

UNITED STATES DEPARTMENT OF THE INTERIOR
 BUREAU OF LAND MANAGEMENT
 WASHINGTON, D.C. 20240
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EMS TRANSMISSION 07/08/2015
 Instruction Memorandum No. 2015-119
 Expires: 09/30/2018

To: All Field Office Officials
 From: Assistant Director, Energy, Minerals, and Realty Management
 Subject: National Environmental Policy Act (NEPA) Review for Land Withdrawals

Program Area: Land Withdrawals.

Purpose: This Instruction Memorandum (IM) establishes the Bureau of Land Management's (BLM) policy for documenting environmental reviews for processing BLM and other Federal agency requests to make, modify, extend, or revoke land withdrawals pursuant to 43 CFR Part 2300.

Policy/Action: The implementing decision for a withdrawal is the Public Land Order (PLO) or Notice of Denial. Pursuant to Section 204(a) of the Federal Land Policy and Management Act, 43 U.S.C. 1714(a), the Secretary of the Interior is authorized to make, modify, extend, or revoke withdrawals. That authority may be delegated only to individuals in the Office of the Secretary who have been appointed by the President, by and with the advice and consent of the Senate. Therefore, it is neither necessary, nor appropriate for the applicant for a land withdrawal to provide a decision document.

43 CFR §2310.3-2(b)(3) states that environmental assessments (EA), environmental impact statements (EIS) or any other documents needed to meet National Environmental Policy Act (NEPA) requirements shall be provided by the applicant. If the NEPA review results in the development of an EIS, the BLM will prepare a proposed Record of Decision (ROD) for the Office of the Secretary. The proposed ROD will accompany the proposed PLO or Notice of Denial, the authorized officer's recommendation(s), and other required documents.

If the NEPA review results in the development of an EA (but not an EIS), the applicant agency and the BLM will jointly prepare a Finding of No Significant Impact (FONSI), which the BLM will sign. The FONSI will accompany the Authorized Officer's recommendation(s) and rationale for the Office of the Secretary.

If the BLM Authorized Officer determines that reliance upon a categorical exclusion in accordance with 516 DM 11.9 E (1, 2, or 3) is sufficient to constitute compliance with NEPA, that determination will be included in the case file.

Timeframe: This IM is effective immediately.

Budget Impact: This policy will have no effect on the BLM budget as it clarifies a process that is already practiced.

Background: Guidance found in BLM NEPA Handbook H-1790-1 under 8.5 (Release 1-1710) states, "While the NEPA does not require a specific decision document regarding actions for which an EA has been completed, the BLM has chosen to use the "decision record" to document the decision regarding the action for which the EA was completed." Under the EIS section found in H-1790-1.9.7, a Record of Decision is required and must be signed by the decision maker. In the past, applicants for land withdrawals were providing decision documents in support of their applications. In the case of a land withdrawal, that decision, regardless of the level of NEPA analysis conducted, rests with the Secretary of the Interior pursuant to the Federal Land Policy and Management Act.

Manual/Handbook Sections Affected: None.

Coordination: The Division of Lands, Realty, and Cadastral Survey (WO-350) coordinated preparation of this IM with the Division of Decision Support, Planning and NEPA (WO-210), the Office of the Solicitor, and the USDA Forest Service.

Contacts: If you have any questions concerning the content of this IM, please contact me at 202-208-4201, or your staff may contact Donald Buhler, Branch Chief, Division of Lands, Realty, and Cadastral Survey (WO-350) at 202-912-7353, Michael Barnes, National Withdrawals Coordinator at 503-808-6155 or m1barnes@blm.gov; or Vanessa Engle, National Withdrawals Program Lead at 202-912-7339 or vengle@blm.gov.

Signed by:
 Michael Nedd
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Authenticated by:
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 Division of IRM Governance, WO-860

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