to train personnel of the Department of the Interior
5 and the Forest Service involved in vegetation management
6 decisions relating to transmission and distribution facili-
7 ties to ensure that such personnel—

8 “(1) understand electric system reliability and
9 fire safety requirements, including reliability stand-
10 ards established by the North American Electric Re-
11 liability Corporation; and

12 “(2) assist owners and operators of trans-
13 mission and distribution facilities to comply with ap-
14 plicable electric reliability and fire safety require-
15 ments.

16 “(h) IMPLEMENTATION.—The Secretary of the Inte-
17 rior and the Secretary of Agriculture shall—

18 “(1) not later than one year after the date of
19 the enactment of this section, prescribe regulations,
20 or amend existing regulations, to implement this sec-
21 tion; and

22 “(2) not later than two years after the date of
23 the enactment of this section, finalize regulations, or
24 amend existing regulations, to implement this sec-
25 tion.

1 “(i) EXISTING VEGETATIVE MANAGEMENT, FACIL-
2 ITY INSPECTION AND OPERATION AND MAINTENANCE
3 PLANS.—Nothing in this section requires an owner or op-
4 erator to develop and submit a vegetative management,
5 facility inspection, and operation and maintenance plan if
6 one has already been approved by the Secretary or Sec-
7 retary of Agriculture before the date of the enactment of
8 this section.”.

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