

## APPENDIX 4

# PROCEDURES FOR PROCESSING APPLICATIONS IN AREAS OF SEASONAL RESTRICTION

Upon receipt of an application, the project location is reviewed against the Green River RMP to determine conformance with the plan and to identify existing resource concerns. Gather existing NEPA documents relevant to the proposal and determine if they are adequate. If existing documents are adequate, prepare an Administrative Determination (AD) including mitigation (see Wyoming Instruction Memorandum WY-90-346). If documents are deficient or nonexistent, prepare NEPA documentation as needed using appropriate format (see BLM NEPA Handbook, H-1790-1).

Issue a decision on the application consistent with NEPA documentation as appropriate.

**NOTE:** In seasonally crucial wildlife habitat, an approved APD will generally include a seasonal Condition of Approval (COA) because (1) the APD is valid for one year from date of issuance and BLM does not control the start-up date for project activity; and (2) field conditions during the crucial period cannot be predicted at the time of APD approval.

If a seasonally restrictive COA is needed because a lease contains no such stipulation, the decision whether to impose the restriction must also consider the reasonableness of the restriction relative to the operator's ability to exercise the benefits of the lease (43 CFR 3101.1-2). The need for a COA must be documented in a site specific EA or EIS, if necessary. This analysis must provide clear and convincing evidence showing undue and unnecessary degradation would result if the COA were not applied.

## PROCEDURES FOR HANDLING REQUESTS FOR EXCEPTION FROM SEASONAL STIPULATIONS AND/OR CONDITIONS OF APPROVAL

A request for exception must be initiated in writing by the operator. When requested concurrently with an application (typical for situations involving lease stipulations), the exception is considered as part of the project proposal in RMP and NEPA compliance review. For separate requests, the request is considered as a unique action and is analyzed and documented individually for RMP and NEPA compliance. In both cases, processing includes coordination with Wyoming Game and Fish Department (WGFD) for seasonal wildlife-based lease stipulations or permit COAs.

The unpredictability of weather, animal movement and condition, etc., preclude analysis of requests related to wildlife far in advance of the time periods in question. Analyses of requests include review of potential mitigation measures

and alternatives (traffic restrictions, alternative scheduling, staged activity, etc.). These procedures will be utilized for any request for exception for a surface disturbing or disruptive activity.

The final determination for granting an exception to wildlife stipulations will be a decision by the BLM after consultation with the Wyoming Game and Fish Department.

## CRITERIA FOR CONSIDERING EXCEPTIONS TO SEASONAL RESTRICTED ACTIVITY

Presently, land use activities within the Green River Resource Area may be authorized with a seasonal restriction(s), "no surface occupancy" or a distance restriction for sensitive and crucial habitats. Stipulations were developed to provide protection of natural resources. Protective wildlife seasonal stipulations are developed consistent with statewide dates. For example, big game crucial winter ranges are protected from November 15 through April 30. This restriction is not intended to close an area to development but is in place to protect big game if weather or other habitat needs dictate that it is necessary.

Over the past few years the public has received the impression that crucial winter ranges are off limits to any activity. This is true only when conditions dictate. The BLM can and does grant exceptions to seasonal restrictions if the wildlife biologist, in consultation with the Wyoming Game and Fish Department, feels that granting an exception will not jeopardize the population being protected. Wildlife biologists use a set of criteria when considering a request for an exception. Professional judgement plays a key part in the Bureau's biologist's recommendation to the Field Manager to grant or not grant exception(s). There is no clear cut formula.

Approximately 60 percent of the federal land acres (349,250 acres) in the planning area have no wildlife restrictions. Following are some of the factors considered by the wildlife biologist to determine if a request for exception should be granted.

### Big Game Winter Ranges

The criteria used for crucial big game winter range are those areas available, relatively intact, and winter most of the population at its objective in adequate body condition, eight or more years out of ten. The most crucial time period for these animals is usually from January 1 through March 15, and this time period is when the stipulation dates are generally enforced. However, the remaining time frames of the standard statewide stipulation allows the authorizing officer the option

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to enforce a longer seasonal restriction if winter conditions warrant.

### A. General Considerations Regarding a Request for Exception

- Are the factors leading to the inclusion of the wildlife seasonal restriction still valid?
- Is the request for an exception from a lease stipulation or is it for relief from a condition of approval on an application?
- What are the dates for the proposed exception/relief?

### B. Criteria to Consider for Granting Exceptions on Winter Ranges:

1. Animal presence or absence
2. Animal condition
3. Weather severity
  - snow conditions (depth, crusting, longevity)
  - seasonal weather patterns
  - wind chill factors (indication of animals energy use)
  - air temperatures & variation
  - duration of condition
  - forecasts - long range for duration of winter
4. Habitat Condition and Availability.
  - animal density, high or low
  - forage condition, good or poor
  - competition — livestock/other wildlife
  - forage availability
  - amount of forage
  - snow depth
  - has livestock use decreased available winter forage
  - is suitable and ample forage immediately available and accessible nearby that is not being used
5. Site Location
  - likelihood of animals habituating to activity
  - presence of thermal cover, wind cover, etc.
  - what proportion of winter range is affected
  - where is the site located within the winter range
  - is there other activity in the area and is it likely to increase the cumulative adverse impact
6. Timing
  - early in winter season
  - nearing end of winter season
  - what kind of and length of disruptive activity is expected
  - how much of the winter is remaining when activity is likely to occur

## General Considerations for Granting Exceptions to Stipulations

### Elk

- Short-term exceptions are more likely to be considered early (November 15 -December 1) and late (April 1 - April 30) in the winter season, depending on weather conditions and animal occupancy. Exceptions would not be granted if requested from December 1 - March 1 unless unusually mild winter conditions prevail. Exceptions in elk calving areas (May 1 - June 30) dates will not be granted due to elk sensitivity to disturbance. Displacement in open habitats is much greater than woodlots or forests, hence restricted areas will encompass larger areas in open habitat.

### Moose

- Exceptions will depend on weather conditions and presence of animals.
- Moose habitat is given protection through riparian and stream buffer zone stipulations (500 feet from live water and riparian habitats).

### Antelope

- Exceptions will generally be granted except where physical barriers (i.e., highways, fences, rivers, canyons, etc.) limit animals ability to move into other suitable habitats. In the case of developing oil and gas fields with proposed intensive or disruptive disturbances, BLM and WGFD coordination will be required to assure that cumulative disturbance and/or range competition with other big game and livestock will not affect herd unit objectives. Exceptions to restrictions will be closely watched during severe winters when antelope movement is restricted.

### Deer

- Short-term exceptions may be granted early (November 15 - December 1) and late (April 1 - April 30) depending on weather conditions and animal occupancy, using the previously discussed criteria. Exceptions can be granted for north slopes, deep snow areas or other habitats within crucial ranges which preclude use by wintering deer and in which access roads are determined to have little adverse impact.

### Raptors

- The “no surface occupancy” stipulation of February 1 to July 31 for raptor nests can be shortened, depending on nesting chronology of individual species, nest site location, and topography. Inactive nests can be excepted, as may certain types of short-term, minor disruption land use activities which are not anticipated to affect nesting success.

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### Sage Grouse

A “controlled surface use” stipulation will be applied to a 1/4 mile radius of active sage grouse strutting grounds to include no aboveground facilities (power lines, storage tanks, fences, etc.). Linear disturbances such as low-traffic roads, pipelines, seismic activity, etc., could be granted exceptions. A “controlled surface use” stipulation will be applied from February 1 through May 15, within 1/4 mile radius of active

strutting grounds from 6 p.m. to 9 a.m. daily. The actual timing of this stipulation can be modified by weather conditions such as fog and cloudy conditions, or clear, bright moonlit nights. Seasonal restrictions would be applied through July 31, within an additional 1.75-mile radius from leks to protect sage grouse nesting habitat. Areas within that radius not used for nesting can be excepted, provided actual nesting areas are not affected.