



DEPARTMENT OF THE INTERIOR

Office of the Secretary

[MO4500181943]

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

AGENCY: Office of the Secretary, Interior.

ACTION: Notice.

SUMMARY: This notice announces the Department of the Interior's (Department) proposal to revise the National Environmental Policy Act (NEPA) implementing procedures for the Bureau of Land Management (BLM) at chapter 11 of part 516 of the Departmental Manual (DM) to add a new categorical exclusion (CX) for geothermal resource exploration operations.

DATES: Comments must be postmarked (for mailed comments), delivered (for personal or messenger delivery comments), or filed (for electronic comments) no later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION OF THIS NOTICE IN THE *FEDERAL REGISTER*].

ADDRESSES: The public can review the substantiation report for the new proposed CX online at: <http://eplanning.blm.gov/eplanning-ui/project/2034945/510>. Comments can be submitted using:

- *BLM National NEPA Register:* <http://eplanning.blm.gov/eplanning-ui/project/2034945/510> . Follow the instructions at this website.

- *Mail:* U.S. Department of the Interior, Bureau of Land Management, Attention: BLM HQ330 Geothermal Exploration Operations Categorical Exclusion, 1849 C Street NW, Washington, DC 20240.

- *Personal or messenger delivery*: U.S. Department of the Interior, Bureau of Land Management, Attention: BLM HQ330 Geothermal Exploration Operations Categorical Exclusion, 1849 C Street NW, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Heather Bernier, Division Chief, Decision Support, Planning, and NEPA, at (303) 239-3635, or 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 Ms. 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:

Background

NEPA, 42 U.S.C. 4321 *et seq.*, requires Federal agencies to consider the environmental effects of their proposed actions in their decision-making processes and inform and engage the public in that process. Section 101(a) of NEPA sets forth a national policy to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which humans and nature can exist in productive harmony, and to fulfill the social, economic, and other requirements of present and future generations of Americans. 42 U.S.C. 4331(a). Section 102 of NEPA directs agencies to interpret and administer Federal policies, regulations, and laws consistent with NEPA's policies. 42 U.S.C. 4332.

To comply with NEPA, agencies determine the appropriate level of review for a proposed action: an environmental impact statement (EIS), an environmental assessment (EA), or a CX. 40 CFR 1501.3(c). If a proposed action is likely to have significant environmental effects, the agency will prepare an EIS and document its decision in a

record of decision. 40 CFR part 1502, 1505.2. If the proposed action is not likely to have significant environmental effects or where the level of significance is unknown, the agency will prepare an EA, which involves a more concise analysis and process than an EIS. 40 CFR 1501.5. Following preparation of an EA, the agency may reach a finding of no significant impact (FONSI) if the analysis shows that the action will have no significant effects. 40 CFR 1501.6. If, following preparation of an EA, the agency finds that the proposed action will have significant effects, it will prepare an EIS before authorizing the action. 40 CFR 1501.6(a)(3).

Under NEPA and Council on Environmental Quality's (CEQ's) implementing regulations, a Federal agency must establish CXs—categories of actions that the agency has determined normally do not significantly affect the quality of the human environment, individually or in the aggregate—in its agency NEPA procedures. 42 U.S.C. 4336(e)(1); 40 CFR 1501.4, 1507.3(c)(8), 1508.1(e). If an agency determines that a CX covers a proposed action, the agency then evaluates the proposed action for any extraordinary circumstances in which a normally excluded action may have a significant effect. 40 CFR 1501.4(b), 1508.1(o). Responsible officials in the Department's bureaus evaluate proposed actions for the existence of extraordinary circumstances in accordance with the Department's NEPA implementing regulations at 43 CFR 46.205 and 46.215; *see also* 40 CFR 1501.4(b), (b)(1)–(2).

Under NEPA, a CX is defined as “a category of actions that a Federal agency has determined normally does not significantly affect the quality of the human environment.” 42 U.S.C. 4336e. The CEQ recognizes that CXs increase efficiency by reducing the resources spent analyzing proposals that normally do not have potentially significant environmental effects, thereby allowing those resources to be focused on proposals that

are more likely to have significant environmental effects.¹ The appropriate use of CXs allows NEPA compliance, in the absence of extraordinary circumstances that merit further consideration, to be concluded without preparing either an EA or an EIS.

The Department's revised NEPA procedures were published in the *Federal Register* on October 15, 2008 (73 FR 61292) and are codified at 43 CFR part 46. Additional Department-wide NEPA policy may be found in the DM, in chapters 1 through 4 of part 516. The NEPA procedures for the Department's bureaus are published as additional chapters of this DM part 516. Chapter 11 of 516 DM covers the BLM's procedures. The BLM's current procedures can be found at: https://www.doi.gov/sites/doi.gov/files/elips/documents/516-dm-11_0.pdf. These procedures address policy as well as procedure to assure compliance with the spirit and intent of NEPA.

Rationale for the Proposed New CX

The establishment of this new Geothermal Exploration Operations (GEO) CX is intended to facilitate the approval of notices of intent (NOIs) to conduct geothermal resource exploration operations that do not have the potential to result in significant environmental effects and to expedite renewable energy development on public lands. BLM currently prepares an EA to comply with NEPA for approval of an NOI to permit any pre-leasing geothermal resource exploration operation that includes construction of roads and/or well pads. The BLM's goal is to shift its analytical resources away from preparing EAs for actions that have been demonstrated to result in no significant effects towards those actions that may result in significant effects. BLM has long experience

¹ Council on Environmental Quality (CEQ), *Establishing, Applying, and Revising Categorical Exclusions under the Environmental Policy Act*. November 23, 2010, at 2–3. https://ceq.doe.gov/docs/ceq-regulations-and-guidance/NEPA_CX_Guidance_Nov232010.pdf.

with approval of NOIs for exploration activities and is familiar with the environmental effects of this activity, none of which are normally significant.

To substantiate a determination that the proposed new GEO CX describes a category of actions that does not normally have a significant effect on the environment, individually or in the aggregate, BLM assessed the environmental effects of similar previously implemented actions by evaluating 57 BLM EAs that supported FONSIIs and validating these environmental reviews by conducting post-implementation evaluations that confirmed the findings.

A record of the BLM's review can be found in the substantiation report for the proposed new CX ("Substantiation of Proposed National Environmental Policy Act Categorical Exclusion for Geothermal Resource Exploration Operations," dated October 15, 2024), which is incorporated by reference here and summarized in "Justification for Change" section below. Based upon this information, the BLM has found that the establishment of a CX is appropriate because of the evidence that no significant effects normally result from geothermal exploration operations conducted within the proposed parameters. Establishing the new CX as proposed would ensure a timely process towards implementing geothermal exploration projects that do not have significant effects.

Description of Change

The Department proposes to add one CX to the BLM chapter of the Departmental Manual 516 DM 11 at paragraph 11.9.B, "Oil, Gas and Geothermal Energy." The language of the proposed new CX citation at 516 DM 11.9.B(8) is:

Approval of a Notice of Intent to Conduct Geothermal Resource Exploration Operations that:

- Does not include the direct testing of geothermal resources or resource utilization;
- Does not exceed 10 acres of total (contiguous or noncontiguous) surface disturbance;

- Requires reclamation of surface disturbances when their intended purpose has been fulfilled;
- Requires reclamation of temporary routes when their intended purpose(s) has been fulfilled, unless through a separate review and decision-making process the BLM incorporates and appropriately designates the route as part of its transportation system;
- Does not make a temporary route available for public use unless the temporary route is specifically intended to accommodate public use;
- Requires temporary routes to be constructed or used so as to allow for the reclamation, by artificial or natural means, of vegetative cover on the temporary route and areas where the vegetative cover was disturbed by the construction or use of the route, and requires such treatment to be designed to reestablish vegetative cover as soon as possible, but at most within 10 years after approved reclamation commences; and,
- Includes design elements to protect resources and resource uses consistent with the applicable Resource Management Plan, laws, regulations, and any lease terms (as applicable).

The BLM's intent in establishing this CX is to improve the efficiency of routine environmental review processes for pre-leasing geothermal resource exploration operations. The scope of geothermal resource exploration operations allowed under an NOI is defined at 43 CFR 3200.1.

When applying this CX, responsible officials at the BLM will evaluate the proposed actions to determine whether there are any extraordinary circumstances. The Department's extraordinary circumstances are listed at 43 CFR 46.215.

Responsible officials in the BLM are required to review any proposed action for which they intend to rely on a CX, as provided at 43 CFR 46.205, by comparing it with

the list at 43 CFR 46.215 and to document that review in accordance with any applicable BLM NEPA or program guidance. The responsible official will assess whether an extraordinary circumstance exists. If the responsible official cannot rely on a CX to support a decision on a particular proposed action due to extraordinary circumstances, the responsible official will prepare an EA or EIS, consistent with 40 CFR 1501.4(b)(2) and 43 CFR 46.205(c).

The public is asked to review and comment on the newly proposed CX. To be considered, any comments on this proposed addition to the list of CXs in the DM must be received by the date listed in the **DATES** section of this notice at the location listed in the **ADDRESSES** section. Comments received after that date will be considered only to the extent practicable. Comments, including names and addresses of respondents, will be part of the public record and available for public review at the BLM address shown in the **ADDRESSES** section, during business hours, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. Before including your address, telephone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Justification for Change

The BLM proposes the GEO CX after reviewing existing BLM NEPA analyses and available scientific research on the effects of routine actions that would be included in the proposed new CX over time and over different geographic areas. The BLM has documented in detail the justification for establishing this new CX in its substantiation report, which is available to review in full at the websites shown in **ADDRESSES**.

Pursuant to the Geothermal Steam Act of 1970, the BLM is responsible for issuing leases for and managing geothermal resource development, in part by processing permit applications for exploration, drilling, production, and utilization (electrical generation) on the Federal mineral estate. This authority encompasses approximately 700 million acres of Federal minerals, including BLM managed public lands, National Forest System lands, other Federal lands, as well as split estate (e.g., non-Federal surface) lands where the Federal Government has retained the subsurface mineral estate.

Geothermal energy offers the nation a clean, domestic, and abundant renewable energy resource. Conventional (hydrothermal) geothermal power plants use heat energy found in rock formations containing hot water or steam below the Earth's surface to turn a turbine and generate electrical power. Geothermal energy is a baseload source of electricity, generating energy 24 hours a day, regardless of changing weather patterns; as such, geothermal energy can help bridge the gap created by the intermittent generation of power from other renewable energy sources like solar and wind. Among renewable energy sources, geothermal power plants also have the smallest amount of surface disturbance relative to electricity produced, with a generation-weighted average of 0.34 acre/Gigawatt hour. Currently, approximately 70 percent of geothermal installed capacity includes Federal resources (Richter 2019). For these reasons, the BLM's geothermal energy program is a critical component to the efforts of the administration and various western states to advance and diversify the nation's energy portfolio.

A CX to support streamlined project authorization at the exploration operations phase would simplify and focus the NEPA process. Establishment of a CX that could support more efficient authorization of geothermal exploration could be vital to the expansion of the geothermal industry.

To support the development of the CX, the BLM examined 28 geothermal projects analyzed in EAs that all supported FONSI, and that were completed between

2003 and 2019, to identify potential effects resulting from the kinds of activities normally included in NOIs, as outlined in 43 CFR 3200.1 and the 43 CFR part 3200, subpart 3250 regulations. As explained in the accompanying substantiation report, these 28 geothermal projects represent the majority of geothermal resource exploration projects that have been approved by BLM and implemented in full over the last 21 years, and the entire universe of projects that are suitable for comparison to the actions covered by the proposed CX. A team, which included geothermal and planning and environmental subject matter experts from the BLM, the Department's Office of the Solicitor, and the National Renewable Energy Laboratory, reviewed the NEPA documents to determine the scope of environmental consequences anticipated to result from the proposed actions. The team evaluated the actions' scope (e.g., construction of temporary routes for site access, drilling of TGWs or shallow wells, construction of well pads) and potential effects (e.g., no long-term effects to natural resources) in the geothermal EAs to inform the types of projects that may be approved pursuant to the proposed GEO CX. As discussed in the "Methods" section of the substantiation report, the BLM currently authorizes NOI permit projects that include construction of roads and/or well pads supported by EAs. In the EAs reviewed, no significant individual or cumulative effects were predicted to result from the kinds of activities included in the proposed CX for geothermal exploration operations, nor were any unanticipated effects observed after projects were implemented. Actual effects were the same as predicted effects in all cases.

The projects evaluated for establishment of this proposed CX include "design elements" to minimize any effects to other resources. As part of the Resource Management Plan (RMP) conformance process and application of relevant Federal laws, the BLM employs design elements specified in the RMP to minimize effects as it considers proposals that fit its category of excluded actions, and often coordinates with applicants to revise their proposals to minimize effects prior to or during the review

process. “Design elements” refers to mitigation measures that are outlined in RMPs, as well as geothermal lease stipulations that are attached to individual lease parcels and applicable laws. The design elements are applicable to all NOIs, and the BLM will impose them, to the extent applicable, as conditions of approval (COAs) if not already included in the proposal. The regulations at 43 CFR 3251.12 provide authority for BLM to require COAs on permit authorizations to provide protections for resource values.

There were no instances where any of the projects evaluated in EAs would have required completion of an EIS had these measures not been applied as design elements of the proposed action or alternatives. In all instances projects were designed such that the proposed action or alternatives minimized adverse effects. Each project proposed in reliance on the new CX would be evaluated to determine if extraordinary circumstances apply. If the BLM’s review determines that extraordinary circumstances exist for an action that might otherwise be categorically excluded, or where the level of effects cannot be ascertained, the BLM would either require modification of the proposed action or would prepare an EA or EIS to support its decision making. Departmental and BLM regulations, manuals, handbooks, policies, and applicable land use plans provide direction and requirements regarding project design.

As described in the substantiation report, the BLM has experience analyzing and authorizing geothermal exploration projects in an environmentally sustainable manner and considers the activities described in this proposal to be routine and their effects to be non-significant. Expediting permit approvals for geothermal exploration projects is essential to respond to the need to combat climate change using renewable resources managed on BLM-administered lands. Establishment of this proposed new CX would also facilitate implementation of BLM priorities for identifying steps to establish and implement a program to improve Federal permit coordination with respect to eligible

projects, with the goal of accelerating responsible development of renewable energy (i.e., geothermal) on public lands. See 43 U.S.C. 3002.

Authorities: NEPA (42 U.S.C. 4321 *et seq.*); Executive Order (E.O.) 11514, March 5, 1970, as amended by E.O. 11991, May 24, 1977; and CEQ regulations (40 CFR 1507.3).

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Director,

Office of Environmental Policy and Compliance.

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