



## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

[BLM\_HQ\_FRN\_MO4500176277]

### National Environmental Policy Act Implementing Procedures for the Bureau of Land Management (516 DM 11)

**AGENCY:** Office of the Secretary, Interior.

**ACTION:** Notice of proposed policy revisions.

**SUMMARY:** This notice announces the intent to revise the Bureau of Land Management's (BLM) policies and procedures for compliance with the National Environmental Policy Act (NEPA), as amended, various Executive Orders, and the Council on Environmental Quality's NEPA Implementing Regulations by proposing to remove four administratively established categorical exclusions (CXs) and to incorporate two CXs established by Congress.

**DATES:** Comments must be postmarked no later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** The public can review the proposed changes to the Departmental Manual (DM) online BLM's ePlanning site: <https://eplanning.blm.gov/eplanning-ui/home>.

Comments can be submitted:

Through the BLM National NEPA Register: <https://eplanning.blm.gov/eplanning-ui/home>. Follow the instruction at this website.

By mail: Director (210), Attention: Senior NEPA Lead, P.O. Box 261117, Lakewood, CO. 80226.

By personal or messenger delivery: Director (210), Attention: Senior NEPA Lead, Denver Federal Center, Building 40 (Door W-4), Lakewood, CO 80215 DC 20003.

**FOR FURTHER INFORMATION CONTACT:** Heather Bernier, Division Chief, Decision Support, Planning, and NEPA, at (303) 239-3635, or [hbernier@blm.gov](mailto:hbernier@blm.gov).

Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services for contacting Heather Bernier. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

**SUPPLEMENTARY INFORMATION:** The BLM is proposing to revise its NEPA procedures. Specifically, BLM is proposing to revise the list of BLM actions that are normally categorically excluded from the requirement to complete an environmental assessment (EA) or environmental impact statement (EIS) absent extraordinary circumstances. The BLM's NEPA procedures, located at Chapter 11 of Part 516 of the Departmental Manual (516 DM 11), were last updated December 10, 2020. The BLM's current procedures can be found on the Department of the Interior's (DOI) Electronic Library of Interior Policies (ELIPS) at:

*[https://www.doi.gov/sites/doi.gov/files/elips/documents/516-dm-11\\_0.pdf](https://www.doi.gov/sites/doi.gov/files/elips/documents/516-dm-11_0.pdf)*

The BLM proposes to remove four administrative CXs from its NEPA procedures. Given the complexity of land management, legal frameworks, and other factors, the BLM is considering the removal of the CXs described in 516 DM 11.C(10) regarding the salvaging of dead and dying trees; 516 DM 11.D(10) regarding vegetation management activities; 516 DM 11.D(11) regarding issuance of livestock grazing permits or leases; and 516 DM 11.J(1) regarding certain activities within sagebrush and sagebrush-steppe plant communities to manage pinyon pine and juniper trees for the benefit of mule deer or sage-grouse habitats. Removing these CXs would require the BLM to assess whether another CX applies or prepare an EA or EIS when proposing actions that would have previously been covered by these CXs. BLM previously

discontinued use of these CXs through instruction memoranda (IM) (available online at <https://www.blm.gov/policy/instruction-memorandum>). The BLM discontinued use of 516 DM 11.D(10) and 516 DM 11.D(11) on August 21, 2009, through IM 2009-199; discontinued use of 516 DM 11.C(10) on August 3, 2022, through PIM 2022-010; and discontinued use of 516 DM 11.J(1) on November 30, 2022, through PIM 2023-002. The BLM is not presently considering modifying the terms of these CXs.

Additionally, the BLM proposes to incorporate two CXs established by Congress in the Infrastructure Investment and Jobs Act (Pub. L. 117-58). Section 11318 established a CX for sundry notices or rights-of-way for gathering lines and associated field compression or pumping units on Federal land servicing oil and gas wells under the conditions described therein. Section 40806 excludes forest management activities for the establishment of fuel breaks in forests and other wildland vegetation from preparation of an EA or EIS under NEPA, as described therein.

Below outlines the proposed changes to the text of 516 DM Chapter 11, reflecting the addition of the statutorily established CXs and deletion of the administrative CXs proposed. Because the new CXs were established by Congress, the BLM does not have the discretion to change their terms. A redline version is available for review at the website identified in the ADDRESSES section.

## **11.9 Actions Eligible for a Categorical Exclusion (CX).**

### **C. Forestry**

(10) Reserved

### **D. Rangeland Management.**

(10) Reserved

(11) Reserved

### **J. Habitat Restoration (Reserved)**

## 11.10 Categorical Exclusions Established or Directed by Statute

D. Section 11318 of the Infrastructure Investment and Jobs Act (Pub. L. 117-58) established a CX as defined in 40 CFR part 1508 for sundry notices or rights-of-way for gathering lines and associated field compression or pumping units on Federal land servicing oil and gas wells under the conditions described below. Application of this CX requires extraordinary circumstances review consistent with 43 CFR 46.215.

Section 11318. CERTAIN GATHERING LINES LOCATED ON FEDERAL LAND AND INDIAN LAND of the Infrastructure Investment and Jobs Act provides:

(a) Definitions.--In this section:

(1) Federal land.--

(A) In general.--The term "Federal land" means land the title to which is held by the United States.

(B) Exclusions.--The term "Federal land" does not include—

(i) a unit of the National Park System;

(ii) a unit of the National Wildlife Refuge System;

(iii) a component of the National Wilderness Preservation System;

(iv) a wilderness study area within the National Forest System; or

(v) Indian land

(2) Gathering line and associated field compression or pumping unit.—

(A) In general.--The term "gathering line and associated field compression or pumping unit" means—

(i) a pipeline that is installed to transport oil, natural gas and related constituents, or produced water from 1 or more wells drilled and completed to produce oil or gas;

(ii) if necessary, 1 or more compressors or pumps to raise the pressure of the transported oil, natural gas and related constituents, or produced water to higher pressures necessary to enable the oil, natural gas and related constituents, or produced water to flow into pipelines and other facilities; and

(iii) if necessary, cathodic protection ancillary to the line.

(B) Inclusions.--The term "gathering line and associated field compression or pumping unit" includes a pipeline and its cathodic protection as needed, or associated compression or pumping unit that is installed to transport oil or natural gas from a processing plant to a common carrier pipeline or facility.

(C) Exclusions.--The term "gathering line and associated field compression or pumping unit" does not include a common carrier pipeline.

(3) Indian land.--The term "Indian land" means land the title to which is held by—

(A) the United States in trust for an Indian Tribe or an individual Indian;

or

(B) an Indian Tribe or an individual Indian subject to a restriction by the United States against alienation.

(4) Produced water.--The term "produced water" means water produced from an oil or gas well bore that is not a fluid prepared at, or transported to, the well site to resolve a specific oil or gas well bore or reservoir condition.

(5) Secretary.--The term "Secretary" means the Secretary of the Interior.

(b) Certain Gathering Lines.—

(1) In general.--Subject to paragraph (2), the issuance of a sundry notice or right-of-way for a gathering line and associated field compression or pumping unit that is located on Federal land or Indian land and that services any oil or gas well may be considered by the Secretary to be an action that is categorically excluded (as defined in section 1508.1 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act)) for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if the gathering line and associated field compression or pumping unit—

(A) are within a field or unit for which an approved land use plan or an environmental document prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) analyzed transportation of oil, natural gas, or produced water from 1 or more oil or gas wells in the field or unit as a reasonably foreseeable activity;

(B) are located adjacent to or within—

(i) any existing disturbed area; or

(ii) an existing corridor for a right-of-way; and

(C) would reduce—

(i) in the case of a gathering line and associated field compression or pumping unit transporting methane, the total quantity of methane that would otherwise be vented, flared, or unintentionally emitted from the field or unit; or

(ii) in the case of a gathering line and associated field compression or pumping unit not transporting methane, the vehicular traffic that would otherwise service the field or unit.

(2) Applicability.--Paragraph (1) shall apply to Indian land, or a portion of Indian land—

(A) to which the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applies; and

(B) for which the Indian Tribe with jurisdiction over the Indian land submits to the Secretary a written request that paragraph (1) apply to that Indian land (or portion of Indian land).

(c) Effect on Other Law.--Nothing in this section—

(1) affects or alters any requirement—

(A) relating to prior consent under—

(i) section 2 of the Act of February 5, 1948 (62 Stat.18, chapter 45; 25 U.S.C. 324); or

(ii) section 16(e) of the Act of June 18, 1934 (48 Stat. 987, chapter 576; 102 Stat. 2939; 114 Stat. 47; 25 U.S.C. 5123(e)) (commonly known as the "Indian Reorganization Act");

(B) under section 306108 of title 54, United States Code; or

(C) under any other Federal law (including regulations) relating to Tribal consent for rights-of-way across Indian land; or

(2) makes the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applicable to land to which that Act otherwise would not apply.

E. Section 40806 of the Infrastructure Investment and Jobs Act (Pub. L. 117-58) excludes forest management activities for the establishment of fuel breaks in forests and other wildland vegetation from preparation of an EA or EIS under NEPA, as described below.

Section 40806. ESTABLISHMENT OF FUEL BREAKS IN FORESTS AND OTHER WILDLAND VEGETATION of the Infrastructure Investment and Jobs Act provides:

(a) DEFINITION OF SECRETARY CONCERNED.—In this section, the term “Secretary concerned” means—

(1) the Secretary of Agriculture, with respect to National Forest System land; and

(2) the Secretary of the Interior, with respect to public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)) administered by the Bureau of Land Management.

(b) CATEGORICAL EXCLUSION ESTABLISHED.—Forest management activities described in subsection (c) are a category of actions designated as being categorically excluded from the preparation of an environmental assessment or an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if the categorical exclusion is documented through a supporting record and decision memorandum.

(c) FOREST MANAGEMENT ACTIVITIES DESIGNATED FOR CATEGORICAL EXCLUSION.—

(1) IN GENERAL.—The category of forest management activities designated under subsection (b) for a categorical exclusion are forest management activities

described in paragraph (2) that are carried out by the Secretary concerned on public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)) administered by the Bureau of Land Management or National Forest System land the primary purpose of which is to establish and maintain linear fuel breaks that are—

(A) up to 1,000 feet in width contiguous with or incorporating existing linear features, such as roads, water infrastructure, transmission and distribution lines, and pipelines of any length on Federal land; and

(B) intended to reduce the risk of uncharacteristic wildfire on Federal land or catastrophic wildfire for an adjacent at-risk community.

(2) ACTIVITIES.—Subject to paragraph (3), the forest management activities that may be carried out pursuant to the categorical exclusion established under subsection (b) are—

(A) mowing or masticating;

(B) thinning by manual and mechanical cutting;

(C) piling, yarding, and removal of slash or hazardous fuels;

(D) selling of vegetation products, including timber, firewood, biomass, slash, and fenceposts;

(E) targeted grazing;

(F) application of—

(i) pesticide;

(ii) biopesticide; or

(iii) herbicide;

(G) seeding of native species;

(H) controlled burns and broadcast burning; and

(I) burning of piles, including jackpot piles.

(3) EXCLUDED ACTIVITIES.—A forest management activity described in paragraph (2) may not be carried out pursuant to the categorical exclusion established under subsection (b) if the activity is conducted—

(A) in a component of the National Wilderness Preservation System;

(B) on Federal land on which the removal of vegetation is prohibited or restricted by Act of Congress, Presidential proclamation (including the applicable implementation plan), or regulation;

(C) in a wilderness study area; or

(D) in an area in which carrying out the activity would be inconsistent with the applicable land management plan or resource management plan.

(4) EXTRAORDINARY CIRCUMSTANCES.—The Secretary concerned shall apply the extraordinary circumstances procedures under section 220.6 of title 36, Code of Federal Regulations (or a successor regulation), in determining whether to use a categorical exclusion under subsection (b).

(d) ACREAGE AND LOCATION LIMITATIONS.—Treatments of vegetation in linear fuel breaks covered by the categorical exclusion established under subsection (b)—

(1) may not contain treatment units in excess of 3,000 acres;

(2) shall be located primarily in—

(A) the wildland-urban interface or a public drinking water source area;

(B) if located outside the wildland-urban interface or a public drinking water source area, an area within Condition Class 2 or 3 in Fire Regime Group I, II, or III that contains very high wildfire hazard potential; or

(C) an insect or disease area designated by the Secretary concerned as of the date of enactment of this Act; and

(3) shall consider the best available scientific information.

(e) ROADS.—

(1) PERMANENT ROADS.—A project under this section shall not include the establishment of permanent roads.

(2) EXISTING ROADS.—The Secretary concerned may carry out necessary maintenance and repairs on existing permanent roads for the purposes of this section.

(3) TEMPORARY ROADS.—The Secretary concerned shall decommission any temporary road constructed under a project under this section not later than 3 years after the date on which the project is completed.

(f) PUBLIC COLLABORATION.—To encourage meaningful public participation during the preparation of a project under this section, the Secretary concerned shall facilitate, during the preparation of each project—

(1) collaboration among State and local governments and Indian Tribes; and

(2) participation of interested persons.

**(Authority:** NEPA, the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*); E.O. 11514, March 5, 1970, as amended by E.O. 11991, May 24, 1977; and CEQ regulations (40 CFR 1500 -1508)).

**Stephen G. Tryon,**

*Director,*

*Office of Environmental Policy and Compliance.*

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