

115TH CONGRESS
1ST SESSION

H. R. 1873

IN THE SENATE OF THE UNITED STATES

JUNE 22, 2017

Received; read twice and referred to the Committee on Energy and Natural
Resources

AN ACT

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”.

6 **SEC. 2. VEGETATION MANAGEMENT, FACILITY INSPECTION,**
7 **AND OPERATION AND MAINTENANCE ON**
8 **FEDERAL LANDS CONTAINING ELECTRIC**
9 **TRANSMISSION AND DISTRIBUTION FACILI-**
10 **TIES.**

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

14 **“SEC. 512. VEGETATION MANAGEMENT, FACILITY INSPEC-**
15 **TION, AND OPERATION, AND MAINTENANCE**
16 **RELATING TO ELECTRIC TRANSMISSION AND**
17 **DISTRIBUTION FACILITY RIGHTS-OF-WAY.**

18 “(a) GENERAL DIRECTION.—In order to enhance the
19 reliability of the electricity grid and reduce the threat of
20 wildfires to and from electric transmission and distribu-
21 tion rights-of-way and related facilities and adjacent prop-
22 erty, the Secretary, with respect to public lands and other
23 lands under the jurisdiction of the Secretary, and the Sec-
24 retary of Agriculture, with respect to National Forest Sys-
25 tem lands, shall provide direction to ensure that all exist-

1 ing and future rights-of-way, however established (includ-
2 ing by grant, special use authorization, and easement), for
3 electrical transmission and distribution facilities on such
4 lands include provisions for utility vegetation manage-
5 ment, facility inspection, and operation and maintenance
6 activities that, while consistent with applicable law—

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

9 “(2) enable the owner or operator of a facility
10 to operate and maintain the facility in good working
11 order and to comply with Federal, State and local
12 electric system reliability and fire safety require-
13 ments, including reliability standards established by
14 the Electric Reliability Organization as defined
15 under 16 U.S.C. 824o(a) and plans to meet such re-
16 liability standards;

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

19 “(A) routine vegetation management, facil-
20 ity inspection, and operation and maintenance
21 activities within existing electrical transmission
22 and distribution rights-of-way; and

23 “(B) utility vegetation management activi-
24 ties that are necessary to control hazard trees

1 within or adjacent to electrical transmission and
2 distribution rights-of-way; and

3 “(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.

9 “(b) VEGETATION MANAGEMENT, FACILITY INSPECTION, AND OPERATION AND MAINTENANCE PLANS.—

11 “(1) DEVELOPMENT AND SUBMISSION.—Consistent with subsection (a), the Secretary and the Secretary of Agriculture shall provide owners and operators of electric transmission and distribution facilities located on lands described in such subsection with the option to develop and submit a vegetation management, facility inspection, and operation and maintenance plan, that at each transmission or distribution owner or operator’s discretion may cover some or all of the owner or operator’s transmission and distribution rights-of-way on Federal lands, for approval to the Secretary with jurisdiction over the lands. A plan under this paragraph shall enable the owner or operator of a facility, at a minimum, to comply with applicable Fed-

1 eral, State, and local electric system reliability and
2 fire safety requirements, as provided in subsection
3 (a)(2). The Secretaries shall not have the authority
4 to modify those requirements.

5 “(2) REVIEW AND APPROVAL PROCESS.—The
6 Secretary and the Secretary of Agriculture shall
7 jointly develop a consolidated and coordinated pro-
8 cess for review and approval of—

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

12 “(i) assures prompt review and ap-
13 proval not to exceed 90 days;

14 “(ii) includes timelines and bench-
15 marks for agency comments to submitted
16 plans and final approval of such plans;

17 “(iii) is consistent with applicable law;
18 and

19 “(iv) minimizes the costs of the pro-
20 cess to the reviewing agency and the entity
21 submitting the plans; and

22 “(B) amendments to the plans in a prompt
23 manner if changed conditions necessitate a
24 modification to a plan.

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

3 “(A) include notification by the agency of
4 any changed conditions that warrant a modi-
5 fication to a plan;

6 “(B) provide an opportunity for the owner
7 or operator to submit a proposed plan amend-
8 ment to address directly the changed condition;
9 and

10 “(C) allow the owner or operator to con-
11 tinue to implement those elements of the ap-
12 proved plan that do not directly and adversely
13 affect the condition precipitating the need for
14 modification.

15 “(4) CATEGORICAL EXCLUSION PROCESS.—The
16 Secretary and the Secretary of Agriculture shall
17 apply his or her categorical exclusion process under
18 the National Environmental Policy Act of 1969 (42
19 U.S.C. 4321 et seq.) to plans developed under this
20 subsection on existing transmission and distribution
21 rights-of-way under this subsection.

22 “(5) IMPLEMENTATION.—A plan approved
23 under this subsection shall become part of the au-
24 thorization governing the covered right-of-way and
25 hazard trees adjacent to the right-of-way. If a vege-

1 tation management plan is proposed for an existing
2 transmission or distribution facility concurrent with
3 the siting of a new transmission or distribution facil-
4 ity, necessary reviews shall be completed as part of
5 the siting process or sooner. Once the plan is ap-
6 proved, the owner or operator shall provide the agen-
7 cy with only a notification of activities anticipated to
8 be undertaken in the coming year, a description of
9 those activities, and certification that the activities
10 are in accordance with the plan.

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

12 “(A) VEGETATION MANAGEMENT, FACIL-
13 ITY INSPECTION, AND OPERATION AND MAINTEN-
14 NANCE PLAN.—The term ‘vegetation manage-
15 ment, facility inspection, and operation and
16 maintenance plan’ means a plan that—

17 “(i) is prepared by the owner or oper-
18 ator of one or more electrical transmission
19 or distribution facilities to cover one or
20 more electric transmission and distribution
21 rights-of-way; and

22 “(ii) provides for the long-term, cost-
23 effective, efficient and timely management
24 of facilities and vegetation within the width
25 of the right-of-way and adjacent Federal

1 lands to enhance electricity reliability, pro-
2 mote public safety, and avoid fire hazards.

3 “(B) OWNER OR OPERATOR.—The terms
4 ‘owner’ and ‘operator’ include contractors or
5 other agents engaged by the owner or operator
6 of a facility.

7 “(C) HAZARD TREE.—The term ‘hazard
8 tree’ means any tree inside the right-of-way or
9 located outside the right-of-way that has been
10 designated, prior to tree failure, by either the
11 owner or operator of a transmission or distribu-
12 tion facility, or the Secretary or the Secretary
13 of Agriculture, to be likely to fail and cause a
14 high risk of injury, damage, or disruption with-
15 in 10 feet or less of an electric power line or
16 related structure if it fell.

17 “(c) RESPONSE TO EMERGENCY CONDITIONS.—If
18 vegetation on Federal lands within, or hazard trees on
19 Federal lands adjacent to, an electrical transmission or
20 distribution right-of-way granted by the Secretary or the
21 Secretary of Agriculture has contacted or is in imminent
22 danger of contacting one or more electric transmission or
23 distribution lines, the owner or operator of the trans-
24 mission or distribution lines—

1 “(1) may prune or remove the vegetation or
2 hazard tree to avoid the disruption of electric service
3 and risk of fire; and

4 “(2) shall notify the appropriate local agent of
5 the relevant Secretary not later than 24 hours after
6 such removal.

7 “(d) COMPLIANCE WITH APPLICABLE RELIABILITY
8 AND SAFETY STANDARDS.—If vegetation on Federal
9 lands within or adjacent to an electrical transmission or
10 distribution right-of-way under the jurisdiction of each
11 Secretary does not meet clearance requirements under
12 standards established by the Electric Reliability Organiza-
13 tion as defined under 16 U.S.C. 824o(a), or by State and
14 local authorities, and the Secretary having jurisdiction
15 over the lands has failed to act to allow a transmission
16 or distribution facility owner or operator to conduct vege-
17 tation management activities within 3 business days after
18 receiving a request to allow such activities, the owner or
19 operator may, after notifying the Secretary, conduct such
20 vegetation management activities to meet those clearance
21 requirements.

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

1 “(f) LIABILITY.—An owner or operator of a trans-
2 mission or distribution facility shall not be held liable for
3 wildfire damage, loss or injury, including the cost of fire
4 suppression, if—

5 “(1) the Secretary or the Secretary of Agri-
6 culture fails to allow the owner or operator to oper-
7 ate consistently with an approved vegetation man-
8 agement, facility inspection, and operation and
9 maintenance plan on Federal lands under the rel-
10 evant Secretary’s jurisdiction within or adjacent to
11 a right-of-way to comply with Federal, State or local
12 electric system reliability and fire safety standards,
13 including standards established by the Electric Reli-
14 ability Organization as defined under 16 U.S.C.
15 824o(a); or

16 “(2) the Secretary or the Secretary of Agri-
17 culture fails to allow the owner or operator of the
18 transmission or distribution facility to perform ap-
19 propriate vegetation management activities in re-
20 sponse to a hazard tree as defined under subsection
21 (b)(6), or a tree in imminent danger of contacting
22 the owner’s or operator’s transmission or distribu-
23 tion facility.

24 “(g) TRAINING AND GUIDANCE.—In consultation
25 with the electric utility industry, the Secretary and the

1 Secretary of Agriculture are encouraged to develop a pro-
2 gram to train personnel of the Department of the Interior
3 and the Forest Service involved in vegetation management
4 decisions on rights-of-way relating to transmission and
5 distribution facilities to ensure that such personnel—

6 “(1) understand electric system reliability and
7 fire safety requirements, including reliability stand-
8 ards established by the Electric Reliability Organiza-
9 tion as defined under 16 U.S.C. 824o(a);

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

14 “(3) encourage and assist willing owners and
15 operators of transmission and distribution facilities
16 to incorporate on a voluntary basis vegetation man-
17 agement practices to enhance habitats and forage
18 for pollinators and for other wildlife so long as the
19 practices are compatible with the integrated vegeta-
20 tion management practices necessary for reliability
21 and safety; and

22 “(4) understand how existing and emerging un-
23 manned technologies can help electric utilities, Fed-
24 eral, State, and local governments, and private land-
25 owners to more efficiently identify vegetation man-

1 agement needs, lower ratepayer energy costs, and re-
2 duce the risk of wildfires.

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

5 “(1) not later than one year after the date of
6 the enactment of this section, prescribe regulations,
7 or amend existing regulations, to implement this sec-
8 tion; and

9 “(2) not later than two years after the date of
10 the enactment of this section, finalize regulations, or
11 amend existing regulations, to implement this sec-
12 tion.

13 “(i) EXISTING VEGETATION MANAGEMENT, FACIL-
14 ITY INSPECTION AND OPERATION AND MAINTENANCE
15 PLANS.—Nothing in this section requires an owner or op-
16 erator to develop and submit a vegetation management,
17 facility inspection, and operation and maintenance plan if
18 one has already been approved by the Secretary or Sec-
19 retary of Agriculture before the date of the enactment of
20 this section.”.

21 (b) CLERICAL AMENDMENT.—The table of sections
22 for the Federal Land Policy and Management Act of 1976
23 (43 U.S.C. 1761 et seq.), is amended by inserting after
24 the item relating to section 511 the following new item:

“Sec. 512. Vegetation management, facility inspection, and operation and main-
tenance relating to electric transmission and distribution facil-
ity rights-of-way.”.

1 **SEC. 3. NO LOSS OF FUNDS FOR WILD-FIRE SUPPRESSION.**

2 Nothing in this Act or the amendments made by this
3 Act shall detract from the availability of funds or other
4 resources for wild-fire suppression.

 Passed the House of Representatives June 21, 2017.

Attest:

KAREN L. HAAS,

Clerk.