

# Appendix B. Applicable Laws, Regulations, and Policies

The BLM must comply with the mandate and intent of many laws, executive orders (EOs), regulations, policies and court cases that apply to BLM-administered public land and resources in the Planning Area. The Lower Sonoran Field Office (LSFO) manages public lands in the Lower Sonoran and Sonoran Desert National Monument Decision Areas according to applicable regulations found at Title 43 of the Code of Federal Regulations and according to applicable U.S. Department of the Interior (USDOI) and BLM manuals, handbooks, and instruction memoranda (IMs).

General planning criteria that guide and direct the plan and determine how the planning team approaches the development of alternatives, and ultimately the selection of a preferred alternative, are detailed in Chapter 1, *Purpose & Need for the RMP* (p. 1).

## B.1. General Laws, Regulations & Policies

### B.1.1. Archaeological Resource Protection Act (ARPA) of 1979

The Archaeological Resource Protection Act (ARPA) (16 USC 470) protects archaeological resources on public and Indian lands. It provides felony-level penalties for unauthorized excavation, removal, damage, alteration, or defacement of any archaeological resource, which is defined as material remains of past human life or activities that at least 100 years old. Before archaeological resources are excavated or removed from public lands, the Federal land manager must issue a permit detailing the time, scope, location, and specific purpose of the proposed work. ARPA also fosters the exchange of information about archaeological resources between governmental agencies, the professional archaeological community, and private individuals. ARPA is implemented by regulations found in 43 CFR Part 7.

### B.1.2. BLM Land Use Planning Handbook

The BLM Land Use Planning Handbook (H-1601-1) provides detailed instructions on how to carry out policy and direction described in the manual sections (MS). Handbooks are considered part of the BLM Manual. They have the same force of authority as the MS. The Land Use Planning Handbook outlines specific techniques, procedures, practices, and processes used to create and organize resource-management plans (RMPs) and their component sections.

### B.1.3. BLM Manual

The BLM Manual contains BLM policy and program direction. It provides policy, procedures, and instructions to manage programs. Each handbook is controlled by a manual section (MS), which sets out the basic authority for performing tasks, and states who is responsible for seeing that these tasks are accomplished.

### **B.1.4. Clean Air Act (CAA) of 1970 & Amendments of 1977 and 1990**

The Clean Air Act (CAA) of 1970 , as amended 1977 & 1990 (42 USC 7401 et seq.) recognizes that air pollution endangers public health and welfare. To protect and enhance the quality of the nation's air resources, the CAA authorizes the Environmental Protection Agency (EPA) to set six national ambient air quality standards (NAAQSs) that regulate carbon monoxide, lead, nitrogen dioxide, ozone, sulfur dioxide, and particulate matter pollution emissions. The CAA seeks to reduce or eliminate the creation of pollutants at their source and designates this responsibility to State and local governments. States are directed to utilize financial and technical assistance as well as leadership from the Federal government to develop implementation plans to achieve NAAQS. Geographic areas are officially designated by the EPA as attainment or nonattainment areas based on their compliance with NAAQS. Geographic regions established for air quality planning purposes are designated as air quality control regions (AQCR). Pollutant concentration levels are measured at designated monitoring stations within the AQCR. An area is designated as unclassifiable where insufficient monitoring data exists. Section 309 of the CAA authorizes the EPA to review and comment on impact statements prepared by other agencies.

An agency should consider what effect an action may have on NAAQS due to short-term increases in air pollution, i.e. during project construction, as well as long-term increases, i.e. those resulting from changes in traffic patterns. For actions in attainment areas, a Federal agency may also be subject to the EPA's prevention of significant deterioration (PSD) regulations. These regulations apply to major new stationary sources and modifications to such sources. Although few agency facilities will actually emit pollutants, increases in pollution can result from changes in traffic patterns or volume. Section 118 of the CAA waives Federal immunity from complying with the CAA and states that all Federal agencies will comply with Federal and State requirements.

### **B.1.5. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 and the Superfund Amendments and Reauthorization Act (SARA) of 1986**

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 authorizes the EPA to respond to spills and other releases of hazardous substances to the environment and authorizes the National Oil and Hazardous Substances Pollution Contingency Plan. CERCLA also provides a Federal "Superfund" to respond to emergencies immediately. Although the "Superfund" provides funds for cleanup of sites where potentially responsible parties (PRPs) cannot be identified, the EPA is authorized to recover funds through damages collected from responsible parties. This funding process places the economic burden for cleanup on polluters. The Superfund Amendments and Reauthorization Act (SARA) of 1986 mandates strong cleanup standards and authorizes the EPA to use a variety of incentives to encourage settlements. Title III of SARA authorizes the Emergency Planning and Community Right to Know Act (EPCRA), which requires facility operators with "hazardous substances" or "extremely hazardous substances" to prepare comprehensive emergency plans and to report accidental releases. EO 12856, "Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements," requires Federal agencies to comply with the provisions EPCRA. If a Federal agency acquires a contaminated site, it can be held liable for cleanup as the property owner/operator. A Federal agency also can incur liability if it leases a property, as the courts have found lessees liable as

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“owners.” However, if the agency exercises due diligence by conducting a phase I environmental site assessment, it may claim the “innocent purchaser” defense under CERCLA. To use this defense, the current owner/operator must show that it undertook “all appropriate inquiry into the previous ownership and uses of the property consistent with good commercial or customary practice” before buying the property, according to Title 42 United States Code (USC) 9601(35).

### **B.1.6. Endangered Species Act (ESA) of 1973**

The Endangered Species Act (ESA) of 1973, as amended (16 USC 1531 et seq.) establishes a Federal program to conserve, protect, and restore threatened and endangered plants and animals and their habitats. The ESA specifically charges Federal agencies with using their authority to conserve threatened and endangered species. All Federal agencies must ensure that no action they authorize, fund, or carry out is likely to jeopardize the continued existence of an endangered or threatened species or result in the destruction of critical habitat for these species, unless the agency has been granted an exemption. The secretary of the interior, using the best available scientific data, determines which species are officially endangered or threatened, and the U.S. Fish and Wildlife Service (FWS) maintains the list. A list of endangered species may be obtained from the Endangered Species Division, U.S. Fish and Wildlife Service (703-358-2171). States may also have their own lists of threatened and endangered species, which may be obtained by calling the appropriate State fish and wildlife office. Some species, such as the bald eagle, also have laws specifically for their protection (e.g., Bald Eagle Protection Act).

### **B.1.7. Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (EO 12898, February 11, 1994)**

EO 12898 directs Federal agencies to make achieving environmental justice part of their mission. Agencies must identify and address adverse human health and environmental effects their activities have on minority and low-income populations and develop agency-wide environmental justice strategies. The strategy must list “programs, policies, planning, and public participation processes, enforcement, and rulemakings related to human health or the environment that should be revised to promote enforcement of all health and environmental statutes in areas with minority populations and low-income populations, ensure greater public participation, improve research and data collection relating to the health and environment of minority populations and low-income populations, and identify differential patterns of consumption of natural resources among minority populations and low-income populations.” A copy of the strategy and progress reports must be provided to the Federal Working Group on Environmental Justice. Responsibility for compliance with this EO lies with each Federal agency.

### **B.1.8. Federal Land Policy and Management Act (FLPMA) of 1976**

The Federal Land Policy and Management Act (FLPMA) of 1976 (43 USC 1701) and the regulations contained in 43 CFR Part 1600 govern the BLM planning process. Land-use plans ensure that public lands are managed in accordance with the intent of Congress, as stated in FLPMA, under the principles of multiple use and sustained yield. As required by FLPMA, the public lands must be managed in a manner that protects the quality of scientific, scenic,

historical, ecological, environmental, air and atmospheric, water resource, and archaeological values; preserves and protects, where appropriate, certain public lands in their natural condition and provides food and habitat for fish and wildlife and domestic animals; and provides for outdoor recreation and human occupancy and use by encouraging collaboration and public participation throughout the planning process. In addition, the public lands must be managed in a manner that recognizes the nation's need for domestic sources of minerals, food, timber, and fiber from the public lands.

### **B.1.9. National Historic Preservation Act (NHPA) of 1966**

The National Historic Preservation Act (NHPA) sets national policy to identify and preserve properties of State, local, and national significance. The act establishes the Advisory Council on Historic Preservation (Council), state historic preservation offices, and the National Register of Historic Places (NRHP). The Council advises the President, Congress and Federal agencies on historic preservation issues. Section 106 of the act directs Federal agencies to take into account effects of their undertakings (actions and authorizations) on properties included in or eligible for NRHP. Section 110 sets inventory, nomination, protection and preservation responsibilities for Federally owned cultural properties. Section 106 of the act is implemented by regulations of the Council, 36 CFR Part 800. The BLM in Arizona complies with Section 106 according to a national programmatic agreement dated March 26, 1997, supplemented by a protocol between the BLM Arizona state director and the Arizona state historic preservation officer.

The agency should coordinate studies and documents prepared under Section 106 with the National Environmental Policy Act (NEPA) of 1972 where appropriate. However, NEPA and NHPA are separate statutes, and compliance with one does not constitute compliance with the other. For example, actions that qualify for a categorical exclusion under NEPA, may still require Section 106 review under NHPA. It is the responsibility of the agency official to identify properties in the area of potential effects and decide whether they are included or eligible for inclusion in the NRHP. Section 110 of the NHPA requires Federal agencies to identify, evaluate, and nominate historic property under agency control to the NRHP.

### **B.1.10. Sikes Act of 1960**

The Sikes Act (16 USC 670 et seq.) authorizes the USDO, in cooperation with State agencies responsible for administering fish and game laws, to plan, develop, maintain, and coordinate programs for conserving and rehabilitating wildlife, fish, and game on public lands within its jurisdiction. The plans must conform to overall land-use and management plans for the lands involved. The plans could include habitat improvement projects and related activities and adequate protection for species of fish, wildlife, and plants considered endangered or threatened. The BLM also must coordinate with suitable State agencies in managing State-listed plant and animal species when the State has formally made such designations.

### **B.1.11. Taylor Grazing Act of 1934, as amended and supplemented**

The Taylor Grazing Act (43 USC 315 et seq.) was the Federal government's first effort to regulate grazing on Federal public land. The act established grazing districts of vacant, unappropriated, and unreserved land from the public domain, excluding Alaska, which were not national forests, parks, or monuments, Indian reservations, railroad grant lands, revested Coos Bay Wagon Road

grant lands, or land that was valuable chiefly for grazing and raising forage crops. Residents and stock owners pay an annual fee to obtain a grazing permit, which is used to manage livestock grazing in established districts. Grazing administration regulations (43 CFR 4100) provide for the development of state standards for rangeland health (Standards) and guidelines for grazing management (Guidelines). The Standards and Guidelines are approved through the BLM planning and NEPA processes.

### **B.1.12. Wild and Scenic Rivers Act (WSRA) of 1968**

By recognizing the remarkable values of specific rivers of the Nation, the Wild & Scenic Rivers Act (WSRA) of 1968 (16 USC 1271-1287) provides for a wild and scenic river system. These selected rivers and their immediate environment are preserved in a free-flowing condition, without dams or other construction. The policy not only protects the water quality of the selected rivers but also provides for the enjoyment of present and future generations. Any river in a free-flowing condition is eligible for inclusion, and can be authorized as such by an Act of Congress, an act of State legislature, or by the Secretary of Interior upon the recommendation of the Governor of the State(s) through which the river flows.

## **B.2. Program-Specific Laws, Regulations & Policies**

### **B.2.1. Resources**

#### Air Quality Management

The objective of the air resource program is to maintain or improve air quality as established by the NAAQS, achieve State Implementation Plan (SIP) goals for nonattainment areas, and reduce emissions from point and non-point sources. Proposed decisions within the influence zone of the planning project that may affect nonattainment areas, including the Maricopa County nonattainment areas for particulate matter of 10 microns (PM<sub>10</sub>) and particulate matter less than 2.5 microns (PM<sub>2.5</sub>), will be assessed for conformance with air quality standards.

Under the CAA, the BLM administered lands were given a class II air-quality classification unless reclassified by the State. Wilderness areas and national monuments must be classified as class I or class II. This classification allows moderate deterioration associated with moderate, well-controlled industrial and population growth.

#### Cave Resources

- Cave and Karst Resources Management (Manual Section [MS]-8380)
- Federal Cave Resource Protection Act of 1988 (16 USC 4301-4310)

#### Climate Change

- Climate Change and the Department of the Interior (Secretarial Order [SO] 3226, January 16, 2009)

#### Cultural and Heritage Resource Management

Cultural resources will be managed to maintain or enhance significant scientific, educational, cultural heritage, and other public values. Cultural resources will be conserved and protected for future generations. Cultural sites that meet NRHP criteria will be protected and nominated for inclusion on the register.

- American Indian Religious Freedom Act (AIRFA) of 1978 (42 USC 1996)
- Antiquities Act of 1906 (16 USC 431-433)
- Archaeological and Historic Preservation Act of 1974 (16 USC 469)
- Archaeological Resources Protection Act of 1979 (16 USC 469)
- BLM Manual 8100 – The Foundation for Managing Cultural Resources (MS-8100)
- BLM Manual 8110 – Identifying and Evaluating Cultural Resources (MS-8110)
- BLM Manual 8120 – Tribal Consultation Under Cultural Resources (MS-8120)
- BLM Manual 8130 – Planning for Use of Cultural Resources (MS-8130)
- BLM Manual 8140 – Protecting Cultural Resources (MS-8140)
- BLM Manual 8150 – Permitting Uses of Cultural Resources (MS-8150)
- BLM Manual 8170 – Interpreting Cultural Resources for the Public (MS-8170)
- Historic Sites Act of 1935 (16 USC 461)
- Identifying and Evaluating Cultural Resources (MS-8110)
- Indian Sacred Sites (EO 13007, May 24, 1996)
- National Historic Preservation Act of 1966, as amended (16 USC 470 et seq.)
- National Trails System Act of 1968 (16 USC 1241-1249)
- Native American Graves Protection and Repatriation Act (NAGPRA) of 1990 (25 USC 3001)
- Preserve America (EO 13287, March 3, 2003)
- Protection and Accommodation of Access to Indian Sacred Sites (EO 13007, May 24, 1996)
- Protection and Enhancement of the Cultural Environment (EO 11593, May 13, 1971)
- Reservoir Salvage Act of 1960
- The Foundation for Managing Cultural Resources (MS-8100)

#### Geological Resources

- None

#### Paleontological Resources

- General Procedural Guidance for Paleontological Resource Management (H-8270-1)

- Issuance of Archaeological and Paleontological Permits (Secretarial Order [SO] 3104, September 28, 1984)
- Paleontological Resource Management Manual (MS-8270)
- Paleontological Resources Preservation Act — Title VI, Subtitle D of the Omnibus Public Land Management Act of 2009 (PL 111–11)

### Priority Wildlife Habitat & Species

Management decisions will be designed to enhance and maintain habitat for threatened and endangered species. Management actions authorized, funded, or implemented by the BLM will not jeopardize the continued existence of Federally listed threatened or endangered plant or animal species or result in the destruction or adverse modification of critical habitat. Species proposed for Federal listing and proposed critical habitat will be given the same consideration as listed species. BLM candidate and special-status species and Arizona species of greatest conservation need will be managed so as not to contribute to the need to list as threatened or endangered. The intent is to recover listed species and maintain healthy populations of all other species, therefore avoiding the need for further listing of any species as threatened or endangered. Terms and conditions and conservation measures from the biological opinion will be incorporated into the plans.

### *Relevant Laws, Policies & Regulations*

- Animal Damage Control Act (7 USC 426)
- Bald and Golden Eagle Protection Act of 1940 (16 USC 668)
- BLM Manual 6840 – Special Status Species Management (MS-6840)
- Conservation of Migratory Birds (EO 13186, January 10, 2001)
- Exotic Organisms (EO 11987, May 24, 1977)
- Fish and Wildlife Conservation Act (16 USC 2901-2911)
- Fish and Wildlife Coordination Act (16 USC 661-667)
- Introduction, Transplant, Augmentation and Reestablishment of Fish, Wildlife, and Plants (MS-1745)
- Migratory Bird Treaty Act of 1918, as amended in 1936, 1960, 1968, 1969, 1974, 1978, 1986, and 1989 (16 USC 703-712)
- Migratory Bird Conservation Act of 1929, as amended (16 USC 715)
- Neotropical Migratory Bird Conservation Act (PL 106-247)
- Public Rangelands Improvement Act of 1978 (43 USC 1901)
- Recreational Fisheries (EO 12962, June 7, 1995)
- Responsibilities of Federal Agencies to Protect Migratory Birds (EO 13186, January 10, 2001)
- Special Status Species Management (MS-6840)

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## Soil Resource Management

Proposed decisions will be measured against the Arizona Standard for Rangeland Health Standard 1; upland soils will exhibit infiltration, permeability and erosion rates that are appropriate to soil type, climate, and land form (ecological site) to ensure long-term soil productivity. Best management practices will be incorporated into programs to minimize soil erosion and compaction resulting from management actions.

### *Relevant Laws, Policies & Regulations*

- Soil and Water Conservation Act of 1977 (16 USC 2001-2009)
- Soil Conservation and Domestic Allotment Act of 1935 (16 USC 590)
- Soil Resource Management (MS-7100)
- Soil, Water, and Air Management (MS-7000)

## Visual Resources Management

A visual resource management (VRM) classification will be conducted to address the public's concerns about open space and natural vistas. Some areas may be subject to special measures to protect resources or reduce conflicts among uses.

The monument will be managed to protect the viewshed and other visual resources that are compatible with the purposes for which the monument was established.

- Transportation Equity Act for the 21st Century (PL 105-178)
- 43 USC 1701, Section 102 (a) (8)
- Public Rangelands Improvement Act of 43 USC 4321, Section 101 (b)
- Visual Resource Inventory Handbook (H-8410-1)

## Vegetation Resource Management

### *Vegetation and Habitat Management*

Proposed decisions will be measured against the Arizona Standard for Rangeland Health for desired plant communities that provide for biodiversity and protection and restoration of native species. Vegetation will be managed to achieve desired plant communities (considering the ecological site potential) that provide for biodiversity as well as protection and restoration of native species. The plant communities will be managed to protect, improve, and restore communities to provide wildlife habitat and non-consumptive uses including plant protection, visual quality, watershed protection and stability, and water quality. Provisions may be made for hazardous fuels reduction and habitat restoration.

In SDNM, desired plant community descriptions will be developed that emphasize the protection of the diversity natural communities specified in the Proclamation. Monument plan decisions will prioritize achieving or maintaining these desired plant communities.

### *Invasive Species and Noxious Weed Control*

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The BLM will work with county, State, Tribal, and Federal agencies, individuals, and Weed Management Areas to monitor, manage, and control noxious weeds and invasive species. Invasive species and noxious weed control will be considered in the plans in accordance with the integrated weed management guidelines and design features identified in National, State, and local BLM programs and policies. Invasive species and noxious weed infestations will be prevented, contained, or reduced on BLM-administered public land using an integrated pest management approach. Proposed decisions will be assessed to determine whether or not they would contribute to the introduction or spread of noxious weeds or invasive species in accordance with the Federal Noxious Weed Act and Executive Order 13112. Management practices that prevent and control invasive species will be emphasized.

#### *Riparian Areas, Floodplains, and Wetlands*

Proposed decisions will be measured against the Arizona Standard for Rangeland Health for riparian areas, floodplains, and wetlands that provide for biodiversity and protection and restoration of native species. Riparian areas, floodplains, and wetlands will be managed to protect, improve, and restore their natural functions to benefit water storage, groundwater recharge, water quality, and fish and wildlife values. All management practices will be designed to maintain or improve the integrity of these high-priority values, in accordance with the Clean Water Act and Arizona's Standards for Rangeland Health. Management activities in floodplains will be consistent with Executive Order 11988 and management activities for wetlands and riparian areas will be consistent with Executive Order 11990.

#### *Relevant Laws, Regulations & Policies*

- Range Management Grazing Administration Regulations (43 CFR 4100)
- Arizona Native Plant Law of 1993 (Arizona Revised Statutes [ARS] 3-901 et seq.)
- Arizona Standards as developed from Standards and Guidelines for Grazing Administration (43 CFR 4180.2)
- Chemical Pest Control (MS-9011)
- Federal Advisory Committee Act
- Federal Noxious Weed Act of 1974 (7 USC 2801 et seq.)
- Floodplain Management (EO 11988, May 24, 1977)
- Invasive Species Control (EO 13112, February 3, 1999)
- Noxious Plant Control Act (43 USC 1241-43)
- Protection of Wetlands (EO 11990, May 24, 1977)
- Public Rangelands Improvement Act of 1978
- Rangeland Health Standards (MS-4180)
- Renewable Resource Improvements and Treatments (MS-1740)
- Special Status Species Management (MS-6840)

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- Wildlife and Fisheries Management (MS-6500)
- Biological Soil Crusts: Ecology and Management, TR-1730-2, Interagency, 2001
- Interpreting Indicators for Rangeland Health, Version 4, TR 1734-6, Interagency, 2005
- Inventory and Monitoring, Ecological Site Inventory, TR-1737-7, BLM, 2001
- Measuring and Monitoring Plant Populations, TR-1730-1, 1998
- National Range Handbook, Handbook, H-4410-01, 1990
- Rangeland Monitoring and Evaluation, TR-4400-1, BLM 1988
- Rangeland Monitoring and Evaluation Handbook, BLM Handbook H-4400-01, 1990
- Rangeland Monitoring: Actual Use Studies, TR-4400-2, BLM, 1984)
- Rangeland Inventory and Monitoring: Supplemental Studies, TR-4400-5, BLM, 1992
- Rangeland Monitoring: Analysis, Interpretation, and Evaluation, TR-4400-7, BLM, 1984
- Riparian Area Management, Process for Assessing Proper Functioning Condition, TR-1737-9, Interagency, 1990
- Riparian Area Management, Process for Assessing Proper Functioning Condition for Lentic Riparian-Wetland Areas, TR-1737-11, Interagency, 1990
- Sampling Vegetation Attributes, TR-1734-4, 1996
- Utilization Studies and Residual Measurements, TR-1734-3, Interagency, 1996

## Water Resources Management

### *Water Quality*

Section 319 of the CAA obligates Federal agencies to be consistent with State non-point source management program plans and relevant water-quality standards. Section 313 requires compliance with State Water Quality Standards. The BLM will coordinate with ADEQ regarding their Total Maximum Daily Load (TMDL) program and other relevant water quality programs. The BLM will incorporate applicable best management practices or other conservation measures for specific programs and activities into the RMP. Water quality will be maintained or improved in accordance with State and Federal standards. Proposed decisions within the Planning Area will be in compliance with the Clean Water Act, Federal and State water quality standards, and BLM/ADEQ agreements.

### *Water Rights*

Where the need for water rights is identified on the public lands, the BLM will file for water rights in accordance with State Law and in accordance with the SDNM Proclamation. The BLM will continue to quantify and notify the State of its Federal reserved water rights in the designated wilderness areas, in accordance with the Arizona Desert Wilderness Act of 1990.

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- Arizona Revised Statutes (ARS) Title 45, Waters and Title 49, The Environment
- Colorado River Basin Project Act (43 USC 1501-1556)
- Colorado River Basin Salinity Control Act (43 USC 1571-1599)
- Colorado River Floodway Protection Act (100 Stat. 1129)
- Colorado River Storage Project Act (43 USC 620)
- Federal Water Pollution Control Act (33 USC 1251 et seq.)
- Flood Control Act (16 USC 460 et seq.)
- Floodplain Management (EO 11988, May 24, 1977)
- Safe Drinking Water Act (42 USC 300h)
- Soil, Water, and Air Management (MS-7000)
- Water Quality Act (PL 100-4)
- Water Resources Planning Act (42 USC 1962)
- Water Rights Act (43 USC 666)
- Fundamentals of Rangeland Health (43 CFR 4180.1)

#### Wild Horses and Burros Management

In 1971, Congress passed The Wild Free-Roaming Horses and Burros Act (WFRHBA, or "The Act," Public Law 92-195). The Act gave BLM the honor and the responsibility to manage wild horse and burro populations on BLM-administered lands and facilities. The Painted Rock Herd Area (PRHA) is the only location in the Planning Area that has is an established wild horse and burro herd area or herd management area.

#### *Applicable Laws, Regulations & Policies*

- The Act of September 8, 1959 (18 U.S.C. 47), commonly known as the Wild Horse Annie Act
- The Wild Free-Roaming Horses and Burros Act of 1971 (16 U.S.C. 1331-1340), as amended.
- Title 43 Code of Federal Regulations 4700.
- Wild Free-Roaming Horses and Burros Management, 2010 (BLM Manual 4700-1, Rel 4-111).
- Wild Horses and Burros Management Handbook, 2010 (BLM Handbook – 66 – Rel. 4-116)
- Conducting Compliance Checks for BLM's Wild Horse and Burro Adoptions (BLM Handbook 4760-1)
- Adoption of Wild Horses and Burros Handbook (BLM Handbook 4750-2)

#### Wildland Fire and Management

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Fire decisions made in the Arizona Statewide LUP Amendment for Fire, Fuels, and Air Quality EA, initiated in 2003, will be incorporated into the Lower Sonoran and SDNM plans. Adjustments to the fire decisions, if required, will be consistent with the Federal Wildland Fire Policy, the National Fire Plan, and all other BLM policy, including current Zone Fire Management Plans.

Fire suppression will be accomplished with the least amount of surface disturbance and to protect significant cultural or paleontological values. Public lands and resources affected by fire will be rehabilitated in accordance with the objectives identified for the affected area, subject to BLM policies and available funding.

#### *Relevant Laws, Regulations & Policies*

- BLM Burned Area Emergency Stabilization and Rehabilitation Handbook (H-1742-1)
- BLM Fire Business Management Manual (MS-1111)
- BLM Prescribed Fire Management Handbook (H-9214-1)
- Timber Protection Act (16 USC 594)

## **B.2.2. Resource Uses**

### Lands and Realty Management

#### *Land Tenure Adjustment and Withdrawal*

Public lands will be retained in public ownership unless determined that disposal of a particular parcel(s) will serve the public interest. Decisions to acquire lands will be based on public benefits, management considerations, and public access needs. Land tenure adjustments are made through both acquisitions and disposals. Land tenure adjustments may include only the surface, only the mineral estate, or both. Acquisitions may occur by land purchase, donation, exchange, or transfer of jurisdiction from another Federal agency. Disposals occur by sale, exchange, transfer of jurisdiction to another Federal agency, or by infrequent sales or transfers under legal authorities. All land tenure adjustments will consider the effect on the mineral estate.

Conditions will be identified that warrant the removal or withdrawal of certain public lands from multiple use, such as for public safety or protection of special uses and resources. Withdrawals designate public lands for a particular project, purpose or use. Normally, the land is closed to entry under all or some of the public land laws including the mining law. Criteria for identifying lands available or not available for land entry, including under the Desert Land Entry Act, will be developed.

In SDNM, all lands and interest in lands within the monument will be retained in public ownership. The RMP will evaluate the opportunity for acquiring non-Federal lands within or adjacent to the monument that could protect or enhance management of monument resources. Acquired lands and interests within the monument boundary will be added to the monument. The Proclamation withdrew the monument from all form of entry, location, selection, sale, or leasing or other disposition under public land laws, including but not limited to withdrawal from location, entry, and patent under the mining laws, and from disposition under all laws relating to mineral and geothermal leasing, other than by exchange that furthers the protective purposes of the monument.

#### *Corridors, Communications Sites, and Renewable Energy Sites*

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Existing corridors and communication sites from previous plans may be modified, removed, or carried forward. Additional corridors and communication sites, and new renewable energy sites, including wind and solar energy, will be considered based on established criteria, procedures, and policy, in association with industry demand and resource protection objectives. New locations for corridors, communication sites, and renewable energy sites will also consider environmental quality, economic efficiency, security, safety, and good engineering and technological practices. Decisions will consider preferred locations and exclusion areas to protect significant resource values.

In SDNM, existing and proposed corridors, communication sites, and renewable energy sites will be evaluated for compatibility with protecting the monument resources. Additional corridors and communication sites, and new renewable energy sites, including wind and solar energy, will be considered based on consideration of monument resource protection, along with established criteria, procedures, and policy, and in association with industry demand and resource protection objectives.

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- Airport and Airway Improvement Act (49 USC 2215)
- BLM Acquisition Handbook (H-2100-1)
- BLM Land Exchange Handbook (H-2200-1)
- BLM Preacquisition Environmental Site Assessment Handbook (H-2101-4)
- BLM Recreation and Public Purposes Handbook (H-2740-1)
- BLM Manual 9310 – Appraisals of Real Property (MS-9310)
- BLM Manual 2200 – Land Exchanges (MS-2200)
- BLM Manual 2880 – Oil and Natural Gas Pipelines (MS-2880)
- BLM Manual 379 – Payment in Lieu of Taxes (MS-379)
- Desert Land Entry Act (43 USC 321 et seq.)
- Energy Policy Act (42 USC 15801)
- Exchanges of Public Land for Non-Federal Land (43 USC 1716)
- Federal Highway Acts (23 USC 17 & 317)
- Federal Land Exchange Facilitation Act of 1988 (43 USC 1716)
- Federal Land Transfer Facilitation Act of 2000 (PL 106-248)
- Federal Property and Administrative Services Act (40 USC 472)
- Indian General Allotment Act (24 Stat. 388)
- Recreation and Public Purposes Act of 1926, as amended (43 USC 869 et seq.)
- Telecommunications Act of 1996 (PL 104-104)

### Livestock Grazing Management

The BLM will manage grazing through existing laws, regulations, and policies, including the *Arizona Standards for Rangeland Health and Guidelines for Grazing Administration*. The BLM will provide for livestock management in an environmentally sensitive manner consistent with resource management objectives, including achieving desired plant communities, and land use conditions. Proposed decisions will determine if allotments are open or closed to grazing in accordance with the Taylor Grazing Act and, if open, in what manner. Decisions will include a strategy for ensuring that proper grazing practices are followed while preserving habitats for sensitive plant and wildlife species. Appropriate best management practices will be followed to protect rangeland resources and, where necessary, to mitigate any conflicts with other uses and values. Administrative actions to assure compliance with existing permit/lease requirements, to modify permits and leases, to monitor and supervise grazing use, and to remedy unauthorized grazing use will continue.

In SDNM, consistent with the monument Proclamation, grazing permits on Federal lands within the monument south of I-8 shall not be renewed at the end of their current term and grazing on Federal lands north of I-8 shall be allowed to continue only to the extent that the BLM determines that grazing is compatible with the paramount purpose of protecting the objects identified in the Proclamation. A priority will be placed on protecting the monument resources, including the diversity of plant communities identified in the Presidential Proclamation.

#### *Applicable Laws, Regulations & Policies*

- BLM Rangeland Health Standards Handbook (H-4180)
- BLM Manual 4180 – Rangeland Health Standards (MS-4180)
- Grazing Administration – Exclusive of Alaska (43 CFR 4100)Public Rangelands Improvement Act of 1978 (43 USC 1901)
- Process for Setting Priorities for Issuing Grazing Permits and Leases (WO-IM-2009-018)

### Minerals Management

Identify exploration and development opportunities and areas for lease, including geothermal resources, saleable, and locatable minerals. Minerals management will be consistent with FLPMA and existing policy and regulation including the Mining and Minerals Policy Act of 1970, Section 102(a)(12) of FLPMA, the National Materials and Minerals Policy, Research and Development Act of 1980, and current BLM mineral resources policy. Withdrawals from the mining laws may be considered to achieve resource management objectives. Where the plan identifies lands as open to mineral leasing, it also will define any constraints to surface use.

In SDNM, public lands are closed to mineral development (subject to valid existing rights) by the Proclamation.

#### *Applicable Laws, Regulations & Policies*

- Actions to Expedite Energy-Related Projects (EO 13212, May 18, 2001)
- Building Stone Placer Act of 1892 (30 USC 161)

- Bureau of Land Management — Energy and Materials Policy (Aug. 26, 2008)
- Combined Hydrocarbon Leasing Act of 1981 (43 USC 1701 et seq.)
- Domestic Minerals Program Extension Act of 1953 (50 USC 2181)
- Energy Policy Act of 2005 (PL 109-58)
- Energy Independence and Security Act of 2007 (PL 110-140)
- Energy and Mineral Resource Assessment (MS-3031)
- Energy Policy Act of 1992 (42 USC 13201)
- Federal Coal Leasing Amendments Act of 1976 (30 USC 201)
- Federal Land Policy and Management Act of 1976 (PL 94-579)
- Federal Mining and Minerals Policy Act of 1970 (30 USC 21a)
- General Mining Law of 1872, as amended (30 USC 21)
- Geothermal Steam Act of 1970 (30 USC 1001-1027)
- Materials Sale Act of 1947 (30 USC 601-604)
- Mineral Leasing Act of 1920 (30 USC 181 et seq.)
- Mineral Leasing Act for Acquired Lands of 1947 (30 USC 351 et seq., PL 382)
- Mineral Materials Act (30 USC 601 et seq.)
- Mineral materials rules (42 CFR 3600)
- Mineral Reports – Preparation and Review (MS-3060)
- Mining & Minerals Policy Act of 1970 (30 USC 21)
- Mining Claims Rights Restoration Act of 1955 (69 USC 681, PL 359)
- Mining in the Parks Act (16 USC 1901 et seq.)
- Multiple Mineral Development Act of 1954 (68 USC 708, PL 585)
- Multiple Surface Use Act of 1955, with Petrified Wood Amendment (69 USC 367, PL 167)
- National Materials and Minerals Policy, Research and Development Act of 1980 (30 USC 28)
- Oil and Gas Leasing (43 CFR 3100-3800)
- Outer Continental Shelf Lands Act of 1953 (67 USC 462)
- Placer Act of 1870 (16 Stat. 217)
- Placer Claim Millsite Act of 1960 (74 USC 7)
- Solid materials leasing rules (43 CFR 3500)

- Stock Raising Homestead Act (43 USC 291-299)
- Surface Mining Control & Reclamation Act (30 USC 1201 et seq.)

### Recreation Management

A range of landscape settings and associated recreation opportunities will be provided that contribute to meeting projected recreation demand within the Planning Area. Recreation management objectives will be defined based on recreational opportunities and compatibility with other resource management objectives, including Arizona Standards for Rangeland Health.

Public lands will be identified as being within either special recreation management areas or extensive recreation management areas.

A range of developed and dispersed recreation experiences, including both motorized and non-motorized recreation opportunities, will be provided.

In SDNM, a range of landscape settings and associated recreation opportunities will be provided that contribute to meeting projected recreation demands in the SDNM Planning Area, while meeting the overriding purpose of protecting monument resources and the Arizona Standards for Rangeland Health.

Consistent with the Proclamation, in order to protect the public during operations at the adjacent Barry M. Goldwater Range, and to continue management practices that have resulted in an exceptionally well preserved natural resource, the current procedures for public access to the Sand Tank portion of the national monument (formerly Area A), shall remain in effect, except to the extent that the Air Force agrees to different procedures which the BLM determines are compatible with protection of monument resources.

### *Applicable Laws, Regulations & Policies*

- BLM National Mountain Bicycling Strategic Action Plan (2002)
- BLM Recreation Permit Administration Handbook (H-2930-1)
- Land and Water Conservation Act of 1965, as amended (USC 4601-1 et seq.)
- Recreational Fisheries (EO 12962)

### Travel Management

The plan will include transportation and access needs for motorized and non-motorized uses. Based upon Executive Order 11644 and subsequent regulations in 43 CFR 8340, all public lands will be designated as open, limited, or closed to motorized vehicles. The plans may designate a network of vehicle routes. Public safety, resource protection, current and future user access needs and conflict resolution will be considered in making these decisions. The BLM route inventory will provide a basis for considering route management.

In SDNM, consistent with the Proclamation, all motorized and mechanized vehicle use off-road will be prohibited, except for emergency or authorized administrative purposes. The plan will designate a network of routes for motorized and mechanized vehicle use. Protection of the monument resources, public safety, current and future user access needs, and conflict resolution will be considered in making these decisions.

### *Relevant Laws, Policies & Regulations*

- Arizona Off-Highway Vehicle Law (ARS 28-1171.4)
- Off-Road Vehicles (43 CFR 8340-8344)
- Clarification of Cultural Resource Considerations for Off-Highway Vehicle (OHV) Designation and Travel Management (WO-IM-2007-030)
- Clarification of Guidance and Integration of Comprehensive Travel and Transportation Management Planning into the Land Use Planning (WO-IM-2008-014)
- Implementation of Roads and Trails Terminology Report – Classification of Primitive Roads; DD: 07/31/2009 (WO-IM 2009-132)
- Use of Off-Road Vehicles on Public Lands (EO 11644, February 8, 1972; EO 11989, May 24, 1977)
- Transportation Equity Act for the 21st Century (PL 105-178)

### **B.2.3. Special Designation Management**

The BLM will review, through this planning process, lands within the Planning Area that may possess remote or primitive characteristics. Consistent with BLM policy, the secretary of the interior letter to Sen. Robert Bennett (dated April 11, 2003), and the settlement in the case of *Utah v. Norton* (dated April 14, 2003), the BLM has the authority to discuss and incorporate wilderness values into the land use plan, in accordance with the public process incorporated in all land use planning efforts. Thus, the BLM is committed to listening to public input through the land use planning process and, where appropriate, managing specified areas of land for wilderness values. However, the BLM has no authority to establish new wilderness study areas (WSAs) or to report such areas to Congress. The BLM can protect areas in their natural state using a wide range of land use tools other than the WSA designation process.

Current congressionally designated wilderness areas will be managed according to the 1990 Arizona Desert Wilderness Act, the Wilderness Act regulations for wilderness management at 43 CFR 6300, interim management plans for wildlife and fire management in wilderness, and applicable wilderness management plans. The RMPs will not address reducing or eliminating existing wilderness areas, nor will the RMPs address changing existing boundaries or allowing mechanized or motorized access in any area within them.

Special areas on public lands include wildernesses, WSAs, areas of critical environmental concern (ACECs), national trails, wild and scenic rivers, national conservation areas, and backcountry byways. Special areas that may be considered in this plan include ACECs, national trails, national conservation areas, and backcountry byways as consistent with federal law as well as policies and procedures. Management requirements for designated special areas will be identified in the plan.

#### Congressional Designations

##### *National Byways*

- BLM Byways Handbook (H-8357-1)

- Intermodal Surface Transportation Efficiency Act of 1991 (23 USC 101)
- Transportation Equity Act for the 21st Century (PL 105-178)

#### *National Historic Trails*

- National Trails System Act (PL 90-543, as amended through PL 109-418)
- BLM National Scenic and Historic Trails Strategy (2006)

#### *Wilderness Areas*

- Arizona Desert Wilderness Act (PL 101-628)
- BLM Management of Designated Wilderness Areas Handbook (H-8560)
- BLM Interim Management Policy & Guidelines for Lands Under Wilderness Review Handbook (H-8550-1)
- Wilderness Act (16 USC 1131 et seq.)
- Wilderness Management (43 CFR 6300 & 8560)

#### Administrative Designations

##### *Areas of Critical Environmental Concern ACECs*

- Designation of Areas of Critical Environmental Concern (43 CFR 1610.7-2)

##### *Resource Conservation Area*

- Reserving Public Lands in Connection with Gila River Waterfowl Area Project (Public Land Order [PLO] 1015, October 5, 1954)
- Classification of Public Lands for Multiple Use Management in 1967 (32 Federal Register [FR] 8536).
- Designation of Fred J. Weiler “Green Belt” Resource Conservation Area in 1970 (35 FR 13532)

## **B.2.4. Tribal Interests, Public Safety & Social and Economic Conditions**

### Hazardous Materials and Public Safety Management

The plan will develop a framework to protect public health and safety, including addressing hazardous sites and activities; incorporating requirements to meet the CAA, CWA, and other environmental laws and regulations; and considering other potential hazards.

The Air Force and BLM are developing a Memorandum of Understanding to address safe disposal of any unexploded ordnance discovered on lands relinquished from the Barry M. Goldwater Range (i.e., Sentinel Plain and property in the vicinity of the Ajo Airport).

In SDNM, in order to protect the public during operations at the adjacent Barry M. Goldwater Range, and to continue management practices that have resulted in an exceptionally well preserved natural resource, the current procedures for public access to the portion of the monument depicted as Area A will remain in full force and effect, except to the extent that the Air Force agrees to different procedures that the BLM determines are compatible with the protection of resources and uses identified in the Presidential Proclamation.

- Action to Expedite Energy Related Projects (EO 13212, May 18, 2001)
- Atomic Energy Act of 1954, as amended (PL 83-703)
- BLM Abandoned Mine Land Program Policy Handbook (H-3720-1)
- BLM CERCLA Handbook (H-1703-1)
- BLM Military Munitions & Explosives of Concern Handbook (H-1703-2)
- BLM National Environmental Policy Act Handbook (H-1790-1)
- BLM Safety and Health for Field Operations Handbook (H-1112-2)
- BLM Safety and Health Management Handbook (H-1112-1)
- Innocent Landowners, Standards for Conducting All Appropriate Inquiries (40 CFR 312)
- Reporting Hazardous Substance Activity When Selling or Transferring Federal Real Property (43 CFR 373)
- Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986 (40 CFR 350-372)
- Energy Supply, Distribution, or Use (EO 13211, May 18, 2001)
- Environmental Management Systems (515 DM 4)
- Environmental Stewardship & Transportation Infrastructure Project Reviews (EO 13274, September 18, 2002)
- Federal Aid Highways Act (23 USC 317)
- Federal Compliance with Pollution Control Standards (EO 12088, October 13, 1978) as amended (EO 12580, January 23, 1987)
- Federal Compliance with Right to Know Laws and Pollution Prevention Requirements (EO 12856, August 3, 1993)
- Federal Environmental Pesticide Control Act of 1972, as amended (7 USC 136)
- Federal Facilities Compliance Act of 1992 (PL 102-386)
- Federal Insecticide, Fungicide and Rodenticide Act of 1975, as amended (7 USC 136)
- Land Acquisition, Exchange and Disposal, Real Property Pre-Acquisition Environmental Site Assessments (602 DM 2)

- National Oil & Hazardous Substances Pollution Contingency Plan (40 CFR 300)
- Nuclear Waste Policy Act of 1982 (42 USC 10101)
- Pollution Prevention Act (PPA) of 1990 (42 USC 13101 et seq.)
- Resource Conservation & Recovery Act (RCRA) of 1976, as amended (42 USC 6901 et seq.)
- Safe Drinking Water Act (SDWA) of 1974 (42 USC 300)
- Solid Waste Disposal Act (42 USC 6901 et seq.)
- Strengthening Federal Environmental, Energy, and Transportation Management (EO 13423, January 24, 2007)
- Superfund Implementation (EO 12580, January 23, 1987) as amended (EO 13016, August 28, 1996)
- Toxic Substance Control Act (TSCA) of 1976 (15 USC 2601 et seq.)
- Uranium Mill Tailings Radiation Control Act of 1978, as amended (88 USC 7901)

#### Socioeconomic Management

- Federal Action to Address Environmental Justice in Minority Populations & Low-Income Populations (EO 12898, February 11, 1994)
- Protection & Enhancement of Environmental Quality (EO 11514, March 5, 1970)