

115TH CONGRESS
1ST SESSION

S. 1417

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.

IN THE SENATE OF THE UNITED STATES

JUNE 22, 2017

Mr. HATCH (for himself and Mr. HEINRICH) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Sage-Grouse and Mule
5 Deer Habitat Conservation and Restoration Act of 2017”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) COVERED VEGETATION MANAGEMENT AC-
2 TIVITY.—

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

6 (i) meets the objectives of the order of
7 the Secretary numbered 3336 and dated
8 January 5, 2015;

9 (ii) conforms to an applicable land use
10 plan;

11 (iii) protects, restores, or improves
12 greater sage-grouse or mule deer habitat;

13 (iv) will not permanently impair—

14 (I) the natural state of the treat-
15 ed area;

16 (II) outstanding opportunities for
17 solitude;

18 (III) outstanding opportunities
19 for primitive, unconfined recreation;
20 or

21 (IV) the identified values of a
22 unit of the National Landscape Con-
23 servation System; and

24 (v)(I) restores native vegetation fol-
25 lowing a natural disturbance;

1 (II) prevents the expansion into great-
2 er sage-grouse or mule deer habitat of—

3 (aa) juniper, piñon pine, or any
4 other conifer; or

5 (bb) nonnative or invasive vegeta-
6 tion;

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

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

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

16 (i) manual cutting and removal of ju-
17 niper trees, piñon pine trees, other coni-
18 fers, or other nonnative or invasive vegeta-
19 tion;

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

23 (iii) removal of cheat grass, medusa
24 head rye, other nonnative vegetation, or an
25 invasive species;

- 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 vegetation
5 only for the purpose of emergency sta-
6 bilization;
- 7 (vi) use of an herbicide, pesticide, or
8 biological control agent, subject to the con-
9 dition that the use shall be in accordance
10 with applicable legal requirements, Federal
11 agency procedures, and land use plans;
- 12 (vii) targeted or late-season livestock
13 grazing to mitigate hazardous fuels and
14 control noxious 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) temporary suspension of per-
20 mitted grazing use until restoration treat-
21 ment objectives are met;
- 22 (x) installation of new, or modification
23 of existing, fencing or water sources in-
24 tended to control use or improve wildlife
25 habitat; or

1 (xi) construction of temporary roads.

2 (C) EXCLUSIONS.—The term “covered
3 vegetation management activity” does not in-
4 clude—

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

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

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

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

13 (A) authorized—

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

16 (ii) pursuant to an emergency oper-
17 ation;

18 (B) not intended to be part of the perma-
19 nent transportation system of a Federal depart-
20 ment or agency;

21 (C) not necessary for long-term resource
22 management; and

23 (D) designed in accordance with standards
24 appropriate for the intended use of the road,
25 taking into consideration—

- 1 (i) safety;
- 2 (ii) the cost of transportation; and
- 3 (iii) impacts to land and resources.

4 **SEC. 3. IMPROVEMENT OF HABITAT FOR GREATER SAGE-**
5 **GROUSE AND MULE DEER.**

6 (a) CATEGORICAL EXCLUSION.—

7 (1) IN GENERAL.—Not later than 1 year after
8 the date of the enactment of this Act, the Secretary
9 shall develop one or more categorical exclusions (as
10 defined in section 1508.4 of title 40, Code of Fed-
11 eral Regulations (or a successor regulation)) for cov-
12 ered vegetative management activities carried out to
13 establish or improve habitat for greater sage-grouse
14 and mule deer.

15 (2) ADMINISTRATION.—In developing and ad-
16 ministering a categorical exclusion under paragraph
17 (1), the Secretary shall—

18 (A) be consistent with the National Envi-
19 ronmental Policy Act of 1969 (42 U.S.C. 4321
20 et seq.);

21 (B) apply the extraordinary circumstances
22 procedures under section 220.6 of title 36, Code
23 of Federal Regulations (or successor regula-
24 tions), in determining whether to use the cat-
25 egorical exclusion; and

1 (C) consider—

2 (i) the relative efficacy of landscape-
3 scale habitat projects;

4 (ii) the likelihood of continued de-
5 clines in the populations of greater sage-
6 grouse and mule deer in the absence of
7 landscape-scale vegetation management;
8 and

9 (iii) the need for habitat restoration
10 activities after wildfire or other natural
11 disturbances.

12 (b) LONG-TERM MONITORING AND MAINTENANCE.—

13 Before commencing any covered vegetative management
14 activity that is covered by a categorical exclusion under
15 subsection (a), the Secretary shall develop a long-term
16 monitoring and maintenance plan, covering at least the
17 20 year-period beginning on the date of commencement,
18 to ensure that management of the treated area does not
19 degrade the habitat gains secured by the covered vegeta-
20 tive management activity.

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

1 (1) used for—

2 (A) fuel wood; or

3 (B) other products; or

4 (2) piled or burned, or both.

5 (d) TREATMENT FOR TEMPORARY ROADS.—

6 (1) IN GENERAL.—A temporary road con-
7 structed in connection with a covered vegetation
8 management activity that is a categorical exclusion
9 under subsection (a) shall be treated to ensure the
10 reestablishment of native vegetative cover by artifi-
11 cial or natural means, as necessary to minimize ero-
12 sion from any area disturbed by the construction or
13 use of the temporary road.

14 (2) REQUIREMENT.—A treatment under para-
15 graph (1) shall be designed to reestablish vegetative
16 cover—

17 (A) as soon as practicable; but

18 (B) not later than 10 years after the date
19 of completion of the applicable covered vegeta-
20 tion management activity.

○