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Departmental Manual Part 516: NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

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U.S. DEPARTMENT OF THE INTERIOR **BUREAU OF LAND MANAGEMENT**
National**Department of the Interior**
Departmental Manual

Effective Date: 9/1/09

Series: Environmental Quality Programs

Part 516: National Environmental Policy Act of 1969

Chapter 1: Protection and Enhancement of Environmental Quality

Originating Office: Office of Environmental Policy and Compliance

516 DM 1

1.1 **Purpose.** This chapter provides instructions for implementing the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321-4347) (NEPA); Section 2 of Executive Order 11514, Protection and Enhancement of Environmental Quality, as amended by Executive Order 11991; Executive Order 12114, Environmental Effects Abroad of Major Federal Actions; and the regulations of the Council on Environmental Quality (CEQ) implementing the procedural provisions of NEPA (40 CFR 1500-1508; identified in this Part 516 as the CEQ Regulations), and the Department of the Interior (DOI) regulations (43 CFR Part 46). It supplements the CEQ and DOI regulations and must be read in conjunction with both.

1.2 **Policy.** It is the policy of the Department:

- A. To provide leadership in protecting and enhancing those aspects of the quality of the Nation's environment which relate to or may be affected by the Department's policies, goals, programs, plans, or functions in furtherance of national environmental policy;
- B. To cooperate with and assist the CEQ; and
- C. To implement Cooperative Conservation (see E.O. 13352).

1.3 **Statutory Requirements.** NEPA requires that in certain circumstances an Environmental Impact Statement (EIS) or other environmental document be prepared by the responsible Federal official. This official is normally the lowest-level official who has overall responsibility for formulating, reviewing, or proposing an action or, alternatively, has been delegated the authority or responsibility to develop, approve, or adopt a proposal or action. Preparation at this level will ensure that the NEPA process will be incorporated into the planning process and that the EIS or other environmental document will accompany the proposal through existing review processes.

1.4 **General Responsibilities.** The following responsibilities reflect the Secretary's decision that the officials responsible for making program decisions are also responsible for taking the requirements of NEPA into account in those decisions and will be held accountable for that responsibility:

- A. Assistant Secretary - Policy, Management and Budget (AS/PMB).
 - (1) Is the Department's focal point on NEPA matters and is responsible for overseeing the Department's implementation of NEPA and Departmental regulations at 43 CFR Part 46.
 - (2) Serves as the Department's principal contact with the CEQ.
 - (3) Assigns to the Director, Office of Environmental Policy and Compliance (OEPC), the responsibilities outlined for that Office in this Part.
- B. Solicitor. Is responsible for providing legal advice pertaining to the Department's compliance with NEPA, CEQ regulations, 43 CFR Part 46, and this Part.

C. Program Assistant Secretaries.

(1) Are responsible for compliance with NEPA, Executive Order 11514, as amended, Executive Order 12114, the CEQ Regulations, 43 CFR Part 46, and this Part for bureaus and offices under their jurisdiction.

(2) Shall ensure that, to the fullest extent possible, the policies, regulations, and public laws of the United States administered under their jurisdiction are interpreted and administered in accordance with the requirements of NEPA.

D. Heads of Bureaus and Offices.

(1) Must comply with the provisions of NEPA, Executive Order 11514, as amended, Executive Order 12114, the CEQ Regulations, 43 CFR Part 46 and this Part.

(2) Shall interpret and administer, to the fullest extent possible, the policies, regulations, and public laws of the United States administered under their jurisdiction in accordance with the requirements of NEPA.

(3) Shall continue to review their statutory authorities, administrative regulations, policies, programs, and procedures, including those related to loans, grants, contracts, leases, licenses, or permits, in order to identify any deficiencies or inconsistencies therein which prohibit or limit full compliance with the intent, purpose, and provisions of NEPA and, in consultation with the Office of the Solicitor and the Office of Congressional and Legislative Affairs, shall take or recommend, as appropriate, corrective actions as may be necessary to bring these authorities and policies into conformance with the intent, purpose, and procedures of NEPA.

(4) Shall monitor, evaluate, and control on a continuing basis their activities as needed to protect and enhance the quality of the environment. Such activities will include both those directed to controlling pollution and enhancing the environment and those designed to accomplish other program objectives which may affect the quality of the environment. They will develop programs and measures to protect and enhance environmental quality. They will assess progress in meeting the specific objectives of such activities as they affect the quality of the environment.

E. Heads of Regional, Field, or Area Offices, or Responsible Officials.

(1) Must comply with the provisions of NEPA, Executive Order 11514, as amended, Executive Order 12114, the CEQ Regulations, 43 CFR Part 46 and this Part.

(2) Shall use information obtained in the NEPA process, including pertinent information provided by those persons or organizations that may be interested or affected, to identify reasonable alternatives to proposed actions that will avoid or minimize adverse impacts to the human environment while improving overall environmental results.

(3) Shall monitor, evaluate, and control their activities on a continuing basis to further protect and enhance the quality of the environment.

1.5 **Consideration of Environmental Values.**

A. In Departmental Management.

(1) In the management of natural, cultural, historic, and human resources under its jurisdiction, the Department must consider and balance a wide range of economic, environ-

mental, and societal needs at the local, regional, national, and international levels, not all of which are quantifiable in comparable terms. In considering and balancing these objectives, Departmental plans, proposals, and decisions often require recognition of complements and resolution of conflicts among interrelated uses of these natural, cultural, historic, and human resources within technological, budgetary, and legal constraints. Various Departmental conflict resolution mechanisms are available to assist this balancing effort.

(2) Environmental analyses shall strive to provide baseline data where possible and shall provide monitoring and evaluation tools as necessary to ensure that an activity is implemented as contemplated by the NEPA analysis. Baseline data gathered for these analyses may include pertinent social, economic, and environmental data.

(3) If proposed actions are planned for the same geographic area or are otherwise closely related, environmental analysis should be integrated to ensure adequate consideration of resource use interactions, to reduce resource conflicts, to establish baseline data, to monitor and evaluate changes in such data, to adapt actions or groups of actions accordingly, and to comply with NEPA and the CEQ Regulations. Proposals shall not be segmented in order to reduce the levels of environmental impacts reported in NEPA documents.

(4) When proposed actions involve approval processes of other agencies, the Department shall use its lead role to identify opportunities to consolidate those processes.

B. In Internally Initiated Proposals. Officials responsible for development or conduct of planning and decision making systems within the Department shall incorporate environmental planning as an integral part of these systems in order to ensure that environmental values and impacts are fully considered, facilitate any necessary documentation of those considerations, and identify reasonable alternatives in the design and implementation of activities that minimize adverse environmental impacts. An interdisciplinary approach shall be initiated at the earliest possible time to provide for consultation among all participants for each planning or decision making endeavor. This interdisciplinary approach should, to the extent possible, have the capacity to consider innovative and creative solutions from all participants.

C. In Externally Initiated Proposals. Officials responsible for the development or conduct of loan, grant, contract, lease, license, permit, or other externally initiated activities shall require applicants, to the extent necessary and practicable, to provide environmental information, analyses, and reports as an integral part of their applications. As with internally initiated proposals, officials shall encourage applicants and other persons, organizations or communities who may be interested or affected to consult with the Department and provide their comments, recommendations, and suggestions for improvement.

1.6 Consultation, Coordination, and Cooperation with Other Agencies and Organizations.

A. Departmental Plans and Programs.

(1) Officials responsible for planning or implementing Departmental plans and programs will develop and utilize procedures to consult, coordinate, and cooperate with relevant State, local, and tribal governments; other bureaus and Federal agencies; and public and private organizations and individuals concerning the environmental effects of these plans and programs on their jurisdictions or interests. Such efforts should, to the extent allowed by law and in accordance with the Federal Advisory Committee Act (FACA), include consensus-based management whenever possible. This is a planning process that incorporates direct community involvement into bureau activities from initial scoping through implementation of the bureau or office decision and, in practicable cases, monitoring and future adaptive management measures. All bureau NEPA and planning procedures will be made available to the public.

(2) Bureaus and offices will use, to the maximum extent possible, existing notification,

coordination, and review mechanisms established by the Office of Management and Budget and CEO. However, use of these mechanisms must not be a substitute for early consultation, coordination, and cooperation with others, especially State, local, and tribal governments.

(3) Bureaus and offices are encouraged to expand, develop, and use new forms of notification, coordination, and review, particularly by electronic means and the Internet. Bureaus are also encouraged to stay abreast of and use new technologies in environmental data gathering and problem solving.

B. Other Departmental Activities.

(1) Technical assistance, advice, data, and information useful in restoring, maintaining, and enhancing the quality of the environment will be made available to other Federal agencies; State, local, and tribal governments; institutions; and other entities as appropriate.

(2) Information regarding existing or potential environmental problems and control methods developed as a part of research, development, demonstration, test, or evaluation activities will be made available to other Federal agencies; State, local, and tribal governments; institutions; and other entities as appropriate.

C. Plans and Programs of Other Agencies and Organizations.

(1) Officials responsible for protecting, conserving, developing, or managing resources under the Department's jurisdiction shall coordinate and cooperate with State, local, tribal governments; other bureaus and Federal agencies; and those persons or organizations that may be interested or affected, and provide them with timely information concerning the environmental effects of these entities' plans and programs.

(2) Bureaus and offices are encouraged to participate early in the planning processes of other agencies and organizations in order to ensure full cooperation with, and understanding of, the Department's programs and interests in natural, cultural, historic and human resources.

(3) Bureaus and offices will use, to the fullest extent possible, existing Departmental review mechanisms to avoid unnecessary duplication of effort and to avoid confusion by other organizations.

(4) Bureaus and offices will work closely with other Federal agencies to ensure that similar or related proposed actions in the same geographic area are fully evaluated to determine if agency analyses can be integrated so that one NEPA compliance document can be used by all for their individual permitting and licensing needs.

1.7 Public Involvement.

A. Bureaus and offices, in accordance with 301 DM 2, 43 CFR Part 46, and this Part, will develop and implement procedures to ensure the fullest practicable provision of timely public information and understanding of their plans and programs with environmental impacts including information on the environmental impacts of alternative courses of action. This is to include appropriate public involvement in the development of NEPA analyses and documents.

B. These procedures will include, wherever appropriate, provision for public meetings in order to obtain the views of persons, organizations, or communities who may be interested or affected. Public information shall include all necessary policies and procedures concerning plans and programs in a readily accessible, consistent format.

C. Bureaus and offices will also coordinate and collaborate with State and local agencies and tribal governments in developing and using similar procedures for informing the public concerning their activities affecting the quality of the environment.

1.8 **Mandate.**

A. The provisions of Part 516 are intended to establish guidelines to be followed by the Department and its bureaus, and offices. Part 516 is not intended to, nor does it, create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by any person or party against the United States, its agencies, its officers, or any other person. The provisions of Part 516 are not intended to direct or bind any person outside the Department.

B. Instructions supplementing the CEQ Regulations are provided in Departmental regulations at 43 CFR Part 46.

C. Instructions specific to each bureau are found in Chapters 8 through 15. This portion of the manual may expand or contract depending on the number of bureaus existing at any particular time. In addition, bureaus may prepare handbooks or other technical guidance for their personnel on how to apply this Part to principal programs. In the case of any apparent discrepancies between these procedures and bureau handbooks or technical guidance, Departmental regulations at 43 CFR 46 and 516 DM 1 - 4 shall govern.

1.9 **Lead Agencies** (40 CFR 1501.5; 43 CFR 46.220).

A. The AS/PMB shall designate lead bureaus within the Department when bureaus under more than one Assistant Secretary are involved and cannot reach agreement on lead bureau status. The AS/PMB shall represent the Department in consultations with CEQ or other Federal agencies in the resolution of lead agency determinations.

B. Bureaus will inform the OEPC of any agreements to assume lead agency status. OEPC will assist in the coordination and documentation of any AS/PMB designations made in 1.9A.

C. To eliminate duplication with State and local procedures, a non-Federal agency (including tribal governments) may be designated as a joint lead agency when it has a duty to comply with non-Federal requirements that are comparable to the NEPA requirements.

D. 40 CFR 1501.5 describes the selection of lead agencies, the settlement of lead agency disputes, and the use of joint lead agencies. While the joint lead relationship is not precluded among several Federal agencies, the Department recommends that it be applied sparingly and that one Federal agency be selected as the lead with the remaining Federal, State, tribal governments, and local agencies assuming the role of cooperating agency. In this manner, the other Federal agencies, as well as State, tribal, and local agencies can work to ensure that the ensuing NEPA document will meet their needs for adoption and application to their related decision. If joint lead is dictated by other law, regulation, policy, or practice, then one Federal agency shall be identified as the agency responsible for filing the EIS.

E. Lead agency designations may be required by law in certain circumstances.

1.10 **Cooperating Agencies** (40 CFR 1501.6 and 1508.5; 43 CFR 46.225).

A. Upon the request of a bureau, the OEPC will assist bureaus in determining cooperating agencies and coordinating requests from non-Interior agencies.

B. Bureaus will inform the OEPC of any requests to become a cooperating agency or any declinations to become a cooperating agency pursuant to 40 CFR 1501.6(c).

C. Bureaus will consult with the Solicitor's Office in cases where such non-Federal agencies are also applicants before the Department to determine relative lead/cooperating agency responsibilities.

D. An agency meeting the requirements of 43 CFR 46.225(a) is defined as an eligible governmental entity for the purposes of designation as a cooperating agency.

1.11 **Scoping** (40 CFR 1501.7; 43 CFR 46.235). Scoping should encourage the responsible official to integrate analyses required by other environmental laws. Scoping should also be used to integrate other planning activities for separate projects that may have similar or cumulative impacts. Integrated analysis facilitates the resolution of resource conflicts and minimizes redundancy.

1.12 **Environmental Assessments** (40 CFR 1501.3; 43 CFR 46.120, 46.140, 46.320).

A. Previous NEPA analyses should be used in a tiered analysis or transferred and used in a subsequent analysis to enhance the content of an EA whenever possible.

B. If such an EA is adopted or augmented, responsible officials must prepare their own notice of intent (NOI) or Finding of No Significant Impact (FONSI) that acknowledges the origin of the EA and takes full responsibility for its scope and content.

1.13 **Environmental Impact Statements** (40 CFR 1501.4, 1502.3; 43 CFR 46.100(b), and Subpart E).

A. If an agency's assessment of the environmental effects of a proposed action reveals that such action may significantly affect the quality of the human environment, and the agency elects to go forward with the proposed action, an EIS should be commenced.

B. The feasibility analysis (go/no-go) stage, at which time an EIS is to be prepared for proposed projects undertaken by DOI, is to be interpreted as the stage prior to the first point of major commitment to the proposal. For example, this would normally be at the authorization stage for proposals requiring Congressional authorization; the location or corridor stage for transportation, transmission, and communication projects; and the leasing stage for offshore mineral resources proposals (40 CFR 1502.5(a))

C. For situations involving applications to DOI or the bureaus, an EIS need not be commenced until an application is essentially complete; i.e., any required environmental information is submitted and any required advance funding is paid by the applicant (40 CFR 1502.5(b)). Officials shall also inform applicants of any responsibility they will bear for funding environmental analyses associated with their proposals (43 CFR 46.200(e)).

1.14 **Supplemental Statements** (40 CFR 1502.9).

A. Supplements are required if an agency makes substantial changes in the proposed action relevant to environmental concerns or there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

B. A bureau and/or the appropriate program Assistant Secretary will consult with the OEPC and the Office of the Solicitor prior to proposing to CEQ to prepare a supplemental statement using alternative arrangements such as issuing a final supplement without preparing an intervening draft.

C. If, after a decision has been made based on a final EIS, a described proposal is further defined or modified and if its changed effects are not significant and still within the scope of the earlier EIS, an EA, and a FONSI may be prepared for subsequent decisions rather than a supplement.

1.15 **Format** (40 CFR 1502.10).

- A. Proposed departures from the standard format described in the CEQ regulations and this chapter must be approved by the OEPC.
- B. The section listing the preparers of the EIS will also include other sources of information, including a bibliography or list of cited references, when appropriate.
- C. Cover Sheet (40 CFR 1502.11). The cover sheet will also indicate whether the EIS is intended to serve any other environmental review or consultation requirements pursuant to Section 1502.25. The cover sheet will also identify cooperating agencies, the location of the action, and whether the analysis is programmatic in nature.
- D. Summary (40 CFR 1502.12). The emphasis in the summary should be on those considerations, controversies, and issues that significantly affect the quality of the human environment.

1.16 **Alternatives Including the Proposed Action** (40 CFR 1502.14; 43 CFR 46.425). For externally initiated proposals, i.e., for those cases where the Department is reacting to an application or similar request, the draft and final EIS shall identify the applicant's proposed action. Proposed departures from 43 CFR 46.425(a) or this guidance must be approved by the OEPC and the Office of the Solicitor.

1.17 **Appendix** (40 CFR 1502.18). If an EIS is intended to serve other environmental review or consultation requirements pursuant to Section 1502.25, any more detailed information needed to comply with these requirements may be included as an appendix.

1.18 **Tiering** (40 CFR 1502.20; 43 CFR 46.120, 46.140). Bureaus must maintain access to such things as: sources of similar information, examples of tiered and transferred analyses, a set of procedural steps to make the most of tiered and transferred analyses, knowledge of when to use previous material, and how to use tiered and transferred analyses without sacrificing references to original sources.

1.19 **Methodology and Scientific Accuracy** (40 CFR 1502.24). Conclusions about environmental effects will be preceded by an analysis that supports that conclusion unless explicit reference by footnote is made to other supporting documentation that is readily available to the public. Bureaus will also follow Departmental procedures for information quality as required under Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L.106-554, 114 Stat. 2763).

1.20 **Environmental Review and Consultation Requirements** (40 CFR 1502.25; 43 CFR 46.155, 46.430).

- A. A list of related environmental review and consultation requirements is available from the OEPC (ESM 09-8).
- B. Bureaus shall ensure that they have a process in place to make integrated analyses a standard part of their NEPA compliance efforts.
- C. The comments of bureaus and offices must also be requested. In order to do this, the preparing bureau must furnish copies of the environmental document to the other bureaus in quantities sufficient to allow simultaneous review. Bureaus may be removed from this circulation following consultation with, and concurrence of, a bureau.
- D. Informal attempts will be made to determine the status of any late comments and a reasonable attempt should be made to include the comments and a response in the final EIS. Late introduction of new issues and alternatives is to be avoided and they will be considered only to the extent practicable.
- E. For those EISs requiring the approval of the AS/PMB pursuant to 516 DM 3.3B, bureaus will consult with the OEPC when they propose to prepare an abbreviated final EIS [40 CFR 1503.4(c)].

1.21 **Further Guidance** (40 CFR 1506.7). The OEPC may provide further guidance concerning NEPA pursuant to its organizational responsibilities (112 DM 4) and through supplemental directives (381 DM 4.5B). Current guidance is located in the Environmental Memoranda Series periodically updated by OEPC and available on the OEPC website at: <http://www.doi.gov/oepc/>.

1.22 **Time Periods** (40 CFR 1506.10).

A. The minimum review period for a draft EIS will be forty-five (45) days from the date of publication by the Environmental Protection Agency (EPA) of the notice of availability, unless a longer period is required by individual agency regulation or process.

B. For those EISs requiring the approval of the AS/PMB pursuant to 516 DM 3.3B, the OEPC will be responsible for consulting with the EPA and/or CEQ about any proposed reductions in time periods or any extensions of time periods proposed by the bureaus.

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Replaces 5/27/04 #3611; 6/21/05 #3675; 5/27/04 #3613; and 5/27/04 #3614

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Series: Environmental Quality Programs

Part 516: National Environmental Policy Act of 1969

Chapter 2: Relationship to Decision Making

Originating Office: Office of Environmental Policy and Compliance

516 DM 2

2.1 **Purpose.** This chapter provides supplementary instructions for implementing those portions of the Council of Environmental Quality (CEQ) Regulations and the Department's NEPA Regulations pertaining to decision making.

2.2 **Pre-Decision Referrals to CEQ** (40 CFR 1504.3).

A. Upon receipt of advice that another Federal agency intends to refer a Departmental matter to CEQ, the lead bureau will immediately meet with that Federal agency to attempt to resolve the issues raised and expeditiously notify its Program Assistant Secretary, the Solicitor, and the Office of Environmental Policy and Compliance (OEPC).

B. Upon any referral of a Departmental matter to CEQ by another Federal agency, the OEPC will be responsible for coordinating the Department's role with CEQ. The lead bureau will be responsible for developing and presenting the Department's position at CEQ including preparation of briefing papers and visual aids.

2.3 **Decision Making Procedures** (40 CFR 1505.1).

A. Procedures for decisions by the Secretary/Deputy Secretary are specified in 301 DM 1. Program Assistant Secretaries should follow a similar process when an environmental document accompanies a proposal for their decision.

B. Bureaus will incorporate in their decision making procedures and NEPA handbooks provisions for consideration of environmental factors and relevant environmental documents. The major decision points for principal programs likely to have significant environmental effects will be identified in the bureau chapters on "Managing the NEPA Process" beginning with chapter 8 of this Part.

C. Relevant environmental documents, including supplements, will be included as part of the record in formal rulemaking or adjudicatory proceedings.

D. Relevant environmental documents, comments, and responses will accompany proposals through existing review processes so that Departmental officials use them in making decisions.

E. The Responsible Official (RO) will consider the environmental impacts of the alternatives described in any relevant environmental document and the range of these alternatives must encompass the alternatives considered by the RO.

F. To the extent practicable, the RO will consider other substantive and legal obligations beyond the immediate context of the proposed action.

2.4 **Record of Decision** (40 CFR 1505.2).

A. Any decision documents prepared pursuant to 301 DM 1 for proposals involving an Environmental Impact Statement (EIS) shall incorporate all appropriate provisions of Section 1505.2 (b) and (c).

B. If a decision document incorporating these provisions is made available to the public following a decision, it will serve the purpose of a record of decision.

2.5 **Implementing the Decision** (40 CFR 1505.3). The terms "monitoring" and "conditions" will be interpreted as being related to factors affecting the quality of the natural and human environment.

2.6 **Limitations on Actions** (40 CFR 1506.1). A bureau will immediately notify its Program Assistant Secretary, the Solicitor, and the OEPC of any situations described in Section 1506.1(b).

2.7 **Timing of Actions** (40 CFR 1506.10). For those EISs requiring the approval of the AS/PMB pursuant to 516 DM 3.3, the responsible official will consult with the OEPC before making any request for reducing the time period before a decision or action.

2.8 **Emergencies** (40 CFR 1506.11). In the event of an emergency situation, a bureau will follow the requirements of 43 CFR 46.150.

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Replaces 5/27/04 #3615

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Part 516: National Environmental Policy Act of 1969

Chapter 3: Managing the NEPA Process

Originating Office: Office of Environmental Policy and Compliance

516 DM 3

3.1 **Purpose.** This chapter provides supplementary instructions for implementing those provisions of the CEQ Regulations and the Department's National Environmental Policy Act (NEPA) Regulations pertaining to procedures for implementing and managing the NEPA process.

3.2 Organizational Responsibilities for Environmental Quality.

A. Office of Environmental Policy and Compliance (OEPC). The Director, OEPC, is responsible for providing advice and assistance to the Department on matters pertaining to environmental quality and for overseeing and coordinating the Department's compliance with NEPA. (See also 112 DM 4.)

B. Bureaus and Offices. Heads of bureaus and offices will designate organizational elements or individuals, as appropriate, at headquarters and regional levels to be responsible for overseeing matters pertaining to the environmental effects of the bureau's plans and programs. The individuals assigned these responsibilities should have management experience or potential, understand the bureau's planning and decision making processes, and be well trained in environmental matters, including the Department's policies and procedures so that their advice has significance in the bureau's planning and decisions. These organizational elements will be identified in chapters 8-15, which contain all bureau NEPA requirements.

3.3 Approval of Environmental Impact Statements (EISs).

A. A program Assistant Secretary is authorized to approve an EIS in those cases where the responsibility for the decision for which the EIS has been prepared rests with the Assistant Secretary or below. The Assistant Secretary may further assign the authority to approve the EIS if he or she chooses. The AS/PMB will make certain that each program Assistant Secretary has adequate safeguards to ensure that the EISs comply with NEPA, the Council of Environmental Quality (CEQ) Regulations, the Department's NEPA Regulations, and the Departmental Manual (DM).

B. The AS/PMB is authorized to approve an EIS in those cases where the decision for which the EIS has been prepared will occur at a level in the Department above an individual program Assistant Secretary.

3.4 List of Specific Compliance Responsibilities.

A. Bureaus and offices shall:

(1) Prepare NEPA handbooks providing guidance on the interpretation of NEPA, the CEQ regulations, 43 CFR Part 46, and the applicable portions of this Part in principal program areas.

(2) Prepare program regulations or directives for applicants.

- (3) Propose and apply categorical exclusions (CEs).
 - (4) Prepare and approve Environmental Assessments (EAs).
 - (5) Decide whether to prepare an EIS.
 - (6) Prepare and publish NOIs and FONSI.
 - (7) Prepare and, when assigned, approve EISs.
- B. Program Assistant Secretaries shall:
- (1) Approve bureau and office handbooks.
 - (2) Approve regulations or directives for applicants.
 - (3) Approve proposed categorical exclusions.
 - (4) Approve EISs pursuant to 516 DM 3.3.
- C. The AS/PMB shall:
- (1) Concur with regulations or directives for applicants.
 - (2) Concur with proposed categorical exclusions.
 - (3) Approve EISs pursuant to 516 DM 3.3. (See also 43 CFR 46.150).

3.5 Bureau Requirements.

- A. Requirements specific to bureaus appear as separate chapters beginning with chapter 8 of this Part and include the following:
- (1) Identification of officials and organizational elements responsible for NEPA compliance.
 - (2) List of program regulations or directives which provide information to applicants.
 - (3) Identification of major decision points in principal programs for which an EIS is normally prepared.
 - (4) List of projects or groups of projects for which an EA is normally prepared.
 - (5) List of categorical exclusions.
- B. Bureau requirements are found in the following chapters for the current bureaus:
- (1) U.S. Fish and Wildlife Service (Chapter 8).
 - (2) U.S. Geological Survey (Chapter 9).
 - (3) Bureau of Indian Affairs (Chapter 10).
 - (4) Bureau of Land Management (Chapter 11).

- (5) National Park Service (Chapter 12).
- (6) Office of Surface Mining (Chapter 13).
- (7) Bureau of Reclamation (Chapter 14).
- (8) Minerals Management Service (Chapter 15).

C. Offices in the Office of the Secretary (O/S) must comply with the policy in this chapter and will consult with the OEPC about compliance activities.

3.6 **Information about the NEPA Process.** The OEPC will periodically publish a Departmental list of bureau contacts where information about the NEPA process and the status of EISs may be obtained. This list will be available on OEPC's website at: <http://www.doi.gov/oepec/>.

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Part 516: National Environmental Policy Act of 1969

Chapter 4: Review of Environmental Impact Statements and Project Proposals Prepared by Other Federal Agencies

Originating Office: Office of Environmental Policy and Compliance

516 DM 4**4.1 Purpose.**

A. These procedures implement the policy and directives of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq. (NEPA); Section 2(f) of Executive Order No. 11514 (March 5, 1970); the Council of Environmental Quality (CEQ) Regulations, 40 Parts 1500- 1508; Bulletin No. 72-6 of the Office of Management and Budget (September 14, 1971); and provide guidance to bureaus and offices of the Department in the review of Environmental Impact Statements (EISs) prepared by and for other Federal agencies.

B. In accordance with 112 DM 4.2F, these procedures further govern the Department's environmental review of non-Interior proposals such as regulations, applications, plans, reports, and other environmental documents which affect the interests of the Department. Such proposals are prepared, circulated, and reviewed under a wide variety of statutes and regulations. These procedures ensure that the Department responds to these review requests with coordinated comments and recommendations under the Department's various authorities.

4.2 Policy. The Department considers it a priority to provide competent and timely review comments on EISs and other environmental or project review documents prepared by other Federal agencies for their major actions that significantly affect the quality of the human environment. All such documents are hereinafter referred to as "environmental review documents." The term "environmental review document" as used in this chapter is separate from and broader than the term "environmental document" found in 40 CFR 1508.10 of the CEQ Regulations. These reviews are predicated on the Department's jurisdiction by law or special expertise with respect to the environmental impact involved and shall provide constructive comments to other Federal agencies to assist them in meeting their environmental responsibilities.

4.3 Responsibilities.

A. The Assistant Secretary - Policy, Management and Budget (AS/PMB) shall be the Department's contact point for the receipt of requests for reviews of environmental review documents prepared by or for other Federal agencies. This authority shall be carried out through the Director, Office of Environmental Policy and Compliance (OEPC).

B. The Director, Office of Environmental Policy and Compliance.

(1) Shall determine whether such review requests are to be answered by a Secretarial Officer, the Director, OEPC, or by a Regional Environmental Officer (REO), and determine

which bureaus and/or offices shall perform such reviews.

(2) Shall prepare, or where appropriate, shall designate a lead bureau responsible for preparing the Department's review comments. The lead bureau may be a bureau, Secretarial office, other Departmental office, or task force and shall be that organizational entity with the most significant jurisdiction or environmental expertise in regard to the requested review.

(3) Shall establish review schedules and target dates for responding to review requests and monitor their compliance.

(4) Shall review, sign, and transmit the Department's review comments to the requesting agency.

(5) Shall consult with the requesting agency on the Department's review comments on an "as needed" basis to ensure resolution of the Department's concerns.

(6) Shall consult with the Office of Congressional and Legislative Affairs and the Solicitor when environmental reviews pertain to legislative or legal matters, respectively.

C. The Office of Congressional and Legislative Affairs shall ensure that requests for reviews of environmental review documents prepared by other Federal agencies that accompany or pertain to legislative proposals are immediately referred to the AS/PMB.

D. Regional Environmental Officers, when designated by the Director, OEPC, shall review, sign, and transmit the Department's review comments to the requesting agency.

E. Program Assistant Secretaries and Heads of Bureaus and Offices.

(1) Shall designate officials and organizational elements responsible for the coordination and conduct of environmental reviews and report this information to the Director, OEPC.

(2) Shall provide the Director, OEPC, with appropriate information and material concerning their delegated jurisdiction and special expertise in order to assist in assigning review responsibilities.

(3) Shall conduct reviews based upon their areas of jurisdiction or special expertise and provide comments to the designated lead bureau or office assigned responsibility for preparing the Department's comments.

(4) When designated lead bureau by the Director, OEPC, shall prepare and forward the Department's review comments as instructed.

(5) Shall ensure that review schedules for discharging assigned responsibilities are met and promptly inform other concerned offices if established target dates cannot be met and when they will be met.

(6) Shall provide a single, unified bureau response to the lead bureau, as directed.

(7) Shall ensure that the policies of 516 DM 4.2 regarding competency and timeliness are carried out.

(8) Shall provide the necessary authority to those designated in 4.3E(1) above to carry out all the requirements of 516 DM 4.

4.4 Types of Reviews.

A. Descriptions of Proposed Actions.

(1) Federal agencies and applicants for Federal assistance may circulate descriptions of proposed actions for the purpose of soliciting information concerning environmental impacts in order to determine whether to prepare EISs. Such descriptions of proposed actions are not substitutes for EISs.

(2) Requests for reviews of descriptions of proposed actions are not required to be processed through the OEPC. Review comments may be handled independently by bureaus and offices, with the Regional Environmental Officer or Director, OEPC, being advised of significant or highly controversial issues. Review comments are for the purpose of providing informal technical assistance to the requesting agency and should state that they do not represent the views and comments of the Department.

B. Environmental Assessments.

(1) Environmental Assessments are not substitutes for EISs. These assessments or reports may be prepared by Federal agencies, their consultants, or applicants for Federal assistance. They are prepared either to provide information in order to make a finding that there are no significant impacts or that an EIS should be prepared. If they are separately circulated, it is generally for the purpose of soliciting additional information concerning environmental impacts.

(2) Requests for reviews of EAs are not required to be processed through the OEPC. Review comments may be handled independently by bureaus and offices, with the Regional Environmental Officer or Director, OEPC, being advised of significant or highly controversial issues. If a bureau requests and OEPC agrees, a control number may be assigned with appropriate instructions. Review comments are for the purpose of providing informal technical assistance to the requesting agency and should state that they do not represent the views and comments of the Department.

C. Finding of No Significant Impact.

(1) Findings of No Significant Impact (FONSI) are prepared by Federal agencies to document that there is no need to prepare an EIS. A FONSI is a statement for the record by the proponent Federal agency that it has reviewed the environmental impact of its proposed action (in an EA), that it determines that the action will not significantly affect the quality of the human environment, and that an EIS is not required. Public notice of the availability of such findings shall be announced; however, FONSI are not normally circulated.

(2) FONSI are not required to be processed through the OEPC. Review comments may be handled independently by bureaus and offices, with the Regional Environmental Officer or Director, OEPC, being advised of significant or highly controversial issues.

D. Notice of Intent and Scoping Requests.

(1) Notices of intent (NOI) and scoping requests mark the beginning of the formal review process. NOI are published in the Federal Register and announce that an agency plans to prepare an environmental review document under NEPA. Often the NOI and notice of scoping meetings and/or requests are combined into one Federal Register notice.

(2) Reviews of NOI and scoping requests are processed through the OEPC with instructions to bureaus to comment directly to the requesting agency. Review comments are for the purpose of providing informal technical assistance to the requesting agency and should state that they do not represent the views and comments of the Department.

E. Preliminary, Proposed, or Working Draft Environmental Impact Statements.

(1) Preliminary, proposed, or working draft EISs are sometimes prepared and circulated by Federal agencies and applicants for Federal assistance for consultative purposes.

(2) Requests for reviews of these types of draft EISs are not required to be processed through the OEPC. Review comments may be handled independently by bureaus and offices with the Regional Environmental Officer or Director, OEPC, being advised of significant or highly controversial issues. Review comments are for the purpose of providing informal technical assistance to the requesting agency and should state that they do not represent the views and comments of the Department.

F. Draft Environmental Impact Statements.

(1) Draft EISs are prepared by Federal agencies under the provisions of Section 102(2)(C) of NEPA and provisions of the CEO Regulations. They are filed with the Environmental Protection Agency (EPA) and officially circulated to other Federal, State, and local agencies (see 40 CFR 1503.1(a), 1506.9, 1506.10) for review based upon their jurisdiction by law or special expertise with respect to the agency mission, related program experience, or environmental impact of the proposed action or alternatives to the action (see 4.5A(1)). They are presented to the public for review and comment as well (see 40 CFR 1503.1(a)(4); 43 CFR 46.435).

(2) All requests from other Federal agencies for review of draft EISs shall be made through the Director, OEPC. Review comments shall be handled in accordance with the provisions of this chapter and guidance memoranda may be issued and updated by the OEPC.

G. Final Environmental Impact Statements.

(1) Final EISs are prepared by Federal agencies following receipt and consideration of review comments. They are filed with the EPA and are circulated to the public for an administrative waiting period of thirty days and sometimes for comment.

(2) The Director, OEPC, shall review final EISs to determine whether they reflect adequate consideration of the Department's comments. Bureaus and offices shall not comment independently on final EISs, but shall inform the Director, OEPC, of their views. Any review comments shall be handled in accordance with the instructions of the OEPC.

H. License and Permit Applications.

(1) The Department receives draft and final environmental review documents associated with applications for other Federal licenses and permits. This activity largely involves the regulatory program of the Corps of Engineers and the hydroelectric and natural gas pipeline licensing programs of the Federal Energy Regulatory Commission (FERC).

(2) Environmental review of applications is generally handled in the same manner as for draft and final EISs. Additional review guidance may be made available as necessary to efficiently manage this activity. Bureau reviewers should review information on the OEPC website and consult with the OEPC for the most current review guidance.

(3) While review of NEPA compliance documents associated with Corps of Engineers permit applications is managed in accordance with this chapter, review of Corps of Engineers permit applications is managed in accordance with 503 DM 1. Reviewers are referred to that Manual Part and to 4.5C(3) below for the processing of concurrent reviews.

I. Project Plans and Reports without Associated Environmental Review Documents.

(1) The Department receives draft and final project plans and reports under various authorities which do not have environmental review documents circulated with them. This may be because NEPA compliance has been completed, will be completed on a slightly different schedule, NEPA does not apply, or other reasons.

(2) Environmental review of these documents is handled in the same manner as for draft and final EISs. Additional review guidance may be made available as necessary to efficiently manage this activity. Bureau reviewers should review information on the OEPC website and consult with the OEPC for the most current review guidance.

J. Federal Regulations.

(1) The Department circulates and controls the review of advance notices of proposed rulemaking, proposed rulemaking, and final rulemaking which are environmental in nature, may impact the quality of the human environment, and may impact the Department's natural resources and programs.

(2) Environmental review of these documents is handled in the same manner as for draft and final EISs. Additional review guidance may be made available as necessary to efficiently manage this activity. Bureau reviewers should review information on the OEPC website and consult with the OEPC for the most current review guidance.

K. Documents Prepared Pursuant to Other Environmental Statutes.

(1) The Department receives draft and final project plans prepared pursuant to other environmental statutes [e.g., National Historic Preservation Act (NHPA), Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); Resource Conservation and Recovery Act (RCRA), and the Oil Pollution Act (OPA)], which may not have environmental review documents circulated with them.

(2) Environmental review of these documents is handled consistently with the policies and provisions of this part, and in accordance with further guidance from the Director, OEPC. Additional review guidance may be made available as necessary to efficiently manage this activity. Bureau reviewers should review information on the OEPC website and consult with the OEPC for the most current review guidance.

L. Section 4(f) Documents.

(1) Under Section 4(f) of the Department of Transportation Act, the Secretary of Transportation may approve a transportation program or project requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State or local significance, or land of an historic site of national, State, or local significance (as determined by the Federal, State, or local officials having jurisdiction over the park, area, refuge, or site) only if there is no prudent and feasible alternative to using that land and the program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the use.

(2) Environmental review of Section 4(f) documents is handled in the same manner as for draft and final EISs. Additional review guidance may be made available as necessary to efficiently manage this activity. Bureau reviewers should review information on the OEPC website and consult with the OEPC for the most current review guidance.

4.5 Content of Comments on Environmental Review Documents.

A. Departmental Comments.

(1) Departmental comments on environmental review documents prepared by other Federal agencies shall be based upon the Department's jurisdiction by law or special expertise with respect to the agency mission, related program experience, or environmental impact of the proposed action or alternatives to the action. The adequacy of the document in regard to applicable statutes is the responsibility of the agency that prepared the document and any comments on its adequacy shall be limited to the Department's jurisdiction or environmental expertise.

(2) Reviews shall be conducted in sufficient detail to ensure that both potentially beneficial and adverse environmental effects of the proposed action and alternatives, including cumulative and secondary effects, are adequately identified. Wherever possible, and within the Department's competence and resources, other agencies will be advised on ways to avoid or minimize adverse impacts of the proposed action and alternatives, and on alternatives to the proposed action that may have been overlooked or inadequately treated.

(3) Review comments should not capsule or restate the environmental review document, but should provide clear, concise, substantive, fully justified, and complete comments on the stated or unstated environmental impacts of the proposed action and, if appropriate, on alternatives to the action. Comments, either positive or negative, shall be objective and constructive.

(4) Departmental review comments shall be organized as follows:

(a) Control Number. The Departmental review control number shall be typed in the upper left hand corner below the Departmental seal on the letterhead page of the comments.

(b) Introduction. The introductory paragraph shall reference the other Federal agency's review request, including the date, the type of review requested, the subject of the review; and, where appropriate, the geographic location of the subject and the other agency's control number.

(c) General Comments, if any. This section will include those comments of a general nature and those which occur throughout the review which ought to be consolidated in order to avoid needless repetition.

(d) Detailed Comments. The format of this section shall follow the organization of the other agency's environmental review document. These comments shall not comment on the proposed actions of other Federal agencies, but shall constructively and objectively comment on the statement's adequacy in describing the environmental impacts of the action, the alternatives, and the impacts of the alternatives. Comments shall specify any corrections, additions, or other changes required to make the statement adequate.

(e) Summary Comments, if any. In general, the Department will not take a position on the proposed action of another Federal agency, but will limit its comments to those above. However, in those cases where the Department has jurisdiction by statute, Executive Order, memorandum of agreement, or other authority, the Department may

comment on the proposed action. These comments shall be provided in this section and may take the form of support for, concurrence with, concern over, or objection to the proposed action and/or the alternatives.

B. Bureau and Office Comments. Bureau and office reviews of EISs prepared by other Federal agencies are considered informal inputs to the Department's comments and their content will generally conform to paragraph 4.5A of this chapter with the substitution of the bureau's or office's delegated jurisdiction or special environmental expertise for that of the Department.

C. Relationship to Other Concurrent Reviews.

(1) Where the Department, because of other authority or agreement, is concurrently requested to review a proposal as well as its EIS, the Department's comments on the proposal shall be separately identified and placed in front of the comments on the EIS. A summary of the Department's position, if any, on the proposal and its environmental impact shall be separately identified and follow the review comments on the EIS.

(2) Where another Federal agency elects to combine other related reviews into the review of the EIS by including additional or more specific information into the statement, the introduction to the Department's review comments will acknowledge the additional review request and the review comments will be incorporated into appropriate parts of the combined statement review. A summary of the Department's position, if any, on the environmental impacts of the proposal and any alternatives shall be separately identified and follow the detailed review comments on the combined statement.

(3) In some cases, the concurrent review is not an integral part of the environmental compliance review but is being processed within the same general time period as the environmental review. If there is also an environmental review being processed by the OEPC, there is potential for two sets of conflicting comments to reach the requesting agency. Bureaus must recognize that this possibility exists and must check with the Regional Environmental Officer to determine the status of any environmental review prior to forwarding the concurrent review comments to the requesting agency. Any conflicts must be resolved before the separate comments may be filed. One review may be held up pending completion of the concurrent review and consideration of filing a single comment letter. A time extension may be necessary and must be obtained if a review is to be held up pending completion of a concurrent review.

(4) The Department's intervention in another agency's adjudicatory process is also a concurrent review. Such reviews are governed by 452 DM 2 which must be consulted in applicable cases. The most common cases involve the Department's review of hydroelectric and natural gas applications of FERC. In these cases, it is recommended that bureaus consult frequently with the appropriate attorney of record in the Office of the Solicitor.

4.6 Availability of Review Comments.

A. Prior to the public availability of another Federal agency's final EIS, the Department shall not independently release to the public its comments on that agency's draft EIS. In accordance with Section 1506.6(f) of the CEQ Regulations, the agency that prepared the statement is responsible for making the comments available to the public, and requests for copies of the Department's comments shall be referred to that agency. Exceptions to this procedure shall be made by the OEPC and the Office of the Solicitor.

B. The availability of various internal Departmental memoranda, such as the review comments of bureaus, offices, task forces, and individuals, which are used as inputs to the Department's review comments is governed by the Freedom of Information Act (5 U.S.C. Section 552) and the Departmental procedures established by 43 CFR 2. Upon receipt of such requests and in addition to following the procedures above in 4.6A, the responsible bureau or office shall notify and consult their bureau Freedom of Information Act Officer and the OEPC to coordinate any responses.

4.7 Procedures for Processing Environmental Reviews.

A. General Procedures.

(1) All requests for reviews of environmental review documents prepared by or for other Federal agencies shall be received and controlled by the Director, OEPC.

(2) If a bureau or office, whether at headquarters or field level, receives an environmental review document for review directly from outside of the Department, it should ascertain whether the document is a preliminary, proposed, or working draft circulated for technical assistance or input in order to prepare a draft document or whether the document is in fact a draft environmental review document being circulated for official review.

(a) If the document is a preliminary, proposed, or working draft, the bureau or office should handle independently and provide whatever technical assistance possible, within the limits of their resources, to the requesting agency. The response should clearly indicate the type of assistance being provided and state that it does not represent the Department's review of the document. Each bureau or office should provide the Regional Environmental Officer and the Director, OEPC, copies of any comments involving significant or controversial issues.

(b) If the document is a draft or final environmental review document circulated for official review, the bureau or office should inform the requesting agency of the Department's procedures in subparagraph (1) above and promptly refer the request and the document to the Director, OEPC, for processing.

(3) All bureaus and offices processing and reviewing environmental review documents of other Federal agencies will do so within the time limits specified by the Director, OEPC. From thirty (30) to forty-five (45) days are normally available for responding to other Federal agency review requests. Whenever possible the Director, OEPC, shall seek a forty-five (45) day review period. Further extensions shall be handled in accordance with paragraph 4.7B(3) of this chapter.

(4) The Department's review comments on other Federal agencies' environmental review documents shall reflect the full and balanced interests of the Department in the protection and enhancement of the environment. Lead bureaus shall be responsible for resolving any intra-Departmental differences in bureau or office review comments submitted to them. The OEPC is available for guidance and assistance in this regard. In cases where agreement cannot be reached, the matter shall be referred through channels to the AS/PMB with attempts to resolve the disagreement at each intervening management level. The OEPC will assist in facilitating this process.

B. Processing Environmental Reviews.

(1) The OEPC shall secure and distribute sufficient copies of environmental review documents for Departmental review. Bureaus and offices should keep the OEPC informed as to their needs for review copies, which shall be kept to a minimum, and shall develop internal procedures to efficiently and expeditiously distribute environmental review documents to reviewing offices.

(2) Reviewing bureaus and offices which cannot meet the review schedule shall so inform the lead bureau or office and shall provide the date that the review will be delivered. The lead bureau or office shall inform the OEPC in cases of headquarters-level response, or the REO in cases of field-level response, if it cannot meet the schedule, why it cannot, and when it will. The OEPC or the REO shall be responsible for informing the other Federal agency of any changes in the review schedule.

(3) Reviewing offices shall route their review comments through channels to the lead

bureau or office, with a copy to the OEPC. When, in cases, of headquarters-level response, review comments cannot reach the lead bureau within the established review schedule, reviewing bureaus and offices shall send a copy marked "Advance Copy" directly to the lead bureau or office. Review comments shall also be sent to the lead bureau or office by electronic means to facilitate meeting the requesting agency's deadline.

(4) In cases of headquarters-level response.

(a) The lead bureau shall route the completed comments through channels to the OEPC in both paper copy and electronic word processor format. Copies shall be prepared and attached for all bureaus and offices from whom review comments were requested, for the OEPC, and for the REO when the review pertains to a project within a regional jurisdiction. In addition, original copies of all review comments received or documentation that none were provided shall accompany the Department's comments through the clearance process and shall be retained by the OEPC.

(b) The OEPC shall review, secure any necessary additional surnames, surname, and either sign the Department's comments or transmit the Department's comments to another appropriate Secretarial Officer for signature. Upon signature, the OEPC shall transmit the comments to the requesting agency.

(5) In cases of field-level response.

(a) The lead bureau shall provide the completed comments to the appropriate REO in both paper-copy and electronic word processor format. In addition, original copies of all review comments received or documentation that none were provided shall be attached to the paper copy.

(b) The REO shall review, sign, and transmit the Department's comments to the agency requesting the review. In addition they shall reproduce and send the Department's comments to the regional bureau reviewers. The entire completed package including the bureau review comments shall be sent to the OEPC for recording and filing.

(c) If the REO determines that the review involves policy matters of Secretarial significance, they shall not sign and transmit the comments as provided in subparagraph (b) above, but shall forward the review to the OEPC in headquarters for final disposition.

C. Referrals of Environmentally Unsatisfactory Proposals to the Council on Environmental Quality.

(1) Referral to CEQ is a formal process provided for in the CEQ Regulations (40 CFR 1504). It is used sparingly and only when all other administrative processes have been exhausted in attempting to resolve issues between the project proponent and one or more other Federal agencies. These issues must meet certain criteria (40 CFR 1504.2), and practice has shown that these issues generally involve resource concerns of national importance to the Department.

(2) A bureau or office intending to recommend referral of a proposal to CEQ must, at the earliest possible time, advise the proponent Federal agency that it considers the proposal to be a possible candidate for referral. If not expressed at an earlier time, this advice must be outlined in the Department's comments on the draft EIS.

(3) CEQ referral is a high level activity that must be conducted in an extremely short time frame. A referring bureau or office has 25 days after EPA has published a notice of availability of the final EIS in the Federal Register in which to file the referral unless an extension is granted per 40 CFR 1504.3(b). The referral documents must be signed by the Secretary of

the Interior.

(4) Additional review guidance may be made available as necessary to efficiently manage this activity. Bureau reviewers should review information on the OEPC website at: <http://www.doi.gov/oepc/>, and consult with the OEPC for the most current review guidance.

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Chapter 11: Managing the NEPA Process--Bureau of Land Management

Originating Office: Bureau of Land Management

516 DM 11

11.1 Purpose. This chapter provides supplementary requirements for implementing provisions of 516 DM Chapters 1 through 6 for the Department of the Interior's Bureau of Land Management (BLM). The BLM's National Environmental Policy Act (NEPA) Handbook (H-1790-1) provides additional guidance.

11.2 NEPA Responsibilities.

- A. The Director and Deputy Director(s) are responsible for the BLM NEPA compliance activities.
- B. The Assistant Director, Renewable Resources and Planning, is responsible for national NEPA compliance leadership and coordination, program direction, policy, and protocols development, and implementation of the same at the line management level. The Division of Planning and Science Policy, within the Assistant Directorate, Renewable Resources and Planning, has the BLM lead for the NEPA compliance program direction and oversight.
- C. The BLM Office Directors and other Assistant Directors are responsible for cooperating with the Assistant Director, Renewable Resources and Planning, to ensure that the BLM NEPA compliance procedures operate as prescribed within their areas of responsibility.
- D. The BLM Center Directors are responsible for cooperating with the Assistant Director, Renewable Resources and Planning, to ensure that the BLM NEPA compliance procedures operate as prescribed within their areas of responsibility.
- E. The State Directors are responsible to the Director/Deputy Director(s) for overall direction, integration and implementation of the BLM NEPA compliance procedures in their states. This includes managing for the appropriate level of public notification and participation, and ensuring production of quality environmental review and decision documents. Deputy State Directors serve as focal points for NEPA compliance matters at the state level.
- F. The District and Field Managers are responsible for NEPA compliance at the local level.

11.3 External Applicants' Guidance.

A. General.

- (1) For all external proposals, applicants should make initial contact with the Responsible Official (District Manager, Field Manager, or State Director) responsible for the affected public lands as soon as possible after determining the BLM's involvement. This early contact is necessary to allow the BLM to consult early with appropriate state and local agencies and tribes and with interested private persons and organizations, and to commence its NEPA process at the earliest possible time.
- (2) When a proposed action has the potential to affect public lands in more than one administrative unit, the applicant may initially contact any Responsible Official whose jurisdiction is involved. The BLM may then designate a lead office to coordinate between BLM jurisdictions.
- (3) Potential applicants may secure from the Responsible Official a list of NEPA and other relevant regulations and requirements for environmental review related to each applicant's proposed action. The purpose of making these regulations and requirements known in

advance is to assist the applicant in the development of an adequate and accurate description of the proposed action when the applicant submits their project application. The list provided to the applicant may not fully disclose all relevant regulations and requirements because additional requirements could be identified after review of the applicant's proposal document(s) and as a result of the "scoping" process.

(4) The applicant is encouraged to advise the BLM of their intentions early on in their planning process. Early communication is necessary so that the BLM can efficiently advise the applicant on the anticipated type of NEPA review required, information needed, and potential data gaps that may or may not need to be filled, so that the BLM can describe the relevant regulations and requirements likely to affect the proposed action(s), and to discuss scheduling expectations.

B. **Regulations.** The following list of potentially relevant regulations should be considered at a minimum. Many other regulations affect public lands--some of which are specific to the BLM, while others are applicable across a broad range of federal programs (e.g., Protection of Historic and Cultural Programs--36 Code of Federal Regulations (CFR) Part 800).

- (1) Resource Management Planning--43 CFR 1610;
- (2) Withdrawals--43 CFR 2300;
- (3) Land Classification--43 CFR 2400;
- (4) Disposition: Occupancy and Use--43 CFR 2500;
- (5) Disposition: Grants--43 CFR 2600;
- (6) Disposition: Sales--43 CFR 2700;
- (7) Use: Rights-of-Way--43 CFR 2800;
- (8) Use: Leases and Permits--43 CFR 2900;
- (9) Oil and Gas Leasing--43 CFR 3100;
- (10) Geothermal Resources Leasing--43 CFR 3200;
- (11) Coal Management--43 CFR 3400;
- (12) Leasing of Solid Minerals Other than Coal/Oil Shale--43 CFR 3500;
- (13) Mineral Materials Disposal--43 CFR 3600;
- (14) Mining Claims Under the General Mining Laws--43 CFR 3800;
- (15) Grazing Administration--43 CFR 4100;
- (16) Wild Free-Roaming Horse and Burro Management--43 CFR 4700;
- (17) Forest Management--43 CFR 5000;
- (18) Wildlife Management--43 CFR 6000;
- (19) Recreation Management--43 CFR 8300; and
- (20) Wilderness Management--43 CFR 6300.

11.4 General Requirements. The Council on Environmental Quality (CEQ) regulations state that federal agencies shall reduce paperwork and delay (40 CFR 1500.4 and 1500.5) to the fullest extent possible. The information used in any NEPA analysis must be of high quality. Accurate scientific analysis, agency expert comments, and public scrutiny are essential to implementing the NEPA (40 CFR 1500.1(b)). Environmental documents should be concise and written in plain language (40 CFR 1502.8), so they can be understood and should concentrate on the issues that are truly significant to the action in question rather than amassing

needless detail (40 CFR 1500.1(b)).

A. Reduce paperwork and delays: The Responsible Official will avoid unnecessary duplication of effort and promote cooperation with other federal agencies that have permitting, funding, approving, or other consulting or coordinating requirements associated with the proposed action. The Responsible Official shall, as appropriate, integrate NEPA requirements with other environmental review and consultation requirements (40 CFR 1500.4(k)); tier to broader environmental review documents (40 CFR 1502.20); incorporate by reference relevant studies and analyses (40 CFR 1502.21); adopt other agency environmental analyses (40 CFR 1506.3); and supplement analyses with new information (40 CFR 1502.9).

B. Eliminate duplicate tribal, state, and local governmental procedures (40 CFR 1506.2): The Responsible Official will cooperate with other governmental entities to the fullest extent possible to reduce duplication between federal, state, local and tribal requirements in addition to, but not in conflict with, those in the NEPA. Cooperation may include the following: common databases; joint planning processes; joint science investigations; joint public meetings and hearings; and joint environmental assessment (EA) level and joint environmental impact statement (EIS) level analyses using joint lead or cooperating agency status.

C. Consult and coordinate: The Responsible Official will determine early in the process the appropriate type and level of consultation and coordination required with other federal agencies and with state, local and tribal governments. After the NEPA review is completed, coordination will often continue throughout project implementation, monitoring, and evaluation.

D. Involve the public: The public must be involved early and continuously, as appropriate, throughout the NEPA process. The Responsible Official shall ensure that:

(1) The type and level of public involvement shall be commensurate with the NEPA analysis needed to make the decision.

(2) When feasible, communities can be involved through consensus-based management activities. Consensus-based management includes direct community involvement in the BLM activities subject to NEPA analyses, from initial scoping to implementation and monitoring of the impacts of the decision. Consensus-based management seeks to achieve agreement from diverse interests on the goals, purposes, and needs of the BLM plans and activities and the methods needed to achieve those ends. The BLM retains exclusive decision-making responsibility and shall exercise that responsibility in a timely manner.

E. Implement Adaptive Management: The Responsible Official is encouraged to build "Adaptive Management" practice in to their proposed actions and NEPA compliance activities and train personnel in this important environmental concept. Adaptive Management in the DOI is a system of management practices based on clearly identified outcomes, monitoring to determine if management actions are meeting outcomes, and the facilitation of management changes to ensure that outcomes are met, or reevaluated as necessary. Such reevaluation may require new or supplemental NEPA compliance. Adaptive Management recognizes that knowledge about natural resource systems is sometimes uncertain and is the preferred method for addressing these cases. The preferred alternative should include sufficient flexibility to allow for adjustments in implementation in response to monitoring results.

F. Train for public and community involvement: The BLM employee(s) that facilitate(s) public and community involvement in the NEPA process should have training in public involvement, alternative dispute resolution, negotiation, meeting facilitation, collaboration, and/or partnering.

G. Limitations on Actions during the NEPA process: The following guidance may aid in fulfilling the requirements of 40 CFR 1506.1. During the preparation of a program or plan NEPA document, the Responsible Official may undertake any major Federal action within the scope and analyzed in the existing NEPA document supporting the current plan or program, so long as there is adequate NEPA documentation to support the individual action.

11.5 Plan Conformance. Where a BLM land use plan (LUP) exists, a proposed action must be in conformance with the plan. This means that the proposed action must be specifically provided for in the plan, or if not specifically mentioned, the proposal must be clearly consistent with the terms, conditions,

and decisions of the plan or plan as amended. If it is determined that the proposed action does not conform to the plan, the Responsible Official may:

- A. reject the proposal,
- B. modify the proposal to conform to the land use plan, or
- C. complete appropriate plan amendments and associated NEPA compliance requirements prior to proceeding with the proposed action.

11.6 Existing Documentation (Determination of NEPA Adequacy). The Responsible Official may consider using existing NEPA analysis for a proposed action when the record documents show that the following conditions are met.

- A. The proposed action is adequately covered by (i.e., is within the scope of and analyzed in) relevant existing analyses, data, and records; and
- B. There are no new circumstances, new information, or unanticipated or unanalyzed environmental impacts that warrant new or supplemental analysis. If the Responsible Official determines that existing NEPA documents adequately analyzed the effects of the proposed action, this determination, usually prepared in a Determination of NEPA Adequacy (DNA) worksheet to provide the administrative record support, serves as an interim step in the BLM's internal decision-making process. The DNA is intended to evaluate the coverage of existing documents and the significance of new information, but does not itself provide NEPA analysis. If the Responsible Official concludes that the proposed action(s) warrant additional review, information from the DNA worksheet may be used to facilitate the preparation of the appropriate level of NEPA analysis. The BLM's NEPA Handbook and program specific regulations and guidance describe additional steps needed to make and document the agency's final determination regarding a proposed action.

11.7 Actions Requiring an Environmental Assessment (EA).

- A. An EA is a concise public document that serves to:
 - (1) Provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement (EIS) or a Finding of No Significant Impact (FONSI);
 - (2) Aid the BLM's compliance with NEPA when an EIS is not necessary; and
 - (3) Facilitate preparation of an EIS when one is necessary.
- B. Unlike an EIS that requires much more, an EA must include the following four items identified in 40 CFR 1508.9(b):
 - (1) The need for the proposal.
 - (2) Alternatives as described in Section 102(2)(E) of NEPA.
 - (3) The environmental impacts of the proposed action and alternatives.
 - (4) A listing of agencies and persons consulted.
- C. An EA is usually the appropriate NEPA document for:
 - (1) Land Use Plan Amendments;
 - (2) Land use plan implementation decisions, including but not limited to analysis for implementation plans such as watershed plans or coordinated resource activity plans, resource use permits (except for those that are categorically excludable), and site-specific project plans, such as construction of a trail.
- D. An EA should be completed when the Responsible Official is uncertain of the potential for significant impacts and needs further analysis to make the determination.

E. If, for any of these actions, it is anticipated or determined that an EA is not appropriate because of potential significant impacts, an EIS will be prepared.

11.8 Major Actions Requiring an EIS.

A. An EIS level analysis should be completed when an action meets either of the two following criteria.

- (1) If the impacts of a proposed action are expected to be significant; or
- (2) In circumstances where a proposed action is directly related to another action(s), and cumulatively the effects of the actions taken together would be significant, even if the effects of the actions taken separately would not be significant,

B. The following types of BLM actions will normally require the preparation of an EIS:

- (1) Approval of Resource Management Plans.
- (2) Proposals for Wild and Scenic Rivers and National Scenic and Historic Trails.
- (3) Approval of regional coal lease sales in a coal production region.
- (4) Decisions to issue a coal preference right lease.
- (5) Approval of applications to the BLM for major actions in the following categories:
 - (a) Sites for steam-electric powerplants, petroleum refineries, synfuel plants, and industrial facilities; and
 - (b) Rights-of-way for major reservoirs, canals, pipelines, transmission lines, highways, and railroads.
- (6) Approval of operations that would result in liberation of radioactive tracer materials or nuclear stimulation.
- (7) Approval of any mining operations where the area to be mined, including any area of disturbance, over the life of the mining plan, is 640 acres or larger in size.

C. If potentially significant impacts are not anticipated for these actions, an EA will be prepared.

11.9 Actions Eligible for a Categorical Exclusion (CX). The Departmental Manual (516 DM 2.3A(3) and 516 DM 2, Appendix 2) requires that before any action described in the following list of CXs is used, the list of "extraordinary circumstances" must be reviewed for applicability. If a CX does not pass the "extraordinary circumstances" test, the proposed action analysis defaults to either an EA or an EIS. When no "extraordinary circumstances" apply, the following activities do not require the preparation of an EA or EIS. In addition, see 516 DM 2, Appendix 1 for a list of DOI-wide categorical exclusions. As proposed actions are designed and then reviewed against the CX list, proposed actions or activities must be, at a minimum, consistent with the DOI and the BLM regulations, manuals, handbooks, policies, and applicable land use plans regarding design features, best management practices, terms and conditions, conditions of approval, and stipulations.

A. Fish and Wildlife.

- (1) Modification of existing fences to provide improved wildlife ingress and egress.
- (2) Minor modification of water developments to improve or facilitate wildlife use (e.g., modify enclosure fence, install flood valve, or reduce ramp access angle).
- (3) Construction of perches, nesting platforms, islands, and similar structures for wildlife use.
- (4) Temporary emergency feeding of wildlife during periods of extreme adverse weather

conditions.

- (5) Routine augmentations, such as fish stocking, providing no new species are introduced.
- (6) Relocation of nuisance or depredating wildlife, providing the relocation does not introduce new species into the ecosystem.
- (7) Installation of devices on existing facilities to protect animal life, such as raptor electrocution prevention devices.

B. Oil, Gas, and Geothermal Energy.

- (1) Issuance of future interest leases under the Mineral Leasing Act for Acquired Lands, where the subject lands are already in production.
- (2) Approval of mineral lease adjustments and transfers, including assignments and subleases.
- (3) Approval of unitization agreements, communitization agreements, drainage agreements, underground storage agreements, development contracts, or geothermal unit or participating area agreements.
- (4) Approval of suspensions of operations, force majeure suspensions, and suspensions of operations and production.
- (5) Approval of royalty determinations, such as royalty rate reductions.
- (6) Approval of Notices of Intent to conduct geophysical exploration of oil, gas, or geothermal, pursuant to 43 CFR 3150 or 3250, when no temporary or new road construction is proposed.

C. Forestry.

- (1) Land cultivation and silvicultural activities (excluding herbicide application) in forest tree nurseries, seed orchards, and progeny test sites.
- (2) Sale and removal of individual trees or small groups of trees which are dead, diseased, injured, or which constitute a safety hazard, and where access for the removal requires no more than maintenance to existing roads.
- (3) Seeding or reforestation of timber sales or burn areas where no chaining is done, no pesticides are used, and there is no conversion of timber type or conversion of non-forest to forest land. Specific reforestation activities covered include: seeding and seedling plantings, shading, tubing (browse protection), paper mulching, bud caps, ravel protection, application of non-toxic big game repellent, spot scalping, rodent trapping, fertilization of seed trees, fence construction around out-planting sites, and collection of pollen, scions and cones.
- (4) Pre-commercial thinning and brush control using small mechanical devices.
- (5) Disposal of small amounts of miscellaneous vegetation products outside established harvest areas, such as Christmas trees, wildings, floral products (ferns, boughs, etc.), cones, seeds, and personal use firewood.
- (6) Felling, bucking, and scaling sample trees to ensure accuracy of timber cruises. Such activities:
 - (a) Shall be limited to an average of one tree per acre or less,
 - (b) Shall be limited to gas-powered chainsaws or hand tools,
 - (c) Shall not involve any road or trail construction,
 - (d) Shall not include the use of ground based equipment or other manner of timber

yarding, and

(e) Shall be limited to the Coos Bay, Eugene, Medford, Roseburg, and Salem Districts and Lakeview District, Klamath Falls Resource Area in Oregon.

(7) Harvesting live trees not to exceed 70 acres, requiring no more than 0.5 mile of temporary road construction. Such activities:

(a) Shall not include even-aged regeneration harvests or vegetation type conversions.

(b) May include incidental removal of trees for landings, skid trails, and road clearing.

(c) May include temporary roads which are defined as roads authorized by contract, permit, lease, other written authorization, or emergency operation not intended to be part of the BLM transportation system and not necessary for long-term resource management. Temporary roads shall be designed to standards appropriate for the intended uses, considering safety, cost of transportation, and impacts on land and resources; and

(d) Shall require the treatment of temporary roads constructed or used so as to permit the reestablishment by artificial or natural means, or vegetative cover on the roadway and areas where the vegetative cover was disturbed by the construction or use of the road, as necessary to minimize erosion from the disturbed area. Such treatment shall be designed to reestablish vegetative cover as soon as practicable, but at least within 10 years after the termination of the contract. Examples include, but are not limited to:

(i) Removing individual trees for sawlogs, specialty products, or fuelwood.

(ii) Commercial thinning of overstocked stands to achieve the desired stocking level to increase health and vigor.

(8) Salvaging dead or dying trees not to exceed 250 acres, requiring no more than 0.5 mile of temporary road construction. Such activities:

(a) May include incidental removal of live or dead trees for landings, skid trails, and road clearing.

(b) May include temporary roads which are defined as roads authorized by contract, permit, lease, other written authorization, or emergency operation not intended to be part of the BLM transportation system and not necessary for long-term resource management. Temporary roads shall be designed to standards appropriate for the intended uses, considering safety, cost of transportation, and impacts on land and resources; and

(c) Shall require the treatment of temporary roads constructed or used so as to permit the reestablishment, by artificial or natural means, of vegetative cover on the roadway and areas where the vegetative cover was disturbed by the construction or use of the road, as necessary to minimize erosion from the disturbed area. Such treatment shall be designed to reestablish vegetative cover as soon as practicable, but at least within 10 years after the termination of the contract.

(d) For this CX, a dying tree is defined as a standing tree that has been severely damaged by forces such as fire, wind, ice, insects, or disease, and that in the judgment of an experienced forest professional or someone technically trained for the work, is likely to die within a few years. Examples include, but are not limited to:

(i) Harvesting a portion of a stand damaged by a wind or ice event.

(ii) Harvesting fire damaged trees.

(9) Commercial and non-commercial sanitation harvest of trees to control insects or disease not to exceed 250 acres, requiring no more than 0.5 miles of temporary road

construction. Such activities:

- (a) May include removal of infested/infected trees and adjacent live uninfested/uninfected trees as determined necessary to control the spread of insects or disease; and
- (b) May include incidental removal of live or dead trees for landings, skid trails, and road clearing.
- (c) May include temporary roads which are defined as roads authorized by contract, permit, lease, other written authorization, or emergency operation not intended to be part of the BLM transportation system and not necessary for long-term resource management. Temporary roads shall be designed to standards appropriate for the intended uses, considering safety, cost of transportation, and impacts on land and resources; and
- (d) Shall require the treatment of temporary roads constructed or used so as to permit the reestablishment, by artificial or natural means, of vegetative cover on the roadway and areas where the vegetative cover was disturbed by the construction or use of the road, as necessary to minimize erosion from the disturbed area. Such treatment shall be designed to reestablish vegetative cover as soon as practicable, but at least within 10 years after the termination of the contract. Examples include, but are not limited to:
 - (i) Felling and harvesting trees infested with mountain pine beetles and immediately adjacent uninfested trees to control expanding spot infestations; and
 - (ii) Removing or destroying trees infested or infected with a new exotic insect or disease, such as emerald ash borer, Asian longhorned beetle, or sudden oak death pathogen.

D. Rangeland Management.

- (1) Approval of transfers of grazing preference.
- (2) Placement and use of temporary (not to exceed one month) portable corrals and water troughs, providing no new road construction is needed.
- (3) Temporary emergency feeding of livestock or wild horses and burros during periods of extreme adverse weather conditions.
- (4) Removal of wild horses or burros from private lands at the request of the landowner.
- (5) Processing (transporting, sorting, providing veterinary care, vaccinating, testing for communicable diseases, training, gelding, marketing, maintaining, feeding, and trimming of hooves of) excess wild horses and burros.
- (6) Approval of the adoption of healthy, excess wild horses and burros.
- (7) Actions required to ensure compliance with the terms of Private Maintenance and Care agreements.
- (8) Issuance of title to adopted wild horses and burros.
- (9) Destroying old, sick, and lame wild horses and burros as an act of mercy.
- (10) Vegetation management activities, such as seeding, planting, invasive plant removal, installation of erosion control devices (e.g., mats/straw/chips), and mechanical treatments, such as crushing, piling, thinning, pruning, cutting, chipping, mulching, mowing, and prescribed fire when the activity is necessary for the management of vegetation on public lands. Such activities:
 - (a) Shall not exceed 4,500 acres per prescribed fire project and 1,000 acres for other vegetation management projects;

- (b) Shall not be conducted in Wilderness areas or Wilderness Study Areas;
 - (c) Shall not include the use of herbicides, pesticides, biological treatments or the construction of new permanent roads or other new permanent infrastructure;
 - (d) May include temporary roads which are defined as roads authorized by contract, permit, lease, other written authorization, or emergency operation not intended to be part of the BLM transportation system and not necessary for long-term resource management. Temporary roads shall be designed to standards appropriate for the intended uses, considering safety, cost of transportation, and impacts on land and resources; and
 - (e) Shall require the treatment of temporary roads constructed or used so as to permit the reestablishment, by artificial or natural means, of vegetative cover on the roadway and areas where the vegetative cover was disturbed by the construction or use of the road, as necessary to minimize erosion from the disturbed area. Such treatment shall be designed to reestablish vegetative cover as soon as practicable, but at least within 10 years after the termination of the contract.
- (11) Issuance of livestock grazing permits/leases where:
- (a) The new grazing permit/lease is consistent with the use specified on the previous permit/lease, such that
 - (i) the same kind of livestock is grazed,
 - (ii) the active use previously authorized is not exceeded, and
 - (iii) grazing does not occur more than 14 days earlier or later than as specified on the previous permit/lease, and
 - (b) The grazing allotment(s) has been assessed and evaluated and the Responsible Official has documented in a determination that the allotment(s) is
 - (i) meeting land health standards, or
 - (ii) not meeting land health standards due to factors that do not include existing livestock grazing.

E. Realty.

- (1) Withdrawal extensions or modifications, which only establish a new time period and entail no changes in segregative effect or use.
- (2) Withdrawal revocations, terminations, extensions, or modifications; and classification terminations or modifications which do not result in lands being opened or closed to the general land laws or to the mining or mineral leasing laws.
- (3) Withdrawal revocations, terminations, extensions, or modifications; classification terminations or modifications; or opening actions where the land would be opened only to discretionary land laws and where subsequent discretionary actions (prior to implementation) are in conformance with and are covered by a Resource Management Plan/EIS (or plan amendment and EA or EIS).
- (4) Administrative conveyances from the Federal Aviation Administration (FAA) to the State of Alaska to accommodate airports on lands appropriated by the FAA prior to the enactment of the Alaska Statehood Act.
- (5) Actions taken in conveying mineral interest where there are no known mineral values in the land under Section 209(b) of the Federal Land Policy and Management Act of 1976 (FLPMA).
- (6) Resolution of class one color-of-title cases.
- (7) Issuance of recordable disclaimers of interest under Section 315 of FLPMA.

- (8) Corrections of patents and other conveyance documents under Section 316 of FLPMA and other applicable statutes.
- (9) Renewals and assignments of leases, permits, or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations.
- (10) Transfer or conversion of leases, permits, or rights-of-way from one agency to another (e.g., conversion of Forest Service permits to a BLM Title V Right-of-way).
- (11) Conversion of existing right-of-way grants to Title V grants or existing leases to FLPMA Section 302(b) leases where no new facilities or other changes are needed.
- (12) Grants of right-of-way wholly within the boundaries of other compatibly developed rights-of-way.
- (13) Amendments to existing rights-of-way, such as the upgrading of existing facilities, which entail no additional disturbances outside the right-of-way boundary.
- (14) Grants of rights-of-way for an overhead line (no pole or tower on BLM land) crossing over a corner of public land.
- (15) Transfers of land or interest in land to or from other bureaus or federal agencies where current management will continue and future changes in management will be subject to the NEPA process.
- (16) Acquisition of easements for an existing road or issuance of leases, permits, or rights-of-way for the use of existing facilities, improvements, or sites for the same or similar purposes.
- (17) Grant of a short rights-of-way for utility service or terminal access roads to an individual residence, outbuilding, or water well.
- (18) Temporary placement of a pipeline above ground.
- (19) Issuance of short-term (3 years or less) rights-of-way or land use authorizations for such uses as storage sites, apiary sites, and construction sites where the proposal includes rehabilitation to restore the land to its natural or original condition.
- (20) One-time issuance of short-term (3 years or less) rights-of-way or land use authorizations which authorize trespass action where no new use or construction is allowed, and where the proposal includes rehabilitation to restore the land to its natural or original condition.

F. Solid Minerals.

- (1) Issuance of future interest leases under the Mineral Leasing Act for Acquired Lands where the subject lands are already in production.
- (2) Approval of mineral lease readjustments, renewals, and transfers including assignments and subleases.
- (3) Approval of suspensions of operations, force majeure suspensions, and suspensions of operations and production.
- (4) Approval of royalty determinations, such as royalty rate reductions and operations reporting procedures.
- (5) Determination and designation of logical mining units.
- (6) Findings of completeness furnished to the Office of Surface Mining Reclamation and Enforcement for Resource Recovery and Protection Plans.
- (7) Approval of minor modifications to or minor variances from activities described in an approved exploration plan for leasable, salable, and locatable minerals (e.g., the approved plan identifies no new surface disturbance outside the areas already identified to be disturbed).

- (8) Approval of minor modifications to or minor variances from activities described in an approved underground or surface mine plan for leasable minerals (e.g., change in mining sequence or timing).
- (9) Digging of exploratory trenches for mineral materials, except in riparian areas.
- (10) Disposal of mineral materials, such as sand, stone, gravel, pumice, pumicite, cinders, and clay, in amounts not exceeding 50,000 cubic yards or disturbing more than 5 acres, except in riparian areas.

G. Transportation.

- (1) Incorporation of eligible roads and trails in any transportation plan when no new construction or upgrading is needed.
- (2) Installation of routine signs, markers, culverts, ditches, waterbars, gates, or cattleguards on/or adjacent to roads and trails identified in any land use or transportation plan, or eligible for incorporation in such plan.
- (3) Temporary closure of roads and trails.
- (4) Placement of recreational, special designation, or information signs, visitor registers, kiosks, and portable sanitation devices.

H. Recreation Management. Issuance of Special Recreation Permits for day use or overnight use up to 14 consecutive nights; that impacts no more than 3 staging area acres; and/or for recreational travel along roads, trails, or in areas authorized in a land use plan. This CX cannot be used for commercial boating permits along Wild and Scenic Rivers. This CX cannot be used for the establishment or issuance of Special Recreation Permits for "Special Area" management (43 CFR 2932.5).

I. Emergency Stabilization. Planned actions in response to wildfires, floods, weather events, earthquakes, or landslips that threaten public health or safety, property, and/or natural and cultural resources, and that are necessary to repair or improve lands unlikely to recover to a management-approved condition as a result of the event. Such activities shall be limited to: repair and installation of essential erosion control structures; replacement or repair of existing culverts, roads, trails, fences, and minor facilities; construction of protection fences; planting, seeding, and mulching; and removal of hazard trees, rocks, soil, and other mobile debris from, on, or along roads, trails, campgrounds, and watercourses. These activities:

- (1) Shall be completed within one year following the event;
- (2) Shall not include the use of herbicides or pesticides;
- (3) Shall not include the construction of new roads or other new permanent infrastructure;
- (4) Shall not exceed 4,200 acres; and
- (5) May include temporary roads which are defined as roads authorized by contract, permit, lease, other written authorization, or emergency operation not intended to be part of the BLM transportation system and not necessary for long-term resource management. Temporary roads shall be designed to standards appropriate for the intended uses, considering safety, cost of transportation, and impacts on land and resources; and
- (6) Shall require the treatment of temporary roads constructed or used so as to permit the reestablishment by artificial or natural means, or vegetative cover on the roadway and areas where the vegetative cover was disturbed by the construction or use of the road, as necessary to minimize erosion from the disturbed area. Such treatment shall be designed to reestablish vegetative cover as soon as practicable, but at least within 10 years after the termination of the contract

J. Other.

- (1) Maintaining land use plans in accordance with 43 CFR 1610.5-4.
- (2) Acquisition of existing water developments (e.g., wells and springs) on public land.
- (3) Conducting preliminary hazardous materials assessments and site investigations, site characterization studies and environmental monitoring. Included are siting, construction, installation and/or operation of small monitoring devices such as wells, particulate dust counters and automatic air or water samples.

- (4) Use of small sites for temporary field work camps where the sites will be restored to their natural or original condition within the same work season.
- (5) Reserved.
- (6) A single trip in a one month period for data collection or observation sites.
- (7) Construction of snow fences for safety purposes or to accumulate snow for small water facilities.

- (8) Installation of minor devices to protect human life (e.g., grates across mines).
- (9) Construction of small protective enclosures, including those to protect reservoirs and springs and those to protect small study areas.
- (10) Removal of structures and materials of no historical value, such as abandoned automobiles, fences, and buildings, including those built in trespass and reclamation of the site when little or no surface disturbance is involved.
- (11) Actions where the BLM has concurrence or co-approval with another DOI agency and the action is categorically excluded for that DOI agency.
- (12) Rendering formal classification of lands as to their mineral character, waterpower, and water storage values.

5/8/08 #3799

Replaces 5/27/04 #3621