

Calendar No. 720

115TH CONGRESS
2^D SESSION

S. 2160

To establish a pilot program under which the Chief of the Forest Service may use alternative dispute resolution in lieu of judicial review for certain projects.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 16, 2017

Mr. DAINES (for himself, Mr. RISCH, and Mr. CRAPO) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

DECEMBER 5, 2018

Reported by Ms. MURKOWSKI, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To establish a pilot program under which the Chief of the Forest Service may use alternative dispute resolution in lieu of judicial review for certain projects.

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 “Protect Collaboration
5 for Healthier Forests Act”.

1 **SEC. 2. ALTERNATIVE DISPUTE RESOLUTION PILOT PRO-**
2 **GRAM.**

3 (a) **DEFINITIONS.**—In this Act:

4 (1) **PARTICIPANT.**—The term “participant”
5 means an individual or entity that files an objection
6 or scoping comments on a draft environmental docu-
7 ment with respect to a project that is subject to an
8 objection at the project level under part 218 of title
9 36, Code of Federal Regulations (or successor regu-
10 lations).

11 (2) **PILOT PROGRAM.**—The term “pilot pro-
12 gram” means the pilot program established under
13 subsection (b).

14 (3) **PROJECT.**—The term “project” means a
15 project described in subsection (c).

16 (4) **SECRETARY.**—The term “Secretary” means
17 the Secretary of Agriculture, acting through the
18 Chief of the Forest Service.

19 (b) **ARBITRATION PILOT PROGRAM.**—Not later than
20 180 days after the date of enactment of this Act, the Sec-
21 retary shall establish within Region 1 of the Forest Service
22 an arbitration pilot program as an alternative dispute res-
23 olution process in lieu of judicial review for projects de-
24 scribed in subsection (c).

25 (c) **DESCRIPTION OF PROJECTS.**—

1 (1) ~~IN GENERAL.~~—The Secretary, at the sole
2 discretion of the Secretary, may designate for arbi-
3 tration projects that—

4 (A)(i) are developed through a collabo-
5 rative process (within the meaning of section
6 603(b)(1)(C) of the Healthy Forest Restoration
7 Act of 2003 (16 U.S.C. 6591b(b)(1)(C)));

8 (ii) are carried out under the Collaborative
9 Forest Landscape Restoration Program estab-
10 lished under section 4003 of the Omnibus Pub-
11 lic Land Management Act of 2009 (16 U.S.C.
12 7303); or

13 (iii) are identified in a community wildfire
14 protection plan (as defined in section 101 of the
15 Healthy Forests Restoration Act of 2003 (16
16 U.S.C. 6511));

17 (B) have as a purpose—

18 (i) hazardous fuels reduction; or

19 (ii) mitigation of insect or disease in-
20 festation; and

21 (C) are located, in whole or in part, in a
22 wildland-urban interface (as defined in section
23 101 of the Healthy Forests Restoration Act of
24 2003 (16 U.S.C. 6511)).

1 (2) INCLUSION.—In designating projects for ar-
 2 bitration, the Secretary may include projects that re-
 3 ceive categorical exclusions for purposes of the Na-
 4 tional Environmental Policy Act of 1969 (42 U.S.C.
 5 4321 et seq.).

6 (d) LIMITATION ON NUMBER OF PROJECTS.—The
 7 Secretary may not designate for arbitration under the
 8 pilot program more than 2 projects per calendar year.

9 (e) ARBITRATORS.—

10 (1) APPOINTMENT.—The Secretary shall de-
 11 velop and publish a list of not fewer than 15 individ-
 12 uals eligible to serve as arbitrators for the pilot pro-
 13 gram.

14 (2) QUALIFICATIONS.—To be eligible to serve
 15 as an arbitrator under this subsection, an individual
 16 shall be—

17 (A) certified by—

18 (i) the American Arbitration Associa-
 19 tion; or

20 (ii) a State arbitration program; or

21 (B) a fully retired Federal or State judge.

22 (f) INITIATION OF ARBITRATION.—

23 (1) IN GENERAL.—Not later than 7 days after
 24 the date on which the Secretary issues the final deci-
 25 sion with respect to a project, the Secretary shall—

1 (A) notify each applicable participant and
2 the Clerk of the United States District Court
3 for the district in which the project is located
4 that the project has been designated for arbi-
5 tration in accordance with this Act; and

6 (B) include in the decision document a
7 statement that the project has been designated
8 for arbitration.

9 (2) INITIATION.—

10 (A) IN GENERAL.—A participant may ini-
11 tiate arbitration regarding a project that has
12 been designated for arbitration under this Act
13 in accordance with—

14 (i) sections 571 through 584 of title
15 5, United States Code; and

16 (ii) this paragraph.

17 (B) REQUIREMENTS.—A request to initiate
18 arbitration under subparagraph (A) shall—

19 (i) be filed not later than the date
20 that is 30 days after the date of the notifi-
21 cation by the Secretary under paragraph
22 (1); and

23 (ii) include an alternative proposal for
24 the applicable project that describes each

1 modification sought by the participant with
2 respect to the project.

3 ~~(C) NO JUDICIAL REVIEW.~~—A project for
4 which arbitration is initiated under subpara-
5 graph (A) shall not be subject to judicial re-
6 view.

7 ~~(3) COMPELLED ARBITRATION.~~—

8 ~~(A) MOTION TO COMPEL ARBITRATION.~~—

9 ~~(i) IN GENERAL.~~—If a participant
10 seeks judicial review of a final decision
11 with respect to a project, the Secretary
12 may file in the applicable court a motion to
13 compel arbitration in accordance with this
14 Act.

15 ~~(ii) FEES AND COSTS.~~—For any mo-
16 tion described in clause (i) for which the
17 Secretary is the prevailing party, the appli-
18 cable court shall award to the Secretary—

19 ~~(I) court costs; and~~

20 ~~(II) attorney's fees.~~

21 ~~(B) ARBITRATION COMPELLED BY~~
22 ~~COURT.~~—If a participant seeks judicial review
23 of a project, the applicable court shall compel
24 arbitration in accordance with this Act.

1 (g) SELECTION OF ARBITRATOR.—For each arbitra-
2 tion commenced under this Act—

3 (1) the Secretary shall propose 3 arbitrators
4 from the list published under subsection (e)(1); and

5 (2) the applicable participant shall select 1 arbi-
6 trator from the list of arbitrators proposed under
7 paragraph (1).

8 (h) RESPONSIBILITIES OF ARBITRATOR.—

9 (1) IN GENERAL.—An arbitrator selected under
10 subsection (e)—

11 (A) shall address all claims of each party
12 seeking arbitration with respect to a project
13 under this Act; but

14 (B) may consolidate into a single arbitra-
15 tion all requests to initiate arbitration by all
16 participants with respect to a project.

17 (2) SELECTION OF PROPOSALS.—An arbitrator
18 shall make a decision with respect to each applicable
19 request for initiation of arbitration under this Act
20 by—

21 (A) selecting the project, as approved by
22 the Secretary;

23 (B) selecting an alternative proposal sub-
24 mitted by the applicable participant; or

1 (C) rejecting both projects described in
2 subparagraphs (A) and (B).

3 ~~(3) LIMITATIONS.—~~

4 (A) ADMINISTRATIVE RECORD.—The evi-
5 dence before an arbitrator under this subsection
6 shall be limited solely to the administrative
7 record for the project.

8 (B) NO MODIFICATIONS TO PROPOSALS.—
9 An arbitrator may not modify any proposal con-
10 tained in a request for initiation of arbitration
11 of a participant under this Act.

12 (i) INTERVENTION.—A party may intervene in an ar-
13 bitration under this Act if, with respect to the project to
14 which the arbitration relates, the party—

15 (1) meets the requirements of Rule 24(a) of the
16 Federal Rules of Civil Procedure (or a successor
17 rule); or

18 (2) participated in the applicable collaborative
19 process referred to in clause (i) or (ii) of subsection
20 (e)(1)(A).

21 (j) SCOPE OF REVIEW.—In carrying out arbitration
22 for a project, the arbitrator shall set aside the agency ac-
23 tion, findings, and conclusions found to be arbitrary, ea-
24 rbitrary, an abuse of discretion, or otherwise not in ac-

1 eordance with law, within the meaning of section
 2 706(2)(A) of title 5, United States Code.

3 (k) DEADLINE FOR COMPLETION OF ARBITRA-
 4 TION.—Not later than 90 days after the date on which
 5 a request to initiate arbitration is filed under subsection
 6 (f)(2), the arbitrator shall make a decision with respect
 7 to the request to initiate arbitration.

8 (l) EFFECT OF ARBITRATION DECISION.—A decision
 9 of an arbitrator under this Act—

10 (1) shall not be considered to be a major Fed-
 11 eral action;

12 (2) shall be binding; and

13 (3) shall not be subject to judicial review, ex-
 14 cept as provided in section 10(a) of title 9, United
 15 States Code.

16 (m) ADMINISTRATIVE COSTS.—

17 (1) IN GENERAL.—The Secretary shall—

18 (A) be solely responsible for the profes-
 19 sional fees of arbitrators participating in the
 20 pilot program; and

21 (B) use funds made available to the Sec-
 22 retary and not otherwise obligated to carry out
 23 subparagraph (A).

1 (2) ATTORNEY'S FEES.—No arbitrator may
2 award attorney's fees in any arbitration brought
3 under this Act.

4 (n) REPORTS.—

5 (1) IN GENERAL.—Not later than 1 year after
6 the date on which the pilot program is established,
7 and annually thereafter, the Secretary shall submit
8 to the Committee on Agriculture, Nutrition, and
9 Forestry and the Committee on Energy and Natural
10 Resources of the Senate and the Committee on Nat-
11 ural Resources of the House of Representatives, and
12 publish on the website of Region 1 of the Forest
13 Service, a report of not longer than 10 pages de-
14 scribing the implementation of the pilot program for
15 the applicable year, including—

16 (A) the reasons for selecting certain
17 projects for arbitration;

18 (B) an evaluation of the arbitration pro-
19 cess, including any recommendations for im-
20 provements to the process;

21 (C) a description of the outcome of each
22 arbitration; and

23 (D) a summary of the impacts of each out-
24 come described in subparagraph (C) on the

1 timeline for implementation and completion of
2 the applicable project.

3 ~~(2) GAO REVIEWS AND REPORTS.—~~

4 ~~(A) INITIAL REVIEW.—Not later than 2~~
5 ~~years after the date on which the pilot program~~
6 ~~is established, the Comptroller General of the~~
7 ~~United States shall review the implementation~~
8 ~~by the Secretary of the pilot program.~~

9 ~~(B) REVIEW ON TERMINATION.—On termi-~~
10 ~~nation of the pilot program under subsection~~
11 ~~(e), the Comptroller General of the United~~
12 ~~States shall review the implementation by the~~
13 ~~Secretary of the pilot program.~~

14 ~~(C) REPORT.—On completion of the review~~
15 ~~described in subparagraph (A) or (B), the~~
16 ~~Comptroller General of the United States shall~~
17 ~~submit to the Committee on Agriculture, Nutri-~~
18 ~~tion, and Forestry and the Committee on En-~~
19 ~~ergy and Natural Resources of the Senate and~~
20 ~~the Committee on Natural Resources of the~~
21 ~~House of Representatives a report describing~~
22 ~~the results of the applicable review.~~

23 ~~(e) TERMINATION.—The pilot program shall termi-~~
24 ~~nate on the date that is 5 years after the date.~~

1 (p) EFFECT.—Nothing in this Act affects the respon-
2 sibility of the Secretary to comply with—

3 (1) the ~~Endangered Species Act of 1973~~ (16
4 U.S.C. 1531 et seq.); or

5 (2) the National Environmental Policy Act of
6 1969 (42 U.S.C. 4321 et seq.).

7 **SECTION 1. SHORT TITLE.**

8 *This Act may be cited as the “Protect Collaboration*
9 *for Healthier Forests Act”.*

10 **SEC. 2. ALTERNATIVE DISPUTE RESOLUTION PILOT PRO-**
11 **GRAM.**

12 (a) DEFINITIONS.—*In this Act:*

13 (1) ARBITRATOR.—*The term “arbitrator” means*
14 *a person—*

15 (A) *selected by the Secretary under sub-*
16 *section (d)(1); and*

17 (B) *that meets the qualifications under sub-*
18 *section (d)(2).*

19 (2) LAND AND RESOURCE MANAGEMENT PLAN.—

20 *The term “land and resource management plan”*
21 *means a plan developed under section 6 of the Forest*
22 *and Rangeland Renewable Resources Planning Act of*
23 *1974 (16 U.S.C. 1604).*

1 (3) *PARTICIPANT.*—The term “participant”
2 means an individual or entity that, with respect to
3 a project—

4 (A) has exhausted the administrative review
5 process under part 218 of title 36, Code of Fed-
6 eral Regulations (or successor regulations); or

7 (B) in the case of a project that is categori-
8 cally excluded for purposes of the National Envi-
9 ronmental Policy Act of 1969 (42 U.S.C. 4321 *et*
10 *seq.*), has participated in a collaborative process
11 under clause (i) or (ii) of subsection (c)(1)(A).

12 (4) *PILOT PROGRAM.*—The term “pilot program”
13 means the pilot program implemented under sub-
14 section (b)(1).

15 (5) *PROJECT.*—The term “project” means a
16 project described in subsection (c).

17 (6) *SECRETARY.*—The term “Secretary” means
18 the Secretary of Agriculture, acting through the Chief
19 of the Forest Service.

20 (b) *ARBITRATION PILOT PROGRAM.*—

21 (1) *IN GENERAL.*—Not later than 2 years after
22 the date of enactment of this Act, the Secretary shall
23 issue a final rule to implement an arbitration pilot
24 program, to be carried out in the States of Idaho,
25 Montana, and Wyoming, as an alternative dispute

1 *resolution in lieu of judicial review for projects de-*
2 *scribed in subsection (c).*

3 (2) *LIMITATION ON NUMBER OF PROJECTS.—*

4 (A) *IN GENERAL.—The Secretary may not*
5 *designate for arbitration under the pilot pro-*
6 *gram more than 2 projects per calendar year.*

7 (B) *EXCEPTION.—If the Secretary des-*
8 *ignates a project for arbitration under the pilot*
9 *program, and no participant initiates arbitra-*
10 *tion under subsection (e)(2), that project shall*
11 *not count against the limitation on the number*
12 *of projects under subparagraph (A).*

13 (3) *APPLICABLE PROCESS.—Except as otherwise*
14 *provided in this Act, the pilot program shall be car-*
15 *ried out in accordance with subchapter IV of chapter*
16 *5 of title 5, United States Code.*

17 (4) *EXCLUSIVE MEANS OF REVIEW.—The alter-*
18 *native dispute resolution process under the pilot pro-*
19 *gram for a project designated for arbitration under*
20 *the pilot program shall be the exclusive means of re-*
21 *view for the project.*

22 (5) *NO JUDICIAL REVIEW.—A project that the*
23 *Secretary has designated for arbitration under the*
24 *pilot program shall not be subject to judicial review.*

25 (c) *DESCRIPTION OF PROJECTS.—*

1 (1) *IN GENERAL.*—*The Secretary, at the sole dis-*
2 *cretion of the Secretary, may designate for arbitra-*
3 *tion projects that—*

4 (A)(i) *are developed through a collaborative*
5 *process (within the meaning of section*
6 *603(b)(1)(C) of the Healthy Forest Restoration*
7 *Act of 2003 (16 U.S.C. 6591b(b)(1)(C));*

8 (i) *are carried out under the Collaborative*
9 *Forest Landscape Restoration Program estab-*
10 *lished under section 4003 of the Omnibus Public*
11 *Land Management Act of 2009 (16 U.S.C. 7303);*

12 *or*

13 (iii) *are identified in a community wildfire*
14 *protection plan (as defined in section 101 of the*
15 *Healthy Forests Restoration Act of 2003 (16*
16 *U.S.C. 6511));*

17 (B) *have as a purpose—*

18 (i) *reducing hazardous fuels; or*

19 (ii) *reducing the risk of, or mitigating,*
20 *insect or disease infestation; and*

21 (C) *are located, in whole or in part, in a*
22 *wildland-urban interface (as defined in section*
23 *101 of the Healthy Forests Restoration Act of*
24 *2003 (16 U.S.C. 6511)).*

1 (2) *INCLUSION.*—*In designating projects for ar-*
 2 *bitration, the Secretary may include projects that are*
 3 *categorically excluded for purposes of the National*
 4 *Environmental Policy Act of 1969 (42 U.S.C. 4321 et*
 5 *seq.).*

6 (d) *ARBITRATORS.*—

7 (1) *IN GENERAL.*—*The Secretary shall develop*
 8 *and publish a list of not fewer than 15 individuals*
 9 *eligible to serve as arbitrators for the pilot program.*

10 (2) *QUALIFICATIONS.*—*To be eligible to serve as*
 11 *an arbitrator under this subsection, an individual*
 12 *shall be—*

13 (A) *recognized by—*

14 (i) *the American Arbitration Associa-*
 15 *tion; or*

16 (ii) *a State arbitration program; or*

17 (B) *a fully retired Federal or State judge.*

18 (e) *INITIATION OF ARBITRATION.*—

19 (1) *IN GENERAL.*—*Not later than 7 days after*
 20 *the date on which the Secretary issues the applicable*
 21 *decision notice or decision memo with respect to a*
 22 *project, the Secretary shall—*

23 (A) *notify each applicable participant and*
 24 *the Clerk of the United States District Court for*
 25 *the district in which the project is located that*

1 *the project has been designated for arbitration*
2 *under the pilot program; and*

3 *(B) include in the applicable decision notice*
4 *or decision memo a statement that the project*
5 *has been designated for arbitration.*

6 (2) *INITIATION.*—

7 *(A) IN GENERAL.*—*A participant that has*
8 *received a notification under paragraph (1) and*
9 *is seeking to initiate arbitration for the applica-*
10 *ble project under the pilot program shall file a*
11 *request for arbitration with the Secretary not*
12 *later than 30 days after the date of receipt of the*
13 *notification.*

14 *(B) REQUIREMENT.*—*The request under*
15 *subparagraph (A) shall include an alternative*
16 *proposal for the applicable project that—*

17 *(i) describes each modification sought*
18 *by the participant with respect to the*
19 *project; and*

20 *(ii) is consistent with the goals and ob-*
21 *jectives of the applicable land and resource*
22 *management plan, all applicable laws, reg-*
23 *ulations, legal precedent and policy direc-*
24 *tives, and the purpose and need for the*
25 *project.*

1 (C) *FAILURE TO MEET REQUIREMENTS.*—A
2 participant who fails to meet the requirements of
3 subparagraphs (A) and (B) shall be considered to
4 have forfeited their standing to initiate arbitra-
5 tion under this paragraph.

6 (3) *COMPELLED ARBITRATION.*—

7 (A) *IN GENERAL.*—For any request for judi-
8 cial review with respect to a project that the Sec-
9 retary has designated for arbitration under the
10 pilot program—

11 (i) the Secretary shall file in the appli-
12 cable court a motion to compel arbitration
13 in accordance with this Act; and

14 (ii) the applicable court shall compel
15 arbitration in accordance with this Act.

16 (B) *FEEES AND COSTS.*—For any motion de-
17 scribed in subparagraph (A) for which the Sec-
18 retary is the prevailing party, the applicable
19 court shall award to the Secretary—

20 (i) full or partial court costs; and

21 (ii) full or partial attorney's fees.

22 (f) *SELECTION OF ARBITRATOR.*—For each arbitration
23 initiated under this Act—

24 (1) each applicable participant shall propose 2
25 arbitrators; and

1 (2) *the Secretary shall select 1 arbitrator from*
2 *the list of arbitrators proposed under paragraph (1).*

3 *(g) RESPONSIBILITIES OF ARBITRATOR.—*

4 (1) *IN GENERAL.—An arbitrator—*

5 (A) *shall address all claims or modifica-*
6 *tions sought by each party seeking arbitration*
7 *with respect to a project under this Act; but*

8 (B) *may consolidate into a single arbitra-*
9 *tion all requests to initiate arbitration by all*
10 *participants with respect to a project.*

11 (2) *CONSIDERATION OF PROPOSED PROJECTS*
12 *AND DECISION.—For each project for which arbitra-*
13 *tion has been initiated under this Act, the arbitrator*
14 *shall make a decision with respect to the project by—*

15 (A) *selecting the project, as approved by the*
16 *Secretary;*

17 (B) *selecting the alternative proposal sub-*
18 *mitted by the applicable participant in the re-*
19 *quest for initiation of arbitration for the project*
20 *filed under subsection (e)(2)(A); or*

21 (C) *rejecting both options described in sub-*
22 *paragraphs (A) and (B).*

23 (3) *CONVENE HEARINGS.—In carrying out para-*
24 *graph (2), the arbitrator may convene the Secretary*

1 *and the participant, including by telephone con-*
2 *ference or other electronic means to consider—*

3 *(A) the administrative record;*

4 *(B) arguments and evidence submitted by*
5 *the Secretary and the participant;*

6 *(C) the project, as approved by the Sec-*
7 *retary; and*

8 *(D) the alternative proposal submitted by*
9 *the applicable participant in the request for ini-*
10 *tiation of arbitration for the project filed under*
11 *subsection (e)(2)(A).*

12 *(4) LIMITATIONS.—An arbitrator may not mod-*
13 *ify any project or alternative proposal contained in*
14 *a request for initiation of arbitration of a participant*
15 *under this Act.*

16 *(h) INTERVENTION.—A party may intervene in an ar-*
17 *bitration under this Act if, with respect to the project to*
18 *which the arbitration relates, the party—*

19 *(1) meets the requirements of Rule 24(a) of the*
20 *Federal Rules of Civil Procedure (or a successor rule);*
21 *or*

22 *(2) participated in the applicable collaborative*
23 *process referred to in clause (i) or (ii) of subsection*
24 *(c)(1)(A).*

1 (i) *SCOPE OF REVIEW.*—*In carrying out arbitration*
2 *for a project, the arbitrator shall set aside the agency action,*
3 *findings, and conclusions found to be arbitrary, capricious,*
4 *an abuse of discretion, or otherwise not in accordance with*
5 *law, within the meaning of section 706(2)(A) of title 5,*
6 *United States Code.*

7 (j) *DEADLINE FOR COMPLETION OF ARBITRATION.*—
8 *Not later than 90 days after the date on which arbitration*
9 *is initiated for a project under the pilot program, the arbi-*
10 *trator shall make a decision with respect to all claims or*
11 *modifications sought by the participant that initiated the*
12 *arbitration.*

13 (k) *EFFECT OF ARBITRATION DECISION.*—*A decision*
14 *of an arbitrator under this Act—*

15 (1) *shall not be considered to be a major Federal*
16 *action;*

17 (2) *shall be binding; and*

18 (3) *shall not be subject to judicial review, except*
19 *as provided in section 10(a) of title 9, United States*
20 *Code.*

21 (l) *ADMINISTRATIVE COSTS.*—

22 (1) *IN GENERAL.*—*The Secretary shall—*

23 (A) *be solely responsible for the professional*
24 *fees of arbitrators participating in the pilot pro-*
25 *gram; and*

1 (B) use funds made available to the Sec-
2 retary and not otherwise obligated to carry out
3 subparagraph (A).

4 (2) TRAVEL COSTS.—The Secretary—

5 (A) shall be solely responsible for reasonable
6 travel costs associated with the participation of
7 an arbitrator in any meeting conducted under
8 subsection (g)(3); and

9 (B) shall not be responsible for the travel
10 costs of a participant under subsection (g)(3).

11 (3) ATTORNEY'S FEES.—No arbitrator may
12 award attorney's fees in any arbitration brought
13 under this Act.

14 (m) REPORTS.—

15 (1) IN GENERAL.—Not later than 2 years after
16 the date on which the Secretary issues a final rule to
17 implement the pilot program under subsection (b)(1),
18 the Secretary shall submit to the Committee on Agri-
19 culture, Nutrition, and Forestry and the Committee
20 on Energy and Natural Resources of the Senate and
21 the Committee on Natural Resources of the House of
22 Representatives, and publish on the website of the
23 Forest Service, a report describing the implementa-
24 tion of the pilot program, including—

1 (A) *the reasons for selecting certain projects*
2 *for arbitration;*

3 (B) *an evaluation of the arbitration process,*
4 *including any recommendations for improve-*
5 *ments to the process;*

6 (C) *a description of the outcome of each ar-*
7 *bitration; and*

8 (D) *a summary of the impacts of each out-*
9 *come described in subparagraph (C) on the*
10 *timeline for implementation and completion of*
11 *the applicable project.*

12 (2) *GAO REVIEWS AND REPORTS.—*

13 (A) *REVIEW ON TERMINATION.—On termi-*
14 *nation of the pilot program under subsection (n),*
15 *the Comptroller General of the United States*
16 *shall review the implementation by the Secretary*
17 *of the pilot program, including—*

18 (i) *the reasons for selecting certain*
19 *projects for arbitration under the pilot pro-*
20 *gram;*

21 (ii) *the location and types of projects*
22 *that were arbitrated under the pilot pro-*
23 *gram;*

1 (iii) a description of the outcomes of
2 the projects that were arbitrated under the
3 pilot program;

4 (iv) a description of the participants
5 who initiated arbitration under the pilot
6 program;

7 (v) a description and survey of the ar-
8 bitrators who participated in the pilot pro-
9 gram;

10 (vi) the type and outcome of any re-
11 quests for judicial review with respect to a
12 project that the Secretary designated for ar-
13 bitration under the pilot program; and

14 (vii) any other items the Comptroller
15 General of the United States may find ap-
16 plicable for evaluating the pilot program.

17 (B) *REPORT.*—After completion of the re-
18 view described in subparagraph (A) and not
19 later than 1 year after termination of the pilot
20 program under subsection (n), the Comptroller
21 General of the United States shall submit to the
22 Committee on Agriculture, Nutrition, and For-
23 estry and the Committee on Energy and Natural
24 Resources of the Senate and the Committee on
25 Natural Resources of the House of Representa-

1 *tives a report, describing the results of the appli-*
2 *cable review.*

3 *(n) TERMINATION.—The Secretary may not designate*
4 *a project for arbitration under the pilot program on or after*
5 *the date that is 5 years after the date on which the Secretary*
6 *issues a final rule to implement the pilot program under*
7 *subsection (b)(1).*

8 *(o) EFFECT.—Nothing in this Act affects the responsi-*
9 *bility of the Secretary to comply with—*

10 *(1) the Endangered Species Act of 1973 (16*
11 *U.S.C. 1531 et seq.);*

12 *(2) the National Environmental Policy Act of*
13 *1969 (42 U.S.C. 4321 et seq.); or*

14 *(3) other applicable laws.*

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2^D SESSION

S. 2160

A BILL

To establish a pilot program under which the Chief of the Forest Service may use alternative dispute resolution in lieu of judicial review for certain projects.

DECEMBER 5, 2018

Reported with an amendment