

A large flock of white swans is shown in flight over a body of water. The swans are densely packed in the sky, with many more visible in the foreground and middle ground. The water is dark, and the background shows a hazy, distant landscape under a clear blue sky. The overall scene is dynamic and captures a massive migration or gathering of birds.

Proposed Plan/Final EIS and ROD

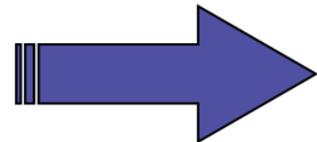
Objectives

- Develop and describe a process for selecting a Proposed Plan.
- Outline the key contents of a Proposed Plan/Final EIS.
- Write an effective decision taking into account public comments.



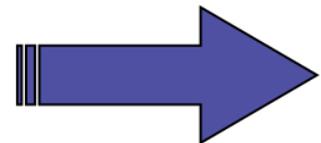
Approach to Turning a Preferred Plan into a Proposed Plan

- Review the preferred alternative in the Draft RMP/EIS and list reasons it was preferred.
- Review and evaluate substantive comments.
- Involve cooperating agencies and other partners.
- Address internal BLM input.
- Consider results of interagency consultations (e.g., biological opinion).
- Modify the preferred alternative and present rationale for doing so.



Approach to Turning a Preferred Plan into a Proposed Plan (Cont.)

- Ensure Proposed Plan was adequately evaluated in Draft EIS (mix and match OK).
- Consider the policy objectives in FLPMA and NEPA.
- Apply best professional judgment based on knowledge of on-the-ground resources.



Approach to Turning a Preferred Plan into a Proposed Plan (Cont.)



- Explain the rationale for each component of Proposed Plan.
- Ensure plan goals, objectives, and management actions and allocations are supported by evidence in the administrative record.
- Brief congressional delegation.

Proposed Plan vs. Draft Plan

■ Proposed Plan/Final EIS

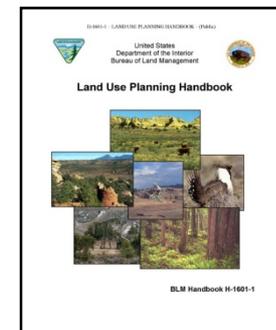
- Preferred Alternative is modified
- Abbreviated Final ok if just minor edits.
- Final RMP and EIS are combined.
- Can be protested.

■ Draft Plan/EIS

- Range of alternatives treated equally.
- Draft RMP and EIS are combined into one document.
- Cannot be protested.

Plan Decisions and Implementation Decisions in RMP

- Plan decisions provide general management policy to guide future actions, set standards for future site-specific actions, and allocate lands for specific uses.
- Implementation plan decisions are more site-specific and require no further NEPA analysis prior to the action occurring.
- Both are components of an alternative, but they must be clearly differentiated because administrative remedy (protest or appeal) is different.
- BLM Planning Handbook, page 30



Contents of Proposed Plan/Final EIS

- Follows same format of Draft EIS: republish entire document with changes made in response to public comments.

Includes:

- “Dear Reader” Letter (with protest procedures)
- Copies of substantive comments received
- Responses to substantive comments by topic
- May incorporate by reference unchanged appendices from draft
- Summarize changes from draft RMP/EIS
- FOIA privacy issue (BLM Planning Handbook, page 4)

Internal Review

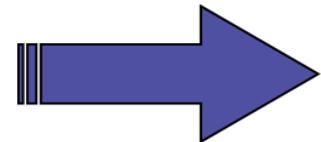
- BLM must independently review consultant and partner products.
- Consider pros and cons of letting partners and cooperating agencies participate in the review.
- Be aware of FOIA issues.
- Include time for BLM state office and Washington office reviews and briefings.
- Consider briefing your Congressional delegation.

Issuance of Proposed Plan/Final EIS

- Proposed Plan/Final EIS must be sent to
 - Federal agencies with jurisdiction or expertise
 - Collaborators
 - Persons requesting to be notified
 - Persons who submitted comments
- EPA review of Proposed Plan/Final EIS
- Federal Register Notice of Availability of Proposed Plan/Final EIS

Governor's Consistency Review BLM Planning Regulations Requirements

- 60-day review of Proposed Plan/Final EIS
- Governor must identify inconsistencies with state or local plans, policies, or programs.
- BLM state director considers governor's comments.
- BLM state director must notify governor if comments not accepted.
- BLM Planning Handbook, Appendix E



Governor's Consistency Review

BLM Planning Regulations Requirements

(Cont.)

- Governor has 30 days to appeal to BLM director.
- BLM director must balance national and state interests.
- BLM director must inform governor in writing.
- BLM director must publish reasons in Federal Register.
- Early collaboration with governor's office to avoid surprises.



Protests and Their Resolution

- A protest is a “pre-decisional appeal”.
- Protest period—within 30 days of Federal Register Notice.
- You must have “standing” in order to protest.
- Protests must be submitted in writing.
- Protests are made to BLM director for resolution.
- State and national BLM offices work with field office to resolve protests.

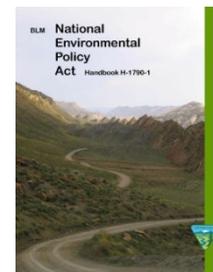
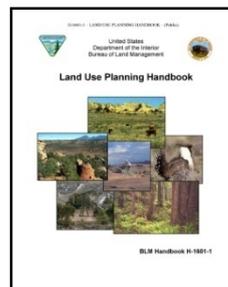
Effect of Consistency Review and Protests

- Based on governor's consistency review or protests, BLM director may:
 - Withhold approval of protested portion (if severable).
 - Deny appeal or protest, in whole or in part.
 - Return the RMP, in whole or in part, to state office for further clarification/consideration.
 - Change RMP proposed management decisions, in whole or in part.

- Substantial changes to an RMP can trigger an additional 30-day public review period (not common).

Required Contents of a Record of Decision

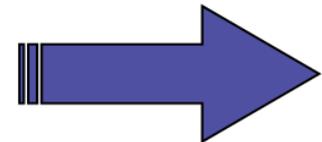
- Statement explaining decision
- Alternatives considered, including the environmentally preferred alternative
- Factors considered by agency
- BLM Planning Handbook, Appendix F-5



**BLM NEPA Handbook Section 9.7,
CEQ NEPA Regulations 40 CFR 1505.2**

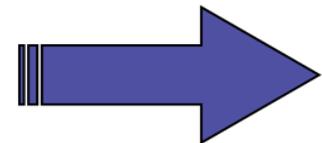
Appeals of Implementation Decisions

- Generally appealable to IBLA
 - Note: some program-specific guidance provides for a protest process prior to final decision and IBLA appeal.
- Most of the BLM decisions that implement provisions of the land use plan may be appealed to IBLA.
- Standing:
 - Any party adversely affected by BLM's decision has the right to appeal.
 - Party must transmit a Notice of Appeal within 30 days after the final decision is in effect.



Appeals of Implementation Decisions (Cont.)

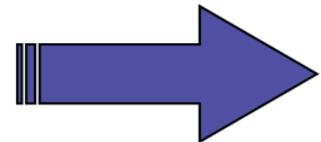
- Statement of Reasons, including a statement of standing, must be filed within 30 days after the Notice of Appeal.
- The appellant must file proof of that service with IBLA within 15 days after the Statement of Reasons is filed.
- Factors IBLA considers in accepting an appeal
 - Was the Notice of Appeal filed in a timely manner with the proper office?
 - Is the appellant a party to the case and adversely affected by the decision being appealed?



Appeals of Implementation Decisions (Cont.)

- The IBLA Decision specifies whether the BLM:
 - followed applicable laws and regulations,
 - adhered to established policies and procedures, and
 - considered relevant information in reaching a decision.

- An implementation decision will not be effective or implemented during the 30-day appeal period, but IBLA or the Director of the Office of Hearings and Appeals can put the decision into full force and effect immediately when the public interest requires.



Appeals of Implementation Decisions (Cont.)

- Implementation decision becomes effective on the day after the 30-day appeal period expires (unless a petition for a stay is filed with Notice of Appeal).
- A decision, or portion of a decision, for which a petition for stay is filed with IBLA is effective if...
 - The IBLA denies or partially denies the petition for a stay, or
 - The IBLA fails to act on the petition within 45 calendar days after expiration of the 30-day appeal period.

Contents of an Approved Plan

- Changes from governor's consistency review
- Changes from resolved protests
- BLM Planning Handbook, Appendix F-5



Notification of an Approved Plan

- Public notice of Approved Plan
 - Press release
 - Internet notification
 - Other

