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## APPENDIX E—PROCEDURES AND CRITERIA FOR GRANTING EXCEPTION, MODIFICATION, OR WAIVER

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### INTRODUCTION

- ❑ Develop a process that applies the most current science to exception, modification, and waiver criteria and allows for additional flexibility in approving surface disturbing and disruptive activities.
- ❑ The following criteria are a starting point and could change depending on developing science.
- ❑ The intent is to consult on at least an annual basis with technically knowledgeable agencies for the purpose of providing overall guidance to the Bureau of Land Management (BLM) on how to approach the application of exceptions, modifications, and waivers.
- ❑ These criteria form the scientific basis for conditions of approval (COA).

### PROCEDURES FOR HANDLING REQUESTS FOR EXCEPTION, MODIFICATION, OR WAIVER

The proponent must initiate a request for exception, modification, or waiver in writing. When requested concurrently with an application (typical for situations involving lease stipulations), the exception, modification, or waiver is considered as part of the project proposal in resource management plan (RMP) and National Environmental Policy Act of 1969 (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.

Analyses of requests include review of potential mitigation measures and alternatives (e.g., traffic restrictions, alternative scheduling, staged activity, proposals for offsite mitigation, scientific studies) as they relate to exception, modification, and waiver criteria. These procedures will be applied to any request for exception, modification, or waiver for a surface disturbing or disruptive activity. Exceptions to big game winter range and sage-grouse nesting and critical winter range timing limitation stipulations would be granted if operators meet the criteria to limit sagebrush habitat fragmentation described in Chapter 2.

BLM will make the final determination for granting an exception, modification, or waiver to stipulations.

### CRITERIA FOR CONSIDERING EXCEPTIONS, MODIFICATION, OR WAIVERS

The following criteria are a starting point and could change depending on developing science:

- ❑ Population levels/status/trend: If wildlife populations are above objectives, exceptions are more likely to be granted. If populations are below objectives or have had a sustained downward trend, exceptions are less likely to be granted.
- ❑ Drought: During periods of drought, or shortly after droughts, while vegetation is still recovering, exceptions are less likely to be granted.
- ❑ Weather severity: During periods of extreme weather (i.e. hard winters), exceptions are less likely to be granted.
- ❑ Breeding site/area: If the area is a known breeding area for a species, exceptions are less likely to be approved if long term negative impacts are expected. If no long term impacts are expected, exceptions are more likely to be granted. Population objectives would also be considered.

- ❑ Animal condition: If groups of animals show overall poor health, exceptions are less likely to be granted.
- ❑ Value/resource identified for protection is not present or can be protected by some other means: If the species is no longer capable of using an area, (i.e. wildfire burns, nesting trees for raptors) exceptions, waivers or modifications are more likely to be granted.
- ❑ Intensity and duration of surface disturbance: Exceptions are more likely to be granted for short term disturbances that have little impact on habitat quality.
- ❑ Habitat condition and availability (e.g., forage, water, and competition): During periods of time or in places that habitat conditions are poor, exceptions are less likely to be granted.
- ❑ Site location, including topography and proximity to existing disturbances: Exceptions are more likely to be granted if topographic barriers exist between the disturbance and the protected resource.
- ❑ Timing: Exceptions requested for the middle of a restricted time period are less likely to be granted than exceptions at the beginning or end of a restriction period.
- ❑ Cumulative effects: Exceptions are less likely to be granted for areas that impacted by many different uses.
- ❑ Sensitivity of individual species to disturbance: Exceptions are less likely to be granted when they involve plants or animals that are easily impacted by disturbances.
- ❑ Situations where alternative onsite or offsite mitigations provide equal or better protection for wildlife or other resources: If a proponent for an exception can demonstrate that proposed alternative mitigation would benefit affected species in a manner equal to or greater than the disturbance they are conducting, BLM would be more likely to grant an exception or modification of the restriction.