

Fire & Resources Strategic Issues Update
Interactive Satellite Push-to-Talk Workshop
NTC Course 1730-14

Participant Guide

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Sharing Your Ideas and Experiences

Please ask questions and share your concerns with the instructors and audience. Feel free to participate anytime during this course.

You can participate by:

- Using your push-to-talk microphone
- Sending your questions and comments to us by fax or phone
- Calling us by telephone if your microphone is broken

Using Your Push-to-talk Microphone

Either you have your own microphone or you are sharing with other listeners at your location.

To use the push-to-talk microphone,

1. Place the microphone at arm's length.

Note: This distance from the microphone typically provides the best vocal clarity.

2. Press and hold the Push-to-talk button to join the discussion:

- a. Excuse me <instructor name>
- b. My name is <state your first name>
- c. I'm calling from <state your location> and would like to comment about <some comment, experience, or observation>

Note: For example, Excuse me, Ted, this is Mary calling from the Northern Field Office in Phoenix, Arizona. Before your instruction, I did not share that perspective...

3. Release the Push-to-talk button.

Note: Until you release the button, you will not be able to hear the instructor.

Initially, it may seem a little strange to interact with a TV. One goal of this course is to help enrich our learning experience by sharing information. As you ask questions and participate during this interactive satellite course, your capacity to learn will make the awkwardness of this training format seem to melt away.

Other Ways to Participate

Rely on the Instructor and your Participant Guide to help learn what you need to do to participate. You can participate using the push-to-talk microphone.

If you do not have a push-to-talk microphone, please send your questions and comments by fax. We will display the fax number on the television screen during the course.



Welcome

It is our pleasure to have you join us for this Fire and Resources Strategic Issues Update Workshop.

Course Objectives

For each of the following key strategic initiatives:

- Healthy Forests Initiative or HFI
- Healthy Forests Restoration Act or HFRA
- Stewardship Contracting
- the Bureau's Biomass Strategy

Participants will:

1. Identify opportunities to increase accomplishments within their office and state that meet the initiative criteria and are implemental.
2. Assist others in identifying opportunities to increase accomplishments under the initiative.

The strategies we will use to accomplish this objective include:

- Short presentations
- Group discussions within your fellow participants
- Question and answer sessions
- Resources for you to explore and use after today's course

The course will last about three hours and has the following content and presenters.

Approximate Duration (min)	Content	Presenter
5	Session Introduction	Roy Johnson
20	Healthy Forest Initiative (HFI)	Ted Milesnick
20	Healthy Forests Restoration Act (HFRA)	Rick Tholen
20	Exercise and Discussion off-line	
20	Questions and Recommendations	Roy/Rick/Ted
30	Stewardship Contracting this authority	Scott Lieurance
	Biomass Strategy	
15	Exercise and Discussion off-line	Scott Lieurance
20	Questions and Recommendations	Scott/Rick/Ted/Roy
2.5 hours		

Referenced Instruction Memoranda and Information Bulletins are contained in the Appendix.

Refer to your copy of the HFI/HFRA Interim Field Guide during this course.



Part One – Healthy Forests Initiative

Presenter: Ted Milesnick, Chief, Fire Planning & Research, OF&A

A. Categorical Exclusions

What are Categorical Exclusions or CXs and why should we use them:

- Categories of actions that have been determined not to have significant effect on human environment
- DOI and USFS identified two new CXs in June, 2003
 - o Hazardous reduction activities & post-fire rehabilitation activities
- Significant time/money saver
 - o Most of all the HFI tools
 - o Will cite examples of State-reported cost savings

Requirements for use:

- Hazardous fuels reduction activities:
 - o Not to exceed 4,500 acres for prescribed fire
 - o Not to exceed 1,000 acres for mechanical methods
 - o Limited to WUI areas, or if outside the WUI, to FRCC 2 & 3, Fire Regime I, II, or III
 - o Shall be identified through a collaborative process
- Post-fire Rehabilitation Activities:
 - o Not to exceed 4,200 acres
- Both new CXs must also:
 - o Be consistent with land use plans
 - o Not use herbicides or pesticides
 - o No new permanent roads or other new permanent infrastructure

Piecemealing:

- Breaking project into smaller components to meet acreage limitations is not allowed
- Conduct NEPA analysis at project level, not treatment level



Documentation Requirements:

- Documentation requirement is different from other BLM CXs (DOI requirement)
 - o Must use format outlined in IM 2003-221 Change 1
 - Description of Proposed Action & Purpose and Need
 - Plan Conformance
 - Compliance with NEPA (exceptions don't apply)
 - Persons and Agencies Consulted
 - Decision and Rational on Action
 - Implementation Date
 - Signature
 - Administrative Review or Appeal Opportunities
 - Contact Person

Reporting:

- Report use of new CXs in NFPORS
- Activity Type = NEPA HFI CX
- The existing Forestry CX is very limited and should generally not be used or reported

For More Info:

- Contact:
 - o Ted Milesnick, Fire Planning and Research
 - o Jordon Pope, Senior NEPA Specialist
- IM 2003-221
- IM 2003-221 Change 1
- IM 2004-065

B. CEQ EA Guidance

What It Is:

- Guidance from Chairman of CEQ to Secretary's of Ag and Interior
- December, 2002

Purpose and Use of Guidance:

- Achieve a shorter and more concise document for public review and comment and for decision makers to use as a basis for examining the consequences and benefits that may result from projects
- Time/funding savings = more projects on-the-ground
 - o Cite examples of cost savings reported by States
- Should be used for all BLM projects where an EA is the appropriate NEPA document (IM OFA 2004-014)



Basics of EA Guidance:

- Concise public document (generally no more than 10 – 15 pages)
- Describes information and analysis to support FONSI
- Documents need for EIS and facilitates EIS preparation
- EA Content:
 - o Statement of need for proposed action
 - o Description of proposed action and alternatives
 - o Environmental impacts of proposed action and alternatives
 - o List of agencies and persons consulted

Pilot EAs:

- Weaver Mountain – AZ
- White River Powerline – CO
- Portneuf - ID
- Horsethief - MT
- Rogue River – OR
- Mesquite – NV
- Pahvant - UT

Lessons Learned from Pilots and Other Environmental Actions or EAs:

- The scoping process is key in focusing the scope of the EA
 - o Need to involve the public to the extent practicable
- The Need for the Proposal (typically termed “Purpose and Need” should document why the project is being prepared:
 - o Concisely describe existing condition, desired condition, need for the project and how the proposed action would achieve the desired condition
 - o Need for Proposal should be used to focus EA’s and can be the basis for eliminating alternatives addressed in detail
- The NEPA document must clearly support the FONSI and lead the reader to a logical conclusion regarding significance of impacts
- When a “no action” alternative is analyzed, need to describe a reasonable wildfire occurrence scenario that might happen if hazardous fuels are not treated
 - o No action alternative should generally be addressed if there is concern, controversy or disagreement over whether to proceed with the proposed action
 - o There is no requirement for a no-action alternative. If scoping determines there are no unresolved issues regarding the action, recommend not including a no-action alternative
- Incorporating material by reference (summarizing conclusions and findings in the EA) should be more widely used
- When completing the FONSI, we should specifically address the Context and Intensity factors (10) identified in the CEQ regulations (40 CFR 1508-27)
 - o Don’t just make the statement that there are no significant impacts



Using BLM's "short-form" EA from NEPA Handbook:

- The guidance listed in BLM's NEPA Handbook (H-1790-1) for completing short concise EAs is basically equivalent to the CEQ EA guidance.
- If offices prepare concise (15 pages or so) fire management EAs using the NEPA handbook guidance, these EAs can be reported in NFPORS as NEPA HFI EAs.

Reporting Requirements:

- NEPA information for NFP projects must be entered into NFPORS
- Activity type = NEPA HFI EA

For More Information:

- Ted Milesnick, Chief, Fire Planning and Research
- Jordon Pope, Senior NEPA Specialist
- Healthy Forests Web Site (www.healthyforests.gov)
-

C. Joint Counterpart Regulations

Purpose of Regulations:

- o Utilize BLM expertise to expedite the T/E species consultation for actions that support the NFP (a Fire Plan Project is an action determined by the Action Agency to be within the scope of the National Fire Plan.)

Regulations allow BLM to make "not likely to adversely affect" (NLAA) determinations for listed species or designated critical habitat without consulting with or obtaining written concurrence from FWS or NOAA Fisheries.

Prior to the regulations being implemented in December 2003, we were required to consult with FWS and NOAA Fisheries and receive a "notice of concurrence" for determinations of "not likely to adversely affect".

For actions that we determine "may likely adversely affect" a listed species or designated critical habitat, we still need to go through the normal consultation process with FWS or NOAA Fisheries.

Why use:

- speeds up the project planning & approval process
- It reduces FWS and NOAA Fisheries workload in clearing NFP projects
- We have an agreement with FWS and NOAA Fisheries, the ALTERNATIVE CONSULTATION AGREEMENT, (ACA), for expedited clearance NFP projects. DOI agencies have been spending over \$3 million annually for these expedited clearances and use of the joint counterpart regs for "not likely to adversely affect" actions will reduce this funding commitment. (dollar savings = more projects on-the-ground)



Process:

Biologists and approving officials (generally FO Manager) must be trained and certified (Show information/link for training)

Responsibility of line officer to document the justification that the project is a NFP project

Subunits shall contain current lists of listed species/critical habitat that occur on lands they administer or that may be affected by actions they authorize, fund or carry out

Subunits shall maintain a list of NFP projects using the regs and submit to State Offices by March 1 (Use Format in Appendix 2 of ACA)

Subunit shall document the analysis used in making the NLAA determination in a biological assessment or biological evaluation.

BLM is now responsible for creating and maintaining the complete project record to demonstrate consistency of the action with the NFP, the use of the best available scientific & commercial information in making an effects determination, and compliance with the ESA and the Sec 7 regulations.

If any response (to an action) is determined to be adverse, or result in incidental take, the determination of effects is “likely to adversely affect” and the counterpart regs do not apply.

Monitoring, Oversight, Tracking Use:

Monitoring program will be completed one year following the regs & every three years thereafter

Oversight:

- The service will conduct periodic program evaluations
- The service can recommend changes to implementation procedures or terminate subunit ACA
- Service can terminate the ACA

Required *tracking* for use of counterpart regulations

- NFPORS
- Individuals that enter NFP project info will enter counterpart reg info
 - Project name
 - Activity type
 - Initiation date
 - Completion date



For more information:

- Peggy Olwell, Senior Endangered Species Specialist
- Ted Milesnick, Chief, Fire Planning and Research
- IB 2004-088
- IM 2004-178
- Alternative Consultation Agreement to Implement Section & Counterpart Regulations
http://www.fs.fed.us/biology/resources/pubs/tes/ForestServiceACA_3Mar04.pdf
- BLM State/National Contacts

D. Full Force and Effect Authority

What is it & why should we use it?

- Allows BLM to make wildfire management decisions effective immediately when BLM determines that vegetation, soil, or other resources on public lands are at substantial risk of wildfire due to drought, fuels buildup, or other reasons, or when public lands are at substantial risk of erosion or other damage due to wildfire
- In lay-mans terms, allows us to implement fire management decisions and stabilization/rehab decisions even though they may be appealed (unless IBLA grants a stay)
- Use is discretionary (i.e., not required)
- Provisions are outlined in regulations at 43 CFR4190 (Grazing Administration) and 43 CFR 5000 (Forest Management)

What wildfire management decisions are included:

- Fuel treatments such as prescribed burns, mechanical, chemical, thinning (with or without removal of material)
- Fire stabilization and rehabilitation projects

Other requirements for use:

- Offices must make reasonable efforts to discuss all wildfire management decisions with interested parties, partners, stakeholders and local, state and tribal governments during the NEPA analysis process
- Project file (EA) must document what resources are at risk and the factors putting them at risk
- Decision document must include appropriate FFE language (IM 2004-224)

Relationship to NEPA Documents:

- Application of the FFE provisions is not related to the type of NEPA document
 - o Can be used with CXs, EAs or other NEPA documents



Decisions Affecting other Authorized Uses:

- Wildfire decisions may affect other authorized uses (recreation, grazing permits, rights-of-way, etc)
 - o Coordination with other programs is imperative
- Single wildfire decision may be issued that applies to all potentially affected uses (multiple-use decision document)
 - o Will provide an example of a FFE wildfire decision that affects grazing use
- Wildfire decisions affecting other programs are appealed directly to IBLA and are not subject to protest and appeal procedures of other affected programs

For more information:

- Contact:
 - o Ted Milesnick, Chief, Fire Planning and Research
 - o Jack Hamby, ESR Coordinator
 - o Rick Tholen, Renewable Resources and Planning
- IM 2003-232
- IM 2004-224



Part Two – Healthy Forests Restoration Act

Presenter: Rick Tholen, Forester, WO-200

HFRA and how it is different from the other “tools” that have come out as part of the National Fire Plan:

The Healthy Forests Restoration Act, or HFRA, is a law passed by the 108th Congress and enacted by President Bush December 3, 2003.

At least in part, HFRA is in response to testimony provided by the Secretaries of Interior and Agriculture in front of the House Resources Committee in September, 2002. In that testimony, the Secretaries told the committee that the agencies they oversee are “constrained by procedural requirements and litigation that delay actual on-the-ground implementation” of fuel reduction and restoration projects. They also submitted to the Congress for consideration “a legislative proposal designed to accomplish more timely, efficient, and effective implementation of forest and rangeland health projects. The intent of this proposal is to significantly increase and improve forest and rangeland health and to prevent the damage caused by catastrophic wildfires.”

The HFRA we know today, is a by-product of this legislative proposal and the bipartisan discussions and compromises that lead to the passage of this law.

It is intended to reduce the amount of analysis and documentation required to make a decision to conduct an on-the-ground treatment and to expedite judicial review of any challenges to such a decision.

It differs from the HFI in that it is legislative rather than administrative or regulatory, which theoretically means it will hold more weight in a court of law if our decisions are challenged.

HFRA contains six titles. Title I, entitled “Hazardous Fuel Reduction on Federal Land”, is where I’ll focus my comments today. Other titles include Biomass, Watershed Forestry Assistance, Insect and Disease R&D, the Healthy Forests Reserve Program, and Miscellaneous other Forest Health programs, most all of which are being implemented by the Forest Service. However, you may wish to become familiar with them any way.

Benefits of using HFRA Title I authorities vs. our traditional authorities:

HFRA contains special NEPA provisions designed to reduce needless paperwork and analysis and expedite on the ground implementation of hazardous fuels and forest and rangeland restoration projects. Any NEPA document or decision record issued under the HFRA authority will need to follow the NEPA provisions contained in HFRA. A Categorical Exclusion is not part of HFRA, and is therefore not to be used for a project being implemented under the HFRA



authority.

HFRA also provides direction to the U.S. District Court concerning how they handle HFRA project cases brought before them.

Changes HFRA makes to NEPA or other legal requirements BLM has been operating under:

HFRA provides relief from preparing alternatives in addition to the proposed action when preparing an EA or EIS under its authority. The degree of relief depends upon the type of project and the physical location of that project to the Wildland Urban Interface of an at-risk community.

HFRA also provides an expedited judicial review process in the case where a project implemented under its authority is challenged in Federal District Court. I'll talk more about that later in my presentation.

For the Forest Service, HFRA also provides an administrative review process whereby objections to a project can be made prior to the FS making a final decision. If an objection is not made prior to the decision, standing is removed from those who may bring up issues in a subsequent appeal. No changes were made in HFRA to BLM's administrative review process, however, administrative changes made under HFI to DOIs administrative review process and BLM has modified its regulations to allow full force and effect implementation of fire management decisions as discussed earlier.

When you should consider using HFRA:

You should consider using HFRA authority when, as the Secretaries said in their testimony in front of Congress, procedural requirements, particularly those contained in NEPA and litigation are likely to delay actual on-the-ground implementation of treatments needed to reduce the risk of wildfire to communities or the environment.

In other words, where the special NEPA provisions found in HFRA, which I will speak about in more detail later, provide relief from analyzing a myriad of alternative approaches or where the judicial review provisions are likely to be beneficial to the agency in implementing the treatments necessary to reduce wildfire or improve forest and rangeland health.

Additional funding provided with HFRA:

While HFRA "authorized" funds for implementing the different Titles within the Act, it did not "appropriate" any additional funding. Funding to implement hazardous fuels reduction and forest health restoration projects using the HFRA Title I authority is provided in the agencies normal budgetary processes.

Better understanding what is required by HFRA:



HFRA is a new authority under which we can implement projects that reduce fuels and improve forest and rangeland health, provided that specific requirements contained in HFRA are met.

A field guide has been prepared to help you navigate your way through HFRA. It's not perfect, but for many it helps. In addition, a series of "decision diagrams" are in the field guide to help you figure out whether or not the project you are considering qualifies to use HFRA authority.

How a project qualifies for HFRA authority:

There are several limitations on the use of the HFRA authority that should be reviewed when a project is initially considered:

1. No HFRA projects within Congressionally designated Wilderness or Wilderness Study Areas.
2. HFRA projects must be on Federal Lands
3. HFRA projects must be collaboratively developed
4. HFRA projects must conform to the existing land use plan.

If a project meets these criteria, then it must be tested to see if it qualifies to use HFRA authority as described in the Act. The Test is diagrammed on Page 13 of the Field Guide.

Basically, a project must meet one of the following 4 situations to qualify to use HFRA authority:

1. The project area is within the Wildland Urban Interface as defined by HFRA in Section 101 titled Definitions. There are essentially 4 definitions of a WUI area in Section 101 of HFRA
 - a. An area within or adjacent to an at-risk community as identified in a Community Wildfire Protection Plan;
OR
 - b. An area extending ½ mile from the boundary of an at-risk community; OR
 - c. An area extending 1 ½ miles from the boundary of an at-risk community if the land has "sustained steep slope", or "a geographic feature that aids in creating an effective fuel break", or is in condition class 3 as identified in a "project specific environmental analysis";
OR
 - d. An area that is adjacent to the evacuation route of an at-risk community.

The definition section of HFRA contains two definitions of an "at-risk community" that should be reviewed to see if the project qualifies. These two definitions will cover most situations, so I won't go into them now, but highly recommend that you make sure the "community" you are protecting meets one of these definitions.



2. The project is in or near a municipal watershed, as defined by HFRA, and is in Condition Class 3 (all fire regimes) or Condition Class 2, fire regimes I, II or III, and it proposes to reduce the risk posed by wildfire to water quality or maintenance of the municipal water supply system.

HFRA didn't supply a definition for a "municipal watershed", so the agencies have adopted the definition contained in the Safe Drinking Water Act which shown on page 19 of the Interim Field Guide.

If a HFRA project is being implemented under this criteria, I strongly recommend that you review the guidance for documenting that a "significant risk" to the municipal water supply exists outlined in the Interim Field Guide.

3. The project is in an area of blowdown, windthrow, or damage by ice storm, or an area where an insect or disease epidemic has been declared on Federal lands or on adjacent private lands, and there is significant risk to ecosystem components or forest or rangeland resources.

In the case of an on-going insect or disease epidemic, the agency field manager will be the official that determines that an epidemic exists.

While this criteria is the least confined of the 4 qualifying criteria by definitions and other requirements that must be met, you are strongly advised to seek input from forest health specialists before making such a determination.

4. The project is near T&E Species habitat where fire is either important toward maintaining that habitat or threatens that habitat and the project would provide enhanced protection from wildfire. Projects using this qualification criterion must be consistent with any recovery plans in place for the T&E Species in question.

Again, I strongly recommend that you consult the Interim Field Guide for additional guidance on making the determination that wildfire is a treat to the species habitat and that enhanced protection is needed.

These are the 4 criteria under which a project can qualify to use HFRA. We recommend that public scoping documents, the NEPA document and the Decision Record/Record of Decision for all HFRA projects clearly and succinctly document which of the 4 criteria are met for the project. This should be clearly identified in the Purpose and Need section of the EA or EIS.

Benefits of using the HFRA authority:

The greatest potential savings, in terms of time and money, are provided for those projects which reduce the risk of wildfire within the Wildland Urban Interface. For projects that lie within 1 ½ miles of the boundary of an at-risk community, the EA or EIS need only analyze the proposed action. No formal alternatives, including the no action alternative are required.



If the project lies within the WUI, but is farther than 1 ½ miles from the boundary of an at-risk community, HFRA requires only the analysis of the proposed action and one additional action alternative.

HFRA also provides several benefits to the agency if a project is challenged in Federal District Court.

1. First, HFRA requires that the administrative review process be exhausted before civil relief is sought and limits the issues to those that are presented during that process.
2. It requires lawsuits be filed in the U.S. District Court where the project is located. This is intended to keep litigants from shopping of Judges that have rendered decisions in their favor in the past.
3. HFRA limits injunctions to 60 days, subject to renewal. This should help prevent projects sitting idle for months or years on end until it reaches the Court's docket.
4. It directs the court to expedite judicial review of the case and to balance the impact of both short and long-term effects of the action vs. taking no action.

While the special NEPA provisions contained in HFRA do not require development and analysis of a No Action alternative, the agencies should clearly state the need for the action, and clearly articulate the potential consequences of not taking action, in the Purpose and Need section of the EA or EIS.

Other requirements which must be fulfilled when using HFRA authority:

There are several other requirements contained in HFRA, two of which are the old-growth management and large tree retention requirements.

HFRA requires us to manage old growth stands (both forests and woodlands) to maintain or restore the structure and composition of old-growth stands according to the pre-fire exclusion condition, characteristic of the forest type. The one exception to this requirement is projects that are authorized to use HFRA because they meet the blowdown, windthrow, ice damage, or insect or disease epidemic criteria mentioned above.

Because HFRA requires that projects are consistent with existing land use plans, if old-growth language in the land use plan is inconsistent with the HFRA requirement to “maintain and restore”, or in the case of many BLM land use plans, the existing plan contains no old-growth management direction, then the agencies are to follow the “large tree retention” requirements contained in HFRA.

The large tree retention requirement is that we focus the project largely on one of the following:

- Small diameter trees
- Thinning
- Constructing strategic fuel breaks
- Prescribed fire to modify fire behavior



It also requires that we “maximize the retention of large trees as appropriate for the forest type, to the extent that the trees promote fire-resilient stands.

Again, there is a considerable amount of additional guidance on what is meant by “maximize the retention of large trees” contained in the Interim Field Guide.

It should be clear from this additional guidance that HFRA does not require the retention of all large trees. The focus should be on how the large trees promote a fire-resilient stand and a healthy and properly functioning landscape. The FRCC process should be used to help determine which stand structures promote a properly functioning landscape.

HFRA requires that the agency encourage meaningful public participation during preparation of projects. It requires that a public meeting be conducted during project preparation.

HFRA also exempts Federal involvement in the preparation of Community Wildfire Protection Planning efforts from both NEPA and the Federal Advisory Committee Act. This exemption does not extend to the planning and implementing actions on Federal land that are recommended in the CWPP.

And finally, HFRA directs the agencies to establish multi-party monitoring processes when significant interest is expressed by other groups or individuals.



Besides using HFRA to plan and implement hazard fuels reduction and forest and rangeland health projects, what else should I know about HFRA Title I?

HFRA provides a special predecisional administrative review process for the Forest Service which is similar to that currently used by the BLM. The BLM and the Office of Hearings and Appeals have previously modified their regulations for administrative review of fire management decisions as part of the administrative changes implemented under the Healthy Forests Initiative.

Where can I get more information on using HFRA?

For More Info:

- The Interim Field Guide, located at www.fs.fed.us/projects/hfi/field-guide/web/ is your best reference for learning more about HFRA.
- The Act itself is also located on the web at the www.healthyforests.gov site under “What is HFI?” and then under “Legislative”.
- The Forest Service has developed a list of Frequently Asked Questions that may be helpful. They can be viewed at <http://fsweb.wo.fs.fed.us/hfra/training/index.shtml>. Keep in mind that these Q&As reference specific Forest Service policies and regulations that may not apply to BLM.
- Contact: Rick Tholen at (208) 387-5321, or by email at rick_tholen@nifc.blm.gov.



Part Three – Exercise One and Discussion off-line

At this point we will take a 20 minute break. During the break, we'd like you to discuss, in your viewing group, the following:

- What opportunities do you have to use the HFI/HFRA authorities that you have not used in the past?
- What impediments (barriers) do you face in implementing those opportunities and what solutions can you suggest?
- What needs to be done to implement these opportunities?

When we return, we hope to hear from all of you. Be ready with questions or feedback for Ted and Rick related to what they covered so far?



Part Four – Stewardship “End Results” Contracting

Presenter: Scott Lieurance, Forester, WO-200

Stewardship Contracting the Act:

The FY 1999 Appropriation Bill granted the U.S. Forest Service pilot stewardship contracting authority.

- The original legislation was amended in 2003
- Changed the pilot FS authority to authority until September 30, 2013
- Included BLM in the legislation
- Changed the monitoring to programmatic rather than project level monitoring

January 2004 Rollout:

- New Release
- Guidance
- Q & As
- Fact Sheet
- Federal Register Notice
- Link to sister agency website
- Map to projects

The Objectives of Stewardship:

- Until September 30, 2013 the Forest Service and Bureau of Land Management authority, via agreement or contract, may enter into stewardship contracting projects with private persons or public or private entities, by contract or by agreement, to perform services to achieve land management goals for the National Forests or public lands that meet local and rural community needs;
 - road and trail maintenance or obliteration for improved water quality;
 - soil productivity, habitat for wildlife and fisheries, or other resource values;
 - setting prescribed fires to improve composition, structure, condition, and health of stands or to improve wildlife habitat;
 - removing vegetation or other activities to promote healthy forest stands, reduce fire hazards or achieve other land management objective;
 - watershed restoration and maintenance;
 - restoration and maintenance of wildlife and fish habitat; and
 - control of noxious and exotic weeds and reestablishing native plant species
- Requires the use of “Best Value” as the basis of award
- Extends the authority for contract term up to ten years
- Use the value of forest products sold/traded to offset the cost of contracted services



What Stewardship Contracting is:

- It is a tool to perform services to achieve land management goals
- Promotes active collaboration with local, rural, tribal and other groups
- Allows agencies to trade goods for services, retain excess offset values, enter into contracts or agreement until September 30, 2013, & to group several contracts into one

What Stewardship Contracting is not:

- A replacement for existing timber sale or grazing programs
- A mechanism to reduce the public's role
- A relinquishment of decision making authorities or management responsibilities

Accomplishments & Targets:

FS 1999-2003

- 84 projects approved, 98 contracts/agreements

FS 2004

- 46 contract/agreements awarded

BLM 2004

- 35 projects approved, 22 to contract

FY04 Accomplishments

- 22 contracts/agreements
- \$3,600,000 service cost
 - 15,000 acres under contract, JW, JM, JE
 - Also JA, JG, JB & JC
- \$1,700,000 product value
 - 13,700 MBF & 1200 CCF
 - 1000 cords & 27,000 tons biomass

FY 2005

- 70 new projects awarded
- 25,000 acres

FY 2006

- Few, bigger, longer projects & contracts that are developed and contracted at the watershed scale

What's new with Stewardship:

- New Delegations
 - Approval @ State Director level
 - Projects <\$100,000, state COs
- Use of forest product sales instruments
- Forage
- Collaboration



Lessons Learned

- Can't push a rope up hill
- Do stewardship where it fits
- Allow the contracting to be done at the local level
- Too much overhead from the National level is shooting us in the foot.
- Make the collaboration fit the project

For More Info:

- Contact:
 - Scott Lieurance, WO Stewardship Coordinator
 - Erick Christiansen, NIFC Stewardship & Biomass
 - Helen Curlee, WO Bureau Procurement Chief
- IM 2004-081
- IM 2005-099
- FS www.fs.fed.us
- BLM www.blm.gov
- Healthy Forests www.healthyforests.gov/



Part Five – BLM’s Biomass Utilization Strategy

- **Goals:** Increase the commercial utilization of small diameter woody material from forestry, fuels and rangeland treatments. Using more biomass for forest products and energy will help offset a portion the cost of restoring lands, reduce smoke emissions from prescribed burning and wildfires, provide jobs, and create renewable energy.
 - National Fire Plan: A principle of the *Ten-Year Comprehensive Strategy* of the National Fire Plan is to stimulate industries that will utilize small-diameter, woody materials resulting from hazardous fuel reduction activities, such as for power, paper-making and building materials.
 - National Energy Policy: A task of the National Energy Policy is “to encourage use of biomass from public land” and find “opportunities to utilize funding from other sources within the *National Fire Plan*. “
 - DOI Strategic Plan

Building Tools & Expertise:

- New contracting Techniques - complimenting BLM’s timber sale authorities:
 - o DOI contract clause to provide biomass in all service contracts, where appropriate.
 - o Stewardship authority to help offset a portion of the restoration costs with the value of forest and rangeland products.
- National and State points of contact to develop policy, train and transfer information.
- Definitions & Performance Measures: Consistent definitions and measures to set goals and track accomplishments.
- Demonstration Sites:
 - o Leaders in increasing biomass utilization as a component of vegetation treatments.
 - o A national BLM resource for training, demonstrating and transferring technology, and policy development.
 - The sites have several key characteristics, considering both BLM and other ownerships: Long-term (five plus years) supply of biomass,
 - Community support.
 - Personnel available to plan, implement and monitor treatments, as well be responsible for national assignments.
 - Biomass industry in place.
 - Management support to emphasize biomass utilization.



Stabilizing Supplies:

- "Buying Biobased":
- National Goals of offering biomass on ten percent of the mechanical fuels projects in forest/woodlands leading to a goal of 50 percent of projects by 2008. This compliments the outputs from the forestry program (42 MMBF and 40 K green tons on PD lands, and 220 MMBF in western Oregon).
- Five Year Schedules: fuel treatments for all field offices will identify supplies and potential markets (due Fall 2005).
- Biomass contracting tools to be used more extensively in 2006, including 40 new stewardship projects. Priority is for larger and longer-term contracts.
- Attracting Markets:
 - o USDA Forest Products Lab testing materials made of juniper and salt cedar and hosting workshops in OR.
 - o CO Wood demonstrating products made from pinyon.
 - o Prineville OR's CROP working to level supplies across ownerships.

Challenges:

- The expense of offering, transporting and marketing biomass may reduce the area that BLM can treat, at least in the short run.
- Assistance is needed in attracting markets, such as partners with "clearinghouses," such as USDA and DOE for grants and research.

For More Information:

- Gregg Nelson, Biomass Coordinator - WO
- Erick Christiansen, NIFC Stewardship & Biomass
- Janine Velasco
- Websites



Part Six – Exercise Two and Discussion off-line

At this point we will take another 20 minute break. As we did earlier, during the break, we'd like you to discuss the following:

- What questions do you still have about Stewardship Contracting and Biomass Utilization?
- What might be done to assist you in implementing these two initiatives?

As before, be ready with questions or feedback for Scott, Ted, and Rick related to everything we've covered today?



Part Seven – Summary

The objective of this course is:

For each of these four key strategic initiatives -- Healthy Forests Initiative (HFI), Healthy Forests Restoration Act (HFRA), Stewardship Contracting, and the Bureau's Biomass Strategy – participants will:

1. Identify opportunities to increase accomplishments within their office and/or state that meet the initiative criteria and are implemental
2. Assist others in identifying opportunities to increase accomplishments under the initiative.

To achieve this objective, the following information was covered in this course:

- Benefits of a structured interview
- Recognition of the legal requirements, parameters and aspects of interviewing
- Tools to develop a strategy for conducting candidate and reference interviews
- An understanding of the importance and types of documentation
- The steps involved in the final evaluation of the candidates before making a selection.

Referenced Instruction Memoranda and Bulletins are contained in Appendix A.

We thank you for participating in our Interactive Satellite Push-to-Talk Workshop, NTC Course 1730-14.

APPENDIX A — IMs and IBs

The following Instruction Memoranda and Information Bulletins are listed in the order that they appeared in this course.

- IM 2003-221
- IM 2003-221 Change 1
- IM 2004-065
- IB 2004-088
- IM 2004-178
- IM 2003-232
- IM 2004-224
- IM 2004-081
- IM 2005-099

IM 2003-221

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240

July 16, 2003

In Reply Refer To:
1600 (WO210/FA620) P

EMS TRANSMISSION 07/21/2003
Instruction Memorandum No. 2003-221
Expires: 09/30/2004

To: WO Officials, State Directors, Center Directors, and Field Managers
Attention: Planning and Environmental Coordinators and Fire Management
Specialists

From: Assistant Director, Renewable Resources and Planning

Subject: Categorical Exclusions for Hazardous Fuels Treatments and Post-Fire
Rehabilitation Projects

Purpose: The purpose of this instruction memorandum is to inform Bureau offices of two new Departmental categorical exclusions available for use for certain hazardous fuels treatment projects and post-fire rehabilitation projects.

Background: The Department of the Interior and the Department of Agriculture, Forest Service published two proposed categorical exclusions in the Federal Register addressing hazardous fuels reduction and post-fire rehabilitation activities on December 16, 2002 (see 67 FR 77038). On June 5, 2003, the Department of the Interior and the Department of Agriculture, Forest Service published final implementing procedures in the Federal Register to give notice that each agency's directives would be revised to contain the final categorical exclusions as identified in the Federal Register (68 FR 33813-33824).

During the same time frames, the Interior Office of Hearings and Appeals and the BLM revised their appeals procedures to expedite appeals of wildfire management decisions (68 FR 33793). Those revised procedures apply to areas that are at substantial risk of wildfire and areas that are at immediate risk of erosion or other damage due to wildfire. This does not, however, mean that actions proposed for those areas are automatically categorically excluded.

Policy/Action: On June 5, 2003, to formalize the availability of the two categorical exclusions for use by Department of the Interior Bureaus, the Office of Environmental Policy and Compliance issued Environmental Statement Memorandum No. ESMO3-2 (Attachment 1). This memorandum adds the two new categorical exclusions to 516 Departmental Manual, Chapter 2, Appendix 1. Specifically it adds Categorical Exclusion 1.12 regarding hazardous fuels treatments and Categorical Exclusion 1.13 regarding post-fire rehabilitation.

The categorical exclusions would not apply where there are extraordinary circumstances as defined in 516 DM 2, Appendix 2. In addition, both categorical exclusions have specific limitations and requirements. For the specific definition of each categorical exclusion, see Attachment 2. Use of the categorical exclusions does not remove requirements to complete necessary clearances such as those for cultural resources and threatened and endangered species.

The ESMO3-2 memorandum also requires offices using these two categorical exclusions to prepare a decision memorandum documenting the use of the categorical exclusion and documenting the manager's decision to implement the proposed project. The required documentation must follow the template provided in Attachment 1. The language in Attachment 1 referring to appeals provisions applies to the decision on the action being implemented; use of a categorical exclusion for National Environmental Policy Act (NEPA) compliance does not annul BLM administrative appeal or protest processes.

Time frame: Effective upon signature.

Manual/Handbook Sections Affected: This policy affects the BLM's NEPA Handbook (H-1790-1) in two places: Chapter II, Section C regarding the documentation of categorical exclusion review and Appendix 3, which lists Department of the Interior categorical exclusions. It also affects the Department of the Interior's NEPA manual, 516 DM 2, adding categorical exclusions 1.12 and 1.13 to Appendix 1.

Coordination: WO-210 and FA-620 developed this memorandum in coordination with WO-220, WO-230, and WO-240.

Contact: For more information please contact, Carol MacDonald, Planning and Environmental Analyst, on 202-452-5111, or Ted Milesnick, Chief Fire Planning and Research, on 208-387-5198.

Signed by:
Bud Cribley
Acting Assistant Director
Renewable Resources & Planning

Authenticated by:
Barbara J. Brown
Policy & Records Group, WO-560

2 Attachments

- (1) [Environmental Statement Memorandum No. ESMO3-2: Guidance for Preparing a Decision Memorandum When Using the Department's Categorical Exclusions for Fuels Treatment or Rehabilitation \(3 pp\)](#)
- (2) [Federal Register Notice: National Environmental Policy Act Documentation Needed for Fire Management Activities; Categorical Exclusions \(25 pp\)](#)

IM 2003-221 Change 1

**UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240**

August 15, 2003

In Reply Refer To:
1600 (WO210/FA620) P
Ref. IM No. 2003-221

EMS TRANSMISSION 08/20/2003
Instruction Memorandum No. 2003-221, Change 1
Expires: 09/30/2004

To: WO Officials, State Directors, Center Directors, and Field Officials
Attention: Planning and Environmental Coordinators and Fire Management Specialists

From: Assistant Director, Renewable Resources and Planning

Subject: Categorical Exclusions for Hazardous Fuels Treatments and Post-Fire Rehabilitation Projects

Purpose: The purpose of this instruction memorandum is to revise Attachment 1, page 2, of Instruction Memorandum No. 2003-221, Categorical Exclusions for Hazardous Fuels Treatments and Post-Fire Rehabilitation Projects, issued July 16, 2003.

Background: On June 5, 2003, the Department of the Interior and the Department of Agriculture, Forest Service published final implementing procedures to give notice that each agency's directives would be revised to contain two new categorical exclusions for certain hazardous fuels treatments or post-fire rehabilitation projects (Federal Register, 68 FR 33813-33824). Instruction Memorandum No. 2003-221 issued (1) the Department of the Interior Environmental Statement Memorandum No. ESM03-2, Guidance for Preparing a Decision Memorandum When Using the Department's Categorical Exclusions for Fuels Treatment or Rehabilitation and (2) the Federal Register Notice finalizing and describing the two new departmental categorical exclusions.

Policy/Action: Instruction Memorandum No. 2003-221 requires offices using these two categorical exclusions to prepare a decision memorandum documenting the use of the categorical exclusion and documenting the manager's decision to implement the proposed project. Change 1 to the instruction memorandum adds "Description of the Proposed Action" to "Purpose and Need for the Action" in the first section of the decision memorandum. The required documentation should therefore follow the revised template provided in Attachment 1.

Time frame: Effective upon signature.

Manual/Handbook Sections Affected: This policy affects the BLM's NEPA Handbook (H-1790-1) in two places: Chapter II, Section C regarding the documentation of categorical exclusion review and Appendix 3, which lists Department of the Interior categorical exclusions. It also affects the Department of the Interior's NEPA manual, 516 DM 2, adding categorical exclusions 1.12 and 1.13 to Appendix 1.

Coordination: WO-210 and FA-620, in coordination, developed this memorandum.

Contact: For more information please contact, Carol MacDonald, Planning and Environmental Analyst, on 202-452-5111, or Ted Milesnick, Chief, Fire Planning and Research, on 208-387-5198.

Signed by:
James Kenna
Acting Assistant Director
Renewable Resources and Planning

Authenticated by:
Barbara J. Brown
Policy & Records Group, WO-560

1 Attachment

1 - Environmental Statement Memorandum No. ESMO3-2: Guidance for Preparing a Decision Memorandum When Using the Department's Categorical Exclusions for Fuels Treatment or Rehabilitation (3 pp)

IM 2004-065

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240

December 15, 2003

In Reply Refer To:
1600 (WO210/FA620) P
Ref. IM No. 2003-221 &
IM No. 2003-221, Ch.1

EMS TRANSMISSION 12/16/2003
Instruction Memorandum No. 2004-065
Expires: 09/30/2005

To: WO Officials, State Directors, Center Directors, and Field Managers
Attn: Planning and Environmental Coordinators and Fire Management
Specialists

From: Assistant Director, Renewable Resources and Planning
Director, Office of Fire and Aviation

Subject: Additional Information Regarding Use of the Categorical Exclusions for
Hazardous Fuels Treatments and Post-Fire Rehabilitation Projects

Purpose: The purpose of this Instruction Memorandum is to provide additional interpretation on the use of two new Departmental categorical exclusions available for certain hazardous fuels treatment projects and post-fire rehabilitation projects. Use of the two new categorical exclusions was outlined in Washington Office Instruction No. 2003-221 and No. 2003-221 Change 1.

Background: On June 5, 2003, the Department of the Interior and the Department of Agriculture, Forest Service published final implementing procedures in the Federal Register to give notice that each agency's directives would be revised to contain the final categorical exclusions as identified in the Federal Register (68 FR 33813-33824). Following issuance of Instruction Memorandum No. 2003-221, Bureau Field Offices began to use the new categorical exclusions (CXs). The National Office received requests to clarify the following two questions:

1. Can the CXs be considered for use when a proposed project is located within a Wilderness Study Area boundary?
2. The Federal Register announcement formalizing the CXs stated acreage limits on the use of the CXs for certain hazardous fuels reduction activities and on post-fire rehabilitation activities. How should Field Offices interpret these acreage limitations?

Policy/Action: The Bureau's response to these questions is presented below.

1. The Bureau will not use CXs for hazardous fuels reduction or post-fire rehabilitation in Wilderness Study Areas (WSAs) (see Bureau Handbook H-8550-1, Chapter II, B. 6 on page 22). An environmental assessment should be used to assess the impacts of a proposed hazardous fuels reduction or post-fire rehabilitation project to determine whether or not the proposal impairs the WSA's wilderness character.
2. Use the following guidance to assess whether or not the proposed project is within the acreage limitation stated in the Federal Register Notice (33824, Vol. 68, No. 108, Thursday, June 5, 2003). Under each scenario, projects may include treatments over multiple years.

For hazardous fuels reduction activities using fire, the 4,500-acre limitation is calculated based on the total acres planned to be blackened on a project basis. The total acres to consider regarding the limitation, is computed by using the sum of individual treatment acres minus any overlap of multiple treatments over the life of the project. For example, a project has two prescribed fire treatments planned of 2,000 acres each in two different years. The treatments do not overlap on-the-ground. The total acres determining the consideration of CX use would equal 4,000 acres. This would be within the 4,500-acre limitation for the CX.

A second example is a project that has 2 prescribed fire treatments planned in consecutive years with one treatment planned for 4,000 acres and the other treatment planned for 3,000 acres. The treatments overlap by 2,500 acres so the total acres determining whether or not the CX could be considered would equal 4,500 acres. This would be within the 4,500 acre limitation.

A third example would be a project that proposes to treat 80 percent of a 5,000 acre project area that has a 6,000-acre buffer zone. Eighty percent of the project area equals 4,000 acres. The buffer zone is not planned for treatment and is not included in the calculation for total acres to be blackened. This proposed project would be within the 4,500-acre CX limitation for a hazardous fuels treatment using fire. The total blackened acres are also defined as the "footprint" in the National Fire Plan Operations and Reporting System.

For mechanical hazardous fuels activities, the 1,000-acre limitation is calculated based on the planned total acres to be treated by project minus any overlap of multiple treatments. This is also defined as the "footprint" in the National Fire Plan Operations and Reporting System.

Projects that have a mixture of fire and non-fire fuels treatment types must compare the total acres to be treated by the specific acre limit set forth in the CX for its specific type of treatment (fire or non-fire). Total the acres to be treated for fire fuels treatments, subtract overlap, and then total the non-fire fuels treatments minus the overlap. Compare the total for fire treatments to the 4,500-acre limit and the non-fire treatment to the 1,000-acre limit. This is the same as comparing the footprint of each treatment type to its specific CX acre limit. If both treatment type acres are within the CX acre limit, consider using the CX. If one or more of the total acres exceed the treatment type acre limit, CX can not be considered. For example, within a project area there is a proposed 2,500-acre mechanical

thinning treatment to be followed by a prescribed fire treatment that proposes to blacken 3,500 acres. The use of the CX can not be used because the mechanically-treated acreage exceeds the 1,000-acre CX limitation.

For post-fire rehabilitation activities, the 4,200-acre limitation is calculated based on the total acres planned to be treated minus any treatment overlap by project. This is also defined as the "footprint" in the National Fire Plan Operations and Reporting System. For example, a 4,000-acre fire is aerially seeded one week, and the next week a chain is dragged over the same 4,000 acres to cover the seed. Hence, the footprint remains 4,000 acres, which is less than the 4,200-acre maximum described in the CX. The rehabilitation CX can therefore be considered for use for this project. However, on a 10,000-acre fire, if 4,000 acres are to be drill seeded, and a different 4,000 acres are to be aerially seeded, the rehabilitation CX cannot be used. The 8,000-acre total exceeds the 4,200-acre maximum set forth in the CX limitation. This differs slightly from the hazardous fuels reduction activities limitation since the post-fire rehabilitation CX sets the same acre limit for all activities within this category. Within hazardous fuels reduction activities there are different acre limits for fire and non-fire treatments. Please refer to Federal Register (68 FR 33813-33824) for the CX post-fire rehabilitation definition.

When a proposed hazardous fuels reduction project or a post-fire rehabilitation project meets the CX acre limitation, the next step is to screen the project against the Department of the Interior exceptions. If any of the exceptions listed in the 516 Departmental Manual 6, Appendix 2, apply, more extensive NEPA documentation is necessary, for example, an environmental assessment.

Time frame: Effective upon signature.

Manual/Handbook Sections Affected: This information clarifying how to interpret use of the CXs does not affect Manuals or Handbooks currently in effect.

Coordination: WO-210 and FA-620 developed this memorandum in coordination with WO-220 and WO-170. In addition, FA-620 coordinated the Bureau's interpretation of the acreage limits with the National Park Service, Bureau of Indian Affairs and the Department of Agriculture, Forest Service.

Contact: For more information please contact, Ted Milesnick, Chief Fire Planning and Research, 208-387-5198; or Jack Hamby, BAER Coordinator, 202-452-7747; or Carol MacDonald, Planning and Environmental Analyst, 202-452-5111.

Signed by:
Thomas H. Dyer
Acting Assistant Director
Renewable Resources and Planning

Authenticated by:
Barbara J. Brown
Policy & Records Group, WO-560

Signed by:
Timothy M. Murphy
Acting Director
Office of Fire and Aviation

IB 2004-088

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240

April 8, 2004

In Reply Refer To:
6841, 1782, 9211 (WO-230) P

EMS TRANSMISSION 04/09/2004
Information Bulletin No. 2004-088

To: All Field Officials
From: Assistant Director, Renewable Resources and Planning
Subject: Counterpart Regulations and Alternative Consultation Agreement

The U.S. Fish and Wildlife Service (FWS) and National Oceanic and Atmospheric Administration Fisheries (NOAA Fisheries) (collectively referred to as the Services) in cooperation with the Bureau of Land Management (BLM), Forest Service (FS), Bureau of Indian Affairs (BIA), and National Park Service (NPS) have issued joint counterpart regulations for consultation under Section 7 of the Endangered Species Act (ESA) to streamline consultation on proposed projects that support the National Fire Plan (NFP). These counterpart regulations, authorized by 50 CFR 402.04, complement the consultation process by providing an alternative process for completing Section 7 consultation for projects that authorize, fund or carry out actions that support the NFP. The counterpart regulations eliminate the need to conduct informal consultations and obtain written concurrence from the Services for those NFP actions that the action agency determines are “not likely to adversely affect” (NLAA) listed species or designated critical habitat. The purpose of this bulletin is to inform managers and staff on how the BLM proposes to implement these counterpart regulations.

On August 22, 2002, the President announced his Healthy Forests Initiative: *An Initiative for Wildfire Prevention and Stronger Communities*. The Healthy Forests Initiative recognizes that faster environmental reviews of proposed land management projects may provide greater benefits to humans, the range, forest lands, and wildlife by reducing the risk of catastrophic wildfire while the reviews are pending. To this end, the counterpart regulations were drafted to expedite the informal Section 7 consultation process. The concurrence process for NLAA determinations has caused delays in implementation of critical projects and diverted resources from projects in greater need. The counterpart regulations may be utilized for proposed projects that support the NFP, such as hazardous fuels reduction, rehabilitation and restoration and maintenance of fire adapted ecosystems. The Final Rule for the counterpart regulations was published in the Federal Register on December 8, 2003, and became effective on January 7, 2004.

Implementation of the counterpart regulations requires each action agency to develop an

Alternative Consultation Agreement (ACA) with the Services. The BLM signed an ACA with the Services on March 3, 2004. Components of the ACA are: (1) A list or description of the staff positions within the agency that will have authority to make NLAA determinations; (2) a program for developing and maintaining the skills necessary within the agency to make NLAA determinations, including a jointly developed training program based on the needs of the action agencies; (3) provisions for incorporating new information and newly listed species or designated critical habitat in the agency's effects analysis on proposed actions; (4) provisions for the agency to maintain a list of NFP projects that receive NLAA determinations under the agreement; and (5) a mutually agreed upon program for monitoring and periodic program evaluations.

The ACA permits any ~~Forest Service~~ BLM biologist, botanist or ecologist, who has completed the required training, to conduct Section 7 effects analyses and make determinations of effect for proposed actions that are NFP projects under the counterpart regulations. However, journey level biologists, botanists or ecologists are responsible for ensuring and documenting adequacy of the BE/BA with existing policy, and line officers are responsible for documenting compliance with the ESA and counterpart regulations. All biologists, ecologists, botanists and line officers (end users) who will use the counterpart regulations are required to be certified as having successfully completed the mandatory training. Training will be provided through a web-based interactive session, available through the internet from your computer work station around the beginning of May 2004.

A one-day training/orientation session for BLM State program leaders who have responsibility for Section 7 consultation was held March 24, 2004, in Phoenix, Arizona. This session was attended by BLM, FS, FWS and the National Marine Fisheries Service State/Regional personnel. The purpose of the session was to explain the roles and responsibilities of the agencies, ensure State/Regional personnel providing oversight understand the counterpart regulations and ACA, and train/certify end users attending the session. End users from Arizona were encouraged to attend to test the web-based training module in development.

The Alternative Consultation Agreement can be viewed at the following sites: <http://www.blm.gov/nhp/text/index.htm> or <http://www.blm.gov/nhp/index.html>, and the counterpart regulations can be viewed at <http://endangered.fws.gov/consultations/forestplan.html>.

Although this may represent new work for the BLM, it is anticipated that through proper implementation of the ACA, increased efficiencies in the consultation process will be realized. It is critical that BLM meet the conditions of the ACA and maintain a complete project record for NFP projects implemented under the counterpart regulations. Complete legal defensibility of our analysis and documentation is now a BLM responsibility.

If you have any questions regarding the counterpart regulations or ACA, please contact Peggy Olwell, Senior T&E Specialist, Fish, Wildlife and Botany Group (WO-230) at (202) 452-7764.

Signed by:	Authenticated by:
Thomas H. Dyer	Barbara J. Brown
Acting Assistant Director	Policy & Records Group, WO-560
Renewable Resources and Planning	

- 1 Attachment
 - 1 – Alternative Consultation Agreement (See Websites)

IM 2004-178

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240

May 12, 2004

In Reply Refer To:
6840 (WO-230) P

EMS TRANSMISSION 05/17/2004
Instruction Memorandum No. 2004-178
Expires: 09/30/2005

To: All Field and Washington Office Officials

From: Assistant Director, Renewable Resources and Planning

Subject: Training for Implementing the Joint Counterpart Endangered Species Act Section 7 Consultation Regulations
DD: 06/30/2004

Program Areas: Fish, Wildlife, Botany, Threatened and Endangered Species, Forestry, Rangeland, and Fire Management.

Purpose: The purpose of this Instruction Memorandum (IM) is to provide information and guidance to Field personnel on the training course for the joint counterpart Endangered Species Act (ESA) Section 7 consultation regulations.

Policy/Action: The Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS) (collectively referred to as the Services) in cooperation with the Bureau of Land Management (BLM) and the Forest Service (FS) (collectively referred to as action agencies) developed a web-based training course for employees who will be implementing the joint counterpart regulations for consultation under Section 7 of the ESA. All biologists, ecologists, and botanists who conduct Section 7 effects analyses for proposed actions that are Fire Plan Projects and make determinations of effect under the ESA, and line officers who have decision authority for such projects (see Alternative Consultation Agreement (ACA) under "Resources") are required to be certified as having successfully completed this mandatory training.

The training course is available to the end users through the following internet address at their computer work station:

http://www.ntc.blm.gov/blm_1386/html/gateway/ie/launcher.htm?C_ID=&Mode=. The program must be launched through Internet Explorer as it will not function properly on Netscape. It is expected that the current field office staff will take the training course and certification exam by June 30, 2004, and training for new staff will continue to be available on the internet on an ongoing basis. Only after successfully completing the training will staff be able to make Not Likely to Adversely Affect (NLAA) determinations under the counterpart regulations.

To Access the Training Course:

1. http://www.ntc.blm.gov/blm_1386/html/gateway/ie/launcher.htm?C_ID=&Mode=
2. If a second screen appears asking whether to close a window, enter yes.
3. If the display is too small, it can be enlarged by right clicking on an open area of the desktop screen. Click on “properties”, settings, and change the “screen resolution” to 800 x 600 pixels (return to default settings after completing the course).
4. To navigate the course follow the arrows, or click on “Go to Course Map”. Take advantage of the Glossary, Resources, and Help sections at the top of the screen. An audio feature is also available.

Examination:

After completing the training course, counterpart regulations users must then pass a certification exam. Click on “Certification Examination Link” on the last page of the course summary to access the exam. Fill in all required information fields to ensure the certification is properly registered with the agency.

Time Requirement:

The training course and exam should take about an hour if the user is already familiar with the counterpart regulations and the ACA. The separate certification exam must be completed in a single session.

Other Materials:

Please review the ACA to familiarize yourself with reporting requirements. Attached for your use is a table outlining the timeframes with important dates and materials that must be provided internally or to the Services so that action agency use of the counterpart regulations is consistent with the requirements identified in the counterpart regulations and in the ACA.

Time Frame: Current field office staff should be trained by June 30, 2004.

Budget Impact: Implementing this request has minimal budget implications. Implementation of the ACA is expected to increase consultation efficiency, enabling completion of additional priority tasks.

Background: The FWS and NMFS in cooperation with the BLM, FS, BIA, and NPS issued joint counterpart regulations for consultation under Section 7 of the ESA issued joint counterpart regulations for consultation under Section 7 of the ESA to issued joint counterpart regulations for consultation under Section 7 of the ESA to streamline consultation on proposed projects that support the National Fire Plan (NFP). These counterpart regulations, authorized by 50 CFR 402.04, were published in the Federal Register on December 8, 2003, and complement the consultation process by providing an alternative process for completing Section 7 consultation for projects that authorize, fund or carry out actions that support the NFP. The counterpart regulations allow the BLM to make “not likely to adversely affect” (NLAA) determinations for listed species or designated critical habitat without consulting with or obtaining written concurrence from the Services for proposed actions that support the NFP. The BLM signed an ACA with FWS and NMFS on March 3, 2004. The ACA requires “a program for developing and maintaining the skills necessary within the agency to make NLAA determinations, including a jointly-developed training program based on the needs of the action agencies.” This training course satisfies that requirement of the ACA.

The ACA permits a BLM biologist, botanist or ecologist, who has completed the required training, to conduct Section 7 effects analyses and make determinations of effect for proposed actions that are NFP projects under the counterpart regulations. However, journey level biologists, botanists or ecologists are responsible for ensuring and documenting adequacy of the BE/BA with existing policy, and line officers are responsible for documenting compliance with the ESA and counterpart regulations.

Manual/Handbook Sections Affected: None.

Coordination: The training course was developed jointly with the FWS, NMFS, and FS.

Contacts: Peggy Olwell, Endangered Species Program Lead, (202) 452-7764, Karl Stein, Fisheries Biologist (530) 224-2156, and respective State Office contacts (see Attachment 2).

Signed by:
Edward Shepard
Assistant Director
Renewable Resources and Planning

Authenticated by:
Barbara J. Brown
Policy & Records Group, WO-560

2 Attachments

- 1- Timeframe Information (1 p)
- 2- Frequently Asked Questions and Contacts (6 pp)

IM 2003-232

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240

August 1, 2003

In Reply Refer To:
1742 (220) P

EMS TRANSMISSION 08/04/2003
Instruction Memorandum No. 2003-232
Expires: 09/30/2004

To: All SD's

From: Assistant Director, Renewable Resources and Planning
Director, Office of Fire and Aviation

Subject: Full Force and Effect (FFE) Decision Authority for Wildland Fire Management
Decisions

Program Areas: Fuels Treatment and Emergency Stabilization and Rehabilitation

Purpose: This instruction memorandum provides information and implementation guidance on recent changes to regulations governing FFE authority for wildland fire management decisions.

Background: The Office of Hearings and Appeals (OHA) has amended its regulations governing hearings and appeals to codify who has a right of appeal, to expedite its review of wildfire management decisions, and to simplify proof of service. The Bureau Land Management (BLM) has added regulations allowing BLM to make wildfire management decisions effective immediately when BLM determines that vegetation, soil, or other resources on the public lands are at substantial risk of wildfire due to drought, fuels buildup, or other reasons, or when public lands are at immediate risk of erosion or other damage due to wildfire, and to expedite review of those decisions. These regulation changes were published in the Federal Register on June 5, 2003, (sec. 68 FR 33794-- 33804). The amendments to both the OHA and BLM regulations clarify administrative review procedures and expedite implementation of wildfire management decisions.

Policy/Action: The BLM decision makers may exercise FFE decision authority on appropriate fuels and emergency stabilization and rehabilitation projects in accordance with this IM.

Subpart 4190, consisting of 4190.1 has been added to the regulations found at 43 CFR Part 4100--Grazing Administration--Exclusive of Alaska:

4190.1 Effect of wildfire management decisions.

(a). Notwithstanding the provisions of 43 CFR 4.21(a)(1), when the BLM determines that vegetation, soil, or other resources on the public lands are at substantial risk of wildfire due to drought, fuels buildup, or other reasons, or at immediate risk of erosion or other damage due to wildfire, BLM may make a rangeland wildfire management decision effective immediately or on a date established in the decision. Wildfire management includes but is not limited to:

- (1). Fuel reduction or fuel treatment such as prescribed burns and mechanical, chemical, and biological thinning methods (with or without removal of thinned materials); and
- (2) Projects to stabilize and rehabilitate lands affected by wildfire.

(b). The Interior Board of Land Appeals will issue a decision on the merits of an appeal of a wildfire management decision under paragraph (a) of this section within the time limits prescribed in 43 CFR 4.416.

Subpart 5003.1 has been revised in the regulations found at 43 CFR Part 5000 – Forest Management - to read as follows:

5003.1 Effect of decisions; general.

(a). Filing a notice of appeal under part 4 of this title does not automatically suspend the effect of a decision governing or relating to forest management as described under sections 5003.2 and 5003.3.

(b). Notwithstanding the provisions of 43 CFR 4.21(a)(1), when BLM determines that vegetation, soil, or other resources on the public lands are at substantial risk of wildfire due to drought, fuels buildup, or other reasons, or at immediate risk of erosion or other damage due to wildfire, BLM may make a wildfire management decision made under this part and parts 5400 through 5510 of this chapter effective immediately or on a date established in the decision. Wildfire management includes but is not limited to:

- (1). Fuel reduction or fuel treatment such as prescribed burns and mechanical, chemical, and biological thinning methods (with or without removal of thinned materials) and;
- (2). Projects to stabilize and rehabilitate lands affected by wildfire.

(c). The Interior Board of Land Appeals will issue a decision on the merits of an appeal of a wildfire management decision under paragraph (b) of this section within the time limits prescribed in 43 CFR 4.416.

Use of this FFE authority is discretionary. When this authority is used, information should be included in the project file documenting what resources are at “substantial risk of wildfire” or “at immediate risk of erosion or other damage due to wildfire” and what factors are placing those resources at risk. The following language should be included in the appropriate decision document when issuing a FFE decision for a hazardous fuels reduction or emergency stabilization or rehabilitation project:

“This wildfire management decision is issued under [chose either 43 CFR 4190.1 for rangelands or 43 CFR Part 5003.1 for forests, or both when applicable] and is effective immediately [or insert another date established in the decision]. The BLM has made the determination that vegetation, soil, or other resources on the public lands are at substantial risk of wildfire due to drought, fuels buildup, or other reasons, or at immediate risk of erosion or other damage due to wildfire. Thus, notwithstanding the provisions of 43 CFR 4.21(a)(1), filing a notice of appeal under 43 CFR Part 4 does not automatically suspend the effect of the decision. The Interior Board of Land Appeals must decide an appeal of this decision within 60 days after all pleadings have been filed, and within 180 days after the appeal was filed. 43 CFR 4.416.”

Timeframe: Effective July 7, 2003.

Budget Impact: The actions taken here will not have any direct impact on the budget.

Manual/Handbook Sections Affected: This language will be included in the updated BLM Supplemental Emergency Stabilization and Rehabilitation Guidance and the Fuels Management Handbook.

Coordination: Discussions have been held with WO 210, 220, and 270 Staff, the Office of Fire and Aviation, BLM Regulatory Affairs, the Office of Hearings and Appeals, and the Office of the Solicitor.

Contact: If you have any questions regarding this Instruction Memorandum, please feel free to contact Jack Hamby, National BAER/ESR Coordinator at 202-452-7747 or via email at Jack_Hamby@blm.gov, or Ted Milesnick, Chief Fire Planning and Research at 208-387-5198 or via email at Ted Milesnick@blm.gov.

Signed by:
Marilyn W. Nickles
Acting Assistant Director
Renewable Resources and Planning

Authenticated by:
Barbara J. Brown
Policy & Records Group, WO-560

Signed by:
Ed Wehking
Acting Director
Office of Fire and Aviation

IM 2004-224

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240
<http://www.blm.gov>

August 11, 2004

In Reply Refer To:
1742 (220) I
9208 (OFA) I
Ref. IM No. 2003-232

EMS TRANSMISSION 08/11/2004
Instruction Memorandum No. 2004-224
Expires: 09/30/2005

To: All State Directors

From: Assistant Director, Renewable Resources and Planning
Director, Office of Fire and Aviation

Subject: Additional Guidance for Making Wildfire Management Decisions Effective
Immediately or on a Date Specified in the Decision Document (commonly referred to
as a “Full Force and Effect” Decision)

Program Areas: Fuels Treatment and Emergency Stabilization and Burned Area Rehabilitation

Purpose: This Instruction Memorandum (IM) clarifies how to apply the new wildfire management decision authority (as it relates to fuels treatments and emergency stabilization and rehabilitation projects) which allows decisions to be made effective immediately or on a date specified in the decision document (commonly referred to as a “full force and effect” decision or just “FFE”). This IM augments IM 2003-232 dated August 1, 2003. As additional questions arise, further guidance will be provided.

Background: The Office of Hearings and Appeals (OHA) has amended its regulations governing hearings and appeals to codify who has a right of appeal, to expedite its review of wildfire management decisions, and to simplify proof of service. The Bureau of Land Management (BLM) has added regulations allowing wildfire management decisions to become effective immediately or on a date established in the decision when vegetation, soil, or other resources on the public lands are at substantial risk of wildfire due to drought, fuels buildup, or other reasons, or when public lands are at immediate risk of erosion or other damage due to wildfire, and to expedite review of those decisions. These regulation changes were published in the Federal Register on June 5, 2003 and became effective on July 7, 2003. 68 Fed. Reg. 33794.

On August 1, 2003, BLM issued IM 2003-232 to provide guidance for the new regulations, which are found at 43 CFR 4190.1 (Grazing Administration) and 43 CFR 5003.1 (Forest Management). The newness of these regulations and their importance have prompted numerous communications between policy makers and State/Field Offices seeking to further clarify how to apply the new FFE decision authority. Within the last two months, the Interior Board of Land Appeals has ruled on two cases involving use of these new regulations (IBLA 2004-149/IBLA 2004-173, and IBLA 2004-228). This

Instruction Memorandum provides additional clarification on the use of these regulations and augments IM 2003-232.

Policy: BLM decision makers may exercise FFE decision authority on appropriate wildfire management decisions in accordance with this IM.

Field Offices must make reasonable efforts to discuss all wildfire management decisions with interested parties, partners, stake holders and state, local, and tribal governments during the project planning and National Environmental Policy Act (NEPA) analysis stages of any project. Although a decision placed in full force and effect eliminates the protest period, efforts must be taken to provide the opportunity for public comment during the planning phase of all wildfire management projects (see section on Potential Protests, Appeals, and Stays).

Use of the FFE authority is discretionary. When the BLM determines that immediate implementation of a decision is necessary due to resources being at substantial risk of wildfire or at immediate risk of erosion or other damage due to wildfire, BLM may make the decision effective immediately, or on a date established in the decision. Sections 43 CFR 4190.1 (rangelands) and 43 CFR 5003.1 (forested lands/woodlands) provide the authority for setting a date other than the date the decision is signed. When the FFE decision authority is used, the decision document must include information clearly identifying what resources are at “substantial risk of wildfire” or “at immediate risk of erosion or other damage due to wildfire” and what factors are placing those resources at risk (i.e. why is this an “emergency”).

Decisions Affecting Other Authorized Uses: Implementation of a wildfire management decision may affect other uses authorized on public lands such as special recreation permits, grazing permits, rights-of-ways, wild horses or burros, or any number of permits/leases or authorized uses on public lands. It is imperative that the effects of a wildfire management decision be discussed and coordinated with other affected program specialists.

A single wildfire management decision may be issued that applies to all uses potentially affected by it (a “multiple-use decision document”). For example, BLM relies on authority at 43 CFR 4110.3-3(b) and 4160.3(f) to issue and implement, in full force and effect, a decision that makes immediate modifications to use authorized by a grazing permit or that closes all or portions of an allotment to grazing use. Under the new wildfire management decision authority, when implementation of a wildfire management decision will affect grazing use, a single multiple-use FFE decision document may be issued that addresses fuels/emergency stabilization and rehabilitation treatments under § 4190.1 for rangelands and § 5003.1 for forested lands/woodlands and that closes all or portions of grazing allotment(s) under § 4110.3-3(b).

The decision must explain the rationale for the decision, cite all of the appropriate authorities (e.g. § 4110.3-3 (b) and § 4160.3(f) for allotment closure and § 4190.1 for fuels/emergency stabilization and rehabilitation treatments) and contain the appropriate appeal language applicable to each type of action. For example, a single decision that simultaneously addresses wildfire management and grazing authorization is appealable under 43 CFR 4160.4 for the grazing portion and 43 CFR 4.416 for the wildfire management portion.

Timing of Actions for FFE Decisions That Affect Grazing Use: If livestock removal or modification of grazing use is important to the success of a wildfire management treatment (fuels or stabilization/rehabilitation) and a determination is made to implement a wildfire management treatment immediately and the decision is placed in full force and effect (using 4190.1 or 5003.1), then the livestock grazing modification should also be placed in FFE also using 4110.3-3(b). Both components of

the decision must clearly document what resources are at “substantial risk of wildfire” or “at immediate risk of erosion or other damage due to wildfire” and what factors are placing those resources at risk.

If the determination is made **not** to place the livestock decision in full force and effect, **and** an appeal and request for stay of the grazing modification decision has been filed - - **do not** begin the treatment until after the expiration of the period allowed under § 4.21(b)(4) for OHA to consider and rule on the stay request. If OHA stays the grazing portion of the decision, then the treatment should be delayed until after the appeal process has been completed in order to avoid adverse grazing impacts to the treatment.

Potential Protests, Appeals, and Stays: A wildfire management decision issued under FFE using 43 CFR 4190.1 or 43 CFR 5003.1 must include information regarding appeal and stay procedures (see “Supporting Language” below). Information on adjudicating appeals regarding wildfire management decisions on either rangelands or forested lands/woodlands is contained in 43 CFR 4.410.

Both 43 CFR 4190.1 and 43 CFR 5003.1 override the automatic stay provisions contained in 43 CFR 4.21(a)(1) and the requirement to delay implementation until the appeal period has expired or a petition for stay has been adjudicated under 4.21(a)(2). A full force and effect wildfire management decision under 4190.1 or 5003.1 becomes effective the day the decision is signed or on a date stated in the decision. Regardless of whether or not an appeal is received, work may begin immediately or on a day specified in the decision. Work may continue until such time as a stay is granted by the Interior Board of Land Appeals. Although work may begin immediately, the Board still retains the authority to issue a stay. As stated above, use of the FFE decision authority eliminates any protest period; however, efforts must be taken to provide the opportunity for public comment during the planning phase of the project.

In two recent cases (IBLA 2004-149/IBLA 2004-173 May 25, 2004 and IBLA 2004-228 June 16, 2004), IBLA has reaffirmed that “wildfire management decisions” are appealed directly to the Board rather than being subject to other protest and appeal procedures.

Supporting Language: When issuing a wildfire management FFE decision, the following language must be included in the decision document:

This wildfire management decision is issued under [**chose either 43 CFR 4190.1 for rangelands or 43 CFR Part 5003.1 for forested lands/woodlands, or both when applicable**] and is effective immediately [**or insert another date established in the decision**]. The BLM has made the determination that vegetation, soil, or other resources on the public lands are at substantial risk of wildfire due to drought, fuels buildup, or other reasons, or at immediate risk of erosion or other damage due to wildfire. Thus, notwithstanding the provisions of 43 CFR 4.21(a)(1), filing a notice of appeal under 43 CFR Part 4 does not automatically suspend the effect of the decision. Appeal of this decision may be made to the Interior Board of Land Appeals in accordance with 43 CFR 4.410. The Interior Board of Land Appeals must decide an appeal of this decision within 60 days after all pleadings have been filed, and within 180 days after the appeal was filed as contained in 43 CFR 4.416.

For a FFE wildfire management decision that also includes a FFE grazing decision, the decision document must cite (in a separate paragraph) the applicable grazing authority and appeal language/process, e.g. 4110.3-3(b) and 4160.3(f).

A copy of the regulatory language for 4190.1 and 5003.1 is contained in IM 2003-232.

Timeframe: Effective Immediately.

Budget Impact: The actions taken here are to clarify existing policy and will not have direct impact on the budget.

Manual/Handbook Sections Affected: The information presented in this IM will be incorporated into the BLM Supplemental Emergency Stabilization and Rehabilitation Handbook (update in draft) and the Fuels Management Handbook (in draft).

Coordination: Discussions have been held with WO210, WO220, WO270, WO630, FA620, and the Office of the Solicitor.

Contact: If you have questions regarding this Instruction Memorandum, please feel free to contact Jack Hamby, National ES&R Program Lead at 202-452-7747, Ted Milesnick, Chief, Fire Planning and Research at 208-387-5198, or Rick Tholen, Forest Health Program Manager at 208-387-5321.

Signed by:
Ed Shepard
Assistant Director
Renewable Resources and Planning

Authenticated by:
Barbara J. Brown
Policy and Records Group,WO-560

Signed by:
Larry Hamilton
Director
Office of Fire and Aviation

IM 2004-081

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240

January 15, 2004

In Reply Refer To:
1511, 1730 (WO-270) P
Ref. IM No. 2003-107

EMS TRANSMISSION 01/16/2004
Instruction Memorandum No. 2004-081
Expires: 09/30/2005

To: All Field and Washington Office Officials

From: Director

Subject: Issuance of Stewardship Contracting Guidance and Identifying Stewardship Contracting Opportunities and Projects

DD: 02/27/2004

Program Areas: Forest and Rangeland Health, Fuels Management, Weed and Invasive Species Control.

Purposes: (1) Issuance of the Bureau Land Management's (BLM) Guidance for implementation of Stewardship Contracting Authority; (2) In accordance with the Fiscal Year (FY) 2004 Annual Work Plan (AWP) for Forestry (1030/6310) and Wildland Fire Management (2800), requirement to identify specific stewardship contracting projects which will be awarded in FY 2004; and (3) Requirement to update the State's list of projects with the potential to utilize and demonstrate the stewardship contracting authority.

Policy/Action: The attached Stewardship Guidance will be used to develop, contract, implement, track and monitor approved stewardship contracting projects.

The primary objective of a stewardship project is to achieve one or more of the land management goals that meet local and rural community needs. These goals, as identified in the authorizing legislation (Section 323 of Public Law 108-7), may include but are not limited to:

- Road and trail maintenance or obliteration for improved water quality;
- Soil productivity, habitat for wildlife and fisheries, or other resource values;
- Setting of prescribed fires to improve composition, structure, condition, and health of stands or to improve wildlife habitat;
- Removing vegetation or other activities to promote healthy forest stands, reduce fire hazards or achieve other land management objectives;

- Watershed restoration and maintenance;
- Restoration and maintenance of wildlife and fish habitat; and
- Control of noxious and exotic weeds and reestablishing native plant species.

Stewardship contracting projects are defined as those activities used to accomplish one or more of the goals noted above and where the BLM would enter into contract or agreement for services to achieve land management goals as well as meet local and rural community needs. In addition, a source for performance under a contract must be selected on a best value basis. The legislation authorizes trading goods for services, and multi-year contract authority greater than five years but not to exceed ten years. When designing stewardship projects, consider projects that will involve treatments and techniques available to make forests, woodlands, and rangelands more resilient to natural disturbances such as fire, insects, disease, wind, and flood.

State Directors are directed to submit a revised list of potential stewardship contracting projects that meet the objectives listed above. Additional considerations include: (1) projects that have the potential to use non-traditional contractors, such as State or Tribal governments, local municipalities, or non-governmental organizations through the use of cooperative agreements or assistance agreements; and (2) projects that are selected through a collaborative process with States, Tribes, and local communities, interest are encouraged. The potential list of stewardship contracts submitted by the States in response to Instruction Memorandum (IM) 2003-107 is attached as a starting point. States should update this list to identify potential stewardship contracts.

The FY 2004 AWP reflects the direction provided above and in this IM. States will submit hazardous fuels reduction or wildland urban interface projects (minimum two per state) where treatment by-products can potentially offset overall treatment costs through stewardship contracting (such as in small diameter stands of commercial timber species or in areas where pinyon/juniper is targeted for treatment). Hazardous fuels related projects must already be on the Wildland Fire Leadership Council (WFLC) list of approved projects to be considered for FY 2004. The Public Domain Forestry Program Directives contain additional targets for stewardship contracting projects specified on a State-by-State basis.

Stewardship contracting is not a replacement for our normal timber sale program. Forest management projects designed primarily to enhance volume production are not suitable for stewardship contracting.

Field Offices will screen existing fuels management, wildlife or riparian habitat enhancement and forest and rangeland health projects, regardless of funding source, to determine which projects could benefit from stewardship contracting. Existing projects include those entered into the National Fire Plan Operations Reporting System

(NFPORS), those submitted for Forest Ecosystem Health and Recovery Fund funding via Budget Planning System (BPS), or those that utilize other funding sources and have been entered into the BPS. Other projects that could benefit from this authority will also be considered.

The Washington Office (WO) will need additional information on projects proposed for award/implementation in FY 2004. In order to simplify this submission, projects should be

submitted using the format attached to the Guidance, consistent with the existing BPS format. These submissions will be utilized for review at the WO and Assistant Secretary levels, as required by the attached Guidance. Note specific requirements in Description, Benefits, Feasibility and Support – Opposition.

State Offices are asked to review all submitted projects against the criteria listed in the Directives and submit them to the WO (AD200) via State Director approved cover memo. After State Director approval, project approval submissions (BPS format) should be forwarded electronically to Scott Lieurance (WO-270) no later than February 27, 2004.

Background: In August 2002, the President announced the initiative entitled “HEALTHY FORESTS: An Initiative for Wildfire Prevention and Stronger Communities.” This Initiative identifies needs and opportunities to streamline processes and remove barriers to reducing fire risk and improving forest and rangeland health, including stewardship contracting authority.

The BLM was authorized in the Omnibus Appropriations Act of 2003 (PL 108-7, Section 323) to enter into stewardship contracts to achieve land management goals on public lands. This new authority allows the BLM to enter into long-term end result contracts (up to 10 years in length) that include payment in the form of biomass removal for the service provided and to apply any excess revenues to other stewardship projects without further appropriation.

In November 2003, Congress enacted the Healthy Forest Restoration Act, P.L. 108-48, which provides unique authority for fuels treatment on 20 million acres of federal land. Stewardship contracting is one important tool that can be utilized to accomplish this level of fuels treatment.

Implementation of stewardship contracting authority is of great importance to the Secretary, Assistant Secretary, Land and Minerals Management and the Director. Successful implementation of Stewardship Contracting is a Management-By-Objective item being tracked by the Department.

Impact on Budget: Implementing this request, has minimal budget implications.

Coordination: This IM was coordinated with the Office of Fire and Aviation (FA-600), Rangeland Resources (WO-220) and the Assistant Secretary, Land and Minerals Management.

Contact: Additional information is available by contacting Laura Ceperley at (202) 452-5029, Scott Lieurance at (202) 452-0316, Roy Johnson at (208) 387-5163, Rick Tholen at (208) 387-5321 or Helen Curlee at (202) 452-5147.

Signed by:
Jim M. Hughes
Acting Director

Authenticated by:
Barbara J. Brown
Policy & Records Group, WO-560

2 Attachments

[1 - Stewardship Contracting Guidance \(9 pp\)](#)

[2 - Compilation of State Input in Response to IM 2003-107 \(4 pp\)](#)

IM 2005-099

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240
<http://www.blm.gov>

March 15, 2005

In Reply Refer To:
5400, 5920 (WO-200) I

EMS TRANSMISSION: 03/16/05
Instruction Memorandum No. 2005-099
Expires: 09/30/2006

To: State Directors

From: Assistant Director, Renewable Resources and Planning

Subject: Supplementary Guidance for the use of Forest Product Sale Contracts for Stewardship Projects

Program Areas: Fuels, Forest Management.

Purposes: This Instruction Memorandum (IM) supplements IM No. 2004-081 (January 15, 2004), which provided guidance for use of forest product sale contracts (Sections G (4)) and for awarding and administering certain stewardship contracts (Section G(8)).

Policy/Action: Stewardship projects which are awarded and administered through the use of forest product sale contracts must follow both the BLM Stewardship Contracting Guidance and the regulations found in 43 CFR 5400, Sale of Forest Products, including:

- Have a net positive value; the product value must be greater than the service value.
- Have a contract term equal to or less than three years in duration.
- Contains less than 250 MBF, with the limited exceptions referenced in 43CFR 5402.0-6. Forest products not normally measured in board feet are not constrained by the 250 MBF limitations.
- Be negotiated, not advertised (43 CFR 5450.1(a) requires awarding to the highest bidder while the stewardship authority requires awarding to the "best value").
- Require a minimum performance bond in the amount of the sum of the product value amount specified in 43 CFR 5451.1 plus twenty percent of the service work value.

Three forest product sale contract forms that may be used for stewardship contracting: 5450-1 (Vegetative Resources Sale), 5450-3 (Lump Sum Sale), and 5450-4 (Scale Sale).

All stewardship projects utilizing Forms 5450-1, 5450-3 and 5450-4 must be reviewed by the State forestry program coordinator for compliance with the 43 CFR 5400 regulations and associated policy, including the estimation of product volume and value.

To comply with the BLM Stewardship Contracting Guidance requirement for award based on “best value,” the minimum criteria to be utilized for the determination of “best value” shall be a weighted evaluation of:

- Submission of a written Technical Approach that details a specific description of how the contractor will plan for, and accomplish the requirements under the contract.
- Past performance,
- Highest net positive value (product value minus service work cost).

The use of this guidance will be monitored periodically and adjusted as needed.

The following Special Provisions must be included in the contact:

“1. In addition to the authorities listed in this contract, this contract is made and entered into under the authority of the FY 2003 Omnibus Appropriations Bill (P.L. 108-7), Section 323, AMENDED SECTION 347 OF THE FY 1999 APPROPRIATION OMNIBUS (P.L. 105-277, OCT. 21, 1998) Stewardship End Results Contracting Projects (16 U.S.C. 2104 Note).

2. Conservation Credits: In addition to the payments required in Section 3 and the bonding requirements in Section 38 of this contract, the Purchaser may earn conservation credits for stewardship project bid items completed and approved at the rates listed in the Exhibit B for the stewardship project bid items required in Section 41 (X). Cutting and/or removal of timber of a value not in excess of the penal sum of such conservation credit and other payment bonds in Section 38 may be permitted prior to the payment of the second installment or subsequent installments. Conservation credits may only be earned and used when the stewardship project bid item is completed and approved by the Authorized Officer in writing. Provided, however, that such conservation credit shall be considered as payment under Section 7, for the purpose of passing title and risk of loss to timber sold.”

Background: The *Consolidated Appropriations Resolution of 2003* amended P. L. 105-277, sec. 347, granted the Forest Service and Bureau of Land Management (BLM) authority until September 30, 2013, to enter into stewardship projects with private persons or public or private entities, by contract or by agreement, to perform services to achieve land management goals for the National Forests or public lands that meet local and rural community needs.

The BLM Stewardship Contracting Guidance, January 17, 2004, allows the use of forest product sales contracts in Sections G(4), which follows:

Section G(4). Approved product sales instruments include the Vegetative Resources Sale Contract (5450-1), Lump Sum Timber Sale Contract (5450-3), Scale Timber Sale Contract (5450-4), Vegetative and Mineral Materials Negotiated Cash Contract (5450-5). See Timber Sale Handbook H-5450 1.

The use of the 43 CFR 5400 regulations will increase the flexibility of matching the stewardship opportunities with potential local contractors and the skills of the local field offices. For example, many potential contractors are not willing to submit a contracting proposal under the FAR regulations, but are willing to negotiate a stewardship contract using one of the familiar forms under the 43 CFR 5400

regulations. These regulations also allow outreach and other details of the contract to be developed by Field Manager.

Impact on Budget: Implementing this authority should reduce the cost and increase the efficiency of stewardship contracting projects.

Coordination: This IM was coordinated with the Office of Fire and Aviation, Procurement and Acquisition and the Office of the Solicitor.

Contact: Questions may be directed to Scott Lieurance (202/452-0316), BLM WO Stewardship Coordinator or Laura Ceperley (202/452-4029), Chief, Division of Forests and Woodlands.

Signed by:
Peter J. Ditton, Acting
Assistant Director, Renewable Resources and Planning

Authenticated by:
Glenda Barnes
WO-560 Policy and Records Group