

115TH CONGRESS  
2D SESSION

# S. 1417

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## 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

Greater Sage-Grouse Habitat—Part

1. Concepts for Understanding and

Applying Restoration” (2015); or

(II) the habitat guidelines for

mule deer published by the Mule Deer

Working Group of the Western Asso-

ciation of Fish and Wildlife Agencies;

(v) will not permanently impair—

(I) the natural state of the treat-

ed area;

(II) outstanding opportunities for

solitude;

(III) outstanding opportunities

for primitive, unconfined recreation;

(IV) economic opportunities con-

sistent with multiple-use management;

or

(V) the identified values of a unit

of the National Landscape Conserva-

tion System; and

(vi)(I) restores native vegetation fol-

lowing a natural disturbance;

(II) prevents the expansion into great-

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;

(x) installation of new, or modification of existing, fencing or water sources intended to control use or improve wildlife habitat; or

(xi) necessary maintenance of, repairs to, rehabilitation of, or reconstruction of an existing permanent road or construction of temporary roads to accomplish the activities described in this subparagraph.

(C) EXCLUSIONS.—The term “covered vegetation management activity” does not include—

(i) any activity conducted in a wilderness area or wilderness study area; or

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

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

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

(A) authorized—

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

(ii) pursuant to an emergency operation;

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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