

115TH CONGRESS
2D SESSION

S. 1417

AN ACT

To require the Secretary of the Interior to develop a categorical exclusion for covered vegetative management activities carried out to establish or improve habitat for greater sage-grouse and mule deer, and for other purposes.

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. SHORT TITLE.**

2 This Act may be cited as the “Sage-Grouse and Mule
3 Deer Habitat Conservation and Restoration Act of 2018”.

4 **SEC. 2. DEFINITIONS.**

5 In this Act:

6 (1) COVERED VEGETATION MANAGEMENT AC-
7 TIVITY.—

8 (A) IN GENERAL.—The term “covered
9 vegetation management activity” means any ac-
10 tivity described in subparagraph (B) that—

11 (i) is carried out on public land ad-
12 ministered by the Bureau of Land Man-
13 agement;

14 (ii) meets the objectives of the order
15 of the Secretary numbered 3336 and dated
16 January 5, 2015;

17 (iii) conforms to an applicable land
18 use plan;

19 (iv) protects, restores, or improves
20 greater sage-grouse or mule deer habitat in
21 a sagebrush steppe ecosystem as described
22 in—

23 (I) Circular 1416 of the United
24 States Geological Survey entitled
25 “Restoration Handbook for Sagebrush
26 Steppe Ecosystems with Emphasis on

1 Greater Sage-Grouse Habitat—Part

2 1. Concepts for Understanding and

3 Applying Restoration” (2015); or

4 (II) the habitat guidelines for

5 mule deer published by the Mule Deer

6 Working Group of the Western Asso-

7 ciation of Fish and Wildlife Agencies;

8 (v) will not permanently impair—

9 (I) the natural state of the treat-

10 ed area;

11 (II) outstanding opportunities for

12 solitude;

13 (III) outstanding opportunities

14 for primitive, unconfined recreation;

15 (IV) economic opportunities con-

16 sistent with multiple-use management;

17 or

18 (V) the identified values of a unit

19 of the National Landscape Conserva-

20 tion System; and

21 (vi)(I) restores native vegetation fol-

22 lowing a natural disturbance;

23 (II) prevents the expansion into great-

24 er sage-grouse or mule deer habitat of—

1 (aa) juniper, pinyon pine, or
2 other associated conifers; or

3 (bb) nonnative or invasive vegeta-
4 tion;

5 (III) reduces the risk of loss of great-
6 er sage-grouse or mule deer habitat from
7 wildfire or any other natural disturbance;
8 or

9 (IV) provides emergency stabilization
10 of soil resources after a natural disturb-
11 ance.

12 (B) DESCRIPTION OF ACTIVITIES.—An ac-
13 tivity referred to in subparagraph (A) is—

14 (i) manual cutting and removal of ju-
15 niper trees, pinyon pine trees, other associ-
16 ated conifers, or other nonnative or
17 invasive vegetation;

18 (ii) mechanical mastication, cutting,
19 or mowing, mechanical piling and burning,
20 chaining, broadcast burning, or yarding;

21 (iii) removal of cheat grass, medusa
22 head rye, or other nonnative, invasive vege-
23 tation;

1 (iv) collection and seeding or planting
2 of native vegetation using a manual, me-
3 chanical, or aerial method;

4 (v) seeding of nonnative, noninvasive,
5 ruderal vegetation only for the purpose of
6 emergency stabilization;

7 (vi) targeted use of an herbicide, sub-
8 ject to the condition that the use shall be
9 in accordance with applicable legal require-
10 ments, Federal agency procedures, and
11 land use plans;

12 (vii) targeted livestock grazing to
13 mitigate hazardous fuels and control nox-
14 ious and invasive weeds;

15 (viii) temporary removal of wild
16 horses or burros in the area in which the
17 activity is being carried out to ensure
18 treatment objectives are met;

19 (ix) in coordination with the affected
20 permit holder, modification or adjustment
21 of permissible usage under an annual plan
22 of use of a grazing permit issued by the
23 Secretary to achieve restoration treatment
24 objectives;

1 (x) installation of new, or modification
2 of existing, fencing or water sources in-
3 tended to control use or improve wildlife
4 habitat; or

5 (xi) necessary maintenance of, repairs
6 to, rehabilitation of, or reconstruction of
7 an existing permanent road or construction
8 of temporary roads to accomplish the ac-
9 tivities described in this subparagraph.

10 (C) EXCLUSIONS.—The term “covered
11 vegetation management activity” does not in-
12 clude—

13 (i) any activity conducted in a wilder-
14 ness area or wilderness study area; or

15 (ii) any activity for the construction of
16 a permanent road or permanent trail.

17 (2) SECRETARY.—The term “Secretary” means
18 the Secretary of the Interior.

19 (3) TEMPORARY ROAD.—The term “temporary
20 road” means a road that is—

21 (A) authorized—

22 (i) by a contract, permit, lease, other
23 written authorization; or

24 (ii) pursuant to an emergency oper-
25 ation;

1 (B) not intended to be part of the perma-
 2 nent transportation system of a Federal depart-
 3 ment or agency;

4 (C) not necessary for long-term resource
 5 management;

6 (D) designed in accordance with standards
 7 appropriate for the intended use of the road,
 8 taking into consideration—

9 (i) safety;

10 (ii) the cost of transportation; and

11 (iii) impacts to land and resources;

12 and

13 (E) managed to minimize—

14 (i) erosion; and

15 (ii) the introduction or spread of
 16 invasive species.

17 **SEC. 3. IMPROVEMENT OF HABITAT FOR GREATER SAGE-**
 18 **GROUSE AND MULE DEER.**

19 (a) CATEGORICAL EXCLUSION.—

20 (1) IN GENERAL.—Not later than 1 year after
 21 the date of the enactment of this Act, the Secretary
 22 shall develop 1 or more categorical exclusions (as de-
 23 fined in section 1508.4 of title 40, Code of Federal
 24 Regulations (or a successor regulation)) for covered
 25 vegetation management activities carried out to pro-

1 tect, restore, or improve habitat for greater sage-
2 grouse or mule deer.

3 (2) ADMINISTRATION.—In developing and ad-
4 ministering a categorical exclusion under paragraph
5 (1), the Secretary shall—

6 (A) comply with the National Environ-
7 mental Policy Act of 1969 (42 U.S.C. 4321 et
8 seq.);

9 (B) apply the extraordinary circumstances
10 procedures under section 220.6 of title 36, Code
11 of Federal Regulations (or successor regula-
12 tions), in determining whether to use the cat-
13 egorical exclusion; and

14 (C) consider—

15 (i) the relative efficacy of landscape-
16 scale habitat projects;

17 (ii) the likelihood of continued de-
18 clines in the populations of greater sage-
19 grouse and mule deer in the absence of
20 landscape-scale vegetation management;
21 and

22 (iii) the need for habitat restoration
23 activities after wildfire or other natural
24 disturbances.

1 (b) IMPLEMENTATION OF COVERED VEGETATIVE
2 MANAGEMENT ACTIVITIES WITHIN THE RANGE OF
3 GREATER SAGE-GROUSE AND MULE DEER.—If a categor-
4 ical exclusion developed under subsection (a) is used to
5 implement a covered vegetative management activity in an
6 area within the range of both greater sage-grouse and
7 mule deer, the covered vegetative management activity
8 shall protect, restore, or improve habitat concurrently for
9 both greater sage-grouse and mule deer.

10 (c) LONG-TERM MONITORING AND MAINTENANCE.—
11 Before commencing any covered vegetation management
12 activity that is covered by a categorical exclusion under
13 subsection (a), the Secretary shall develop a long-term
14 monitoring and maintenance plan, covering at least the
15 20 year-period beginning on the date of commencement,
16 to ensure that management of the treated area does not
17 degrade the habitat gains secured by the covered vegeta-
18 tion management activity.

19 (d) DISPOSAL OF VEGETATIVE MATERIAL.—Subject
20 to applicable local restrictions, any vegetative material re-
21 sulting from a covered vegetation management activity
22 that is covered by a categorical exclusion under subsection
23 (a) may be—

24 (1) used for—

25 (A) fuel wood; or

1 (B) other products; or

2 (2) piled or burned, or both.

3 (e) TREATMENT FOR TEMPORARY ROADS.—

4 (1) IN GENERAL.—Notwithstanding section
5 2(1)(B)(xi), any temporary road constructed in car-
6 rying out a covered vegetation management activity
7 that is covered by a categorical exclusion under sub-
8 section (a)—

9 (A) shall be used by the Secretary for the
10 covered vegetation management activity for not
11 more than 2 years; and

12 (B) shall be decommissioned by the Sec-
13 retary not later than 3 years after the earlier
14 of the date on which—

15 (i) the temporary road is no longer
16 needed; and

17 (ii) the project is completed.

18 (2) REQUIREMENT.—A treatment under para-
19 graph (1) shall include reestablishing native vegeta-
20 tive cover—

21 (A) as soon as practicable; but

1 (B) not later than 10 years after the date
2 of completion of the applicable covered vegeta-
3 tion management activity.

Passed the Senate September 6, 2018.

Attest:

Secretary.

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