



[4337-A2]

**DEPARTMENT OF THE INTERIOR**

**Office of the Secretary**

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**National Environmental Policy Act: Implementing Procedures; Additions to Categorical Exclusions for Bureau of Indian Affairs (516 DM 10)**

**AGENCY:** Department of the Interior.

**ACTION:** Notice of Final National Environmental Policy Act Implementing Procedures.

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**SUMMARY:** In accordance with the National Environmental Policy Act of 1969 (NEPA) and the Council on Environmental Quality regulations implementing NEPA, and Department of the Interior (Department) NEPA implementing regulations, the Bureau of Indian Affairs (BIA) in the Department is adding three categorical exclusions (CE) to the Departmental Manual 516 DM 10. The three proposed CEs pertain to timber harvesting on Indian lands.

**DATES: EFFECTIVE DATE:** The categorical exclusions are effective [Insert date of publication in the FEDERAL REGISTER].

**ADDRESSES:** To obtain a copy of the new categorical exclusions contact Mr. David Koch, Acting Chief Forester, Bureau of Indian Affairs, 1849 C Street, Washington, DC 20240; email: [david.koch@bia.gov](mailto:david.koch@bia.gov).

**FOR FURTHER INFORMATION CONTACT:** Mr. David Koch, Acting Chief Forester, (202) 208-4837.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

Harvesting timber on Indian lands, as defined in 25 CFR 163.1, allows landowners to realize value from lands held in trust for them by the Federal Government or subject to restrictions against alienation. The National Indian Forest Resources Management Act, and its implementing regulations, require the Secretary, with the participation of the landowners, to undertake forest land management activities on Indian forest lands, including the approval of timber harvests. As a result of the need for Federal permits and contracts, such projects are Federal actions that require compliance with the NEPA. The BIA has typically conducted NEPA reviews of actions associated with timber harvesting by preparing Environmental Assessments (EA). The addition of CEs to cover these three categories of small actions will allow for a more efficient NEPA review because those EAs resulted in findings of no significant impacts which were substantiated over time. The three proposed CEs were developed based on CEs currently used by the United States Forest Service (FS), as described in FS regulations 36 CFR 220, and adopted by the Bureau of Land Management (BLM), as described the Departmental Manual, 516 DM 11. The BIA relied on the experience of the FS and BLM and applied its expertise to benchmark these CEs and determined these are appropriate to establish as BIA CEs.

Because these CEs have important implications for actions occurring on Indian lands, the BIA initiated consultation and requested comments from all federally recognized tribes. This consultation period began on July 23, 2014, and concluded on

September 21, 2014. Public comments were also solicited through a notice placed in the Federal Register on November 14, 2014 [79 FR 68287].

### **Comments on the Proposal**

The BIA received no comments from tribes, and no public comments.

### **Conclusion**

The Department and the BIA determined that the actions defined in the CEs presented at the end of this notice normally do not individually or cumulatively have a significant effect on the human environment and, absent extraordinary circumstances, do not require preparation of an Environmental Assessment or an Environmental Impact Statement. This finding is based on the analysis of the application of similar CEs established and used by other Federal departments and agencies; and the professional judgment of BIA environmental and forestry personnel who conducted environmental reviews of similar actions that resulted in Findings of No Significant Impact.

### **Categorical Exclusions**

The Department will add the following categorical exclusions to the Departmental Manual at 516 DM 10.5:

H. Forestry.

(11) Harvesting live trees not to exceed 70 acres, requiring no more than 0.5 mile of temporary road construction. Such activities:

- a) Shall not include even-aged regeneration harvests or vegetation type conversions.
- b) May include incidental removal of trees for landings, skid trails, and road clearing.

- c) May include temporary roads which are defined as roads authorized by contract, permit, lease, other written authorization, or emergency operation not intended to be part of the BIA or Tribal transportation systems and not necessary for long-term resource management. Temporary roads shall be designed to standards appropriate for the intended uses, considering safety, cost of transportation, and impacts on land and resources; and
- d) Shall require the treatment of temporary roads constructed or used so as to permit the reestablishment by artificial or natural means, of vegetative cover on the roadway and areas where the vegetative cover was disturbed by the construction or use of the road, as necessary to minimize erosion from the disturbed area. Such treatment shall be designed to reestablish vegetative cover as soon as practicable, but at least within 10 years after the termination of the contract.

Examples include, but are not limited to:

- (a) Removing individual trees for sawlogs, specialty products, or fuelwood.
  - (b) Commercial thinning of overstocked stands to achieve the desired stocking level to increase health and vigor.
- (12) Salvaging dead or dying trees not to exceed 250 acres, requiring no more than 0.5 mile of temporary road construction. Such activities:
- (a) May include incidental removal of live or dead trees for landings, skid trails, and road clearing.
  - (b) May include temporary roads which are defined as roads authorized by contract, permit, lease, other written authorization, or emergency operation not intended to be part of the BIA or Tribal transportation systems and not necessary for long-

term resource management. Temporary roads shall be designed to standards appropriate for the intended uses, considering safety, cost of transportation, and impacts on land and resources; and

- (c) Shall require the treatment of temporary roads constructed or used so as to permit the reestablishment, by artificial or natural means, of vegetative cover on the roadway and areas where the vegetative cover was disturbed by the construction or use of the road, as necessary to minimize erosion from the disturbed area. Such treatment shall be designed to reestablish vegetative cover as soon as practicable, but at least within 10 years after the termination of the contract.
- (d) For this CE, a dying tree is defined as a standing tree that has been severely damaged by forces such as fire, wind, ice, insects, or disease, such that in the judgment of an experienced forest professional or someone technically trained for the work, the tree is likely to die within a few years.

Examples include, but are not limited to:

- (a) Harvesting a portion of a stand damaged by a wind or ice event.
  - (b) Harvesting fire damaged trees.
- (13) Commercial and non-commercial sanitation harvest of trees to control insects or disease not to exceed 250 acres, requiring no more than 0.5 miles of temporary road construction. Such activities:
- (a) May include removal of infested/infected trees and adjacent live uninfested/uninfected trees as determined necessary to control the spread of insects or disease; and

- (b) May include incidental removal of live or dead trees for landings, skid trails, and road clearing.
- (c) May include temporary roads which are defined as roads authorized by contract, permit, lease, other written authorization, or emergency operation not intended to be part of the BIA or tribal transportation systems and not necessary for long-term resource management. Temporary roads shall be designed to standards appropriate for the intended uses, considering safety, cost of transportation, and impacts on land and resources; and
- (d) Shall require the treatment of temporary roads constructed or used so as to permit the reestablishment, by artificial or natural means, of vegetative cover on the roadway and areas where the vegetative cover was disturbed by the construction or use of the road, as necessary to minimize erosion from the disturbed area. Such treatment shall be designed to reestablish vegetative cover as soon as practicable, but at least within 10 years after the termination of the contract.

Examples include, but are not limited to:

- (a) Felling and harvesting trees infested with mountain pine beetles and immediately adjacent uninfested trees to control expanding spot infestations (a buffer); and
- (b) Removing or destroying trees infested or infected with a new exotic insect or disease, such as emerald ash borer, Asian longhorned beetle, or sudden oak death pathogen.

Dated: February 5, 2015.

Willie R. Taylor,  
Director, Office of Environmental Policy and Compliance.

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