

115TH CONGRESS
1ST SESSION

H. R. 3543

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 HOUSE OF REPRESENTATIVES

JULY 28, 2017

Mr. STEWART (for himself and Mr. TIPTON) introduced the following bill;
which was referred to the Committee on Natural Resources

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 a herbicide, pesticide, or bi-
8 ological control agent, subject to the condi-
9 tion 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—

(i) safety;

(ii) the cost of transportation; and

(iii) impacts to land and resources.

**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 one or more categorical exclusions (as defined in section 1508.4 of title 40, Code of Federal Regulations (or a successor regulation)) for covered vegetative management activities carried out to establish or improve habitat for greater sage-grouse and mule deer.

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

(A) be consistent 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

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.

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