

## Conversation Contents

Need WO-200 input on Report on SO 3349 Section 5(c)

### Attachments:

/29. Need WO-200 input on Report on SO 3349 Section 5(c)/1.1 BOEM\_SO 3349 burdens memo dts ready.docx

/29. Need WO-200 input on Report on SO 3349 Section 5(c)/1.2 BLM Memo to ASLM on SO 3349 Section\_041717.docx

/29. Need WO-200 input on Report on SO 3349 Section 5(c)/3.1 BLM Memo to ASLM on SO 3349 Section\_041717.docx

/29. Need WO-200 input on Report on SO 3349 Section 5(c)/3.2 BOEM\_SO 3349 burdens memo dts ready.docx

**"McGinnis, Shelley" <smcginnis@blm.gov>**

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**From:** "McGinnis, Shelley" <smcginnis@blm.gov>  
**Sent:** Mon Apr 17 2017 14:26:08 GMT-0600 (MDT)  
**To:** Karen Kelleher <kkelleh@blm.gov>, "Bail, Kristin" <kbail@blm.gov>  
**CC:** Timothy Spisak <tspisak@blm.gov>, Lonny Bagley <lbagley@blm.gov>  
**Subject:** Need WO-200 input on Report on SO 3349 Section 5(c)  
**Attachments:** BOEM\_SO 3349 burdens memo dts ready.docx BLM Memo to ASLM on SO 3349 Section\_041717.docx

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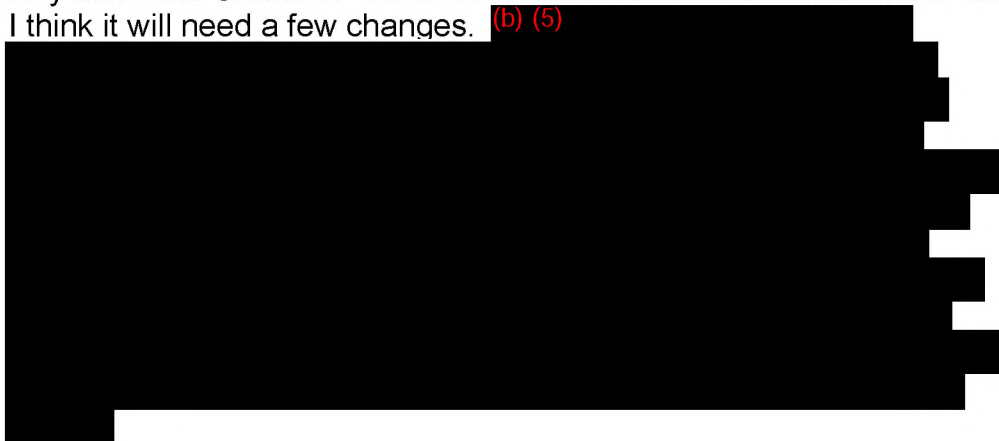
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OK, thanks. We have been making some edits to the document based on SOL comments. Attached is the latest version of the BLM memo along with the memo prepared by BOEM as an example of what they are looking for at ASLM.

Thanks, Shelley

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Hi Shelley,

Here are some thoughts on the two others - also see the bottom for an alternative approach. I've cc-ed Serena, Steve, and Gordon Toevs so they can weigh in as well.

1. on the Planning Handbook:

The planning handbook describes the overall planning process. Appendix C of the planning handbook provides a brief summary of each program's decisions, including consideration of restrictions. As such, it provides summary information on what restrictions each program may propose in a planning process. Based on the information in Appendix C, the regulations, manuals and handbooks, and IMs for each program that may put restrictions on uses can be individually assessed. Whether the individual program's restrictions constitute a burden, however, is at least in part based on the actual decisions made in each individual RMP.

For example, for cultural resources, the planning handbook indicates this:

"Identify special cultural resource restrictions that may affect the location, timing, or method of development or use of other resources in the planning area. Identify site-specific use restrictions from cultural resources currently being actively managed." and "Seek to reduce imminent threats and resolve potential conflicts from natural or human-caused deterioration, or potential conflict with other resource uses (FLPMA Sec. 103(c), NHPA 106, 110 (a) (2)) by ensuring that all authorizations for land use and resource use will comply with the NHPA Section 106."

2. On the Adaptive Management IM:

The Adaptive Management IM outlines a consistent timeline, state/local coordination, and public outreach each state should use when evaluating the triggers & responses required by the RMPs. Rescinding the IM could result in each state using a slightly different process & timeline, and may make it more difficult to manage the public outreach, particularly with regards to WO coordination.

[NOTE that as we discussed earlier, removing this IM won't change the adaptive management, reaching triggers, or the response (would could include additional restrictions on some uses) since these decisions are in the plans themselves. removing this IM would remove only the consistent reporting & coordination processes - it would not change any potential burden that could occur from implementing the responses.]

Alternative:

(b) (5)

. for example,

Land Use Planning

In BLM's land use planning process, one step is to consider use restrictions to protect and provide for a variety of resources and uses. Usually, BLM considers a wide range of restrictions in its alternatives - from no restrictions, to minor restrictions, to major restrictions, to full closure. Closures put the greatest burden on developing the resource, followed by major restrictions. For example, if an area is closed to oil and gas, then no development can occur; if an area is no surface occupancy, the resource may be accessible within a certain horizontal drilling distance but may increase costs; if an area has a seasonal noise restriction, the operator may not be able to run equipment at certain times of day during certain seasons. The degree to which these restrictions cause burdens and the degree to which these burdens are unnecessary will depend on the individual circumstances for each land use plan. BLM could review each program's potential restrictions and review each RMP to determine if any individual restrictions constitute an unnecessary burden and initiate plan amendments to address those restrictions.

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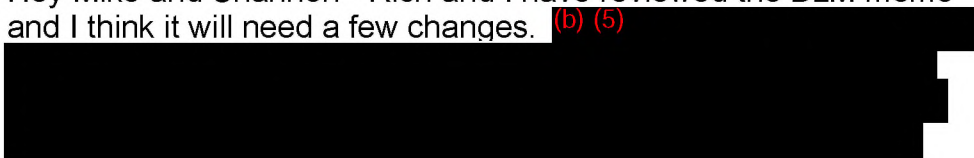
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Here are some thoughts on the two others - also see the bottom for an alternative approach. I've cc-ed Serena, Steve, and Gordon Toevs so they can weigh in as well.

1. on the Planning Handbook:

The planning handbook describes the overall planning process. Appendix C of the planning handbook provides a brief summary of each program's decisions, including consideration of restrictions. As such, it provides summary information on what restrictions each program may propose in a planning process. Based on the information in Appendix C, the regulations, manuals and handbooks, and IMs for each program that may put restrictions on uses can be individually assessed. Whether the individual program's restrictions constitute a burden, however, is at least in part based on the actual decisions made in each individual RMP.

For example, for cultural resources, the planning handbook indicates this:

"Identify special cultural resource restrictions that may affect the location, timing, or method of development or use of other resources in the planning area. Identify site-specific use restrictions from cultural resources currently being actively managed." and "Seek to reduce imminent threats and resolve potential conflicts from natural or human-caused deterioration, or potential conflict with other resource uses (FLPMA Sec. 103(c), NHPA 106, 110 (a) (2)) by ensuring that all authorizations for land use and resource use will comply with the NHPA Section 106."

2. On the Adaptive Management IM:

The Adaptive Management IM outlines a consistent timeline, state/local coordination, and public outreach each state should use when evaluating the triggers & responses required by the RMPs. Rescinding the IM could result in each state using a slightly different process & timeline, and may make it more difficult to manage the public

outreach, particularly with regards to WO coordination.

[NOTE that as we discussed earlier, removing this IM won't change the adaptive management, reaching triggers, or the response (would could include additional restrictions on some uses) since these decisions are in the plans themselves. removing this IM would remove only the consistent reporting & coordination processes - it would not change any potential burden that could occur from implementing the responses.]

Alternative:

(b) (5)

for example,

#### Land Use Planning

In BLM's land use planning process, one step is to consider use restrictions to protect and provide for a variety of resources and uses. Usually, BLM considers a wide range of restrictions in its alternatives - from no restrictions, to minor restrictions, to major restrictions, to full closure. Closures put the greatest burden on developing the resource, followed by major restrictions. For example, if an area is closed to oil and gas, then no development can occur; if an area is no surface occupancy, the resource may be accessible within a certain horizontal drilling distance but may increase costs; if an area has a seasonal noise restriction, the operator may not be able to run equipment at certain times of day during certain seasons. The degree to which these restrictions cause burdens and the degree to which these burdens are unnecessary will depend on the individual circumstances for each land use plan. BLM could review each program's potential restrictions and review each RMP to determine if any individual restrictions constitute an unnecessary burden and initiate plan amendments to address those restrictions.

On Mon, Apr 17, 2017 at 4:26 PM, McGinnis, Shelley <[smcginnis@blm.gov](mailto:smcginnis@blm.gov)> wrote:

Good afternoon,

We received the email below a few minutes ago from ASLM requesting that we add an "effects" summary to each of the actions that we listed in the memorandum that we drafted regarding Secretarial Order 3349, Sections 5(c). The effects summary should describe "the effect or burden of that action. The effect sections needn't be long - in fact they should be brief but to the point and briefly describe how each of these actions are a burden." ASLM wants us to use a similar format to the memo prepared by BOEM (see attached).

(b) (5)

the Planning Handbook - do you have any suggested language for the effects?

Also, do you have any suggested language for the effects of the CEQ Guidance on Consideration of Greenhouse Gas Emissions or the IM regarding Process for Assessing, Coordinating, and Implementing Greater Sage-Grouse Land Use Plan Adaptive Management Hard and Soft Triggers

?

We want to make sure that our language is consistent with the language you are using in other documents.

If you have suggested language, could you please add to the attached BLM memo and send back to us by 10 am tomorrow morning? We have to get it back to ASLM by noon tomorrow.

Thanks, Shelley

On Mon, Apr 17, 2017 at 3:27 PM, Timothy Spisak <[tspisak@blm.gov](mailto:tspisak@blm.gov)> wrote:

We'll need to push this.

Sent from my iPhone

Begin forwarded message:

**From:** Shannon Stewart <[scstewar@blm.gov](mailto:scstewar@blm.gov)>  
**Date:** April 17, 2017 at 2:37:38 PM EDT  
**To:** [tspisak@blm.gov](mailto:tspisak@blm.gov)  
**Cc:** Michael Nedd <[mnedd@blm.gov](mailto:mnedd@blm.gov)>  
**Subject:** Fwd: Report on SO 3349 Section 5(c)

As we discussed, ASLM comments below. They want these revisions turned around by noon tomorrow.

Shannon Stewart  
Acting Chief of Staff  
Bureau of Land Management  
202-570-0149 (cell)  
202-208-4586 (office)  
[scstewar@blm.gov](mailto:scstewar@blm.gov)

Begin forwarded message:

**From:** "Macgregor, Katharine" <[katharine\\_macgregor@ios.doi.gov](mailto:katharine_macgregor@ios.doi.gov)>  
**Date:** April 17, 2017 at 2:30:05 PM EDT  
**To:** "Stewart, Shannon" <[scstewar@blm.gov](mailto:scstewar@blm.gov)>, Michael Nedd <[mnedd@blm.gov](mailto:mnedd@blm.gov)>, Kathleen Benedetto <[kathleen\\_benedetto@ios.doi.gov](mailto:kathleen_benedetto@ios.doi.gov)>, "Cardinale, Richard" <[richard\\_cardinale@ios.doi.gov](mailto:richard_cardinale@ios.doi.gov)>  
**Subject:** Re: Report on SO 3349 Section 5(c)

Hey Mike and Shannon - Rich and I have reviewed the BLM memo and I think it will need a few changes. (b) (5)

[REDACTED]

[REDACTED]

Thanks so much. If we could see these changes by noon tomorrow, then I think we will be in good shape. Let me know if you have any questions.  
-Kate

On Wed, Apr 12, 2017 at 12:48 PM, Stewart, Shannon <[scstewar@blm.gov](mailto:scstewar@blm.gov)> wrote:

Please find attached BLM's draft report on SO 3349 Sections

5(c)(i), (ii), and (v). This is being reviewed concurrently by the SOL.

Thanks  
Shannon

--

Shannon Stewart  
Acting Chief of Staff  
Bureau of Land Management  
202-570-0149 (cell)  
202-208-4586 (office)  
[scstewar@blm.gov](mailto:scstewar@blm.gov)

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Kate MacGregor  
1849 C ST NW  
Room 6625  
Washington DC 20240

202-208-3671 (Direct)

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Shelley McGinnis, Ph.D.  
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Bureau of Land Management  
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Office: 202-208-6551  
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Email: [smcginnis@blm.gov](mailto:smcginnis@blm.gov)

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Karen Kelleher

Deputy Assistant Director - Resources and Planning

Main Interior room 5644

[kkelleh@blm.gov](mailto:kkelleh@blm.gov)

202-208-4896

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INFORMATION/BRIEFING MEMORANDUM FOR THE SECRETARY

DATE: April 18~~2~~, 2017

TO: Deputy Secretary

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THROUGH: Katharine MacGregor, Acting Assistant Secretary – Land and Minerals

FROM: Michael D. Nedd, Acting Director – Bureau of Land Management

SUBJECT: Bureau of Land Management response to Implementation of Secretarial Order 3349, Sections 5(c)(i), (ii), and (v)

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**BACKGROUND**

Secretarial Order (S.O.) 3349, which was signed on March 29, 2017, implements the review of agency actions directed by an Executive Order signed by the President on March 28, 2017, entitled "Promoting Energy Independence and Economic Growth" (March 28, 2017 E.O.). It also directs a reexamination of the mitigation policies and practices across the Department of the Interior (DOI) in order to better balance conservation strategies and policies with the need for creating jobs.

**DISCUSSION**

This memorandum responds to sections 5(c)(i), 5(c)(ii), and 5(c)(v) of S.O. 3349. Section 5(c)(i) states that the Bureau of Land Management (BLM) shall proceed expeditiously with proposing to rescind the final rule entitled, "Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands," 80 *Fed. Reg.* 16128 (Mar. 26, 2015). (b) (5)

Section 5(c)(ii) states that within 21 days, the BLM shall review the final rule entitled, "Waste Prevention, Production Subject to Royalties, and Resource Conservation," 81 *Fed. Reg.* 83008 (January 17, 2017), and report to the Assistant Secretary – Land and Minerals Management on whether the rule is fully consistent with the policy set forth in Section 1 of the March 28, 2017 E.O. The BLM has reviewed the final rule and determined that it is not fully consistent with the policy in Section 1 March 28, 2017 E.O. Specifically, some provisions of the rule add regulatory burdens that unnecessarily encumber energy production, constrain economic growth, and prevent job creation. (b) (5)

Section 5(c)(v) of S.O. 3349 states that within 21 days, each bureau and office head shall provide to the Deputy Secretary, through their Assistant Secretary, a report that identifies all existing Department Actions issued by their bureau or office that potentially burden the development or utilization of domestically produced energy resources, with particular attention to oil, natural gas, coal, and nuclear resources. The term burden as defined in the March 28, 2017 E.O. means to unnecessarily obstruct, delay, curtail, or otherwise impose significant costs on the siting, permitting, production, utilization, transmission, or delivery of energy resources. In addition to the Hydraulic Fracturing and Waste Prevention Rules, following is a preliminary list of the Actions that have been identified by the BLM that have the highest potential to burden the development or utilization of BLM energy resources. These are in addition to the items that were identified by the BLM in a separate memorandum responding to sections 5(a)(i) and 5(b)(i) of S.O. 3349, regarding

“actions” the BLM has adopted or is in the processes of developing with respect to certain memoranda and orders related to mitigation and climate change.

***Fluid Minerals***

**Title:** Instruction Memorandum (IM) 2010-117, Oil and Gas Leasing Reform – Land Use Planning and Lease Parcel Reviews

**Date:** 5/17/2010

**DescriptionPurpose:** Establishes a process for ensuring orderly, effective, timely, and environmentally responsible leasing of oil and gas resources on Federal lands. The leasing process established in this IM will create more certainty and predictability, protect multiple-use values when the BLM makes leasing decisions, and provide for consideration of natural and cultural resources as well as meaningful public involvement.

**Effects:** [The](#)

**Title:** IM 2013-101, Oil and Gas Leasing Reform – Master Leasing Plans

**Date:** 4/15/2013

**DescriptionPurpose:** Supplements existing BLM policy and guidance for processing Applications for Permit to Drill and outlines the regulatory and statutory requirements of Onshore Oil and Gas Order Number 1 (Order 1) and the Energy Policy Act of 2005.

**Effects:** [The](#)

**Title:** IM 2013-177, National Environmental Policy Act (NEPA) Compliance for Oil and Gas Lease Reinstatement Petitions

**Date:** 8/13/2013

**DescriptionPurpose:** Directs all oil and gas leasing offices to: 1) ensure Resource Management Plan conformance; 2) evaluate the adequacy of existing NEPA analysis and documentation; and 3) complete any necessary new or supplemental NEPA analysis and documentation before approving a Class I or Class II oil and gas lease reinstatement petition.

**Effects:** [The](#)

**Title:** IM 2016-140, Implementation of Greater Sage-Grouse Resource Management Plan Revisions or Amendments – Oil & Gas Leasing and Development Sequential Prioritization

**Date:** 9/1/2016

**DescriptionPurpose:** Provides guidance on prioritizing implementation decisions for BLM oil and gas leasing and development, to be consistent with the Approved Resource Management Plan Amendments for the Rocky Mountain and Great Basin Greater Sage-Grouse Regions and nine Approved Resource Management Plans in the Rocky Mountain Greater Sage-Grouse Region (collectively referred to as the GRSG Plans). This IM applies to activities in the areas covered by both the Rocky Mountain and Great Basin Regions Records of Decision, issued by the BLM in September 2015. This IM also contains reporting requirements for communication between State Offices and the Washington Office.

**Effects:** [The](#)

**Title:** Onshore Orders Nos. 3, 4 and 5

**Date:** All three final rules were published in the *Federal Register* on 11/17/2016, and became effective on 1/17/2017

**DescriptionPurpose:** “Onshore Orders” is shorthand for the three concurrent rulemakings that replaced the BLM’s site security, oil measurement, and gas measurement regulations contained in Onshore Oil and Gas Orders Nos. 3, 4 and 5, which had been in place since 1989. The recent rulemakings resulted in new site security, oil measurement, and gas measurement regulations for Onshore Federal and Indian oil and gas production and are codified in the Code of Federal Regulations at 43 C.F.R. part 3170. These rulemakings were prompted by external and internal oversight reviews which found many of the BLM’s production measurement and accountability policies to be outdated and inconsistently applied. The new rules also address some of the Government Accountability Office concerns for High Risk with regards to the Department’s production accountability.

**Effects:** The

***Solid Minerals***

**Title:** IM 2014-156, Supplemental Guidance on Processing Royalty Rate Reduction Applications  
**Date:** 9/26/2014

**DescriptionPurpose:** Provides State Directors notice that they must provide the Washington Office (WO) a royalty rate reduction (RRR) justification with a copy of their draft decision when requesting WO concurrence. A checklist is attached to ensure that all required RRR application elements are included. Further, this IM augments and reiterates the existing policy for processing RRR applications.

**Effects:** The

(b) (5)  
[Redacted content]

**Title:** IM 2017-035, Publicly Accessible Bureau of Land Management Websites for Information Regarding Federal Coal Program Leasing, Exploration Licensing, and Royalty Rate Reductions  
**Date:** 1/19/2017

**DescriptionPurpose:** Improves transparency in administering the Federal coal program. Responds to stakeholder suggestions for improved access to information on the Federal coal program, and replaces the policy and guidance previously provided in WO-IM-2014-159, *Publicly Accessible Bureau of Land Management Websites for Coal Leasing Information*. This IM directs the BLM offices to post and update specified Federal coal program information on BLM publicly accessible websites, including, as described more fully below: (1) information about Federal coal lease applications and leases, lease modification applications, and lease modifications; (2) information about exploration licensing applications and exploration licenses; (3) information

about royalty rate reduction applications; and (4) summary information on the Federal coal program.

Effects: The

**Title:** IM 2017-037, Waste Mine Methane Policy

**Date:** 1/20/2017

**DescriptionPurpose:** Establishes national policies and processes to foster voluntary activities by operators to capture waste mine methane from underground coal or other solid mineral mines. These policies will allow waste mine methane to be put to productive use, where economical, and reduce environmental impacts, while ensuring continued safe underground mining operations on Federal lands.

Effects: The

*Other*

**Title:** IM 2016-140, Process for Assessing, Coordinating, and Implementing Greater Sage-Grouse Land Use Plan Adaptive Management Hard and Soft Triggers

**Date:** 9/1/2016

**DescriptionPurpose:** Directs the implementation of the land use plan adaptive management process to evaluate and apply hard and soft triggers and responses, as detailed in the Greater Sage-Grouse Approved Resource Management Plans and Amendments, Great Basin and Rocky Mountain Greater Sage-Grouse Regional Records of Decision (September 21, 2015).

Effects: The

(b) (5)



**Title:** BLM Land Use Planning Handbook, H-1601-1, Appendix C

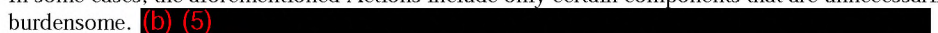
**Date:** 3/11/2017

**DescriptionPurpose:** The Handbook provides specific guidance for preparing, amending, revising, maintaining, implementing, monitoring, and evaluating BLM land use plans. Appendix C of the handbook identifies resource-specific guidance for BLM program areas that could restrict or impact energy development. The specific restrictions depend on the individual program's requirements, as identified in the laws, regulations, manuals, handbooks, and instruction memoranda governing each program.

Effects: The

**NEXT STEPS**

In some cases, the aforementioned Actions include only certain components that are unnecessarily burdensome. (b) (5)

. Based on feedback from the Deputy Secretary on how to

proceed, the BLM will coordinate with the DOI Solicitor's Office to determine how best to proceed with appropriate modifications of these Actions.

## INFORMATION/BRIEFING MEMORANDUM FOR THE SECRETARY

**DATE:** April 18~~2~~, 2017

**TO:** Deputy Secretary

**THROUGH:** Katharine MacGregor, Acting Assistant Secretary – Land and Minerals

**FROM:** Michael D. Nedd, Acting Director – Bureau of Land Management

**SUBJECT:** Bureau of Land Management response to Implementation of Secretary's ~~ial~~ Order 3349, Sections 5(c)(i), (ii), and (v)

### BACKGROUND

Secretary's ~~ial~~ Order (S.O.) 3349, which was signed on March 29, 2017, implements the review of agency actions directed by ~~an~~ Executive Order 13783 signed by the President on March 28, 2017, entitled "Promoting Energy Independence and Economic Growth" (March 28, 2017 E.O.). S.O. 3349 ~~It~~ also directs a reexamination of the mitigation policies and practices across the Department of the Interior (DOI) in order to better balance conservation strategies and policies with the need for creating jobs.

### DISCUSSION

This memorandum responds to sections 5(c)(i), 5(c)(ii), and 5(c)(v) of S.O. 3349. Section 5(c)(i) states that the Bureau of Land Management (BLM) shall proceed expeditiously with proposing to rescind the final rule entitled, "Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands," 80 *Fed. Reg.* 16128 (Mar. 26, 2015). (b) (5)

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Section 5(c)(v) of S.O. 3349 states: ~~that w~~ Within 21 days, each bureau and office head shall provide to the Deputy Secretary, through their Assistant Secretary, a report that identifies all existing Department Actions issued by their bureau or office that potentially burden (as that term is defined in the March 28, 2017 E.O.) -the development or utilization of domestically produced energy resources, with particular attention to oil, natural gas, coal, and nuclear resources." The term "burden" as defined in the March 28, 2017 E.O. "means to unnecessarily obstruct, delay, curtail, or otherwise impose significant costs on the siting, permitting, production, utilization, transmission, or delivery of energy resources." The term "Department Action" from S.O. 3349 refers to "all existing regulations, orders, guidance documents, policies, instructions, notices, implementing actions, and any other similar actions." –In addition to the Hydraulic Fracturing

and Waste Prevention Rules, following is a preliminary list of the Department Actions that have been identified by the BLM that ~~have the highest~~ potentially ~~to~~ burden the development or utilization of BLM energy resources. These are in addition to the items that were identified by the BLM in a separate memorandum responding to sections 5(a)(i) and 5(b)(i) of S.O. 3349, regarding “actions” the BLM has adopted or is in the processes of developing with respect to certain memoranda and orders related to mitigation and climate change.

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**Effects:** The

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**Date:** 9/1/2016

**DescriptionPurpose:** Provides guidance on prioritizing implementation decisions for BLM oil and gas leasing and development, to be consistent with the Approved Resource Management Plan Amendments for the Rocky Mountain and Great Basin Greater Sage-Grouse Regions and nine Approved Resource Management Plans in the Rocky Mountain Greater Sage-Grouse Region (collectively referred to as the GRSG Plans). This IM applies to activities in the areas covered by both the Rocky Mountain and Great Basin Regions Records of Decision, issued by the BLM in September 2015. This IM also contains reporting requirements for communication between State Offices and the Washington Office.

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**DescriptionPurpose:** Provides State Directors notice that they must provide the Washington Office (WO) a royalty rate reduction (RRR) justification with a copy of their draft decision when requesting WO concurrence. A checklist is attached to ensure that all required RRR application elements are included. Further, this IM augments and reiterates the existing policy for processing RRR applications.

**Effects:** The

(b) (5)



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**Effects:** The

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**Effects:** The

### NEXT STEPS

In some cases, the aforementioned Department Actions include only certain components that might beare unnecessarily burdensome. (b) (5)

. Based on feedback from the Deputy Secretary on how to proceed, the BLM will coordinate with the DOI Solicitor's Office to determine how best to proceed with appropriate modifications of these Department Actions.