

115TH CONGRESS
2D SESSION

S. 1417

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 7, 2018

Referred to the Committee on Natural Resources

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: JULIE E. ADAMS,
Secretary.