
KEMMERER
PROPOSED RESOURCE MANAGEMENT PLAN AND
FINAL ENVIRONMENTAL IMPACT STATEMENT

Appendix F

Exception, Modification, and Waiver Criteria

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PROCESSING EXCEPTIONS TO SEASONAL RESTRICTIONS

A request for an exception must be initiated in writing to the field manager by the public land user near the time of conducting the work. To assist with project planning, the request should be made at least 7 days before the proposed construction date. The unpredictability of weather, animal movement and condition, and so on, precludes analysis of requests more than 1 week before the proposed construction time periods. Some species may require reanalysis every 2 weeks to ensure that conditions have not changed, which could result in adverse impacts to the species.

Each request is considered a unique action and is analyzed and documented individually for Resource Management Plan and National Environmental Policy Act compliance. Processing also may include coordination with the Wyoming Game and Fish Department (WGFD).

Exceptions to Seasonal Restrictions

Activities within the planning area are managed with seasonal restrictions, no surface occupancies, or distance restrictions for sensitive and crucial habitats. Protective wildlife seasonal restrictions are consistent with statewide dates and (or) distances. For example, big game crucial winter ranges are protected from November 15 through April 30. This restriction is intended to protect big game if weather or other habitat needs dictate.

The Bureau of Land Management (BLM) can and does grant exceptions to seasonal restrictions if the BLM, in consultation with the WGFD, feels that granting an exception would not adversely impact the population being protected. The BLM uses a set of criteria when considering a request for an exception. Professional judgment plays a key part in the BLM's decisions on whether to grant exceptions. No clear-cut formula exists.

The following section is an example of factors considered by the BLM when determining whether a request for an exception to crucial big game winter range should be granted. Similar criteria and (or) data are used when considering granting exceptions for other protected species, such as greater sage-grouse, elk calving areas, mountain plover, and pygmy rabbits.

Factors Considered

1. Resource Concerns
 - Animal presence or absence
 - Additional or new resource concerns
 - Potential for increased wildlife accidents or poaching
2. Animal Conditions
 - Physical condition of individual animals (e.g., fat reserves)
 - Local animal population condition (animal density)
 - Potential for additive mortality
 - Likelihood of introduction or increased incidence of disease
 - Likelihood of decreased recruitment/birth rate

3. Climate/Weather
 - Snow conditions (depth, crusting, longevity)
 - Current and historic local precipitation patterns
 - Current and historical seasonal weather patterns
 - Recent and current windchill factors (indication of animals energy use)
 - Duration of condition
 - Short- and long-range forecasts
4. Habitat Condition and Availability
 - Water and forage condition (availability, quality, and quantity)
 - Competition (interspecific, intraspecific)
 - Animal use of available forage
 - Suitable and ample forage immediately available and accessible
5. Spatial Considerations
 - Migration/travel corridors
 - Winter range, foraging, parturition or breeding
 - Topography (plains vs. mountains)
 - Topographic/geographic limitations (barriers)
 - Presence of thermal cover (e.g., protection from wind)
 - Proportion of range impacted
 - Juxtaposition and density of other activities/disturbances in the vicinity
 - Cumulative impacts
6. Timing
 - When proposed activity would occur in the stipulation period
 - Kind and duration of potentially disruptive activity
 - Likelihood of animals habituating to the proposed activity

Modification or Waiver of Lease Stipulations

Title 43 CFR 3101.1-4 establishes procedures for granting modifications or waivers to oil and gas lease stipulations, as stated below:

A stipulation included in an oil and gas lease shall be subject to modification or waiver only if the authorized officer determines that the factors leading to its inclusion in the lease have changed sufficiently to make the protection provided by the stipulation no longer justified or if proposed operations would not cause unacceptable impacts. If the authorized officer has determined, prior to lease issuance, that a stipulation involves an issue of major concern to the public, modification or waiver of the stipulation shall be subject to public review for at least a 30-day period. In such cases, the stipulation shall indicate that public review is required before modification or waiver. If subsequent to lease issuance the authorized officer determines that a modification or waiver of a lease term or stipulation is substantial, the modification or waiver shall be subject to public review for at least a 30-day period.

The modification or waiver of an oil and gas lease stipulation implies that the sensitive resource for which the protective measure was considered is in some way not present in the area or in some way no longer in need of the protective measure. In either case, consideration of a modification or waiver of a lease stipulation would require environmental analysis and may result in an amendment to the land use plan.

Onshore Order 1 (May 2007) requires that all pits and interim reclamation be done within 6 months after drilling or plugging operations are complete. In specific operations where pits and reclamation cannot be completed in the necessary timeframes, and if stockpiles are required for longer than the identified 6 month timeframe, the permittee or designated agent would be required to submit a plan that would mitigate the impacts of disturbance greater than 6 months.

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