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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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Sage-Grouse and Mule Deer Habitat Conservation and Restoration Act of 2018''.

SEC. 2. DEFINITIONS.

In this Act:

(1) COVERED VEGETATION MANAGEMENT ACTIVITY.—

(A) IN GENERAL.—The term ''covered vegetation management activity'' means any activity described in subparagraph (B) that—

(i) is carried out on public land administered by the Bureau of Land Management;

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

(iii) conforms to an applicable land use plan;

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

(I) Circular 1416 of the United States Geological Survey entitled ''Restoration Handbook for Sagebrush 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 Association of Fish and Wildlife Agencies;

(v) will not permanently impair—

(I) the natural state of the treated area;

(II) outstanding opportunities for solitude;

(III) outstanding opportunities for primitive, unconfined recreation;

(IV) economic opportunities consistent with multiple-use management; or

(V) the identified values of a unit of the National Landscape Conservation System; and

(vi)(I) restores native vegetation following a natural disturbance;

(II) prevents the expansion into greater sage-grouse or mule deer habitat of—

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

(bb) nonnative or invasive vegetation;

(III) reduces the risk of loss of greater sage-grouse or mule deer habitat from wildfire or any other natural disturbance; or

(IV) provides emergency stabilization of soil resources after a natural disturbance.

(B) DESCRIPTION OF ACTIVITIES.—An activity referred to in subparagraph (A) is—

(i) manual cutting and removal of juniper trees, pinyon pine trees, other associated conifers, or other nonnative or invasive vegetation;

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

(iii) removal of cheat grass, medusa head rye, or other nonnative, invasive vegetation;

(iv) collection and seeding or planting of native vegetation using a manual, mechanical, or aerial method;

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

(vi) targeted use of an herbicide, subject to the condition that the use shall be in accordance with applicable legal requirements, Federal agency procedures, and land use plans;

(vii) targeted livestock grazing to mitigate hazardous fuels and control noxious and invasive weeds;

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

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

(B) not intended to be part of the permanent transportation system of a Federal department or agency;

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

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

(i) safety;

(ii) the cost of transportation; and

(iii) impacts to land and resources; and

(E) managed to minimize—

(i) erosion; and

(ii) the introduction or spread of invasive species.

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

(a) CATEGORICAL EXCLUSION.—

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

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

(2) ADMINISTRATION.—In developing and administering a categorical exclusion under paragraph (1), the Secretary shall—

(A) comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B) apply the extraordinary circumstances procedures under section 220.6 of title 36, Code of Federal Regulations (or successor regulations), in determining whether to use the categorical exclusion; and

(C) consider—

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

(ii) the likelihood of continued declines in the populations of greater sage-grouse and mule deer in the absence of landscape-scale vegetation management; and

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

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

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

(d) DISPOSAL OF VEGETATIVE MATERIAL.—Subject to applicable local restrictions, any vegetative material resulting from a covered vegetation management activity that is covered by a categorical exclusion under subsection (a) may be—

(1) used for—

(A) fuel wood; or

(B) other products; or

(2) piled or burned, or both.

(e) TREATMENT FOR TEMPORARY ROADS.—

(1) IN GENERAL.—Notwithstanding section 2(1)(B)(xi), any temporary road constructed in carrying out a covered vegetation management activity that is covered by a categorical exclusion under subsection (a)—

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

(B) shall be decommissioned by the Secretary not later than 3 years after the earlier of the date on which—

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

(ii) the project is completed.

(2) REQUIREMENT.—A treatment under paragraph (1) shall include reestablishing native vegetative cover—

(A) as soon as practicable; but

(B) not later than 10 years after the date of completion of the applicable covered vegetation management activity.

Passed the Senate September 6, 2018.

Attest: JULIE E. ADAMS,
Secretary.