



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Nevada State Office
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APR 19 2019

J.J. Goicoechea, Chair
Sagebrush Ecosystem Council
State of Nevada
201 South Roop Street, Suite 101
Carson City, Nevada 89701

Re: Bureau of Land Management's Implementation Authorities Requiring Compliance with State Regulations

Dear Dr. Goicoechea:

During Public Hearings for the Adoption of Proposed Temporary Mitigation Regulations conducted at the Sagebrush Ecosystem Council meeting on March 19, 2019, the Bureau of Land Management (BLM) was asked how it would consider the final state regulations when authorizing the uses of public lands. The proposed state regulation would require project proponents to "*mitigate residual direct or indirect anthropogenic impacts*" to Greater Sage-Grouse or its habitat, including on federally administered lands. The BLM conducted a review of the regulations and authorities for the program areas that could result in anthropogenic disturbances on federal lands in Nevada (see enclosure).

As noted in the enclosure, compliance with applicable state law is required under the federal regulations for several program areas that could result in anthropogenic disturbance. As such, once the State of Nevada adopts the proposed temporary regulations, the BLM intends to require compliance with those regulations as a component of compliance with applicable state law, and will incorporate such compliance as a term and condition of its authorization for activities on public lands in Nevada when appropriate. BLM Nevada and California are also in the process of formulating a Memorandum of Understanding that will describe how BLM and the State of Nevada will work together to determine appropriate project design and alignment with the State's policies and requirements, including those regarding compensatory mitigation.

Sincerely,

Jon K. Raby
State Director

Enclosure

Enclosure: Relevant Authorities Pertaining to Anthropogenic Disturbance.

Type of Anthropogenic Activity	Authority	Text from Authority
Rights-of-Way (roads, transmission lines, and pipelines)	43 CFR § 2805.12 (a)(1)	By accepting a grant or lease, you [ROW proponent] agree to comply with and be bound by the following terms and conditions. During construction, operation, maintenance, and termination of the project you [ROW proponent] must: (1) To the extent practicable, comply with all existing and subsequently enacted, issued, or amended Federal laws and regulations and State laws and regulations applicable to the authorized use.
Leases, permits, and easements	43 CFR § 2920.7 (b)(4)	Each land use authorization shall contain terms and conditions which shall: . . . Require compliance with State standards for public health and safety, environmental protection, siting, construction, operation and maintenance of, or for, such use if those standards are more stringent than applicable Federal standards.
Fluid Minerals (oil, gas, and geothermal leasing and permitting)	43 CFR § 3162.1(a)	The operating rights owner or operator, as appropriate, shall comply with applicable laws and regulations; with the lease terms, Onshore Oil and Gas Orders, NTL's; and with other orders and instructions of the authorized officer.
Solid Minerals	43 CFR § 3809.5	<i>Unnecessary or undue degradation</i> means conditions, activities, or practices that: (1) Fail to comply with . . . other Federal and state laws related to environmental protection and protection of cultural resources.
	43 CFR § 3809.415(a)	You prevent unnecessary or undue degradation while conducting operations on public lands by—(a) Complying with other Federal and state laws related to environmental protection and protection of cultural resources.
	43 CFR § 3809.420 (a) (6)	<i>Compliance with other laws.</i> You must conduct all operations in a manner that complies with all pertinent Federal and state laws.

Type of Anthropogenic Activity	Authority	Text from Authority
	43 CFR § 3715.5(b)	Your uses must conform to all applicable federal and state environmental standards and you must have obtained all required permits before beginning, as required under 43 CFR part 3800. This means getting permits and authorizations and meeting standards required by state and federal law, including, but not limited to, the Clean Water Act (33 U.S.C. 1251 et seq.), Clean Air Act (42 U.S.C. 7401 et seq.), and the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.), as required under 43 CFR part 3800.
Recreation Sites	43 CFR 8365.1-7	Except as otherwise provided by Federal law or regulation, State and local laws and ordinances shall apply and be enforced by the appropriate State and local authorities. This includes, but is not limited to, State and local laws and ordinances governing: (a) Operation and use of motor vehicles, aircraft and boats; (b) Hunting and fishing; (c) Use of firearms or other weapons; (d) Injury to persons, or destruction or damage to property; (e) Air and water pollution; (f) Littering; (g) Sanitation; (h) Use of fire; (i) Pets; (j) Forest products; and (k) Caves.
All other discretionary activities directed by land use plans.	FLPMA Sec. 202. [43 U.S.C. 1712] (a)	The Secretary shall, with public involvement and consistent with the terms and conditions of this Act, develop, maintain, and, when appropriate, revise land use plans which provide by tracts or areas for the use of the public lands.
	Nevada and Northeastern California Greater Sage-Grouse Approved Resource Management Plan Amendment (March 2019)	The BLM will cooperate with the States' [sic] to determine appropriate project design and alignment with State's policies and requirements, including those regarding compensatory mitigation, such as the State of Nevada Executive Order 2018-32 (and any future regulations adopted by the State of Nevada regarding compensatory mitigation, consistent with federal law).