Recreation Categorical Exclusion Analysis Report

This analysis report supplements the 12/18/05 analysis report on the same subject. Some corrections have been made and new information has been added.

Subject: Report and recommendations on the results of a Bureau of Land Management data call for information on NEPA records associated with certain Special Recreation Permits

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Introduction

The purpose of this document is to explain the rationale used by the Bureau of Land Management (BLM) to establish a categorical exclusion (CX) as defined by the National Environmental Policy Act (NEPA) for the routine authorization of Special Recreation Permits

(SRPs) that meet certain criteria. The covered activities were revised based on public and internal comments received, additional review of the data, and in consultation with the Council on Environmental Quality (CEQ). The CX as finalized covers the following activities.

Special Recreation Permits 516 DM citation 11.9(H)(1):

> *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). The requirement for Special Area SRPs and the issuance of individual SRPs in "Special Areas" must be directed by specific land use planning decisions.*

When the BLM began its consideration of whether a CX could be established addressing the issuance of SRPs, the BLM reviewed a representative random sample of NEPA compliance records resulting from the issuance of 8,063 SRPs initiated or actively administered by the BLM from October 1, 2000 through September 30, 2005 (five fiscal years). This analysis report describes the administrative process and methods used to construct and manage the data call, and to compile and analyze the data received.

To make an informed determination as to whether establishment of the proposed SRP CX is warranted, key questions were posed, and data relevant to answering these questions were collected through a stratified random sample of the 8,063 SRPs issued. Data were gathered and analyzed in order to answer the following key questions.

- What type of NEPA document preparation process was used to enable the issuance of the identified SRP?
- What type of SRP was issued? Commercial use, organized group or competitive event?
- Was the SRP for day or overnight use? If overnight use, how many nights were permitted?
- Did the overnight use occur in a staging area? If so, how large (in acres) was the area?
- Was the SRP activity in a designated travel management area or network?
- Were there significant individual or cumulative impacts in the NEPA analysis for the project?
- Were there any unexpected impacts? If there were unanticipated impacts, what were they?
- How were the results validated?
- Was the NEPA analysis process challenged and if so was the NEPA analysis upheld?

Answers to these questions were analyzed to determine if the SRP activities covered by the proposed and finalized SRP CX resulted in individually and/or cumulatively significant effects. Findings are presented in tabular and text format, and broadly framed in the context of BLM's decision making process related to the issuance of SRPs. A description of the analysis process used follows.

The analytic results, including the temporal and spatial limitations, both as originally proposed, and as finalized in light of the analysis, reveal that the proposed SRP CX activities do not have a significant effect on the human environment.

Definitions

Commercial Use is defined in regulation (see 43 CFR 2932.5) as recreational use of the public lands and related waters for business or financial gain. When any person, group, or organization makes or attempts to make a profit, receive money, amortize equipment, or obtain goods or services, as compensation from participants in recreational activities occurring on public lands, the use is considered commercial. An activity, service, or use is commercial if anyone collects a fee or receives other compensation that is not strictly a sharing of, or is in excess of, actual expenses incurred for the purposes of the activity, service or use. Commercial use is also characterized by situations where a duty of care or expectation of safety is owed participants as a result of compensation. It may also be characterized by public advertising for participants.

Use by scientific, educational, and therapeutic institutions or non-profit organizations is considered commercial when the above criteria are met and subject to a permit when the above conditions exist. Non-profit status of any group or organization does not, in itself, determine whether an event or activity arranged by such a group or organization is noncommercial. Profit-making organizations are automatically classified as commercial, even if that part of their activity covered by the permit is not profit-making.

Competitive Use is defined in regulation (see 43 CFR 2932.5) as any organized, sanctioned, or structured use, event, or activity on public land in which two or more contestants compete and any of the following elements apply:

(1) Participants register, enter, or complete an application for the event; or
(2) A predetermined course or area is designated.

Competitive use is also defined as one or more individuals contesting an established record such as a speed or endurance record.

Noncommercial Use is defined in regulation (see 43 CFR 2932.5 and 2932.11) as recreational activity on public land or related waters where actual expenses are shared equally among all members or participants. Any person, group, or organization seeking to qualify as noncommercial must establish to the satisfaction of BLM that no financial or business gain will be derived from the proposed use. Fund raising, for any purpose, renders an activity a commercial use.

Organized Group Activity or Event is defined in regulation as a structured, ordered, consolidated, or scheduled event or occupation of public lands for the purpose of recreational use that is not commercial or competitive, and which BLM has determined needs a special recreation permit based on planning decisions, resource concerns, potential user conflicts, or public health and safety.

Special Areas are designated by statute, Executive, or Secretarial order, State Director special rule making authority, or an area covered by joint agreement between BLM and a State under Title II of the Sikes Act (16 U.S.C. 670a et seq.).

Staging Area is defined in this context as an area where use is concentrated, usually to enable access to a recreational activity that involves traveling across public lands. Examples include trailheads, gathering points, base or hunting camps, boat launching or parking areas, and the like. Other examples include a congregation point (e.g., for parking) where a group activity begins and/or ends, a viewing area for an event, a training course or play area not involving existing roads or trails. The staging area does not include established roads, primitive roads, trails, rivers, or adjacent open access areas where recreational activities are taking place.

Travel Management Areas and Networks are defined in the BLM's "Land Use Planning Handbook" 1601-1 (Appendix C and Glossary page 8) dated March 11, 2005. "Travel Management Areas" are defined as polygons or delineated areas where a land use planning process has classified areas as open, closed, or limited to off-highway vehicle use or other modes of travel.

Background

The BLM currently issues an estimated 3,500 special recreational permits on public lands annually. Approximately 1,500 permits are re-issued each year. The permits granted include SRPs for recreational commercial, competitive or organized group activities. Example activities that would be covered by the proposed SRP CX include, but are not limited to: an organized group of bird watchers going to a specific area for the day, a scout trip, an orienteering competition, a competitive dog trials event, an organized hunting camp supported by motorized all-terrain vehicles, a "fun run" or walk organized in support of a particular cause, a dual sport motorcycle ride or an endurance horse race. The BLM also issues SRPs for management of Special Areas. These types of SRPs were not analyzed and are not included in activities covered under the SRP CX.

Analysis Report Assumptions

On September 19, 2006, the Council on Environmental Quality (CEQ) published in the Federal Register proposed guidance for Federal agencies on establishment and use of categorical exclusions (71 FR 54816). The CEQ states in this proposed guidance, "the purpose of a CX is to eliminate the need for unnecessary paperwork and effort under the National Environmental Policy Act (NEPA) for categories of actions that normally do not warrant preparation of an environmental impact statement (EIS) or environmental assessment (EA)," because such actions normally do not have a significant effect on the human environment. While the BLM began the process of developing this Special Recreation Permit CX prior to publication of the CEQ's proposed guidance, this CX is being finalized in accordance with the guidance, and the purpose for establishing CXs as stated by the CEQ.

The proposed SRP CX conforms to the CEQ guidance part III. A., as the language of the SRP CX clearly describes a category of actions and explicitly identifies physical and environmental factors that would constrain use of the CX. In addition, the BLM can demonstrate that the category of actions defined in this CX as recreational events requiring a specific land use authorization under 43 CFR 2932 do not typically result in significant environmental effects.

Further, under the CEQ's proposed guidance at part III. A., the BLM must apply the Department of the Interior (DOI) extraordinary circumstance review to all actions that meet the criteria for the SRP categorical exclusion. This extraordinary circumstance review is intended to identify any proposed SRP activity that may occur in an atypical situation or in an atypical environmental setting such that a significant impact may occur as a result of the activity. When one or more of the extraordinary circumstances applies to a proposed SRP activity that otherwise meets the categorical exclusion criteria, the SRP CX cannot be used. In that situation, the BLM must prepare an EA or an EIS, as warranted.

Establishment of the SRP CX conforms to the CEQ guidance part III. B. (1& 3) as substantiated by the review of information relevant to the action and its environmental effects.

Data Collection and Analysis Assumptions

The following provides a general outline of the data collection and analysis assumptions used to determine whether the proposed SRP activities and constraining criteria meet the requirements for establishing a CX.

1. Representative data from three types of SRPs (commercial use, organized group, and organized events) was sampled for all SRPs issued from October 2000 through September 2005. Data was documented in a single database. Data from SRPs issued for "Special Areas" management was not sampled; therefore, SRPs for these areas were not included in activities covered by the proposed CX, and are specifically excluded from coverage by the CX as finalized.
2. Each SRP in the entire study population had been reviewed per the requirements of NEPA on a case-by-case basis at the time of issuance**.** A stratified random sample of the NEPA review associated with the SRP activities was drawn and reviewed from this population.
3. The BLM used professional staff to evaluate (through a NEPA process) and issue each SRP. Professional BLM staff were responsible for SRP record keeping, data collection and field assessments performed. The stratified random sample of SRP relevant NEPA documents was independently analyzed by BLM professional staff who were not responsible for generating the original records/data (results).
4. The following assumptions were made relative to SRP stipulations or terms and conditions:
   a. Minimum required SRP stipulations to mitigate environmental impacts and to provide for public safety are applied as directed in the BLM Recreation Permit Administration Handbook (H-2930-1) and documented on Form 2930-1.
   b. Statewide and/or local SRP use stipulations or terms and conditions were added to the minimum requirements based on regional or local environmental needs. These additional terms, conditions, and/or stipulations are standard business practices for particular states and/or geographic area as described through state specific guidance or land use plans.
   c. In areas where the BLM has identified a need for a management emphasis on recreation management through the land use planning process, the BLM further described site specific stipulations or terms and conditions through the Recreation Area Management Plan (RAMP) process. At this site specific level, limitations may include limits on specific types of use, use levels, and timing, seasons, and locations of permitted use.

5. Kinds of permitted activities within each type of SRP are given equal treatment in the analysis of the NEPA compliance documents. When the analysis revealed significant environmental impacts, the SRP activities causing the impacts were investigated to identify and eliminate those types and/or kinds of activities from the revised CX language through the identification of additional limitations.

Data Call Administrative Process

An interdisciplinary team of subject matter experts in the BLM's Washington Office (WO) identified the information needed to determine whether use of the proposed SRP CX constitutes adequate NEPA compliance for certain kinds of special recreation activities on BLM-administered lands. Existing sources of relevant information were assessed as to whether they could provide information regarding issuance of permits in a format that would permit appropriate analysis and sampling. The BLM Recreation Management Information System (RMIS) located on a central server at the Denver Federal Center in Denver, Colorado, was identified as the best source of SRP information. The RMIS contains all BLM SRP records for a five year period from October 1, 2000 through September 30, 2005. These data are in digital format and therefore suitable for generating a stratified random sample of the entire population of SRPs issued and managed at the time.

Table 1: Sampling Plan

State	# of SRPs in RMIS database	# SRPs in sampling plan (sample size)	% total SRPs available by State
Alaska	211	40	19.0
Arizona	447	40	8.9
California	1,207	80	6.6
Colorado	895	60	8.7
Eastern States	10	10	100.0
Idaho	207	40	19.3
Montana	265	40	15.1
Nevada	2,318	100	4.3
New Mexico	351	40	11.4
Oregon/Wash.	834	60	7.2
Utah	930	60	6.5
Wyoming	388	40	10.3
Totals	8,063	610	7.6

In early November 2005, a BLM statistician specializing in the biophysical applied sciences (biometrician) obtained a copy of the RMIS database. He drew a sample from the SRP parent population containing 8,063 RMIS records to create a stratified random sample of SRP activity by BLM administrative area (State-based), see Table 1.

The biometrician simulated, through trial runs, an estimate of the number of SRPs necessary to produce a sample size capable of generating acceptable "inference results" assuming a 68, 80, 90, and 95 percent confidence interval (CI). (Appendix A explains the sample size and confidence interval relationship). A 95 percent CI was determined to be desirable for decision

making purposes. Each State's administrative area (State) was considered a stratum and allocated a portion of the sample depending upon the number of SRPs issued in that jurisdiction. A strictly proportional allocation of samples by State was deemed inappropriate because states that issue a lot of SRPs would disproportionately represent the BLM. For example, in Table 1 all 10 SRPs available for the Eastern States administrative area were included, while only 4.3 percent (100 of the 2,318) of the Nevada administrative area SRPs were included.

The BLM anticipated that about 50 percent of the SRPs in the RMIS database would qualify under the CX language proposed, so the sample size was increased two-fold to insure enough data would ultimately be available. Table 1 summarizes the number of SRPs issued by State, the selected sample size for each State, and the percent contribution of the available SRPs requested of each State. This sampling approach was used to provide analysis results representative of the entire population of SRPs issued and administered by the BLM in Fiscal Years 2001-2005. This approach allowed the analysis of data representative of the BLM's SRPs geographically and temporally to determine whether these activities resulted in individually and/or cumulatively significant effects.

Subsequently, BLM Washington Office (WO) staff designed a stand-alone database format for the associated NEPA compliance process data call and drafted data entry instructions for completion of a customized Microsoft Excel worksheet containing 21 fields. The formal data call was issued on November 8, 2005 through a BLM Instruction Memorandum (IM-2006-031). Data requested in the IM included identifying the type of NEPA procedure used, the type of permit issued, permit parameters, and whether there were predicted or actual individual and/or cumulative significant impacts associated with the authorized SRP activity. The BLM WO staff were identified in the IM to answer respondent questions and to receive the stratified random sample data.

Field office staff entered the required data in their assigned administrative area Excel spreadsheets during the month of November 2005. Source materials to complete the data call included BLM land use plans and associated NEPA documents, BLM "determination of NEPA adequacy" reports, CX review checklists, Findings of No Significant Impact, management decision documents, and internal reports. In a few instances where interagency planning or management of SRPs occurred, Forest Service land use plans were used as source materials.

Each State was provided with its own worksheet containing a random sample of their predetermined portion of SRPs issued from October 1, 2000 through September 30, 2005. The first five fields for each record were pre-populated by extracting the appropriate inputs from the RMIS (parent) database. The extracted information was: State, Field Office Name, BLM Organization Code, SRP administrative number, and the name of the SRP project.

Every field (column) header contained coding information to avoid ambiguity when data were entered. Instructions were provided to support the data entry process. Data entry choices were limited to: explicit information about each SRP; one of a small choice of coded options; a single metric; or a "yes", "no", or "not applicable" response. Only one (1) of the 26 fields required a narrative response that could generate dissimilar data entries. In this case, a narrative response was necessary to answer the following question:

- ***Were actual impacts the same as predicted impacts? If not, what were the unanticipated impacts?***

Results of the Data Call

The data call response rate was excellent. The number of informative records generated by each State appears in Table 2. The high percentage of inadequate records indicated in Nevada is primarily due to a high rate of organized event applications for weddings in the Red Rocks National Conservation Area in Nevada. The permits were frequently cancelled by the applicants so there were no actual environmental impacts to be compared to predicted impacts since the event did not occur.

Table 2: Informative Records Generated by the Data Call

State	Target sample size	Informative records provided	Deleted records	Inadequate records (% of State sample size)
Alaska	40	36	4	10.0
Arizona	40	40	0	0.0
California	80	78	2	2.5
Colorado	60	59	1	1.7
Eastern States	10	10	0	0.0
Idaho	40	39	1	2.5
Montana	40	40	0	0.0
New Mexico	40	34	6	15.0
Nevada	100	62	38	38.0
Oregon/Wash.	60	53	7	11.7
Utah	60	59	1	1.7
Wyoming	40	38	2	5.0
Total	**610**	**548**	**62**	N/A

Data Cleaning and Validation

Table 3: Inadequate SRPs in the Sample

SRP Data Rejection Criteria	# of projects
Permit not used by applicant	38
Unable to resolve data discrepancies in time for the analyses	19
Permit cancelled due to permit violations	2
RMIS SRP project (as identified) did not match Field Office records	2
Duplicate record reported by Alaska Field Office	1
Total	**62**

The original uncorrected data were kept for the administrative file. These data, however, contained multiple errors that were either fixed before the data were analyzed or the project was rejected as inadequate for the NEPA compliance review process.

After extensive error-checking and follow-up with field personnel responsible for errors in data entry, a majority of these errors were corrected. Where the CX team could not resolve data discrepancies such as records missing data and/or logic errors, the records were excluded from the analyses. Sixty-two projects were rejected

for the reasons shown in Table 3. In other words 62 of the 610 permits in the sample did not have reliable NEPA process data and those records were eliminated from the sample, which left 548 permits with useable information.

Table 4a: SRP Types Issued		
Permit Class	**Proportion of all SRPs**	**Inferred Percentage**
commercial use	0.555	72.6±4.0
organized group	0.113	15.3±3.0
special event	0.135	12.1+2.7
No useful data	0.198	N/A
Total	1.001	100.0

Scope of Representation

The RMIS database contains information on all of the BLM SRPs issued over a recent five year period. These data represent the range and scope of special recreation activities permitted by the BLM, through issuance of three types of SRPs. Therefore, it is reasonable to presume at the 95% CI, on the basis of the state-stratified random sample from this database, that the answers to the following questions relevant to the limitations of the SRP CX as proposed and finalized accurately reflect BLM SRPs overall.

Table 4b: Day Verses Overnight Use Permits		
Type of Permit	**Proportion of all SRPs**	**Inferred Percentage**
Day Use	0.557	66.6+4.5
Overnight Use	0.245	33.4+3.0
No useful data	0.198	N/A
Total	1.000	100.0

- ***What type of SRP was issued? Commercial use, organized group or competitive event?***
- ***Was the SRP for day or overnight use? If overnight use, how many nights were permitted?***
- ***Did the overnight use occur in a staging area? If so, how large (in acres) was the area?***
- ***Was the SRP activity in a designated travel management area or network?***

The types and relative numbers of SRPs issued and the number that were issued as overnight stay or day-use only permits are presented in Tables 4a and 4b. Answers to the remaining questions (above) relating to length of overnight stay permits, staging area use and acres affected, and how many SRPs were for activities in designated travel management areas or networks at the 95% CI are provided in Tables 4c-f.

The number of permits contributing data analyzed to answer any one question variable such as type of permit, specific use category (i.e. for day or overnight use), and whether the permitted activity required a staging area or designated travel management area is random because as the questions yield sub-questions, the number of permits capable of yielding answers in any given instance will change. Therefore the results shown in Tables 4a and 4b were derived as weighted averages (which increases the probability of the results being representative) based on the number of permits sampled in each State. The results are estimated based on a ratio (or proportion) of the population sampled in each State at a 95% CI (Appendix A contains a more complete explanation of the analysis process). When the State weighted average population for

each variable is analyzed statistically, an "inferred percentage" estimate is generated with a 95% CI. "Inferred results" for the entire RMIS database were estimated using statistical analysis software (SAS) based on the 548 sampled permits. These results are the basis for answering the principle question and related sub-questions in this analysis report. For example, the BLM is 95% confident that a large majority of permits issued (~4,939 ± 271) were commercial use permits. This can be expressed as an inferred percentage value of 72.6% ± 4.0%. The weighted average results for variables analyzed in this analysis report can be viewed in the third section of Appendix A.

The estimated proportion of commercial, organized group, and special event SRPs issued is shown in Table 4a. As mentioned previously, commercial use permits were the predominant type of SRP issued. The answer to the first half of the day or overnight use question on the prior page is that day use permits outnumber overnight use permits by a margin of about 2-to-1. The number of day use permits issued in the five year period sampled is about 66.6%± 4.5%. The second half of the question asks about the length of overnight stays when overnight use permits are issued. The answer shown in Table 4c reflects the distribution of overnight stays from an inferred population total of about 33.4 % ± 3%.

Table 4c: Duration of Overnight Stays

Number of nights stayed	Proportion of all SRPs	Inferred % at 95 CI of sampled SRPs
none (0)	0.012	0.40 - 2.06
1- 7	0.175	13.93 - 20.37
8-14	0.070	5.21 - 8.93
15-21	0.024	1.29 - 3.58
22+	0.051	3.43 - 7.00

In Table 4c the range of inferred percentages is shown instead of the estimated average (which is displayed in tables 4a and 4b). The majority of permits issued were used for seven or fewer nights. By contrast, about 1.2% (0.012 x 100) of the overnight use permits appear to have involved no overnight stay even though a stay was authorized.

Table 4d: Number Overnight SRPs Involving Staging Areas

Was a Staging Area Used for Overnight Permits?	Proportion of all SRPs	Inferred % at 95 CI of sampled SRPs
Staging Area Used	0.388	45.1 (40.88 - 48.91)
Sta. Area Not Used	0.415	
Not applicable	0.198	
Total	1.001	

The original seven overnight stay limit was derived in 2005 by analyzing the entire population of SRPs in RMIS and calculating an average length of stay. Based on public and internal comments received, the BLM conducted a further review of the duration of overnight stay data. Data analyses revealed no relationship between duration of permitted overnight stay and significant impacts. In other words, the proposed CX seven overnight stay limitation is justified by the sample data, but so is any permitted overnight stay duration period. Therefore, justification for a specific duration limit cannot be based on the sample data.

Table 4e: Size of Staging Areas Used

Size in Acres	Proportion of all SRPs	Inferred % at 95 CI of sampled SRPs
0-1.0	0.281	(26.18 - 33.50)
1.1–3.0	0.073	(7.89 – 13.04)
3.1–10.0	0.016	(1.53 – 3.67)
11–30	0.003	(0.16 – 1.11)
30+	0.015	(0.50 – 2.80)
Not used	0.415	
N/A	0.198	
Total	1.001	

The number of overnight stay SRPs that were reported as involving staging areas indicates that nearly 40% of the total population of SRPs might have affected staging areas. The sampled SRPs indicate that the weighted average generates an inferred percentage close to 45% (see Table 4d). Most of the overnight stay permits involved staging areas of one acre or smaller (see Table 4e). Approximately 89.1% ± 10% of all the SRPs with staging areas are 3 acres or smaller in size (this estimate is not shown in a table).

The last question concerned with the proposed CX's limitations criteria addresses the number of SRPs issued when a designated travel management area or network had been established. The inferred results data indicates that about 34% of the SRPs involve issuing SRPs in approved travel management areas or networks (see Table 4f).

Table 4f: Number SRPs issued for Established Travel Management Area (TMA) or Network

Was the SRP activity in a designated travel management area or network	**Proportion of all SRPs**	**Inferred % at 95 CI of sampled SRPs**
"Yes"	23.8	33.7
"No"	14.7	
No useful data	61.5	
Total	100.1	

Based on the sample data (n=548), it is reasonable to conclude that the proposed and finalized CX criteria are adequately represented in that all permit types are present (Table 4a), both day and overnight use permits are well represented (Table 4b), as is the number of SRPs involving staging areas (Table 4e) and travel management areas/networks (Table 4f). In addition, the data are available to validate the initial choice of setting the CX criteria thresholds to: 7 or fewer overnight stays, 3 or fewer acre staging areas, and/or designated travel management areas and networks, assuming that there are no significant individual or cumulative effects associated with those SRPs that comply with all of these limitations. Therefore, the sample data indicates BLM issuance of SRPs meeting certain criteria is a good candidate for the development and use of a CX that "promotes the cost-effective use of agency NEPA related resources," in accordance with CEQ's proposed guidance (71 FR 54816, Sept. 19, 2006).

Analytical Methodology

Appendix A contains a detailed description of the data analysis methods used and statistical findings relevant to the tables containing inferred results. The data call sampling plan, data analyses/interpretation for the first draft of this analysis report, and statistical confidence intervals for inferred results were independently peer reviewed by two independent statisticians. Their review comments were incorporated in the analysis report dated January 19, 2006 and released for public comment on January 25, 2006.

Basis for Proposed Changes to 516 DM part 11

The sampling plan described above and subsequent data call generated 548 records designed to serve as factual evidence to answer the key questions presented in the introduction. Inferred results for the entire RMIS database were calculated based on the 548 record samples. These results were the basis for answering the principle question that follows.

"Are certain activities associated with the issuance of SRPs found to have no significant individual or cumulative impacts?"

If the answer to this question is "yes" for SRPs that meet the CX criteria, as proposed, and as finalized, the factual data supports the establishment of the recreation CX. For the remainder of this section we examine this question in the context of NEPA.

Evaluation of the NEPA processes used

- ***What type of NEPA document preparation process was used to enable the issuance of the identified SRP?***

As illustrated in Table 5, approximately 14 percent of the sampled SRPs (n=610) issued by the BLM were eliminated from the analyses performed for this report for the reasons stated in Table 3. Further, Table 5 identifies the types of NEPA review process documents completed for the remaining valid sample records (n=548) described in this Analysis Report.

The NEPA documentation reviewed included three formats: CXs, EAs and EISs. The sample data show that 12.9% (10.8% inferred percentage) of the informative SRP records (Table 5) were issued through application of a broadly written CX citation 516 DM 2,5.4H(5) which says: *"Issuance of special recreation permits to individuals or organized groups for search and rescue training, orienteering or similar activities and for dog trials, endurance horse races or similar minor events."* The BLM believes that the final revisions to the SRP CX eliminates ambiguity and clarifies circumstances where a CX can be applied to SRP authorizations. Further, the use of the proposed and finalized SRP CX is expressly limited by its own terms.

Table 5: Type of NEPA Compliance Process Used to Issue Special Recreation Permits (%)

	CX	EA	EIS	Inadequate data
Calculated using sample data	12.9	67.0	6.0	14.1
Inferred percentage	13.1	65.7	5.5	15.6

A simple majority of the BLM's SRPs (67%) were issued through EAs as shown in Table 5. According to the sample data, six percent of the BLM's SRPs were issued after an EIS analysis process. The simple majority calculations from the sample data differs somewhat from the results generated by weighted averaging to calculate the inferred percentages (which are probably more accurate).

How many of these SRPs met the requirements of the proposed SRP CX criteria?

The proportion of SRPs that meet the requirement of the proposed SRP CX is 0.840 (0.811 – 0.866). Since the sampled SRPs are representative of the entire population of SRPs for this time period, it is reasonable to conclude that 84 percent (0.84 x 100) of the total population of SRPs issued (n=8063) between October 2000 and September 2005 would be covered within the CX proposed definition of:

(1) seven or fewer overnights,
(2) affects three or fewer contiguous acres when and where a staging area is involved, and/or
(3) the SRP activities took place in an established travel management area or network.

This also means that approximately 16% (12.8% – 18.4%) of all SRPs issued in this same period, regardless of the NEPA process used, would not meet the proposed CX SRP activity criteria. A significant difference in the number of SRPs that could be considered when expanding the first limitation to fourteen or fewer nights was not identified upon further review, therefore the overnight stay limit language was modified in the final CX criteria.

Were there significant individual or cumulative impacts in the NEPA analysis for the project?

The primary purpose of the data call and subsequent analyses was to determine the answer to the question above when the proposed action involves issuing an SRP. Of the estimated 84% of the informative SRPs that meet the three proposed CX specific activity limiting criteria identified in the last section, approximately 97.4% (CI95 = 95.8% - 98.3%) generated no significant impacts. Based on these results, the BLM concluded that for SRP activities that meet the CX limitations, the proposed action results in no significant effects, either individually or cumulatively. In addition, the BLM must review every proposed action against the DOI list of extraordinary circumstances (516 DM 2, Appendix 2). If any of the "extraordinary circumstances" are present, the CX analysis process may not be used.

Where an "extraordinary circumstances" was identified or predicted significant impact might have occurred, the appropriate NEPA analysis, either an EA or an EIS review was completed (67% with an EA, 6% with an EIS). Based on the sample data and weighted averaging of the SRPs issued in each State, approximately 3.3% of the entire SRP population is estimated to have predicted cumulative impacts and 2.8% of the population of SRP is estimated to have had predicted individual impacts. These effects were further investigated to sort out which predicted and resulting effects were significant, either individually or cumulatively. When there were predicted significant impacts, which was common for commercial use SRPs on designated Wild and Scenic Rivers, data analysis shows that the EIS analysis process was always used.

Seventeen (3.1%) of the SRPs sampled failed to meet the originally proposed SRP CX criteria (overnight use ≤ 7 nights; affect ≤ 3 contiguous acres; and/or occurred within an established travel management area or network) <u>and</u> had predicted individual and/or cumulative significant impacts. All 17 were reviewed and processed as EISs. All were for commercial boating on designated Wild and Scenic Rivers. Significant individual impacts predicted included loss of riparian corridor vegetation, soil stability, and private access to the resource. Significant cumulative impacts were generally associated with planned activities exceeding formally established carrying capacities for recreation on the rivers, loss of natural soundscapes, and/or a reduction in quality of life for private landowners living in the river corridor. Therefore the BLM added a specific limitation to the CX criteria to ensure that this type of activity would not be eligible for use of the CX.

Based on the evidence relating to significant impacts, the BLM concluded that its NEPA review process is working as it should. Proposed actions likely to cause significant impacts are elevated to an appropriate level of review (EIS level) through established administrative procedures, and policies. For example, the DOI and BLM CX review process insures that in the absence of extraordinary circumstances, 516 DM 2, Appendix 2, there are no individual or cumulative significant effects on the environment when a CX is considered for use. If the CX criteria are not met, or if one or more of the extraordinary circumstances are present, a CX cannot be used to fulfill an agency's NEPA obligations. The proposed SRP CX is no exception.

- ***Were there any unexpected impacts? If there were unanticipated impacts, what were they and were they significant?***

Predicted adverse impacts were compared to actual impacts after the SRPs were used. The number of informative SRP records showing unanticipated impacts was estimate to be about 1.8 percent (see last column in Table 6). Eight (1.5 %) of the 548 sampled SRPs used and evaluated relative to the NEPA process resulted in unanticipated impacts, although none of the unanticipated impacts were significant. BLM staff specialists responsible for these eight SRPs were personally interviewed to gain an appreciation of the unintended impacts discovered. All of the SRPs addressed commercial use (boating activities) in designated Wild and Scenic River corridors and had undergone the EIS analysis process. Three (0.5%) of the SRPs processed as EISs had the unexpected result of causing "less impact" than was anticipated.

- ***How were the results validated?***

The SRP activities and associated impacts were validated either by personal observation by field staff associated with the project, field data collection through a monitoring program, systematic evaluation of information received, a combination of methods, or in other ways (Table 6). A combination of methods is most frequently used (66.8% of the time) to monitor and evaluate (validate) SRP activity impact findings.

Table 6: NEPA Review Results Validation

NEPA	Inferred Number of SRPs Validation by Method (Inferred Percentage)					
Frequency Percent	**Personal Observation**	**Field Data Collection**	**Professional Evaluation**	**Combination**	**Other**	**Total**
CX	111 (1.91)	21 (0.36)	220 (3.78)	490 (8.42)	32 (0.55)	874 (15.02)
EA	663 (11.40)	265 (4.56)	433 (7.44)	3123 (53.69)	55 (0.94)	4539 (78.03)
EIS	0 (0.0)	13 (0.22)	119 (2.04)	273 (4.69)	0 (0.0)	405 (6.95)
Total	774 (13.31)	299 (5.15)	772 (13.25)	3886 (66.80)	87 (1.49)	5818 (100)

- ***Was the NEPA analysis process challenged and if so was the NEPA analysis upheld?***

Nineteen (~3.5 %) of the 548 EISs sampled were appealed on the basis of the NEPA analyses performed. All 19 of the EISs and associated "records of decision" addressed commercial use permits for boating in designated Wild and Scenic River corridors. Fourteen of the 19 (73.7%) EIS NEPA analysis process challenges were found to be without merit and the original BLM decisions were upheld by the Courts. Decisions regarding the adequacy of the remaining five EISs challenged are pending in the appeals process.

Administrative Concerns

Policy Implementation: The original SRP CX proposed a 7 or fewer overnight stay limit. The BLM, by policy, limits casual recreational visitors to public lands to 14 nights (see regulations at 43 CFR Section 8364 and 8365 allowing the BLM to set such limits and providing mechanisms for so doing). The BLM believes differentiating between casual and special recreation permitted use to be unwarranted based on the data analyzed. Consistent recreation management policy requirements should be easier to implement and enforce.

Business Management: Based on the analytic results described in this analysis report, Appendix B, and BLM business practices outlined in the Recreation Handbook (H-2930-1; 08-07-2006), the BLM is confident that the established permitting review process is sufficient to prevent significant individual and cumulative impacts that would warrant a higher level NEPA review. When or if additional environmental analysis is warranted, the process identifies this need so that appropriate review takes place.

Cost/Benefit Considerations: Additional NEPA review procedures are not warranted for the activities characterized in the revised SRP CX language. Therefore, the time spent in preparing and reviewing an EA or EIS for the activities in the proposed CX can be more efficiently spent in other ways.

Summary of Findings and Recommendations

The purpose of the recreation program SRP data call and subsequent analyses was to determine whether certain SRP activities associated with day and overnight use, and recreational activities in designated travel management areas or networks are having either individually or cumulatively significant effects on the quality of the human environment as determined through the NEPA review processes. Of the 8,063 SRP records available, about 13 percent of the NEPA reviews were conducted through CXs, approximately 66 percent through the EA process, and approximately 6 percent through EISs (Table 5).

Predicted adverse impacts were compared to actual environmental impacts after the SRPs were used. None of the specific activities eligible for coverage under the revised SRP CX language resulted in significant individual or cumulative effects. These results were validated either by personal observation by the field staff associated with the project, field data collection through a monitoring program, or systematic evaluation of information received, a combination of the three, or another technique, as shown in Table 6. Therefore, based on analyses of representative data, the BLM determined at the CI=95% that no significant individual or cumulative impact to

the human environment will occur from the issuance of SRPs which meet the finalized SRP CX criteria.

The BLM recommends the following modifications to the proposed SRP CX. Establishment of the modified SRP CX is warranted based on analyses of the data generated by the November 2005 data call and by additional review/deliberation (in consultation with CEQ) following the comment period announced in the January 26, 2006 proposal (71 FR 4159).

Seven or Fewer Overnight Stays Limit: The BLM found no statistically significant relationship between number of overnight stays permitted and incidence of significant or unanticipated impacts. Therefore, it is **recommended that the SRP CX overnight stay limit be changed from 7 to 14 consecutive nights for authorized activities**. This modification should reduce confusion by creating consistent policy for overnight and day use limits.

Staging Area: Approximately 90 percent of the sampled SRPs with staging area information reported that the area involved was three or fewer acres. While no relationship between staging area and significant impacts was demonstrated by the data, 90 percent is a significant proportion of the population of SRPs issued. Therefore, the BLM believes it is appropriate to include this physical constraint as a criteria for use of the SRP CX, in accordance with the CEQ proposed guidance at part III. A. (71 FR 54816, Sept. 19, 2006) and **recommends no change to the originally proposed staging area limitation.**

Additional Restrictions: (1) Based on analytic results of sampled SRP data, the BLM **recommends the addition of a limitation prohibiting the use of this SRP CX for issuing commercial boating activities on designated Wild and Scenic River corridors**. (2) Because the data are not available at this time to support establishment of a CX for SRPs for "Special Areas" identified in Recreation Management Area Plans, it is **recommended that SRPs for "Special Areas be explicitly excluded from coverage by the new SRP CX**.

Conclusions

Based on the information provided in this analysis report, adoption of the modified SRP CX is recommended. The CX review process insures that the SRP activities proposed will result in no individually or cumulatively significant adverse impacts on the quality of the human environment; will greatly enhance BLM's ability to reduce SRP issuing costs; and will reduce the time it takes to issue a majority of special recreation permits.

Acknowledgements

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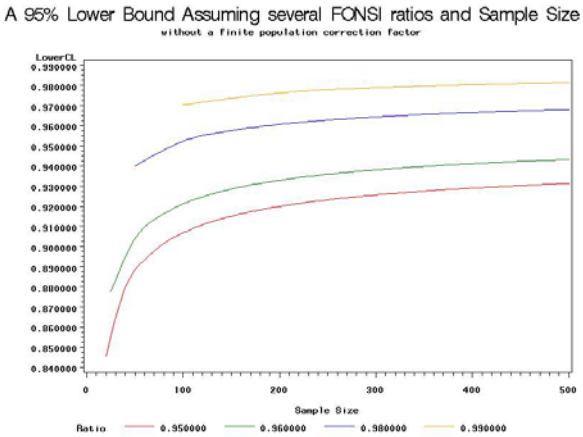
Appendix A: Analytical Methods and Statistical Findings

Confidence Level and Sample Size Determination Process

The biometrician estimated the number of special recreation permits necessary for decision making by portraying a series of confidence intervals assuming several different proportions.[1]

A confidence interval is an interval which has a known and controlled probability to contain the true value. In other words, if you take many samples and construct a confidence interval for each sample, then x times out of 100, that confidence interval will contain the true mean of the population. For this study, a 95% confidence level was chosen as representing a high degree of confidence in the results while accepting the 5% risk as low that the interval does not contain the true population. The width of the confidence interval depends on the estimated proportion. The width of the interval if the estimate of the proportion is .99 is narrower than the width of a .80 estimate.



To investigate this relationship, several different proportions were tested based on the professional judgment of BLM staff, that for the most part, the NEPA documents prepared had not identified significant impacts, and the actual results of permitted recreation activities would likely bear out these predictions.

Another factor that strongly influences the width of the confidence interval is the size of the sample; therefore several proportions were tested over a range of sample sizes at the 95% confidence level (see figure). Furthermore, these confidence intervals are 'symmetrical,' meaning that there is a probability of .025 (or 2.5 chances out of 100, or 25 chances out of 1,000), that the lower interval is above the true value and the same odds that the upper interval is below the true value. Most readers are only concerned about the lower confidence interval so we can state that there is a probability of .975 (97.5 chances out of 100) that the lower bound is below the true value. It is this lower interval (or bound) that is displayed on the graph.

Reference Used: SAS Institute Inc., SAS/STAT 9.1 User's Guide, (Cary, North Carolina: SAS Institute Inc., 2004).

[1]Technically, since the number of permits in any given analysis is random, these are ratio estimates not proportion and all analyses were conducted using ratio estimates. The number of permits in the analysis is random because as the questions yield sub-questions, the number of permits capable of yielding answers in any given instance will change. But since the point estimate for the ratio is calculated in the same manner as with proportions, and readers are generally more familiar with this term, the term proportion is used here. In the body of the analysis report relative proportions are identified as "inferred results."

Data Analysis Process

A binary variable was created for each type of categorical response. So, a question that had three permissible responses, such as "yes", "no" or "NA" (not applicable), would result in three response variables, each one treated as a binary variable (0, 1).

Often only a subset of the SRPs meet criteria for inclusion into a table cell. This means that the number of SRPs within a domain of study in an analysis is known only from the sample and should be treated as a random variable. A domain of study is a subset of the population for which estimate are desired for some attribute(s) of interest. The formula to estimate the number of SRPs that meet a set of criteria within a stratum (State administrative area) is:

$$\hat{X}_h = \frac{\sum_{i=1}^{n_h} I_{hi}}{n_h} N_h ,$$

and the population estimate for the domain is simply the sum of the strata:

$$\hat{X} = \sum_{h=1}^{L} \hat{X}_h$$

where,

L = 12, the number of strata (BLM State Offices),
n_h is the sample size of SRPs in a stratum
N_h is the number of SRP in the data base for a stratum (State) and

$$I_{hi} = \begin{cases} \mathbf{1} \text{ if the SRP is within the domain of study} \\ \mathbf{0} \text{ otherwise} \end{cases}$$

The number of SRPs in the domain of study that meet a set of criteria is computed as:

$$\hat{Y} = \sum_{h=1}^{L} N_h \bar{y}_h ,$$

where, the mean stratum response, $\bar{y}_h$,is

$$\bar{y}_h = \frac{\sum_{i=1}^{n_h} I_{hi} y_{hi}}{n_h} .$$

and

$$y_{hi} = \begin{cases} \mathbf{1} \text{ if the SRP meets the criteria} \\ \mathbf{0} \text{ otherwise} \end{cases} .$$

It can be noted that

$$\hat{Y}_h = N_h \bar{y}_h$$

which is the estimate of the stratum population.

Results are also presented as the number of SRPs that meet a set of criteria to the total number of valid SRPs in the domain. This is a ratio estimate since both the numerator and the denominator are random variables.

The ratio estimate is the population estimate for the number of SRPs that meet a set of criteria for a domain of study divided by the population estimate for the number of SRPs within the domain. It is:

$$\hat{R} = \frac{\hat{Y}}{\hat{X}}$$

A stratified bootstrap technique was used that had been bias-corrected and accelerated (bca) as described in Effron, Bradley and Robert J. Tibshirani (1993). Bootstrap is a resampling technique where the number of SRPs in the sample for a stratum, $n_{h,}$ are drawn with replacement from results of the data call for each of the strata (States). If this process is repeated many times--500 for this project--the bootstrap samples create an empirical distribution from which confidence intervals can be derived.

Confidence Intervals

Each table in the body of this analysis report contains estimated values – the full range of which are reproduced below. The cells in the tables discussed in the report correspond to the 95% confidence interval of the estimates generated by the data call. Here are the range of inferred percentages that have been estimated for each of the CX criteria.

Table 4a: SRP Types Issued

permit class	Range of Inferred Percentages
commercial use	(67.97 - 75.07)
organized group	(9.33 - 15.01)
special event	(12.36 - 18.31)
Total	N/A

Table 4b: Day verses overnight use permits

Type of activity	Range of Inferred Percentages
Day Use	(63.36 - 70.35)
Overnight Use	(28.91 - 36.24)
Total	N/A

Table 4c: Duration of Overnight Stays

Number of nights stayed	Range of Inferred Percentages
none (0)	(0.40 - 2.06)
1- 7	(13.93 - 20.37)
8-14	(5.21 - 8.93)
15-21	(1.29 - 3.58)
22+	(3.43 - 7.00)

Table 4d: Staging area and travel network use		Table 4e: Size of staging areas used	
Proposed CX use criteria	**Range of Inferred Percentages**	**Size in acres**	**Range of Inferred Percentages**
Staging Area	(40.88 - 48.91)	0 - 1.0	(26.18 - 33.50)
		1.1 – 3.0	(7.89 – 13.04)
Travel Network	(30.02 – 37.00)	3.1 – 10.0	(1.53 – 3.67)
		11-30	(0.16 – 1.11)
		30+	(0.50 – 2.80)

Table 5: Type of NEPA Action Used to Issue Special Recreation Permits (Inferred Percentages)			
CX	**EA**	**EIS**	**Inadequate data**
(10.82 - 15.49)	(62.83 - 70.42)	(4.31 - 7.36)	(11.39 - 16.69)

Table 6: NEPA Review Results Validation						
NEPA	**Validation Method Used (Inferred Percentages)**					
(Percent)	**personal observation**	**field data collection**	**professional evaluation**	**combination**	**other**	**Total**
CX	(0.75 - 3.08)	(0.07 - 0.65)	(2.07 - 5.23)	(6.14 - 10.39)	(0.07 - 1.16)	(11.91 – 17.49)
EA	(9.29 - 13.25)	(2.67 - 6.63)	(5.45 - 9.26)	(49.57 - 57.29)	(0.22 - 1.76)	(74.44 – 80.93)
EIS	(0.00 - 0.00)	(0.00 - 0.68)	(1.18 - 3.11)	(3.39 - 6.41)	(0.00 - 0.00)	(5.09 – 8.65)
Total	(11.10 - 14.74)	(2.91 - 7.16)	(10.36 - 15.56)	(62.96 - 70.18)	(0.71 - 2.50)	N/A

Appendix B: Rationale for CX established for Special Recreation Permits

The Bureau of Land Management (BLM) is establishing a Categorical Exclusion (CX) for issuance of Special Recreation Permits (SRP), which meet certain criteria. Stated below are the SRP and its criteria and BLM's rationale.

CX H (1) Issuance of Special Recreation Permits (i.e. commercial, competitive or organized group recreational events) 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.

1. This CX cannot be used for commercial boating permits along Wild and Scenic Rivers.
2. This CX cannot be used for the establishment or issuance of Special Recreation Permits for "Special Area" management (43 CFR 2932.5). The requirement for Special Area SRPs and the issuance of individual SRPs in "Special Areas" must be directed by specific land use planning decisions.

On September 19, 2006, the Council on Environmental Quality published in the Federal Register proposed guidance for Federal agencies on establishment and use of categorical exclusions (71 FR 54816). The CEQ states in this proposed guidance, "the purpose of a CX is to eliminate the need for unnecessary paperwork and effort under the National Environmental Policy Act (NEPA) for categories of actions that normally do not warrant preparation of an environmental impact statement (EIS) or environmental assessment (EA)," because such actions normally do not have a significant effect on the human environment. While the BLM began the process of developing this recreation CX prior to publication of CEQ's proposed guidance, this CX is being finalized in accordance with the guidance, and the purpose for establishing CXs stated by CEQ.

The SRP CX conforms to CEQ guidance part III. A., as the language of this SRP CX clearly describes a category of actions and explicitly identifies physical and environmental factors that would constrain use of the CX. In addition, the BLM can demonstrate that the category of actions defined in this CX as recreational events requiring a specific land use authorization under 43 CFR 2932, do not typically result in significant environmental effects.

Further, under CEQ's proposed guidance at part III. A., the BLM must apply the Department of the Interior (DOI) extraordinary circumstance review to all actions that meet the criteria for the SRP categorical exclusion. This extraordinary circumstance review is intended to identify any proposed SRP activity that may occur in an atypical situation or in an atypical environmental setting such that a significant impact may occur as a result of the activity. When one or more of the extraordinary circumstances applies to a proposed SRP activity that otherwise meets the categorical exclusion criteria, the SRP CX cannot be used. In that situation, BLM must prepare an EA or EIS.

Establishment of the SRP CX conforms to CEQ guidance part III. B. (1& 3) as substantiated by the following review of information relevant to the action and its environmental effects. The BLM used this rationale when considering the SRP CX.

Evaluating an Agency's Implemented Actions (CEQ proposed guidance part III. B. 1., 71 FR 54816, Sept. 19, 2006) – The BLM completed a stratified random sample of over 8000 SRPs issued and used over a five-year period (see SRP Analysis Report 12/18/05 – Admin record vol. 8). This review consisted of examining the NEPA documents completed in support of issuance of the SRPs, as well as evaluating whether the permitted activities had, in fact, resulted in any significant impacts. Through this review, the BLM determined that this category of actions does not have a significant environmental effect, individually or cumulatively. First, more than eighty percent of all permits issued met the criteria for use of the SRP CX. Of the SRPs meeting the criteria, and thus, most representative of the SRPs for which the CX could be used, one hundred percent resulted in no significant effect, individually or cumulatively. In addition, the BLM gathered and analyzed public comment on the proposed CX. Based on public comment the BLM has expanded and clarified the CX language.

Professional Staff and Expert Opinions, and Scientific Analyses (CEQ proposed guidance part III. B. 3, 71 FR 54816, Sept. 19, 2006) – The BLM uses professional staff to manage commercial, competitive, and organized recreation group activities on public lands. BLM recreation specialists follow national guidance on SRP management as directed in the Recreation Permit Administration Handbook (H-2930-1). At the national level, the minimum required SRP stipulations are found in the Handbook and on required Form 2930-1. Based on experience in managing the public lands and applicable training, the BLM recreation specialists have developed additional statewide and/or local SRP limitations to minimize environmental impacts. These additional terms, conditions, and/or stipulations are standard for particular state or geographic localities. For example, the BLM Wyoming State office issued required statewide Wyoming BLM Stipulations in the "Wyoming Information about Special Recreation Permits on BLM Administered Public Lands." In addition, during the land use planning process, the BLM identifies recreation management goals and objectives with which both casual and permitted recreation users must comply. The appropriate mitigation added to these SRPs would be the standard terms and conditions from Form 2930-1, from the appropriate state-specific BLM Stipulations, and from the specific limitations listed in Resource Management Plan decisions which direct management of recreational use of public lands. In addition, some terms and conditions may be added for purposes of compliance with other statutory authorities. For additional examples of specific terms and conditions, see the H-2930-1, Appendix C. In areas where the BLM has identified a need for a management emphasis on recreation management, the BLM will complete a Recreation Area Management Plan (RAMP), which will further describe the limitations on recreation use within the area. For example, the RAMP will set forth specific types of use, use levels, timing and seasons of use and location of use (e.g. see H-2930-1, Appendix C-17).

BLM's review of the Recreation SRP CX meets the criteria indicated in the proposed guidance published by the CEQ at 71 FR 54816 (Sept. 19, 2006). The CX is substantiated by the collection of data and review by professional staff and should continue through the establishment process.