

## H-1790-1 - NATIONAL ENVIRONMENTAL POLICY ACT HANDBOOK

## CHAPTER III -USING EXISTING ENVIRONMENTAL ANALYSES

A. ~~General.~~ Existing environmental analyses should be used in analyzing impacts associated with a proposed action to the extent possible and appropriate. This approach builds on work that has already been done, avoids redundancy, and provides a coherent and logical record of the analytical and decisionmaking process.

There are three questions which must be addressed before using existing environmental analyses: (1) Have any relevant environmental analyses related to the proposed action been prepared (e.g., RMP/EIS, programmatic EIS)? (2) who prepared or cooperated in the preparation of the analyses (e.g. the BLM, Forest Service)? (3) Do any of the existing analyses fully analyze the proposed action and alternatives? The answers to these questions determine what needs to be done next. Answering these questions requires the understanding and conceptualization of the proposed action and its environmental impacts. For some proposed actions, no additional analysis may be required. For others, a tiered analysis, supplemental analysis, or a completely new analysis may be necessary.

B. ~~Reviewing Existing Environmental Documents.~~ Each relevant existing NEPA document should be identified and reviewed to determine whether it can be used to satisfy NEPA requirements for a proposed action.

1. ~~Identify Existing EA's and EIS's.~~ The NEPA documents which may be relevant include, but are not limited to, the following:

- a. EIS's associated with BLM resource management plans.
- b. EIS's or EA's associated with BLM plan amendments.
- c. EIS's or EA's on BLM programmatic actions.
- d. EIS's or EA's associated with BLM activity or project plans.
- e. EIS's or EA's prepared by other agencies; including those on programmatic, land use, and activity or project-specific plans or actions, particularly those on which the BLM was formally a cooperating agency.

2. ~~Conduct Review.~~ The review criteria for determining whether an existing BA or EIS covers a proposed action currently under consideration may include, but are not limited to, the following:

- a. The new proposed action is a feature of, or essentially the same as, the alternative selected in the document being reviewed.

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b. A reasonable range of alternatives to the new proposed action was analyzed in the document being reviewed, i.e., there are no unresolved conflicts involving alternative resource uses for the new proposed action.

c. The circumstances or information upon which the document being reviewed is based are still valid and germane to the new proposed action, i.e., there has been no significant change in circumstances and no significant new information.

d. The methodology or analytical approach used in the document being reviewed is appropriate for the new proposed action.

e. The direct and indirect impacts of the new proposed action are not significantly different than, or are essentially the same as; those identified in the document being reviewed.

f. The new proposed action, if implemented, would not significantly change the cumulative impact analysis, i.e., is within the range of reasonably foreseeable developments contemplated in the document being reviewed.

g. Public involvement in the document being reviewed provides appropriate coverage for the new proposed action.

3. Analyze the Results of the Review. The review is intended to determine if the existing document or documents satisfy NEPA analysis requirements for the proposed action currently under consideration.

a. If all of the criteria in Paragraph B.2 above are met, additional analysis will not be necessary to satisfy NEPA requirements. However, if the BLM was not formally a cooperating agency on an EIS prepared by another agency, the BLM must adopt the document in order to use it for NEPA compliance (see Paragraph E.4 below).

b. If some or all of the criteria in Paragraph B.2 above are not met, a new NEPA document must be prepared. It may be appropriate to tier, supplement, or incorporate by reference parts or all of the existing document.

4. Document the Review. When the BLM determines that a NEPA document previously prepared by the BLM fully covers a proposed action and no additional analysis is necessary, document the BLM determination. There are no content or format requirements for this documentation. It may be incorporated into any other documents associated with the proposed action, such as the decision document or the Optional Plan Conformance/NEPA Compliance Record (see Illustration 1). Documentation requirements associated with existing environmental documents which only partially cover NEPA analysis requirements or were prepared by other agencies are discussed in the pertinent sections of this Chapter on tiering, supplementing, using another agency's EA or EIS, and incorporating by reference.

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C. Tiering.

1. Purpose and Use of Tiering (40 CFR 1508.28). Tiering is used to prepare new, more specific or more narrow environmental documents (e.g., activity plan EA's) without duplicating relevant parts of previously prepared, more general, or broader documents (e.g., RMP/EIS's). The more specific or more narrow environmental document incorporates by reference the general discussions and analysis from the broader document and concentrates on the issues and impacts of the project which are not specifically covered in the broader document. The more specific or more narrow environmental document, however, does not lead to a change in either the scope or the conclusions of the more general environmental document to which it is tiered. Also, the decision made as a result of the more specific document does not change or modify the decision(s) of the more general document. Tiering is used primarily to avoid unnecessary paperwork. It is also useful for explaining or clarifying the relationship between different environmental documents.

2. When to Tier. Tiering is appropriate when:

a. The analysis for the proposed action will be a more site- or project-specific refinement or extension of the existing analysis.

b. The decisions associated with the existing environmental document will not be changed as a result of the tiering.

3. Examples of Tiering. The following are examples of some of the typical situations in which tiering is appropriate:

a. RMP/EIS to Programmatic EIS, e.g., tiering the coal element of an RMP/EIS to the Coal Programmatic EIS (which established Bureauwide coal screening procedures for land use planning).

b. Activity Plan EA or EIS to RMP/EIS, e.g., tiering an allotment management plan EA to an RMP/EIS (which established livestock management objectives for the area) or tiering a regional coal EIS to an RMP/EIS (which identified areas available for further consideration for coal leasing).

c. Project-Specific EA or EIS to RMP/EIS, e.g., tiering a 3809 Plan of Operation EA to an RMP/EIS (which established terms and conditions under which hard rock mining would be allowed) or tiering a facility siting EIS (utility line location) to an RMP/EIS (which established right-of-way corridors or avoidance areas).

4. Procedural and Documentation guidance for Tiering.

a. The new environmental document must identify the document to which it is tiered. Both documents must be available for public review.

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b. The new environmental document must briefly summarize relevant portions of any document to which it is tiered to the extent necessary for understanding the relationship between the two documents.

D. Supplementing.

1. Purpose and Use of Supplementing (40 CFR 1502.9(c)). Supplements to existing draft or final EIS's are prepared when additional environmental analysis is needed. The relationship between the supplement and the existing EIS is lateral, i.e., the proposed action and alternatives are analyzed to the same level of specificity and detail. A supplemental EIS is often used to address alternatives not previously analyzed and may lead to new decision.

It is not really necessary to formally "supplement" an EA. An existing EA can be easily modified to reflect changed circumstances or new information. For example, an EA could be prepared by merely identifying any changes that may be warranted to an existing EA and attaching or incorporating by reference the existing EA (see Paragraph F below).

2. When to Supplement. If it is determined that an existing relevant environmental document does not fully cover a proposed action and it is not appropriate to tier, then a determination should be made on whether to supplement or modify the existing document or prepare an entirely new one. The most efficient course of action that does not sacrifice procedural or analytical quality should be followed. A supplement is generally prepared when:

a. There are substantial changes in the proposed action that are relevant to environmental concerns (40 CFR 1502.9(c)(1)(i)).

b. There are significant new circumstances or facts relevant to environmental concerns and bearing on the proposed action or its impacts which were not addressed in the existing analysis (40 CFR 1502.9(c)(1)(ii)).

c. Using another agency's environmental document and additional analysis is needed (see Paragraph E below).

3. Examples of Supplementing. Examples of when supplementing an EIS may be appropriate include:

a. A substantial change has been proposed for a planned transmission line, pipeline, or power plant which was initially analyzed in a previous EIS.

b. Program management decisions previously analyzed in a programmatic EIS need to be reevaluated to account for changed circumstances and new information, i.e., original assumptions no longer valid. In this case it may be possible to prepare a supplemental programmatic EIS, e.g., Coal Programmatic EIS Supplement.

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4. Procedural and Documentation Guidance for Supplementing.

a. Supplementing an EIS. The standard procedural and documentation requirements for preparing an EIS (see Chapter V) also apply to supplementing an EIS with the following exceptions:

(1) Additional scoping is optional (40 CFR 1502.9 (c)).

(2) The supplemental EIS must identify the EIS being supplemented on the cover page, and explain the relationship of the supplement to the prior analysis early in the text.

(3) The supplemental EIS should identify the changes in the proposed project and/or the significant new information or changed circumstances which necessitate the preparation of the supplement.

(4) The record of decision (ROD) on the supplemental final EIS should define the relationship to the previous ROD if one was prepared (e.g., replaces).

(5) The Office of Environmental Project Review (OEPR) and the Office of the Solicitor (SOL) must be consulted prior to proposing to CEQ to prepare a final supplement without preparing an **intervening** draft (516 DM 4.5(B)).

b. Modifying an EA. There are no special procedures associated with modifying an EA. Procedural and documentation standards identified for the preparation of an EA should be followed (see Chapter IV). A finding of no significant impact (FONSI) and decision record (DR) must then be prepared.

E. Using Another Agency's EA or EIS.

1. Purpose. (40 CFR 1506.3) The purpose of using another agency's environmental document for NEPA compliance is to reduce paperwork, eliminate duplication, and make the process more efficient. Use of another agency's EIS is accomplished by either formally cooperating in its development or adopting all or parts of the EIS. Assuming cooperating agency status on an EIS will usually result in significant time and cost savings and is the preferred approach when there is a possibility of future action by the BLM. Use of another agency's EA is relatively straightforward.

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2. When to Use Another Agency's EA or EIS. Part or all of another agency's environmental document may be used for NEPA compliance if both of the following criteria are met:

a. The environmental document meets CEQ, DOI, and BLM standards.

b. The BLM has performed an independent review of the environmental document and has concluded that it has addressed BLM concerns and suggestions. This review must be documented in the official files or in the decision document (also see Paragraph B above.)

3. Cooperating Agency Procedures for Using an EIS. (40 CFR 1501.6) If the BLM is a cooperating agency in the preparation of another agency's EIS, the BLM can use the EIS for decisionmaking purposes without providing additional public review (40 CFR 1506.3(c)). When the BLM is a cooperating agency for the purpose of using the EIS to satisfy NEPA requirements for a BLM action or decision, the following guidance applies:

a. When another Federal agency intends to prepare an EIS and the BLM has or possibly may have jurisdiction, the BLM should request formal designation as a cooperating agency. If the BLM intends to become a cooperating agency, the responsible BLM official should formally notify the lead agency as early as possible. The BLM must notify OEPR of either the acceptance or rejection of cooperating agency requests (516 DM 2.5(B)).

b. An interagency memorandum of understanding (MOU) between the BLM and the lead agency should be prepared. It should identify a BLM contact and specify any special resource needs, data requirements or issues which need to be addressed in the analysis. It should also identify the responsibilities of the lead and cooperating agency. (See 40 CFR 1501.6(a) and (b) for detailed guidance on lead and cooperating agency responsibilities.)

c. The BLM should be formally identified as a cooperating agency in the notice of intent (NOI) published in the Federal Register.

d. The BLM must be identified as a cooperating agency in the draft and final EIS, preferably on the cover sheet.

e. Cooperating and lead agencies can identify different analytical conclusions and preferred alternatives in the environmental document. If such differences are not identified in the draft EIS, the BLM should address them in formal written comments to the lead agency. If the lead agency is not within the Department of the Interior, use the Departmental review procedures (see Chapter VII). Agencies should attempt to work out any major differences on which alternative to authorize before the final decision is made. If differences cannot be resolved, WO-760 should be consulted on the appropriate course of action.

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f. The responsible BIM official must carefully evaluate the scope of the EIS to ensure that it fully covers any potential future action(s) which may be taken by the BLM. This will reduce the potential need for further analysis prior to using the EIS.

g. The BLM must prepare its own ROD.

4. Adoption Procedures for Using an EIS (40 CFR 1506.3). whenever the BLM wants to use all or part of another agency's EIS and the BLM was not a cooperating agency, the BLM must formally adopt the EIS in accordance with CEQ regulations (40 CFR 1506.3).

a. In those instances where the actions covered by the other agency's EIS and the BLM proposal are substantially the same, the BLM can adopt the EIS after recirculating the document as a final EIS (filing it with EPA and distributing it to agencies and the public). When recirculating the final EIS, the BLM should provide information which identifies what Federal action is involved. The EIS must meet the criteria identified in Paragraphs E.2.a and b above. The BLM must prepare an ROD.

b. In those instances where the actions covered by the other agency's EIS and the BLM proposal are not substantially the same, the BLM can adopt the EIS by treating the document as a draft EIS, i.e., filing it with the EPA and distributing it for review and comment. The EIS must meet the criteria in Paragraphs E.2.a and b above and must identify what Federal action is involved. The draft EIS must be followed by a final EIS and an ROD.

c. If the other agency's EIS only partially covers a proposed action or only a portion of the other agency's EIS is being adopted, the BLM must prepare a draft EIS which incorporates that portion of the other agency's EIS which is being adopted as well as any supplementary analysis needed. The draft EIS is filed with EPA and distributed for public review and comment. A final EIS and ROD must also be prepared in accordance with CEQ regulations.

d. If the BLM adopts an EIS which is not final within the agency that prepared it, or if the action the EIS assesses is the subject of a referral or if the adequacy of the EIS is the subject of judicial action which is not final, the BLM must indicate its status in the recirculated draft and/or final EIS (40 CFR 1506.3(c)).

e. An ROD cannot be adopted, i.e., the BLM must prepare its own ROD on adopted EIS's.

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5. Procedures for Using Another Agency's EA. (516 DM 3.6) ~~The~~ procedures for using or adopting another agency's EA are identified below:

a. The other agency's EA must satisfy the criteria in Paragraphs E.2.a and b above. In essence, the BLM takes full responsibility for the scope and content of the EA.

b. The BLM must prepare its own FONSI and DR, i.e., another agency's FONSI and DR can not be used or adopted by the BLM.

F. Incorporating By Reference (40 CFR 1502.21).

1. Purpose and Use of Incorporation by Reference. Incorporation by reference is a technique used to avoid redundancies in analysis and to reduce the bulk of a NEPA document. Both EA's and EIS's may incorporate previous analyses by reference. Materials or analyses incorporated by reference are not **limited** to NEPA documents. Special technical or professional studies and analyses prepared by the BLM, other Federal agencies, State, local or tribal governments, or private interests may be incorporated by reference.

2. Procedural and Documentation Guidance for Incorporating.

a. The EA or EIS must identify documents which are incorporated by reference and should indicate where they are available for public review.

b. Relevant portions of the incorporated analysis must be referenced by page number, and summarized in the EA or EIS to the extent necessary to provide the decisionmaker and the public with an understanding of the significance of the referenced material to the current analysis. In other words, incorporating by reference should not result in a loss of comprehension to the reader. The NEPA document must be able to stand alone; it must provide sufficient analysis to allow the reader to follow the analysis and arrive at a conclusion.

c. Material incorporated by reference must be reasonably available for inspection by potentially interested persons within the time allowed for comment. The manager responsible for preparing the EA or EIS must determine how to satisfy this "reasonably available" standard. If the document is not or cannot be made readily available, then it may not be incorporated by reference. Material based on proprietary data may not be incorporated by reference. If a document incorporated by reference is at the heart of the EIS, it should be circulated for comment as part of the draft.

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OPTIONAL PLAN CONFORMANCE/NEPA COMPLIANCE RECORD

BLM Office \_\_\_\_\_

Lease/Serial/Case File No. \_\_\_\_\_

Proposed Action Title/Type: \_\_\_\_\_

Location of Proposed Action: \_\_\_\_\_

Description of Proposed Action: \_\_\_\_\_

Applicant (if any): \_\_\_\_\_

**PART I: PLAN CONFORMANCE REVIEW.** This proposed action is subject to the following land use plan:

Name of Plan: \_\_\_\_\_ Date Approved: \_\_\_\_\_

The proposed action has been reviewed for conformance with this plan (43 CFR 1610.5, BLM MS 1617.3).

\_\_\_\_\_  
Surname(s) of Reviewer(s)

Remarks: \_\_\_\_\_

**PART II NEPA REVIEW.**

**A. Categorical exclusion review.** This proposed action qualifies as a categorical exclusion under 516 DM 2, Appendix 1.\_\_\_\_ (CX number) or 516 DM 6, Appendix 5.4.\_\_\_\_ (CX number). It has been reviewed to determine if any of the exceptions described in 516 DM 2, Appendix 2, apply.

\_\_\_\_\_  
Surname(s) of Reviewer(s)

Remarks: \_\_\_\_\_

**B. Existing EA/EIS review.** This proposed action is addressed in the following existing BLM EA/EIS:

Name of Document: \_\_\_\_\_ Date Approved: \_\_\_\_\_

This EA/EIS has been reviewed against the following criteria to determine if it covers the proposed action:

1. The proposed action is a feature of, or essentially the same as, the alternative selected and analyzed in the existing document.
2. A reasonable range of alternatives was analyzed in the existing document.
3. There has been no significant change in circumstances or significant new information germane to the proposed action.
4. The methodology/analytical approach previously used is appropriate for the proposed action.
5. The direct and indirect impacts of the proposed action are not significantly different than those identified in the existing document.
6. The proposed action would not change the previous analysis of cumulative impacts.
7. Public involvement in the previous analysis provides appropriate coverage for the proposed action.

\_\_\_\_\_  
Surname(s) of Reviewer(s)

Remarks: \_\_\_\_\_

**PART III: DECISION.** I have reviewed this plan conformance and NEPA compliance record and have determined that the proposed project is in conformance with the approved land use plan and that no further environmental analysis is required. It is my decision to implement the project, as described, with the mitigation measures identified below.

Mitigation Measures/Other Remarks: \_\_\_\_\_

Authorized Official: \_\_\_\_\_ Date: \_\_\_\_\_

**INSTRUCTIONS FOR COMPLETING OPTIONAL PLAN CONFORMANCE/NEPA COMPLIANCE RECORD**

**WHEN TO USE.** The optional form may be used for documenting plan conformance and NEPA compliance for proposed actions which are categorically excluded from the preparation of an EA or EIS (i.e., none of the exceptions to categorical exclusion apply) or are fully covered by an existing EA or EIS prepared by the BLM (i.e., the existing BLM NEPA document satisfies all of the criteria for ensuring NEPA compliance for the proposed action).

**DETAILED INSTRUCTIONS.**

**Descriptive information.** Identify the BLM office, title or type of proposed action, and location of proposed action. A location map may be attached or a description of the location referenced. The lease/serial/case file number and applicant name are completed if applicable.

**PART I. PLAN CONFORMANCE REVIEW.** Identify the name of the plan(s), or planning analysis, and the date(s) approved. The remarks section may be used for documenting any restrictions or limitations identified in the plan(s) or for referencing any other relevant information contained in the plan(s). The individual(s) who reviewed the applicable land use plan(s), usually a resource specialist(s), should surname the conformance statement. The remarks section may be used for documenting any restrictions or limitation identified in the plan(s) or for referencing any other relevant information contained in the plan(s).

**PART II. NEPA REVIEW.** Complete II.A. if the proposed action is on the Departmental or the BLM list of categorical exclusions (see 516 DM 2, Appendix 1, and 516 DM 6, Appendix 5). Complete Part II.B. if the proposed action is covered in an existing EA or EIS prepared by the BLM.

**A. Categorical Exclusion Review.** Conduct review in accordance with procedures identified in Chapter II, Paragraph B of the BLM NEPA Handbook. The individual(s) who conducts the review to determine if any of the exceptions apply, usually a resource specialist(s), should surname the statement verifying the completion of the review. The remarks section may be used to document any pertinent information about the CX review.

**B. Existing EA/EIS Review.** Identify the name of the document and the date approved. Generally only one existing EA or EIS will be used for ensuring coverage (usually the applicable RMP/EIS). Conduct review in accordance with procedures identified in Chapter III, Paragraph B of the BLM NEPA Handbook. Use additional pages if the review includes more than one existing EA or EIS. The individual(s) who reviews the existing EA or EIS against the criteria shown, usually a resource specialist(s), should surname the statement verifying that the review has been completed. The remarks section may be used for any comments on the review.

**PART III. DECISION.** The remarks sections should be used to document any commitments being made as part of this decision such as mitigation measures or monitoring and enforcement activities associated with the proposed action which are specified in the applicable land use plan. The manager responsible for approving the action must sign and date the decision.