



Existing Categorical Exclusions

U.S. Department of the Interior

As of November 07, 2022

The following pages include all the Department of the Interior (Department) Categorical Exclusions (CEs), including CEs that are used by bureaus and offices. The Department’s CEs are available for use by all bureaus and offices within the Department. Bureau and office CEs are only used by that specific bureau or office.

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Department of the Interior Extraordinary Circumstances

43 CFR Part 46

§46.215 *Categorical exclusions: Extraordinary circumstances.*

Extraordinary circumstances (see paragraph 46.205(c)) exist for individual actions within categorical exclusions that may meet any of the criteria listed in paragraphs (a) through (l) of this section. Applicability of extraordinary circumstances to categorical exclusions is determined by the Responsible Official.

- (a) Have significant impacts on public health or safety.
- (b) Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (EO 11990); floodplains (EO 11988); national monuments; migratory birds; and other ecologically significant or critical areas.
- (c) Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102(2)(E)].
- (d) Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.
- (e) Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.
- (f) Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.
- (g) Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by the bureau.
- (h) Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species or have significant impacts on designated Critical Habitat for these species.
- (i) Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.
- (j) Have a disproportionately high and adverse effect on low income or minority populations (EO 12898).
- (k) Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (EO 13007).

(1) Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and EO 13112).

Department of the Interior Categorical Exclusions

43 CFR Part 46

§ 46.205 Actions categorically excluded from further NEPA review.

Categorical Exclusion means a category or kind of action that has no significant individual or cumulative effect on the quality of the human environment. See 40 CFR 1508.4.

- (a) Except as provided in paragraph (c) of this section, if an action is covered by a Departmental categorical exclusion, the bureau is not required to prepare an environmental assessment (see subpart D of this part) or an environmental impact statement (see subpart E of this part). If a proposed action does not meet the criteria for any of the listed Departmental categorical exclusions or any of the individual bureau categorical exclusions, then the proposed action must be analyzed in an environmental assessment or environmental impact statement.
- (b) The actions listed in section 46.210 are categorically excluded, Department-wide, from preparation of environmental assessments or environmental impact statements.
- (c) The CEQ Regulations at 40 CFR 1508.4 require agency procedures to provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect and require additional analysis and action. Section 46.215 lists the extraordinary circumstances under which actions otherwise covered by a categorical exclusion require analyses under NEPA.
 - (1) Any action that is normally categorically excluded must be evaluated to determine whether it meets any of the extraordinary circumstances in section 46.215; if it does, further analysis and environmental documents must be prepared for the action.
 - (2) Bureaus must work within existing administrative frameworks, including any existing programmatic agreements, when deciding how to apply any of the section 46.215 extraordinary circumstances.
- (d) Congress may establish categorical exclusions by legislation, in which case the terms of the legislation determine how to apply those categorical exclusions.

§ 46.210 Listing of Departmental categorical exclusions.

The following actions are categorically excluded under paragraph 46.205(b), unless any of the extraordinary circumstances in section 46.215 apply:

- (a) Personnel actions and investigations and personnel services contracts.
- (b) Internal organizational changes and facility and bureau reductions and closings.
- (c) Routine financial transactions including such things as salaries and expenses, procurement contracts (e.g., in accordance with applicable procedures and Executive Orders for sustainable or green procurement), guarantees, financial assistance, income transfers, audits, fees, bonds, and royalties.
- (d) Departmental legal activities including, but not limited to, such things as arrests, investigations, patents, claims, and legal opinions. This does not include bringing judicial or administrative civil or criminal enforcement actions which are outside the scope of NEPA in accordance with 40 CFR 1508.18(a).
- (e) Nondestructive data collection, inventory (including field, aerial, and satellite surveying and mapping), study, research, and monitoring activities.
- (f) Routine and continuing government business, including such things as supervision, administration, operations, maintenance, renovations, and replacement activities having limited context and intensity (e.g., limited size and magnitude or short term effects).
- (g) Management, formulation, allocation, transfer, and reprogramming of the Department's budget at all levels. (This does not exclude the preparation of environmental documents for proposals included in the budget when otherwise required.)
- (h) Legislative proposals of an administrative or technical nature (including such things as changes in authorizations for appropriations and minor boundary changes and land title transactions) or having primarily economic, social, individual, or institutional effects; and comments and reports on referrals of legislative proposals.
- (i) Policies, directives, regulations, and guidelines: that are of an administrative, financial, legal, technical, or procedural nature; or whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively or case-by-case.
- (j) Activities which are educational, informational, advisory, or consultative to other agencies, public and private entities, visitors, individuals, or the general public.
- (k) Hazardous fuels reduction activities using prescribed fire not to exceed 4,500 acres, and mechanical methods for crushing, piling, thinning, pruning, cutting, chipping, mulching, and mowing, not to exceed 1,000 acres. Such activities:
 - (1) Shall be limited to areas—
 - (i) In wildland-urban interface; and

- (ii) Condition Classes 2 or 3 in Fire Regime Groups I, II, or III, outside the wildland-urban interface;
 - (2) Shall be identified through a collaborative framework as described in “A Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment 10- Year Comprehensive Strategy Implementation Plan;”
 - (3) Shall be conducted consistent with bureau and Departmental procedures and applicable land and resource management plans;
 - (4) Shall not be conducted in wilderness areas or impair the suitability of wilderness study areas for preservation as wilderness; and
 - (5) Shall not include the use of herbicides or pesticides or the construction of new permanent roads or other new permanent infrastructure; and may include the sale of vegetative material if the primary purpose of the activity is hazardous fuels reduction. (Refer to the ESM Series for additional, required guidance.)
- (1) Post-fire rehabilitation activities not to exceed 4,200 acres (such as tree planting, fence replacement, habitat restoration, heritage site restoration, repair of roads and trails, and repair of damage to minor facilities such as campgrounds) to repair or improve lands unlikely to recover to a management approved condition from wildland fire damage, or to repair or replace minor facilities damaged by fire. Such activities must comply with the following (Refer to the ESM Series for additional, required guidance.):
- (1) Shall be conducted consistent with bureau and Departmental procedures and applicable land and resource management plans;
 - (2) Shall not include the use of herbicides or pesticides or the construction of new permanent roads or other new permanent infrastructure; and
 - (3) Shall be completed within three years following a wildland fire.

Office of Native Hawaiian Relations

Part 516 Chapter 7: Managing the NEPA Process

7.5 Categorical Exclusion. In addition to the actions listed in the Departmental categorical exclusions specified in section 43 CFR Part 46.210, the following action is categorically excluded unless any of the extraordinary circumstances in section 43 CFR Part 46.215 apply, thus requiring an EA or an EIS: approval of conveyances, exchanges, and other transfers of land or interests in land between DHHL, and an agency of the State of Hawaii, or a Federal agency, where no change in the land use is planned. This activity is a single, independent action not associated with larger, existing, or proposed complexes or facilities.

U.S. Fish and Wildlife Service

DM Part 516 Chapter 8: Managing the NEPA Process

8.5 Categorical Exclusions.

A. General.

- (1) Changes or amendments to an approved action when such changes have no or minor potential environmental impact.
- (2) Personnel training, environmental interpretation, public safety efforts, and other educational activities, which do not involve new construction or major additions to existing facilities.
- (3) The issuance and modification of procedures, including manuals, orders, guidelines, and field instructions, when the impacts are limited to administrative effects.
- (4) The acquisition of real property obtained either through discretionary acts or when acquired by law, whether by way of condemnation, donation, escheat, right-of-entry, escrow, exchange, lapses, purchase, or transfer and that will be under the jurisdiction or control of the United States. Such acquisition of real property shall be in accordance with 602 DM 2 and the Service's procedures, when the acquisition is from a willing seller, continuance of or minor modification to the existing land use is planned, and the acquisition planning process has been performed in coordination with the affected public.

B. Resource Management. Prior to carrying out these actions, the Service should coordinate with affected Federal agencies and State, tribal, and local governments.

- (1) Research, inventory, and information collection activities directly related to the conservation of fish and wildlife resources which involve negligible animal mortality or habitat destruction, no introduction of contaminants, or no introduction of organisms not indigenous to the affected ecosystem.
- (2) The operation, maintenance, and management of existing facilities and routine recurring management activities and improvements, including renovations and replacements which result in no or only minor changes in the use, and have no or negligible environmental effects on-site or in the vicinity of the site.
- (3) The construction of new, or the addition of, small structures or improvements, including structures and improvements for the restoration of wetland, riparian, instream, or native habitats, which result in no or only minor changes in the use of

the affected local area. The following are examples of activities that may be included.

- (a) The installation of fences.
 - (b) The construction of small water control structures.
 - (c) The planting of seeds or seedlings and other minor revegetation actions.
 - (d) The construction of small berms or dikes.
 - (e) The development of limited access for routine maintenance and management purposes.
- (4) The use of prescribed burning for habitat improvement purposes, when conducted in accordance with local and State ordinances and laws.
 - (5) Fire management activities, including prevention and restoration measures, when conducted in accordance with Departmental and Service procedures.
 - (6) The reintroduction or supplementation (e.g., stocking) of native, formerly native, or established species into suitable habitat within their historic or established range, where no or negligible environmental disturbances are anticipated.
 - (7) Minor changes in the amounts or types of public use on Service or State-managed lands, in accordance with existing regulations, management plans, and procedures.
 - (8) Consultation and technical assistance activities directly related to the conservation of fish and wildlife resources.
 - (9) Minor changes in existing master plans, comprehensive conservation plans, or operations, when no or minor effects are anticipated. Examples could include minor changes in the type and location of compatible public use activities and land management practices.
 - (10) The issuance of new or revised site, unit, or activity-specific management plans for public use, land use, or other management activities when only minor changes are planned. Examples could include an amended public use plan or fire management plan.
 - (11) Natural resource damage assessment restoration plans, prepared under sections 107, 111, and 122(j) of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA); section 311(f)(4) of the Clean Water Act; and the Oil Pollution Act; when only minor or negligible change in the use of the affected areas is planned.

C. Permit and Regulatory Functions.

- (1) The issuance, denial, suspension, and revocation of permits for activities involving fish, wildlife, or plants regulated under 50 CFR Chapter 1, Subsection B, when such

permits cause no or negligible environmental disturbance. These permits involve endangered and threatened species, species listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), marine mammals, exotic birds, migratory birds, eagles, and injurious wildlife.

- (2) The issuance of ESA section 10(a)(1)(B) "low-effect" incidental take permits that, individually or cumulatively, have a minor or negligible effect on the species covered in the habitat conservation plan.
- (3) The issuance of special regulations for public use of Service-managed land, which maintain essentially the permitted level of use and do not continue a level of use that has resulted in adverse environmental effects.
- (4) The issuance or reissuance of permits for limited additional use of an existing right-of-way for underground or above ground power, telephone, or pipelines, where no new structures (i.e., facilities) or major improvement to those facilities are required; and for permitting a new right-of-way, where no or negligible environmental disturbances are anticipated.
- (5) The issuance or reissuance of special use permits for the administration of specialized uses, including agricultural uses, or other economic uses for management purposes, when such uses are compatible, contribute to the purposes of the refuge system unit, and result in no or negligible environmental effects.
- (6) The denial of special use permit applications, either initially or when permits are reviewed for renewal, when the proposed action is determined not compatible with the purposes of the refuge system unit.
- (7) Activities directly related to the enforcement of fish and wildlife laws, not included in 516 DM 2, Appendix 1.4. These activities include:
 - (a) Assessment of civil penalties.
 - (b) Forfeiture of property seized or subject to forfeiture.
 - (c) The issuance or reissuance of rules, procedures, standards, and permits for the designation of ports, inspection, clearance, marking, and license requirements pertaining to wildlife and wildlife products, and for the humane and healthful transportation of wildlife.
- (8) Actions where the Service has concurrence or co-approval with another agency and the action is a categorical exclusion for that agency. This would normally involve one Federal action or connected actions where the Service is a cooperating agency.
- (9) The adding of species to the list of injurious wildlife regulated under the Lacey Act (18 U.S.C. section 42, as amended) as implemented under 50 CFR subchapter B,

part 16, which prohibits the importation into the United States and interstate transportation of wildlife found to be injurious.

D. Recovery Plans. Issuance of recovery plans under section 4(f) of the ESA.

E. Financial Assistance.

(1) State, local, or private financial assistance (grants and/or cooperative agreements), including State planning grants and private land restorations, where the environmental effects are minor or negligible.

(2) Grants for categorically excluded actions in paragraphs A, B, and C, above; and categorically excluded actions in Appendix 1 of 516 DM 2.

U.S. Geological Survey

DM Part 516 Chapter 9: Managing the NEPA Process

9.5 Categorical Exclusions. In addition to the actions listed in the Departmental categorical exclusions specified in 43 CFR § 46.210, many of which the USGS also performs, the following USGS actions are designated categorical exclusions unless one or more of the Department's extraordinary circumstances, listed at 43 CFR § 46.215 applies. The categorical exclusions shall apply to internal program initiatives performed in the United States and its Trust Territories and Possessions, including Federal lands and the Outer Continental Shelf.

- A. Topographic, land use and land cover, geological, mineralogic, resources evaluation, and hydrologic mapping activities, including aerial topographic surveying, photography, and geophysical surveying.
- B. Collection of data and samples for geologic, paleontologic, hydrologic, mineralogic, geochemical and surface or subsurface geophysical investigations, and resource evaluation, including contracts therefor.
- C. Acquisition of existing geological, hydrological or geophysical data from private exploration ventures.
- D. Well logging, aquifer response testing, digital modeling, inventory of existing wells and water supplies, water-sample collection.
- E. Operation, construction, installation, and removal – including restoration of sites to the pre-structure condition or equivalent of the surrounding environment – of hydrologic and water quality monitoring structures and equipment including but not limited to weirs, cableways, stream-gaging stations, groundwater wells, and meteorologic structures.

- F. Routine exploratory or observation groundwater well drilling operations that do not require a special access road, and that use portable tanks to recycle and remove drilling mud, and create no significant surface disturbance.
- G. Test or exploration drilling and downhole testing, including contracts therefor.
- H. Establishment of survey marks, placement and operation of field instruments, and installation of any research/monitoring devices.
- I. Digging and subsequent site restoration of exploratory trenches not to exceed one acre of surface disturbance.
- J. Establishment of seasonal and temporary field camps.
- K. Off-road travel to drilling, data collection, or observation sites that do not impact ecologically sensitive areas such as wilderness areas, wetlands, or areas of critical habitat for listed endangered or threatened species.
- L. Hydraulic fracturing of rock formations for the singular purpose of in situ stress measurements.
- M. Reports to surface management agencies, or any state, territorial, tribal, commonwealth, or Federal agencies concerning mineral and water resources appraisals.
- N. Other actions where USGS has concurrence or co-approval with another Department bureau and the action is a categorical exclusion for that bureau.
- O. Minor, routine, or preventive maintenance activities at USGS facilities and lands, and geological, hydrological, or geophysical data collection stations; and
- P. Minor activities required to gain or prepare access to sites selected for completion of exploration drilling operations or construction of stations for hydrologic, geologic, or geophysical data collection.

Bureau of Indian Affairs

Part 516 Chapter 10: Managing the NEPA Process

10.5 Categorical Exclusions.

- A. Operation, Maintenance, and Replacement of Existing Facilities. Examples are normal renovation of buildings, road maintenance and limited rehabilitation of irrigation structures.

- B. Transfer of Existing Federal Facilities to Other Entities. Transfer of existing operation and maintenance activities of Federal facilities to tribal groups, water user organizations, or other entities where the anticipated operation and maintenance activities are agreed to in a contract, follow BIA policy, and no change in operations or maintenance is anticipated.
- C. Human Resources Programs. Examples are social services, education services, employment assistance, tribal operations, law enforcement and credit and financing activities not related to development.
- D. Administrative Actions and Other Activities Relating to Trust Resources. Examples are: Management of trust funds (collection and distribution), budget, finance, estate planning, wills and appraisals.
- E. Self-Determination and Self-Governance.
 - (1) Self-Determination Act contracts and grants for BIA programs listed as categorical exclusions, or for programs in which environmental impacts are adequately addressed in earlier NEPA analysis.
 - (2) Self-Governance compacts for BIA programs which are listed as categorical exclusions or for programs in which environmental impacts are adequately addressed in earlier NEPA analysis.
- F. Rights-of-Way.
 - (1) Rights-of-Way inside another right-of-way, or amendments to rights-of-way where no deviations from or additions to the original right-of-way are involved and where there is an existing NEPA analysis covering the same or similar impacts in the right-of-way area.
 - (2) Service line agreements to an individual residence, building or well from an existing facility where installation will involve no clearance of vegetation from the right-of-way other than for placement of poles, signs (including highway signs), or buried power/cable lines.
 - (3) Renewals, assignments and conversions of existing rights-of-way where there would be essentially no change in use and continuation would not lead to environmental degradation.
- G. Minerals.
 - (1) Approval of permits for geologic mapping, inventory, reconnaissance and surface sample collecting.

- (2) Approval of unitization agreements, pooling or communitization agreements.
- (3) Approval of mineral lease adjustments and transfers, including assignments and subleases.
- (4) Approval of royalty determinations such as royalty rate adjustments of an existing lease or contract agreement.

H. Forestry.

- (1) Approval of free-use cutting, without permit, to Indian owners for on-reservation personal use of forest products, not to exceed 2,500 feet board measure when cutting will not adversely affect associated resources such as riparian zones, areas of special significance, etc.
- (2) Approval and issuance of cutting permits for forest products not to exceed \$5,000 in value.
- (3) Approval and issuance of paid timber cutting permits or contracts for products valued at less than \$25,000 when in compliance with policies and guidelines established by a current management plan addressed in earlier NEPA analysis.
- (4) Approval of annual logging plans when in compliance with policies and guidelines established by a current management plan addressed in earlier NEPA analysis.
- (5) Approval of Fire Management Planning Analysis detailing emergency fire suppression activities.
- (6) Approval of emergency forest and range rehabilitation plans when limited to environmental stabilization on less than 10,000 acres and not including approval of salvage sales of damaged timber.
- (7) Approval of forest stand improvement projects of less than 2000 acres when in compliance with policies and guidelines established by a current management plan addressed in earlier NEPA analysis.
- (8) Approval of timber management access skid trail and logging road construction when consistent with policies and guidelines established by a current management plan addressed in earlier NEPA analysis.
- (9) Approval of prescribed burning plans of less than 2000 acres when in compliance with policies and guidelines established by a current management plan addressed in earlier NEPA analysis.

- (10) Approval of forestation projects with native species and associated protection and site preparation activities on less than 2000 acres when consistent with policies and guidelines established by a current management plan addressed in earlier NEPA analysis.
- (11) Harvesting live trees not to exceed 70 acres, requiring no more than 0.5 mile of temporary road construction. Such activities:
- (a) Shall not include even-aged regeneration harvests or vegetation type conversions.
 - (b) May include incidental removal of trees for landings, skid trails, and road clearing.
 - (c) May include temporary roads which are defined as roads authorized by contract, permit, lease, other written authorization, or emergency operation not intended to be part of the BIA or Tribal transportation systems and not necessary for long-term resource management. Temporary roads shall be designed to standards appropriate for the intended uses, considering safety, cost of transportation, and impacts on land and resources; and
 - (d) Shall require the treatment of temporary roads constructed or used so as to permit the reestablishment by artificial or natural means, of vegetative cover on the roadway and areas where the vegetative cover was disturbed by the construction or use of the road, as necessary to minimize erosion from the disturbed area. Such treatment shall be designed to reestablish vegetative cover as soon as practicable, but at least within 10 years after the termination of the contract. Examples include, but are not limited to:
 - (i) Removing individual trees for sawlogs, specialty products, or fuelwood.
 - (ii) Commercial thinning of overstocked stands to achieve the desired stocking level to increase health and vigor.
- (12) Salvaging dead or dying trees not to exceed 250 acres, requiring no more than 0.5 mile of temporary road construction. Such activities:
- (a) May include incidental removal of live or dead trees for landings, skid trails, and road clearing.
 - (b) May include temporary roads which are defined as roads authorized by contract, permit, lease, other written authorization, or emergency operation not intended to be part of the BIA or Tribal transportation systems and not necessary for long-term resource management. Temporary roads shall be designed to standards appropriate for the intended uses, considering safety, cost of transportation, and impacts on land and resources; and
 - (c) Shall require the treatment of temporary roads constructed or used so as to permit the reestablishment, by artificial or natural means, of vegetative cover on the roadway and areas where the vegetative cover was disturbed by the construction or use of the road, as necessary to minimize erosion from the disturbed area. Such treatment shall be designed to reestablish vegetative cover as soon as practicable, but at least within 10 years after the termination of the contract.

- (d) For this CE, a dying tree is defined as a standing tree that has been severely damaged by forces such as fire, wind, ice, insects, or disease, such that in the judgment of an experienced forest professional or someone technically trained for the work, the tree is likely to die within a few years.

Examples include, but are not limited to:

- (i) Harvesting a portion of a stand damaged by a wind or ice event.
- (ii) Harvesting fire damaged trees.

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

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

- I. Land Conveyance and Other Transfers. Approvals or grants of conveyances and other transfers of interests in land where no change in land use is planned.
- J. Reservation Proclamations. Lands established as or added to a reservation pursuant to 25 U.S.C. 467, where no change in land use is planned.
- K. Waste Management.

- (1) Closure operations for solid waste facilities when done in compliance with other federal laws and regulations and where cover material is taken from locations which have been approved for use by earlier NEPA analysis.

- (2) Activities involving remediation of hazardous waste sites if done in compliance with applicable federal laws such as the Resource Conservation and Recovery Act (P.L. 94-580), Comprehensive Environmental Response, Compensation, and Liability Act (P.L. 96-516) or Toxic Substances Control Act (P.L. 94-469).

L. Roads and Transportation.

- (1) Approval of utility installations along or across a transportation facility located in whole within the limits of the roadway right-of-way.
- (2) Construction of bicycle and pedestrian lanes and paths adjacent to existing highways and within the existing rights-of-way.
- (3) Activities included in a "highway safety plan" under 23 CFR 402.
- (4) Installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur.
- (5) Emergency repairs under 23 U.S.C. 125.
- (6) Acquisition of scenic easements.
- (7) Alterations to facilities to make them accessible for the elderly or handicapped.
- (8) Resurfacing a highway without adding to the existing width.
- (9) Rehabilitation, reconstruction or replacement of an existing bridge structure on essentially the same alignment or location (e.g., widening, adding shoulders or safety lanes, walkways, bikeways or guardrails).
- (10) Approvals for changes in access control within existing right-of-ways.
- (11) Road construction within an existing right-of-way which has already been acquired for a HUD housing project and for which earlier NEPA analysis has already been prepared.

M. Other.

- (1) Data gathering activities such as inventories, soil and range surveys, timber cruising, geological, geophysical, archeological, paleontological and cadastral surveys.

- (2) Establishment of non-disturbance environmental quality monitoring programs and field monitoring stations including testing services.
- (3) Actions where BIA has concurrence or co-approval with another Bureau and the action is categorically excluded for that Bureau.
- (4) Approval of an Application for Permit to Drill for a new water source or observation well.
- (5) Approval of conversion of an abandoned oil well to a water well if water facilities are established only near the well site.
- (6) Approval and issuance of permits under the Archaeological Resources Protection Act (16 U.S.C. 470aa-11) when the permitted activity is being done as a part of an action for which a NEPA analysis has been, or is being prepared.
- (7) Approval of leases, easements or funds for single-family homesites and associated improvements, including but not limited to, construction of homes, outbuildings, access roads, and utility lines, which encompass five acres or less of contiguous land, provided that such sites and associated improvements do not adversely affect any tribal cultural resources or historic properties and are in compliance with applicable federal and tribal laws. Home construction may include up to four dwelling units, whether in a single building or up to four separate buildings.

BIA Statutory CE

In addition to the CEs listed in BIA's Departmental Manual Chapter, the BIA has the following statutory CE:

The Infrastructure Investment and Jobs Act (Pub.L. 117-58) established a category of actions excluded from NEPA. Section 11318 exempts from NEPA 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. 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; and
 - (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.
 - (B) Inclusions.--The term "gathering line and associated field compression or pumping unit" includes a pipeline 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.
- (a) 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).

(b) 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.

Bureau of Land Management

Part 516 Chapter 11: Managing the NEPA Process

11.9 Actions Eligible for a Categorical Exclusion (CX).

A. Fish and Wildlife.

- (1) Modification of existing fences to provide improved wildlife ingress and egress.
- (2) Minor modification of water developments to improve or facilitate wildlife use (e.g., modify enclosure fence, install flood valve, or reduce ramp access angle).
- (3) Construction of perches, nesting platforms, islands, and similar structures for wildlife use.
- (4) Temporary emergency feeding of wildlife during periods of extreme adverse weather conditions.
- (5) Routine augmentations, such as fish stocking, providing no new species are introduced.
- (6) Relocation of nuisance or depredating wildlife, providing the relocation does not introduce new species into the ecosystem.
- (7) Installation of devices on existing facilities to protect animal life, such as raptor electrocution prevention devices.

B. Oil, Gas, and Geothermal Energy.

- (1) Issuance of future interest leases under the Mineral Leasing Act for Acquired Lands, where the subject lands are already in production.
- (2) Approval of mineral lease adjustments and transfers, including assignments and subleases.
- (3) Approval of unitization agreements, communitization agreements, drainage agreements, underground storage agreements, development contracts, or geothermal unit or participating area agreements.
- (4) Approval of suspensions of operations, force majeure suspensions, and suspensions of operations and production.

- (5) Approval of royalty determinations, such as royalty rate reductions.
- (6) Approval of Notices of Intent to conduct geophysical exploration of oil, gas, or geothermal, pursuant to 43 CFR 3150 or 3250, when no temporary or new road construction is proposed.

C. Forestry.

- (1) Land cultivation and silvicultural activities (excluding herbicide application) in forest tree nurseries, seed orchards, and progeny test sites.
- (2) Sale and removal of individual trees or small groups of trees which are dead, diseased, injured, or which constitute a safety hazard, and where access for the removal requires no more than maintenance to existing roads.
- (3) Seeding or reforestation of timber sales or burn areas where no chaining is done, no pesticides are used, and there is no conversion of timber type or conversion of non-forest to forest land. Specific reforestation activities covered include: seeding and seedling plantings, shading, tubing (browse protection), paper mulching, bud caps, ravel protection, application of non-toxic big game repellent, spot scalping, rodent trapping, fertilization of seed trees, fence construction around out-planting sites, and collection of pollen, scions and cones.
- (4) Pre-commercial thinning and brush control using small mechanical devices.
- (5) Disposal of small amounts of miscellaneous vegetation products outside established harvest areas, such as Christmas trees, wildings, floral products (ferns, boughs, etc.), cones, seeds, and personal use firewood.
- (6) Felling, bucking, and scaling sample trees to ensure accuracy of timber cruises. Such activities:
 - (a) Shall be limited to an average of one tree per acre or less,
 - (b) Shall be limited to gas-powered chainsaws or hand tools,
 - (c) Shall not involve any road or trail construction,
 - (d) Shall not include the use of ground based equipment or other manner of timber yarding, and
 - (e) Shall be limited to the Coos Bay, Eugene, Medford, Roseburg, and Salem Districts and Lakeview District, Klamath Falls Resource Area in Oregon.
- (7) Harvesting live trees not to exceed 70 acres, requiring no more than 0.5 mile of temporary road construction. Such activities:
 - (a) Shall not include even-aged regeneration harvests or vegetation type conversions.
 - (b) May include incidental removal of trees for landings, skid trails, and road clearing.

- (c) May include temporary roads which are defined as roads authorized by contract, permit, lease, other written authorization, or emergency operation not intended to be part of the BLM transportation system and not necessary for long-term resource management. Temporary roads shall be designed to standards appropriate for the intended uses, considering safety, cost of transportation, and impacts on land and resources; and
 - (d) Shall require the treatment of temporary roads constructed or used so as to permit the reestablishment by artificial or natural means, or vegetative cover on the roadway and areas where the vegetative cover was disturbed by the construction or use of the road, as necessary to minimize erosion from the disturbed area. Such treatment shall be designed to reestablish vegetative cover as soon as practicable, but at least within 10 years after the termination of the contract. Examples include, but are not limited to:
 - (i) Removing individual trees for sawlogs, specialty products, or fuelwood.
 - (ii) Commercial thinning of overstocked stands to achieve the desired stocking level to increase health and vigor.
- (8) Salvaging dead or dying trees not to exceed 250 acres, requiring no more than 0.5 mile of temporary road construction. Such activities:
- (a) May include incidental removal of live or dead trees for landings, skid trails, and road clearing.
 - (b) May include temporary roads which are defined as roads authorized by contract, permit, lease, other written authorization, or emergency operation not intended to be part of the BLM transportation system and not necessary for long-term resource management. Temporary roads shall be designed to standards appropriate for the intended uses, considering safety, cost of transportation, and impacts on land and resources; and
 - (c) Shall require the treatment of temporary roads constructed or used so as to permit the reestablishment, by artificial or natural means, of vegetative cover on the roadway and areas where the vegetative cover was disturbed by the construction or use of the road, as necessary to minimize erosion from the disturbed area. Such treatment shall be designed to reestablish vegetative cover as soon as practicable, but at least within 10 years after the termination of the contract.
 - (d) For this CX, a dying tree is defined as a standing tree that has been severely damaged by forces such as fire, wind, ice, insects, or disease, and that in the judgment of an experienced forest professional or someone technically trained for the work, is likely to die within a few years. Examples include, but are not limited to:
 - (i) Harvesting a portion of a stand damaged by a wind or ice event.
 - (ii) Harvesting fire damaged trees.

- (9) Commercial and non-commercial sanitation harvest of trees to control insects or disease not to exceed 250 acres, requiring no more than 0.5 miles of temporary road construction. Such activities:
- (a) May include removal of infested/infected trees and adjacent live uninfested/uninfected trees as determined necessary to control the spread of insects or disease; and
 - (b) May include incidental removal of live or dead trees for landings, skid trails, and road clearing.
 - (c) May include temporary roads which are defined as roads authorized by contract, permit, lease, other written authorization, or emergency operation not intended to be part of the BLM transportation system and not necessary for long-term resource management. Temporary roads shall be designed to standards appropriate for the intended uses, considering safety, cost of transportation, and impacts on land and resources; and
 - (d) Shall require the treatment of temporary roads constructed or used so as to permit the reestablishment, by artificial or natural means, of vegetative cover on the roadway and areas where the vegetative cover was disturbed by the construction or use of the road, as necessary to minimize erosion from the disturbed area. Such treatment shall be designed to reestablish vegetative cover as soon as practicable, but at least within 10 years after the termination of the contract. Examples include, but are not limited to:
 - (i) Felling and harvesting trees infested with mountain pine beetles and immediately adjacent uninfested trees to control expanding spot infestations; and
 - (ii) Removing or destroying trees infested or infected with a new exotic insect or disease, such as emerald ash borer, Asian longhorned beetle, or sudden oak death pathogen.
- (10) Salvaging dead and dying trees resulting from fire, insects, disease, drought, or other disturbances not to exceed 1,000 acres for disturbances of 3,000 acres or less. For disturbances greater than 3,000 acres, harvesting shall not exceed 1/3 of a disturbance area but not to exceed 3,000 acres total harvest.
- (a) Covered actions:
 - (i) Cutting, yarding, and removal of dead or dying trees and live trees needed for landings, skid trails, and road clearing. Includes chipping/grinding and removal of residual slash.
 - (ii) Jackpot burning, pile burning, or underburning.
 - (iii) Seeding or planting necessary to accelerate native species re-establishment.
 - (b) Such actions:
 - (i) Shall not require more than 1 mile of permanent road construction to facilitate the covered actions. Permanent roads are routes intended to be part of the BLM's permanent transportation system.

- (ii) If a permanent road is constructed to facilitate the covered actions, the segments shall conform to all applicable land use planning decisions for permanent road construction in the land use plan; and if travel management planning has been completed, the route specific designations related to the new segments shall be disclosed.
 - (iii) May include temporary roads, which are defined as roads authorized by contract, permit, lease, other written authorization, or emergency operation not intended to be part of the BLM's permanent transportation system and not necessary for long-term resource management. Temporary roads shall be designed to standards appropriate for the intended uses, considering safety, cost of transportation, erosion control, potential sedimentation to streams, and impacts on land and resources.
 - (iv) Shall require the treatment of temporary roads constructed or used so as to permit the reestablishment, by artificial or natural means, of vegetative cover on the roadway and areas where the vegetative cover was disturbed by the construction or use of the road, as necessary to minimize erosion from the disturbed area. Such treatment shall be designed to reestablish vegetative cover as soon as practicable, but at least within 10 years after the termination of the contract.
 - (v) Shall require inclusion of project design features providing for protections of the following resources and resource uses consistent with the decisions in the applicable land use plan in the documentation of the categorical exclusion. If no land use plan decisions apply, documentation of the categorical exclusion shall identify how the following resources and resource uses are to be appropriately addressed:
 - (1) Level of snag and downed wood creation/retention;
 - (2) Specifications for erosion control features such as water bars, dispersed slash;
 - (3) Criteria for minimizing or remedying soil compaction;
 - (4) Types and extents of logging system constraints (e.g., seasonal, location, extent, etc.);
 - (5) Extent and purpose of seasonal operating constraints or restrictions;
 - (6) Criteria to limit spread of weeds;
 - (7) Size of riparian buffers and/or riparian zone operating restrictions;
 - (8) Operating constraints and restrictions for underburning or pile burning;
 - (9) Revegetation standards for temporary roads; and
 - (10) Limitations on road densities.
- (c) For this CX, a dying tree is defined as a standing tree that has been severely damaged by forces such as fire, wind, ice, insects, or disease, and that in the

judgement of an experienced forest professional or someone technically trained for the work, is likely to die within a few years. Examples include, but are not limited to:

- (i) Harvesting a portion of a stand damaged by a wind or ice event.
- (ii) Harvesting fire damaged trees.

D. Rangeland Management.

- (1) Approval of transfers of grazing preference.
- (2) Placement and use of temporary (not to exceed one month) portable corrals and water troughs, providing no new road construction is needed.
- (3) Temporary emergency feeding of livestock or wild horses and burros during periods of extreme adverse weather conditions.
- (4) Removal of wild horses or burros from private lands at the request of the landowner.
- (5) Processing (transporting, sorting, providing veterinary care, vaccinating, testing for communicable diseases, training, gelding, marketing, maintaining, feeding, and trimming of hooves of) excess wild horses and burros.
- (6) Approval of the adoption of healthy, excess wild horses and burros.
- (7) Actions required to ensure compliance with the terms of Private Maintenance and Care agreements.
- (8) Issuance of title to adopted wild horses and burros.
- (9) Destroying old, sick, and lame wild horses and burros as an act of mercy.
- (10) Vegetation management activities, such as seeding, planting, invasive plant removal, installation of erosion control devices (e.g., mats/straw/chips), and mechanical treatments, such as crushing, piling, thinning, pruning, cutting, chipping, mulching, mowing, and prescribed fire when the activity is necessary for the management of vegetation on public lands. Such activities:
 - (a) Shall not exceed 4,500 acres per prescribed fire project and 1,000 acres for other vegetation management projects;
 - (b) Shall not be conducted in Wilderness areas or Wilderness Study Areas;
 - (c) Shall not include the use of herbicides, pesticides, biological treatments or the construction of new permanent roads or other new permanent infrastructure;
 - (d) May include temporary roads which are defined as roads authorized by contract, permit, lease, other written authorization, or emergency operation not intended to be part of the BLM transportation system and not necessary for long-term resource management. Temporary roads shall be designed to

standards appropriate for the intended uses, considering safety, cost of transportation, and impacts on land and resources; and

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

(11) Issuance of livestock grazing permits/leases where:

- (a) The new grazing permit/lease is consistent with the use specified on the previous permit/lease, such that
 - (i) the same kind of livestock is grazed,
 - (ii) the active use previously authorized is not exceeded, and
 - (iii) grazing does not occur more than 14 days earlier or later than as specified on the previous permit/lease, and
- (b) The grazing allotment(s) has been assessed and evaluated and the Responsible Official has documented in a determination that the allotment(s) is
 - (i) meeting land health standards, or
 - (ii) not meeting land health standards due to factors that do not include existing livestock grazing.

E. Realty.

- (1) Withdrawal extensions or modifications, which only establish a new time period and entail no changes in segregative effect or use.
- (2) Withdrawal revocations, terminations, extensions, or modifications; and classification terminations or modifications which do not result in lands being opened or closed to the general land laws or to the mining or mineral leasing laws.
- (3) Withdrawal revocations, terminations, extensions, or modifications; classification terminations or modifications; or opening actions where the land would be opened only to discretionary land laws and where subsequent discretionary actions (prior to implementation) are in conformance with and are covered by a Resource Management Plan/EIS (or plan amendment and EA or EIS).
- (4) Administrative conveyances from the Federal Aviation Administration (FAA) to the State of Alaska to accommodate airports on lands appropriated by the FAA prior to the enactment of the Alaska Statehood Act.

- (5) Actions taken in conveying mineral interest where there are no known mineral values in the land under Section 209(b) of the Federal Land Policy and Management Act of 1976 (FLPMA).
- (6) Resolution of class one color-of-title cases.
- (7) Issuance of recordable disclaimers of interest under Section 315 of FLPMA.
- (8) Corrections of patents and other conveyance documents under Section 316 of FLPMA and other applicable statutes.
- (9) Renewals and assignments of leases, permits, or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations.
- (10) Transfer or conversion of leases, permits, or rights-of-way from one agency to another (e.g., conversion of Forest Service permits to a BLM Title V Right-of-way).
- (11) Conversion of existing right-of-way grants to Title V grants or existing leases to FLPMA Section 302(b) leases where no new facilities or other changes are needed.
- (12) Grants of right-of-way wholly within the boundaries of other compatibly developed rights-of-way.
- (13) Amendments to existing rights-of-way, such as the upgrading of existing facilities, which entail no additional disturbances outside the right-of-way boundary.
- (14) Grants of rights-of-way for an overhead line (no pole or tower on BLM land) crossing over a corner of public land.
- (15) Transfers of land or interest in land to or from other bureaus or federal agencies where current management will continue and future changes in management will be subject to the NEPA process.
- (16) Acquisition of easements for an existing road or issuance of leases, permits, or rights-of-way for the use of existing facilities, improvements, or sites for the same or similar purposes.
- (17) Grant of a short rights-of-way for utility service or terminal access roads to an individual residence, outbuilding, or water well.
- (18) Temporary placement of a pipeline above ground.

- (19) Issuance of short-term (3 years or less) rights-of-way or land use authorizations for such uses as storage sites, apiary sites, and construction sites where the proposal includes rehabilitation to restore the land to its natural or original condition.
- (20) One-time issuance of short-term (3 years or less) rights-of-way or land use authorizations which authorize trespass action where no new use or construction is allowed, and where the proposal includes rehabilitation to restore the land to its natural or original condition.

F. Solid Minerals.

- (1) Issuance of future interest leases under the Mineral Leasing Act for Acquired Lands where the subject lands are already in production.
- (2) Approval of mineral lease readjustments, renewals, and transfers including assignments and subleases.
- (3) Approval of suspensions of operations, force majeure suspensions, and suspensions of operations and production.
- (4) Approval of royalty determinations, such as royalty rate reductions and operations reporting procedures.
- (5) Determination and designation of logical mining units.
- (6) Findings of completeness furnished to the Office of Surface Mining Reclamation and Enforcement for Resource Recovery and Protection Plans.
- (7) Approval of minor modifications to or minor variances from activities described in an approved exploration plan for leasable, salable, and locatable minerals (e.g., the approved plan identifies no new surface disturbance outside the areas already identified to be disturbed).
- (8) Approval of minor modifications to or minor variances from activities described in an approved underground or surface mine plan for leasable minerals (e.g., change in mining sequence or timing).
- (9) Digging of exploratory trenches for mineral materials, except in riparian areas.
- (10) Disposal of mineral materials, such as sand, stone, gravel, pumice, pumicite, cinders, and clay, in amounts not exceeding 50,000 cubic yards or disturbing more than 5 acres, except in riparian areas.

G. Transportation.

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

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

- I. Emergency Stabilization. Planned actions in response to wildfires, floods, weather events, earthquakes, or landslips that threaten public health or safety, property, and/or natural and cultural resources, and that are necessary to repair or improve lands unlikely to recover to a management-approved condition as a result of the event. Such activities shall be limited to: repair and installation of essential erosion control structures; replacement or repair of existing culverts, roads, trails, fences, and minor facilities; construction of protection fences; planting, seeding, and mulching; and removal of hazard trees, rocks, soil, and other mobile debris from, on, or along roads, trails, campgrounds, and watercourses. These activities:
- (1) Shall be completed within one year following the event;
 - (2) Shall not include the use of herbicides or pesticides;
 - (3) Shall not include the construction of new roads or other new permanent infrastructure;
 - (4) Shall not exceed 4,200 acres; and
 - (5) May include temporary roads which are defined as roads authorized by contract, permit, lease, other written authorization, or emergency operation not intended to be part of the BLM transportation system and not necessary for long-term resource management. Temporary roads shall be designed to standards appropriate for the intended uses, considering safety, cost of transportation, and impacts on land and resources; and
 - (6) Shall require the treatment of temporary roads constructed or used so as to permit the reestablishment by artificial or natural means, or vegetative cover on the roadway and areas where the vegetative cover was disturbed by the construction or use of the road, as necessary to minimize erosion from the disturbed area. Such

treatment shall be designed to reestablish vegetative cover as soon as practicable, but at least within 10 years after the termination of the contract

J. Habitat Restoration

- (1) Covered actions on up to 10,000 acres (contiguous or non-contiguous) within sagebrush and sagebrush-steppe plant communities to manage pinyon pine and juniper trees for the benefit of mule deer or sage-grouse habitats. For the purpose of this CX, habitat for mule deer or sage-grouse is any area on BLM managed land that is currently or formerly occupied by mule deer or sage-grouse, or is reasonably likely to be occupied if pinyon pine or juniper trees are removed. Covered actions include: manual or mechanical cutting (including lop-and-scatter); mastication and mulching; yarding and piling of cut trees; pile burning; seeding or manual planting of seedlings of native species; and removal of cut trees for commercial products, such as sawlogs, specialty products, or fuelwood, or non-commercial uses. Such activities:
 - (a) Shall not include: cutting of old-growth trees; seeding or planting of non-native species; chaining; pesticide or herbicide application; broadcast burning; jackpot burning; construction of new temporary or permanent roads; or construction of other new permanent infrastructure.
 - (b) Shall require inclusion of project design features providing for protections of the following resources and resource uses consistent with the decisions in the applicable land use plan in the documentation of the categorical exclusion. If no land use plan decisions apply, documentation of the categorical exclusion shall identify how the following resources and resource uses are to be appropriately addressed:
 - (1) Specifications for management of mule deer habitat;
 - (2) Specifications for management of sage-grouse habitat;
 - (3) Specifications for erosion control measures;
 - (4) Criteria for minimizing or remedying soil compaction;
 - (5) Types and extents of logging system constraints (e.g., seasonal, location, extent);
 - (6) Extent and purpose of seasonal operating constraints or restrictions;
 - (7) Criteria to limit spread of weeds;
 - (8) Size of riparian buffers or riparian zone operating restrictions; and
 - (9) Operating constraints and restrictions for pile burning.

K. Other.

- (1) Maintaining land use plans in accordance with 43 CFR 1610.5-4.
- (2) Acquisition of existing water developments (e.g., wells and springs) on public land.

- (3) Conducting preliminary hazardous materials assessments and site investigations, site characterization studies and environmental monitoring. Included are siting, construction, installation and/or operation of small monitoring devices such as wells, particulate dust counters and automatic air or water samples.
- (4) Use of small sites for temporary field work camps where the sites will be restored to their natural or original condition within the same work season.
- (5) Reserved.
- (6) A single trip in a one month period for data collection or observation sites.
- (7) Construction of snow fences for safety purposes or to accumulate snow for small water facilities.
- (8) Installation of minor devices to protect human life (e.g., grates across mines).
- (9) Construction of small protective enclosures, including those to protect reservoirs and springs and those to protect small study areas.
- (10) Removal of structures and materials of no historical value, such as abandoned automobiles, fences, and buildings, including those built in trespass and reclamation of the site when little or no surface disturbance is involved.
- (11) Actions where the BLM has concurrence or co-approval with another DOI agency and the action is categorically excluded for that DOI agency.
- (12) Rendering formal classification of lands as to their mineral character, waterpower, and water storage values.

11.10 Categorical Exclusions Established or Directed by Statute

B. The Energy Policy Act of 2005 (Public Law 109-58) (42 USC 15942) established actions for categorical exclusion from NEPA analysis. Use of Energy Policy Act categorical exclusions does not require review for extraordinary circumstances. This is because these CXs are established by statute, and their application is governed by that statute. Section 390 of the Energy Policy Act of 2005 provides:

(a) NEPA Review.—Action by the Secretary of the Interior in managing the public lands, with respect to any of the activities described in subsection (b), shall be subject to a rebuttable presumption that the use of a categorical exclusion under the National Environmental Policy Act (NEPA) of 1969 would apply if the activity is conducted pursuant to the Mineral Leasing Act for the purpose of exploration or development of oil or gas.

(b) Activities Described.—The activities referred to in subsection (a) are the following:

- (1) Individual surface disturbances of less than 5 acres so long as the total surface disturbance on the lease is not greater than 150 acres and site-specific analysis in a document prepared pursuant to NEPA has been previously completed.
- (2) Drilling an oil or gas well at a location or well pad site at which drilling has occurred previously within 5 years prior to the date of spudding the well.
- (3) Drilling an oil or gas well within a developed field for which an approved land use plan or any environmental document prepared pursuant to NEPA analyzed such drilling as a reasonably foreseeable activity, so long as such plan or document was approved within 5 years prior to the date of spudding the well.
- (4) Placement of a pipeline in an approved right-of-way corridor, so long as the corridor was approved within 5 years prior to the date of placement of the pipeline.
- (5) Maintenance of a minor activity, other than any construction or major renovation of a building or facility.

C. Section 3023 “Grazing Permits and Leases” of Public Law 113-291, The Carl Levin and Howard P. ‘Buck’ McKeon National Defense Authorization Act for Fiscal Year 2015, amended Section 402 of FLPMA. The amended text is now included in FLPMA, as amended, as Section 402(h). Therefore, the BLM may use the grazing permit categorical exclusion (1) or the trailing and crossing categorical exclusion (2). Application of either categorical exclusion requires extraordinary circumstances review. Section 402(h) of FLPMA provides:

- (1) IN GENERAL.—The issuance of a grazing permit or lease by the Secretary concerned may be categorically excluded from the requirement to prepare an environmental assessment or an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if—
 - (A) the issued permit or lease continues the current grazing management of the allotment; and
 - (B) the Secretary concerned—
 - (i) has assessed and evaluated the grazing allotment associated with the lease or permit; and
 - (ii) based on the assessment and evaluation under clause (i), has determined that the allotment—
 - (I) with respect to public land administered by the Secretary of the Interior—
 - (aa) is meeting land health standards; or
 - (ba) is not meeting land health standards due to factors other than existing livestock grazing; or
- (2) TRAILING AND CROSSING.—The trailing and crossing of livestock across public land and the implementation of trailing and crossing practices by the Secretary concerned may be categorically excluded from the requirement to

prepare an environmental assessment or an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)

D. The Agriculture Improvement Act of 2018 (P.L. 115-334) amended Title VI of the Healthy Forests Restoration Act of 2003 (HFRA) (16 U.S.C. 6591 et seq.) to add Section 606. Section 606 directed development of a categorical exclusion for covered vegetation management activities carried out to protect, restore, or improve habitat for greater sage-grouse or mule deer (HFRA, Section 606(b)(1)). This categorical exclusion may be used to carry out a “covered vegetation management activity” (defined at HFRA, Section 606(a)(1)(B)) whose purpose is for the management of greater sage-grouse and mule deer habitat on public lands that was designated under HFRA section 602(b), on December 20, 2018 (HFRA, Section 606(g)(2)). Application of this categorical exclusion requires extraordinary circumstances review. Section 606 of HFRA provides:

(a) Definitions.—In this section:

(1) COVERED VEGETATION MANAGEMENT ACTIVITY.—

(a) IN GENERAL.—The term ‘covered vegetation management activity’ means any activity described in subparagraph (B) that—

- (i) (I) is carried out on public land administered by the Bureau of Land Management;
- (ii) with respect to public land, meets the objectives of the order of the Secretary of the Interior numbered 3336 and dated January 5, 2015;
- (iii) conforms to an applicable land use plan;
- (iv) protects, restores, or improves greater sage-grouse or mule deer habitat in a sagebrush steppe ecosystem as described in—

(I) Circular 1416 of the United States Geological Survey entitled ‘Restoration Handbook for Sagebrush Steppe Ecosystems with Emphasis on Greater Sage-Grouse Habitat—Part 1. Concepts for Understanding and Applying Restoration’ (2015);
or

(II) the habitat guidelines for mule deer published by the Mule Deer Working Group of the Western Association of Fish and Wildlife Agencies;

(v) will not permanently impair—

- (I) the natural state of the treated area;
- (II) outstanding opportunities for solitude;
- (III) outstanding opportunities for primitive, unconfined recreation;
- (IV) economic opportunities consistent with multiple-use management; or
- (V) the identified values of a unit of the National Landscape Conservation System;

- (vi)
 - (I) restores native vegetation following a natural disturbance;
 - (II) prevents the expansion into greater sage-grouse or mule deer habitat of—
 - (aa) juniper, pinyon pine, or other associated conifers; or
 - (bb) nonnative or invasive vegetation;
 - (III) reduces the risk of loss of greater sage-grouse or mule deer habitat from wildfire or any other natural disturbance; or
 - (IV) provides emergency stabilization of soil resources after a natural disturbance; and
- (vii) provides for the conduct of restoration treatments that—
 - (I) maximize the retention of old-growth and large trees, as appropriate for the forest type;
 - (II) consider the best available scientific information to maintain or restore the ecological integrity, including maintaining or restoring structure, function, composition, and connectivity;
 - (III) are developed and implemented through a collaborative process that—
 - (aa) includes multiple interested persons representing diverse interests; and
 - (bb)
 - (AA) is transparent and nonexclusive; or
 - (BB) meets the requirements for a resource advisory committee under subsections (c) through (f) of section 205 of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7125); and
 - (IV) may include the implementation of a proposal that complies with the eligibility requirements of the Collaborative Forest Landscape Restoration Program under section 4003(b) of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 7303(b)).

- (b) DESCRIPTION OF ACTIVITIES.—An activity referred to in subparagraph (A) is—
- (i) manual cutting and removal of juniper trees, pinyon pine trees, other associated conifers, or other nonnative or invasive vegetation;
 - (ii) mechanical mastication, cutting, or mowing, mechanical piling and burning, chaining, broadcast burning, or yarding;
 - (iii) removal of cheat grass, medusa head rye, or other nonnative, invasive vegetation;

- (iv) collection and seeding or planting of native vegetation using a manual, mechanical, or aerial method;
 - (v) seeding of nonnative, noninvasive, ruderal vegetation only for the purpose of emergency stabilization;
 - (vi) targeted use of an herbicide, subject to the condition that the use shall be in accordance with applicable legal requirements, Federal agency procedures, and land use plans;
 - (vii) targeted livestock grazing to mitigate hazardous fuels and control noxious and invasive weeds;
 - (viii) temporary removal of wild horses or burros in the area in which the activity is being carried out to ensure treatment objectives are met;
 - (ix) in coordination with the affected permit holder, modification or adjustment of permissible usage under an annual plan of use of a grazing permit issued by the Secretary concerned to achieve restoration treatment objectives;
 - (x) installation of new, or modification of existing, fencing or water sources intended to control use or improve wildlife habitat; or
 - (xi) necessary maintenance of, repairs to, rehabilitation of, or reconstruction of an existing permanent road or construction of temporary roads to accomplish the activities described in this subparagraph.
- (c) EXCLUSIONS.—The term ‘covered vegetation management activity’ does not include—
- (i) any activity conducted in a wilderness area or wilderness study area;
 - (ii) any activity for the construction of a permanent road or permanent trail;
 - (iii) any activity conducted on Federal land on which, by Act of Congress or Presidential proclamation, the removal of vegetation is restricted or prohibited;
 - (iv) any activity conducted in an area in which activities under subparagraph (B) would be inconsistent with the applicable resource management plan; or
 - (v) any activity conducted in an inventoried roadless area.
- (2) SECRETARY CONCERNED.—The term ‘Secretary concerned’ means—
- (B) the Secretary of the Interior, with respect to public land.
- (3) TEMPORARY ROAD.—The term ‘temporary road’ means a road that is—
- (a) authorized—
 - (i) by a contract, permit, lease, other written authorization; or
 - (ii) pursuant to an emergency operation;
 - (b) not intended to be part of the permanent transportation system of a Federal department or agency;

- (c) not necessary for long-term resource management;
 - (d) designed in accordance with standards appropriate for the intended use of the road, taking into consideration— (i) safety; (ii) the cost of transportation; and (iii) impacts to land and resources; and
 - (e) managed to minimize—
 - (i) erosion; and
 - (ii) the introduction or spread of invasive species.
- (b) Categorical Exclusion.—
- (1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary concerned shall develop a categorical exclusion (as defined in section 1508.4 of title 40, Code of Federal Regulations (or a successor regulation)) for covered vegetation management activities carried out to protect, restore, or improve habitat for greater sage-grouse or mule deer.
 - (2) ADMINISTRATION.—In developing and administering the categorical exclusion under paragraph (1), the Secretary concerned shall—
 - (a) comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);
 - (b) .
 - (c) with respect to public land, apply the extraordinary circumstances procedures under section 46.215 of title 43, Code of Federal Regulations (or successor regulations), in determining whether to use the categorical exclusion; and
 - (d) consider—
 - (i) the relative efficacy of landscape-scale habitat projects;
 - (ii) the likelihood of continued declines in the populations of greater sage-grouse and mule deer in the absence of landscape-scale vegetation management; and
 - (iii) the need for habitat restoration activities after wildfire or other natural disturbances.
- (c) Implementation Of Covered Vegetative Management Activities Within The Range Of Greater Sage-Grouse And Mule Deer.—If the categorical exclusion developed under subsection (b) is used to implement a covered vegetative management activity in an area within the range of both greater sage-grouse and mule deer, the covered vegetative management activity shall protect, restore, or improve habitat concurrently for both greater sage-grouse and mule deer.
- (d) Long-Term Monitoring And Maintenance.—Before commencing any covered vegetation management activity that is covered by the categorical exclusion under subsection (b), the Secretary concerned shall develop a long-term monitoring and maintenance plan, covering at least the 20-year period beginning on the date of commencement, to ensure that management of the treated area does not degrade the habitat gains secured by the covered vegetation management activity.
- (e) Disposal Of Vegetative Material.—Subject to applicable local restrictions, any vegetative material resulting from a covered vegetation management activity that is covered by the categorical exclusion under subsection (b) may be—
- (1) used for—
 - (a) fuel wood; or
 - (b) other products; or

- (2) piled or burned, or both.
- (f) Treatment For Temporary Roads.—
 - (1) IN GENERAL.—Notwithstanding subsection (a)(1)(B)(xi), any temporary road constructed in carrying out a covered vegetation management activity that is covered by the categorical exclusion under subsection (b)—
 - (a) shall be used by the Secretary concerned for the covered vegetation management activity for not more than 2 years; and
 - (b) shall be decommissioned by the Secretary concerned not later than 3 years after the earlier of the date on which—
 - (i) the temporary road is no longer needed; and
 - (ii) the project is completed.
 - (2) REQUIREMENT.—A treatment under paragraph (1) shall include reestablishing native vegetative cover—
 - (a) as soon as practicable; but
 - (b) not later than 10 years after the date of completion of the applicable covered vegetation management activity.
- (g) Limitations.—
 - (1) PROJECT SIZE.—A covered vegetation management activity that is covered by the categorical exclusion under subsection (b) may not exceed 4,500 acres.

BLM Statutory CEs

In addition to the CEs listed in BLM’s Departmental Manual Chapter, the BLM has the following statutory CEs:

The Infrastructure Investment and Jobs Act (Pub.L. 117-58) established two categories of action excluded from NEPA. Section 11318 exempts from NEPA 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. 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, as described below.

Section 11318, Certain gathering lines located on Federal land and Indian land, of the Infrastructure Investment and Jobs Act provides:

- (b) 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; and
 - (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.
 - (B) Inclusions.--The term "gathering line and associated field compression or pumping unit" includes a pipeline 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.
- (h) 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—

(D) 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;

(E) are located adjacent to or within—

(i) any existing disturbed area; or

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

(F) 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—

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

(D) 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).

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

(1) affects or alters any requirement—

(D) 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");

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

(F) 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.

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.

National Park Service

Part 516 Chapter 12: Managing the NEPA Process

12.5 Categorical Exclusions. In addition to the actions listed in the Departmental categorical exclusions in Appendix 1 of 516 DM 2, many of which the Service also performs, the following

NPS actions are designated categorical exclusions unless the action qualifies as an exception under Appendix 2 to 516 DM 2.

A. Actions Related to General Administration.

- (1) Changes or amendments to an approved action when such changes would cause no or only minimal environmental impact.
- (2) Land and boundary surveys,
- (3) Minor boundary changes,
- (4) Reissuance/renewal of permits, rights-of-way or easements not involving new environmental impacts,
- (5) Conversion of existing permits to rights-of-way, when such conversions do not continue or initiate unsatisfactory environmental conditions,
- (6) Issuances, extensions, renewals, reissuances or minor modifications of concession contracts or permits not entailing new construction,
- (7) Commercial use licenses involving no construction,
- (8) Leasing of historic properties in accordance with 36 CFR Part 18 and NPS-38,
- (9) Preparation and issuance of publications,
- (10) Modifications or revisions to existing regulations, or the promulgation of new regulations for NPS-administered areas, provided the modifications, revisions or new regulations do not:
 - (a) Increase public use to the extent of compromising the nature and character of the area or causing physical damage to it,
 - (b) Introduce noncompatible uses which might compromise the nature and characteristics of the area, or cause physical damage to it,
 - (c) Conflict with adjacent ownerships or land uses, or
 - (d) Cause a nuisance to adjacent owners or occupants.
- (11) At the direction of the NPS responsible official, actions where NPS has concurrence or coapproval with another bureau and the action is a categorical exclusion for that bureau.

B. Plans, Studies and Reports.

- (1) Changes or amendments to an approved plan, when such changes would cause no or only minimal environmental impact.

- (2) Cultural resources maintenance guides, collection management plans and historic furnishings reports.
- (3) Interpretive plans (interpretive prospectuses, audio-visual plans, museum exhibit plans, wayside exhibit plans).
- (4) Plans, including priorities, justifications and strategies, for non-manipulative research, monitoring, inventorying and information gathering.
- (5) Statements for management, outlines of planning requirements and task directives for plans and studies.
- (6) Technical assistance to other Federal, State and local agencies or the general public.
- (7) Routine reports required by law or regulation.
- (8) Authorization, funding or approval for the preparation of Statewide Comprehensive Outdoor Recreation Plans.
- (9) Adoption or approval of surveys, studies, reports, plans and similar documents which will result in recommendations or proposed actions which would cause no or only minimal environmental impact.
- (10) Preparation of internal reports, plans, studies and other documents containing recommendations for action which NPS develops preliminary to the process of preparing a specific Service proposal or set of alternatives for decision.
- (11) Land protection plans which propose no significant change to existing land or visitor use.
- (12) Documents which interpret existing mineral management regulations and policies, and do not recommend action.

C. Actions Related to Development.

- (1) Land acquisition within established park boundaries.
- (2) Land exchanges which will not lead to significant changes in the use of land.
- (3) Routine maintenance and repairs to non-historic structures, facilities, utilities, grounds and trails.
- (4) Routine maintenance and repairs to cultural resource sites, structures, utilities and grounds under an approved Historic Structures Preservation Guide or Cyclic

Maintenance Guide; or if the action would not adversely affect the cultural resource.

- (5) Installation of signs, displays, kiosks, etc.
- (6) Installation of navigation aids.
- (7) Establishment of mass transit systems not involving construction, experimental testing of mass transit systems, and changes in operation of existing systems (e.g., routes and schedule changes).
- (8) Replacement in kind of minor structures and facilities with little or no change in location, capacity or appearance.
- (9) Repair, resurfacing, striping, installation of traffic control devices, repair/replacement of guardrails, etc., on existing roads.
- (10) Sanitary facilities operation.
- (11) Installation of wells, comfort stations and pit toilets in areas of existing use and in developed areas.
- (12) Minor trail relocation, development of compatible trail networks on logging roads or other established routes, and trail maintenance and repair.
- (13) Upgrading or adding new overhead utility facilities to existing poles, or replacement poles which do not change existing pole line configurations.
- (14) Issuance of rights-of-way for overhead utility lines to an individual building or well from an existing line where installation will not result in significant visual intrusion and will involve no clearance of vegetation other than for placement of poles.
- (15) Issuance of rights-of-way for minor overhead utility lines not involving placement of poles or towers and not involving vegetation management or significant visual intrusion in an NPS-administered area.
- (16) Installation of underground utilities in previously disturbed areas having stable soils, or in an existing utility right-of-way.
- (17) Construction of minor structures, including small improved parking lots, in previously disturbed or developed areas.

- (18) Construction or rehabilitation in previously disturbed or developed areas, required to meet health or safety regulations, or to meet requirements for making facilities accessible to the handicapped.
- (19) Landscaping and landscape maintenance in previously disturbed or developed areas.
- (20) Construction of fencing enclosures or boundary fencing posing no effect on wildlife migrations.

D. Actions Related to Visitor Use.

- (1) Carrying capacity analysis.
- (2) Minor changes in amounts or types of visitor use for the purpose of ensuring visitor safety or resource protection in accordance with existing regulations.
- (3) Changes in interpretive and environmental education programs.
- (4) Minor changes in programs and regulations pertaining to visitor activities.
- (5) Issuance of permits for demonstrations, gathering, ceremonies, concerts, arts and crafts shows, etc., entailing only short-term or readily mitigable environmental disturbance.
- (6) Designation of trail side camping zones with no or minimal improvements.

E. Actions Related to Resource Management and Protection.

- (1) Archeological surveys and permits involving only surface collection or small-scale test excavations.
- (2) Day-to-day resource management and research activities.
- (3) Designation of environmental study areas and research natural areas.
- (4) Stabilization by planting native plant species in disturbed areas.
- (5) Issuance of individual hunting and/or fishing licenses in accordance with State and Federal regulations.
- (6) Restoration of noncontroversial native species into suitable habitats within their historic range and elimination of exotic species.

- (7) Removal of park resident individuals of non-threatened/endangered species which pose a danger to visitors, threaten park resources or become a nuisance in areas surrounding a park, when such removal is included in an approved resource management plan.
- (8) Removal of non-historic materials and structures in order to restore natural conditions.
- (9) Development of standards for, and identification, nomination, certification and determination of eligibility of properties for listing in the National Register of Historic Places and the National Historic Landmark and National Natural Landmark Programs.

F. Actions Related to Grant Programs.

- (1) Proposed actions essentially the same as those listed in paragraphs A-E above.
- (2) Grants for acquisition of areas which will continue in the same or lower density use with no additional disturbance to the natural setting.
- (3) Grants for replacement or renovation of facilities at their same location without altering the kind and amount of recreational, historical or cultural resources of the area; or the integrity of the existing setting.
- (4) Grants for construction of facilities on lands acquired under a previous NPS or other Federal grant provided that the development is in accord with plans submitted with the acquisition grant.
- (5) Grants for the construction of new facilities within an existing park or recreation area, provided that the facilities will not:
 - (a) Conflict with adjacent ownerships or land use, or cause a nuisance to adjacent owners or occupants; e.g., extend use beyond daylight hours;
 - (b) Introduce motorized recreation vehicles;
 - (c) Introduce active recreation pursuits into a passive recreation area;
 - (d) Increase public use or introduce noncompatible uses to the extent of compromising the nature and character of the property or causing physical damage to it; or
 - (e) Add or alter access to the park from the surrounding area.
- (6) Grants for the restoration, rehabilitation, stabilization, preservation and reconstruction (or the authorization thereof) of properties listed on or eligible for listing on the National Register of Historic Places at their same location and provided that such actions:
 - (a) Will not alter the integrity of the property or its setting;

- (b) Will not increase public use of the area to the extent of compromising the nature and character of the property; and
- (c) Will not cause a nuisance to adjacent property owners or occupants.

Office of Surface Mining

Part 516 Chapter 13: Managing the NEPA Process

13.5 Categorical Exclusions.

A. The following OSM actions are deemed not to be major Federal actions within the meaning of Section 102(2)(C) of NEPA under Sections 501(a) or 702(d) of the SMCRA. ...:

- (1) Promulgation of interim regulations.
- (2) Approval of State programs.
- (3) Promulgation of Federal programs where a State fails to submit, implement, enforce, or maintain an acceptable State program.
- (4) Promulgation and implementation of the Federal lands program.

B. ...the following OSM actions (SMCRA sections are in parentheses) are designated categorical exclusions...:

- (1) Monetary allotments to States for mining and mineral resources institutes (301).
- (2) Allocation of research funds to institutes (302).
- (3) Any research effort associated with ongoing abandoned mine land reclamation projects where the research is coincidental to the reclamation (401(c)(6)).
- (4) Collection of reclamation fees from operators (402(a)).
- (5) Findings of fact and entries on land adversely affected by past coal mining (407(a)).
- (6) Acquisition of particular parcels of abandoned mine lands for reclamation (407(c)).
- (7) Filing liens against property adversely affected by past coal mining (408).
- (8) Interim regulatory grants (502(e)(4)).
- (9) Disapproval of a proposed State program (503(c)).
- (10) Review of permits issued under a previously approved State program (504(d)).

- (11) Five-year permit renewal on life-of-mine plans under the Federal lands program or the Federal program for a State where the environmental impacts of continued mining are adequately analyzed in a previous environmental document for the mining operation (506(d)).
- (12) Small operator assistance program (507(c)).
- (13) Issuance of public notices and holding public hearings on permit applications involving Federal lands or under a Federal program for a State (513).
- (14) Routine inspection and enforcement activities (517).
- (15) Conflict of interest regulations (517(g)).
- (16) Assessment of civil penalties (518).
- (17) Releases of performance bonds or deposits for mining on Federal lands or under a Federal program for a State (519).
- (18) Issuance of cessation orders for coal mining and reclamation operations (521(a)(2) and (3)).
- (19) Suspension or revocation of permits (521(a)(4)).
- (20) Federal oversight and enforcement of ineffective State programs (521(b)).
- (21) Cooperative agreements between a state and the Secretary to provide for State regulation of surface coal mining and reclamation operations on Federal lands (523(c)).
- (22) Development of a program to assure that, with respect to the granting of permits, leases, or contracts for Federally-owned coal, no one shall be unreasonably denied purchase of the mined coal (523(d)).
- (23) Annual grants programs to States for program development, administration, and enforcement (705(a)).
- (24) Assistance to States in the development, administration, and enforcement of State programs (705(b)).
- (25) Increasing the amount of annual grants to States (705(c)).
- (26) Submission of the Secretary's annual report to the Congress (706).

- (27) The proposal of legislation to allow Indian tribes to regulate surface coal mining on Indian lands (710(a)).
- (28) The certification and training of blasters (719).
- (29) Approval of State Reclamation Plans for abandoned mine lands (405).
- (30) Development of project proposals for AML grants, including field work only to the extent necessary for the preparation and design of the proposal.
- (31) Use of AML funds to allow States or tribes to set aside State share funds in a special trust for future AML projects.
- (32) Use of AML funds in an insurance pool for the purposes of compensation for damage caused by mining prior to the date of the Act.
- (33) AML reclamation projects involving: No more than 100 acres; no hazardous wastes; no explosives; no hazardous or explosive gases; no dangerous impoundments; no mine fires and refuse fires; no undisturbed, noncommercial borrow or disposal sites, no dangerous slides where abatement has the potential for damaging inhabited property; no subsidences involving the placement of material into underground mine voids through drilled holes to address more than one structure, and no unresolved issues with agencies, persons, or groups or adverse effects requiring specialized mitigation. Departmental exceptions in 516 DM 2, Appendix 2 apply to this exclusion. All sites considered in this categorical exclusion would have to first meet the eligibility test in sections 404, 409 and 411 of SMCRA. Also projects that have been declared an emergency pursuant to section 410 of SMCRA, may be candidates for this exclusion.

Bureau of Reclamation

Part 516 Chapter 14: Managing the NEPA Process

14.5 Categorical Exclusions.

A. General Activities.

- (1) Changes in regulations or policy directives and legislative proposals where the impacts are limited to economic and/or social effects.
- (2) Training activities of enrollees assigned to the various youth programs. Such training may include minor construction activities for other entities.

- (3) Research activities, such as nondestructive data collection and analysis, monitoring, modeling, laboratory testing, calibration, and testing of instruments or procedures and nonmanipulative field studies.

B. Planning Activities.

- (1) Routine planning investigation activities where the impacts are expected to be localized, such as land classification surveys, topographic surveys, archeological surveys, wildlife studies, economic studies, social studies, and other study activity during any planning, preconstruction, construction, or operation and maintenance phases.
- (2) Special, status, concluding, or other planning reports that do not contain recommendations for action, but may or may not recommend further study.
- (3) Data collection studies that involve test excavations for cultural resources investigations or test pitting, drilling, or seismic investigations for geologic exploration purposes where the impacts will be localized.

C. Project Implementation Activities.

- (1) Classification and certification of irrigable lands.
- (2) Minor acquisition of land and rights-of-way or easements.
- (3) Minor construction activities associated with authorized projects which correct unsatisfactory environmental conditions or which merely augment or supplement, or are enclosed within existing facilities.
- (4) Approval of land management plans where implementation will only result in minor construction activities and resultant increased operation and maintenance activities.

D. Operation and Maintenance Activities.

- (1) Maintenance, rehabilitation, and replacement of existing facilities which may involve a minor change in size, location, and/or operation.
- (2) Transfer of the operation and maintenance of Federal facilities to water districts, recreation agencies, fish and wildlife agencies, or other entities where the anticipated operation and maintenance activities are agreed to in a contract or a memorandum of agreement, follow approved Reclamation policy, and no major change in operation and maintenance is anticipated.
- (3) Administration and implementation of project repayment and water service contracts, including approval of organizational or other administrative changes in

contracting entities brought about by inclusion or exclusion of lands in these contracts.

- (4) Approval, execution, and implementation of water service contracts for minor amounts of long-term water use or temporary or interim water use where the action does not lead to long-term changes and where the impacts are expected to be localized.
- (5) Approval of changes in pumping power and water rates charged contractors by the Bureau for project water service or power.
- (6) Execution and administration of recordable contracts for disposal of excess lands.
- (7) Withdrawal, termination, modification, or revocation where the land would be opened to discretionary land laws and where such future discretionary actions would be subject to the NEPA process, and disposal and sale of acquired lands where no major change in usage is anticipated.
- (8) Renewal of existing grazing, recreation management, or cabin site leases which do not increase the level of use or continue unsatisfactory environmental conditions.
- (9) Issuance of permits for removal of gravel or sand by an established process from existing quarries.
- (10) Issuance of permits, licenses, easements, and crossing agreements which provide right-of-way over Bureau lands where the action does not allow for or lead to a major public or private action.
- (11) Implementation of improved appearance and soil and moisture conservation programs where the impacts are localized.
- (12) Conduct of programs of demonstration, educational, and technical assistance to water user organizations for improvement of project and on-farm irrigation water use and management.
- (13) Follow-on actions such as access agreements, contractual arrangements, and operational procedures for hydropower facilities which are on or appurtenant to Bureau facilities or lands which are permitted or licensed by the Federal Energy Regulatory Commission (FERC), when FERC has accomplished compliance with NEPA (including actions to be taken by the Bureau) and when the Bureau's environmental concerns have been accommodated in accordance with the Bureau/FERC Memorandum of Understanding of June 22, 1981.

- (14) Approval, renewal, transfer, and execution of an original, amendatory, or supplemental water service or repayment contract where the only result will be to implement an administrative or financial practice or change.
- (15) Approval of second party water sales agreements for small amounts of water (usually less than 10 acre-feet) where the Bureau has an existing water sales contract in effect.
- (16) Approval and execution of contracts requiring the repayment of funds furnished or expended on behalf of an entity pursuant to the Emergency Fund Act of June 26, 1948 (43 U.S.C. 502), where the action taken is limited to the original location of the damaged facility.
- (17) Minor safety of dams construction activities where the work is confined to the dam, abutment areas, or appurtenant features, and where no major change in reservoir or downstream operation is anticipated as a result of the construction activities.

E. Grant and Loan Activities.

- (1) Rehabilitation and Betterment Act loans and contracts which involve repair, replacement, or modification of equipment in existing structures or minor repairs to existing dams, canals, laterals, drains, pipelines, and similar facilities.
- (2) Small Reclamation Projects Act grants and loans where the work to be done is confined to areas already impacted by farming or development activities, work is considered minor, and where the impacts are expected to be localized.
- (3) Distribution System Loans Act loans where the work to be done is confined to areas already impacted by farming or developing activities, work is considered minor, and where the impacts are expected to be localized.

F. Title Transfer Activities

- (1) Transfer from Federal ownership of facilities and/or interest in lands to a qualifying entity where there are no competing demands for use of the facilities; where the facilities are not hydrologically integrated; where, at the time of transfer, there would be no planned change in land or water use, or in operation, or maintenance of the facilities; and where the transfer would be consistent with the Secretary's responsibilities, including but not limited to existing contracts or agreements, the protection of land resources and water rights held in trust for federally recognized Indian tribes and Indian individuals, and ensuring compliance with international treaties and interstate compacts.

Minerals Management Service

Categorical exclusions used by the Bureau of Ocean Energy Management (BOEM) and Bureau of Safety and Environmental Enforcement (BSEE), formerly Minerals Management Service (MMS).

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15.4 Categorical Exclusions.

A. General.

- (1) Inventory, data, and information collection, including the conduct of environmental monitoring and nondestructive research programs.
- (2) Actions for which MMS has concurrence or co-approval with another Bureau if the action is a categorical exclusion for that Bureau.

B. Internal Program Initiatives.

- (1) All resource evaluation activities including surveying, mapping, and geophysical surveying which do not use solid or liquid explosives.
- (2) Collection of geologic data and samples including geologic, paleontologic, mineralogic, geochemical, and geophysical investigations which does not involve drilling beyond 50 feet of consolidated rock or beyond 300 feet of unconsolidated rock, including contracts therefor.
- (3) Acquisition of existing geological or geophysical data from otherwise private exploration ventures.
- (4) Well logging, digital modeling, inventory of existing wells, and installation of recording devices in wells.
- (5) Establishment and installation of any research/monitoring devices.
- (6) Test or exploration drilling and downhole testing included in a project previously subject to the NEPA process.
- (7) Insignificant revisions to the approved 5-year leasing program.
- (8) Prelease planning steps such as the Call for Information and Area Identification.

C. Permit and Regulatory Functions.

- (1) Issuance and modification of regulations, Orders, Standards, Notices to Lessees and Operators. Guidelines and field rules for which the impacts are limited to administrative, economic, or technological effects and the environmental impacts are minimal.
- (2) Approval of production measurement methods, facilities, and procedures.
- (3) Approval of off-lease storage in existing facilities.
- (4) Approval of unitization agreements, pooling, or communitization agreements.
- (5) Approval of commingling of production.
- (6) Approval of suspensions of operations and suspensions of production.
- (7) Approval of lease consolidation applications, lease assignments or transfers, operating rights, operating agreements, lease extensions, lease relinquishments, and bond terminations.
- (8) Administration decisions and actions and record keeping such as:
 - (a) Approval of applications for pricing determinations under the Natural Gas Policy Act.
 - (b) Approval of underground gas storage agreements from a presently or formerly productive reservoir.
 - (c) Issuance of paying well determinations and participating area approvals.
 - (d) Issuance of drainage determinations.
- (9) Approval of offshore geological and geophysical mineral exploration activities, except when the proposed activity includes the drilling of deep stratigraphic test holes or uses solid or liquid explosives.
- (10) Approval of an offshore lease or unit exploration. development/production plan or a Development Operation Coordination Document in the central or western Gulf of Mexico (30 CFR 250.2) except those proposing facilities: (1) In areas of high seismic risk or seismicity, relatively untested deep water, or remote areas, or (2) within the boundary of a proposed or established marine sanctuary, and/or within or near the boundary of a proposed or established wildlife refuge or areas of high biological sensitivity; or (3) in areas of hazardous natural bottom conditions; or (4) utilizing new or unusual technology.
- (11) Approval of minor revisions of or minor variances from activities described in an approved offshore exploration or development/production plan, including pipeline applications.

- (12) Approval of an Application for Permit to Drill (APD) an offshore oil and gas exploration or development well, when said well and appropriate mitigation measures are described in an approved exploration plan, development plan, production plan, or Development Operations Coordination Document.
- (13) Preliminary activities conducted on a lease prior to approval of an exploration or development/production plan or a Development Operations Coordination Plan. These are activities such as geological, geophysical, and other surveys necessary to develop a comprehensive exploration plan, development/production plan, or Development Operations Coordination Plan.
- (14) Approval of Sundry Notices and Reports on Wells.
- (15) Rights-of-ways, easements, temporary use permits, and any revisions thereto that do not result in a new pipeline corridor to shore.

D. Royalty Functions. All functions of the Associate Director for Royalty Management including, but not limited to, such activities as: approval of royalty payment procedures, including royalty oil contracts; and determinations concerning royalty quantities and values, such as audits, royalty reductions, collection procedures, reporting procedures, and any actions taken with regard to royalty collections (including similar actions relating to net profit and windfall profit taxes).