

# BLM Streamlining Planning & NEPA - Input Form

The BLM is working to identify discrete actions that can be taken to improve the NEPA and planning processes. The Bureau is specifically looking for improvements in the following six focus areas. To be most helpful, please submit succinct and unique ideas relevant to each of these six focus areas, using the fields on the following pages (please use one field for each discrete idea).

## A. Focused Analysis: How can the BLM reduce duplicative and disproportionate analyses?

1. Rely heavily on RMP National Environmental Policy Act (NEPA) analysis and affiliated documentation that is peer and publically reviewed and justifies the development restrictions and permitting stipulations for all disturbances (pads and ROW). The use of Determinations of NEPA Adequacy (DNA) should streamline this approach.
  - a. End the practice of allowing State Directors to defer lease parcels or impose new lease stipulations based on their “foretelling” of the outcome of an amended RMP process. Ensure restrictions are limited to those designated under an existing, finalized RMP, pursuant to FLPMA.
2. Ensure that NEPA analyses only review known impacts of a project and the reasonably foreseeable future actions and minimize the requirement to review any additional aspects based purely on speculative implications that, while conceivable, are so unlikely or uncertain to occur as to render any analysis meritless and of little value.
3. Eliminate the MLP process as it is entirely duplicative of existing RMP processes and has been imposed as a barrier to access for oil and gas interests. Rescind IM 2010-117 and replace it with an Instruction Memorandum (IM) that explicitly authorizes leasing pursuant to existing RMPs.
4. Utilize categorical exclusions allowed by 40CFR1508.4 (and NEPA Handbook, H1790-1, Appendices 2, 3, 4 & 5) especially for < 5 acre disturbances which includes most drilling pads. These are rarely used currently. Field staff are not currently utilizing categorical exclusions, so some training may be required to educate staff on when they can and should be used. Congress has mandated the use of categorical exclusions in the Energy Policy Act of 2005 for five criteria situations, these would be a good place to start.

## B. User-friendly Planning: How can the BLM help state and local governments, tribal partners, and other stakeholders understand and participate in the planning process?

1. The regulated entity should be allowed to provide input on the EIS before it is released to other stakeholders. This could address scope, potential impact issues, and assumptions before other stakeholders weigh in.
2. Ensure that cooperating agencies involved in NEPA reviews and consultation adhere to transparent and well-defined timelines and that they limit their review to those recommended stipulations for which fall under their direct authority and jurisdiction.
3. Ensure that comments, from state and local governments along with stakeholders supporting project proponents, are sufficiently incorporated into the final Plan.

## C. Transparency: How can the BLM foster greater transparency in the NEPA process?

1. Historically, we've seen variable requests and needs identified from NEPA Coordinators within BLM field offices seeking information to conduct and finalize NEPA reviews. BLM should issue an

IM, in alignment with CEQ's original NEPA guidance, directing State offices to develop standardized EA templates in the form of questions, which will allow project proponents a consistent, streamlined opportunity to fulfill their responsibility for EA input.

2. Project proponents should always be able to review Draft NEPA documents before they are released to the public.
3. Instill specific timelines for consultation and review by cooperating agencies.
4. BLM should identify important areas to protect, restore and enhance as a result of newly identified public value of the land: critical habitat due to endangered species listing, recreational use, etc. After public input, post on the BLM website relevant data and guidance memos that can be used to permit wells and ROWs. BLM should cease using draft RMP's data and analysis until finalized. In many cases, successful analyses have been prepared by the company pursuing the project, and this option should be available to those companies at their discretion. If a company elects to have BLM prepare the analysis, the project proponent should have a role in its preparation, before presented to the public for comment.

**D. Being Good Neighbors: How can the BLM build trust and better integrate the needs of state and local governments, tribal partners, and other stakeholders?**

1. Adhere closely to CEQ's NEPA guidance and sufficiently respond to the needs and comments brought for the by state and local governments, tribal interests and other stakeholders. Through this adherence, the lead agency and those cooperating must limit their reviews to their unique jurisdictional authority.
2. Limit acknowledgement and evaluation of public protests only to those which have identified a specific, jurisdictional issue, affiliated with a specific parcel.
3. Realize the value of mineral development to the communities, states and tribes and account for such within the agencies joint analyses.
4. Realize and communicate the value of mineral development to the communities, states and tribes.

**D. Reducing Litigation: How can the BLM create legally defensible documents and avoid the delays associated with legal challenges?**

1. Develop a legally defensible EA template that will consistently be applied throughout a state office for all project proponents seeking to bring forth a project. BLM could address this through an instructional memorandum, and doing so would make the documents much more defensible, as deficiencies within the document would be more readily apparent.
2. Evaluate, via a Solicitor's Opinion, BLM's jurisdictional authority to impose surface-based stipulations or restrictions on fee lands.
3. Follow NEPA regulations and applicable guidance, and require comments/protest to be specific to the lands being offered for lease based on peer reviewed supporting data before delaying action. EAs should use a consistent template or format across all field offices, to the extent that is possible.

**E. "Right-sized" Environmental Analysis: How can the BLM more closely match the level of NEPA analysis to the scale of the action being analyzed?**

1. EAs are frequently required by BLM when they're not necessary, as CX or DNAs should be sufficient to meet CEQ's NEPA compliance.

2. Adhere to the CEQ's Guidelines concerning EA review periods, which states that EAs should be completed within three months.
3. Develop a legally defensible EA template which only includes information requested that is truly within the realm of NEPA compliance.
4. EA's should be weighed against the existing impacts and public value of the land. In areas where existing well pads, roads and Right of Ways already exist there could be a lower level of EA for new disturbance.

Recommended solutions may include changes to BLM policy (e.g., Bureau manuals, handbooks, etc.); changes to regulations; and/or changes to laws.

You are welcome to submit multiple forms if you have more than four recommended solutions for a topic.

The BLM will consider the input you provide as the Bureau identifies potential solutions for improving the planning and NEPA processes. However, please note that this is not an official comment period; the BLM will not be providing responses back to you on the input you submit.

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The BLM is interested in soliciting public input about ways to streamline the Bureau's planning and NEPA processes. This request constitutes a general solicitation of comments and does not seek information about commenters, other than that necessary for self-identification. Therefore it is not subject to the Paperwork Reduction Act, 44 U.S.C. 3501-3521. (Please refer to implementing regulations at 5 CFR 1320.3(h)(4)).

## COMMENTS ON LAND USE PLANNING AND NEPA PROCESSES

July 24, 2017

Michael Nedd, Acting Director  
Bureau of Land Management  
U.S. Department of the Interior  
1849 C Street, N.W.  
Washington, D.C. 20240

Dear Acting Director Nedd:

The undersigned organizations, which represent millions of hunters and recreational shooters, appreciate the opportunity to provide input into how the BLM will approach land use planning for the future.

The BLM's stated goal is to identify inefficiencies and redundancies that should be eliminated from its land use planning and NEPA processes, while ensuring that it fulfills its legal and resource stewardship responsibilities. The announcement about the planning review noted that "Balanced stewardship of the public lands and resources is more important to the interests of the country and its people than ever before." Along with the announcement, the BLM identified six focus areas as a framework for public comment. Our comments fall within two of those areas. One is *Focused Analysis: How can the BLM reduce duplicative and disproportionate analyses?* The other is *Transparency: How can the BLM foster greater transparency in the NEPA process?*

Our organizations strongly support balanced stewardship of our public lands, as well as balanced management of public uses, particularly the balanced management of recreational uses. Our recommendation to improve the planning and NEPA processes is to improve and strengthen the analysis of the impact of plan alternatives on recreational activities, particularly where plan alternatives will greatly impact the future access and opportunities to recreation.

Our organizations have a long-standing history of involvement in BLM's development of land management plans because of the effects of the Agency's decisions on sportsmen and women who depend upon public lands for their recreational pursuits. We are signatories to the Federal Lands Hunting, Fishing and Shooting Sports Roundtable Memorandum of Understanding (MOU) with the BLM, Fish and Wildlife Service, Forest Service and the Army Corps of Engineers. The purpose of the MOU is to:

Develop and expand a framework of cooperation among the Parties at the national, regional, and local levels for planning and implementing mutually beneficial projects and activities related to hunting, fishing and shooting sports conducted on federal lands. These activities and projects will complement the respective missions of the Parties and serve the mutual interests of the Parties and the public.

Our organizations have submitted individual and joint comments over the past decade on a number of management plans, focusing concern and opposition to plan alternatives that would close substantial acreage, including entire national monuments, to a traditional and popular activity that had taken place on those lands. We are speaking specifically of informal, recreational target shooting.

The planning documents have provided little to no analysis of the effects of a proposed lands closure to recreational shooters. If there has been an analysis, it generally has consisted of nothing more in-depth than a statement that millions of other public lands are open to recreational shooting. We have repeatedly requested of the BLM a comprehensive analysis that would include the estimated number of recreationists affected by a proposed closure, the distance to other public lands opened to shooting and the accessibility of those lands, the impact of directing displaced shooters to other areas under use in terms of crowding and safety, and the management options, other than closures, that would provide safe places to shoot and avoid user conflicts, all under the umbrella of balanced stewardship.

Furthermore, the Wildlife and Hunting Heritage Conservation Council (WHHCC) Federal Advisory Committee submitted numerous recommendations advising the Secretary on how hunting and recreational shooting can be better managed and facilitated on lands managed by the BLM, including through the establishment of an agency-wide recreational shooting policy. Beginning in 2011 (see attachment), the WHHCC repeatedly offered to work in partnership with the BLM on this effort, but to no avail.

Consistent with the agency's stated desire to reduce duplicative and disproportionate analysis, improve partnerships and improve transparency of agency planning processes, we believe that a thorough review of the WHHCC recommendations submitted to the BLM dating back to 2011 would provide valuable insight as to how the agency can modify its approach to better fit the needs of the sportsmen's community.

Our organizations, individually and collectively, have sought for years to have the BLM correct this disproportionate analysis and create a transparent decision-making process as applied to impacts of planning alternatives on existing, legitimate, historic and popular recreational activities. In frustration, language was incorporated into the Recreational Fishing and Hunting Heritage Opportunities Act (Act) to remedy the situation.

The Act has been introduced as a standalone bill and also combined with other bills in a "sportsmen's package" over the past several Congresses. In the Act, under the section titled *Planning*, all BLM and Forest Service planning documents, including land resource management plans, travel management plans and general management plans, would be required to include a specific evaluation of the effects of such planning documents on opportunities to engage in fishing, hunting and recreational shooting.

The legislative language would not be necessary to pursue if it were specifically incorporated into the BLM's planning guidance. Therefore, we are strongly recommending its incorporation.

We appreciate the opportunity to submit comments, as well as a solution that meets the BLM's goal of identifying and correcting inefficiencies in the planning and NEPA processes.

Sincerely,

Boone and Crockett Club

Congressional Sportsmen's Foundation

Mule Deer Foundation

National Rifle Association

National Shooting Sports Foundation

Wildlife Management Institute

Attachment