To establish a vegetation management pilot program on National Forest System land to better protect utility infrastructure from passing wildfire, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 15, 2017

Mr. Cramer (for himself, Mr. Polis, Mr. Coffman, Mr. Peterson, Mr. Buck, Mr. Perlmutter, Mr. Tipton, Ms. DeGette, and Mr. Kind) introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committee on Natural Resources, 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 establish a vegetation management pilot program on National Forest System land to better protect utility infrastructure from passing wildfire, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Forest System Vegetation Management Pilot Program Act of 2017”.

1

2

3

4

5
SEC. 2. UTILITY INFRASTRUCTURE RIGHTS-OF-WAY VEGETATION MANAGEMENT PILOT PROGRAM.

(a) Pilot Program Required.—To encourage owners or operators of rights-of-way on National Forest System land to partner with the Forest Service to voluntarily perform vegetation management on a proactive basis to better protect utility infrastructure from potential passing wildfires, the Secretary shall conduct a limited, voluntary pilot program, in the manner described in this section, to permit vegetation management projects on National Forest System land adjacent to or near such rights-of-way.

(b) Eligible Participants.—A participant in the pilot program must have a right-of-way on National Forest System land. In selecting participants, the Secretary shall give priority to holders of a right-of-way who have worked with Forest Service fire scientists and used technologies, such as Light Detection and Ranging surveys, to improve utility infrastructure protection prescriptions.

(c) Project Elements.—A vegetation management project under the pilot program involves limited and selective vegetation management activities, which—

(1) shall create the least amount of disturbance reasonably necessary to protect utility infrastructure from passing wildfires based on applicable models, including Forest Service fuel models;
(2) may include thinning, fuel reduction, creation and treatment of shaded fuel breaks, and other measures as appropriate;

(3) shall only take place adjacent to the participant’s right-of-way or within 75 feet of the participant’s right-of-way;

(4) shall not take place in any designated wilderness area, wilderness study area, or inventoried roadless area; and

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

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

(e) LIABILITY.—

(1) IN GENERAL.—Participation in the pilot program does not affect any existing legal obligations or liability standards that—

(A) arise under the right-of-way for activities in the right-of-way; or
(B) apply to fires resulting from causes other than activities conducted pursuant to an approved vegetation management project.

(2) PROJECT WORK.—A participant shall not be liable to the United States for damage proximately caused by activities conducted pursuant to an approved vegetation management project unless—

(A) such activities were carried out in a manner that was grossly negligent or that violated criminal law; or

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

(f) IMPLEMENTATION.—The Secretary shall utilize existing laws and regulations in the conduct of the pilot program and, in order to implement the pilot program in an efficient and expeditious manner, may waive or modify specific provisions of the Federal Acquisition Regulation, including modifications to allow for formation of contracts or agreements on a noncompetitive basis.

(g) TREATMENT OF PROCEEDS.—Notwithstanding any other provision of law, the Secretary may—
(1) retain any funds provided to the Forest Service by a participant in the pilot program; and

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

(h) DEFINITIONS.—In this section:

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

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

(3) RIGHT-OF-WAY.—The term “right-of-way” means a special use authorization issued by the Forest Service allowing the placement of utility infrastructure.

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

(5) UTILITY INFRASTRUCTURE.—The term “utility infrastructure” means electric transmission
lines, natural gas infrastructure, or related structures.

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

(j) REPORT TO CONGRESS.—Not later than December 31, 2019, and every two years thereafter, the Secretary shall issue a report to the Committee on Energy and Natural Resources of the Senate, the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Committee on Natural Resources of the House of Representatives, and the Committee on Agriculture of the House of Representatives on the status of the program and any projects established under this section.