

available to the public as a matter of information.

If BLM receives a protest against the survey, as shown on the plat, prior to the date of the official filing, we will stay the filing pending our consideration of the protest.

We will not officially file the plat until the day after we have accepted or dismissed all protests and they have become final, including decisions on appeals.

Dated: May 11, 2012.

**John Sroufe,**

*Chief Cadastral Surveyor.*

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**BILLING CODE 4310-GJ-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[LLES003420.L1430000.EU0000; MIES-056498]

#### Notice of Intent To Amend the 1985 Michigan Resource Management Plan and Associated Environmental Assessment, Marquette County, MI

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Intent.

**SUMMARY:** In compliance with the National Environmental Policy Act of 1969, as amended, and the Federal Land Policy and Management Act (FLPMA) of 1976, as amended, the Bureau of Land Management (BLM) Northeastern States Field Office, Milwaukee, Wisconsin, intends to prepare a Resource Management Plan (RMP) amendment with an associated Environmental Assessment (EA) for the State of Michigan. With this notice, the BLM is announcing the beginning of the scoping process to solicit public comments and identify issues for the purpose of amending the RMP to identify the specific parcel of land for disposal through sale and clarify in the EA whether the parcel meets the FLPMA Section 203 sale criteria.

**DATES:** This notice initiates the public scoping process for the RMP amendment with associated EA. Comments on issues may be submitted in writing until June 21, 2012. The date(s) and location(s) of any scoping meetings will be announced at least 15 days in advance through local news media, newspapers and the BLM Web site at: <http://www.blm.gov/es/st/en.html>. In order to be included in the analysis, all comments must be received prior to the close of the 30-day scoping period or 30 days after the last public

meeting, whichever is later. We will provide additional opportunities for public participation as appropriate.

**ADDRESSES:** You may submit comments on issues and planning criteria related to the 1985 Michigan RMP Amendment by any of the following methods:

- *Web site:* <http://on.doi.gov/ygRVPY>.
- *Email:* [cgrundma@blm.gov](mailto:cgrundma@blm.gov).
- *Fax:* (414) 297-4409.
- *Mail:* BLM Northeastern States

Field Office, 626 East Wisconsin Avenue, Suite 200, Milwaukee, Wisconsin 53202-4617.

Documents pertinent to this proposal may be examined at the Northeastern States Field Office, 626 East Wisconsin Avenue, Suite 200, Milwaukee, Wisconsin 53202-4617.

**FOR FURTHER INFORMATION CONTACT:**

And/or to have your name added to our mailing list, contact Carol Grundman, Realty Specialist, telephone (414) 297-4447; address BLM Northeastern States Field Office, 626 East Wisconsin Avenue, Suite 200, Milwaukee, Wisconsin 53202-4617; email [cgrundma@blm.gov](mailto:cgrundma@blm.gov). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** This document provides notice that the BLM Northeastern States Field Office, Milwaukee, Wisconsin, intends to prepare an RMP amendment with an associated EA for the 1985 Michigan RMP, announces the beginning of the scoping process, and seeks public input on issues and planning criteria. The planning area is located in Marquette County, Michigan, and encompasses approximately 0.82 acres of public land. The purpose of the public scoping process is to determine relevant issues that will influence the scope of the EA, including alternatives, and guide the planning process. Preliminary issues for the plan amendment area have been identified by BLM personnel; Federal, State, and local agencies; and other stakeholders. The issues include: Impact of the proposed amendment on land use values, ownership, and potential development; impact of the proposed amendment on cultural resources, such as archeological sites and historic trails; and impact of the proposed amendment on wildlife. Preliminary planning criteria include: Section 203 of FLPMA sale criteria (43 U.S.C. 1713); and BLM policy interpreting Sections 202 and 203

of FLPMA that require areas available for disposal to be identified by parcel or legal description. You may submit comments on issues and planning criteria in writing to the BLM at any public scoping meeting, or you may submit them to the BLM using one of the methods listed in the **ADDRESSES** section above. To be most helpful, you should submit comments by the close of the 30-day scoping period or within 30 days after the last public meeting, whichever is later.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. The minutes and list of attendees for each scoping meeting will be available to the public and open for 30 days after the meeting to any participant who wishes to clarify the views he or she expressed.

The BLM will use an interdisciplinary approach to develop the plan amendment in order to consider the variety of resource issues and concerns identified. Specialists with expertise in the following disciplines will be involved in the planning process: archaeology, wildlife and fisheries, and lands and realty.

**Authority:** 40 CFR 1501.7 and 43 CFR 1610.2.

**John G. Lyon,**  
*State Director.*

[FR Doc. 2012-12228 Filed 5-21-12; 8:45 am]

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## NATIONAL INDIAN GAMING COMMISSION

#### Protocol for Categorical Exclusions Supplementing the Council on Environmental Quality Regulations Implementing the Procedural Provisions of the National Environmental Policy Act for Certain National Indian Gaming Commission Actions and Activities

**AGENCY:** The National Indian Gaming Commission.

**ACTION:** Notice of final action and request for comments.

**SUMMARY:** The National Indian Gaming Commission (NIGC or “the Commission”) has established a protocol that provides for categorical exclusions under the National

Environmental Policy Act of 1969 (NEPA), as amended, Executive Order 11514, as amended, and Council on Environmental Quality (CEQ) regulations for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508) for certain NIGC actions.

**DATES:** Submit comments on or before June 30, 2012. This Protocol is immediately effective upon publication. All comments will be reviewed and considered to determine whether there is a need for potential amendment to the protocol.

**ADDRESSES:** John R. Hay, Senior Attorney, National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005; fax at (202) 632–7066; or by electronic mail at [John\\_Hay@nigc.gov](mailto:John_Hay@nigc.gov).

**FOR FURTHER INFORMATION CONTACT:** John Hay, Senior Attorney at the National Indian Gaming Commission: 202–632–7003 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

On December 4, 2009, the Commission published a draft NEPA manual in the **Federal Register** (74 FR 63765) and requested comments by January 18, 2010. On March 4, 2010 the comment period was extended to April 15, 2010 (75 FR 3756). The purpose of the manual was to clarify policy and procedures to ensure the integration of environmental considerations into major federal actions of the NIGC that trigger NEPA review. The draft manual identified only one type of major federal action performed under the Indian Gaming Regulatory Act (IGRA) that triggered NEPA review—approving contracts for the management of Indian gaming facilities pursuant to 25 U.S.C. 2711. The draft manual sought to clarify the NEPA-related roles and responsibilities and established a framework for the preparation and consideration of appropriate NEPA documentation.

The draft manual also identified several categories of actions taken by the NIGC that are categorically excluded from further NEPA review. In identifying these categories of actions, the NIGC relied on its past experience, several environmental professionals' opinions and comparisons with other Federal agency actions that are categorically excluded. A copy of the administrative record for the list of categorical exclusions is available at [http://www.nigc.gov/Reading\\_Room/Environment\\_Public\\_Health\\_Safety/NEPA\\_Compliance.aspx](http://www.nigc.gov/Reading_Room/Environment_Public_Health_Safety/NEPA_Compliance.aspx).

After considering the comments received, the Commission has decided to establish a protocol that provides for

two of the three categories of categorical exemptions contained in the draft manual and to continue to review comments received on the remainder of the manual. Categorical exclusions are actions that do not normally require preparation of an Environmental Assessment (EA) or Environmental Impact Statement (EIS), absent extraordinary circumstances. None of the public comments on the draft manual expressed any concerns or objection to the two categories of categorical exclusions set forth below. The Commission hereby adopts the protocol set forth for determining whether a categorical exclusion applies to particular action as well as the categories of actions the Commission has determined are eligible for categorical exclusions.

**Regulatory Matters**

*Regulatory Flexibility Act*

This Protocol will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* Indian tribes are not considered to be small entities for the purposes of the Regulatory Flexibility Act.

*Small Business Regulatory Enforcement Fairness Act of 1996*

This Protocol is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This Protocol does not have an annual effect on the economy of \$100 million or more. This rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies or geographic regions, and does not have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

*Unfunded Mandates Reform Act of 1995*

The Commission, as an independent regulatory agency within the Department of the Interior, is exempt from compliance with the Unfunded Mandates Reform Act. 2 U.S.C. 1502(1); 2 U.S.C. 658(1).

**Takings**

In accordance with Executive Order 12630, the Commission has determined that this Protocol does not have significant takings implications. A takings implication assessment is not required.

**Civil Justice Reform**

In accordance with Executive Order 12988, the Office of General Counsel has determined that the Protocol does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Executive Order.

**National Environmental Policy Act**

The Council on Environmental Quality regulations do not direct agencies to prepare a NEPA analysis or document before establishing Agency procedures that supplement the CEQ regulations for implementing NEPA. Agencies are required to adopt NEPA procedures that establish specific criteria for, and identification of, three classes of actions: those that normally require preparation of an environmental impact statement; those that normally require preparation of an environmental assessment; and those that are categorically excluded from further NEPA review (40 CFR 1507.3(b)). Categorical exclusions are one part of those agency procedures, and therefore establishing categorical exclusions does not require preparation of a NEPA analysis or document. Agency NEPA procedures are procedural guidance to assist agencies in the fulfillment of agency responsibilities under NEPA, but are not the agency's final determination of what level of NEPA analysis is required for a particular proposed action. The requirements for establishing agency NEPA procedures are set forth at 40 CFR 1505.1 and 1507.3. The determination that establishing categorical exclusions does not require NEPA analysis and documentation has been upheld in *Heartwood, Inc. v. U.S. Forest Service*, 73 F. Supp. 2d 962, 972–73 (S.D. Ill. 1999), *aff'd*, 230 F.3d 947, 954–55 (7th Cir. 2000).

For the reasons set out in the preamble, the National Indian Gaming Commission establishes the following Protocol:

**Protocol for Categorical Exclusions (CATEX) of Certain Actions**

The use of a CATEX can only be applied to an action if all of the following criteria are met:

1. The responsible NIGC official must determine that the entirety of the NIGC action is encompassed by a listed CATEX.

2. The responsible NIGC official must determine that the action has not been segmented in order for the NIGC action to meet the definition of an action that can qualify for a CATEX. Segmentation occurs when an action is broken into smaller parts in an effort to avoid

properly documenting impacts associated with the complete action. Segmentation also occurs when the NIGC action is too narrowly defined and the potential impacts are minimized in order to avoid a higher level of NEPA documentation. Connected and cumulative actions must be considered (See 40 CFR 1508.25).

3. The responsible NIGC official must determine if the NIGC action will involve any extraordinary circumstances that would prevent the use of a categorical exclusion.

### Categorical Exclusions

The NIGC, based on past experience with similar actions, has determined that the following types of actions are categorically excluded and do not require the preparation of an EA or EIS because they will not individually or cumulatively result in a significant impact on the human environment. The federal actions listed under Category 1 and 2 below, meet the criteria established in 40 CFR 1508.4.

#### CATEGORY 1—Administrative and Routine Office Activities:

A. Normal personnel, fiscal, and administrative activities involving personnel (recruiting, hiring, detailing, processing, paying, supervising and records keeping).

B. Preparation of administrative or personnel-related studies, reports, or investigations.

C. Routine procurement of goods and services to support operations and existing infrastructure, including routine utility services and contracts, conducted in accordance with applicable procurement regulations, executive orders, and policies (e.g. Executive Order 13101).

D. Normal administrative office functions (record keeping; inspecting, examining, and auditing papers, books, and records; processing correspondence; developing and approving budgets; setting fee payments; responding to request for information).

E. Routine activities and operations conducted on or in an existing structure that are within the scope and compatibility of the present functional use of the building, will not result in a substantial increase in waste discharge to the environment, will not result in substantially different waste discharges from current or previous activities, and will not result in emissions that exceed established permit limits, if any. In these cases, a Record of Environmental Consideration (REC), documentation is required.

F. NIGC training in classrooms, meeting rooms, gaming facilities, or via the Internet.

#### CATEGORY 2—Regulation, Monitoring and Oversight of Indian Gaming Activities:

A. Promulgation or publication of regulations, procedures, manuals, and guidance documents necessary for NIGC's oversight of Indian Gaming Facilities and intra-agency operations at existing facilities.

B. Support of compliance and enforcement functions by conducting compliance training for tribal gaming regulators and managers in classrooms, meeting rooms, gaming facilities, or via the Internet.

C. Preparing and issuing subpoenas, holding hearings, and taking depositions for informational gathering purposes, not associated with administrative enforcement actions.

### Extraordinary Circumstances for Categorical Exclusions

Some types of actions that would normally be categorically excluded may not qualify for a CATEX because an extraordinary circumstance exists (See 40 CFR 1508.4). The responsible NIGC official must evaluate each proposed action and use best professional judgment to determine if it meets the CATEX requirements described above and does not have any extraordinary circumstances. If the proposed action has one or more of the following conditions, extraordinary circumstances exist and the action cannot be categorically excluded:

A. There is a reasonable likelihood the proposed action/project will have a significant impact on public health or safety.

B. There is a reasonable likelihood the proposed action/project would involve effects on the environment that involve risks that are highly uncertain, unique, or are scientifically controversial.

C. There is a reasonable likelihood the proposed action/project would violate one or more federal, tribal, state, or local environmental laws/regulations/orders.

D. There is a potential that the proposed action/project will have an adverse effect on a property or structure eligible for listing or listed on the National Register of Historical Places, including degradation of scientific, cultural, or historic resources protected by the National Historic Preservation Act of 1966, as amended, requiring consultation.

E. There is a potential that the proposed action/project will have a significant impact on natural, ecological, or scenic resources of federal, tribal, state and/or local significance. These resources include federal or state listed endangered, threatened, or candidate species or

designated or proposed critical habitat under the Endangered Species Act (ESA); resources protected by Coastal Zone Management Act (CZMA); resources protected by the Fish and Wildlife Coordination Act; prime, unique, tribal, state or locally important farmlands; and federal or state listed wild or scenic rivers, requiring consultation.

F. There is a reasonable likelihood the proposed action/project will have effects that are highly controversial on environmental grounds.

### Categorical Exclusion Documentation

The purpose of categorical exclusions is to reduce paperwork and delay. The NIGC is not required to repeatedly document actions that qualify for a categorical exclusion and do not involve an extraordinary circumstance (See 40 CFR 1500.4(p)).

The NIGC will document its decision to treat a particular action as categorically excluded from further NEPA review, when the CATEX applied specifically requires the preparation of a REC. In those cases, a REC will include:

- A complete description of the proposed action/project.
- The CATEX relied upon, including a brief discussion of why there are no extraordinary circumstances.
- Supplemental documentation that supports the conclusions in the narrative. Examples include exhibit(s) showing boundaries of historical or archeological site(s) previously identified near the proposed project, documentation from the U.S. Fish and Wildlife Service noting that no endangered species or habitat is present near the proposed project, evidence that the proposed project site is located outside any non-attainment area(s), etc. In some cases, a "no effect" determination from the State Historic Preservation Office or Tribal Historic Preservation Office may be required.

■ The following statement: *I certify that, to the best of my knowledge, the information provided is the best available information and is accurate.*

■ A signature from an environmental professional with a signature block that includes the professional's credentials.

Dated: May 1, 2012.

**Tracie Stevens,**  
Chairwoman.

**Steffani Cochran,**  
Vice-Chairwoman.

**Daniel Little,**  
Commissioner.

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