

NEPA: Categorical Exclusions

Course #1620-12

Participant Guide

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Tips for Taking an Online Course

Benefits to Online Learning

- You have control over the learning environment.
- You have control over the day and time of day you take the class.
- You have control over how long you participate at one sitting.
- You have control with whom you participate.

Disadvantages to Online Learning

- You can't interact with the instructors in real time (but you can contact them, see their contact information under the Resources tab on the left side of your screen).

Learning Environment

- If you're taking this course with a group of people, then you're probably in a conference room.
- If you're taking this course alone, then you're probably at your desk or in a library or at home.
- Let others know you are taking a class and are not to be disturbed.
- Turn off your cell phone and other distractions.
- Put up a Do Not Disturb sign (although this would be a little odd if you're in a library or coffee shop).
- Get comfortable.
- Make sure you can see and hear the screen.
- Use headphones if you're in a place where you don't want to disturb others.
- Keep side conversations to a minimum if you're watching with a group of people. You may not be interested, but the person next to you might be, so shhhhhhh.
- Pick a day and a time of day when you are fresh and alert.
- If you miss something, stop the video and watch it again.
- If you need to think about something, stop the video and think about it.
- If you need to talk about what you heard with someone, stop the video and talk about it.
- That's the beauty of online learning – you have control! (see Benefits, above)

Course Materials

- Participant Guide
- 2008 BLM NEPA Handbook (H-1790-1) You can download a copy of the Handbook by going to the Resources tab on the left of your screen.
- Something to write with.

Course Outline

Introduction

Summary

Course Objectives

Upon completion of this course, the participant should be able to:

Determine whether an action is categorically excluded from NEPA.

Document the categorical exclusion.

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Departmental Categorical Exclusions

The following actions are categorical exclusions (CXs) pursuant to 516 DM 2, Appendix 1. However, individual actions must be subjected to sufficient review to determine if any of the extraordinary circumstances listed in **Appendix 5, *Categorical Exclusions: Extraordinary Circumstances*** apply. If any of the extraordinary circumstances apply, an EA or an EIS must be prepared. In addition, see **Appendix 4, *BLM Categorical Exclusions*** for a list of BLM excludable activities.

1.1 Personnel actions and investigations and personnel services contracts.

1.2 Internal organizational changes and facility and office reductions and closings.

1.3 Routine financial transactions including such things as salaries and expenses, procurement contracts (in accordance with applicable procedures and Executive Orders for sustainable or green procurement), guarantees, financial assistance, income transfers, audits, fees, bonds, and royalties.

1.4 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).

1.5 Reserved.

1.6 Nondestructive data collection, inventory (including field, aerial, and satellite surveying and mapping), study, research, and monitoring activities.

1.7 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).

1.8 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.)

1.9 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.

1.10 Policies, directives, regulations, and guidelines that are of an administrative, financial, legal, technical, or procedural nature and 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.

1.11 Activities which are educational, informational, advisory, or consultative to other agencies, public and private entities, visitors, individuals, or the general public.

1.12 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: Shall be limited to areas (1) in wildland–urban interface and (2) Condition Classes 2 or 3 in Fire Regime Groups I, II, or III, outside the wildland–urban interface; 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;” Shall be conducted consistent with agency and Departmental procedures and applicable land and resource management plans; Shall not be conducted in wilderness areas or impair the suitability of wilderness study areas for preservation as wilderness; 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.

1.13 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: Shall be conducted consistent with agency and Departmental procedures and applicable land and resource management plans; Shall not include the use of herbicides or pesticides or the construction of new permanent roads or other new permanent infrastructure; and Shall be completed within three years following a wildland fire.

Exercise 1: Purpose and Need

Open the BLM NEPA Handbook to Section 6.2 to do this exercise. The instructor will review two purpose and need statements, and then it will be your turn.

Example 1: The purpose and need for BLM action is to provide energy to the west coast.

- Is it clear what the purpose is?
- Is it clear what the need is?
- Is it specific enough to guide development of a range of alternatives?
- Is it unreasonably narrow? Does it rig the process so only the preferred alternative can be selected?

Example 2: The purpose for action is to provide access for a natural gas transmission pipeline from source fields in Pinedale, Wyoming to southern California in a manner that protects the natural resources of public lands and prevents unnecessary or undue degradation. The need for action is established by the FLPMA direction to respond to the right-of-way request and to grant rights-of-way to qualified individuals.

- Is it clear what the purpose is?
- Is it clear what the need is?
- Is it specific enough to guide development of a range of alternatives?
- Is it unreasonably narrow? Does it rig the process so only the preferred alternative can be selected?

Exercise 1: Purpose and Need (continued)

Now it's your turn!

1. Get out the EA or EIS you brought and look at the purpose and need.

- Is it clear what the purpose is?
- Is it clear what the need is?
- Is it specific enough to guide development of a range of alternatives?
- Is it unreasonably narrow? Does it rig the process so only the preferred alternative can be selected?
- How does it measure up to the Handbook guidance?

2. Rewrite the purpose and need so it is consistent with the Handbook. You can do this whether the EA/EIS is complete or not, it will be good practice!

3. The final step is to talk over your revised purpose and need with your favorite colleague or NEPA coordinator.

Scoping Example

While beginning to develop an EA for a special recreation permit for commercial rafting that would potentially affect arctic peregrine falcons, a Field Office in Alaska started the scoping process by posting a notice on the online NEPA Register, which is a publicly accessible website where notices about NEPA documents are posted.

Because the proposed action would potentially affect peregrine falcon, a BLM sensitive species, the office sent a mailing to several state natural resource agencies and the US Fish and Wildlife Service. The BLM was looking for information that could help with the effects analysis and other actions that could have a cumulative effect. A mailing was also sent to the mailing list maintained by the BLM field office, which includes local governments, individuals, and environmental groups.

Seven comment letters were received during the scoping period. The EA included a comment disposition table that identified comments from the letters, and how the comments were addressed in the EA. The Arctic Field Office staff has found the comment disposition table to be an excellent way to track comments and to ensure transparency in decision-making.

Once the Decision Record was signed, they included a notice in the online NEPA Register notifying the public that the process had concluded.

Questions to Ponder....

How does this compare to what you've done for your NEPA documents?

If you heard anything you might want to try during your next scoping process, jot it down here, so you don't forget.

Exercise 2: Issues

Here are some *bad* examples of “issues” taken from actual BLM documents.

Bad Issue 1: Wildlife

Bad Issue 2: Cultural Resources

Bad Issue 3: Soils

List a few reasons why these aren’t issue statements.

Here is the *less bad* version of the examples.

LessBad1: What are the effects of the proposed action on mountain goats?

LessBad2: What are the effects of prescribed fire on cultural resources?

LessBad3: How would logging affect soils?

Do you see why these are better examples that would more readily lend themselves to focus the analysis? There is still room for improvement.

Here is the *even better* version of the examples.

Better1: What are the effects of authorizing helicopter landings (for commercial guiding of back-country skiing) on mountain goat populations in the Haines block?

Better2: What are the effects of heat and char from the prescribed fire on the pictographs in Kokopelli Canyon?

Better3: How would compaction and erosion from road construction and ground-based harvest affect soil productivity?

Now it’s your turn!

1. Pause the video. Grab an EA or EIS you brought to class. Can you find the issues?
2. Which version do they resemble the most? The bad? The less bad? The better?
3. Now try to rewrite them like we just discussed. It’s ok if your NEPA document is already final, this exercise will give you valuable practice, with low risk for failure!

Try this exercise with some of your co-workers first, and then try a couple on your own.

Remember—the more examples you look at and the more practice you get, the better you will become at effectively writing issues.

Exercise 3: Proposed Action

Here is an excerpt of an actual proposed action. Follow along as the instructor “diagrams” this proposal, showing you the Who, What, How, When, and Where.

If you’re feeling confident, pause the video and try it yourself first; then compare your answer with the instructor’s.

BLM will issue a Special Recreation Permit to Yukon Quest International to conduct a sled dog race annually (up to 5 years). The race will occur on 34 miles of the Steese Trail within the Eastern Interior Field Office and trail users will be on the BLM portion of the Trail for 3 to 7 days beginning not earlier than February 1 and ending not later than March 15. The total number of trail users will range from 40 to 80 people (this includes staff as well as racers) and up to 400 dogs. Trail users will be on snowmachines and dog sleds.

Now it’s your turn!

1. Get out the EA or EIS that you brought (or grab one or two others) and look at the proposed action.
2. Does it specify Who? What? How? When? Where?
3. Now rewrite it so it includes all the parts. As with the other exercises, it’s ok if your NEPA document is final because it will provide you with low-risk practice!

Exercise 4: Connected, Cumulative, Similar Actions

Review the proposed action of a Special Recreation Permit for a dog sled race in Exercise 3. Review the following related actions. Are they CONNECTED, CUMULATIVE or SIMILAR? Explain your reasoning.

If you're feeling confident, pause the video and try it yourself first; then compare your answer with the instructor's.

1. A mining claimant requests a permit for an overland move of heavy equipment in winter over a portion of the Steese Trail to access his claim.

2. The Iditarod Trail Sled Dog Race occurs about 2 weeks later on portions of trails managed by an adjacent Field Office.

3. BLM must conduct trail maintenance to remove brush and tree overgrowth on the Steese Trail prior to the Yukon Quest International Race.

Exercise 5: Developing Alternatives

A range of reasonable alternatives is established by the purpose of and need for action. In this exercise, you will experience how a purpose and need statement shapes the alternatives.

Step 1: Pause the video and come up with at least 3 reasonable alternatives by which you could meet the purpose and need for action. Do this for both purpose and need statements.

Step 2: Play the video again and compare what you came up with to what we came up with.

Purpose and Need #1: The purpose and need for BLM action is to provide energy to the west coast.

Potential Alternatives:

- 1.
- 2.
- 3.

Purpose and Need #2: The purpose for action is to provide access for a natural gas transmission pipeline from source fields in Pinedale Wyoming to Southern California in a manner that protects the natural resources of public lands and prevents unnecessary or undue degradation. The need for action is established by the FLPMA direction to respond to the right-of-way request and to grant rights-of-way to qualified individuals.

Potential Alternatives:

- 1.
- 2.
- 3.

Exercise 6: Summary

As the instructors go through the summary, please take notes here...

<u>Proposed Action</u>	<u>Purpose and Need</u>
<u>Scoping</u>	<u>Issues</u>
<u>Alternatives</u>	<u>Internal vs External Proposed Actions</u>
<u>Affected Environment</u>	<u>Analyzing Effects</u>

Exercise 7: Bringing it Home

Think about what you learned over the past couple hours, the notes you took, and the tidbits you heard during the summary.

For the final exercise, first, write down 1 or 2 things you're going to do next week based on the new knowledge you acquired.

Based on what I just learned, next week I'm going to...

- 1.
- 2.

Second, write down what you're going to do differently in the NEPA process as a result of what you learned during this class. Think about each of the steps we went through. What do you work on most? What do you have the toughest time with? Where are you the weakest?

Be clear and complete so it will still make sense next week or next year. Take your time.

Based on what I just learned, next time I work on an EA or EIS, the new things I'm going to try are...

- 1.
- 2.
- 3.

Third, write down what else you need to improve your NEPA analysis. Is it clear direction from your supervisor? Focused training on a certain step? A shadow assignment? An ID Team meeting?

To improve my NEPA skills, I need...

- 1.
- 2.

Last step –

Email your answers to cathy_humphrey@blm.gov or fax them to 602-906-5619.

I'll keep your name separate from the answers. I'd just like to see where the greatest needs are and if we can help.

If you keep doing what you've always done, then you'll keep getting what you've always gotten.