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Description of document: Bureau of Land Management (BLM) Interior Department Manual/Handbook Sections:

BLM Manual H-9112-1 Bridge Design, Construction, and Maintenance (Internal) 2009 (PDF pg 3)

BLM Manual H-9112-2 Bridge Protocols - (Internal) 2009 (PDF pg 27)

BLM Manual Handbook 9177-3 Reporting Dam Failures 2008 (PDF pg 51)

BLM Handbook 9211-1 - Fire Planning Handbook 2012 (PDF Pg 59)

BLM Handbook H-9214-1 Fuels Management and Community Assistance Handbook (Internal) 2020 (PDF Pg 157)

BLM Handbook H-9232-1 Realty Trespass Abatement 1989 (PDF pg 232)

H-9238-1 Fire Trespass Handbook (Internal) 2015 (PDF pg 362)

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# United States Department of the Interior



BUREAU OF LAND MANAGEMENT  
Washington, D.C. 20240  
<http://www.blm.gov>

May 22, 2024

*In Reply Refer To:*  
1278-FOIA (640)  
FOIA# 2019-001000

Via email

This letter is a final response to your Freedom of Information Act (FOIA) request, dated June 14, 2019. The tracking number is 2019-001000. In your letter, you asked for the following:

*“Request H-9112-1 Bridge Design, Construction and Maintenance, H-9112-2 Bridge Protocols, H-9177-3 Dam Failures, H-9211-1 Fire Planning Handbook, H-9214-1 Fuels Mgmt and Community Assistance, H-9232-1 Realty Trespass Abatement, H-9238-1 Fire Trespass Handbook.”*

We have enclosed 427 pages, which are being released to you in their entirety.

Ryan Witt, Bureau of Land Management (BLM) FOIA Officer, is responsible for this release.

We do not bill requesters for FOIA processing fees when their fees are less than \$50.00, because the cost of collection would be greater than the fee collected. *See 43 C.F.R. § 2.37(g)*. Therefore, there is no billable fee for the processing of this request.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. *See 5 U.S.C. § 552(c) (2006 & Supp. IV (2010))*. This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

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If you have any questions regarding this request, please contact Kenneth Perry, BLM Government Information Specialist, at (720) 281-1649 or via email at [BLM\\_WO\\_FOIA@blm.gov](mailto:BLM_WO_FOIA@blm.gov).

Sincerely,  
Ryan Witt  
FOIA Officer  
Bureau of Land Management

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.1 Planning. A bridge or major culvert project normally begins with the inventorying of existing structures or the identifying of a need for such a structure through the Bureau Planning System. It can, however, be developed through the transportation or recreation programs. Once identified as needed, the project is developed through a series of analyses, designed, and funded for construction and/or maintenance through the Bureau Programming-Budgeting System. Existing structures should be examined to determine if they meet the design standards found in .22 and if not, they should be recommended for closure or improvement.

.11 Inventory. Inventorying existing bridges and major culverts is a systematic collection, assembly, and analysis of historical and current data. These data are used in the Bureau's Planning System, to initiate the structure into the maintenance management system, and to establish priorities for technical inspections. If the inventory process reveals a hazardous condition, barricade the structure against further use and arrange for qualified personnel to inspect. Under no circumstances, post a load limit for a structure before it has been inspected and load-rated by qualified personnel.

A. Information Sources. The first step in inventorying is to collect information which is available in the District Office files. Make a thorough search for surveys, field books, contract records, road records, construction drawings, as-built drawings, easement case files, road use and right-of-way agreements, and permits. Consult persons knowledgeable about the District. Once all available office data has been collected, make a field reconnaissance to collect data which otherwise is missing or inadequate (i.e., photographs of structure).

B. Area Selection. Perform the inventory process in a systematic and consistent manner. Normally, this is done on a resource area basis, since the resource area is a basic component of the Bureau's planning system.

C. Inventory Categories. The ownership and maintenance jurisdiction of all bridges and major culverts located on the Bureau road and trail transportation plan and/or located on Bureau-administered land should be identified. Do not inventory non-Bureau structures which are in the transportation system and maintenance jurisdiction of any public authority. In those cases where ownership and/or maintenance jurisdiction is in doubt, complete an inventory record form and note accordingly. Inventory records should be compiled and maintained for:

1. BLM Structures. These are located on Bureau-administered land, including those on easements.
2. Privately Owned Structures. These are located on Bureau-administered land which is part of the BLM transportation system (e.g., structures constructed and maintained under a reciprocal right-of-way agreement or permit).
3. Private Structures on Non-Bureau Administered Land. These are part of the Bureau transportation system. (Such structures are presumed to be necessary for access to Bureau-administered land and are under a use agreement.)
4. Structures Located on Bureau-Administered Land. These are structures which are not part of the Bureau transportation system (e.g., structures constructed in trespass or abandoned by other entities).

D. Inventory Record. As a condition is performed, enter the data from the Bridge Condition Assessment Checklist (Handbook H-9112-3) into the Facilities Asset Management System (FAMS).

1. Personnel. Inventory data collection is supervised by District Office engineering personnel responsible for the maintenance of bridges and major culverts. The most experienced personnel available

should perform the inventory. Personnel who have attended a bridge inspectors' training course are preferred.

2. Photographs. Take digital photographs as required of each crossing structure inventoried. Include the photographs in the FAMS file.

a. Views. Photograph at least two views of the structure being inventoried. Other views may be photographed, as appropriate.

(1) Bridges. If possible, take a photograph of the elevation view of the complete bridge and a second of the roadway view of the bridge.

(2) Major Culverts. Take photographs of the elevation view of the inlet and outlet and the roadway view of the major culvert.

b. Captions. Caption each photo.

(1) Caption Data. The caption data must include the name of the structure, identification of the view shown, date the photograph was taken, a legal description of the location of the structure, the photo point identifier, the notation that the photograph was taken for inventory purposes.

c. Photo Sheet. Attach to the inventory record an additional sheet showing the photo points, the direction(s) of traffic, and the direction of stream flow.

3. Bridge Notation Numbering. Number abutments, bents, and piers as shown on the construction drawings. When construction drawings are not available, number the abutments, bents, and piers starting at one end of the bridge and proceeding in the direction of the route.

a. Direction of Bridge. The direction of the bridge or major culvert must conform to the direction of the route. (See BLM Manual Section 9113 for determining the direction of the route.) Once the direction of the route has been determined, number the abutments, bents, and piers.

4. Optional Data. It may be advantageous to secure the water surface profile and a cross section of the channel at the time the structure is being inventoried (see below). This information is useful for checking or establishing hydraulic capacity, identifying streambed degradation and scour problems, and planning a replacement structure.

a. Water Surface Profile. Secure a profile of the water surface, or stream channel bottom, for a minimum distance of 200 feet upstream and 200 feet downstream of the structure being inventoried. Plot the water surface profile to a scale of 1 inch equals 50 feet horizontally and 1 inch equals 10 feet vertically.

b. Channel Cross Sections. Secure the channel cross section for the inventoried structure as follows:

(1) Bridges. Take a cross section of the stream channel at the upstream side of the bridge. Plot the cross section to a scale of 1 inch equals 10 feet both vertically and horizontally for spans up to 100 feet and to a scale of 1 inch equals 20 feet both vertically and horizontally for spans over 100 feet. Sketch the elevation view of the bridge showing the

elevations of pile tips and/or footings. Reference the vertical measurements to the top of the curb or railing and horizontal measures to each end of the bridge. Show the direction of the route and the skew angle.



(2) Major Culvert. Take a cross section of the stream channel at either the inlet or the outlet of the culvert. Plot the cross section to a scale of 1 inch equals 10 feet both vertically and horizontally. Sketch the elevation view of the culvert opening. Show footing elevations of arches and cut-off walls. Indicate the direction of the route and the skew angle. Show the skew bevel (if any).

5. Disposition. The District Office maintains the FAMS data. Those bridges and major culverts which are not to be retained are programmed for removal and rehabilitation of the site.

E. Bridge and Major Culvert Summary. Develop the bridge and major culvert summary in accordance with the Bridge Condition Assessment Checklist contained in Handbook H-9112-1.

F. Bridge and Major Culvert Summary Revisions. Maintenance of the FAMS Data is a continuing effort. Bureau employees should be alert to acquisitions, construction, reconstruction, or abandonment. These events require updating of inventory data and subsequent revision of inventory summaries.

.12 Location Analysis. The intensity of the condition assessment for a bridge or major culvert depends on whether the plan is to repair an existing structure, replace an existing structure, or construct a new one. Depending on the nature of the repairs, the planning process would be an analysis only of management's requirements and environmental quality. An analysis for a replacement structure would be more in depth, but would not consider alternate locations unless the structure is being relocated. A new structure would require an in-depth analysis. This analysis would be part of the analysis required for the transportation or recreation facility.

A. Management Requirements. Functional requirements furnished the engineer should include such items as environmental concerns (.12B), the type of traffic (e.g., "off-highway" logging trucks), the estimated volume of traffic by type (e.g., 20 "off-highway" logging trucks per day and 10 light vehicles per day), and whether or not year-round access is to be provided.

B. Environmental Quality. Various regulations, executive orders, and laws affect the location of bridges and major culverts. As each alternative location of a structure is being analyzed, consider the items discussed below. This analysis provides data needed to complete the environmental assessment required in .13B.

1. Cultural Resource Considerations. Bridges and major culverts are designed to meet the intent of the National Historic Preservation Act of 1966, as amended. Crossing structures must not be located where they might adversely affect National Register-quality cultural resources, unless there is no practical alternative and the design includes appropriate measures to mitigate the impacts of the structure upon the cultural resources (See BLM Manual Section 8100).

2. Flood Plain Management Considerations. Bridges and major culverts must be designed to include all possible and practical mitigating measures to minimize the impact of the proposed structure on other property, stream stability, and stream and flood plain environment which might result from construction of the crossing structure in a flood plain. Examples of mitigation measures include, but are not limited to, reestablishment of native vegetative cover on the disturbed areas, collection and treatment of runoff resulting from construction, establishment of vegetative buffer zones between the site of the proposed structure and adjacent flood plains. The designer of bridges or major culverts located in designated floodways must consider capital costs and risks necessary to accommodate passage of the basic flood. The design must conform to standards established by the Federal Insurance Administration and State and local governmental agencies for the administration of the National Flood Insurance Program.

3. Crucial Wildlife Habitat Consideration. Bridges and major culverts must be designed so as

not to destroy or adversely modify the critical habitat for threatened or endangered species or essential habitat for other priority wildlife.

4. **Visual Resource Management Considerations.** The visual contrast rating system is applied to determine whether or not the proposed crossing structure meets the Visual Resource Management Class that has been established for the area in accordance with BLM Manual Section 8431. Colored materials, varied span proportions and profiles, and materials compatible with the site can be used to reduce the contrast of the proposed structure to an acceptable level. Bridge structures should be light in effect, and plain in profile, with simple functional piers and simple inconspicuous railings of an appropriate height. When consistent with safety requirements, planting and other types of landscape development near the crossing structure often can do much to enhance the area.

5. **Earthquake Hazard Considerations.** Bridge and major culvert sites may need to be analyzed for earthquake hazard based on factors such as the type of crossing structure and risk factors, the potential ground motion at the site, and site geology. If analysis shows an earthquake hazard exists, incorporate in the design features which strengthen the structure sufficiently to withstand the hazard..

6. **Riparian/Wetlands Management Considerations.** Bridges and major culverts designs must incorporate all possible measures to minimize harm to the wetlands which might result from the crossing structure. Existing riparian and wetland drainage patterns must be maintained to the maximum extent possible. Use the most cost effective means for maintaining existing stream velocities at both high and low flows to keep from blocking the movement, migration, and emigration of aquatic species inhabiting waters adjoining wetland riparian areas. Slope protection should be provided on both the inlet and outlet ends of culverts and on approach embankments of bridges.

7. **Air and Water Pollution Considerations.** Bridge and major culvert designs must include measures to prevent, control, and abate environmental pollution resulting from construction (See BLM Manual Section 7240). The practicality of fully spanning the stream being crossed should be considered in designing the bridge.

8. **Fisheries Considerations.** Coordinate major culvert and bridge installations in with the District/Field fisheries biologist. Place a major emphasis on the effect the structure will have on the passage of resident or anadromous fish. Bridges and major culverts must allow fish passage, and in some cases may provide an opportunity to assist in stream management. For example, rough fish could be separated from more desirable species by incorporating fish barriers in culvert installations, reducing the migrating of the undesirable species. Stream crossing proposals must contain a statement, from the District/Field BLM fisheries biologist or appropriate wildlife staff specialist, that the proposed installation will be acceptable.

C. **Design Criteria.** The District/Field or Zone engineer, in consultation with the designer, determines the geometric standards for a crossing structure by analyzing the types of traffic, volume of traffic, period of use, and resources involved as identified through the Bureau Planning System, environmental quality concerns, the design standards found in .22, and applicable special design requirements.

1. **Special Design Requirements.** Various regulations, executive orders, and laws affect the design of bridges and major culverts. These special design requirements are listed below and must be included in the Design Narrative described in .14.

a. **Physically Handicapped Users.** Crossing structures having walkways must be accessible to handicapped persons. Gradients must be no steeper than 8.33 percent, unless alternate means are provided to enable partially immobilized persons to cross the depression or obstruction at that location or such persons would be unable to reach the crossing structure because of unusual topographical or

architectural obstacles unrelated to the project.

b. **Easement Acquisition.** When bridges or major culverts are to be constructed on an easement, take special precautions to comply with the terms of the easement and protect private property from construction damage. Read the easement case file to ascertain these requirements. Do not acquire easements until a conceptual design, including alternate alignments (horizontal and vertical), has been completed and the final alignment determined.

c. **Safety.** Make safety features an integral part of the design of a bridge or major culvert. Some safety precautions to take in the design of bridges and major culverts are:

(1) Consider the view of the structure under daytime, nighttime, adverse weather, and other hazardous operating conditions.

(2) Calculate the safe stopping sight distance using wet coefficients of friction and the roadway design speed for braking distance.

(3) Prevent accumulation of water on the bridge surface to reduce the possibility of hydro planing or ice buildup.

(4) Provide a bridge width consistent with the approach roadway width including shoulders.

(5) Provide a suitably designed guardrail at approaches to any bridge, if it might be struck by an out-of-control vehicle.

(6) Locate objects such as culvert headwalls and bridge abutments so as to reduce the hazard as much as practical.

(7) Provide signing and markings as necessary to provide the user with information needed to make timely decisions. For signage please refer to the Manual for Uniform Traffic Control Devices (MUTCD).

d. **Maintenance.** As materials are selected during the design of a bridge or major culvert, consider the maintenance characteristics of the materials.

**D. Alternate Locations.** Normally, consider alternate locations for bridges and major culverts, only if the location of the proposed structure is not fixed because it is a repair or replacement project. When alternate locations are considered, the engineer uses management's requirements, environmental concerns, and the design criteria established above to identify any feasible alternate locations for the crossing structure. This analysis is done during both office and field review.

1. **Office Review.** The office review consists of a review of inventory records, planning system documents, topographic maps, aerial photographs, soil survey data, and general landownership patterns. Obviously unfeasible locations are eliminated and the more feasible locations identified. The engineer coordinates this review through staff specialists (i.e., fish biologist, planning staff, archeologist, recreation planner, staff forester) and the District/Field Office Manager.

2. **Field Review.** An interdisciplinary team makes a subsequent field review of the more feasible locations to determine on-the-ground conditions. This team should consist of, as a minimum, an engineer (preferably the designer), a fish biologist (when fisheries habitat is involved), other staff specialists as needed (e.g., landscape architect, range conservationist, forester, archeologist, recreation planner, access and transportation rights-of-way specialist), and a representative of management, such as

the District/Field Office Manager. This review includes an evaluation of geology and soil types in relation to construction problems, maintenance, and erosion hazards. It should also include an evaluation of legal access needs. The field review should result in the identifying of the most feasible locations for the facility.

E. Report. Assemble the data gathered during the location analysis effort into a report. Include aerial photographs, U.S.G.S. topographic maps, and land status records of each acceptable alternate location considered. When existing structures are being considered, include the inventory record with digital photographs and site data attached.

.13 Site Study. The intensity of the site study for a bridge or major culvert depends on the complexity of the proposal. The location analysis and site study for the repair or replacement of a structure can be combined into one effort, when the location is fixed. A more intensive analysis may be required for new structures.

A. Team. The site study is done by an interdisciplinary team consisting of, as a minimum, an engineer (preferably the designer), a fish biologist (when fisheries habitat is involved), other staff specialists as needed (e.g., landscape architect, range conservationist, forester, archeologist, recreation planner, access and transportation rights-of-way specialist, hydrologist, geologist), and a representative of management, such as the District/Field Office Manager.

B. Environmental Assessment. The District/Field Office Manager is responsible for the preparation of the Environmental Assessment for the crossing structure in accordance with BLM Manual Section 9101. A copy of the Environmental Assessment is placed in the bridge/major culvert file.

C. Site Selection. The District/Field Office Manager uses the location analysis report (.12) the site study report, and Environmental Assessment in evaluating the engineering and resource data in order to recommend to the District Manager the final crossing location. The District Manager makes the decision on the final crossing location.

D. Report. Prepare the site study report and place the approved site study report in the bridge/major culvert file for future reference. (See .17.)

.14 Design Narrative. Usually, the design narrative for a crossing structure is made in conjunction with one prepared for a road, trail, or recreation facility. It should address the type of structure desired (i.e., bottomless arch, pipe arch bridge, etc.) and special design requirements identified during the location analysis. A completed Form 9110-7, Bridge and Major Culvert Design Data Sheet, and map of the general vicinity are included in the design narrative appendix. The map is a map or aerial photograph of any convenient scale showing such information as land status, existing improvements, natural features, stream alignment) and road or trail alignment. Place a copy of the design narrative in the bridge/major culvert file.

.15 Action Plan. Usually, the action plan for a crossing structure is made in conjunction with one prepared for a road, trail, or recreation facility.

.16 Programming-Budgeting. Construction of bridges and major culverts is normally funded in the Capital Improvement Activity and the maintenance of these structures is normally funded in the Annual or Deferred Maintenance Activity. Bridges and major culverts needed to support the Forest Management Activity should be constructed under the terms of timber sale contracts, if the values and volume of timber in the management unit will support the construction and the lowered margin of profit will not result in undue risk to the prospective timber sale purchaser, thus reducing bid prices. Planned work is funded through the Bureau's Programming-Budgeting System.

A. Project Identification. Crossing structures are normally constructed in conjunction with a road, trail, or other facility and are named and numbered as described in .17A.

B. Cost Estimate. Cost estimates for bridge and major culvert work are developed and should include costs associated with the mitigation of fisheries damages and any other unusual high cost factor such as constructing a temporary bridge to maintain access for school buses until the new structure is complete.

C. Funding Schedule. Bridges and major culverts should be completed in the shortest time practicable, taking all requirements into consideration.

.17 Bridge/Major Culvert File. An individual file is set up for any inventoried structure accepted for retention. This file should provide a full history of the structure, or planned for construction is given a unique identifier. This identifier consists of a subject-function classification code, a name, and a structure number.

A. Identification. There is a bridge/major culvert file for each structure inventoried.

1. Subject-Function Classification Code. All bridge and major culverts files have the subject-function classification code 9112.

2. Structure Name. The name of an existing structure is located in the FAMS database. New structures which are not a part of a parent project, such as a road construction project, are given the name of the feature being crossed (e.g., Walker Creek Bridge crosses Walker Creek). New structures which are a part of a parent project should be named in accordance with BLM policy. (A second name, if applicable, should be shown in parenthesis in the database)

3. Structure Number. The structure number consists of the route number and mile post location. The mile post will be to the nearest one hundredth of a mile.

B. Composition. The file should include the inventory record form (see .11D), the location analysis report (see .12E), the site study report (see .13D), the environmental assessment (see .13B), the design narrative (see .14), the action plan (see .15), the construction file (see .36B), the final construction report (see .36C), roadbank stabilization records (see .36D), the construction project completion report (see .36E), condition survey records (see .43), and technical inspection reports (see .43). It should also include a current load rating; all recommendations for strengthening and repair and the actions which have been taken on these recommendations: stress calculations to determine the safe load limits, based on field measurements or checked plans; a paint record for each steel structure; and subsequent paint inspections and painting work performed.

.2 Design. Each crossing structure must meet management requirements while considering safety, esthetics, the environment, and economics consistent with the volume, speed, and characteristics of the vehicles and drivers who will use it. Designs must anticipate future types of vehicle use and operational patterns. Base design of a crossing structure on a comprehensive site survey, foundation investigation, and hydrologic-hydraulic analysis. The designer furnishes alternate conceptual designs to the manager. This gives the manager the opportunity to correlate the proposed concepts with available dollar costs, time schedules, environmental compatibility, esthetics, structure life, and maintenance schedules.

.21 Methods of Accomplishing Design. Design by BLM employees is the recommended method for designing a crossing structure. (See BLM Manual Section 9102.) However, when the Bureau doesn't have the in-house capability to perform the design, it is usually done by the Federal Highway Administration (FHWA). National Operations Center (NOC) engineering personnel arrange for FHWA design and approve or reject the design. When both the NOC and FHWA in-house capability is fully utilized, then the

crossing structure may be designed by an architectural and engineering firm (A&E). After an A&E contractor has been selected in accordance with procedures in BLM Manual Section 1510, Service Center structural engineers coordinate, review, and approve the A&E design of bridges and major culverts. Design by FHWA or A&E requires the same procedures as if the design were being produced by Bureau employees. (See BLM Manual Section 9102.)

.22 Design Standards. Standards discussed in this Section of the Manual must be met for bridges and major culverts constructed by Bureau initiative or authorized by a right-of-way permit, if the structure will become a part of the Bureau transportation system. Replacement structures must meet the current geometric and construction standards required for the type and volume of traffic which the facility will carry over its design life.

A. Design Guide. Bridges and major culverts must be designed in accordance with either the current edition of the AASHTO LRFD Bridge Design Specifications or the Standard Specifications for Highway Bridges, 17<sup>th</sup> Edition, published by the American Association of State Highway and Transportation Officials (AASHTO). (See Bibliography.)

1. Structure Width. The usable width provided by bridges and major culverts is determined by the volume of traffic, type of traffic, and safety of users.

a. Road Bridges. The roadway width of a bridge is the clear width measured at right angles to the longitudinal centerline of the bridge between the bottom of curb faces or nearest faces of bridge rails, whichever lies closest to the centerline. The roadway width of a bridge must be equal to or wider than the road travelway width and should be as wide as the full shoulder-to-shoulder width of the travelway and shoulder widths. The minimum roadway width permitted for bridges and other structures is 14 feet for single-lane roads and 24 feet for double-lane roads. Bridges on logging roads and other heavy duty, high volume, or high speed roads should have minimum roadway widths of 14 feet and 28 feet respectively. Increase widths to allow for curve widening, off-highway vehicles, or other special geometric conditions.

b. Trail Bridges. The width of a trail bridge is measured at right angles to the longitudinal centerline of the bridge between near faces of rails or where railing is not required, between faces of curbs. As a general rule, trail bridges that exceed 30 inches measured from the top of the deck to the deepest point of terrain beneath the bridge should have railing. The width of a trail bridge should generally be designed to accommodate the anticipated traffic and/or aesthetic needs. Trail bridges restricted to pedestrian traffic must not exceed 4 feet in width, unless provisions are made in the design for other types of traffic. Trail bridges permitting equestrian traffic should be at least 6 feet wide.

2. Structure Loading. The minimum design vehicular loading for road crossing structures designed in accordance with AASHTO LRFD Bridge Design Specifications is load designation HL-93 and for those structures designed in accordance with the Standard Specifications for Highway Bridges, 17<sup>th</sup> Edition is load class designation HS 20. Structures must be designed for off-highway vehicular loading as appropriate using the diagrammatic layout of the off-highway vehicle that produces the greatest stresses. Use the appropriate load and combination of loads given in the AASHTO manual, either the current edition of the AASHTO LRFD Bridge Design Specifications or the Standard Specifications for Highway Bridges, 17<sup>th</sup> Edition, in the design of all trail bridges. See also the Guide Specifications for Design of Pedestrian Bridges. The minimum load should normally accommodate pedestrian and equestrian traffic. Apply it full-length or partially, whichever produces the maximum stress. Design for other live loads, such as trailblazers, snowmobiles, and maintenance vehicles, as appropriate. Investigate the effects of concentrated loads for each live load type. Crossing structures must be checked for snow load in heavy snow areas and/or where the snow is not periodically removed throughout the season. Consider the change in quality of built-up layers of snow and the eccentricity of drifted snow.

3. **Design Flood.** Bridges and major culverts must be designed to pass the design flood with adequate provisions for ice, debris, and scour. Support the selection of a design flood for each structure by analyzing design alternatives according to capital costs, risks, stream stability, budgetary constraints, the need for emergency supply and evacuation routes, and the need for emergency vehicle access. The passage of the basic flood (100 years) must be checked for adjacent upstream or downstream property damage and inundation of the road or trail.

a. **Permanent Structures.** The minimum design flood for permanent bridges is the 50-year flood. At a minimum, major culverts in permanent installations should be designed to pass a 25-year flood with zero head above the pipe and 50-year flood with head above the pipe limited to one-half the rise (or diameter) of the pipe, but not less than 2 feet below the finished travelway shoulder.

b. **Temporary Structures.** Temporary structures should be designed to pass a flood of a magnitude and frequency consistent with the period of use and anticipated damage. For this reason, consider providing overflow through, around, or over the roadway fill.

4. **Alignment.** Horizontal and vertical alignment for crossing structures is usually controlled by the location of the road or trail. However, the road or trail alignment can be altered, if this allows a better bridge or major culvert design. Bridges and major culverts are placed on a tangent, whenever possible. Road alignment standards are found in BLM Handbook H-9113-1.

5. **Overhead Clearances.** Bridges and major culverts located on roads must be designed for vertical clearance commensurate with State or local regulation, but not less than at least 14 feet above the travelway surface. Add an allowance for resurfacing. Overhead utility lines should provide a minimum clearance of 20 feet during normal weather and temperature conditions. Do not design bridges on logging roads as through structures. Clearances less than 14 feet must be signed.

**B. Design Life.** Permanent bridges and major culverts are designed to serve the predicted type and volume of traffic for a period of no less than 20 years after construction. A temporary bridge or major culvert is designed to be used for no more than 4 years after construction.

**C. Traffic Control Signs.** Any required signage or marking of a structure should be in accordance with the current edition of the Manual on Uniform Traffic Control Devices by FHWA. All required signage is installed as a part of the project.

.23 **Site Survey.** After the District/Field Office Manager has approved the final location for the bridge or major culvert, make a site survey to secure site specific information for the designer.

**A. Survey Precision.** Site surveys for a bridge or major culvert establish horizontal and vertical control, and locate the details by measurements from the control stations. The control may be established in connection with the location survey or separately.

1. **Horizontal and Vertical Control.** Surveys establishing the horizontal and vertical control must be closed traverses and meet the requirements for collector and local roads discussed in BLM Manual Section 9113.

2. **Details.** Acquire topographic data to a precision lower than 1/200 for horizontal distances. Elevation differences should not be greater than 0.3 feet per 1,000 feet horizontal distance.

**B. Topographic Map.** Plot the topographic map to a scale of 1 inch equals 10 feet or 1 inch equals 20 feet (minimum) with a maximum contour interval of 2 feet. It should show bench mark location, description, and assigned elevation; and location and identification of all subsurface explorations. Contours

should adequately cover the proposed crossing(s) and extend sufficiently beyond the ends of the structure, cut and fill limits, and channel modification. If the horizontal alignment of a proposed crossing is known, contours should embrace an area of a minimum of 100 feet upstream and 100 feet downstream and a minimum of 100 feet beyond the ends of the structure. Identify and locate springs, marsh areas, overflow channels, edge of water, high water marks, extent of exposed bedrock in pier areas, and other items of importance in location and design of the structure. Note types of cover (old growth fir, sagebrush, etc.). Locate and identify site features such as large boulders, reefs, log jams, channel changes, and existing structures and note recommendations.

C. Profile and Stream Cross Sections. Provide a profile along the existing or proposed road or trail centerline extending at least 500 feet beyond the ends of the structure. Provide a water surface profile, and centerline stream bottom profile, where practical, for a minimum of 500 feet upstream and 500 feet downstream from the centerline of the proposed structure. The road centerline profile should be plotted to a horizontal scale of 1 inch equals 100 feet and a vertical scale of 1 inch equals 10 feet. The water surface profile should be plotted to a horizontal scale of 1 inch equals 50 feet and a vertical scale of 1 inch equals 10 feet. Provide at least three stream cross sections, one at or near the centerline of the crossing and one at each end of the stream profile. Take care to ensure that these sections are typical of the stream. Indicate recommended grade line; elevations of extreme low, present, and extreme high water; and type of foundation material underlying pier or abutment locations. Give the elevation of the stream bottom in the vicinity of proposed piers and abutments.

D. Foundation Investigation. Foundation investigation at probable pier and abutment sites should extend to the depth required to determine the elevation of suitable foundation materials. Determine the profile of the foundation materials in the pier or abutment areas. Show location of points at which subsurface explorations have been made on the topographic map and show the graphic logs of subsurface exploration on the profile prepared in .23C. Foundation investigations may be made after a preliminary layout of the structure has been completed and the designer consulted. Guidelines for foundation investigations are given in the Manual on Foundation Investigations, by the AASHTO Highway Subcommittee on Bridges and Structures.

E. Special Features. Identify any special features or problems at the site which may affect the design and include photographs of the site with explanation attached.

.24 Design Process. Designs for Bureau bridges and major culverts are normally developed as follows:

<u>Responsible Office/Official</u>	<u>Step</u>	<u>Action</u>
Originators	1	Determine the need for a facility through the inventorying of existing structures.
	2	In consultation with the staff specialists and the manager, review the location analysis, environmental assessment, and site study to develop the design narrative (see .15). Submit the design narrative to the designer.



<u>Responsible Office/Official</u>	<u>Step</u>	<u>Action</u>
Designers	3	Review the design narrative to determine the type of facility to be designed. Select the design standards and make adjustments for other considerations such as erosion prevention, right-of-way, safety, and esthetics. Request site survey needed to develop a design proposal from originating office.
Originators	4	Complete site survey requested and submit to the designer.
Designers	5	Prepare preliminary layouts and cost estimates. (Include horizontal and vertical alignment, types and sizes of structures proposed.)
Originators and Designers	6	Consult originating office personnel to determine if the design meets management's requirements. A field review (line and grade) may be held at this time.
Managers	7	If satisfied with the concept of the project as developed in Step 5, give written approval for the designer to proceed.
Designers	7a	If not satisfied with the concept of the project as developed in Step 5, return to Step 2 for reassessment and a fresh start. This may include a reexamination of management's requirements.
Designers	8	Proceed with the design of the facility. Obtain management and staff specialist review at the

predetermined stages identified in the action plan (see .15). management review determines if the design meets the design objectives identified in the design narrative for cost target, time schedules, environmental compatibility, and esthetics. Consult the staff specialists, such as recreation planner, landscape architect, forester, and fish biologist to determine if the design meets design narrative requirements.

<u>Responsible Office/Official</u>	<u>Step</u>	<u>Action</u>
Designers	9	Check with staff specialist to ensure that items such as easements (see .12C), permits (such as U.S. Army Corps of Engineers Section 404 permits), intergovernmental clearances (see .08), and budgeting clearances have been or are being obtained. Arrange for the comprehensive independent engineering review of the design. (See BLM Manual Section 9102.) Ensure that the comprehensive independent engineering review is made prior to submitting the final design to management for final review and approval.
Technical Personnel	10	Review design to ensure that the facility is technically adequate. A field review (plan-in-hand) should be made at this time.
Administrative Manager	10a	Review design to ensure that the facility will meet management's requirements. If approving, obtain appropriate signatures on title sheet. Submit drawings, specifications, and a cost estimate to the Contracting Officer, if funds are available for construction.
Technical and Administrative Manager	10b	If disapproving, or if revisions are required, return to designers for consideration of management's recommendations, incorporate these into the design, and repeat the process as required.

.25 Specifications, Construction Drawings, and Cost Estimates. Specifications and construction drawings must describe the location, design features, and the construction requirements in sufficient detail to facilitate the construction, the contract control, and the estimation of construction costs of the project.

A. Specifications. Prepare specifications in accordance with BLM Manual Section 9102, regardless of how or by whom the work is to be accomplished. Use the current edition of the FHWA Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects for preparing construction or maintenance specifications for bridges and major culverts.

B. Construction Drawings. Prepare construction drawings in accordance with Bureau Manual 9102 - Facility Design, regardless of how or by whom the work is to be accomplished. Drawings are prepared to show the details of the particular crossing structure being designed. Design loading, allowable material stresses, and diagrammatic layouts of vehicles, other than standard AASHTO, must be shown on the drawings. Specifications for materials and workmanship may be shown to emphasize and/or supplement the standard specifications. Where applicable, show the design hydrology/hydraulic criteria and results. For bridges, show the high water elevation, design flood, and corresponding average velocity. For culverts, show the design flood and corresponding headwater depth and elevation, and outlet velocity. The results of foundation investigations must be shown including location of test holes, boring logs, and other information used in the design. For bridges, footing bearing pressures, or in the case of piling, design pile loads and estimated tip elevations must be shown.

C. Cost Estimates. Prepare cost estimates in accordance with BLM Manual Section 9102 – Facility Design, regardless of how or by whom the work is to be accomplished.

.26 Contract Documents. Contract documents are prepared upon completion of the design.

A. Construction by Contract. Procedures for preparing the required documents for construction by contract are found in BLM Manual Section 1510B. Construction Under Timber Sale Contract. Procedures for preparing the proper documents for construction under timber sale contract are found in BLM Manual Section 5424.

.27 Permits and Approvals. A permit is required from the U.S. Army Corps of Engineers for proposed structures involving disposition of dredged or fill materials into the waters of the United States, prior to beginning work on the project. This requirement is imposed by Section 404 of the Clean Water Act of 1977. Federal Highway Administration approval is secured in accordance with BLM Manual Section 9113.

.28 Communication During Construction. Close coordination between design and construction personnel is essential to assure that the design intent is carried out and that changed conditions found during construction are incorporated into the design. A lack of communication among designers, builders, and inspectors can cause problems during project development. Designers should be involved in the construction process in order to assure that field conditions are compatible with assumed design conditions.

.29 Operating Budget Progress Report. Progress reports for bridge/major culvert survey and design work are divided into biweekly and current progress reports and periodic reports. These reports are completed in accordance with BLM Manual Section 1510.

.3 Construction. Construction entails procuring materials and using personnel and equipment to build a crossing structure in accordance with the design.

.31 Methods of Accomplishing Construction. The methods of accomplishing construction are discussed in BLM Manual Section 91.03. The method to be used is identified in the Action Plan developed in .15.

.32 Construction Stakeout. Good construction stakeout is one of the first and most important items needed to construct a bridge or major culvert. Reference stakes are of importance for the construction of a bridge or major culvert. An accurate stakeout can do much to aid the inspector and work force during construction. Such a stakeout provides for the rapid establishment of lines and grades needed for various elements of the structure. The procedure found in Appendix 2 is recommended when staking bridges.

.33 Construction Signing. The traveling public must be protected from danger due to construction operations. There should be no doubt when structures are completely closed and where detours are located. Adequate barricades and signs must be placed where they are most effective. If needed, flagmen must be provided. When signs and barricades have served their purposes, they are removed.

.34 Special Construction Requirements. Builders of a bridge or major culvert must adhere to many special considerations or requirements. These are found in the general or special provisions of the contract, technical specifications, or contract drawings. These items are discussed in .12 and BLM Manual Section 9103.

.35 Construction Inspection. Require inspection of bridges or major culverts being constructed, regardless of the method of accomplishment, to assure safe operation, and compliance with the design. A project inspector must be designated to perform these functions. Construction of bridges and major culverts requires direct and continuing inspection. (See BLM Manual Section 9103 for inspection requirements and procedures.) The final inspection team, which personally visits the completed structure, should include as a minimum a representative of management, the designer, the contracting officer's representative, the project inspector, the contractor's representative, and the individual responsible for maintenance of the structure. Other staff specialists as needed such as a landscape architect, or a fish biologist, may attend. If constructed by a timber sale purchaser, include the purchaser's representative as a member of the inspection team. When the work has been done by force account or by special employment program personnel, the superintendent or foreman should be a member of the inspection team.

.36 Records and Reports. One of the important functions of construction management is compiling a complete, accurate, and current record of each bridge or major culvert constructed.

A. Identification Marker. An identification marker or tablet is installed for permanent reference and identification of the bridge or major culvert.

B. Construction File. Construction work must be fully documented. This documentation includes materials, processes, field exploration tests, material testing results, inspection reports, inspector's log, as-built drawings (prepared in accordance with BLM Manual Section 9103), shop drawings, and photographs and records of decisions made to adapt the design to actual field conditions. Additional requirements and procedures for contracted work are found in BLM Manual Section 1510. Upon completion of the structure, the construction file becomes a part of the project file described in .17.

C. Final Construction Report. A final construction report should be prepared for bridges and major culverts. This is a narrative with pertinent information only prepared in accordance with BLM Manual Section 9103. This report may be included with the construction report prepared for a road, trail, or recreation facility. The report is placed in the bridge and major culvert file.

D. Roadbank Stabilization Record. A detailed record is kept of the stabilization work on the Roadbank Stabilization Record (Form 7410-17). This form is maintained in the bridge/major culvert file.

E. Construction Project Completion Report. Complete a construction Project Completion Report (Form 1310-11) for bridges and major culverts immediately after the structure is placed in use.

F. Real Property Record. Complete a Real Property Record, Building, Structures, and Facilities (Form 1530-1) for bridges and major culverts upon completion of the project. Place a copy of this report in the bridge/major culvert file.

G. Operating Budget Progress Report. Progress reports for the operating budget of the transportation construction activity are divided into biweekly and current progress reports and periodic reports. These reports are completed in accordance with BLM Manual Section 1510.

H. Inventory Record. Assure that the bridge or culvert is listed in the FAMS Inventory database.

.4 Maintenance. Bridges and major culverts represent the highest unit investment and the highest risk for liability of all elements of the transportation system. Maintenance management entails inspection, evaluation, planning, scheduling, procuring materials, and using personnel and equipment to keep a structure in condition to serve its purpose and provide a safe, uninterrupted traffic flow.

.41 Maintenance Planning. Bridges and major culverts identified for retention through the Bureau Planning System are maintained in accordance with the maintenance plan described below.

A. Information Sources. The first step in maintenance planning is to collect the information available in District/Field Office files. (See BLM Manual Section 9104.)

B. Special Maintenance Requirements. The design and construction of the crossing structure may have required special features.

C. Maintenance Plan. A maintenance plan may be developed for structures within a system of roads and trails, rather than for each individual structure. (See BLM Manual Section 9104.)

D. Programming-Budgeting. Necessary work identified through condition surveys and technical inspections made during the preceding year is funded through the Bureau's Programming-Budgeting System. (See BLM Manual Section 9101.) Procedures for securing funding under the Emergency Relief, Federally Owned (ERFO) Program administered by the FHWA are found in BLM Manual Section 9113.

.42 Accomplishing Maintenance Work. Do the maintenance work required on a bridge or major culvert according to a planned sequence of events. Coordinate the work with the period of use, other work, and the availability of personnel to complete the work.

A. Identifying Maintenance Work. Identify maintenance work on a crossing structure in accordance with BLM Manual Section 9104. (See .43.)

1. Maintenance Level. In general, the maintenance level for bridges and major culverts is to provide full use of the structure at all times. Special conditions are found in Planning System Documents.

2. Maintenance Condition Standards. Maintenance condition standards for bridges and major culverts are found in Appendix 3.

B. Methods of Accomplishing Maintenance Work. Bridge and major culvert maintenance work is done by force account, by contracting, by cooperative agreement, or by a combination of these. (See BLM Manual Section 9104.)

C. Designing the Work. Designs required to describe maintenance work must be done in the same manner as for new construction projects. The design must be sufficiently detailed for the contemplated work. (See .2.)

D. Maintenance Work Stakeout. When required, maintenance work is staked in conformity to .32.

E. Maintenance Signing. The traveling public must be protected from danger due to maintenance operations. There should be no doubt about whether crossing structures are completely closed and where detours are located. Adequate barricades and signs must be placed where they are most effective. If needed, flagmen must be provided. When signs and barricades have served their purpose, they are removed.

F. Completing the Work. Maintenance work is completed following the same techniques as for new construction.

1. Inspection of Maintenance Work. Bridges or major culverts being maintained, regardless of the method of use, require inspection to assure safe operation and compliance with the design. Designate a project inspector to perform these functions. (See BLM Manual Section 9103 for inspection requirements and procedures.)

a. Frequency of Inspection. Maintenance work on bridges and major culverts involving structural work requires direct and continuing inspection. This work must be inspected while it is in progress and before it is concealed by further work.

b. Final Inspection Team. The makeup of the inspection team, which personally visits the facility, depends on the type of work being done. For structural work, the team should include, as a minimum, a representative of management, the designer, the project inspector, the contractor's representative, and the individual responsible for maintenance of the structure. When the work has been done by force account, or by special employment program personnel, the superintendent or foreman should be a member of the inspection team. Other staff specialists as needed, such as a fish biologist, may attend.

.43 Maintenance Inspections. Bridges and major culverts identified for retention through the Bureau Planning System must be maintained in a safe condition. The depth and frequency of inspections of bridges and major culverts depends on such factors as age, traffic characteristics, State maintenance, and known deficiencies. To identify the known deficiencies of a structure, investigate its physical condition. The condition survey and technical inspection provide an accurate description of the maintenance needs.

A. Condition Survey. To determine the maintenance work needed on a crossing structure, compare its existing condition to the standards established for it. The initial condition survey may be completed at the same time as the initial inventory record. Place the initial condition survey record in the bridge/major culvert file for future reference. Compare these results to the next condition survey. The depth and frequency of condition surveys should be commensurate with the needs as documented by a technical inspection. A condition survey should be performed according to requirements in this document. The condition survey is used to document the need for maintenance, such as sign maintenance, drift removal, fill and channel repair, deck and railing repair, and painting.

1. Qualifications of Personnel. Condition surveys should be conducted by District/Field Office or Zone engineering personnel responsible for the on-the-ground maintenance inspection of roads and trails with assistance, when requested, from the State Office and/or NOC staffs.

2. Major Culvert Condition Survey Record (Form 9110-8) Complete a Major Culvert Condition Survey Record for each major culvert inventoried in accordance with .11.

3. Bridge Condition Survey Record (Form 9110-8a) Complete a Bridge Condition Survey Record for each bridge.

B. Technical Inspection. This is an in-depth condition assessment performed to evaluate the structure and determine its safe load carrying capacity. Initially, this inspection produces as-built drawings or confirms as-built drawings previously acquired. Each bridge, including major culverts with spans exceeding 20 feet, must be inspected and evaluated at regular intervals not to exceed 2 years. Major culverts must be inspected and evaluated at regular intervals not exceeding 6 years. Bridges that are less than 20 feet in length must be inspected every 5 years by District/Field Office or Zone engineering personnel. Each State has the discretion of inspecting at lesser intervals. Inspect and evaluate at least once a year all structures with load carrying capacities of less than 20 tons. Make a technical inspection and evaluation immediately after a structure is damaged by an accident or other cause. Set a reference elevation bench mark on all bridges having friction piles or mud sills or any bridge where movement is indicated or suspected. Make a level survey each year to determine if the bridge is stationary. The reference elevation bench mark should be set away from the bridge and out of harm's way.

1. Qualifications of Personnel. Since technical inspections and evaluations use engineering techniques to determine the physical condition of the structure, the individual leading the inspection team must have the following minimum requirements: Be a registered professional engineer; or have a minimum of 5 years experience in bridge inspection assignments in a responsible capacity and have completed a comprehensive training course based on the Bridge Inspector's Training Manual, developed by a joint Federal-State task force and published by the U.S. Department of Transportation or a course given as a State-sponsored bridge inspection course for their bridge inspectors.

2. Inspection Standards. Technical inspections of bridges and major culverts must conform to the provisions of the current edition of the Manual for Condition Evaluation of Bridges, published by AASHTO.

3. Major Culvert Inspection Form (H-9112-5) Complete a Major Culvert Inspection Form for each major culvert inventoried in accordance with .11. The data from the completed form should be placed in the FAMS database along with digital photographs.

4. Bridge Inspection Report (H-9112-3) Complete a Bridge Inspection Report for each bridge in accordance with .11. The data from the completed report should be placed in the FAMS database along with digital photographs.

.44 Final Evaluation and Load Rating. Preliminary evaluations are made in the field by the inspection team leader. Possible hazards and other conditions that require immediate attention are reported to management and the engineer responsible for the final evaluation without delay. Except for special requests, final evaluations, including a current bridge load rating and recommendations to correct deficiencies, are reported to management on a scheduled basis.

A. Qualifications for Personnel. The individual who makes the final evaluations and reports must have the following minimum qualifications: Be a registered professional engineer; or have a minimum of 10 years experience in bridge inspection assignments in a responsible capacity and have completed a comprehensive training course based on the Bridge Inspector's Training Manual, developed by a joint Federal-State Task Force and published by the U.S. Department of Transportation. Load ratings must be made by or under the direct supervision of 4-a registered professional engineer experienced in design. Bridge and major culvert evaluations performed by A&E services must have the registered engineer's stamp or seal affixed to drawings, calculations, reports, and other applicable documents.

B. Standards. Load ratings of bridges and major culverts must be made in accordance with the



provisions of the current edition of the Manual for Condition Evaluation of Bridges, published by AASHTO. Load ratings must take into account all live loads including overloads and any possible nonstandard loads.

.45 Posting. Depending upon the inspection and load rating results for each structure, one of the following actions should be taken: No posting required when the structure is determined to be safe for carrying State-designated legal loads; posted for limited loads and speed when the safe load is determined to be less than the State designated legal load; or closed to traffic as unsafe to the traveling public when the structure is determined to have a capacity less than 3 tons gross vehicle weight. Notice of posting should be sent to State highway officials, appropriate school board officials, local news media, law enforcement agencies, fire departments, and other officials or firms affected by the posting. Load and speed posting signs must be in conformance with the Manual on Uniform Traffic Control Devices.

.46 Special Use Permits. All bridges and major culverts should be reviewed for their suitability to accommodate safely the proposed loads. Careful examination should be made of all permit applications, right-of-way agreements, and contracts involving vehicular use. The current load rating report should be compared with each proposed vehicle to determine load limits and/or other restrictions. Proposals for vehicular use over structures without current load ratings (within 2 years or 1 year for untreated timber), or without comparable rating vehicles (similar axle and wheel spacing) should be sent to the individual responsible for load ratings for analysis. Approvals should be documented in the case file. Applications and other proposals should specify the kinds and types of vehicle and equipment use, including:

- A. Axle Weights when fully loaded.
- B. Axle Spacing.
- C. Transverse Wheel Spacing (center-to-center).
- D. Tire Size(s).
- E. Out-to-Out Width of the vehicle.
- F. Type of Use: Frequency, speed, running tracks, or other special features.

.47 Record and Reports. One of the important functions of maintenance management is maintaining a complete, accurate, and current record of each bridge or major culvert constructed.

A. As-Built Drawings. When the maintenance work results in a change to the crossing structure, prepare as-built drawings in accordance with BLM Manual Section 9103.

B. Roadbank Stabilization Record. When roadbank stabilization is performed as a part of the maintenance of the structure, complete a Roadbank Stabilization Record, Form 7410-17, and place in the bridge/major culvert file. (See BLM Manual Section 7415).

C. Operating Budget Progress Report. Progress reports for the operating budget of the transportation maintenance activity are divided into biweekly and current progress reports and periodic reports. These reports are completed in accordance with BLM Manual Section 1510.

D. Inventory Record. Update the appropriate inventory record form (.11D) for the structure upon completion of the work. Revise the bridge and major culvert summary discussed in .11E to reflect the completed work.

.5 Non-Bureau Structures. The posted or legal load limit and condition of non-Bureau structures on routes

which form a part of the transportation plan or access thereon must be available to management. Preferably, inspection and posting should be completed by the owner and every effort should be made to encourage this approach. In those cases where the owner does not provide this information or if his/her inspection and rating appears not to comply with Bureau standards, the route must be excluded from the Bureau transportation plan and users must be informed that the safe capacity of the structure is not known. Should the route be necessary for resource protection or other use, the District/Field Office Manager must request a bridge condition assessment. Written permission from the owner is required and they must be informed of any deficiencies and posting requirements. All posting should be done by the owner.

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## **BRIDGE PROTOCOLS**

The Bridge Protocols were written for bridges carrying vehicular loads but can be used for bridges carrying all types of traffic.

### **DEFINITIONS**

**Abutment** – A bridge typically has two abutments; one at each end. A bridge abutment is a substructure unit that supports the extreme end of a single-span or multi-span superstructure.

**Anchorage** – The complete assemblage of members and parts, designed to hold in correct position a portion or part of a structure.

**Approach** – The embankment or fill that provides the transition from the roadway to the bridge.

**Approach Slab** – A reinforced concrete slab placed on the approach embankment adjacent to and supported on the backwall of the abutment.

**Arch** – A curved structural element, primarily in compression, producing both horizontal and vertical components of support reactions.

**Back-wall** – The topmost portion of an abutment above the elevation of the bridge seat functioning as a retaining wall. It may serve as a support for the extreme end of the bridge deck and the approach slab.

**Bearing Device** – An support element which transfers loads from the superstructure to the substructure while permitting limited movement capability.

**Bent** – A bent is a type of intermediate multi-span bridge support comprised of walls, columns, or piles that are supported by individual footings. In contrast, a pier is a type of intermediate multi-span bridge support comprised of walls, columns, or piles that are supported by a common footing.

**Breast-wall** – A typical bridge has two breast-walls. A breast-wall is a bridge abutment component located between the sing-walls and beneath the bridge seat. The breast wall is below and in front of the bulkhead if a bulkhead is present. The breast-wall also retains the portion of the approach embankment located above the bottom of the girders up to the running surface.

According to AASHTO's Transportation Glossary and as defined in The National Bridge Inspection Standards, Part 650 of Section 23 of the Code of Federal Regulations, a bridge is defined as such:

Bridge - A structure including supports erected over a depression or an obstruction, such as water, highway, or railway, and having a track or passageway for carrying traffic or other moving loads, and having an opening measured along the center of the roadway of more than 20 feet between undercopings of abutments or spring lines of arches, or extreme ends of openings of multiple boxes; it may also include multiple pipes, where the clear distance between openings is less than half of the smaller contiguous opening.

Bridge Inventory Rating – The maximum gross weight (in tons) of designated loads that the bridge can safely carry at unlimited frequency and for an indefinite period.

Bridge Operating Rating – The absolute maximum gross weight (in tons) of designed loads that the bridge can be permitted to carry. This is normally limited to infrequent use of heavy logging or mining equipment.

Bulkhead – A bulkhead is a retaining wall-like structure commonly composed of driven piles, timbers, or reinforced concrete sometimes supporting a wall. In bridge applications, the bulkhead supports the portion of the approach embankment up to the bottom of the bridge girders.

Cap – A cap is the topmost piece of a bridge pier or pile bent serving to distribute the loads upon the columns or piles and to hold them in their proper positions.

Channel Protection – Structures associated with a bridge to protect the channel and/or substructure. It includes riprap, guide banks, spur dikes, gabions, pylon sheeting, pylon or revetments.

Curb – A curb is a constructed feature paralleling the side limit of the roadway to guide the movement of vehicle wheels and to safeguard a facility and pedestrians.

Deck – Supported roadway on a bridge. It includes the bridge decking and wearing surface and railings.

Deck Wearing Surface – A deck wearing surface is a distinct layer of sacrificial material (such as wood, concrete or asphalt) applied over the structural deck of a bridge to protect the structural deck from the abrasive action of traffic.

Diaphragm – A diaphragm is an assembly of members placed in a structural superstructure system (typically between two parallel beams, columns, or trusses) to distribute stresses and improve strength.

Dolphin – Group of pilings that are driven close together, as a single unit, to protect a portion of a bridge from damage by watercraft and/or floating debris.

Expansion End Dam – An expansion end dam is that part of an expansion joint serving as an end form for the placing of concrete at a joint or applied to the expansion joint itself.

**Fender** – A structure that acts as a buffer to protect the portions of a bridge exposed to floating debris and water-borne traffic from collision damage.

**Floorbeam** – A horizontal member oriented transversely to the general bridge alignment supporting stringers or deck members.

**Footing** – The enlarged, lowered portion of a substructure, which distributes the structure load either to the earth or to supporting piles.

**Foundation** – The supporting material upon which the substructure portion of a bridge is placed.

**Fracture Critical Member** – A member in tension or with a tension element whose failure would probably cause a portion of, or the entire bridge to fail.

**Girder** – A flexural member which is the main or primary support for the structure and which usually receives loads from floor beams and stringers or any large beam, especially a built-up beam.

**Parapet** – A low wall along the outermost edge of the roadway of a bridge designed to protect vehicles and pedestrians.

**Pier** – A pier is a type of intermediate multi-span bridge support comprised of walls, columns, or piles that are supported by a common footing.

**Pile** – Piles are shaft-like linear compression members that transfer structural loads directly to soil layers capable of supporting such loads.

**Railing** – A bridge railing is a structure similar to a vehicular guardrail, fence, or handrail that protects vehicles and pedestrians. Bridges typically have railings along their outermost edges and may have a second set of railings that separates vehicles and pedestrians.

**Riprap** – Riprap is rubble (rock, concrete or similar heavy block material) placed on an embankment or shores, banks, or beds of rivers, streams, lakes, and oceans to prevent erosion or scour from water flow; and/or used to stabilize soil by adding weight to the toe of a slope.

**Sill** – A type of bridge abutment where a wall-like member bears directly on soil or rock.

**Stringer** – A stringer is a longitudinal beam supporting a bridge deck.

**Strut** – A strut is a bridge structural member acting to resist compressive stress.

**Substructure (Bridge)** – All of that part of the structure below the bearings of simple and continuous spans, skewbacks of arches, and tops of footings or rigid frames, together

with the back walls, wing walls, and wing protection railings. Superstructure is the entire structure except the substructure.

**Superstructure** – The entire portion of a bridge structure, which primarily supports traffic loads and transfers these loads to the bridge substructure.

**Truss** - A truss is a jointed structural frame made up of tension and compression members typically arranged and connected in a triangular pattern.

**Underwater Inspection** – An inspection made below the surface to detect scour at the substructure.

**Wheel Guard** – A wheel guard is a raised curb on a bridge along the outside edge of a traffic lane to safeguard constructions outside of the traffic lane fro collision with vehicles.

**Wing Wall** – Wing walls are vertical or near-vertical earth retaining structures that typically extend from the sides of an abutment or headwall.

## **DECK**

### **DECK SLAB**

#### **Timber Decks**

- Examine areas exposed to traffic for wear, weathering, and impact damage.
- Investigate bearing and shear areas where the deck contacts the supporting floor system for crushing, decay, and fastener deficiencies.
- Inspect the tension areas between the support points for flexure damage such as splitting, sagging, and cracks.
- Check the deck surface for decay, particularly in areas exposed to drainage.
- Examine the outside edges of the deck for decay.
- Investigate the deck for damage from wild fires.

#### **Concrete Decks**

Both the top and bottom surfaces of concrete decks should be inspected for cracking, scaling, spalling, corroding reinforcement, exposed reinforcement, chloride contamination, delamination, and full or partial depth failures.

- Inspect areas exposed to traffic for wear, scaling, delamination, and spalling.
- Check areas exposed to drainage for general deterioration of the concrete.
- Examine the bearing and shear areas where the deck is supported for spalls and crushing.

- Investigate the shear key joints between precast deck panels for cracks and other signs of independent action. Note any vegetation growing from the cracks.
- Inspect the top of the slab over supports for flexure cracks.
- Check the bottom of the slab between supports for flexure cracks.
- Examine the top and bottom of slabs in negative moment regions of the superstructure for transverse flexure cracking.
- Investigate stay-in-place forms for deterioration and corrosion, which could indicate contamination of the deck. Moisture and chlorides can be retained by the forms which can penetrate full depth cracks in the deck and cause deterioration and corrosion.
- Inspect the anchorage zones of precast tie rods for deteriorating grout pockets or loose lock-off devices.

### Steel Decks

- Check bearing areas for cracked welds or broken fasteners which connect the steel deck to the supporting floor system.
- Examine the primary bearing bars for broken, cracked, or missing bars.
- Investigate areas where water can be trapped for corrosion.
- Inspect surfaces for corrosion and measure the depth of corrosion where applicable.
- Check steel grid decks for slipperiness caused by excessive wear.
- Examine connections for broken or failed components.
- Investigate filled-grid decks for grid expansion at joints and bridge ends caused by corrosion.

### Trail Bridges

Inspect trail bridges for tripping hazards and for compliance with the provisions of the Americans with Disabilities Act.

### EXPANSION JOINTS

Check deck joints for:

- Dirt and debris accumulation which can cause damage to the deck and backwall because normal expansion and contraction is prevented. Joint material may fail where dirt and debris is continually driven into the joint.
- Proper alignment where both sides of the joint should be at the same level and without differential displacements.
- Damage to seals from traffic, road equipment, and debris which can cause the seals to be torn, pulled out of the anchorage, or totally removed.
- Indiscriminate overlays where new pavement is placed over the deck joints which can impair the function of the joint.



- Proper function and for corrosion of joint supports where larger expansions and contractions are accommodated by transverse beams beneath the deck.
- Proper function and for corrosion of joint anchorage devices.

## WEARING SURFACES

Timber wearing surfaces usually consist of longitudinal timber members placed over the deck. These members may be placed across the entire width of the deck to protect the deck planks or may be placed longitudinally in strips along the wheel lines, which are called running planks. The timber wearing surface should be inspected for wear, weathering, impact damage, and for loose fasteners.

Aggregate wearing surfaces generally consist of coarse aggregate with or without a binder substance. Inspect the aggregate wearing surface for loss of material and for break-up where a binder substance was used.

Chip Seal wearing surfaces consist of aggregate and asphalt material. Inspect the chip seal wearing surface for raveling, cracking, loss of material, break-up, and exposure of the deck surface.

Asphalt wearing surfaces can be found on timber, concrete, and steel decks. Inspect asphalt wearing surfaces for raveling, cracking, corrugations, depressions, and failed edges.

Concrete wearing surfaces should be inspected for cracking, scaling, spalling, corroding reinforcement, chloride contamination, and delamination.

For Trail Bridges, see the requirements under Deck Slab, above.

## RIDEABILITY

Rideability refers to the smoothness and integrity of the travelway surface. Drive across the structure at the posted speed of the road and note rough transitions or rough areas. If there is no posted speed limit, use the design speed of 30 mph.

## CURBS/WHEEL GUARDS

Curbs and wheel guards are generally constructed of timber or concrete. Timber members should be inspected for wear, weathering, decay, cracking, splitting, crushed fibers, connection deficiencies, impact damage, and damage from wild fires.

Concrete members should be inspected for cracking, scaling, spalling, efflorescence, impact damage, corrosion of reinforcing steel, and exposed reinforcement.

## PARAPETS/RAILINGS

Railings and parapets are constructed of timber, concrete, steel, or aluminum. Timber members should be inspected for wear, weathering, decay, cracking, splitting, crushed fibers, connection deficiencies, impact damage, and damage from wild fires.

Concrete members should be inspected for cracking, scaling, spalling, efflorescence, impact damage, corrosion of reinforcing steel, and exposed reinforcement.

Steel and aluminum members should be inspected for bent or damaged components and damage identified as being caused by collision or fire, corrosion, fatigue cracking, stress-related cracking, and connection deficiencies.

Check the railings for trail bridges to ensure that they accommodate the general use of the structure. The general use could include, but is not limited to pedestrian, equestrian, bicycle, and off-highway vehicular traffic.

## DRAINS AND DRAINAGE

Drainage system elements include grates, deck drains and inlets, drainage troughs, and outlet pipes. Grates, deck drains and inlets, drainage troughs, and outlet pipes should be inspected for general condition, should be free of debris, and free to allow drainage from the deck to ensure the deck remains free of standing water. Outlet pipes carry drainage water away from the structure. They should be inspected for general condition to ensure that no drainage water is discharged onto any portions of the structure.

## UTILITIES

Any utilities carried by the structure should be inspected for condition to ensure that they pose no hazard to the structure. Ensure all connections are secure. Also, note any new utilities that have been added to the structure since the last inspection.

## DEFLECTION/VIBRATION

The deck should be checked for deflections and/or vibrations under live loads if possible. Any excessive deflections or vibrations should be noted.

## SUPERSTRUCTURE

### BEARING DEVICES

Bearing devices are superstructure elements that provide an interface between the superstructure and the substructure. Bearing devices transmit all loads from the superstructure to the substructure, permit longitudinal movement of the superstructure due to thermal expansion and contraction, and allow rotation caused by dead load and live load deflections. Bearings that allow for translation or movement of the superstructure are expansion bearings while bearings that do not allow for translation are fixed bearings. Both expansion and fixed bearings permit rotation.

Steel bearing devices should be inspected for debris accumulation, corrosion of parts, looseness, misalignment, cracked welds and sheared or loosened fasteners. Steel bearings should be investigated for frozen conditions. Frozen bearings indicate that the bearings have become inoperable due to corrosion, mechanical binding, debris buildup or other interference. Evidence of a frozen bearing includes bending, buckling, improper alignment of members, or cracks in the bearing seats. Bearings should be properly aligned and the bearing surfaces should be clean and free of debris and in full contact with each other. Movements of bearing devices can be recorded by measuring differential movements between points on the bearing surface and the bearing device during each inspection. The temperature at the time of the inspections should be noted.

Elastomeric bearing devices should be inspected for debris accumulation, excessive bulging, splitting or tearing, and displacements or movement, uniform lateral thickness, and sheared or loosened fasteners. Longitudinal movements of elastomeric bearing devices can be measured by determining the horizontal offset between the top edge of the pad and the bottom edge of the pad. The temperature at the time of the inspection should be noted.

### GIRDERS OR BEAMS, ARCHES OR SLABS, FLOOR BEAMS AND STRINGERS, TRUSSES, DIAPHRAGMS AND BRACING

#### Timber

The most common defects in timber members include damage by fungi, parasites, fire, impact and collisions, abrasion and wear, weathering and warping, and overstress.

- Examine all members for checks, splits, decay, fire damage, insect damage, and bird nests.
- Investigate bearing areas of all members for crushing of fibers.
- Inspect the ends of the member for decay and insect damage where soil, debris, and moisture can accumulate.
- Check the ends of all members in bearing areas for decay and insect damage.
- Examine the maximum shear and tension zones for signs of structural distress.

- Investigate the top surfaces of the members where deck planks are attached for decay.
- Inspect for section loss due to decay or fire along the entire length of the member and especially near mid-span or at the ends.
- Check the ends of truss members where moisture can be trapped for decay and insect damage.
- Examine the horizontal and vertical alignment of trusses to detect permanent misalignments.
- Investigate for horizontal shear cracks near the ends and along the entire length of the member.
- Inspect all glued-laminated members for horizontal shear cracks and delamination. Delaminations can be caused by failure of the glue or failure of the bond between the glue and the wood.
- Check for signs of decay and insect damage along the full length of the member but especially where the member is subjected to continual wetness.
- Examine the members for excessive deflection or sagging.
- Investigate all fasteners for corrosion, loss of section, and for loose or missing fasteners.
- Inspect connections of bracing members to the main members for tightness, cracked or split members, and corroded or missing fasteners.

### Concrete

The common defects that occur on concrete bridges are cracking, scaling, delamination, spalling, efflorescence, honeycombs, pop-outs, wear, collision damage, abrasion, overload damage, reinforcing steel corrosion, and prestressed concrete deterioration.

- Check bearing areas for spalling due to friction from thermal movement and due to high bearing pressures.
- Examine the areas near the supports for diagonal (shear) cracking.
- Investigate the tension areas for flexure cracks.
- Inspect the tension zones for deteriorated or disintegrated concrete. This could be caused by extreme bending stress and could result in debonding of the tension reinforcement. This would include delamination, spalls, and contaminated concrete (efflorescence)
- Check cracks for rust stains which would indicate corrosion of the steel reinforcement.
- Examine all areas for exposed and corroded reinforcement.
- Investigate areas that may have been damaged by collision or fire.
- Inspect areas that have been previously repaired.
- Check acute corners of skewed, cast-in-place slab bridges for cracking.
- Examine tie bolts for precast members where applicable for tightness and corrosion.

- Investigate the bottom face of prestressed slab sections, box beams, I-beams, and bulb-tees for flexure cracks which could indicate loss of prestress or overloading.
- Inspect prestressed slab sections, box beams, I-beams, and bulb-tees for evidence of sagging which indicates a loss of prestress.
- Check the prestressed slab sections, box beams, I-beams, and bulb-tees for exposed prestressing strands.
- Examine the areas between prestressed slab sections and box beams for leakage or individual deflections under live load which indicates loss of lateral post-tensioning or failed shear keys.
- Investigate the top face of prestressed slabs near the ends for tensile cracks caused by prestress eccentricity.
- Inspect the ends of prestressed box beams for horizontal or vertical cracks which can indicate inadequate reinforcing steel.
- Check the sides and bottom chamfer areas and the bottom faces near the bearings of prestressed box beams for cracks. Cracking at the ends may indicate restricted movement of the bearing assemblies.
- Examine areas exposed to roadway drainage for deteriorated concrete, especially near drains and scuppers.
- Investigate the fixed diaphragms for I-beams and bulb-tees for diagonal cracking.
- Inspect the intermediate diaphragms for I-beams and bulb-tees for cracking and spalling concrete.
- Check bearing areas of arches for crushing.
- Examine the arch/skewback interface of arches for loss of section due to spalls.
- Investigate the arch members for longitudinal cracking.
- Inspect the spandrel column/cap interface and floor system/bent cap for loss of section due to spalls.
- Check the spandrel column for diagonal cracking indicating differential arch rib deflection.
- Examine the ends of the spandrel bent caps for shear cracks.
- Investigate arches near strut connections for diagonal cracks, which are caused by torsional shear.
- Inspect the compression areas throughout the arches and spandrel columns for transverse or lateral cracking indicating excessive surface tension stresses caused by buckling forces and moment.
- Check the arch ring of closed spandrel arches for sound concrete and for transverse cracking.
- Examine the weep holes for closed spandrel arches to see that they are clear and functioning.
- Investigate rigid frames for horizontal cracks in the compression areas.

## Steel

The most common defects that occur in steel superstructures include corrosion, fatigue cracking due to out-of-plane distortion, collision damage, overload damage, and heat damage.

For rolled beams, fabricated girders, floorbeams, and stringers:

- Inspect the web areas in the shear zones near the supports for loss of section due to corrosion, buckling, or for web crippling due to overloads.
- Check the compression and tension flanges in the flexure zone for corrosion and loss of section.
- Examine the flanges in high stress areas for flexure-related damage caused by live loads. Inspect the compression flange for local buckling and the tension flange for elongation and fractures.
- Investigate the areas surrounding the ends of welded cover plates on the tension flange for fatigue cracking.
- Inspect any attachment welds located in the tension zones and stiffener welds, welded flange splices, and intersection welds for fatigue cracking.
- Check for out-of-plane distortions in the girder webs at diaphragm connections which can cause web cracks near the flanges.
- Examine all members for accumulations of debris and bird nests.

For other members:

- Investigate secondary members or diaphragms for loose fasteners or cracked welds.
- Inspect the connection areas of lateral bracing for cracked welds, fatigue cracks, and loose connections.
- Check distortion, such as bowing and buckling, in lateral bracing members.
- Examine pin and hanger connections for corrosion that could freeze the joint and change structural behavior.
- Investigate hanger plates for cracks due to bending caused by a frozen pin connection.
- Inspect the hanger plate for out-of-plane distortion from the girder webs.
- Check the curb lines and the ends of through girders for collision damage.
- Examine tension members of trusses for corrosion and cracks.
- Investigate compression members of trusses for corrosion and for buckling which can be an indication of overstress.
- Inspect chord members for corrosion and general deterioration.
- Check end posts and web members for collision damage.
- Examine arch rib members for buckling and crippling and general deterioration and corrosion.
- Investigate the end connections of spandrel columns and spandrel girders for cracks and loose fasteners.

- Inspect the spandrel girders for flexure damage.
- Check both ends of arch hangers for corrosion and cracks.
- Examine the alignment of arch hangers for collision damage.
- Investigate the welds for any attachments to the arch hangers for cracks.
- Inspect all areas exposed to traffic for collision damage.
- Check the main suspension cables for suspension bridges for corroded, frayed, and broken wires. Inspect the condition of the protective covering or coating along the entire length of cable and especially at the areas adjacent to the cable bands, saddles over the towers, cable bent piers, and anchorages.
- Examine suspender ropes or cables for corrosion or deterioration, broken wires, kinks or slack, or abrasion or wear at sockets, saddles, clamps, and spreaders.
- Investigate suspender cable sockets for corrosion, cracks, or deterioration, abrasion at the connection to the bridge superstructure, or for possible movement.
- Inspect the saddles at the tops of the towers for missing or loose bolts, slippage of the main cable, corrosion or cracks in the casting, and for proper connection to the top of the tower or supporting member.
- Check anchorage assemblies, including any anchor bars or rods, splay saddles, strand sockets, strand shoes, or other parts for corrosion, deterioration, cracks or other signs of distress, signs of movement, misalignment, and missing or loose bolts.
- Inspect all connections for loose and missing hardware.

Note: Two-girder bridges, through girder bridges, nonredundant two-girder bridges with pin and hanger connections are fracture critical bridges.

## PAINT

Paint is a type of protective coating that is used to protect members of timber, concrete, and steel construction from environmental forces that cause timber to decay, concrete to deteriorate, and steel to corrode. Paint systems should be inspected to ensure that protection of the structure is maintained.

### Timber

Either oil-based paints or latex paints are used on timber for protection against both moisture and weathering. The following failures are characteristic of paint on timber:

- Cracking and peeling which extends with the grain of the wood.
- Blistering which is caused by paint being applied over an improperly cleaned surface.
- Chalking which is the degradation of the paint caused by ultraviolet light and results in a powdery residue.
- Erosion of the paint which is a general thinning of the paint due to chalking, weathering, or abrasion.

- Penetration of mold, which is a type of fungus, through cracks in the paint surface which causes the timber to decay.
- Growth of mildew, which is also a fungus, on the paint surface.

## Concrete

Oil-based paint, latex paint, epoxy paint, and urethanes are types of paint used on concrete surfaces to prevent the penetration of water and chlorides into the concrete. The entry of water and chlorides causes the reinforcing steel to corrode which causes cracking, delamination, and spalling of the concrete. The following failures are characteristic of paint on concrete:

- Peeling which can be caused by poor adhesion between the primer layer and the concrete surface, or by poor bonding between coating layers, or by the deposition of waterborne salts or efflorescence beneath the coating.
- Chalking which is the degradation of the paint caused by ultraviolet light and leaves a powdery residue.
- Erosion of the paint which is a general thinning of the paint due to chalking, weathering, or abrasion.
- Checking which is composed of short, irregular breaks in the top layer of paint, exposing the undercoat.
- Cracking which is similar to checking except that the breaks extend through all paint layers to the concrete substrate.
- Microorganism failure which occurs when bacteria and fungi feed on paint containing biodegradable components.
- Saponification which results from a chemical reaction between concrete and oil-based paint and destroys the paint leaving a soft residue.
- Wrinkling which is a rough, crinkled paint surface caused by excessive paint thickness or excessive temperatures during the painting operation.

## Steel

Oil/alkyd paint, vinyl paint, epoxies, epoxy mastics, urethanes, zinc-rich primers, and latex paint are types of paint used on steel surfaces to prevent corrosion. The following failures are characteristic of paint on steel:

- Chalking, erosion, checking, cracking, and wrinkling as occurs in paint on concrete as listed above.
- Blisters which are caused by painting over oil, grease, water, salt, or by solvent retention. Corrosion can occur under blisters without being visible.
- Undercutting which is the rusting, blistering, or peeling of paint over corroding steel that undermines intact paint and causes blisters and peeling. It commonly occurs along scratches that expose the steel surface or along sharp edges.



- Pinhole rusting which occurs at tiny, deep holes in the paint that exposes the steel surface or at the peaks of the roughened steel surface which is coated by a thin layer of paint.
- Microorganism failure which occurs when bacteria and fungi feed on paint containing biodegradable components, such as oil/alkyds.
- Alligatoring is a widely spaced checking failure that occurs during the drying process when the paint surface shrinks more rapidly than the body of the coating. The large surface cracks do not reach the steel substrate.
- Mudcracking is a widely spaced checking failure that reaches the surface of the steel substrate and often occurs in the application of inorganic zinc-rich primers.
- Bleeding occurs when soluble colored pigment from an undercoat penetrates the topcoat, causing discoloration.

#### Atmospheric Corrosion Resistant Steel

Atmospheric corrosion resistant steel or weathering steel develops a protective oxide film which seals the surface of the member from further corrosion when exposed to the atmosphere. The oxide film is actually a layer of surface rust which protects the member from further corrosion and loss of material thickness.

Weathering steel should be inspected in the following locations:

- Where steel remains damp for long periods of time because of condensation, leaky joints, or traffic spray.
- Where debris accumulates.
- Where the steel is exposed to salts and atmospheric pollutants.

Weathering steel with any of the following conditions should be thoroughly inspected:

- Laminar texture of steel surfaces, such as slab rust or thin and fragile sheets of rust
- Granular and flaky rust texture of steel surfaces
- Very coarse texture
- Large granular (1/8-inch diameter) texture
- Flakes (1/2-inch diameter)
- Surface rubs off by hand or by wire brush revealing a black substrate
- Surface is covered with deep pits

If such conditions are found, the following steps should be taken to determine the condition of the oxide film:

- Scrape the surface of the steel to bare metal
- Check to determine the extent of pitting
- Measure the metal section loss with thickness gauge

Data obtained during the inspection should include visual observations of the steel including the color, texture, and flaking; physical measurements with a thickness gauge; and observations of environmental conditions. A benchmark for future measurements should be established when the thickness of the steel is first measured.

#### FASCIA

Fascia is an outer, covering member designed for architectural effect rather than for strength and rigidity.

These members should be inspected for general condition.

#### DEFLECTION AND/OR VIBRATION

Superstructure members should be checked for deflections and/or vibrations under live loads if possible. Any excessive deflections or vibrations should be noted.

#### ALIGNMENT

Alignment refers to the geometric positioning of the superstructure members. The alignment of the members should be checked to determine any movements or shifting.

#### **SUBSTRUCTURES**

The three major types of substructure units are abutments, piers and bents, and wingwalls. An abutment is a substructure unit at the end of the bridge that provides support for the end of the superstructure and retains the approach embankment. A pier or bent is an intermediate substructure unit that supports the superstructure at intermediate intervals. Wingwalls are the walls at the sides of an abutment which enclose the approach embankment and are considered retaining walls. The most common problems observed during the inspection of substructure elements are:

- Vertical movement
- Lateral movement
- Scour
- Rotational movement
- Failure of material

Vertical movement can be uniform settlement or differential settlement. Uniform settlement may not be serious but differential settlement may produce serious distress in a

bridge. The most common causes of vertical movement are soil bearing failure, consolidation of soil, scour, and deterioration of the foundation material.

Inspection for vertical movement or settlement should include:

- Check the joint opening between the end of the any approach pavement and the deck and the joints in the deck above the piers.
- Investigate existing and new cracks for signs of settlement.
- Inspect the superstructure for evidence of settlement.
- Check for scour around the footing or foundation for the substructure unit.
- Examine the joint that separates the wingwall and abutment.
- Inspect for buckling in steel columns of the pier or bent.

Earth retaining structures such as abutments and wingwalls, are susceptible to lateral movements, or sliding. The most common causes of lateral movement are slope failure, seepage, changes in soil characteristics and consolidation of original soil over time.

Inspection for lateral movement or sliding should include:

- Examine the general alignment of the abutment.
- Investigate the bearings for evidence of lateral displacement.
- Inspect the opening in the construction joint between the wingwall and the abutment.
- Check the joint opening between the deck and any approach pavement.
- Examine the distance between the end of the superstructure and the backwall.
- Investigate for clogged drains or weep holes.
- Inspect for erosion of the embankment material in front of the abutment.
- Check the linear alignment of the bridge railing or barrier.

Scour is the removal of material from the streambed caused by the erosive action of water currents. Scour can cause undermining of abutments and piers. Inspection for scour should include probing around the abutment and piers for signs of undermining.

Rotational movements, or tipping, of substructure elements is generally the result of unsymmetrical settlements or lateral movements. The most common causes of rotational movement are scouring, saturation of backfill, erosion of backfill along the sides of the abutment, and improper design.

Inspection for rotational movement should include:

- Check the vertical alignment of the abutment and pier.
- Investigate the clearance between the beams and the backwall at abutments and between the ends of beams at piers.
- Examine for clogged drains or weep holes.
- Inspect for cracks and spalls.

The most common forms of failure of the various construction materials used in substructure units are as follows.

Concrete:

- Cracking
- Spalling
- Scaling
- Crushing
- Exposed reinforcement.

Stone masonry:

- Weathering
- Spalling
- Cracking
- Splitting
- Mortar cracking and deterioration

Steel:

- Corrosion
- Cracking
- Buckling

Timber:

- Decay
- Insects
- Marine borers
- Vermin damage
- Weathering
- Fire damage
- Vegetation growth

Inspection for failure of concrete and stone masonry in substructure units should include:

- Inspect for disintegration of the concrete at the splash zones, waterline, ground line and wherever concrete is exposed to roadway drainage.
- Check the bearing seats for cracking and spalling.
- Examine for the presence of debris and standing water on the bearing seats.
- Investigate for deteriorated concrete in the areas exposed to roadway drainage, including the joint between the backwall and the abutment.
- Inspect the backwall for cracking and possible movement.

- Check the pier columns and the pier bent caps for cracks.
- Examine grout pads and pedestals for cracks, spalls, and deterioration.
- Investigate for any significant changes in clearance which would indicate pier movement.
- Inspect all pier and bent members for structural damage caused by collision or overstress.
- Check the construction joint between the backwall and the abutment.
- Examine stone masonry for vegetation, water seepage through cracks, loose, split or missing stones, weathering, and spalled or loose blocks.
- Investigate weep holes to see that they are clear and functioning.

Inspection for failure of steel substructure units should include:

- Inspect the bearing seat area for buildup of debris and soil.
- Check the bearing seat area for corrosion and section loss.
- Examine piles and pier bents closely for corrosion at the ground line.
- Investigate for scour and erosion around piles.
- Inspect steel caps for rotation due to eccentric connections
- Check for debris and trash around piles and pier bents.
- Examine bracing for broken connections and loose fasteners.
- Investigate the condition of any web stiffeners
- Inspect all fasteners and connections for corrosion and tightness.
- Check pier columns and pier caps for cracks.
- Examine for any significant changes in clearance which would indicate pier movement.
- Investigate all pier and bent members for structural damage caused by collision, buckling, or overstress.

Inspection for failure of timber in substructure units should include:

- Inspect bearing seat for accumulated debris and soil and prolonged exposure to moisture.
- Check for splitting and crushing of the cap beam in bearing areas.
- Observe caps for excessive deflection.
- Check for local failures in lagging or piles due to lateral movement.
- Examine timber lagging, piles, caps, and bracing for splits, cracks, decay, insect damage, and fire damage.
- Investigate for scour around piles.
- Inspect piles for decay at or near the ground line or waterline.
- Check splices and connections for tightness and for loose bolts.
- Examine piles and pile bents in marine environments for the presence of borers and insects.

## CHANNEL

### ALIGNMENT

The capacity of the waterway can be reduced by shifts in the direction of the path of flow. This reduction of the waterway capacity can increase local and general scour and may lead to the failure of the structure. Observations of local changes in flow directions and in stream bed and bank elevations must be made to rate the severity of increasing misalignment in the flow on bridge safety.

### EROSION AND/OR SCOUR

There are three forms of scour that must be considered in evaluating the safety of bridges:

- General scour
- Contraction scour
- Local scour

General scour is the general degradation of the stream bed along a considerable length of channel. It is the result of natural erosion and downcutting process. Factors that may cause changes in general scour include water resource development, changes in channel alignment, changes in channel dimensions, and land use changes. These changing conditions may cause aggradation, loss of waterway cross section, or general scour and should be related to specific causes to assess the safety of the bridge.

Contraction scour results from the acceleration of flow due to either a natural contraction of channel width or a bridge contraction. Contraction scour occurs whenever the length of bridge contracts the flow. Constriction and contraction scour may be inspected by comparing the width of the bridge opening to the width of the channel upstream and downstream of the bridge.

Local scour is the erosion of material adjacent to the abutments and around the piers. These obstructions accelerate the flow and create vortices that remove sedimentary particles from around the obstructions. To properly evaluate local scour and impacts of changes in hydrologic and hydraulic conditions on local scour, a historical record of the changes should be established and maintained during successive inspections.

### CHANNEL PROTECTION

Erosion of channel banks indicates a potential for channel movement and channel protection may be required. To provide protection for bridges against lateral migration of the channel and against high velocity flows and scour, flow control structures may be used at the bridge, upstream from the bridge, or downstream from the bridge. Flow control structures include:

- Riprap
- Gabions
- Other types of protection such as articulated concrete mats, concrete filled bags, mattresses, jacks, dikes, spurs, spur dikes, embankment spurs, and check dams.

When inspecting riprap, gabions, and other types of surface protection, look for:

- Separation of joints
- Exposure of underlying materials
- Steepening of the surface upon which the materials are placed
- Slippage of the materials downslope into the river
- Oversteepening of the protective material
- Loss of portions of the materials

## WATERWAY OBSTRUCTIONS

Inspect the waterway for any obstructions, such as accumulations of debris, vegetation growth, beaver dams, and deposits of sediment which may restrict the channel and increase the potential for scour. Also note any changes in the upstream and downstream channel such as aggradation or degradation of the streambed and any bank erosion which could cause changes in the channel alignment.

## APPROACHES

The primary function of the approach roadway is to provide a smooth transition between the roadway surface, paved or unpaved, and the bridge deck. A smooth transition decreases the impact forces on the structure which increases bridge safety.

The four basic elements of a typical approach roadway is;

- Pavement structure
- Subgrade
- Embankment
- Embankment foundation

The bridge approach should also provide a safe transition for vehicular traffic onto the bridge. Note any deficiencies associated with sight distance, vertical and horizontal alignment, approach speeds, and visibility, including vegetation growth obscuring the ends of the bridge.

## APPROACH SLABS

An approach slab is a concrete slab that rests on the abutment and spans over the area where excavation for the abutment foundation occurred. Other pavement structures include bituminous approaches and graveled approaches. Inspect approach slabs for settlement, heaving, other movements and the failure of the material. Also, note any potholes or animal burrows.

## RELIEF JOINTS

A relief joint is the joint between the approach slab or bituminous pavement and the backwall. Approach slabs and pavement tends to migrate towards the bridge which causes loading against the abutment backwall. Relief joints are used to relieve this additional loading on the abutment. Relief joints for concrete slabs are usually sealed while sacrificial asphalt strips are used with bituminous pavements. Note any vegetative growth, accumulation of debris, settlement, or vertical or horizontal displacements.

## APPROACH GUARDRAIL

Guardrail placed on the approaches to the bridge is to protect vehicular traffic from the hazards of the bridge site. The approach guardrail should provide a safe transition to the bridge railing. Inspect the guardrail to:

- Verify that safety standards are met. These standards include acceptable heights, materials, strengths, and geometric features such as post spacings.
- Document any collision damage.
- Document any deterioration which could weaken the system. Timber members should be inspected for weathering, decay, cracking, splitting, crushed fibers, and damage from wild fires. Steel and aluminum members should be inspected for bent or damaged components and damage identified as being caused by corrosion, fatigue cracking, stress-related cracking, and fire.
- Note loose and missing hardware.

## SURFACING

The surfacing should provide a smooth riding surface, free of potholes, and properly sloped or graded for adequate drainage. The riding surface should not compromise the quality of ride for a vehicle traveling at the posted speed limit.



## EROSION

Embankment slopes should have adequate protection to prevent erosion. Inspect the embankment slopes for erosion which could have an adverse effect on the approach roadway surface.

## SETTLEMENT

Vertical settlement of the approach roadway is caused by the consolidation or loss of embankment material. Settlement is a problem near the abutment where compaction efforts during construction are hampered. Any vertical displacement of the approach roadway should be documented and the cause evaluated.

## SIGNS

Verify that all appropriate signage are in place and undamaged at the structure. Such signs include:

- Object markers
- Weight limit signs
- Speed limit signs
- Narrow bridge signs
- One-lane bridge signs

## RETAINING WALL

The items under retaining walls are covered as wingwalls in Substructures.

## TRAFFIC SAFETY FEATURES

The rating codes for traffic safety features are used for the evaluation or the appraisal of the function and adequacy of the traffic safety elements rather than as an appraisal of the condition of these items. The data collected for these items shall apply to the route over the bridge rather than as documentation of collision damage or deterioration of the safety features. The actual conditions of the traffic safety features should be documented in other areas of the inspection report.

Traffic safety features for bridges include bridge barriers, approach guardrail, transitions, end treatments, and median barriers where applicable. Bridge barriers include bridge railing and pedestrian railing. See AASHTO's Roadside Design Guide for information on traffic safety features.

AASHTO sets minimum criteria for acceptable bridge railing. The criteria include the height, material, strength, and geometric features of the railing. The inspector should be familiar with these criteria and guidelines and should verify that the bridge railing is acceptable. Also, to meet minimum criteria, a barrier system must be crash tested under current requirements for vehicle weights, velocities, and angles of impact. Pedestrian railing is a fence-like barrier built along the outermost edge of sidewalks and is used to guard or guide the movement of pedestrian traffic.

Metal bridge barriers should be firmly attached to the deck and should be functional. Investigate for corrosion and collision damage. Concrete bridge railing is generally cast-in-place and engages reinforcing bars to develop anchorage. Inspect for deterioration and spalling, check the attachment of any additional railing members, and look for collision damage. Timber bridge barriers should be firmly attached to the deck or superstructure. Inspect members for typical timber deterioration such as checking, splitting, cracking, crushed fibers, and decay and for collision damage. Check connections for loose or missing hardware.

The approach guardrail is the first rail that is encountered near the bridge and is used to protect motorists from the hazards of the bridge site. It should be of adequate length and strength to redirect an impacting vehicle with a minimum of damage to the vehicle. Standards are available which specify acceptable heights, materials, strengths, and geometric features.

The inspector should verify that the appropriate standards are met. The dimensions of the rail and the post spacing should be noted. Collision damage and any deterioration of the guardrail which could weaken the system should be documented. Also any missing or loosened hardware should be noted. Generally, timber approach guardrail does not meet minimum criteria for strength unless specifically designed for impact.

The transition is the portion of the approach guardrail that is connected to the bridge railing. A proper transition is characterized by a stiffening of the approach guardrail, which is usually accomplished by narrow post spacings near the ends of the bridge. The transition design should be geometrically compatible with the bridge railing to provide a smooth transition.

Check the approach guardrail transition to the bridge railing for a smooth transition, rigid attachment, and reduced post spacing. Timber should not be used for the rails in transitions.

Approach guardrails are modified at the ends to prevent a vehicle from becoming impaled on the ends of the rail. Basic types of approved treatment are flaring, burying, shielding, and breakaway ends. Flaring turns the ends away from approaching traffic. The ends should have sufficient flaring to prevent a vehicle from becoming impaled on the ends of the rail. Burying approach guardrail consists of gradually sloping the ends of the rail and attaching to or burying the ends in the ground. Breakaway ends are designed to fail at impact. Shielding involves the addition of an impact attenuator to the end of the

approach rail. The attenuator is a multicelled absorption system that can be filled with water, foam, or sand. The crushing of the attenuator slows the vehicle to a stop with little damage.

The types of end treatment should be noted as well as the condition of the components of the end treatment.

### **VANDALISM**

Inspect the bridge for damage caused by vandalism. Note and document any damage such as, but not limited to:

- Theft of members, signage, or hardware.
- Bullet holes in structural members.
- Bullet holes in safety features such as signs and railing.
- Graffiti

### **HAZARDS**

Inspectors should be aware of potential hazards that may exist at the various bridge sites when doing bridge inspections. Any hazards that are noticed or detected could be noted under Remarks on the Structure Load Rating sheet of the Bridge Inspection Report.

Typical hazards which could exist at bridge sites include, but are not limited to:

- Stinging and biting insects such as bees, yellowjackets, wasps, hornets, spiders, scorpions, and ticks.
- Snakes.
- Biological hazards from exposure to rodent and bird droppings.
- Deciduous shrubs such as poison ivy and poison oak.
- Swift water.
- Loose and overgrown riprap that can create a tripping hazards.
- Overly-steep embankments.
- Beaver dams or other debris as well as slick rocks, cobbles, and boulders in natural stream bottoms.

BLM Manual Handbook 9177-3

REPORTING

# Dam Failures

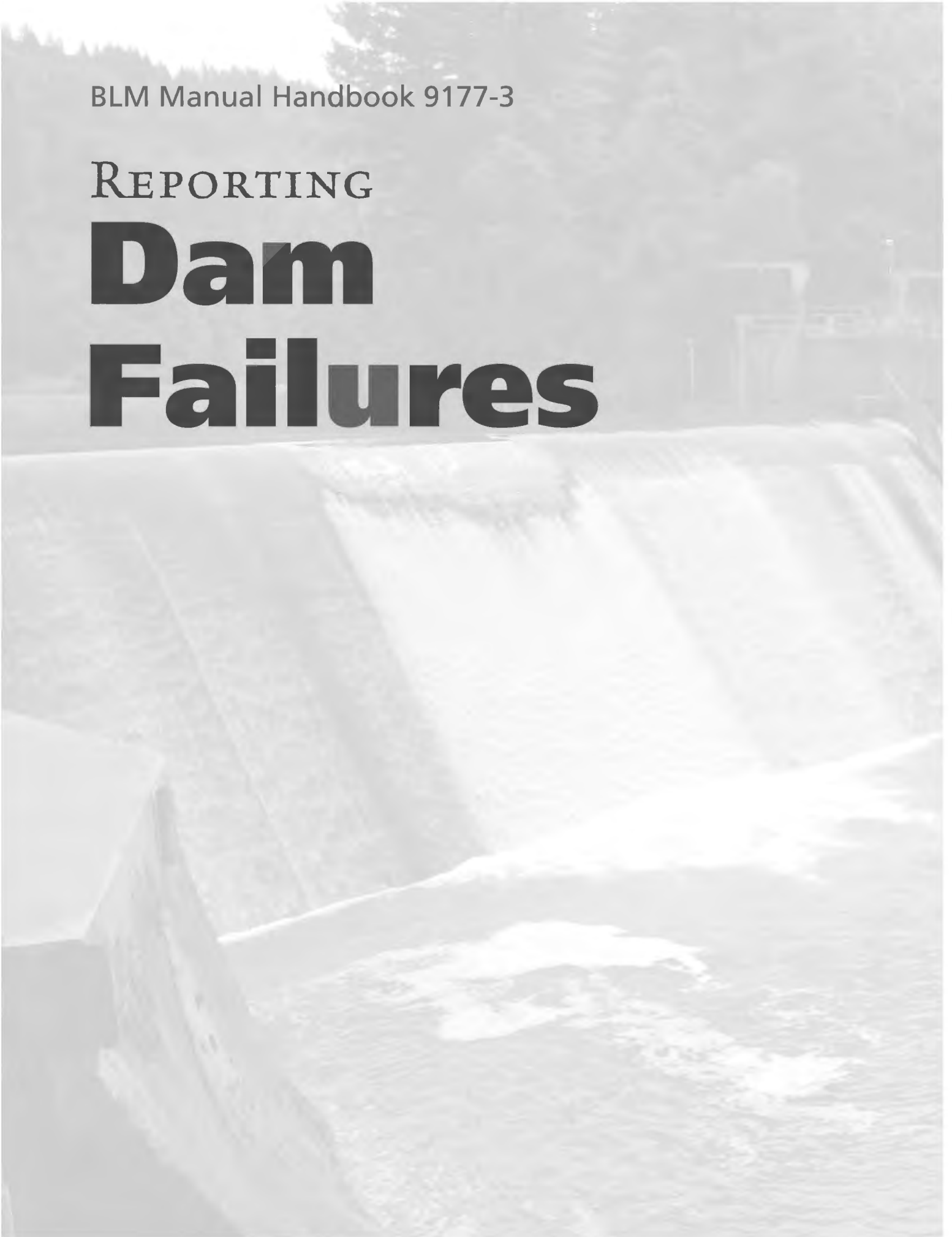
BLM



BLM Manual Handbook 9177-3

REPORTING

# Dam Failures



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## I. Introduction

The Reporting Dam Failures Handbook establishes guidelines for appointing boards of inquiry to investigate failures of dams on lands administered by the Bureau of Land Management (BLM) and the format for reporting those failures. The plan of operations followed by the board of inquiry should be based on the board's full consideration of the given problem. To ensure that all essential elements of information are collected and reported in a usable form, general instructions for the conduct of inquiries are presented in this Handbook. Plans of operations for boards of inquiry should conform to these instructions to the greatest practicable extent. The completed report must be submitted to the State Office, Chief, Branch of Engineering and Support Services, and a copy sent to the Dam Safety Officer within 60 days after the failure.

## II. Composition of Board.

The board of inquiry must be composed of, at a minimum, the State Office Dam Safety Coordinator (Chairperson); Field Office or District Office Chief of Operations or Administrative Officer; District or Zone Engineer; and one or more resource or technical specialists (as appointed by the District or Field Manager). The State Director, Field Office Manager, or District Office Manager may request assistance from other agencies on an as-needed basis.

## III. Procedures for Investigating Failures.

- A. *Inspect the Site.* Note all visible signs of the failure, evidence of watermarks, and all site conditions that may be pertinent to evaluating the failure. Include photographs in the report, as appropriate. If borings, test pits, sampling, or onsite tests are needed, contact the State Office, Chief, Branch of Engineering and Support Services, immediately to arrange for such operations.
- B. *Study all Pertinent Records and Documents.* This study should include:
  1. Reports of previous inspections by other Bureau personnel.
  2. Statements of eyewitnesses.
  3. Construction records including diaries, reports, and test records.
  4. The design file, with special regard for design investigation and survey reports, design assumptions, design criteria, and design details.
  5. Construction specifications and contract modifications.
- C. *Interview Key Personnel and Witnesses.* Preferably at the structure site, interview such Bureau personnel and eyewitnesses as may be desirable to clarify or supplement pertinent information contained in reports and documents.

#### IV. Report Format.

The following information must be incorporated into the report (Figure).

- A. *Summarize the Facts.* List the facts that are supported by evidence observed on the site, documented in investigation reports, noted in the design file, recorded in construction records, or stated by eyewitnesses. The list should include all pertinent facts, including:
1. A description of the failure, its signs and results and, if possible, a statement of the sequence and timing of events before and during the failure.
  2. A summary of the site conditions and the character of the materials, as determined by the design investigations.
  3. A description of the nature of the design with particular emphasis on the critical features that may be pertinent to the failure and a list of the acknowledged (or clearly inferred) risks taken.
  4. A summary of conditions encountered during construction, exposed by the failure, or disclosed by subsequent investigations, that differed from those assumed as a basis for design.
  5. A summary of the background of experience in the use of similar designs under similar conditions.
  6. A summary of the critical provisions of the construction specifications.
  7. A summary of items in the construction records that may: (a) be pertinent to the time sequence of the failure, (b) indicate the scope and quality of the inspection, or (c) indicate whether or not the construction complied with the critical provisions of the specifications.
  8. A summary of the actions taken after the failure.
- B. *Summarize the Possible Causes of Failure.* List all of the possible causes of failure that are consistent with the observed failure symptoms and known facts.
- C. *Evaluate Data to Determine Probable Cause.* Evaluate each possible cause of failure in light of the known facts to determine which is the most probable. Such evaluation usually must be made by a deductive process involving:
1. A careful study of the facts.
  2. A consideration of which facts are consistent with the mechanics of the assumed conditions.
  3. A consideration of which assumptions seem most plausible in light of the sequence and timing of events.
- D. *Evaluate the Collection and Interpretation of Basic Data.* Study the design file to determine whether or not sufficient basic data were collected by surface reconnaissance, surveys, subsurface investigations, materials testing, hydrologic studies, and other special studies to furnish an adequate basis for design. In the course of this evaluation, the board must judge whether:



1. The quantity of data collected is sufficient (consistent with the class of project) to represent all pertinent site conditions and hydrologic conditions.
2. The quality of the data collected is sufficient to allow reasonable confidence in the assumptions and approximations that were made in establishing design criteria.

If the quantity or quality of the basic data is not considered adequate, the board should determine whether:

1. The omissions, discrepancies, or inadequacies were noted and reported by the designer to the authorities responsible for the collection of data.
2. If such reports were made, adequate and timely measures were taken to collect the necessary supplementary data.

Having evaluated the character of the basic data, the board should judge whether design assumptions, deductions, and approximations represent a reasonable interpretation of the basic data in light of the facts known at the time the design was accomplished. Furthermore, if the record indicates that conditions encountered during construction were appreciably different from those assumed in design, the board should determine whether:

1. The changed conditions were adequately reported to the designer.
2. Appropriate action was taken to verify the adequacy of the design or to modify it to compensate for the effects of the actual site conditions.

*E. Evaluate the Design. List and evaluate the features of the design that aggravated or alleviated the apparent failure conditions. This evaluation must consider the features that are normally required by professionally accepted design criteria to protect the structure from the effects of potentially dangerous conditions inherent in the site and materials. The effect of incorporating or omitting specific design features must be carefully considered. Whenever the design file indicates that critical features were intentionally omitted or substantially modified as the result of assuming design risks, this fact must be analyzed in the light of prescribed criteria, Bureau experience, the conditions unique to the site, and professional acceptance of such risks. The board should thoroughly examine the justification for the assumption of design risk. By reviewing the pertinent files and interviewing knowledgeable personnel, the board should determine whether the assumption of risk was based on:*

1. Engineering interpretation of valid basic data.
2. Arbitrary adjustment of criteria to limitations or commitments imposed in the planning phase.
3. Arbitrary adjustment of criteria to limitations imposed by administrative decision in the operations phase. Copies of all data and correspondence bearing on the justification for the assumption of design risk should be collected and attached to the report.

F. *Evaluate the Construction Operation.* List and evaluate the elements of the construction operation that might have a critical bearing on the type of failure considered most probable. The evaluation must consider the facts from three different standpoints:

1. Whether the construction operation complied with the critical provisions of the contract specifications.
2. Whether the contract specifications were adequate as applied to the project under consideration.
3. Whether the inspection program was adequate.

G. *Prepare Conclusions.* From the evaluation of the facts, prepare the conclusions that seem to be most reasonable with regard to:

1. Whether the proximate cause of failure can be determined (if so, it must be stated).
2. Whether responsibility can be assigned to: (a) planning deficiencies, (b) investigational deficiencies, (c) design deficiencies, (d) construction deficiencies, (e) any combination of procedural deficiencies, (f) natural occurrences beyond the reasonable control of the interested parties, or (g) administrative deficiencies.
3. If a combination of deficiencies is suspected, but no tangible proof exists, that the failure could have occurred even if the construction complied with the provisions of the specifications.
4. Whether Bureau criteria, procedures, and actions were adequate.

H. *Prepare Recommendations.* Recommend actions to be taken to:

1. Repair, replace, or abandon the structure.
2. Improve planning, investigation, or design criteria or to ensure the use of existing criteria.
3. Improve construction specifications or to ensure the use of existing specifications.
4. Improve methods, procedures, and policies for planning, design, inspection, and construction management.

## H-9177-3 - Reporting Dam Failures - (Internal)

The mention of company names, trade names, or commercial products does not constitute endorsement or recommendation for use by the Federal Government.



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
MANUAL TRANSMITTAL SHEET

Release

3-398

Date

09/25/2012

Subject

9211-1 - Fire Planning Handbook

1. Explanation of Materials Transmitted: This release transmits the revised 9211-1 Fire Planning Handbook ("Handbook"). This revision updates the Handbook to reflect those changes made to the Fire Planning Manual. Changes have been made to the organization and content provided in that manual. These changes are reflected in the revised Handbook.
2. Reports Required: None
3. Materials Superseded: This release supersedes the BLM 9211-1 Fire Management Activity Planning Handbook released in February 1991.
4. Filing Instructions: File as directed below.

REMOVE

All of 9211-1 (Rel. 9-310)  
(Total: 37 pages)

INSERT

All of Revised 9211-1  
(Total: 92 pages)

*/s/ Howard Hedrick*

Acting Assistant Director  
Fire and Aviation Management

# Fire Planning Handbook



Bureau of Land Management  
Handbook H-9211-1  
September 2012



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## Introduction

This handbook provides instructions and procedures to carry out the policy and direction described in the Bureau of Land Management (BLM) Fire Planning Manual (Manual 9211). This handbook is tiered to Manual 9211 and has the same force of authority as the Manual.

This handbook contains guidance on how to meet the requirements of [Federal Wildland Fire Management Policy](#) (“Federal Fire Policy”), as well as BLM regulations and policy. It contains guidance on how to meet planning requirements and how to prepare fire management plans (FMP). This handbook recommends a course of action for accomplishing landscape-level fire planning and provides guidance supplemental to the BLM National Environmental Policy Act (NEPA) Handbook (H-1790-1) for fire management actions.

This handbook may be used to inform fire management practitioners and line officers (those with the responsibility for making fire management decisions). It may be useful, as well, to other BLM field, district, state, and national office staff for reference purposes.

This handbook is organized as follows:

**[Chapter 1](#)** – Provides an overview and explanation of policies specific to BLM fire planning.

**[Chapter 2](#)** – Describes how the fire management program fits into the BLM planning process. It includes a discussion on NEPA compliance for fire planning, and summarizes regulations that must be met at all levels of fire planning.

**[Chapter 3](#)** – Provides guidance on the processes for preparing, reviewing and revising FMPs, including guidance on developing an FMP according to the Interagency Fire Management Plan template.

**[Chapter 4](#)** – Provides guidance specific to implementing actions, treatments, and other plans associated with the FMP and includes accomplishment reporting.

**[Chapter 5](#)** – Provides guidance on adaptive management and includes specifics regarding the types and levels of associated monitoring.

**[Chapter 6](#)** – Describes how budget, budget tools, and organizations are linked with the FMP.

This handbook provides definitions of commonly used terms from the glossary of Wildland Fire Terminology developed by the National Wildfire Coordinating Group (NWCG). These definitions are listed in the Glossary section of this handbook and must be used consistently in BLM fire management planning documents. Due to potential lag-time in publishing NWCG glossary updates, please use terminology in the most recent NWCG guidance regarding terminology. Please note the most recent publication may be in the form of a NWCG Memorandum, BLM Instruction Memorandum or BLM Information Bulletin.

## Chapter I. Fire Planning Policies

This chapter provides an overview and explanation of policies specific to BLM fire management planning. Brief descriptions of the statutes, laws, and regulations that influence wildland fire management can be found in Manual 9211.

### A. *Federal Fire Policy*

The following Federal Wildland Fire Management Policy elements have been adopted as BLM policy. These elements support the nine Federal Wildland Fire Management Policy guiding principles, which can be found in Manual 9211.

1. **Safety** – Firefighter and public safety is the first priority. All fire management plans and activities must reflect this commitment.
2. **Fire Management and Ecosystem Sustainability** – The full range of fire management activities will be used to help achieve ecosystem sustainability, including its interrelated ecological, economic, and social components.
3. **Response to Wildland Fire** – Fire, as a critical natural process, will be integrated into land and resource management plans and activities on a landscape scale, and across agency boundaries. Response to wildland fire is based on ecological, social, and legal consequences of the fire. The circumstances under which a fire occurs and the likely consequences on firefighter and public safety and welfare, natural and cultural resources, and values to be protected, dictate the proper response to the fire.
4. **Use of Wildland Fire** – Wildland fire will be used to protect, maintain, and enhance resources and, as nearly as possible, be allowed to function in its natural ecological role. Use of fire will be based on approved fire management plans and will follow specific prescriptions contained in operational plans.
5. **Rehabilitation and Restoration** – Rehabilitation and restoration efforts will be undertaken to protect and sustain ecosystems, public health, and safety, and to help communities protect infrastructure.
6. **Protection Priorities** – The protection of human life is the single, overriding priority. Setting priorities among protecting human communities and community infrastructure, other property and improvements, and natural and cultural resources will be based on the values to be protected, human health and safety, and the costs of protection. Once people have been committed to an incident, these human resources become the highest value to be protected.

7. **Wildland Urban Interface (WUI)** – The operational roles of federal agencies as partners in the wildland urban interface are wildland firefighting, hazardous fuels reduction, cooperative prevention and education, and technical assistance. Structural fire suppression is the responsibility of tribal, state, or local governments. Federal agencies may assist with exterior structural protection activities under formal fire protection agreements that specify the mutual responsibilities of the partners, including funding.
8. **Planning** – Every area with burnable vegetation must have an approved fire management plan. Fire management plans are strategic plans that define a program to manage wildland and prescribed fires based on the area's approved land use plan. Fire management plans must provide for firefighter and public safety; include fire management strategies, tactics, and alternatives; address values to be protected and public health issues; and be consistent with resource management objectives, activities of the area, and environmental laws and regulations.
9. **Science** – Fire management plans and programs will be based on a foundation of sound science. Research will support ongoing efforts to increase our scientific knowledge of biological, physical, and sociological factors. Information needed to support fire management will be developed through an integrated interagency fire science program. Scientific results must be made available to managers in a timely manner and must be used in the development of land management plans, fire management plans, and implementation/operational plans.
10. **Preparedness** – Agencies will ensure their capability to provide safe, cost-effective fire management programs in support of land and resource management plans through appropriate planning, staffing, training, equipment, and management oversight.
11. **Suppression** – Fires will be suppressed at minimum cost, considering firefighter and public safety, benefits, and values to be protected, consistent with resource objectives.
12. **Prevention** – Agencies will work together and with their partners and other affected groups and individuals to prevent unauthorized ignition of wildland fires.
13. **Standardization** – Agencies will use compatible planning processes, funding mechanisms, training and qualification requirements, operational procedures, values-to-be-protected methodologies, and public education programs for all fire management activities.
14. **Interagency Cooperation and Coordination** – Fire management planning, preparedness, prevention, incident management, restoration and rehabilitation, monitoring, research, and education will be conducted on an interagency basis with the involvement of cooperators and partners.

15. **Communication and Education** – Agencies will enhance knowledge and understanding of wildland fire management policies and practices through internal and external communication and education programs. These programs will be continuously improved through the timely and effective exchange of information among all affected agencies and organizations.
16. **Agency Administrator and Employee Roles** – Agency administrators will be held accountable for ensuring that their employees are trained, certified, and made available to participate in the wildland fire program locally, regionally, and nationally as the situation demands. Employees with operational, administrative, or other skills will support the wildland fire program as necessary.
17. **Evaluation** – Agencies will develop and implement a systematic method of evaluation to determine effectiveness of projects through implementation of the 2001 Federal Fire Policy. The evaluation will assure accountability, facilitate resolution of areas of conflict, and identify resource shortages and agency priorities.

***B. Department of the Interior (DOI) Policy***

The DOI's policy on wildland fire management can be found in the [Departmental Manual Part 620 for Wildland Fire Management](#). Chapter 1 provides General DOI Policies and Procedures; Chapter 2 is specific to Alaska; and Chapter 3 discusses Burned Area Emergency Stabilization and Rehabilitation.

In Chapter 1 (620 DM 1), policy pertinent to fire management planning includes:

- i. Make full use of wildland fire both as a natural process and as a tool, and incorporate the role of wildland fire as an essential ecological process and natural change agent into the planning process. Fire may also be used as a tool to maintain and restore cultural landscapes or to dispose of vegetation and debris.
- ii. Develop FMPs, programs, and activities that are based on the best available science; that incorporate public health and environmental quality considerations; and support Bureau land, natural and cultural resource management goals and objectives.
- iii. Prepare appropriate cooperative documents in cases where wildland fires could cross boundaries between lands administered by more than one agency or landowner.

Chapter 2 (620 DM 2) provides Departmental policy and guidance regarding wildland fire suppression and organization in Alaska. It states that “BLM will maintain and operate the DOI wildland fire suppression organization in Alaska with the primary intention of providing cost-effective suppression services and minimizing unnecessary duplication of suppression systems for DOI agencies.” It also states that “BLM is authorized to provide safe, cost-effective emergency wildland fire suppression services in support of land, natural and cultural resource management plans on DOI administered lands and on those lands that require protection under the Alaska Native Claims Settlement Act...” These services will be “executed within the framework of approved fire management plans or

within mutually agreed upon standards established by the respective land managers/owners” (620 DM 2.4).

Chapter 3 (620 DM 3) provides Departmental policy on Wildland Fire Management Burned Area Emergency Stabilization and Rehabilitation. It provides definitions and objectives for emergency stabilization and rehabilitation. It establishes responsibilities for the National Burned Area Emergency Response (NBAER) coordinators designated by the BLM, the Bureau of Indian Affairs (BIA), the Fish and Wildlife Service (FWS), the National Park Service (NPS), and the Office of Wildland Fire (OWF) to function as an interagency group to coordinate program issues; establish funding priorities; plan development, implementation, and evaluation guidance; and provide training, oversight, and information.

### **C. Interagency Guidance**

The [Interagency Standards for Fire and Fire Aviation Operations](#) (commonly referred to as the “Redbook”) states, references, and supplements agency policy and is annually updated. It must be used in conjunction with current BLM fire manuals and handbooks.

To promote BIA, BLM, NPS, FWS and US Department of Agriculture (USDA) Forest Service (FS) coordination of emergency stabilization (ES) and burned area rehabilitation (BAR) efforts, two interagency guidebooks ([Interagency Burned Area Emergency Response and Interagency Burned Area Rehabilitation](#)) have been developed.

The [Interagency Prescribed Fire Planning and Implementation Procedures Reference Guide](#), combined with the [BLM supplemental guidance to the Interagency Guide](#), are the primary guidance documents for prescribed fire projects.

### **D. BLM Fire Policy**

All BLM wildland fire management planning and vegetation management policies are consistent with the federal fire policy and include:

1. [BLM Handbook H-1740-2 \(Integrated Vegetation Management\)](#) describes and clarifies agency expectations for a more consistent and unified approach to managing vegetation on public land. It further clarifies multi-program goals, objectives, and priorities relative to maintaining and restoring ecologically diverse, resilient, and productive native plant communities.
2. *BLM Manual 9211 (Fire Planning)* is the main source of policy for fire planning and must be used in conjunction with this handbook. The Fire Planning Manual 9211 provides information on the National Fire Plan authorities affecting fire policy, provides an overview of related laws, regulations, federal policies, and BLM policies, and lists BLM policies that this handbook provides expanded guidance on. Federal wildland fire management policy and guidance documents are summarized in Manual 9211.

3. *BLM Manual 9212 (Fire Prevention)* states (consistent with DOI policy 620 DM 1), it is BLM's policy that the Wildland Fire Prevention program: (1) is a high priority, and that commitment to an effective wildland fire prevention program is expected at all levels within BLM; (2) shall be designed to minimize losses from wildland fire consistent with resource objectives identified in resource management plans; (3) will stress the analysis of risks, hazards, and values, and the development of specific educational, mitigation, enforcement, and administrative actions; (4) will be coordinated with federal, state, county, and municipal agencies as appropriate; (5) at each state, district, and field office, coordination, guidance, and assistance will be provided to achieve an effective program, and that the prevention plan is integrated with the fire management and resource management process; and, (6) funding shall be consistent with the identified need as determined through a risk/hazard analysis that is approved as part of the FMP.
4. *BLM Handbook H-9214 (Prescribed Fire)* provides direction on how to implement prescribed fire in a safe, cost-effective manner to achieve resource management objectives as they are defined in land use plans and fire management plans. It provides specific direction in the areas of prescribed fire plan content, complexity rating, qualifications, use of funds, escaped prescribed fires, and prescribed fire reporting.
5. *BLM Handbook H-9238-1 (Fire Trespass)* states that fire trespass refers to the occurrence of unauthorized fire on BLM lands where the source of ignition is a result of human activity and there is evidence of negligence or intent. For human-caused fires where negligence or intent can be established, actions must be taken to recover the cost of suppression activities, emergency stabilization and rehabilitation treatments, and damages to the resources and improvements. Trespass action is both cost recovery and an effective deterrent to prevent future damage to public lands.

## Chapter II. Fire Planning Requirements

This chapter describes the fire program planning portion of the Bureau of Land Management (BLM) planning process. It includes a discussion on National Environmental Policy Act (NEPA) compliance for fire planning, and summarizes regulations that must be met at all levels of fire planning.

It is important to use and understand the correct fire management terminology with regard to fire management and BLM land use planning; therefore, please refer to the [Glossary](#) of this document, in association with the [NWCG Glossary](#), which contains the most current fire management terminology. With regard to BLM land use planning, terminology varies depending on the BLM program.

### *A. Relationships between Planning Documents*

The BLM's land use planning process provides the foundation for all BLM programs, including fire management, and ensures the public lands are managed in accordance with the [Federal Land Policy and Management Act of 1976 \(FLPMA\)](#) and regulations in 43 Code of Federal Regulations (CFR) 1600.

#### 1. *Land Use Plans (LUP)*

Fire management planning begins at the LUP level (see the [Land Use Planning Handbook – H-1601-1 Appendix C](#) for Wildland Fire Management requirements). {Please note that the terms LUP, Resource/Land Management (R/LMP), and Management Framework Plan (MFP) are considered interchangeable in this document}. Desired conditions (goals and objectives), along with allowable uses and management actions, are identified in the LUP. Goals are broad statements of desired outcomes. Objectives are usually quantifiable and measurable, and may have established timeframes for achievement. The LUP decisions are implemented using activity-level or project-specific plans. An Activity-level / project-specific plan typically describes multiple projects in detail that will lead to on-the-ground action; it is recommended they be developed through an interdisciplinary process (see H-1601-1).

The LUP must identify strategies to meet land use goals and objectives related to wildland fire management, including strategies for unplanned ignitions and hazardous fuel treatments. The LUP may provide strategies for achieving multiple objectives in response to a wildfire. The LUP identifies how wildfires will be managed given certain conditions (e.g., the management direction for suppression such as full or critical suppression areas; limited or conditional suppression areas; areas where use of fire for resource benefit would be allowed or not allowed). The NEPA analysis of these decisions must be completed during the LUP process. Subsequent NEPA analysis may be required at the activity plan level, depending on the nature of the decisions and the level of NEPA analysis conducted in conjunction with the LUP. *Fire Management Plans (FMP)*

The FMPs are the over-arching activity plans for the fire program, and are the fire manager's tool for implementing on-the-ground fire-related direction from the LUP. The FMP will carry forward the direction for landscape scale planning by more specifically outlining the management response and defining implementation actions required to meet the objectives outlined in the LUP. The geographic scope of the FMP is the fire planning unit (FPU), which consists of one or more fire management units (FMU). An interagency FMP may tier to multiple LUPs, when the FPU boundary includes multiple agencies. Additional sections provide more detailed information regarding FPUs and FMUs.

To fully implement the FMP, more specific operational and implementation plans are normally developed. These plans must tier to the goals, objectives, mitigations, requirements, etc., in the LUP and FMP (including FMU specific direction). These plans are generally referred to as operational and implementation plans.

## 2. *Operational Plans*

Operational plans are developed to guide fire operations and applicable resource programs (e.g., brush disposal plan, reseeding plan, prescribed fire plan, etc.). They are generally site-specific and designed to complete the actual treatments to help achieve LUP or FMP objectives. They will vary, depending on the needs of the particular FPU, which will drive operational plan development. These plans take the broad management direction found in the LUP, and the more specific direction in the FMP, to the level of detail necessary to implement actions on the ground.

Operational plans can be developed at various scales and are encouraged at the landscape scale, whenever possible, to better meet the intent of LUPs and FMPs. For example, a landscape scale operational plan could consider the need for treatment throughout a specific geographic area such as a watershed. The plan could contain multiple site-specific projects treatments that focus on one objective such as hazardous fuels reduction or aspen enhancement. The plan could cover one or multiple kinds of methods (such as mechanical, prescribed fire, chemical, or manual) for treatment. Another example of an implementation plan could be one that covers a specific fire management action (described in Table 1), such as a plan for implementing the use of wildland fire to achieve resource benefits.

Chapter 4 provides additional information and examples of [operational plans](#).



Figure 1. Relationship between planning documents.



3. *Fire Management Actions*

There are five primary fire management action points that fire planning efforts fall within: unplanned ignition; planned ignition (prescribed fire); non-fire fuel treatments; emergency stabilization (ES) and burned area rehabilitation (BAR); and prevention, education and mitigation. Examples of objectives and related actions/decisions covered by various plans for each of the five fire management actions points are referenced in the following table.

Table 1. Examples of objectives and related actions/decisions covered by various plans for each of the five fire management action points.

Action Point	Land Use Plan Decision	Fire Management Plan Decision	Operational Plan Decision
<p>Unplanned ignition</p>	<p>Suppress all fires that threaten the wildland urban interface (WUI). Wildfire outside of the WUI may be managed using the full range of management response. This would include the use of wildland fire in plant communities where fire played a historic role. (The identification of plant communities or situations in which fire could be managed to achieve resource objectives could be included as an appendix.)</p>	<p>In the Mountain Meadow FMU, suppress all fires in areas identified as WUI. Outside of the WUI, use limited suppression techniques to protect values at risk while allowing use of wildland fire for resource benefit.</p> <p>Allow use of wildland fire to treat up to 35 percent of the Fire Regime Condition Class (FRCC) 2 acreage in the Lower Snake Fire Management Unit over the next five years.</p>	<p>In the Mountain Meadow FMU, suppression options will include aerial and ground tactics in the WUI. No bulldozer line will be allowed in the Price Areas of Critical Environmental Concern (ACEC). Outside WUI, use full suppression tactics along flanks that could move towards WUI; use point protection on values at risk and allow use of wildland fire for resource benefit under specific prescriptive measures.</p> <p>Mechanically treat a 50-foot buffer surrounding the Golden Wilderness Study Area (WSA) to allow use of fire within the WSA.</p>
	<p>Manage the response to wildfires in sage-grouse habitat to ensure healthy sagebrush ecosystems.</p> <p>Work closely with wildlife managers to design treatments to maintain or improve sage-grouse habitat.</p>	<p>Key sage-grouse habitat areas in the Long FMU require full suppression. Coordinate annually with resource specialists prior to the onset of fire season to identify and revise key habitat areas.</p>	<p>Pre-position initial attack forces to protect key habitat areas (identified leks and wintering habitat in the Clear Creek core management unit) during Fire Intensity Level (FIL) 3-5.</p>

Table 1 (cont.). Examples of objectives and related actions/decisions covered by various plans for each of the five fire management action points.

<b>Action Point</b>	<b>Land Use Plan Decision</b>	<b>Fire Management Plan Decision</b>	<b>Operational Plan Decision</b>
Prescribed Fire	Use prescribed fire to reduce hazardous fuels in FRCC 2.	Use prescribed fire to treat 5000 acres in the ponderosa pine/grass fuel type in the Upper Moon Fire Management Unit over the next ten years.	Underburn 300 acres of ponderosa/grass in the Coal Wash project area of the Upper Moon FMU. Burn under the following parameters...
Non-Fire Fuel Treatments	Use mechanical treatment to reduce hazardous fuels in areas where prescribed fire is not feasible (e.g., FRCC 3).	Implement up to 1000 acres of mechanical treatments in the Larkin Valley FMU to reduce sagebrush density annually over the next ten years.	Chain 50 acres of dense sagebrush in the Magic Playa project area located in the Larkin Valley FMU.
ES and BAR	Develop a programmatic ES and BAR plan for the Largo Field Office to most efficiently respond after wildfire.	Native seed will be preferred in ES and BAR projects in mountain sagebrush communities in the Williams FMU.	Re-stock selective cuts in the Josten project area to levels prior to fire occurrence with Douglas fir as the dominant species.
Prevention/Education/ Mitigation	In partnership with local, state, and federal partners, build capacity within the communities bordering federal lands to reduce the risks and threats from wildland fire.	Build partnerships in San Miguel County to complete Community Wildfire Protection Plans (CWPP) for all communities identified as high risk through the region-wide risk assessment.	Implement the highest priority prevention and mitigation actions identified in the Lake Lenore, Whispering Pines, and Granite Rock CWPPs.

***B. Land Use Plan Provisions Related to Fire Management Planning***

The BLM Land Use Planning Handbook (H-1601-1, Appendix C) provides guidance on describing the planning requirements for the wildland fire management program. Meeting fire management requirements is important because all actions approved or authorized by BLM must conform to the existing LUP (43 CFR 1610.5-3). The following must be included in wildland fire management sections of LUPs:

- i. Goals and Objectives
  1. Emphasis on human life, firefighter, and public safety as overriding priorities;
  2. Recognition of the role of wildland fire as an essential ecological process and ensure coordination and consistency with vegetation management goals and objectives;
  3. Inclusion of landscape-level fire management goals and objectives;
  4. Identification of fire management priorities or criteria for setting priorities;
  5. Use of the FRCC or similar concept to describe current and desired conditions. Land-use planning must incorporate the FRCC concept by presenting the historic fire regime, current condition class, and desired future conditions.
- ii. Management Actions/Restrictions
  1. Consideration of fire management costs (i.e., suppression cost, rehabilitation cost, treatment cost, etc.);
  2. Identification of allowable uses and management actions to achieve objectives (single or multiple objectives may be achieved);
  3. Identification of geographic areas suitable and unsuitable for the use of wildland fire from unplanned ignitions to meet resource objectives;
  4. Types of fuels management treatments to be implemented;
  5. Identification of restrictions on fire management practices.

Developing fire-related goals, objectives, and desired conditions must be done in collaboration with other resource programs, especially those that have vegetation management responsibilities. Fire and resource managers are responsible for integrating their planned actions with other management actions (both agency and interagency, where appropriate, in scope) in order to ensure that fire management actions do not contradict the desired conditions of other programs.

If LUPs do not include the information required in H-1601-1, incorporation may take place in the next plan revision if revision is on-going or imminent; otherwise, an amendment for fire and fuels management is recommended. Simply referring to the FMP as the primary source of fire management guidance within the LUP is incorrect and does not meet BLM requirements. All decisions in an FMP must be in conformance with the LUP. This process is described in detail and illustrated in both the LUP Handbook, page 42, and the NEPA Handbook, Figure 1.2, page 7. If an action being considered in an FMP does not conform to the LUP, a LUP amendment must be completed prior to including the action in the FMP, or the FMP could be developed with a RMP amendment as part of a single NEPA process.

1. *Considerations of Large Fire Suppression Costs in Planning Documents*  
Appendix C of the Land Use Planning Handbook (H-1601-1) states, “Fire management strategies must result in minimum suppression costs, considering firefighter and public safety, benefits, and values to be protected; consistent with resource objectives” (H-1601-1, Appendix C).

In planning documents, the anticipated relative wildland fire suppression costs for all alternatives proposed as part of the NEPA process must be evaluated. Therefore, all alternatives developed in the supporting NEPA document for a LUP must consider how actions affect suppression costs in the short- and long-term. This analysis does not require calculation of actual monetary figures. Instead, the analysis may describe, in a relative manner, how one alternative compares with another.

This consideration is required not only at the LUP level, but at subsequent planning levels when planning efforts identify actions that may affect suppression costs. Actions that may affect fire suppression costs include:

- a. establishment of vegetation management objectives that leave land and/or resources at greater risk of damage from wildfire, and therefore, increase suppression costs;
  - b. goals and objectives that do not reflect historical burned acre averages;
  - c. unnecessary restrictions on the application of the use of wildland fire;
  - d. restrictions on suppression activities to meet other resource objectives;
  - e. actions that promote the expansion of invasive plants that alter fire regimes; or,
  - f. actions that may limit suppression access, such as road decommissioning, to meet other resource objectives.
2. *Considerations for Special Status Species in Planning Documents*  
There are numerous special status species, including plants and animals that are threatened, endangered, and BLM-sensitive on BLM lands, and any restrictions or special requirement related to those species must be addressed, as appropriate, in any planning document.

#### Sage-grouse Conservation

The Sage-grouse is of particular importance due to habitat dependencies specific to BLM managed lands. The BLM has developed policy-specific conservation measures related to wildland fire management and protecting sage-grouse habitat, including fire management [Best Management Practices](#) (BMP) and mapping [geographic data for sage-grouse habitat](#) (see also “[A Report on National Greater Sage-Grouse Conservation Measures](#)”). In areas where sage-grouse are present, specific populations and their habitat needs must be considered in fire management planning and included at the land-use planning level as well as in LUPs, FMPs, and activity plans. These plans should ensure vegetation management objectives address sage-grouse habitat, and that these objectives are integrated with fire

management objectives, including fuel treatment objectives. This includes objectives related to fire management, as well as fuels treatments. These objectives must be consistent to the maximum extent practical, with any state or regional sage-grouse conservation plans or strategies in effect.

### ***C. National Environmental Policy Act Compliance for FMPs***

This section provides assistance in determining what method may be used to comply with NEPA during fire planning. The level and detail of analysis necessary to satisfy NEPA depends upon the detail and the scope of fire management decisions being made, as well as the level or type of NEPA analysis completed at the previous level of planning. Given the range of situations regarding the status of LUPs and FMPs from state to state, decisions on how to comply with NEPA will vary. For further information, refer to DOI policy in the Departmental Manual Part 516, Chapter 11, and the BLM NEPA Handbook (H-1790-1).

1. *Tiering, incorporation by reference and Determinations of NEPA Adequacy (DNA)* are tools to use existing analyses to gain efficiencies in the NEPA process. They provide a means to focus the subsequent levels of NEPA analysis, avoid redundancy, and reduce paperwork.

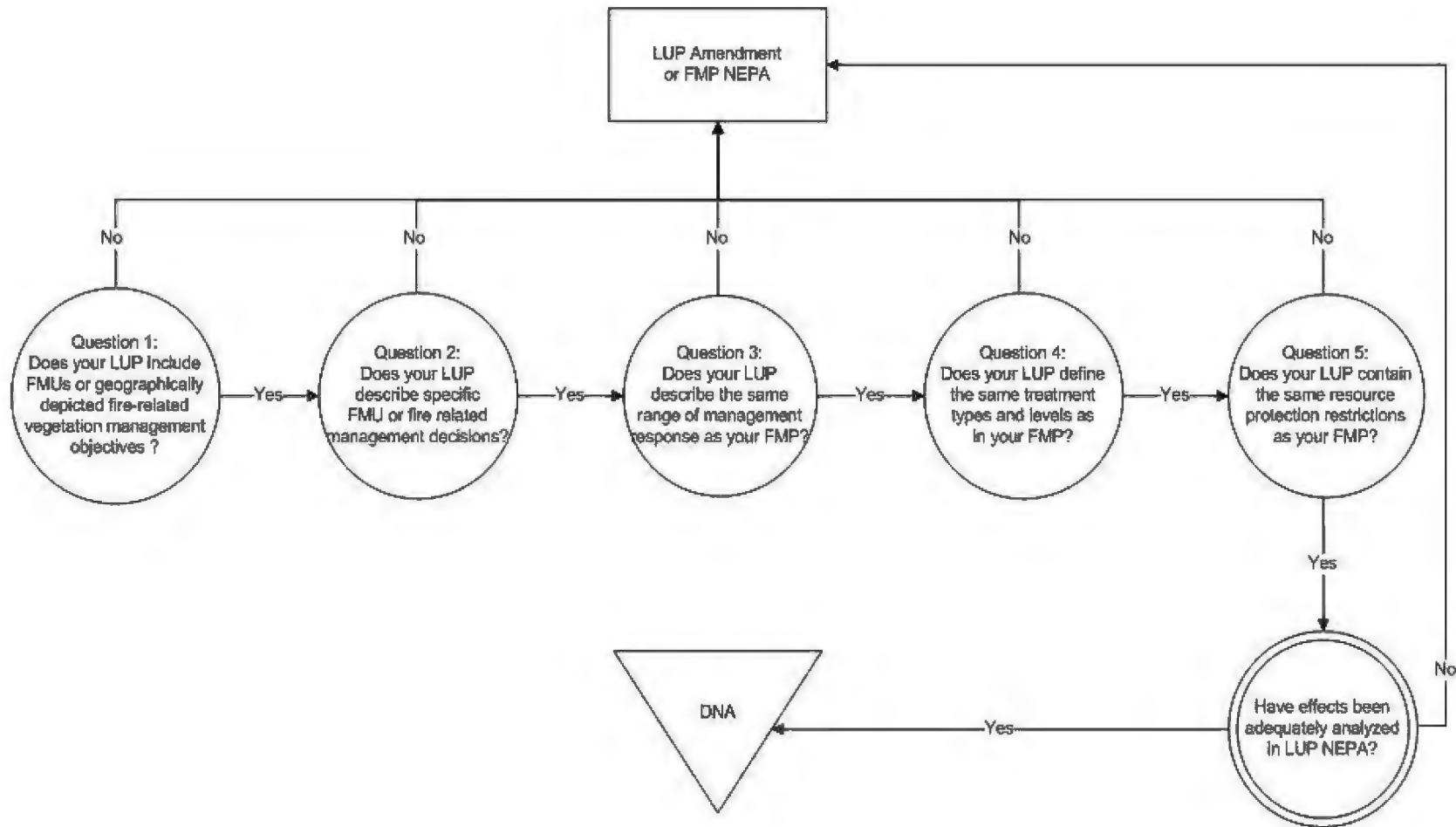
Tiering is using the coverage of general matters in broader NEPA documents in subsequent, narrower NEPA documents. A site-specific NEPA document can be tiered to a broader FMP NEPA analysis, for example, if the narrower action in the site-specific project is clearly consistent with the decision associated with the broader action and the analysis addresses the type of impacts associated with the narrower action. In the tiered document, it would not be necessary to reexamine alternatives analyzed in the broader document. The focus of the tiered document would be on those issues and mitigation measures specifically relevant to the narrower action, but not analyzed in sufficient detail in the broader document (BLM NEPA Handbook H-1790-1).

When incorporating by reference, a NEPA document can refer to other available documents that cover similar issues, effects, and/or resources considered in the NEPA analysis currently being prepared. Incorporation by reference allows for a brief summary of the relevant portions of these other documents rather than completely repeating them. It can include effects analyses done in a broader NEPA document. It requires an explanation of how the previous analysis relates to the action in question and how conclusions were derived from the previous analysis.

No further NEPA compliance would be necessary if the previous analysis is determined to be adequate for decisions at the next level. In some instances, a DNA could be prepared (*section 5.1 BLM NEPA Handbook H-1790-1*). A DNA confirms if the decision or action under consideration is adequately analyzed in existing NEPA document(s) and is in conformance with the LUP.

The following flowchart illustrates a recommended decision tree that can be used to reach a decision on whether NEPA compliance is required for the FMP. This decision tree is recommended guidance. If the FMP document includes LUP-level decisions that were not covered in the existing LUP, then a LUP amendment requiring NEPA analysis must be completed. If the FMP includes specific actions, decisions, or projects (i.e., fuel treatment work) that were not analyzed in the LUP, then you will need to complete NEPA at the FMP level

Figure 2. Decision tree recommended for determining whether or not NEPA compliance is required for the FMP.





The previous flow chart asks questions regarding the specificity of fire management direction. If answers remain “Yes” throughout the flowchart, a DNA could be prepared. If the answer to any question is “No,” then either an LUP amendment or, if the action is consistent with the LUP but requires further analysis, NEPA at the FMP level must be completed. The NEPA screening process (BLM NEPA Handbook H-1790-1) will help identify the type of NEPA compliance necessary. Whatever path is followed, the decision and the reasoning behind the decision must be documented.

Determining whether a decision is considered “new” or adequately covered in a previous NEPA document is not always straight-forward. Essentially, a decision is considered “new” if it refines, narrows, or provides sideboards to a decision from a higher level planning document and the analysis of such is not adequate in the higher-level document.

The following examples represent decisions that, if included in an FMP but not included in an LUP, may trigger a plan amendment or additional NEPA analysis. These decisions are examples only; they are not a complete list.

- i. Specific treatment locations that are only covered by broad objectives in the LUP.
- ii. Percentages of an area that can be treated to meet resource objectives and improve habitat (prescribed fire, mechanical, chemical, biological); limits could include size, intensity, equipment, and timeframes/seasonality.
- iii. Substantially different management objectives and/or strategies from the LUP.

This logic also applies at subsequent tiers of fire planning. While management response decisions are usually covered by NEPA analysis at the LUP or FMP level, implementation plans, such as prescribed fire plans, non-fire fuels treatments, or ES and BAR plans usually require separate, more project-specific NEPA analysis. Tiering and incorporation by reference can streamline the NEPA process for these implementation plans. Basically, if a new decision and the effects (individual and/or cumulative) of that decision are not analyzed adequately in a broader planning NEPA document, NEPA analysis would be triggered. On the other hand, if NEPA analysis was completed at the FMP level to cover decisions and effects for site-specific projects (such as for a five-year plan of fuels treatments), then subsequent NEPA analysis may not be needed for these site-specific projects (documentation through the DNA process showing NEPA compliance would still be needed). Significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its effects may trigger the need to conduct additional NEPA analysis.

The Department of the Interior’s policy on the NEPA can be found in the Departmental Manual Part 516, Chapter 11 and 43 CFR Part 46. The BLM guidance on managing the NEPA process is covered in the BLM NEPA Handbook (H-1790-1).

## 2. *Landscape Scale NEPA*

Landscape-scale projects (planning, analysis, implementation, etc.) are recommended to be developed whenever possible to gain potential efficiencies. Programmatic documents developed to comply with NEPA could then be completed to assess the effects of the proposed projects across the landscape instead of preparing NEPA documents for individual projects. The advantage of a landscape-scale NEPA analysis over an individual site-specific analysis is that it allows more adequate assessment of both spatial and temporal cumulative effects. This level of programmatic planning follows the intent of federal fire policy to conduct landscape-level projects.

Additional tools for use of NEPA analysis regarding National Fire Plan projects have been provided through the Healthy Forests Initiative and the Healthy Forests Restoration Act. Information on these tools is discussed in [Chapter 5 – Implementing the FMP](#), and can also be found in the BLM NEPA Handbook (H-1790-1).

## 3. *NEPA for Wildland Fire Management Response*

Immediate action must be taken to prevent or reduce risk to public health or safety, property, or important resources consistent with LUPs and FMPs when managing wildfires. The BLM Washington Office will consult with the DOI Office of Environmental Policy and Compliance (OEPC) on an annual basis to discuss anticipated fire management activities for the upcoming fire season and any changes in fire management standards and operating procedures. The OEPC will also consult with the Council on Environmental Quality (CEQ) as appropriately noted in the BLM NEPA Handbook (H-1790-1).

### ***D. Other Regulatory Compliance and Statute Requirements***

All BLM planning decisions and actions shall comply with all applicable federal, tribal, state and local laws, statutes, regulations, and standards. National statutes applicable to fire management are described in the Fire Planning Manual (M-9211). The following sub-sections detail how some of these statutes influence BLM fire management planning efforts.

#### 1. [Clean Air Act](#)

The BLM actions (either directly or through use authorizations) must follow state air quality and Environmental Protection Agency (EPA) regulations for air quality. Mandatory Class 1 areas, which include national parks and wilderness areas (over 6,000 acres and over 5,000 acres, respectively, (at enactment of Clean Air Act amendments of 1977) are subject to visibility protection regulations. While usually only stationary sources of pollution are restricted, there are some states with specific regulations that address intrusions of smoke from prescribed fires that may adversely affect visibility.

### Exceptional Events Rule

The EPA published a final rule on exceptional events in the Federal Register/Vol. 72, No. 55/March 22, 2007. The rule states that both wildland fire and fire used to meet management objectives fall within the meaning of “natural” events.

Therefore, ambient particulate matter and ozone concentrations due to smoke from wildland fire will be considered for treatment as an exceptional event if the fire is determined to be a wildfire. Also, according to the final rule, wildland fires being managed for resource benefit must occur on lands that have been designated as such in LUP/FMPs as areas where fires are necessary and desirable to accomplish specific resource management objectives.

The final rule further states that while prescribed fire cannot be classified as a “natural” event, it may meet other statutory criteria (defined in Section 319 of the Clean Air Act) of “affecting air quality” and being “unlikely to occur at a particular location” and “is not reasonably controllable or preventable.” The determination of whether a prescribed fire can be considered an exceptional event is determined by each state’s air quality regulations.

If qualified as an exceptional event, air quality data collected during the event can be flagged by a state as exceptional. If the EPA concurs, the data will be excluded from regulatory determinations such as non-attainment. State BLM staff should position themselves to assist the states in determining exceptional events by: providing the state with fire source information and behavior/growth predictions, ensuring proper project implementation and proof of compliance with a state smoke management program or basic smoke management practices are followed for prescribed fires.

Every state will have differing regulations; state implementation plans (SIP), and associated requirements regarding smoke management. Therefore, BLM must work closely with its state air quality agencies to ensure that prescribed fires and use of wildland fire can be implemented, when conditions warrant, in a timely manner.

### Fine Particulate Matter PM<sub>2.5</sub>

In 2006, EPA revised its National Ambient Air Quality Standard (NAAQS) for fine particles (PM<sub>2.5</sub>) by lowering the 24-hour threshold from 65 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) to 35  $\mu\text{g}/\text{m}^3$ . This standard is based on a three-year average of the 98<sup>th</sup> percentile of 24-hour concentrations. Smoke from wildland fire can be a significant source of PM<sub>2.5</sub>, potentially impacting an area’s (non)-attainment status. On October 8, 2009, EPA made final decisions on what locations are considered to be in non-attainment for PM<sub>2.5</sub>; this action designated 31 areas, composed of 120 full and partial counties, as nonattainment areas (NAA).

Developing strategies to reduce PM<sub>2.5</sub> contributions involves air quality modeling which simulates hundreds of the primary gas reactions in the atmosphere, to

determine the contributors to nonattainment and the effectiveness of control and mitigation strategies in meeting the standard.

Federal land managers contemplating projects within NAAs must also comply with the general conformity provisions of the Clean Air Act. General conformity requires, that prior to undertaking a project, conformity with the NAAQS State Implementation Plans must be demonstrated. The conformity determination process can be conducted concurrent with NEPA analysis and other plan development. The conformity determination is required to have public, as well as state, regulatory review. This review requirement must be built into all project planning for actions occurring in nonattainment areas.

### Ozone

On January 6, 2010, the EPA proposed to strengthen the national ambient air quality standards for ground-level ozone. Ground-level ozone is a primary component of smog. The EPA is proposing to strengthen the 8-hour “primary” ozone standard, designed to protect public health, to a level within the range of 0.060-0.070 parts per million (ppm). The EPA is also proposing to establish a distinct cumulative, seasonal “secondary” standard, designed to protect sensitive vegetation and ecosystems, including forests, parks, wildlife refuges, and wilderness areas.

## 2. *Clean Water Act and Safe Drinking Water Act*

The BLM has a responsibility to fulfill its obligations under the Clean Water Act and Safe Drinking Water Act to maintain waters that meet or surpass designated beneficial uses, to restore impaired water resources in support of their designated beneficial uses, and to provide water for public consumption and use.

Non-point source pollution, the largest source of water quality problems on public lands, comes from diffuse or scattered sources rather than from outlet specific points, such as a pipe, that constitutes a point source. Sediment is a non-point source of pollution that results from activities such as grazing, timber harvest, and erosion, associated with wildland fires. Erosion and delivery of eroded soil to streams is the primary non-point source pollution predicament facing the BLM and needs to be of primary concern when planning for fuels treatments, suppression rehabilitation, emergency stabilization, and burned area rehabilitation, among others.

## 3. *Endangered Species Act*

The FMPs must specify how compliance with the Endangered Species Act (ESA) will be met. Generally, compliance will take place at the LUP, project planning and implementation levels unless new decisions, with subsequent NEPA analysis, are outlined in the FMP. The Endangered Species Consultation Handbook for Procedures for Conducting Consultation and Conference Activities under Section 7 of the Endangered Species Act (1998) provides guidance on the requirements of Section 7 [consultation](#).

Offices need to consider whether fire management actions may affect listed species. If so, consultation must be initiated. It is important to work with field office biologists to determine if any programmatic consultations cover fire management actions. Conservation measures developed from programmatic consultations must be included in all planning documents, including FMPs and activity plans.

Programmatic consultations are encouraged and could be developed for: fuels programs, use of wildland fire, ES and BAR or suppression actions that clearly describe conservation measures that could be used at the project level to ensure “no effect,” and avoiding having to reach agreement on such measures during emergency consultations.

#### Emergency Consultations (50 CFR 402.05)

Emergency consultations during wildfire may be required if listed species could be affected by suppression actions. The ESA consultation regulations recognize that an emergency may require expedited consultation. The following is taken directly from the *Endangered Species Consultation Handbook for Procedures for Conducting Consultation and Conference Activities under Section 7 of the Endangered Species Act* (1998).

The initial stages of emergency consultations are usually conducted by telephone, mail or facsimile followed, as soon as possible (within 48 hours if possible), by written correspondence from the agency rendering consultation service. This provides the agencies with an accurate record of telephone contact. This written record also provides the BLM with a formal document reinforcing commitments made during the initial stages of emergency consultation. During this initial contact, or soon thereafter, the consulting agency’s role is to offer recommendations to minimize the effects of the emergency response action on listed species or their critical habitat; it is not to stand in the way of response efforts.

As soon as practicable after the emergency is under control, BLM must initiate formal consultation with the respective agency/agencies if listed species or critical habitat has been adversely affected. Although formal consultation occurs after the response to the emergency, procedurally it is treated like any other formal consultation. However, the BLM has to provide additional information to initiate a formal consultation following an emergency, including:

- i. a description of the emergency,
- ii. a justification for expedited consultation (if applicable), and
- iii. an evaluation of the response to and the impacts of the emergency on affected species and their habitats, including documentation of how the recommendations were implemented, and the results of implementation in minimizing take.

4. *National Historic Preservation Act (NHPA)*

Planning documents must provide cultural resource information relevant to all potential fire management actions. Where developed, this information may include the types of sites within specific management areas, their particular cultural resource vulnerabilities to proposed actions, and measures suitable for their cultural resource protection. For fire suppression activities, FMPs must identify where and/or when it is necessary to involve a cultural resource specialist.

The FMPs must specify how actions taken will comply with Section 106 of the NHPA. Section 106 of NHPA requires federal agencies to take into account the effects of their undertakings on historic properties, and afford the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment. The historic preservation review process mandated by Section 106 is outlined in regulations issued by ACHP. Generally, NHPA compliance will take place at the project planning and implementation level unless NEPA analyses are conducted for the FMP.

For areas where wildland fire may be used to benefit resources, the FMP must specify those actions needed to comply with Section 106 prior to implementing decisions. When existing cultural resource data is insufficient to define the types, locations, and vulnerability of cultural resources to wildland fire actions, then it may be necessary to develop and test cultural planning models to identify cultural resource constraints and/or restrictions prior to implementing use of wildland fire decisions. Consideration must be given to the sensitivity of cultural resources information.

5. *Wilderness Act*

The Wilderness Act generally prohibits commercial activities, motorized access, motorized vehicles, boats and equipment, the landing of aircraft, roads (including temporary roads), structures and facilities in wilderness areas. The management guidelines of the Wilderness Act permit exceptions to these prohibitions in emergencies involving the health and safety of persons within the wilderness area. The regulations for wilderness management on BLM lands are found at 43 CFR 6300 (also see the wilderness and wilderness study area section of this handbook).

Emergency Functions in Wilderness (43 CFR 6303.1)

In order to meet the minimum requirements for the administration of wilderness areas, BLM may: (a) use, build, or install temporary roads, motor vehicles, motorized equipment, mechanical transport, structures or installations and land aircraft, in designated wilderness; (b) prescribe conditions under which other federal, state, or local agencies or their agents may use, build or install such items; (c) authorize officers, employees, agencies, or agents... to occupy and use wilderness areas to carry out the purposes of the Wilderness Act or other federal statutes; and (d) prescribe measures that may be used in emergencies involving the health and safety of persons in the area, including, but not limited to, the conditions

of use of motorized equipment, mechanical transport, aircraft, installations, structures, rock drills, and fixed anchors.

Provisions for Control of Fire, Insects and Disease in Wilderness Areas (43 CFR. 6304.22)

The BLM may prescribe measures to control fire, noxious weeds, non-native invasive plants, insects, and diseases. The BLM may require restoration concurrent with, or as soon as practicable, completion of such measures.

### ***E. BLM Program Compliance***

Because fire management actions can affect other programs (e.g., a fuels treatment may affect a planned recreation trail), it is the responsibility of fire managers and staff to work closely with other programs managing uses and resources and be familiar with other program policies. This may be done through participation on interdisciplinary planning teams, and is highly recommended.

In addition to the Land Use Planning Handbook (H-1601-1), this handbook must be used in conjunction with other BLM manuals and handbooks that provide details on compliance with the statutes mentioned above and with other BLM programs. Although not all manuals and handbooks are listed here, some include: the NEPA Handbook (H-1790-1), Special Status Species Management (M-6840), Tribal Consultation under Cultural Resources (M-8120), General Procedural Guidance for Native American Consultation (H-8120-1), Planning for Uses of Cultural Resources (M-8130), Protecting Cultural Resources (M-8140), Air Resources Management (M-7300), Wilderness Management and Interim Management for Areas under Review (M-8560, H-8550-1), Visual Resource Management, (M-8400), Area of Critical Environmental Concern (M-1613), Integrated Weed Management (M-9015), Wild and Scenic Rivers (M-8351), Integrated Vegetation Management (H-1740-2) and Burned Area Emergency Stabilization and Rehabilitation (H-1742-1). This is not a complete list of manuals and handbooks.

1. [Areas of Critical Environmental Concern \(Manual 1613\)](#)

The FLPMA provides overall direction for ACECs. The ACEC designation is the principal BLM designation for public land where special management attention is required to protect important natural, cultural, and scenic resources and to identify and prevent irreparable damage caused by natural hazards. In ACECs, special management attention is required to protect resources and prevent irreparable damage caused by natural hazards. For example, special management may include restrictions on how, when, and where firelines can be constructed.

Management prescriptions are set forth for ACECs through the LUP planning process. The ACEC activity plans may be developed when more site-specific or more detailed planning is warranted (e.g., a more detailed ACEC management plan incorporating habitat restoration using fuels treatments within the ACEC); therefore, ACEC activity plans may consider fire management concerns.

2. [Air Resources Management \(Manual 7300\)](#)

In this manual, BLM recognizes air as a resource (both climate and air quality) that must be sustained through prudent management and impact mitigation similar to other indispensable public land resources. Air resource values shall be considered on an area-by-area basis by applying the concepts of multiple-use management, as described in FLPMA, taking full account of the value and importance of the various resources present, and balancing the development and use of those resources within the applicable limits of air quality standards and regulations. Fire staff and managers must consider addressing air resources, as applicable, when developing FMPs and subsequent activity- and project-level plans.



3. [Special Status Species \(Manual 6840\)](#)

Fire planning efforts must consider special status species. According to the BLM Special Status Species Manual M-6840, BLM will ensure that all actions authorized, funded, or carried out are in compliance with the Endangered Species Act. Therefore, activities need to focus on conserving and/or recovering ESA-listed species (and the ecosystems on which they depend) so that ESA protections are no longer needed for these species. The BLM policy also requires ESA compliance for species proposed for listing (except formal consultations are not required). The BLM will also ensure that actions authorized, funded, or carried out for federal candidate species and BLM sensitive species will not contribute to the need for the species to become listed.

4. [Cultural Resources \(Manual Sections 8100-8170\)](#)

In carrying out its responsibilities, BLM has developed policies and procedures through its directives system to help guide BLM's planning and decision making affecting historic and other cultural properties, and has assembled a cadre of cultural heritage specialists to advise BLM managers and to implement cultural heritage policies consistent with these statutory authorities. Two cultural manual sections are summarized here, but BLM fire managers must coordinate with cultural resource specialist to ensure fire management planning and actions comply with other related manuals.

[Planning for Uses of Cultural Resources \(Manual 8130\)](#)

This manual clarifies the level of cultural resources information and the kinds of long-term management decisions needed in LUPs as outlined in the Land Use Planning Handbook (H-1601-1) and Identifying Cultural Resources (Manual 8110). It also provides instruction on preparation of other property-, resource-, and project-specific plans that pertain to management of cultural resources.

[Protecting Cultural Resources \(Manual 8140\)](#)

This manual explains BLM's role in the Section 106 review process and reiterates that compliance is a federal agency responsibility that cannot be delegated or transferred to a non-federal party. The manual provides guidance on physical and administrative conservation measures, considering effects of proposed land use, preventing loss and destruction from illegal activities, treasure hunting, and coordinating with outside parties.

5. [Wilderness \(Manual 8560\)](#)

The BLM allows fire, insects, and diseases to play a natural role in the wilderness ecosystem, except where these activities threaten human life, property, or high value resources on adjacent non-wilderness lands, or where these would result in unacceptable change to the wilderness resource. In order to return some wilderness ecosystems to a more natural state, it may be appropriate to allow natural fire to burn, but only in conformity with an approved FMP and the overriding fire guidance. Where beneficial use of wildland fire does not meet

wilderness fire management objectives, prescribed fire may be allowed on a case-by-case basis to: reintroduce fire or maintain the natural condition of a fire-dependent ecosystem; to restore fire where past strict fire control measures have interfered with natural, ecological processes, where a primary value of a given wilderness will be perpetuated as a result of the burning; or where it will benefit a threatened or endangered species.

The following considerations must be covered in an FMP for areas of designated wilderness (does not include “lands with wilderness characteristics): wilderness management objectives, historic fire occurrence, natural role of fire, proposed degree of suppression, expected fire behavior and characteristics, acceptable suppression techniques, smoke management, and effects on adjacent landowners. The FMP must establish criteria to define the limits of acceptable fire weather, fire behavior, fire effects, and FMP decisions must conform to the Wilderness Management Plan for the area it addresses. When planning fire management strategies, consideration must emphasize actions that are the minimum necessary for wilderness administration. The minimum tool concept or [minimum impact suppression techniques \(MIST\)](#) will apply to emergency situations as well as non-emergency projects such as fuels treatments. Tools, equipment, or structures may be used in wilderness areas when they are the minimum necessary for protection of the wilderness resource, or when necessary in emergency situations for the health and safety of the visitor. Management must use the minimum tool, equipment, or structure necessary to successfully, safely, and economically accomplish fire objectives. The chosen tool, equipment, or structure must be the one that least degrades wilderness values temporarily or permanently.

Acceptable fire-related tools, equipment, and structures in wilderness areas may include but are not limited to: fire towers, patrol cabins, pit toilets, temporary roads, spraying equipment, hand tools, fire-fighting equipment caches, fencing, and prescribed fire. In special or emergency cases involving the health and safety of wilderness visitors, or protection of wilderness values, aircraft, motorboats, and motorized vehicles may be used.

#### Wilderness Study Areas (Manual 8550-1)

The FLPMA directs BLM to manage and protect wilderness characteristics of Wilderness Study Areas (WSA) until Congress acts. The general standard for management of WSAs is to not allow actions or impacts that will preclude Congress’ prerogatives in either designating the areas as wilderness or releasing them for other non-wilderness uses. The BLM manages WSAs under the Interim Management Policy for Lands under Wilderness Review (H-8550-1). This management is generally referred to as Interim Management or the Interim Management Policy (IMP) and must be considered in fire management planning.

#### 6. Integrated Vegetation Management (Handbook 1740-2)

Renewable resource programs and processes within BLM must be structured to promote work toward common goals and objectives to maximize the effectiveness

of management actions, as well as improve overall program efficiency. A well-integrated vegetation management program requires that staff at all levels of the organization who are involved in activities that modify vegetation on public land, whether directly through vegetation treatments or indirectly through land use, work closely together to achieve a common outcome for the vegetative resource. Therefore, fire managers must ensure that fire planning efforts are developed on an interdisciplinary basis with other programs affecting vegetation.

7. *Burned Area Emergency Stabilization and Rehabilitation (Handbook 1742-1)*

The BLM will require any necessary suppression activity stabilization concurrently, or as soon as possible, after the incident. Handbook 1742-1 provides BLM-specific guidance on plan development and direction on allowable actions for both ES and BAR. The ES and BAR section of the FMP shall summarize the fire planning unit's ES and BAR program and identify long-term restoration goals which provide guidance beyond the three-year period applicable to ES and BAR activities. The FMP should describe the historic annual workload necessary to plan and implement the ES and BAR program. The FMP should include a discussion on collaborative processes in planning, priority setting, and implementation for the ES and BAR program. Any unit-wide plan, such as a Programmatic Fire ES and BAR Plan, developed to guide ES and BAR activities, should be identified or referenced in and conform to the FMP. Regardless of the program lead, fire, and ES and BAR personnel must closely coordinate and participate in the preparation and review of FMPs, as well as programmatic ES and BAR plans, to insure identification, documentation, and integration of common goals and objectives.

Policies on timeframes for ES and BAR planning, funding, and implementation are very specific. The FMP should reference ES and BAR program timeframes and milestones to ensure objectives and targets are met. Important milestones to include would be: scheduling of pre-season meetings to address potential issues and review plan preparation timing; when to assign a resource advisor to handle ES and BAR during wildfire events; and deadlines which may affect timeframes.

Actions for emergency stabilization fall into several categories (with numerous specific actions found under each category): human life and safety; soil/water stabilization; designated critical habitat for federal/state listed, proposed, or candidate species; critical heritage resources; invasive plants; and monitoring. These are discernible to actions affecting burned area rehabilitation, which also fall into several categories: lands unlikely to recover naturally; weed treatments; tree planting; repair/replace fire damage to minor facilities; and monitoring. More information on the program can be found at the [BLM Emergency Stabilization and Burned Area Rehabilitation homepage](#).

### **Chapter III. Fire Management Plan (FMP) Processes**

This chapter provides guidance on the processes for preparing, reviewing, and updating FMPs. The FMPs must be developed, reviewed, and approved in conformance with requirements set out in the Interagency Fire Management Plan Template (IFMPT), associated agency specific guidance, the Fire Planning Manual (M-9211) and this handbook.

#### ***A. Objectives of a Fire Management Plan***

The objectives of an FMP are to:

- i. clearly identify that the highest priority in all fire management activities is public and firefighter safety;
- ii. interpret land use plan (LUP) direction into a specific fire management strategy for the planning area and each fire management unit (FMU) delineated;
- iii. formally document the unit's fire program components, objectives, priorities, strategies, and resource considerations based on interdisciplinary input by resource specialists to ensure firefighter and public safety, costs, and common vegetation and resource management goals are considered; and
- iv. be consistent with policies, laws, and regulations (federal, state, Department of the Interior (DOI), interagency and Bureau of Land Management (BLM)).

To address these objectives, the FMP must identify:

- i. public and firefighter safety as the first priority;
- ii. values to be protected and their priority;
- iii. desired future condition of the vegetation;
- iv. the management response to fires and how fires are prioritized for the allocation of fire management resources;
- v. a strategy to achieve land-use planning objectives, ecosystem sustainability, and to meet the desired conditions established through LUP decisions;
- vi. fuels management activities to reduce risk, protect communities and restore fire's natural ecological role;
- vii. support for interagency collaboration either through agreements, or ideally, through the development of interagency FMPs and FMUs;
- viii. a community assistance strategy to identify and mitigate high risk areas;
- ix. best management practices (such as resource protection measures) to minimize disturbances from fire operations; and
- x. thresholds to assist in determining whether an FMP needs revision.

#### ***B. Collaboration - Interagency/Interdisciplinary***

Collaboration is a cooperative process in which interested parties, often with widely varied interests, work together to seek solutions with broad support for managing public and other lands (BLM H-1601-1). Collaboration among external as well as internal parties is critical in fire planning efforts.

The [10-Year Comprehensive Strategy Implementation Plan](#) (which is part of the National Fire Plan) provides initial guidance on collaboration. It recognizes the importance of collaboration as the foundation of all fire management. Regular collaboration must occur with tribal, federal, state, county, and local government entities. Successful collaboration must include at least some or all of the following features:

- i. Include diverse and balanced stakeholder representation;
- ii. Establish clear expectations and goals;
- iii. Collaborate early and often;
- iv. Strive for maximum transparency in the decision-making process;
- v. Encourage stakeholders to function as representatives;
- vi. Foster long-term participation/relationships;
- vii. Recognize time frames and resources; and
- viii. Conduct collaboration in a way that complements and informs formal decision-making.

The collaborative process must be used to develop fire management strategies. Collaborators may be agencies, organizations, or individuals with land inside the FPU, and those interested in fire management activities within the FPU. Collaboration may have occurred during LUP development, in addition to FMP development. Collaboration occurs when interested parties work together to develop common fire management goals, strategies, and actions.

Examples of collaborators include: other federal agencies, tribes, states, counties, municipalities, regulatory agencies, non-governmental organizations, or resource advisory councils.

Examples of the collaborative process include: meetings with local communities and partners, workshops, forums, scoping, and efforts resulting from interagency fuels committees, regional landscape planning, steering committees, or weed management groups.

Examples of actions that result from collaboration include: coordinating placement of fire management tactical boundaries, landscape-level fuel treatments, coordinated fire management responses, cost sharing for fuel treatments/restoration projects, training, efforts to reduce risk to communities, including development of CWPPs, coordinated biomass opportunities to benefit communities, stewardship opportunities, or fuel breaks.

### ***C. Developing a Fire Management Plan***

The FMPs must be developed using a collaborative, interdisciplinary approach. All BLM programs that affect or are affected by fire management should participate in the FMP development process. These programs may include range, forestry, wildlife, recreation, soils and hydrology, vegetation, cultural, botany, visual resources, paleontology, and the National Landscape Conservation System program. Managers should ensure that these program staffs participate on fire planning teams to ensure their resources are appropriately

addressed throughout the planning process. Managers should ensure that program-related goals and objectives are included when developing fire management strategies.

The FMP must be prepared using the most current IFMPT and associated BLM guidance on the template (see [Appendix D](#) for the template and [Appendix E](#) for BLM specifics). The BLM template guidance is consistent with the interagency template approved on April 9, 2009, by National Fire Directors for all federal agencies and the National Wildfire Coordinating Group (NWCG). When developing an FMP, use the template guidance in combination with this handbook section, which provides additional explanations on some key FMP processes.

The FMPs must identify and integrate all wildland fire management and related activities within the context of the approved LUP. Wildland fire management goals must be coordinated across administrative boundaries on a landscape basis. Fire management decisions must be consistent or compatible across administrative lines.

#### 1. *Defining Fire Planning Units (FPU) and FMUs*

As stated in section 2.1, the FPU consists of one or more FMUs. The FPU does not have to be predefined by the agency administrative office boundaries, and may relate to one or more agencies. It could cross jurisdictional boundaries.

The primary purpose of developing FMUs in fire management planning is to assist in organizing information about complex landscapes. The FMUs divide the landscape into geographic areas to more easily describe historical fire occurrence, climatological/physical/biological/social characteristics and frame associated planning guidance based on these characteristics. The FMUs could be further divided to contain data related to more specific management objectives if warranted.

Interagency FMU development is recommended. In developing FMUs, collaboration with adjacent land owners (federal, state, private, etc.) should consider the landscape as a whole. Ideally, one interagency FMP should be developed across a landscape where collaborative efforts make sense for effective fire management.

#### 2. *Measurable Objectives for FMUs*

The NWCG glossary defines fire management objectives as “planned, measurable results desired from fire protection and use based on land use goals and objectives.” The FMP must develop fire management objectives specific to each FMUs. These objectives must be strategic, measurable, and realistic and must reinforce a standard, desired state, or trend based on LUP goals.

While the LUP identifies the desired future condition, the FMU objectives must specify the where, when, and how this LUP standard/desired condition/trend will be achieved for each FMU (a decade is often used as a standard time frame).

Identification and mapping of locations associated with these objectives should be included, when possible. The following are examples of measurable objectives:

- i. 25 percent of high priority condition class 3 acres are moved to a better condition within ten years.
- ii. 40 percent reduction in juniper overstory will be accomplished in the Blue Ridge watershed within ten years.
- iii. Limit the acres burned (planned and unplanned ignitions) in the next five years to 50,000 acres.

Measurable objectives included in FMPs are often based on “values”. Potential values could include market values (i.e., timber...), non-market values (i.e., recreation...) and what economists refer to as public goods (i.e., scenic views and endangered species habitat). Identifying values enables the FMP to include the full range of management options into the planning process. The FMP should include a discussion of the beneficial and detrimental impacts of fire. The FMPs should identify values at the FMU level and compare them geographically across the landscape, regarding where fire is desired or not desired. Discussion should include how fires will be managed according to the impacts on these values related to the various fire management decisions. These values will be used to provide a broad understanding of fire management actions and where they occur based on values, as well as for prioritizing management actions and fuels treatments. Values can focus on local (district/zone), state (geographical) and/or national office considerations.

### 3. *FRCC Determination by FMU*

Fire Regime Condition Class (FRCC) remains one of the ecological indicators used by BLM to describe resource conditions. It evaluates the fire regime departure for distinct biophysical settings, as well as the corresponding landscape expression of seral stages. As a landscape metric, FRCC will be summarized for areas large enough to exhibit the natural variation in fire regimes and seral stages among biophysical settings.

The FRCC involves two pieces of information: (1) the historic fire regime; and (2) the condition class. The FMPs must display, at a minimum, the acreage of FRCC for each FMU using the method that best depicts local conditions (see the following examples below). As with LUPs, FMPs must use FRCC to describe current and desired future conditions. Offices will utilize the most accurate data available in describing fire history, fire occurrence, and vegetation conditions for the FMU being assessed. These variables are used in describing current landscape and fire regime conditions. Landscape Fire and Resource Management Planning Tools (LANDFIRE) Biophysical Setting models will serve as reference values for FRCC evaluation, unless locally derived reference values are available. All supporting resources related to FRCC, such as user guides, on-line courses, and tutorials, are available at [www.frcc.gov](http://www.frcc.gov).

The FRCC can be determined using one of the methodologies outlined below:

- a. The FRCC GIS Mapping Tool -To use this tool, users utilize the [LANDFIRE](#) Biophysical Settings (BpS) and Succession Class (S Class) spatial layers to map FRCC for analysis areas. This method produces a number of output grids depicting fire regime and vegetation departure. Using explanation in the FRCC guidebook, offices will utilize the appropriate Geographical Information Systems (GIS) layer to describe landscape FRCC conditions. All associated documentation is available at the [FRCC website](#). Users may also use locally developed biophysical settings and S Class GIS layers for FRCC mapping, if available and more accurate.
- b. The FRCC Standard Landscape Software Method - This is a non-spatial tool that produces a concise report, describing condition class for the overall FMU, and for individual biophysical settings within the FMU. This tool summarizes FRCC information into the required format and, as such, is the preferred method if spatial data quality is not adequate. This tool does not require the use of GIS and is described in Chapter 3 of the FRCC Guidebook.
- c. The FRCC Standard Landscape Worksheet Method - This involves manually calculating FRCC using the worksheets provided in the FRCC Guidebook. This method requires manual calculation, and is best applied to project level field assessments rather than FMU summarization. It is fully described in Chapter 3 of the FRCC Guidebook.
- d. Locally Derived FRCC using Original FRCC Definitions, Local Vegetation Data, and Fire History Information - This method involves the use of local data, such as fire occurrence and vegetation conditions, to assign FRCC to biophysical settings within the analysis area. This method involves qualitatively comparing current conditions to historic conditions, using the original FRCC definitions to define departure and historic fire regimes. Detailed definitions of FRCC are provided in Chapter 2 of the FRCC Guidebook. All analyses using the FRCC definitions must be documented.
- e. LANDFIRE National FRCC Maps - This method is only acceptable for describing FRCC for state or larger areas. To provide statewide FRCC conditions, the LANDFIRE National FRCC maps can be queried to portray FRCC for the BLM portions of an entire state. This method requires the use of GIS.

The appropriate method for FRCC determination relates to data availability, quality, and technical skills. If offices have confidence that accurate GIS layers depict historic and current conditions, and are skilled in using the FRCC mapping tool, Method 1 should be used to spatially map FRCC. If offices do not have GIS layers which accurately depict historic and current conditions, Method 2 should be used to assess and summarize FRCC. Method 3 should primarily be used for field data collection,



before data is entered into the FRCC software. Where offices lack skills in the use of the FRCC forms, software, or GIS tool, Method 4 may be applied. Method 5 allows users to produce a state-level FRCC map, which is only intended to show broad trends in FRCC. This method cannot be used to map smaller areas such as district, field offices, or FMU field offices.

Field units are encouraged to analyze FRCC in interdisciplinary team settings in order to complete multiple analyses more efficiently (e.g., in conjunction with Properly Functioning Condition or Land Health Assessments). The following examples show how FRCC acreages can be displayed in FMPs and/or LUPs.

Example 1: Historic Fire Regime and Condition Class displayed for an individual Fire Management Unit.

<b>Juniper Butte FMU **</b>					
Biophysical Setting	Historic Fire Regime (I-V)	Condition Class 1 (acres)	Condition Class 2 (acres)	Condition Class 3 (acres)	Total Acres
Wyoming Big Sagebrush	IV	48,000	53,000	126,000	227,000
Salt-Desert Shrub	V	18,000	6,500	84,000	108,500
Pinyon-Juniper	IV	115,000	36,000	9,600	160,600
Mountain Shrub	II	53,000	101,000	35,000	189,000
Total Acres by Condition Class		234,000	196,500	254,600	685,100

Example 2: FRCC displayed for an entire Fire Planning Unit.

<b>Flat Top Fire Planning Unit **</b>										
Biophysical Setting (Historic Fire Regime)	Juniper Butte FMU			Sheep Rock FMU			West Hills FMU			Total Acres
	CC1	CC2	CC3	CC1	CC2	CC3	CC1	CC2	CC3	
Wyoming Big Sagebrush (IV)	48,000	53,000	126,000	0	0	0	84,000	116,000	243,000	670,000
Salt-Desert Shrub (V)	18,000	6,500	84,000	0	0	0	19,000	52,000	189,000	368,500
Pinyon-Juniper (IV)	115,000	36,000	9,600	94,000	187,000	133,000	91,000	53,000	31,000	749,600
Ponderosa Pine (I)	0	0	0	104,000	219,000	82,000	0	0	0	405,000
Mountain Shrub (II)	53,000	101,000	35,000	163,000	105,000	68,000	80,500	38,000	7,400	650,900
Total Acres by condition class	234,000	196,500	254,600	361,000	511,000	283,000	274,500	259,000	470,400	2,844,000

\*\* These tables can show current conditions or desired future conditions or could be adapted to show both.

#### 4. *Using Fire Effects Information*

Understanding and utilizing fire effects information is a necessary part of fire planning. As part of science-based planning, field units must utilize fire effects information in project design and developing management objectives. There are many credible sources for fire effects information which can be applied in fire planning. The following sources may be especially relevant to fire planning efforts.

- a. [Fire Effects Information System \(FEIS\)](#) – The FEIS provides summaries of research findings for plant and animal species. The FEIS reports describe fire regimes, adaptations, and responses for given species, as well as important management considerations.
- b. The Rainbow Series: Wildland Fire in Ecosystems (Effects of Fire) – This series (RMRS-GTR-42, Vol. 1-6), produced as six separate General Technical Reports, describes fire effects on flora, fauna, soil/water, air, invasive plants, and cultural resources. These can be found on the [USDA Forest Service Rocky Mountain Research Station website](#).
- c. LANDFIRE Biophysical Settings Descriptions – Narrative descriptions of the fire regimes for all BpS in the conterminous United States and Alaska are available as a deliverable of the LANDFIRE project. These documents describe the distribution, fire ecology, and disturbance regimes for each BpS. These were developed by local experts and are specific to individual LANDFIRE mapping zones. As such, the information may have greater local relevance than generalized research findings. The models are accessible at the [LANDFIRE home page](#).
- d. The Fire Research and Management Exchange System (FRAMES) – The [FRAMES website](#) provides a clearinghouse for a wide range of fire ecology, behavior, and fuels management research.
- e. [Joint Fire Sciences Program \(JFSP\)](#) – The JFSP is an interagency initiative to fund fire research and transfer the findings to management audiences. Users may search on specific topics or scroll research categories to acquire needed information.
- f. [National Wildfire Coordinating Group \(NWCG\) Fire Effects Guide](#) – This guide summarizes information on fire effects related to a variety of natural resources. The goal of the guide is to improve fire management by enhancing the ability of users to manage fire effects. It is identified National Fire Equipment System (NFES) 2394, available from the Great Basin Fire Cache at the National Interagency Fire Center (NIFC) in Boise, Idaho.

- g. [Fire Effects Monitoring and Inventory System \(FIREMON\)](#) – Used to monitor effectiveness of treatments and is designed to characterize changes in ecosystem attributes over time.
5. *Endangered Species Act (ESA) and National Historic Preservation Act (NHPA) Consultations for Fire Management Actions*  
Consultations at the FMP level are required if the FMP contains decisions, design features, or restrictions not already agreed upon in consultations at the LUP level. The following describes consultation responsibilities when developing or implementing an FMP.

#### Endangered Species Act Section 7 Consultation

The BLM fire staff must work closely with BLM biologists during the fire management planning process. The BLM biologists must be included early on in the process to ensure that technical assistance and consultation is completed efficiently.

If National Environmental Policy Act (NEPA) is being conducted on the FMP and listed species may be affected, consultation with the Fish and Wildlife Service (FWS) and National Oceanic and Atmospheric Administration’s National Marine Fisheries Service (NOAA Fisheries) is required. The streamlined consultation agreement, originally signed in August 2000, between the DOI agencies and the two regulatory FWS and NOAA, is no longer in place. Therefore, local (state level) consultation agreements should be established to formally enable this cooperation. Early consultation is a key component that ensures that regulatory agency staff is involved early on in the planning process to promote understanding of program objectives and to provide technical assistance so that the biological assessment/biological opinion process moves along efficiently.

#### Joint Counterpart Regulations

Joint Counterpart Regulations (JCR) (50 CFR Part 402) introduced an alternative consultation process that could have been used for National Fire Plan projects determined to “Not Likely to Adversely Affect (NLAA)” any ESA-listed species or designated critical habitat; however, this process is no longer available to BLM.

#### National Historic Preservation Act Section 106 Consultations

As with the biologists, cultural staff must be involved early on in LUP and FMP planning to ensure efficiency in the consultation process. The BLM’s cultural resources program cooperates with BLM’s fire program to provide cultural resource support to all fire-related activities, including fire management planning, fuels reduction projects, fire suppression, emergency stabilization, and rehabilitation after a fire, and wildland/urban interface (WUI) and community assistance projects.

Under NHPA Section 106, BLM must consult with the State Historic Preservation Officer/Tribal Historic Preservation Officer (SHPO/THPO) to identify historic

properties that may be affected by their actions and the potential for adverse effects. The BLM must consult with the SHPO/THPO and others on ways to avoid or treat any adverse effects and to develop a project-specific memorandum of agreement that outlines the agreed-upon treatments.

A [programmatic agreement](#) (and [addendum](#)) exists among BLM, the Advisory Council on Historic Preservation and the National Conference of State Historic Preservation Officers that establishes the manner in which BLM will meet its responsibilities under NHPA. Several states have used this agreement and state-specific implementation protocols to approach compliance issues on fuels management projects programmatically.

6. *Ensuring Protection for Species with Conservation Plans or Strategies*  
The FMPs must consider how management actions may affect Bureau sensitive species, especially those with conservation plans or conservation strategies; furthermore, BLM must ensure that proposed actions do not initiate the need to list these species. Resource protection measures, mitigating measures or constraints must be developed in alignment with measures established in conservation plans or strategies. These must be stated as direction across all FMUs or as FMU-specific direction, as appropriate.

#### Greater Sage-grouse Conservation Considerations

The FMP needs to ensure that appropriate consideration and priority is given to protecting sage-grouse habitats in areas where these habitats occur. The FMPs that cover areas designated in sage-grouse conservation plans or strategies as sage-grouse habitat must include direction on how greater sage-grouse protection will be considered during management response to wildland fire, as well as fuels treatments and other management actions. This direction should begin by emphasizing guidelines from the appropriate state or regional conservation plan or guidance document for the area covered. Using broad direction on sage-grouse management from the LUP or an LUP amendment, the FMP should provide more details on fire management strategies and ensure that resource protection objectives outlined by FMU, or common to all FMUs, are up-to-date. While both Washington Office and Fire and Aviation Instruction Memorandums reinforce agency commitments in this regard, the [BLM Fire Planning and Fuels Management web page](#) provides national level direction regarding conservation measures related to wildland fire management and key sage-grouse habitat, including Best Management Practices (BMPs) for consideration.

BLM offices may go one step further and develop separate direction specifically related to fire management in conjunction with their state agency partners. Different examples can be found at the [BLM's Great Sage-Grouse Documents and Resources](#) page.

#### ***D. Annual Fire Management Plan Review and Update Process***

Field offices must annually review and update (when necessary) each FMP. An annual FMP review and FMP update are two separate processes. The FMP annual review is completed to determine if the FMP needs updating. The FMP update is dependent upon the results of the annual review. Any substantial changes found would constitute the need to update the FMP and obtain signatures on such an update.

Changes not considered substantial could include such items as editing dialogue for clarification or inserting updated maps and/or informational maps (i.e., GIS layer maps) that improve the document and provide for better decision making. These changes should be documented and kept with the FMP using whatever plan maintenance errata sheets are used in the specific state. Changes not considered substantial normally do not require NEPA analysis.

##### ***1. FMP Annual Review***

The FMPs are required to be reviewed annually. The annual review will meet FMP monitoring requirements (see section 6.2). To complete an annual FMP review, a number of questions in checklist form ([Appendix A](#)) must be answered. If the answer is “yes” to any question, then the process to update the FMP must be initiated. If all questions can be answered with a “no,” then documentation that the FMP has been reviewed and determined to be adequate must be completed and filed locally.

The checklist must be used and retained by the Fire Management Officer (FMO), or designated authority, as the annual documentation tracking sheet. The checklist must be signed by the unit (district/field office) FMO and district/field office manager. Any other plan maintenance procedures used by the local office to track minor changes should also be followed.

##### ***2. FMP Update Process***

If the response to any of the questions on the FMP Annual Review Checklist is “yes”, then an update of the FMP is necessary. An update of the FMP may also trigger a LUP amendment if significant or new circumstances warrant. The following steps should be followed:

- a. Revise information that has substantially changed and incorporate this information into the body of the FMP. Text, maps and data tables may require updating. If tables or maps are updated, this should be explained in the text.
- b. Incorporate any new federal, BLM, regional, state, or local policy and any new LUP guidance into the FMP. These changes should be summarized and a reference to the new policies should be provided.
- c. If there are modified or new decisions being made in the revised FMP that are not adequately covered by the NEPA analysis of the FMP or LUP,

appropriate NEPA must be completed (see Chapter 2, Part 3 for more information). A determination of NEPA Adequacy (DNA) can be prepared to determine if the prior NEPA analysis is adequate (see H-1790-1).

Minor changes to a single FMU would generally not trigger a full revision. The FMP revisions are necessary when changes in circumstances indicate that the entire plan or a major portion of the plan no longer serve as a useful guide for fire management actions. Offices must move current FMP organization into the new template organization when multiple FMU changes occur; when a substantial change of fire management program occurs; when FPU boundaries change; or when interagency FMUs are developed.

Field offices should work with the state office and the National Fire Planning and Fuels Management Division staff if determination for the need of a full revision is uncertain; the National Fire Planning and Fuels Management Division staff is also available for assistance.

3. *Approving FMPs*

District/field office managers are accountable for the review and approval of the final FMP, provided they have been delegated that authority. The entire list of responsibilities for coordinating the development, review and approval of FMPs are listed in the Fire Planning Manual (M-9211).

4. *Posting of FMPs*

Approved FMPs must be posted on state intranet sites as soon as possible upon approval. Any revised FMPs must also be posted to replace out-of-date FMPs. It is also recommended that FMPs and revisions are uploaded to the appropriate “State Folder” on the national fire planning SharePoint site. In addition, BLM recommends that completed and approved FMPs be posted on the internet.

***E. Interagency Fire Management Plan Template Guidance***

This section provides guidance on developing an FMP that conforms to the IFMPT ([Appendix D](#)). The FMPs are required to include certain sections and elements of the IFMPT. This section provides a description for fulfilling IFMPT requirements, in addition to BLM-specific requirements.

The template has been modified from the original version approved in 2002. The BLM offices are directed to use the most current version of the IFMPT. The BLM offices are not required to revise current FMPs to meet revised formats until full FMP revisions are determined necessary by the originating office. The need for a full FMP revision and potential LUP amendment may be established during the annual review/update process.

[Appendix E](#) summarizes both the IFMPT’s required elements and provides BLM guidance to meet the required elements for each chapter and section. The “Required Elements” include both those required by the interagency fire management plan template and

additional BLM requirements. Below the “Required Elements,” the “BLM Guidance” describes, in more detail, how to meet the template requirements (See also [Chapter 3](#))

The intention of the IFMPT is to provide a foundation of required elements. It does not only apply to “interagency” planning units (i.e., “blended” units, Service First offices); however, those cases do require special attention. In the case of a “Service First” FMP (interagency FMP including the US Forest Service): Chapters 1, 2, and 3 must incorporate the most current Forest Service (FS) guidance, in addition to the agency specific guidance for BLM located in [Appendix E](#). Chapters 4 and 5 should be BLM-specific only, and not include FS direction.

## Chapter IV. Implementing the Fire Management Plan (FMP)

This chapter provides a summary of policy and guidance specific to implementing actions and treatments identified in the FMP. It provides a quick reference to the procedures required and tools available in planning and implementing actions and treatments to meet FMP objectives.

### A. *Operational Plans*

The FMPs are supplemented by operational plans (see Chapter 2) which are usually designed to provide tactics for fire management on the ground, such as a preparedness plan, pre-attack plan or fuels treatment plan. These plans may be included as appendices to the FMP, or they may be separate documents. These plans are developed to meet fire management related objectives and desired conditions established in the FMP.

Operational plans of any kind must be consistent with and be derived from the fire management objectives and direction established at the land use plan (LUP) and FMP level.

These plans are developed through an interdisciplinary team process to ensure other resource program objectives are considered. Compliance with National Environmental Policy Act (NEPA), Endangered Species Act (ESA), and National Historic Preservation Act (NHPA) is necessary and may be accomplished on a site-specific basis or by grouping projects in a broader programmatic compliance document that analyzes the impacts with enough specificity for site-specific actions. These types of plans can be site-specific covering one or more treatments, or could cover multiple projects within a broader landscape such as programmatic ES and BAR plans, prescribed fire plans and other non-fire fuel treatment plans. The following are examples of operational plans that could supplement the FMP as an appendix; however, they are not required. Note that this is not an exhaustive list.

#### 1. *Fire Danger Rating Operating Plan*

A Fire Danger Rating Operating Plan is a fire danger applications guide for agency users at the local level. A Fire Danger Rating Operating Plan documents the establishment and management of the local unit fire weather station network and describes how fire danger ratings are applied to local unit fire management decisions. Fire danger rating operating plans may be packaged as either stand-alone documents or as part of a larger planning effort, such as an FMP. Outputs from the fire danger rating operating plan process, such as staffing levels, are used to support the decisions found in staffing plans, step-up staffing plans, preparedness levels, dispatch response plans, dispatch response levels, etc. ([Interagency Standards for Fire and Fire Aviation Operations](#)).

#### 2. *Preparedness Plans*

Preparedness plans provide management direction given identified levels of burning conditions, fire activity, and resource commitment, and are required at national, state/regional, and local levels. Preparedness Levels (1-5) are determined by incremental measures of burning conditions, fire activity, and resource



commitment. Fire danger rating is a critical measure of burning conditions. Refer to the [\*National Interagency Mobilization Guide\*](#) for more information on preparedness plans.

3. *Preparedness Level/Step-up Plan*

Preparedness Level/Step-up Plans are designed to direct incremental preparedness actions in response to increasing fire danger. Those actions are delineated by “staffing levels.” Each Step-up Plan should address the five preparedness levels (1, 2, 3, 4, and 5) and the corresponding planned actions that are intended to mitigate those fire danger conditions (*Interagency Standards for Fire and Fire Aviation Operations*).

4. *Staffing Plan*

The Staffing Plan describes escalating responses that are usually noted in the FMP. Mitigating actions are designed to enhance the unit’s fire management capability during short periods (one burning period, Fourth of July or other pre-identified events) where normal staffing cannot meet initial attack, prevention, or detection needs (*Interagency Standards for Fire and Fire Aviation Operations*).

5. *Pre-Attack Plans*

These plans are developed to prioritize actions when multiple ignitions occur. They are developed to maximize effective pre-positioning to areas of greatest risk. Prioritization of actions must first be established at the FMP level.

6. *Dispatch Plans*

Working with other cooperators involved at the dispatch center, dispatch plans (e.g., Computer Aided Dispatch (CAD or WildCAD)), could be developed to reflect direction found in the FMP. For example, if a FMU objective/goal is to keep all fire within 1½ miles of the Wildland Urban Interface (WUI) at less than 10 acres, then more suppression resources may be automatically dispatched to fires in this area than to fires in other non-WUI areas.

Another example would be if pre-season meetings determine that all fires will be suppressed in specific sage-grouse key habitat areas, then more suppression resources may be automatically dispatched to these areas when human health and safety on other fires are not a factor.

7. *Prevention Plans*

Prevention plans document the wildland fire problems identified by a prevention analysis. This analysis will not only examine human-caused fires, but also the risks, hazards, and values for the planning unit. Components of the plan include mitigation (actions initiated to reduce impacts of wildland fire to communities), prevention (of unwanted human-caused fires), education (facilitating and promoting awareness and understanding of wildland fire), enforcement (actions necessary to establish and carry out regulations, restrictions, and closures), and administration of the prevention program.

8. *Emergency Stabilization (ES) and Burned Area Rehabilitation (BAR) Plans*  
These plans can be done on a fire-by-fire basis, but to ease the process in complex systems, a programmatic ES and BAR plan should be considered. A programmatic ES and BAR plan (also known as Normal Fire Year Rehabilitation Plan) contains a description of ES and BAR treatments that would be implemented under normal conditions in the event of a wildfire and documentation of potential treatment impacts. They are completed at the landscape level with associated NEPA documents, prior to wildfire occurrences.
9. *Prescribed Fire Plans*  
For all prescribed fire projects, an approved burn plan is required following the Interagency Prescribed Fire Planning and Implementation Procedures Guide and BLM Supplement. An [interagency prescribed fire plan template](#) is available and recommended for use. The appropriate level of NEPA must be completed for site-specific prescribed fire projects, unless adequate analysis has been completed in another document.

### ***B. Wildfire Fire Incident Response***

Wildfire will be assessed using a decision support process that examines the full range of responses. Fire organizations responding to wildfires must utilize the direction in the FMP to guide management response to unplanned ignitions. The [Wildland Fire Decision Support System \(WFDSS\)](#) is the sole documentation process for wildland fires. Previous documentation tools, such as Wildland Fire Situation Analysis, are no longer acceptable. For more details, refer to BLM direction in this regard and the *Interagency Standards for Fire and Fire Aviation Operations*.

The WFDSS provides a linear, scalable system for agency administrators incorporating: fire behavior modeling, economic principles, and information technology to support effective wildland fire decisions consistent with resource management plans (RMP) and FMPs. The system is spatially oriented and graphically displayed to depict values-at-risk and other resource conditions. Pre-work must be completed by administrative units prior to fire ignition. Objectives, desired future conditions, and requirements (resource protection measures) from FMPs and LUPs must be input into the system in order to complete required WFDSS documentation.

The WFDSS follows a step-wise process to document the fire situation, management objectives, course of action, key dependencies, and decision rationale in a report format. Collectively, these components constitute the WFDSS report, which describes the rationale of the agency administrator, and supports economic, strategic, and other incident decisions that are guided by LUP and FMP decisions. Over time, the WFDSS application will incorporate spatial data layers which depict values, location of infrastructure, jurisdictions, and other information relevant in fire management decisions. Further explanation on WFDSS can be found in *Interagency Standards for Fire and Fire Aviation Operations* or on the [WFDSS homepage](#).

### ***C. Community Assistance Planning***

When planning and funding community assistance projects, priority should be given to proposals generated through community collaboration. While community wildfire protection plans (CWPP) are primarily developed by non-federal entities, the Bureau of Land Management (BLM) will collaborate closely in their development and can provide community assistance grants to implement projects in the CWPP. Community assistance grant programs vary widely by state, and fire managers must stay up-to-date on these programs and the requirements needed to submit proposals.

#### ***IV.C.1. Community Wildfire Protection Plans***

The Healthy Forests Restoration Act (HFRA) provides communities the opportunity to influence where and how federal agencies implement fuel reduction projects. The HFRA places priority on treatment areas identified by communities through CWPPs. The minimum requirements for a CWPP (as described in HFRA) are:

1. A CWPP must be collaboratively developed by local and state governments in consultation with federal agencies and other interested parties.
2. A CWPP must identify and prioritize areas for hazardous fuel reduction treatments and recommend the types and methods of treatment that will protect one or more at-risk communities and essential infrastructure.
3. A CWPP must recommend measures that homeowners and communities can take to reduce the ignitability of structures throughout the area addressed by the plan.

Step by step instructions on how to develop a CWPP can be found in [Preparing a Community Wildfire Protection Plan – A Handbook for Wildland-Urban Interface Communities \(2004\)](#).

#### **Definition of Wildland Urban Interface (WUI)**

The WUI is defined in the National Wildfire Coordinating Group (NWCG) Glossary as “the line, area, or zone where structures and other human development meet or intermingle with undeveloped wildland or vegetative fuels.” One benefit of developing a CWPP is that a description and boundary for the WUI can be established.

The HFRA provides the technical definition of WUI. In the absence of a CWPP, HFRA limits the WUI to:

- (i) an area extending ½ mile from the boundary of an at-risk community;
- (ii) an area within 1 ½ miles of the boundary of an at-risk community, including any land that
  - (a) has a sustained steep slope that creates the potential for wildfire behavior endangering the at-risk community, or
  - (b) is in condition class 3, as documented by the Secretary in the project-specific environmental analysis; and
- (iii) an area that is adjacent to an evacuation route for an at-risk community that the Secretary determines, in cooperation with the at-risk community, requires hazardous fuels reduction to provide safer evacuation from the at-risk community.

#### ***D. Implementing Fuels Treatments***

The Program of Work (POW) developed for fuels treatments must be based on direction outlined in the FMP (fire management unit (FMU)/fire planning unit (FPU) objectives and anticipated fuels treatments) and prioritized consistent with national guidance. Projects must be developed in an integrated fashion, with input from other programs such as recreation, cultural resources, weeds, wildlife, forestry, and range.

Offices must use one of the methods on page 3-4 (*FRCC Determination by FMU*) to determine historic fire regimes and condition classes for all fuels management and forestry projects and input this data into the [National Fire Plan Operations and Reporting System \(NFPORS\)](#). While fire regime condition class (FRCC) is required for all treatments entered into NFPORS, other factors, such as hazardous fuels reduction objectives, may be used to prioritize treatment. Examples include identification of projects in community wildfire protection plans, or other projects in WUI areas. In such cases, FRCC may be a minor consideration in the formulation of project design and objectives, which may focus primarily on modifying fire behavior rather than ecological condition.

##### ***1. Wildland Urban Interface Treatments***

The overall intent of WUI treatments is to reduce risks to communities and associated infrastructure, and cultural, historical, and natural resources facing significant threats while maintaining firefighter safety, as stated in the recent policy documents.

To be considered a WUI treatment, the location of the land being treated must meet either one of the definitions of WUI as found in the HFRA. In general, projects in a CWPP or risk assessment, and within high risk areas where communities and landowners actively manage lands to reduce fire risk, must be given priority. It is important to ensure that any hazardous fuels reduction program priorities are consistent with priorities identified in the CWPP or risk assessment. Offices must consider areas that may need maintenance treatments, as well.

##### ***2. Non-Wildland Urban Interface (non-WUI) Treatments***

Treating the non-WUI acres will allow achievement of the wide range of human and natural resource benefits expected of the program as stated in the National Fire Plan documentation. The non-WUI projects should be focused in FRCC 2 and 3 within Fire Regime Groups I, II or III, and where fuel build-up is the greatest, not only providing ecological benefits, but also reducing risk to the associated values. Offices should also consider areas in FRCC 1 that may need treatments to maintain this condition class.

Approved FRCC methodology must be used outside the WUI. As previously discussed, FRCC must be established at the LUP as well as the FMP level. The LUP or FMP FRCC data must be used in concert with vegetation management and resource protection objectives, to develop an out-year program of work. For project-specific NEPA analysis, FMP data may be used to determine pre-treatment FRCC conditions.

### 3. *Regulatory Compliance*

Compliance with NEPA, ESA, and NHPA is required for programmatic, landscape level, and site-specific implementation projects. For community assistance projects on non-federal lands that use federal funds for their implementation, compliance with ESA and NHPA is mandatory. The NEPA analysis for projects on non-federal land may be required, depending on the level of federal involvement (see H-1790-1, Section 3.3.1). On non-federal lands, we must ensure that grantees are completing appropriate compliance.

### 4. *Healthy Forests Initiative (HFI) and Healthy Forests Restoration Act (HFRA) Tools*

Streamlining tools are available under the HFI and HFRA, and BLM policy (*M-9211*) directs managers to make full use of them. This section summarizes these tools. Refer to [\*The Healthy Forests Initiative and Healthy Forests Restoration Act – Interim Field Guide\*](#) for more details.

#### Healthy Forests Initiative

The BLM Manual 9211 provides an overview of HFI. Primarily, HFI provides processes to expedite administrative procedures for hazardous fuels reduction and ecosystem restoration projects on federal land. Available tools include:

For emergency stabilization and rehabilitation activities following wildfires, a Department of the Interior (DOI) Categorical Exclusion (CX) (43CFR 46.210(l)) and BLM CX (516 DM 11.9I) are available for use. The post-fire rehabilitation and emergency stabilization CXs have specific requirements and limitations governing their use. Further documentation and requirements regarding CXs can be found in Chapter 4 of the BLM NEPA Handbook (H-1790-1). Acreage determination for use of the post-fire rehabilitation and emergency stabilization CXs is based on the total acres planned to be treated minus any treatment overlap by project. This is also defined as the “footprint” in NFPORS. Likewise, certain forestry CXs (516 DM 11.9C) are applicable for wildland fire activities, consistent with the intended application.

The Council for Environmental Quality (CEQ) established guidance for environmental assessments for forest health projects in 2002. This guidance described core elements of the environmental assessment (EA) process and provides an outline for an EA document. This guidance has been incorporated into the NEPA Handbook (H-1790-1). Fuels treatment EAs prepared in accordance with the NEPA Handbook, and that are no longer than approximately 15 pages, meet the intent of the CEQ guidance and, therefore, must be reported in NFPORS as HFI EAs (guidance on HFRA authority EAs is below).

Full Force and Effect – The Office of Hearings and Appeals (OHA) amended its regulations governing hearings and appeals to codify who has a right of appeal, to expedite review of wildfire management decisions. The BLM added regulations allowing wildfire management decisions to become effective immediately, or on a

date established in the decisions (or Full Force and Effect – FFE) 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 regulations are found in 43 CFR 4190.1 (Grazing Administration) and 43 CFR 5003.1 (Forest Management).

The BLM decision-makers may exercise FFE decision authority on appropriate wildfire management decisions. Managers must make reasonable efforts to discuss their decisions with interested parties, partners, stake holders, and state, local, and tribal governments during project planning and NEPA analysis. Although placing decisions in FFE eliminates the protest period, efforts must be taken to provide the opportunity for public comment during the planning phase. Use of FFE authority is discretionary.

Stewardship Contracting – The Omnibus Appropriations Bill of 2003 (PL 108-7, Section 323) authorized BLM to enter into stewardship contracts. This authority allows BLM to enter into long-term, end-result contracts or agreements (up to 10 years in length) that allow the value of timber or other vegetation products removed as an offset against the services received.

All stewardship projects must comply with applicable environmental laws and regulations, including the appropriate level of NEPA review, and must be consistent with the applicable LUPs. Field units may use stewardship contracting as a tool to achieve resource work identified through the normal planning processes, and as described in the 10-Year Implementation Plan for the National Fire Plan. Any vegetative material removal must be a by-product of the stewardship contracting project goals. Removal of these products must be consistent with the objectives developed through the collaborative process and the applicable land-use plan objectives. When designing stewardship contracting projects, projects involving treatments and techniques available to make forests, woodlands, and rangelands more resilient to natural disturbances such as fire, insects, disease, wind, and flood must be considered. By-products that may be removed under stewardship contracting authority include vegetative material, such as, but not limited to, saw logs, firewood, post and poles, biomass, seed, shrubs, forage, and Christmas trees.

#### Healthy Forests Restoration Act

The HFRA streamlines NEPA analysis for authorized HFRA projects by allowing for reduction in the number of alternatives required for NEPA documents.

To be eligible, fuels projects must meet HFRA authority requirements. Authorized hazardous fuels treatment projects under the HFRA cannot take place in wilderness areas, wilderness study areas, or areas where removal of vegetation is prohibited by an act of Congress or Presidential proclamation (including prohibitions in the area's implementation plan) or planning decision. Also, all

proposed HFRA actions must be located on lands managed by BLM or Forest Service. Hazardous fuels reduction projects in one of the following areas qualify under HFRA if located: in the WUI; in a municipal watershed that is at risk from wildland fire (i.e., Condition Class 2 or 3 in Fire Regimes I, II, III); in areas of wind throw, blow down, ice storm damage or the existence of imminent risk of an insect or disease epidemic significantly threatens ecosystem components or resource values; or areas where wildland fire poses a threat to, and where the natural fire regimes are important for, threatened and endangered species and their habitats.

Covered projects must either maintain or contribute toward the restoration of the structure and composition of old-growth conditions (in areas where old-growth management direction is established in the LUP), or must maximize retention of large trees, as appropriate for the forest type, to the extent that the trees promote fire-resilient stands (i.e., projects focused largely on small diameter trees such as thinning, strategic fuel breaks, and prescribed fire to modify fire behavior, as measured by the projected reduction of uncharacteristically severe wildfire effects for the forest type).

Covered projects may use the following streamlined procedures to comply with NEPA:

For areas inside the WUI and within 1 ½ miles of the boundary of an at-risk community, BLM is not required to analyze any alternative to the proposed action, except if the at-risk community has adopted a CWPP and the proposed action does not implement the recommendations in the plan.

For areas within the WUI, but farther than 1 ½ miles of the boundary of an at-risk community, BLM is not required to analyze more than the proposed action plus one additional action alternative.

Section 104(e) of the HFRA requires agencies to provide notice of the project and conduct a public meeting during the preparation stage of authorized hazardous fuels reduction projects.

Refer to [\*The Healthy Forests Initiative and Healthy Forests Restoration Act – Interim Field Guide\*](#) for more details. Please note that, while HFRA allows for reduction in the number of alternatives required for NEPA documents, the BLM has the discretion to analyze additional alternatives.

### ***E. Reporting Planning Accomplishments***

The primary means of reporting planning accomplishments is through NFPORS. This section only focuses on the planning portions of reporting; it does not cover accomplishments reporting. Direction for the use of NFPORS, including accomplishments reporting, is found in the [NFPORS user's guide](#) at the internal BLM Fire Planning & Fuels website.

In regard to fire planning, it is important to track planning activities through the activity tracking portion of NFPORS. Without this information, it is impossible to discern workload for these activities. This will take close coordination with the biologists involved with consultation, cultural specialists, NEPA staff, and contracting.

Both **planned and actual dates** must be entered for activity types such as those regarding NEPA compliance, consultation, monitoring, contracting, appeals, and litigation, risk assessment, and mitigation plans.

For tracking NEPA compliance, it is important to report NEPA documents correctly (i.e., HFI categorical exclusions, HFI EA, HFRA EA or HFRA EIS, versus regular categorical exclusions, EAs or EISs). Offices need to regularly review projects during early planning stages to determine if the correct method is being used to comply with NEPA and to regularly review NFPORS entries to ensure that accurate NEPA documentation has been entered.

For tracking endangered species act consultations for fuels management projects, NFPORS has two activity type choices: “Consultation – ESA” and “Joint Counterpart Regulations” (JCR). “Consultation-ESA” must be used for all formal consultations and any “Not Likely to Adversely Affect” (NLAA) determinations made through regular informal consultations, instead of JCRs. Although recently discontinued, the JCR activity type must be reported if these regulations were used for NLAA determinations.



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## ***Chapter V. Adaptive Management and Monitoring***

It is important to incorporate adaptive management principles into the fire planning process. The Department of the Interior (DOI) Adaptive Management Technical Guide defines adaptive management as, “a decision process that promotes flexible decision making that can be adjusted in the face of uncertainties as outcomes from management actions and other events become better understood. Careful monitoring of these outcomes both advances scientific understanding and helps adjust policies or operations as part of an iterative learning process.” Please refer to the [DOI Adaptive Management Technical Guide](#) and [DOI Environmental Statement Memorandum 10-20](#) for more information.

### ***A. Adaptive Management***

Adaptive management principles lend themselves to wildland fire management since many program actions occur in the face of uncertainty. In adaptive management, the outcomes of decisions are assessed through follow-up monitoring and compared against the desired or predicted outcomes. In the case of fire management, these outcomes could be fire management unit (FMU) objectives and/or desired vegetation conditions. As scientific understanding of outcomes from management actions improves, management actions are adjusted to achieve the desired outcomes. Adaptive management requires specific, measurable objectives, and an appropriate level of monitoring must be established in order to track these outcomes.

If the National Environmental Policy Act (NEPA) process is completed at the fire management plan (FMP) level, adaptive management principles may be incorporated into fire management planning where there is uncertainty and an opportunity for learning. This means that management adaptations that could occur based on new information from monitoring results need to be fully documented and analyzed during the initial NEPA process. Fully analyzing these follow-up actions during the initial NEPA process may reduce the need for additional NEPA analysis when adjusting management actions. For example, analysis of various fuels treatments or combinations of treatments could be done through various alternatives, thereby reducing or eliminating the need for further NEPA analysis if monitoring indicated a need to implement a different course of action (and that action was addressed as an alternative). In some cases, it may be advisable to complete a Determination of NEPA Adequacy (DNA) to ensure that no new circumstances or information has come to light, and no substantial changes have occurred since the original NEPA document was completed.

### ***B. Monitoring***

Monitoring is a key part of what has been termed "adaptive management," in which monitoring measures progress toward or success in achieving an objective, and provides the evidence for management change or continuation (*DOI Adaptive Management Technical Guide and Elzinger et al., 1998*). Inherent in the adaptive management cycle is the concept that monitoring is driven by objectives. What is measured, how well it is measured, and how often it is measured are design features that are defined by how an objective is articulated. Monitoring is the critical feedback loop that allows fire management specialists to constantly improve management actions and fire plans.

Monitoring data provides the scientific basis for planning and implementing future actions. Monitoring data provides the scientific basis for planning and implementing future actions. Monitoring is needed to determine if we are doing what we said we were going to do (implementation monitoring) and whether we achieved what we were trying to achieve (effectiveness monitoring). Implementation and effectiveness monitoring is needed at all three planning levels: land use plan (LUP), fire management plan (FMP) and project level (project plan), and must address both short- and long-term (beyond three years) effects. Monitoring costs should be shared with other resource programs where treatments are jointly funded, or are planned and implemented to meet multiple program objectives.

### 1. *Types of Monitoring*

#### Implementation Monitoring:

Implementation monitoring determines whether planned activities have been implemented in the manner prescribed by the plan (i.e., did you do what you said you were going to do?). It is the tracking and documenting of fire-related LUP, FMP and/or project-level decisions. It must be done as part of the annual FMP review and update process. It is one of the elements that will be assessed during state fuels and planning program evaluations, and may be incorporated into preparedness reviews. The NFPORS “project activities” may be used as a mechanism for tracking implementation monitoring.

#### Effectiveness Monitoring:

Effectiveness monitoring determines if implementation of activities has achieved desired goals and objectives. Effectiveness monitoring answers the question: “Were the specified activities successful in achieving the objectives?” This requires knowledge of the objectives established in the planning document as well as indicators that can be measured. Indicators are established by technical specialists in order to address specific questions and, thus, avoid collection of unnecessary data. Success is measured against the benchmark of achieving the objectives (desired conditions) established by the plan.

### 2. *Levels of Monitoring*

Monitoring is accomplished at three planning levels: LUP, FMP and, finally, project-level planning. The same information obtained from monitoring may be used to address monitoring needs at one or more planning levels (e.g., information gathered to determine whether a prescribed fire achieved a specific project/treatment objective may be used with other monitoring data to determine if FMP objectives or LUP objectives were achieved, as well).

Following are examples and additional supporting information for all three planning levels: LUP, FMP, and project-level.

### LUP Monitoring and Evaluation

#### *Implementation monitoring*

- What is it?
  - Determines whether fire management actions are being implemented as planned (e.g., are we implementing the type of fuels projects we said we would; are we managing fires like we said we would?).
  - Recommended to be done annually (H-1601-1, Sec. V.A., page 33).
- How is it accomplished?
  - Completed when reviewing the LUP by correlating the type of treatments we are conducting and/or if we are responding to wildfires as outlined in the LUP.
- How is it reported?
  - Documented in the project implementation file and then summarized in the Five-Year LUP Evaluation document.

#### *Effectiveness monitoring*

- What is it?
  - A strategy must be developed as part of the LUP that identifies indicators of change, acceptable thresholds, methodologies, protocols, and timeframes that will be used to evaluate and determine whether or not desired outcomes are being achieved (H-1601- V.A. page 33). The wildland fire program must participate in this strategy.
  - For example, whether fuels treatments are changing fire characteristics or fuel models, as planned; or whether fires being managed for resource benefits are meeting vegetation or other identified objectives.
- How is it accomplished?
  - Determining effectiveness of fire management objectives at the LUP level is normally facilitated by assessing monitoring data collected at the FMP- or project-level (e.g., FireMon, Fire Effects Assessment Tool, Brown's transect(s), Daubenmier plots, Nuud's boards, Fire Effects Monitor (FEMO) on fires, or other established vegetative monitoring protocols).
- How is it reported?
  - Usually reported through local unit, state, or national established standards (e.g., FRCC in NFPORS), and documented accordingly.

#### *LUP Evaluations*

- The LUP evaluation(s), conducted every five years at a minimum, would consider the fire program monitoring data to determine progress in implementing the LUP, and whether new or modified decisions are needed.

### FMP Monitoring

#### *Implementation Monitoring*

- What is it?
  - Very similar to the implementation monitoring at the LUP monitoring level, in that we are trying to determine if we implemented the treatments we said we were going to do, and/or if we managed fires to achieve resource benefits in the specific areas we said we would.
  - Determines if location, type, and scale of fuels treatments are applied in FMUs as described in the FMP.
- How is it accomplished?
  - Accomplished through the required annual FMP review, and documented in fire management planning project files by using Appendix A of this handbook.
- How is it reported?
  - Usually reported through local unit, state, or national established standards; documented accordingly with records being retained, as appropriate.

#### *Effectiveness Monitoring*

- What is it?
  - Is used to determine if we are achieving the objectives outlined in the FMP.
  - Timeframe: Generally longer-term (five years or longer), and may be determined, in part, by assessing the achievement of project-level monitoring.
- How is it accomplished?
  - Accomplished by assessing monitoring data specific to FMP objectives or correlating project-level monitoring data to FMP objectives. It is imperative that the relationships between objectives set forth in the FMP are highly reflective of those established in the LUP.
- How is it reported?
  - Usually reported through local unit, state, or national established standards; documented accordingly, with records being retained, as appropriate.

### Project-Level Monitoring

#### *Implementation Monitoring*

- What is it?
  - Answers the specific question of “was the project/treatment implemented as planned?” If not, further steps should be taken to determine why it wasn’t implemented as planned, and what needs to be changed to remedy the situation.
- How is it accomplished?

- Addressed by reviewing the project file or NEPA document to determine if the project was implemented according to the project description and planned activities.
- How is it reported?
  - Compiled and summarized in project plan/folder through local unit established methods.

### *Effectiveness Monitoring*

- What is it?
  - Specifically answers the question of “did the project/treatment achieve the project/treatment objectives” as stated in the project file or NEPA document (e.g., did we achieve the change in fuel loading we were attempting to achieve?”).
  - Generally short-term (one to five years), yet is often used to determine achievement of longer-term FMP or LUP objectives.
- How is it accomplished?
  - Usually accomplished through an established “on-the-ground, hands-on” type of protocol (e.g., simple post burn monitoring report in the burn plan regarding percent of unit burned or more in-depth methods, such as FireMon to determine whether the fire intensity and fire extent (coverage) expected was achieved).
- How is it reported?
  - Compiled and summarized in project plan/folder through local unit established methods.

### 3. *Monitoring Plan*

A monitoring plan provides a framework that lays out how implementation and effectiveness monitoring will be completed. Short- and long-term monitoring programs to assess accomplishments and to determine effects of management activities on cultural and natural resources are essential. A fire monitoring plan outlining these programs should be developed as a supplemental plan to the FMP, and may be inserted as an appendix. It should reflect objectives identified at all three levels of monitoring; however, since project- or treatment-level objectives are not identified until project or treatment plans have been completed, a monitoring plan developed in conjunction with the FMP generally concentrates on LUP and FMP objectives and actions.

The monitoring plan needs to provide guidance on monitoring specific to the planning area; it must establish time frames for implementation and post-treatment or post-fire monitoring; and should describe the methodology necessary to complete monitoring in the vegetation communities present, given circumstances unique to the planning area.

The Fire Management Planning Manual (H-9211) requires monitoring for treatment effectiveness. While this handbook recommends an “established”

monitoring system; it does not define a specific system. The following outline is recommended for either a program-wide or site-specific monitoring plan:

*I. Introduction*

Include purpose, intention and map showing location.

*II. Management Objectives*

Document the management objectives (derived from the resource management plan (RMP), FMP, or project plan). Objectives may be suppression-related (such as those relating to reducing risk to communities), fuels related (e.g., changing fuels characteristics) or relate to modifying ecological processes.

*III. Sampling*

A. Monitoring Objectives

Monitoring objectives specify how to assess success or failure in meeting management objectives. Unlike management objectives, which set specific goals for some target or trend value, a monitoring objective sets a specific goal for the measurement of status or trend. Monitoring objectives do not have to be elaborate. Examples would be parameters to document changes in cheat-grass cover or juniper density.

B. Sampling Design

It is important to specify what is being monitored, how it is being measured, and how frequently measurements will be taken. Describe the sampling design to be used to meet the monitoring objectives.

C. Interdisciplinary Involvement and Funding

Describe program areas that will be participating in monitoring and funding they will provide.

*IV. Analysis*

In the event that objectives were not met, analysis of monitoring information can help determine why. In order for this to occur, a brief narrative will be written. This narrative will describe factors which contributed to not meeting objectives. This information can then be used to modify prescriptions, treatment intensity, or other variables in future project design.

***C. Maintaining Fire Planning Records***

Fire planning analysis documents and fire effects information collected during monitoring must be maintained in permanent files. This information provides the basis for changes in management actions to increase effectiveness (i.e., adaptive management). These records can include pre-fire documentation of site/area conditions; burned area maps; wildfire or prescribed fire reports; weather and fuel moisture conditions under which the fire occurred; fire behavior, fire characteristics, burn severity, and burn pattern; pre-fire and post-fire resource inventory and monitoring data, including photographs; assessments of the effectiveness of fire treatment; the type and degree of success of post-fire rehabilitation

measures; pre-fire and post-fire site-management activities; or extreme weather events or anomalous climatic trends. Please visit the [BLM Records Administration Manual \(MS-1270\)](#) and the BLM Fire Planning Manual (9211) for further direction.



## **Chapter VI. Budget and Organization**

The information in the fire management plan (FMP) drives development of a unit's budget and organization.

### ***A. Budget Planning Tools***

In order to develop a program of work (POW) and efficient fire organization, consistent planning tools must be used. Fire managers must be well versed in the fire planning process which will affect available staffing levels. The use of decision support tools, such as those described below, will be essential in developing a POW. Technical guidance will be provided, as necessary.

1. *Fire Program Decision Support System (FPDSS)*  
The FPDSS is a BLM-only system used in the Fire and Aviation Directorate's (FAD) annual planning and budget development process to calculate a fair and appropriate division of funds to send to state offices. The FPDSS is a dynamic process that establishes base funding for states, while providing the national office flexibility to meet the current mission, as well as to project and plan for the future.
2. *Hazardous Fuels Prioritization and Allocation System (HFPAS)*  
The HFPAS is used to establish priorities and funding for fuels programs between the Department of the Interior (DOI) fire agencies. The HFPAS incorporates data entered into the National Fire Plan Operations and Reporting System (NFPORS), and uses both the Ecosystem Management Decision Support (EMDS) System and Treatment Prioritization System (TPS) models to generate priorities for fuels treatment funding allocations.
3. *Fire Program Analysis (FPA)*  
The FPA system provides managers with a common interagency process for fire management planning and budgeting to evaluate the effectiveness of alternative fire management strategies through time, to meet land use goals and objectives. The FPA reflects performance measures for the full scope of fire management activities and, ultimately, provides a mechanism to aid in budget formulation.

### ***B. Annual Budget/Organization Submissions***

A unit's implemented fire organization must be submitted to Fire and Aviation, Division of Fire Planning and Budget (FA-600), via state offices, each fall. The BLM Implemented Fire Resources form will be provided and will be used by the BLM National Interagency Fire Center (NIFC) Budget Division to inform future budget requests and respond to requests for organizational information. The national office will provide additional information on due dates through the Annual Work Plan (AWP) process.

Hazardous fuels budget submissions must reflect an integrated vegetation management approach incorporating both the renewable resources and the hazardous fuels programs.

Hazardous fuels projects developed collaboratively as part of the integrated vegetation management POW must be entered into the NFPORS hazardous fuels and non-national fire plan (NFP) modules annually. These entries will be used to populate the HFPAS process noted above

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## ***Glossary***

The following definitions are taken from the most recent [NWCG Glossary of Wildland Fire Terminology](#), unless otherwise noted. This glossary provides a single source for commonly used terminology and is currently being revised to accommodate recent changes to policy implementation guidance. It also includes terminology used in general Bureau of Land Management (BLM) planning documents. Any terms that may be used interchangeably in this handbook are identified in this glossary.

**Burned Area Rehabilitation (BAR)** – See Rehabilitation.

**Emergency Stabilization** – Planned actions to stabilize and prevent unacceptable degradation to natural and cultural resources, to minimize threats to life or property resulting from the effects of a fire, or to repair/replace/construct physical improvements necessary to prevent degradation of land or resources.

**Fire Management Objective** – Planned, measurable result desired from fire protection and use based on land use goals and objectives.

**Fire Management Plan (FMP)** – A plan which identifies and integrates all wildland fire management and related activities within the context of approved land/resource management plans. It defines a program to manage wildland fires (wildfire and prescribed fire). The plan is supplemented by operational plans including, but not limited to, preparedness plans, preplanned dispatch plans, and prevention plans. Fire management plans assure that wildland fire management goals and components are coordinated.

**Fire Management Unit (FMU)** – A land use area definable by objectives, management constraints, topographic features, access, marginal values to be protected, political boundaries, historic fire ignitions, fuel types, major fire regime groups, etc., that set it apart from the characteristics of an adjacent FMU. The FMUs may have dominant management objectives and pre-selected strategies assigned to accomplish these objectives.

**Fire Planning Unit (FPU)** – The geographic scope of the landscape defined for the fire management analysis. A fire planning unit consists of one or more fire management units. The FPUs may relate to a single administrative unit, a sub-unit, or any combination of units or sub-units. The FPUs are scalable and may be contiguous or non-contiguous. The FPUs are not predefined by agency administrative unit boundaries, and may relate to one or more agencies; they may be described spatially.

**Fire Regime** – Description of the patterns of fire occurrence, frequency, size, and severity - and sometimes, vegetation and fire effects as well - in a vegetation type or ecosystem. Fire regimes are most commonly characterized by variables such as frequency, severity, effects, meteorology, patch and pattern, seasonality, and fire behavior characteristics. A

fire regime is a generalization based on fire histories at individual sites. Fire regimes can often be described as cycles because some parts of the histories usually get repeated, and the repetitions can be counted and measured, such as fire return interval.

**Fire Regime Condition Class (FRCC)** – The depiction of the degree of departure from historical fire regimes, possibly resulting in alterations of key ecosystem components. These classes categorize and describe vegetation composition, structure, and fire regime conditions for biophysical setting. The risk of loss of key ecosystem components from wildfires increases from Condition Class 1 (lowest risk) to Condition Class 3 (highest risk). The FRCC involves two pieces of information: (1) the historic fire regime (I-V), and (2) the condition class.

**Implementation Plan** – The design and definition of all the activities, resources, limitations, and contingencies required for successful wildland fire management.

**OR**

An area or site-specific plan written to implement decisions made in a land use plan (LUP). Implementation plans include both activity plans and project plans (*BLM Land Use Planning Handbook H-1601-1*).

**Land/Resource Management Plan (L/RMP)** – A document prepared with public participation, and approved by the agency administrator, that provides general guidance and direction for land and resource management activities for an administrative area. The L/RMP identifies the need for fire's role in a particular area and for a specific benefit. The objectives in the L/RMP provide the basis for the development of fire management objectives and the fire management program in the designated area.

**Land Use Plan (LUP)** – A set of decisions that establishes management direction for land within an administrative area, as prescribed under the planning provisions of Federal Land Policy and Management Act (FLPMA); an assimilation of land-use plan-level decisions developed through the planning process outlined in 43 CFR 1600, regardless of the scale at which the decisions were developed. The term includes both resource management plans (RMP) and management framework plans (MFP) (*BLM Land Use Planning Handbook H-1601-1*). ***The terms LUP, Resource/Land Management (R/LMP), and MFP are considered interchangeable in this document.***

**Management Framework Plan (MFP)** – See Land Use Plan.

**Prescribed Fire** – see **Wildland Fire**.

**Prescribed Fire Burn Plan** – A plan required for each fire application ignited by management. Plans are documents prepared by qualified personnel, approved by the agency administrator, and include criteria for the conditions under which the fire will be conducted (a prescription). Plan content varies among the agencies.

**Rehabilitation** – Efforts undertaken within three years of a wildland fire to repair or improve fire damaged lands unlikely to recover to a management approved conditions, or to repair or replace minor facilities damaged by fire.

**Response to Wildland Fire** – Decisions and actions implemented to manage a wildland fire based on ecological, social, and legal consequences, the circumstances under which a fire occurs, and the likely consequences on firefighter and public safety and welfare, natural and cultural resources, and values to be protected. Response to ignition is guided by the objectives and strategies outlined in the land/resource management plan and/or fire management plan.

**Restoration** – The continuation of rehabilitation beyond the initial three years or the repair or replacement of major facilities damaged by the fire.

**OR**

Implementation of a set of actions that promotes plant community diversity and structure that allows plant communities to be more resilient to disturbance and invasive species over the long term (*Great Basin Restoration Initiative*).

**State Implementation Plan (SIP)** – A United States state plan for complying with the Federal Clean Air Act, administered by the Environmental Protection Agency. The SIP consists of narrative, rules, technical documentation, and agreements that an individual state will follow to ensure compliance.

**Strength of Force** – Total firefighting resources available, during a specified period, to conduct and support firefighting operations.

**Use of Wildland Fire** – Management of either wildfire or prescribed fire to meet resource objectives specified in L/RMPs. A wildland fire may be concurrently managed for one or more objectives and objectives can change as the fire spreads across the landscape (synonymous with fire use but NOT “wildland fire use”, which is an obsolete term).

**Watershed** – Any area of land that drains to a common point. A watershed is smaller than a river basin or sub-basin, but it is larger than a drainage or site. The term generally describes areas that result from the first subdivision of a sub-basin, often referred to as a “fifth-field watershed” (*Federal Guide for Watershed Analysis, Version 2.2*).

**Wildfire** – See **Wildland Fire**.

**Wildfire Suppression** – The response to wildfire (or an escaped prescribed fire) that results in curtailment of fire spread and eliminates all identified threats from the particular fire.

**Wildland Fire** – A general term describing any non-structure fire that occurs in the vegetation and/or natural fuels. Wildland fire includes both wildfire and prescribed.

- **Wildfire** – An unplanned ignition caused by lightning, volcanoes, unauthorized and accidental human-caused fires, and escaped prescribed fires.
- **Prescribed Fire** – Any fire intentionally ignited by management under an approved plan to meet specific objectives identified in a written and approved

prescribed fire plan for which National Environmental Policy Act (NEPA) requirements (where applicable) have been met prior to ignition.

**Wildland Fire Decision Support System (WFDSS)** – A linear, stepwise, and standardized documentation process for wildland fires. The WFDSS is a web-based application which provides real time depiction of fire weather, values at risk, and summarization of LUP and FMP objectives in documenting wildland fire management decisions. For fires escaping initial attack, the WFDSS results in a WFDSS report which documents the objectives, fire situation, course of action, and rationale of the fire and line managers. The WFDSS replaces the Wildland Fire Situation Analysis (WFSA), Wildland Fire Implementation Plan (WFIP), and Long-Term Implementation Plan (LTIP) processes with a single process.

**Wildland Urban Interface (WUI)** – The line, area, or zone where structures and other human development meet or intermingle with undeveloped wildland or vegetative fuels.

**OR**

As defined by Healthy Forests Restoration Act (HFRA):

- (i) an area extending ½ mile from the boundary of an at-risk community;
- (ii) an area within 1 ½ miles of the boundary of an at-risk community, including any land that
  - (I) has a sustained steep slope that creates the potential for wildfire behavior endangering the at-risk community, or
  - (II) is in condition class 3, as documented by the Secretary in the project-specific environmental analysis;
- (iii) an area that is adjacent to an evacuation route for an at-risk community that the Secretary determines, in cooperation with the at-risk community, requires hazardous fuels reduction to provide safer evacuation from the at-risk community.

## Appendix A - References

- [Additional Guidance for Communicating about Managing Wildland Fire in Light of Changes in Policy Guidance and Terminology \(July 2010\)](#)
- [BLM Air Resources Management Manual \(7300\)](#)
- [BLM Areas of Critical Environmental Concern - ACECs Manual \(1613\)](#)
- [BLM Burned Area Emergency Stabilization and Rehabilitation Handbook \(H-1742-1\)](#)
- [BLM Cultural Resources Manual \(Sections 8100-8170\)](#)
- [BLM Emergency Stabilization and Burned Area Rehabilitation Homepage](#)
- [BLM Fire Operations, Fire and Aviation Intranet Website](#)
- [BLM Fire Trespass Handbook \(H-9238-1\)](#)
- [BLM Integrated Vegetation Management Handbook \(H-1740-2\)](#)
- [BLM Land Use Planning Handbook \(H-1601-1\)](#)
- [BLM Planning for Uses of Cultural Resources Manual \(8130\)](#)
- [BLM Protecting Cultural Resources Manual \(8140\)](#)
- [BLM Records Administration Manual \(1270\)](#)
- [BLM Special Status Species Manual \(6840\)](#)
- [BLM Supplemental Guidance to the Interagency Guide](#)
- [BLM Wilderness Manual \(8560\)](#)
- [Clean Air Act](#)
- [Clean Water Act](#)
- [Code of Federal Regulations, Title 43, Volume 2, Chapter 2, Parts 1000-End; Public Lands: Interior, DOI, BLM. 2007. US Government Printing Office.](#)
- [Cohesive Wildfire Management Strategy](#)
- [Department of the Interior Adaptive Management Technical Guide \(2007\)](#)
- [Department of the Interior Environmental Statement Memorandum \(ESM\) 10-20](#)
- [Departmental Manual Part 620 for Wildland Fire Management](#)
- [Elzinger et.al., 1998. Measuring and Monitoring Plant Populations. BLM Tech. Ref. 1730-1. 477 pp.](#)
- [Endangered Species Consultation on Procedures for Conducting Consultation and Conference Activities under Section 7 of the Endangered Species Act](#)



**References (continued)**

[Environmental Protection Agency \(EPA\) Consultation Website](#)

[Federal Land Policy and Management Act of 1976 \(FLPMA\)](#)

[Federal Wildland Fire Management Policy and Program Review \(December 1995\)](#)

[Fire Effects Information System \(FEIS\)](#)

[Fire Effects Monitoring and Inventory System \(FIREMON\)](#)

[Fire Modeling Institute](#)

[Fire Regime and Fire Regime Condition Class](#)

[Fire Research and Management Exchange System \(FRAMES\)](#)

[Healthy Forests Initiative and Healthy Forests Restoration Act – Interim Field Guide  
\(February 2004\)](#)

[Integrated Sampling Strategy \(ISS\) Guide](#)

[Interagency Burned Area Emergency Response and Interagency Burned Area  
Rehabilitation](#)

[Interagency Prescribed Fire Plan Template](#)

[Interagency Prescribed Fire Planning and Implementation Procedures Reference Guide  
\(July 2008\)](#)

[Interagency Standards for Fire and Fire Aviation Operations \(Redbook\)](#)

[Interagency Strategy for the Implementation of the Federal Wildland Fire Policy \(June  
2003\)](#)

**LANDFIRE**

[Minimum Impact Suppression Techniques \(MIST\) Implementation](#)

[Modification to the Interagency Strategy for the Implementation of Federal Wildland Fire  
Management Policy \(2008\)](#)

**National Fire Plan**

- [A Collaborative Approach for Reducing Wildland Fire Risks to Communities:  
10-Year Strategy Implementation Plan \(December 2006\)](#)
- [Protecting People and Natural Resources, A Cohesive Fuels Treatment Strategy  
\(February 2006\)](#)

[National Fire Plan Operations and Reporting System \(NFPORS\)](#)

[A Report on National Greater Sage-Grouse Conservation Measures \(December 2011\)](#)

[National Historic Preservation Act \(NHPA\)](#)

[National Interagency Mobilization Guide](#)

[NFPORS User's Guide](#)

BLM Handbook  
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**References (continued)**

[NWCG Fire Effects Guide](#)

[NWCG Glossary](#)

[Preparing a Community Wildfire Protection Plan – A Handbook for Wildland Urban Interface Communities \(2004\)](#)

[Programmatic Agreement Among the BLM, the Advisory Council on Historic Preservation and the National Conference of State Historic Preservation Officers](#)

[Programmatic Agreement Among the BLM, the Advisory Council on Historic Preservation and the National Conference of State Historic Preservation Officers - Addendum](#)

[Review and Update of the 1995 Federal Fire Policy or Federal Wildland Fire Management Policy, \(January 2001\)](#)

[Safe Drinking Water Act](#)

[Terminology Updates Resulting from Release of the Guidance for the Implementation of Federal Wildland Fire Management Policy \(2009\) \(April 2010\)](#)

[USDA Forest Service Rocky Mountain Research Station \(General Technical Reports\)](#)

[Wilderness Act](#)

[Wildland Fire Decision Support System \(WFDSS\)](#)

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**Appendix B - Acronyms**

ACHP	Advisory Council on Historic Preservation
ACEC	Area of Critical Environmental Concern
AWP	Annual Work Plan
BAR	Burned Area Rehabilitation
BIA	Bureau of Indian Affairs
BLM	Bureau of Land Management
BMP	Best Management Practice
BpS	Biophysical Settings
CAR	Community at Risk
CC	Condition Class
CFR	Code of Federal Regulations
COI	Community of Interest
CWPP	Community Wildfire Protection Plan
CX	Categorical Exclusion
CEQ	Council on Environmental Quality
DM	Departmental Manual
DNA	Determination of NEPA Adequacy
DOI	Department of the Interior
EA	Environmental Assessment
EIS	Environmental Impact Statement
EMDS	Ecosystem Management Decision Support
EPA	Environmental Protection Agency
ERC	Energy Release Component
ES	Emergency Stabilization
ES&R	Emergency Stabilization and Rehabilitation
ESA	Endangered Species Act
ESM	Environmental Statement Memorandum
FA	Fire and Aviation
FAD	Fire and Aviation Directorate
FEAT	Fire Ecology Assessment Tool
FEMO	Fire Effects Monitor
FEIS	Fire Effects Information System
FFE	Full Force and Effect
FIL	Fire Intensity Level
FIREMON	Fire Effects Monitoring and Inventory System
FLPMA	Federal Land Policy and Management Act
FMIS	Fire Management Information System
FMO	Fire Management Officer
FMP	Fire Management Plan
FMU	Fire Management Unit
FONSI	Finding of No Significant Impact
FPA	Fire Program Analysis
FPDSS	Fire Program Decision Support System
FPU	Fire Planning Unit

**Acronyms (continued)**

FRCC	Fire Regime Condition Class
FS	Forest Service
FWS	Fish and Wildlife Service
GTR	General Technical Report
HFI	Healthy Forests Initiative
HFPAS	Hazardous Fuels Prioritization and Allocation System
HFRA	Healthy Forests Restoration Act
IFMPT	Interagency Fire Management Plan Template
ISS	Integrated Sampling Strategy
JCR	Joint Counterpart Regulation
JFSP	Joint Fire Sciences Program
L/RMP	Land/Resource Management Plan
LTIP	Long Term Implementation Plan
LUP	Land Use Plan
MAC	Multi-Agency Coordinating
MFP	Management Framework Plan
MIST	Minimum Impact Suppression Technique
MOU	Memorandum of Understanding
NAA	Non-attainment Area
NAAQS	National Ambient Air Quality Standards
NBAER	National Burned Area Emergency Response
NEPA	National Environmental Policy Act
NFES	National Fire Equipment System
NFP	National Fire Plan
NFPORS	National Fire Plan Operations and Reporting System
NHPA	National Historic Preservation Act
NIFC	National Interagency Fire Center
NLAA	Not Likely to Adversely Affect
NMFS	National Marine Fisheries Service
NPS	National Park Service
NWCG	National Wildfire Coordinating Group
OEPC	Office of Environmental Policy and Compliance
OHA	Office of Hearings and Appeals
OWF	Office of Wildland Fire
PL	Public Law
POW	Program of Work
RAVAR	Rapid Assessment of Values at Risk
RAWS	Remote Automatic Weather Station
RMRS	Rocky Mountain Research Station
ROW	Right of Way
SHPO	State Historic Preservation Officer
SIP	State Implementation Plan
T&E	Threatened and Endangered

**Acronyms (continued)**

THPO	Tribal Historic Preservation Officer
TPS	Treatment Prioritization System
WFDSS	Wildland Fire Decision Support System
WFIP	Wildland Fire Implementation Plan
WFMI	Wildland Fire Management Information
WFSA	Wildland Fire Situation Analysis
WSA	Wilderness Study Area
WUI	Wildland Urban Interface

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## Appendix C - Fire Management Plan (FMP) Annual Review Checklist

Annual Review Questions	Yes	No
1. Has wildland fire or non-fire fuels treatment substantially changed a large enough acreage that fire management unit (FMU) objectives will require revising?		
2. Do any of the acres treated cross a threshold established by an FMU objective which, in turn, would lead to a change in management actions?		
3. Did the fuel model, fire regime condition class, or predicted fire behavior characteristics change substantially in any FMU (e.g., did a fire change a large portion of condition class 3 acres)?		
4. Did any of the FMU fire management objectives, values at risk, FMU priorities, or mitigation measures change substantially due to changes in any other program policies?		
5. Did federal, bureau, regional, state or local policy or land use plan (LUP) guidance (such as through LUP revisions) change in a way that substantially would alter FMP strategies or priorities?		
6. Did monitoring results show that management actions need to be changed to result in movement toward or achievement of objectives or desired outcomes?		
7. Has wildland fire or non-fire fuels treatments affected bureau-sensitive species with a conservation plan or strategy (e.g., sage-grouse) to a point that future wildland fire or fuels management strategies may need revising?		
<p>Annual FMP review completed and minor plan maintenance documentation completed, or actions are planned to update the FMP.</p> <p>FMO or Designated Authority            Signature: _____ Date: _____</p> <p>District/Field Office Manager Concurrence            Signature: _____ Date: _____</p>		

**This form represents the minimum requirements for annual review; an office may choose to add further detail to this form.**



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## **Appendix D - Interagency Fire Management Plan Template**

**April 9, 2009**

Federal wildland fire policy requires that every area with burnable vegetation must have a fire management plan (FMP). Fires in areas without approved FMPs must be suppressed. Each plan will be based on the area's approved land management plan; in the absence of such a plan, the FMP may stand alone. Wildland fire management planning activities and program components (e.g., fuels management, initial response, etc.) for each agency will be coordinated across administrative boundaries.

**Purpose of an FMP** – The fire management planning process and requirements may differ among agencies. However, for the following federal agencies, Forest Service (FS), Bureau of Indian Affairs (BIA), Bureau of Land Management (BLM), U.S. Fish and Wildlife Service (FWS), and the National Park Service (NPS), a common purpose of an FMP is to provide decision support to aid managers in making informed decisions on the management of wildland fires. The FMP includes a concise summary of information organized by individual fire management unit (FMU) or grouping of FMUs.

In addition, for the Department of the Interior (DOI) agencies (BIA, NPS, FWS and BLM), the FMP contains strategic and operational elements that describe how to manage applicable fire program components such as: response to unplanned ignitions, hazardous fuels and vegetation management, burned area emergency stabilization and rehabilitation, prevention, community interactions and collaborative partnerships roles, and monitoring and evaluation programs. The FS will have related information in separate fire management reference documents.

Each FMP will evolve over time as new information becomes available, conditions change on the ground, and/or changes are made to land/resource management plans.

**Purpose of the Interagency Fire Management Template** – The purpose of the interagency fire management plan template is to provide a framework to facilitate cooperation across administrative boundaries. This template provides the minimum standard for FMP structure and content. The FMP has differing audiences and detail depending upon program complexities, agency need, and direction. This template is designed to incorporate agency flexibility. Each agency may expand on this common template to meet agency specific needs, and that agency's approved template will dictate the final requirements for a unit's FMP.

All agencies are required to use Chapters 1, 2, and 3 with the major headings below (in bold). The DOI agencies are required to also use Chapters 4 and 5, and may opt to add additional chapters or sections if deemed necessary.

## 1. Introduction

*The intent of this Chapter is to introduce the reader to the area covered by the FMP.*

- State the reasons for developing the FMP.
- Provide a general description of location of the area covered by the FMP with vicinity map and agencies involved.
- Briefly describe land ownership, significant resources, mission or direction for the area, and different management designations (e.g., wilderness, timber harvest areas, research natural areas, cultural/religious areas, habitat management areas) for agencies participating in the planning effort.

## 2. Policy, Land Management Planning, and Partnerships

*The intent of this Chapter is to establish the linkage between higher level planning documents, legislation and policies, and the actions described in the document*

### 2.1 Fire Policy

Identify sources of guidance and direction that relate to actions described in the FMP.

These may include:

- National, interagency, and departmental policy (e.g., National Fire Plan, Departmental Manuals);
- agency-specific policies (e.g., handbooks, manuals, direction, strategic plans);
- unit-specific policies (e.g., tribal direction, unit specific CFRs); and
- compliance and authorities (e.g., National Environmental Policy Act (NEPA), National Historic Preservation Act (NHPA), Endangered Species Act (ESA) and any programmatic agreements involved).

### 2.2 Land/Resource Management Planning (L/RMP)

Identify documents that relate to the area covered by the FMP, including interagency efforts.

Examples include:

- land use plans,
- habitat management plans,
- resource management plans,
- forest management plans,
- comprehensive conservation plans, and
- regional management plans such as the Northwest Forest Plan.

### 2.3 Partnerships

Identify any internal and external fire management partnerships or planning teams that helped you develop this FMP. This information documents the level of cooperation occurring.

Examples include:

- interagency planning teams (e.g., local groups that share boundaries),
- non-federal agencies/departments,
- tribal government, and
- internal interdisciplinary planning teams.

### **3. Fire Management Unit Characteristics**

*This chapter is split into two sections. The first section, (Section 3.1), deals with information common to the entire planning area. The second section, (Section 3.2), contains information unique to individual FMUs. Sections 3.1 and 3.2 must be used together for a complete representation of FMU characteristics and management (see National Wildfire Coordinating Group (NWCG) glossary for the definition of FMU).*

*The primary purpose of developing FMUs in fire management planning is to assist in organizing information in complex landscapes. The process of creating FMUs divides the landscape into smaller geographic areas to more easily describe physical, biological, and social characteristics, and depict associated planning guidance based on these characteristics. The information contained in these sections may be used for incident decision support (e.g., Wildland Fire Decision Support System (WFDSS)), and incident management.*

*If possible, FMUs should be developed through interagency efforts and interactions consistent with each unit's land management objectives to facilitate cooperative fire management across boundaries.*

*As an FMP is being written, local planners will determine the amount of detail to be included in the area-wide considerations section (3.1), versus the detailed FMU section (3.2). For example, an area of low complexity may have most or all of the information outlined in the area-wide section (3.1), and little additional information outlined in the individual FMU section (3.2). Conversely, large complex landscapes may have few common characteristics and considerations between FMUs, and may have most information contained in the FMU specific sections.*

#### **3.1. Area-wide Management Considerations**

*The intent of this section is to document overall wildland fire management program guidance and characteristics common to all FMUs. Section 3.2 provides opportunity to discuss FMU specific characteristics.*

- Describe fire management related goals, objectives, standards, guidelines, and/or desired future conditions as found in the appropriate L/RMP(s) that apply across all FMUs. Include fire management related goals that may come from non-fire program areas within the L/RMP or other planning documents.

Examples of these goals, objectives, standards, guidelines, and desired conditions are:

- firefighter and public safety,
  - using fire to restore ecosystem health,
  - response to unplanned ignitions,
  - management actions that will be implemented to ensure cost effectiveness of the fire management program,
  - desired plant community composition and structure, and
  - constraints common to all FMUs (e.g., restrictions on retardant use, preventing spread of invasive species through washing of vehicles).
- Identify area-wide guidance, such as regional initiatives that contain additional fire management goals or objectives (e.g., sage grouse strategies).
  - Describe common characteristics (e.g., topography, fuels, prevailing winds) that may occur across all FMUs.

### 3.2 Fire Management Unit - Specific Descriptions

*The intent of this section is to describe the unique characteristics of each FMU. The organization within this section is at the discretion of the agency. It should be made clear and noted in this section that information contained in 3.1 is applicable and additive to information contained in 3.2. The purpose of the notice would be to alert the reader/user that the following FMU information may not stand-alone.*

FMU characteristics must be described. Examples are:

- physical and biological description of FMU (e.g., topographic features, fuel types, special conditions that may result in extreme fire behavior, access, Fire Regime Condition Class (FRCC), high value concerns, special areas),
- jurisdictional boundaries (e.g., adjacent or intermingled federal, private, tribal, state, county ownership),
- communities and other values at risk within and adjacent to FMU, and
- fire behavior and weather descriptions (e.g., Energy Release Component (ERC) tables, past fire behavior and perimeter histories, control problems).

The FMU management guidance must be described. Examples are:

- FMU-specific objectives (e.g., response objectives, fire intensity levels, fire frequency concerns),
- FMU-specific desired conditions (e.g., desired vegetation conditions),
- description of approved wildland fire management strategies, (use of wildland fire to achieve resource benefits and fuels treatments such as prescribed fire, mechanical or other treatments),
- potential size and scope of vegetation treatments to meet both fire and land use goals,

- FMU-specific guidelines, constraints, or mitigation considerations (e.g., Minimum Impact Suppression Techniques (MIST), minimum suppression in special areas, retardant or chemical limitations, etc.), and
- burned area emergency stabilization and rehabilitation considerations if applicable. For example:
  - emergency post-fire hydrological and geological concerns (e.g., potential for flash floods and debris flows),
  - values to be protected such as Threatened and Endangered (T&E) species, cultural concerns, wilderness, areas of special concern, water quality, invasive species, infrastructure,
  - potential treatments which may include preapproved treatments from programmatic plans (e.g., site stabilization treatments, public warning systems, point protection, seeding, herbicide application), and
  - allowable actions or local restrictions.

The FMU safety considerations must be described. Examples are:

- gas lines,
- power lines,
- mine shafts,
- aviation hazards,
- restricted access due to hazards, and
- poisonous plants and venomous animals.

Detailed operational information may be contained in this section, or it may be placed in an appendix and referenced here. Examples include:

- permanent repeater locations, recommendations of successful temporary sites,
- radio frequencies,
- radio “dead spots”,
- communication plan,
- evacuation plan,
- water dip sites,
- helispots,
- remote automated weather stations (RAWS), and
- potential fire camp locations.

#### **4. Wildland Fire Operational Guidance**

*This chapter applies to DOI agencies only. Forest Service guidance is available separately.*

*The intent of this chapter is to document the procedures used in the area covered by the FMP to implement the wildland fire management program. The following sections and subsections should be addressed in this chapter, or a reference should be cited where this information can be found (e.g., in an appendix).*

#### 4.1. Management of Unplanned Ignitions

Describe or reference program procedures that will be in place for planning for and responding to unplanned fires. Procedures to be included are dependent on local and interagency needs.

##### 4.1.1 Preparedness

Examples include:

- preparedness (including training, qualifications, readiness, detection and aviation),
- cooperative or mutual aid fire management agreements,
- cost apportionment agreements,
- protection agreements,
- cross-boundary fire agreements,
- size-up, initial response and extended response procedures,
- records management,
- pre-planning and data acquisition for incident decision support processes and tools (e.g., WFDSS), and
- public interaction (e.g., information plans, Community Wildfire Protection Plans (CWPP) or equivalent).

##### 4.1.2 Incident Management

Examples include:

- dispatching/obtaining resources (e.g., interagency dispatch centers, interagency teams, Multi-Agency Coordinating (MAC) groups),
- prioritizing allocation of resources,
- use of decision support tools (e.g., WFDSS, Farsite, Rapid Assessment of Values At Risk (RAVAR), etc.),
- processes for complying with regulatory requirements (e.g., smoke management, State Historic Preservation Office (SHPO), ESA),
- fire reporting requirements (forms such as 209s, 1202s, and updating systems of record such as Wildland Fire Management Information (WFMI) and Fire Management Information System (FMIS), and
- process for addressing suppression activity damage such as repairing firelines, camp clean up and stabilization, and other related damage needing immediate repair that are a direct result of fire management operations.

##### 4.1.3 Emergency Stabilization

Immediate post wildfire actions needed to minimize the threat to life and health and prevent unacceptable degradation to natural and cultural resources (see Interagency Burned Area Emergency Response Guidebook).

Examples include:

- planning and burned area assessments (anticipated data and technical specialists needed),
- anticipated post-wildfire issues and values to be protected,
- treatment maintenance and monitoring, and
- reporting requirements (accomplishment reports and National Fire Plan Operations and Reporting System (NFORS)).

#### 4.2 Burned Area Rehabilitation

Describe or reference applicable post-wildfire burned area rehabilitation (BAR) actions to repair or improve wildfire damaged lands unlikely to recover naturally or minor facilities damaged by the fire. Use the Departmental Manual (620 DM 3) and agency-specific direction for guidance. Also see Interagency Burned Area Rehabilitation Guidebook. Note that specific approved BAR treatments (i.e., three-year plan) and constraints and recommendations are contained within either the area-wide (Section 3.1) or specific (Section 3.2) FMU descriptions.

Examples include:

- BAR planning requirements (e.g., technical specialists needed, timelines, data needs, etc.),
- process and thresholds for determining ES and BAR teams,
- regional coordinator contact information,
- local resource specialist positions that may assist the teams,
- anticipated post-wildfire rehabilitation issues,
- standardized monitoring protocols,
- requirements for planning,
- funding processes,
- reporting requirements (accomplishment reports and NFORS),
- Native American consultation,
- Endangered Species Act consultation,
- National Environmental Policy Act (NEPA), and
- public information and public concerns.

#### 4.3. Management of Planned Fuels Treatments

Describe or reference planning and implementation processes for fuels treatments by mechanical, chemical, biological or prescribed fire methods. Procedures to be included are dependent on local needs.

Examples include:

- processes to identify and prioritize fuels treatments (e.g., consultations with communities, use CWPPs, interdisciplinary teams, risk assessments and mitigation plans),



- procedures for implementing prescribed fire (e.g., requirements for development of burn plan, responsibilities for preparing and approving prescribed fires, requirements for safety, qualifications, interagency prescribed fire guidance),
- procedures for planning, preparing and implementing non-fire treatments,
- process for complying with regulatory requirements (e.g., NEPA, smoke, SHPO, ESA),
- treatment effects monitoring description,
- reporting requirements (NFPORS) and agency specific systems,
- fuels committees or local coordinating or special interest groups,
- funding processes.

#### 4.4. Prevention, Mitigation and Education

Describe or reference wildland fire prevention, education, and mitigation strategies. Procedures to be included are dependent on local agency needs.

Examples include:

- human-caused ignition patterns and problems,
- fire investigation policies and procedures,
- closures/restricted access process,
- burn permit systems,
- law enforcement operating procedures and agreements,
- community involvement,
- Firewise,
- annual meetings with public, other agencies, and local fire districts,
- education programs,
- community grant programs and assistance,
- CWPPs,
- memorandum of understanding (MOU),
- funding processes, and
- reporting requirements.

## **5. Monitoring and Evaluation**

*This chapter applies to DOI agencies only. Forest Service guidance is available separately.*

The intent of this chapter is to document processes for determining whether the FMP is being implemented, as planned, and fire-related goals and objectives are being achieved. Information obtained from monitoring and evaluations is used to update the FMP and land use plans (LUP).

Describe monitoring processes that will be used to measure achievement of FMP objectives. Procedures to be included are dependent on local agency needs.

Processes may include:

- fire and non-fire treatment effects monitoring, including broader scale long-term monitoring based on fire and land use objectives,
- collaboration with other disciplines for monitoring broader resource management objectives,
- information on annual performance (e.g., annual targets), and
- annual process to review and/or update the FMP, including triggers for major revisions.

**Glossary**

Use NWCG on-line glossary for common terms. Include full definition and references for agency or unit specific terminology.

**References Cited (as appropriate)**

**Appendices – Optional**

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## **Appendix E - BLM FMP Supplemental Information**

This appendix provides guidance on developing an FMP that conforms to the Interagency Fire Management Plan Template (IFMPT) and reflects guidance in the BLM Fire Planning Handbook (H-9211-1). This appendix provides guidance for fulfilling IFMPT and BLM specific requirements.

The purpose of the interagency fire management plan template is to provide a framework to facilitate cooperation across administrative boundaries. This template provides the minimum standard for FMP structure and content while allowing the option to incorporate agency flexibility. Each agency may expand on this common template to meet agency specific needs. All agencies are required to use Chapters 1, 2, and 3 with the major headings noted in the following table. Department of the Interior (DOI) agencies are required to also use Chapters 4 and 5, and may opt to add additional chapters or sections, if deemed necessary.

The current interagency template (April 2009) has been modified from the original version approved in 2002, to better meet agency needs. However, the BLM-specific requirements have not changed from those set forth in the Interim Fire Planning Handbook released in 2008. The BLM offices are not required to revise current FMPs to meet this modified format until full FMP revisions are determined necessary by the responsible office. The need for a full FMP revision may be established during the annual review/update process as stipulated in the fire planning handbook.

The following table summarizes the IFMPT's required elements and provides BLM guidance to meet the required elements for each chapter and section. Required elements include both those required by the interagency fire management plan template and additional BLM requirements. Below the "Required Elements," the "BLM Guidance" describes, in more detail, how to meet the template requirements. Use this template guidance in conjunction with the guidance provided in Chapter 3 of the BLM Fire Planning Handbook, which includes additional details on components.

For additional comments or questions please contact your BLM State Office Fire Planning representative or Fire Planning and Fuels Management Division staff at the National Interagency Fire Center.

***BLM GUIDANCE – INTERAGENCY FIRE MANAGEMENT PLANNING TEMPLATE***

**1. INTRODUCTION**

<p>Required Elements</p>	<p>1.a. State the reasons for developing the FMP.</p> <p>1.b. Provide a general description of the location of the area covered by the FMP with vicinity map and agencies involved.</p> <p>1.c. Briefly describe land ownership, significant resources, mission or direction for the area and different management designations (e.g., wilderness, timber harvest areas, research natural areas, cultural/religious areas, habitat management areas) for agencies participating in the planning effort.</p>
<p>BLM Guidance</p>	<p>1.a. Summarize the reasons for developing the FMP. Examples of statements include: <i>This FMP was developed to meet Federal Wildland Fire Management Policy requirements. This FMP documents the [BLM unit's] fire management objectives, strategies, and resource considerations based on interdisciplinary input and interagency collaboration. The FMP describes strategies to meet land-use plan goals and objectives for desired conditions.</i></p> <p>1.b. Describe your FPU by including the following:</p> <ul style="list-style-type: none"> <li>• location (provide a vicinity map and a map of the FPU),</li> <li>• total acres,</li> <li>• counties included,</li> <li>• agencies involved, and</li> <li>• number of FMUs.</li> </ul> <p>1.c. Summarize the mission or direction for the land in your FPU. Describe your FPU by including:</p> <ul style="list-style-type: none"> <li>• land ownership by percentage/acres, and</li> <li>• management designations/significant resources (e.g., wilderness, wilderness study areas, national monuments, research natural areas, areas of critical environmental concern, cultural/religious areas, habitat management areas, endangered species populations, Class I Airsheds, non-attainment areas).</li> <li>• Consider using maps to portray FPU characteristics described above.</li> </ul>

<b>2. POLICY, LAND MANAGEMENT PLANNING AND PARTNERSHIPS</b>	
<b>2.1. Fire Policy</b>	
<b>Required Elements</b>	<p>2.1.a. Identify sources of guidance and direction that relate to actions described in the FMP, which may include: national interagency, departmental, and agency specific policies; compliance and authorities documentation.</p> <p>2.1.b. Include unit-specific policies, if they exist.</p>
<b>BLM Guidance</b>	<p>2.1.a. List and summarize how your FMP meets the following national interagency, departmental, and BLM-specific policies:</p> <ul style="list-style-type: none"> <li>• <b>Federal Wildland Fire Policy</b>                      Example: <i>This FMP meets the Federal Wildland Fire Management Policy by following these guiding principles:</i> <ul style="list-style-type: none"> <li>○ <i>Firefighter and public safety is the first priority in every fire management activity.</i></li> <li>○ <i>The role of wildland fire as an essential ecological process and natural change agent has been incorporated into this planning process.</i></li> <li>○ <i>The fire management actions described in this FMP are economically viable and are based upon costs, values to be protected, and land-use plan objectives.</i></li> <li>○ <i>This FMP is based upon the best available science.</i></li> <li>○ <i>This FMP incorporates measures to protect public health and environmental quality.</i></li> <li>○ <i>Preparation of this FMP involved federal, state, tribal, and local interagency coordination and cooperation.</i></li> </ul> </li> <li>• <b>National Fire Plan (e.g., 10-Year Comprehensive Strategy Implementation Plan, Cohesive Strategy for Protecting People and Sustaining Natural Resources)</b>                      Example: <i>This FMP meets the policy and direction in the National Fire Plan because it emphasizes the following primary goals of the 10-Year Comprehensive Strategy and Cohesive Strategy for Protecting People and Sustaining Natural Resources by:</i> <ul style="list-style-type: none"> <li>○ <i>improving fire prevention and suppression,</i></li> <li>○ <i>reducing hazardous fuels,</i></li> <li>○ <i>restoring fire-adapted ecosystems, and</i></li> <li>○ <i>promoting community assistance.</i></li> </ul> </li> <li>• <b>620 DM 1 (620 DM 2 for Alaska)</b>                      Example: <i>This FMP meets Department of the Interior policy found in 620 DM 1 by making full use of wildland fire and prescribed fire, both as a natural process and as a tool into the planning process.</i></li> </ul> <p>2.1.b. List any unit-specific policies related to fire management and describe how your FMP meets this local direction.</p>

<u>2.2. Land/Resource Management Planning</u>	
<b>Required Elements</b>	<p>2.2.a. Identify documents that relate to the area covered by the FMP, including interagency efforts.</p> <p>2.2.b. List compliance documents that cover this FMP.</p>
<b>BLM Guidance</b>	<p>2.2.a. List BLM and other agency land management documents (e.g., land-use plans, habitat management plans, forest management plans, comprehensive conservation plans, regional management plans) that establish the goals, objectives, standards, guidelines, desired future conditions, and constraints detailed in Chapter 3.</p> <p>2.2.b. List the National Environmental Policy Act (NEPA) and compliance documents (Endangered Species Act (ESA) and National Historic Preservation Act (NHPA)) that cover this FMP; compliance could be done at the FMP or land use plan (LUP) level. Provide short statements of how compliance was achieved.</p> <p>Example statements of compliance:</p> <ul style="list-style-type: none"> <li>• <i>NEPA – This FMP complies with NEPA because an Environmental Assessment (EA) for fire management decisions was completed in May, 2002 and a Finding of No Significant Impact (FONSI) was signed June 1, 2002. - OR - This FMP complies with the NEPA completed at the LUP level in June 2000; a Determination of NEPA Adequacy (DNA) was completed in January 2003.</i></li> <li>• <i>ESA – As part of the FMP EA completed in 2002, a Biological Assessment was completed and submitted it to Fish and Wildlife Service (FWS) in March 2002. A Biological Opinion was submitted to BLM in May 2002 that showed concurrence with the BLM’s findings that the FMP actions would not adversely affect any endangered species.</i></li> <li>• <i>NHPA – All FMP actions/decisions are in compliance with Section 106 of NHPA, per the terms of the programmatic agreement between the BLM State Director and the State Historic Preservation Officer.</i></li> </ul>
<u>2.3. Partnerships</u>	
<b>Required Elements</b>	<p>2.3.a. Identify any internal and external fire management partnerships or planning teams that helped you develop this FMP.</p>
<b>BLM Guidance</b>	<p>2.3.a. List and briefly describe fire management partnerships or planning teams that were utilized to develop the FMP. This includes internal interdisciplinary teams, interagency planning teams, tribal governments, collaborative community efforts, etc.</p>

<b>3. FIRE MANAGEMENT UNIT CHARACTERISTICS</b>	
3.1. Area-wide Management Considerations	
<b>Required Elements</b>	<p>3.1.a. Describe fire management related goals, objectives, standards, guidelines, and/or desired future conditions as found in the appropriate land use plans that apply across all FMUs. Include fire management related goals that may come from non-fire program areas within the land-use plan or other planning documents.</p> <p>3.1.b. Identify area-wide guidance, such as regional initiatives that contain additional fire management goals or objectives (e.g., sage grouse strategies).</p> <p>3.1.c. Describe any common characteristics (e.g., topography, fuels, prevailing winds) that may occur across all FMUs.</p>
<b>BLM Guidance</b>	<p>3.1.a. List the fire management related goals, objectives, standards, guidelines, desired future conditions, and constraints common to all FMUs from the land use plans. Fire management related goals are typically included in the wildland fire management section of the LUP, but may also be found in other program areas (such as vegetation, air quality, etc.) within the LUP.</p> <p>Examples include:</p> <ul style="list-style-type: none"> <li>• <i>Vegetation communities would provide sufficient plant cover and litter accumulation to protect soils from wind and water erosion, and enhance nutrient cycling and productivity.</i></li> <li>• <i>Consider annual sage-grouse habitat protection or enhancement strategies to respond to changes that may have occurred.</i></li> <li>• <i>No more than 100 acres of Riparian Ecological Zone would be treated over the next ten years in the Lakeside Management Area.</i></li> <li>• <i>Manage fire management activities to minimize risks to public and firefighter safety.</i></li> <li>• <i>Allow fire to play its natural role in the aspen-conifer communities in the North Valley Wilderness Study Area (WSA).</i></li> <li>• <i>Fuels in the Wildland Urban Interface (WUI) are maintained at non-hazardous levels to provide for public and firefighter health and safety.</i></li> <li>• <i>Avoid fire management actions which cause ground disturbance along the Nez Perce Trail, unless required for public or firefighter safety.</i></li> </ul> <p>Identify the source document of each goal, objective, standard, guideline, desired future condition, and constraint.</p> <p>3.1.b. List other fire management related goals, objectives, standards, guidelines, desired future conditions, and constraints found in documents <i>other than your LUP</i> (e.g., species/habitat conservation plans or regional initiatives, any new direction developed as part of the FMP process). Identify the source document of each goal, objective, standard, guideline, desired future condition, and constraint.</p> <p>3.1.c. Describe any common characteristics that occur across the FPU (e.g., predictable weather patterns, fuels conditions, fire behavior, fire effects, general safety concerns, habitat concerns).</p>



<b>3.2 Fire Management Unit (FMU) – Specific Descriptions</b>	
<b>Required Elements</b>	<p>3.2.a. The FMU characteristics must be described.</p> <p>3.2.b. The FMU management guidance must be described.</p> <p>3.2.c. The FMU safety considerations must be described.</p>
<b>BLM Guidance</b>	<p>3.2.a. A description of the following characteristics for each FMU is recommended:</p> <ul style="list-style-type: none"> <li>• The FMU name.</li> <li>• The FMU location and vicinity map.</li> <li>• Acres by ownership.</li> <li>• Acres of vegetation types/fuel models and FRCC within the FMU (see section 3.3.3 of the BLM Fire Planning Handbook).</li> <li>• Unique physical characteristic(s) affecting fire management (topography, soils, access, fire effects information, etc.).</li> <li>• Ten-year averages for                             <ul style="list-style-type: none"> <li>○ number of fires and acres burned (identify wildfires managed to achieve resource benefits),</li> <li>○ number and acres of fuels treatments (include prescribed fire and non-fire fuels treatments), and</li> <li>○ number and acres of ES and burned area rehabilitation (BAR) projects.</li> </ul> </li> <li>• Values at risk that affect your fire management decisions or are affected by your fire management decisions. Values at risk include: threatened and endangered (T&amp;E) and special status species; air quality; public health issues; cultural resources; communities at risk (CAR), communities of interest (COI) and WUI; rangeland; timber production; special designations; mining and mineral leases, oil and gas leases; and right of ways (ROW).</li> </ul> <p>Use maps to portray FMU elements described above. More than one element could be shown on a single map.</p> <p>3.2.b. Describe FMU-specific goals, fire management objectives (see appropriate section of the BLM Fire Planning Handbook), standards, guidelines, and desired future conditions. Include potential size and scope of vegetation treatments to meet both fire and land management goals. Include any acreage limits by vegetation communities, desired condition class changes, decadal limits, etc. Use relative value layer mapping to show geographically across the landscape where fire is desired, and not desired, and how fires will be managed relative to values.</p> <p>Discuss actions that will be taken to achieve those objectives and related constraints (e.g., management responses that would be considered; beneficial and detrimental fire intensity levels, desired fire effects, and retardant or chemical limitations). Describe the range of management response to be used.</p> <p>3.2.c. Describe safety considerations specific to the FMU (e.g., powerlines, aviation hazards, restricted access, and communications issues) that would affect fire management in the FMU.</p>

<b>4. WILDLAND FIRE OPERATIONAL GUIDANCE</b>	
<b>4.1. Management of Unplanned Ignitions</b>	
<b>Required Elements</b>	<p>4.1.a. Describe or reference program procedures that should be in place for planning and responding to fires. Procedures to be included are dependent on local, agency and interagency needs.</p> <p>4.1.1.a. Preparedness.</p> <p>4.1.2.a. Incident Management.</p> <p>4.1.3.a. Emergency Stabilization.</p>
<b>BLM Guidance</b>	<p>4.1.a. Summarize the general fire program direction for responding to unplanned ignitions in the FPU. Include how to determine what responses will be considered, and how to make decisions on initial actions, extended attack, and large fire operations. Describe fire management priority areas under multiple ignition scenarios. Explain how fire management objectives and constraints will be carried forward into automated dispatch systems.</p> <p>4.1.1.a. Preparedness – Summarize and reference your preparedness program by providing items such as: training, qualifications, readiness, detection, aviation, agreements (e.g., cooperative, mutual aid, cost apportionment, protection), size up, initial and extended response procedures, records management, pre-planning and data acquisition for incident decision support processes and tools (e.g. Wildland Fire Decision Support System (WFDSS)), public interaction (e.g., information plans, Community Wildfire Protection Plans (CWPP), etc.).</p> <p>4.1.2.a. Incident Management – Include examples such as: prioritizing allocation of resources, dispatching/obtaining resources (e.g., interagency dispatch centers, interagency teams, multi-agency coordinating (MAC) groups), use of decision support tools (e.g., WFDSS, Farsite, etc.), processes for complying with regulatory requirements (e.g., smoke, State Historic Preservation Officer (SHPO), ESA), fire reporting requirements (forms such as 209s, 1202s, and updating systems such as Wildland Fire Management Information (WFMI), process for addressing suppression activity damage particularly damage needing immediate repair that is a direct result of fire management operations.</p> <p>4.1.3.a. Emergency Stabilization – include immediate post wildfire actions needed to minimize the threat to life and health and prevent unacceptable degradation to natural and cultural resources. Examples include: planning and burned area assessments (anticipated data and technical specialists needed), anticipated post-wildfire issues and values to be protected, treatment maintenance and monitoring, and reporting requirements (accomplishment and National Fire Plan Operations and Reporting System (NFPORS)).</p>

<b>4.2. Burned Area Rehabilitation</b>	
<b>Required Elements</b>	4.2.a. Describe or reference applicable post-wildfire (BAR) actions to repair or improve wildfire damaged lands unlikely to recover naturally or minor facilities damaged by the fire. Use the Departmental Manual (620 DM 3) and agency-specific direction for guidance. Also see Interagency Burned Area Rehabilitation Guidebook. Note that specific approved BAR treatments (i.e., three year plan), constraints, and recommendations are contained within either the area-wide (Section 3.1) or specific (Section 3.2) FMU descriptions.
<b>BLM Guidance</b>	4.2.a. Describe your BAR program compliance with agency policy (see relevant section of this handbook). Summarize and reference your Programmatic BAR Plan (Normal Fire Year Rehabilitation Plan) or other programmatic plans, if applicable. Summarize historic BAR treatments. Potential examples to include: BAR planning requirements (e.g., technical specialists needed, timelines, data needs, etc.), process and thresholds for determining BAR teams, local resource specialist positions that may assist the teams, anticipated post-wildfire rehabilitation issues, standardized monitoring protocols, requirements for planning, funding processes, reporting requirements (accomplishment reports and NFPORS), Native American consultation, ESA Consultation, NEPA, and public information concerns.
<b>4.3 Management of Planned Fuels Treatments</b>	
<b>Required Elements</b>	4.3.a. Describe or reference planning and implementation processes for fuels treatments by mechanical, chemical, biological, or prescribed fire methods. Procedures to be included are dependent on local needs.
<b>BLM Guidance</b>	<p>4.3.a. Describe your prescribed fire program, including compliance with agency policy (<a href="#">Interagency Prescribed Fire Planning and Implementation Procedures Reference Guide, July 2008</a> and BLM Supplement to the Guide) when planning and implementing prescribed fire (e.g., requirements for development of burn plan, responsibilities for preparing and approving prescribed fires, requirements for safety and qualifications, etc.). Include: process for complying with regulatory requirements (e.g., NEPA, smoke, SHPO, ESA), funding process and treatment effects monitoring description. Consider all reporting requirements, such as NFPORS. Summarize historic and future prescribed fire activity. Include established annual or decadal targets/limits at the FPU level.</p> <p>4.3.b. Describe your non-fire fuels program, including planning and implementation, as described above.</p> <p>4.3.c. Describe the processes used to identify and prioritize fuel treatments. Processes could include: risk assessment, use of CWPPs, consultations with communities, interdisciplinary teams, mitigation plans, etc.</p>

<b>4.4. Prevention, Mitigation and Education</b>	
<b>Required Elements</b>	4.4.a. Describe or reference wildland fire prevention, education, and mitigation strategies. Procedures to be included depend on local agency needs.
<b>BLM Guidance</b>	4.4.a. Summarize and reference your local prevention, mitigation and education plan(s), if applicable. Include your prevention, mitigation, education and community assistance program activities (e.g., school programs, fairs, mailers, wildfire coordinating councils, grant programs). Other potential items for inclusion: human-caused ignition patterns and problems, fire investigation policies and procedures, closures/restricted access process, burn permit systems, law enforcement operating procedures and agreements, community involvement, Firewise communities and involvement, CWPPs, funding process, and reporting requirements.
<b>5. MONITORING AND EVALUATION</b>	
<b>Required Elements</b>	5.1. The intent is to document the process for determining whether the FMP is being implemented, as planned, and if fire-related goals and objectives are being achieved. Information obtained from monitoring and evaluations is used to update the FMP and land management plans. Describe monitoring processes that will be used to measure achievement of FMP objectives. Procedures to be included depend on local agency standards and needs.
<b>BLM Guidance</b>	5.1. For BLM, the annual review process and checklist will meet FMP monitoring requirement. Describe how/when the annual review process will take place. In all monitoring processes, be sure to collaborate with other disciplines and incorporate appropriate processes for monitoring interdisciplinary resource management objectives. Describe processes that will be used to monitor fire and non-fire management actions (e.g., methods such as Fire Effects Monitoring and Inventory System (FIREMON)) in achieving FMP objectives.

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UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
HANDBOOK TRANSMITTAL SHEET

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Subject

Subject Code – H-9214-1 Fuels Management and Community Assistance Handbook (Internal)

1. Explanation of Materials Transmitted: This handbook provides revision and updates to overall directions, objectives, authorities, responsibilities, and policies for the Fuels Management Program within the Bureau of Land Management (BLM).
2. Reports Required: This manual supersedes previous editions.
3. Materials Superseded: Rel. 9-412
4. Filing Instructions: File as directed below.

REMOVE

All of H-9214-1  
(Total: 71 pages)

INSERT

All of Revised H-9214-1  
(Total: 74 pages)

*Grant Beebe*, Assistant Director  
Fire and Aviation Directorate

# FUELS MANAGEMENT AND COMMUNITY ASSISTANCE HANDBOOK



**BUREAU OF LAND MANAGEMENT  
H-9214-1  
NOVEMBER 2020**

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## **Introduction**

### **A. Background**

The Fuels Management Program is part of the Bureau of Land Management (BLM) Wildland Fire Management Program and one of several Bureau programs that manages vegetation to meet specific resource and fire management objectives. Consistent with the Department of the Interior's (DOI) organization of the Wildland Fire Management Programs, the BLM Fuels Management Program includes fuels treatment planning and implementation, and Community Assistance as contributing components.

Mitigation and education, and community wildfire protection planning are the Community Assistance related functions of the BLM Fuels Management Program. Community Assistance can also include Prevention and Wildland Fire Cooperator Coordination (funded through Preparedness). Community Assistance provides support, training, assistance and federal subject matter expertise to facilitate citizen-driven efforts that reduce the threat and impact of wildfire through community planning, education, and fuels treatments on non-federal land.

This handbook provides instructions and procedures to carry out the policy and direction described in the *BLM Manual - 9214 BLM Fuels Management and Community Assistance*. This handbook is tiered to MS 9214 and has the same force of authority as the Manual.

This handbook contains guidance on how to meet the requirements of Federal Wildland Fire Management Policy ("Federal Fire Policy"), the National Cohesive Wildland Fire Management Strategy, the DOI's Fuels Management Program priorities, and BLM regulations and vegetation management policy. It contains guidance on how to plan for, implement and monitor fuels management treatments and provide community assistance.

The BLM, along with other federal, state, tribal and local land managers, must continue to work collaboratively to ensure safe and effective fuels treatment efforts are planned, implemented and monitored. Firefighter and public safety is the first priority in every fire management activity and fuels management programs will incorporate the BLM risk assessment process to protect life, property, and resources.

### **B. Purpose**

This handbook provides overall directions, objectives, authorities, responsibilities and policies for fuels management and community assistance activities and treatments within the BLM. This handbook informs fire management practitioners, Line Managers and Agency Administrators (those with the responsibility for making fire management decisions).

## **Chapter 1: Program Goals, Objectives, Guiding Principles, Policies and Responsibilities.**

### **A. Program Goals, Objectives, and Guiding Principles**

#### *1. Program Goal*

The BLM will develop and implement a Fuels Management Program that supports Federal Fire Policy, the National Cohesive Wildland Fire Management Strategy, the DOI Secretary's priorities and the Bureau's priorities. The program will promote the safety of firefighters, employees and the public, and meet land management objectives.

#### *2. Program Objectives*

The BLM Fuels Management Program will meet its goals by:

- a.* Planning and implementing strategies to protect communities and infrastructure and to enhance, restore or maintain forest and rangeland plant communities, including habitats that are critical for special status species and other highly valued resources and assets where they are at risk from wildfire.
- b.* Promoting public understanding and facilitating citizen-driven efforts to reduce the threat and impact of wildfire through community planning, education, mitigation, community assistance and fuels management on non-federal land.
- c.* Fostering and promoting fuels management and community assistance coordination, cooperation, and partnerships with other federal, state, tribal, local government, non-government organizations, universities, and private entities.
- d.* Planning and implementing fuels treatment strategies that ensures resilient landscapes and emphasizes effectiveness as it relates to mitigating wildfire impacts and aids in fire management efforts.
- e.* Fostering internal coordination and integration among BLM resource programs, fire managers and line managers to plan and implement a program work that is integrated with other resource and land management programs.
- f.* Coordinating with other landowners and cooperators to ensure fuels treatments are planned and implemented across landscapes.
- g.* Ensuring fiscal responsibility and accountability at all levels of the program.

#### *3. Guiding Principles*

- a.* Employee and public safety is the first priority in every Fuels Management Program action and must reflect this commitment.

- b. Program funding will focus on DOI, BLM, and State office priorities for Fuels Management Program projects and Community Assistance.
- c. The role of wildland fire as an essential ecological process and natural change agent will be identified and incorporated into the Fuels Management Program.
- d. Fuels Management Program projects will support resource management objectives as identified in Land/Resource Management Plans and have measurable objectives.
- e. Educate and assist, communities and cooperators to live safely and compatible with wildland fire in pursuit of the National Cohesive Wildland Fire Management Strategy goals.
- f. Through mitigation and education BLM develops partnerships with communities in the Wildland Urban Interface to develop Mitigation Plans/Community Wildfire Protection Plans (CWPPs), plan and implement treatments on public and private lands, educate the public about fire mitigation and to promote a shared responsibility to address the threat of wildfire.
- g. The Fuels Management Program staff will work with Line Managers and resource specialists and cooperators to identify, plan and implement and monitor an integrated program of work.
- h. The Fuels Management Program staff will comply with applicable national, state, and local laws and regulations, and Departmental and BLM manuals, policy and direction.
- i. Fuels management treatments are monitored and reported using Assessment Inventory and Monitoring (AIM) practices and principles when identified through an interdisciplinary process to determine whether short and long-term (beyond three years) objectives are being met (effectiveness monitoring).

## **B. Authorities and Policies**

Reference *BLM Manual - 9214: Fuels Management and Community Assistance*

## **C. Management Responsibilities**

In addition to existing DOI manual direction (620 DM 1.2) delegations from the Secretary of the Interior to the Director of the BLM provide for the operation of the Fire Management Program, including fuels management and community assistance. Additional details regarding management responsibilities are referenced in *BLM Manual - 9214, PMS-448 2017 Interagency Prescribed Fire Planning and Implementation Procedures Guide (IARX Guide)* and *PMS 424 Prescribed Fire Complexity Rating System Guide and Complexity Worksheet*.

## **D. Risk Management**

Risk management is a tool that provides management a systematic process designed to identify

and manage risks associated with any BLM operation. It is the BLM's primary procedure for effectively reducing accidents through a five-step process:

1. Identify hazards
2. Assess hazards
3. Develop controls and make decisions
4. Implement controls, and
5. Supervise and evaluate

Risk management will be incorporated into all fuels project planning, and field operations. BLM management and employees will use this process to reduce the risk associated with BLM operations and tasks to the lowest level possible, commensurate with accomplishing the task.

For prescribed fire planning and implementation, the Risk Management process will be used in place of the Job Hazard Analysis. The Risk Assessment worksheet(s) will be attached as an appendix to the prescribed fire plan. If BLM personnel are participating on a non-BLM prescribed fire the Job Hazard Analysis completed by the responsible agency is acceptable.

More information on the Risk Management Process can be obtained in Chapter 2 of *the BLM H-1112-1 Safety and Health Management Handbook*: <https://web.blm.gov/internal/wo-500/directives/dir-hdbk/h1112-1.pdf>

## Chapter 2: Project and Plan Development

### A. Fuels Management and Community Assistance Project Planning

#### 1. *Fuels Management Projects*

The BLM Fuels Management Program encompasses projects that meet fuels management, community assistance and other resource and land management objectives. A fuels management project includes treatments and activities, and may include community assistance, designed to meet specific goals and objectives defined in planning documents, such as National Environmental Protection Act (NEPA) documents, Fire Management Plans, CWPPs, or Mitigation Plans. A project is generally associated with a specific physical location considered to be the area required to meet project objectives as identified through NEPA planning. Projects may span multiple years. Projects are not classified as Wildland Urban Interface (WUI) or non-WUI; however, treatments and activities are categorized as either WUI or Non-WUI.

#### 2. *Community Assistance*

Working with communities at risk from wildfire is an essential community assistance function of the BLM Fuels Management Program. Providing education, funding, assistance, and subject matter expertise can mitigate the wildfire risk to communities and their values. Effective risk reduction requires cooperation and partnerships between all landowners. Emphasis should be placed on the highest risk areas as identified in local Fire Management Plans (FMPs) and/or Unit Fire Mitigation and Prevention Plans and CWPPs or equivalent mitigation plans.

Community assistance activities include, but are not limited to, fuels treatments, education and outreach, community wildfire protection planning, and other mitigation actions to reduce fire risk. Community assistance fuels management treatments are generally located on adjacent non-federal land. Community assistance treatments and activities are often accomplished with BLM funding provided through assistance agreements to cooperating entities. In addition, when possible external partner and stakeholder funding contributions are encouraged to help fund all community assistance activities.

#### 3. *Fuels Treatment Types*

Types of fuel treatments include wildland fire, mechanical/manual, biological, and chemical applications.

##### a. *Wildland Fire*: Includes both prescribed fire and wildfires.

- i. Prescribed fire is the intentional ignition and application of fire to wildland fuels under pre-planned specified conditions of fuels, weather parameters, and other variables.
- ii. Wildfires are ignited either naturally or by human activities and are unplanned events. Naturally ignited wildfires while unplanned may be managed (regardless of wildfire response strategy) to meet resource objectives as defined in Land Use Plans (LUPs).

- b. *Mechanical and Manual*: Mechanical treatment involves the use of vehicles such as wheeled tractors, crawler-type tractors, or specially designed vehicles with attached implements. Manual treatments include the use of hand tools and hand-operated power tools.
- c. *Biological*: Biological control involves the intentional use of domestic animals, insects, nematodes, mites, or pathogens (agents such as bacteria or fungus that can cause diseases in plants) that weaken or destroy vegetation.
- d. *Chemical*: Herbicides are chemicals that kill or injure plants. They can be categorized as selective or non-selective. Selective herbicides kill only a specific type of plant, such as broad-leaved plants. Only those herbicides approved for BLM use can be used. An in-depth discussion of the various methods and techniques within these categories, including advantages, limitations, effectiveness, and relative costs, is described in the *Vegetation Treatments on BLM Lands EIS/PER (USDI, BLM, 2007b)*.

The Final BLM Vegetation Treatments Using Herbicides on Bureau of Land Management Lands in 17 Western States Programmatic Environmental Impact Statement Programmatic Environmental Impact Statement (PEIS), USDI, BLM, 2007 and 2016 update; 2016 Vegetation Treatments Using Aminopyralid, fluroxypyr, and Rimsulfuron, and Programmatic Environmental Report (PER) USDI, BLM, 2007a, identifies vegetation management on public land as a vital function of the agency. The Final PEIS and PER analyzed a potentially significant increase in the amount of vegetation that could be treated to respond to Presidential and Congressional mandates to reduce the risk of wildfire, restore fire-adapted ecosystems and repair land damaged by fire.

The Final PEIS, PER, and PEIS Record of Decision USDI, BLM, 2007, provide the rationale for such an increase and disclose the potential environmental effects of such a program. The Record of Decision describes the types of treatments that can be used, standard operating procedures and mitigation measures to be applied. These three documents provide analysis and documentation to which BLM field offices can tier and/or reference when making decisions to implement vegetative treatments.

For in-depth descriptions of various treatment types and considerations when evaluating treatment type options, reference: *BLM H-1740-2 Integrated Vegetation Management Handbook*, and in *Chapter 6, Treatment Selection and Effectiveness Monitoring* of this handbook.

#### 4. *Fuels Activity Types*

Fuels Management activities may include NEPA planning, community assistance actions, implementation actions, consultations, inventory/monitoring, risk assessments, contract and agreement development and administration, and may be included as a part of a project or specific treatment.

5. *Interagency and Interdisciplinary Cooperation*

BLM fuels management projects and community assistance are coordinated through interdisciplinary efforts supported by Resource and Fire Management programs. The BLM Fuels Management Program will implement an interdisciplinary approach for identifying, prioritizing and selecting fuels management projects and community assistance at all levels of the organization. Fire program managers will work with Line Managers, resource specialists and interagency cooperators to identify treatment areas, develop plans, implement fuels treatments, and conduct community assistance.

All co-benefiting activities will coordinate their respective roles for the planning, implementation, monitoring, evaluating, reporting and funding of fuels management projects.

BLM may provide Fuels Management Program funding and assistance when available and appropriate to treat fuels on non-federal land to reduce wildfire risk to and from communities and protect, restore and enhance other valued resources. For further information see Chapter 3, Section D.

6. *Planning and Implementation Support*

Program projects, activities and treatments will focus on supporting the National Cohesive Wildland Fire Management Strategy (Cohesive Strategy) consistent with LUPs. A collaborative and interdisciplinary process will be used to plan fuels management projects and community assistance.

National Environmental Policy Act (NEPA) compliance is required for all fuels treatments. LUPs identify the management goals and constraints that project planners and coordinators will need to help guide the NEPA analysis and fuels management plan development. Other plans and assessments may inform the planning and NEPA analysis for fuels treatments, including Fire Management Plans, Allotment Management Plans, Habitat Management Plans, Travel Management Plans, Fire and Invasive Assessment Tool (FIAT) reports, Rapid Eco-regional Assessments, etc.

7. *The Fire Management Plan (FMP)*

The FMP is the program strategy document for fire management, fuels management, and community assistance activities; it captures and quantifies the program needs of the District/Field office. The FMP identifies how fuels treatments, along with other fire management strategies, will be used to meet the overall land management goals identified in LUPs. For more information on FMPs, reference: BLM H-9211-1 *Fire Planning Handbook*.

8. *ePlanning*

ePlanning is a web-based software application that helps BLM users to create, write, manage, and publish National Environmental Policy Act (NEPA) documents and planning documents, such as LUPs. Although created by the BLM to support the land use planning process, ePlanning is flexible enough to support fuels management planning and can be used to store templates, checklists and other fuels management files. For more information see the ePlanning website at: <http://web.blm.gov/eplanning/index.htm>.



## 9. *Decision Support*

Decision support tools provide information to help support land, fire and fuels managers to make informed and effective fuels management decisions.

- a. The Interagency Fuels Treatment Decision Support System (IFTDSS) is a web-based application designed to provide decision support for fuels treatment planning and analysis. IFTDSS provides access to data and models through one simple user interface. IFTDSS is designed to address the planning needs of users with a variety of skills, backgrounds, and needs. The IFTDSS interface provides the ability to model fire behavior across an area of interest under a variety of weather conditions and easily generates downloadable maps, graphs, and tables of model results. Additionally, the application provides a step by step process for testing a variety of fuels treatment impacts (thin, clear cut, prescribed fire) on fire behavior and comparing results to determine which modeled treatment best achieves desired results in terms of reduced fire behavior potential. It can be used at a variety of scales from local to landscape level. IFTDSS hosts a complete set of reference data available for the entire US including LANDFIRE fuels information, SILVIS Wildland Urban Interface, agency ownership, as well as a modern map interface allowing users to create or upload their own data.
- b. Vegetative and ecological assessments provide a source of landscape scale information describing fuels, fire regimes, and ecological conditions. In fuels management planning, assessments can be used to measure and/or support the need for vegetative change. For more information on vegetative and ecological assessments, reference: LANDFIRE ([www.LANDFIRE.gov](http://www.LANDFIRE.gov)) and Fire Regime Condition Class (<https://www.frames.gov/frcc>).
- c. Risk-based decision support tools are available to provide managers with information related to risks to values from wildfires. Wildfire risk assessments can provide spatial information at different scales on elements such as wildfire occurrence, spread and consequences. They can help land and fire managers better understand how wildfire risks to resources are distributed across their landscapes. They can be used to identify which area, in a given landscape, faces the greatest expected loss (or benefit) from wildfire, and can inform decisions relating to fuels management and designing fuels treatments. Risk assessments can also be used to help with NEPA analysis as a support tool to identify possible outcomes associated with a proposed fuels management action. Risk assessments include but are not limited to:
  - i. BLM's Risk Assessment (2020)
  - ii. Cohesive Strategy Regional Risk Assessments
  - iii. Mitigation Plans which include Community Wildfire Protection Plans (CWPPs) and other local risk assessments
  - iv. Westwide Wildfire Risk Assessment
  - v. Standards for Boundary Evidence (SBE) risk assessments
  - vi. Risk Assessment Frameworks, reference:

- *A Wildfire Risk Assessment Framework for Land and Resource Management; General Technical Report, RMRS-GTR-315. U.S. Department of Agriculture, Forest Service, Rocky Mountain Research Station.*
- *A Comparative Risk Assessment Framework for Wildland Fire Management; General Technical Report RMRS-GTR-262, US Department of Agriculture, Forest Service, Rocky Mountain Region.*

#### 10. *Project Priorities*

The DOI has set broad national program priorities. These priorities are expected to remain constant over time in order to provide support for multi-year, long term fuels management. BLM's Fuels Management Program is based on Federal Fire Policy, the National Cohesive Wildland Fire Management Strategy, Departmental Manuals, the DOI Strategic Plan, and the Integrated Rangeland Fire Management Strategy. BLM priorities are reflected in the development of the 5-Year Fuels Allocation Plan, the Integrated Program of Work, and the Annual Work Plan. Offices also base project priorities on local priorities defined in regional landscape assessments (FIAT/SMRRT, and Rapid Ecoregional Assessments), LUPs, CWPPs, and in areas with support from partners/collaborators.

State, District/Field offices will at minimum meet BLM national fuels management priorities established through Instruction Memorandum, Planning Target Allocation (PTA), Annual Work Plan (AWP) and Program of Work (POW) requirements. Priorities reflect the Cohesive Strategy goals, and values such as life and safety and sensitive species wildlife habitat, risks to those values, and protection of infrastructure.

State offices may also have priorities established to support State-wide and/or regional initiatives. District/Field offices may have local priorities established, which support land, resource, and fire management objectives.

#### **B. Planning Fuels Management Projects:**

The fuels management planning process is guided by LUPs. Land use plan guidance may be in the form of general goals that deal with large areas over long time periods. The objectives for fuels management treatments in specific areas are most often developed in activity plans, mitigation plans, or landscape assessments and risk mitigation plans (CWPPs). During the project planning process, the interdisciplinary team refines these objectives into site-specific management objectives that describe the desired changes in site conditions. All objectives must be specific, measurable, achievable, and consistent with land use plan goals and objectives with definite time frames for achievement, monitoring, and evaluation.

The steps below are the general process for planning a project with fuels management objectives. The use of project management tools is encouraged to help organize and manage your project.

##### *1. Identify the need for vegetative management and the desired future condition*

The need for vegetative management should be identified in LUPs, vegetation management plans, activity plans, and/or assessments. Specific actions needed in the WUI may be found in the community wildfire/risk mitigation plans and assessments.

Describe Current and Desired Ecological/Vegetation Conditions. Descriptions of historic fire regimes, ecological conditions, vegetation, fuel loading, fuel bed depth, and fire behavior characteristics, should be used to describe current and desired conditions. These descriptions will specifically address current and expected fire behavior characteristics, vegetation departure, fire regime departure, desired vegetation cover, structural stages, resilience, hazard/risk, and invasive species.

Fire Regime Condition Class (FRCC) is a measure used to describe ecological conditions and may help inform the need for vegetative change and development of project goals and objectives. Fuels treatment accomplishments are compiled at the Department level using FRCC as a performance measure. To meet this need, offices will continue to identify pre- and post- treatment FRCC observations into the National Fire Plan Operations and Reporting System (NFPORS). Identification of FRCC is also required for fuels projects outside of the wildland urban interface using the Healthy Forest Restoration Act authorities. Where FRCC provides a meaningful contribution to planning and National Environmental Policy Act (NEPA) analyses, offices may continue to use FRCC at their discretion.

For direction in assessing vegetation conditions and identifying opportunities and tools for managing vegetation, reference: *BLM H-9211-1 Fire Planning Handbook and H-1740-2 Integrated Vegetation Management Handbook*.

2. *Write the initial project proposal*

Fuels treatment projects are generally identified through landscape vegetation assessments, landscape-scale NEPA documents, CWPPs, and other assessments. Initial project proposals should contain sufficient information to allow the Line Manager to evaluate the viability of the project and make a decision on whether to proceed.

Prior successes and failures can be used to help support the need for the proposed project. Using adaptive management, apply data from previous projects or treatments in the same vegetation type, climate conditions, and soil types to assess the suitability of the proposed action. If available, use fuels treatment effectiveness monitoring reports from other treatments in the area to evaluate the effectiveness of similar actions. Science-based fuels management research publications, when available, should be used to support the need for the project and/or potential outcomes.

A project proposal should include:

- a. A description of the project area, including a map and relevant boundary risk assessments.
- b. A brief statement of the purpose and need for the project (i.e., create a defensible fuel break adjacent to a community at risk; manage ponderosa pine stand structure to decrease potential for crown fire, and decrease both intensity and severity of surface

- fires; improve mountain shrub communities to improve mule deer winter range).
- c. Current and desired future condition(s).
- d. Proposed activities and treatments, including maintenance, to meet the purpose and need.
- e. Time frame(s) for activities and treatments.
- f. Cost estimate(s) for planning and implementation.
- g. Proposed funding sources (internal and/or external sources should be included).
- h. Project lead.
- i. Cooperators and partners.
- j. Special considerations (grazing management, forest management, invasive species, PLSS infrastructure protection, etc.).
- k. Maintenance treatments. Consider the following common maintenance activities and treatments;
  - i. Costs for additional monitoring, planning, clearances and technical support
  - ii. Seed availability and costs
  - iii. Proposed maintenance cycles and maintenance treatments
  - iv. Weed and invasive species management

See *Appendix A: Project Proposal Template*. Use of this template can help fuels and resource staff in identifying and proposing projects to office staff and management.

### 3. *Internal and external collaboration*

Fuels Management staff and other interdisciplinary specialists should conduct an on-site review of a proposed fuels management project. This is also the point in the process to collaborate and solicit participation from outside groups, communities and individuals. If the Line Manager recommends proceeding with the project, an Interdisciplinary Team should be assigned, and a project checklist and file started.

For a project checklist example see: *Appendix B: Project Planning Checklist*

- ### 4. *Submit the project in the National Fire Plan Operations Reporting System (NFPORS)*
- NFPORS is used to submit fuels management and community assistance budget requests and identify an annual POW. Project information is entered and reviewed at all levels of the organization and submitted for consideration, prioritization, and budget allocation.

Once the Line Manager agrees to proceed with a proposal, a project number (WBS) should be assigned, activated, and entered into NFPORS. A new WBS project number can be activated in the Financial Business Management System (FBMS) by following the instructions from the individual State Office processes. The number will be used for the life of the project. All fuels management and community assistance funding requests from District/Field offices will be entered into NFPORS and approved/validated by state and national offices. Since DOI and BLM budget decisions rely on NFPORS data for prioritizing and allocating fuels management and community assistance funding, it is important that offices input the required data by established timeframes and ensure quality control. For complete instructions on entering projects and a Program of Work (POW) into NFPORS reference: [BLM NFPORS Guidance](#).

### 5. *Develop the project objectives*

Project objectives will be developed through an interdisciplinary team approach. Objectives must relate to the project purpose & need and be Specific, Measurable, Attainable, Reasonable, and Time related (SMART). Objectives are clearly articulated descriptions of a measurable standard, desired state, threshold value, amount of change, or desired trend. They serve to establish a condition or change which management actions are designed to achieve. The objectives stated in LUPs, FMPs and project-specific NEPA documents should be complimentary although written at different scales. At the project scale, monitoring determines if project objectives are being met.

For additional information on project and resource management objectives, see Chapter 6 “Monitoring” and, *BLM H-1740-2 Integrated Vegetation Management Handbook, Chapter 5*.

Ideally, an objective will consist of six components:

- a. Species, habitat, or wildland fire indicator: which species, vegetation type, wildland fire indicator will be monitored such as ponderosa pine, juniper, sagebrush, flame length, FRCC, rate of spread, resistance to control, etc.
- b. Location: identified project area such as Elk Creek, Oak Creek Watershed etc.
- c. Attribute: a descriptor of the species, habitat, or wildland fire indicator, such as canopy cover, stand density biomass, fuel loading, species composition, size class, etc.
- d. Action: the verb of the objective such as increase, decrease, or maintain
- e. Quantity/Status: measurable state or degree of change for the attribute such as 65%, 8 to 10 stems per acre, etc.
- f. Time Frame: the time by which management action or treatment will be effective such as over 3 years, 1 to 3 years etc.

Examples of objectives could be:

- a. Decrease stand density of <10” diameter ponderosa pine in Elk Creek by 60 to 70% over the next 1 to 3 years.
- b. Decrease canopy cover of green-leaf manzanita and shiny-leaf ceanothus in the Oak Creek unit by 40 to 70% in one year.
- c. Increase by 25 to 50% the combined canopy cover of Idaho fescue, bluebunch wheatgrass, onion grass, and Thurber’s needlegrass in the Pine Mountain project area within five years.
- d. Reduce predicted flame lengths at 85th weather percentile from 10’ to 4’ immediately post-treatment and maintain conditions for 5 years.

### 6. *Ensure Clearances and NEPA compliance*

Compliance is the process of complying with laws and regulations during project planning. All fuels management treatments must comply with the *National Environmental Policy Act* (NEPA). In addition to NEPA, projects must meet the requirements of the *Endangered Species Act* (ESA), the *National Historic Preservation Act* (NHPA), the *Clean Air Act*

(CAA), and other federal, state, tribal, and local laws and regulations. The Line Manager is responsible for determining the appropriate level of NEPA review (e.g., is there a categorical exclusion that would be appropriate, or is an Environmental Assessment or Environmental Impact Statement required) and scoping. The NEPA Coordinator may be able to assist in identifying issues requiring detailed analysis, the scoping process, and conformity with the governing land use plan.

Fire and resource management specialists are typically responsible to complete the NEPA analysis for fuels related proposals. This should include a comparison of how the action and no action alternatives affect fire-related values and accomplishment of the proposed project's purpose and need. For additional guidance to determine scoping, analysis, scale requirements and types of decisions related to fuels projects and or treatment(s), reference: *BLM H-1790-1 NEPA Handbook*.

Cultural resource staff and biologists should identify survey and consultation requirements. Since consultation and completing surveys can be both costly and time consuming, they should be identified as early as possible by the interdisciplinary team. Consultations and surveys should consider the entire treatment area, including any contingency areas for prescribed fire treatments.

Cadastral Survey staff should identify high risk land and special use area boundaries. Boundary risk assessments and (re)marking boundaries, if necessary, can be both costly and time consuming, they should be identified as early as possible by the interdisciplinary team. Consultations and risk assessments should consider the treatment area perimeter.

## 7. *Develop the Implementation Plan*

Implementation plans are site specific plans written to implement NEPA decisions. Implementation plans may vary in detail depending on the type of treatment, size, objectives, complexity and National, State and District/Field office policy requirements.

- a. *Prescribed Fire Plan:* Prescribed fires must be implemented in compliance with an approved written plan. The PMS-484 Interagency Prescribed Fire Planning and Implementation Procedures Guide (RX Fire Guide) provides consistent interagency policy describing what is minimally acceptable for prescribed fire planning and implementation. At a minimum, the NWCG Prescribed Fire Plan Template (PMS 484-1) must be used to plan for prescribed fires. BLM and some states have identified additional requirements to prescribed fire planning and implementation. Reference: *Interagency Prescribed Fire Planning and Implementation Procedures Guide and in this guide, Chapter 5: Prescribed Fire Planning and Implementation*. When developing prescribed fire plans, the planner should recognize that prescribed fire plan elements are interrelated. Conflicting or inconsistently developed elements can negatively affect prescribed fire implementation. To ensure elements within a prescribed fire plan are consistently linked, see *Appendix C; Prescribed Fire Plan Link Chart*. Using this chart will help the prescribed fire plan preparer ensure plans are consistent, adequate and compliant.

- b. *Mechanical and Biological Fuels Treatment Plan:* For mechanical and biological (non-chemical) fuels management projects, an optional implementation plan may be developed to include methods/actions to meet project objectives, application plans, contract specifications or statement of work, etc.
- c. *Chemical Treatment Plan:* A Pesticide Use Proposal (PUP) is required for chemical application treatments. Reference: *BLM Manual 9011 Chemical Pest Control and BLM H-9011-1 Chemical Pest Control Handbook*

8. *Plan for Treatment Monitoring*

For treatment monitoring requirements and guidance see chapter 6.

9. *Plan for Reporting Accomplishments*

For reporting accomplishments requirements and guidance see chapter 6.

### C. Planning Community Assistance Activities and Treatments

Community assistance activities (planning and education) and treatments (on adjacent non-federal land) should be developed and implemented in close coordination with BLM fuels management specialists. These actions may be included as part of a Fuels Management project or as a stand-alone community assistance project to address wildfire risk reduction actions identified in CWPPs or equivalent. For specific guidance on the goals, strategies, funding sources, and other aspects of BLM's Community Assistance program – please refer to the BLM Community Assistance Strategic Business Plan (*FA-IM-2016-005, November 25<sup>th</sup>, 2015*).

1. *Identify Priority Areas and Assess Needs*

BLM state, District/Field offices community assistance and fuels staff must work together to identify and prioritize treatments and activities in the POW. This analysis should be done through a collaborative process with all appropriate stakeholders.

District/Field offices can begin this process with an analysis of priority areas and mitigation and education actions identified in CWPPs or equivalent. These priorities should be consistent with areas identified in BLM Fire Management and Mitigation, Education and Prevention Plans.

2. *Develop Strategies and Goals for High Priority Areas*

Once priority areas and needs have been assessed, strategies and goals can be developed and prioritized. This effort should be accomplished with federal, state and local partners as well as Non-Government organizations (NGOs) and other interested stakeholders who have a vested interest in reducing losses from wildfire. Consider forming a regional wildland fire collaborative or council made up of interagency partners to ensure all relevant stakeholders are involved in this process. Funding opportunities from BLM and other available sources should be considered.

3. *Internal and External Collaboration*

It is critical to solicit and incorporate feedback from internal and external sources when developing projects, strategies and goals to assist communities at risk from wildfire and when developing the

**POW.**

- a. Internally, BLM community assistance staff should be working closely with fire, fuels and resource specialists, public affairs, Line Managers and others to ensure BLM and departmental priorities are met.
- b. Externally, sources include but are not limited to federal, state and local land and fire management agencies, tribes, non-profits, universities, conservation districts and organizations, elected officials, emergency response agencies, local fire departments, homeowners associations, the insurance industry, realtors, land surveyors, the general public, and others. Input and participation from external sources is critical to help communities take ownership of wildfire mitigation and education activities and often takes place during the development of mitigation plans. These activities on non-BLM land should be done in close coordination with fuels treatments and other actions on adjacent BLM land to increase effectiveness.

**4. *Submit project into NFPORS***

Community assistance treatments and activities will be entered into the NFPORS hazardous fuels module each year.

Community assistance treatments will be entered into NFPORS under the same guidelines used for fuels management treatments on BLM land. Community assistance activities may be entered as part of a larger fuels project with other treatments and activities or may be a stand-alone project when not associated with other treatments and activities. This usually occurs when the activity is more general or regional in nature. Examples would include things such as a statewide WUI conference, brochure for the general public, website development, etc.

**5. *Ensure clearances and NEPA compliance***

Clearances and NEPA compliance are required for treatments on BLM lands. If the BLM distributes funds according to a predetermined formula or through a State clearing house for subsequent distribution to projects not individually identified, then the NEPA is not triggered. For additional direction, reference: *BLM Handbook – H-1790-1 National Environmental Policy Act (NEPA) (January 2008), Sec.3.3.1*

**6. *CWPP/Mitigation plan development and maintenance***

While State and local governments are responsible for developing and updating CWPPs, BLM may provide assistance in the form of funding and/or subject matter expertise when requested. When possible, these funds should be provided through assistance agreements (rather than expended directly by the BLM) in order to ensure community involvement and self-sufficiency to live safely and compatible with wildland fire.

**7. *Community assistance project implementation***

Community assistance activities generally include wildland fire education and, when requested, assistance with the development and/or update of fire mitigation plans (CWPPs).



While these activities may be accomplished directly by BLM employees, the preferred method is to provide funding through assistance agreements and contracts to complete project implementation in order to facilitate community involvement and ownership; and stimulate local economies.

Community Assistance treatments (non-federal land) are generally accomplished through assistance agreements and contracts with cooperating organizations with a focus on lands adjacent to BLM.

8. *Performance monitoring*

All community assistance agreements and contracts will include project performance monitoring and reporting according to national and state procurement rules and regulations to ensure objectives identified in statements of work are followed and funds are expended appropriately. Additionally, all wildfires that intersect with community assistance treatments on non-federal land must be entered into the Fuels Treatment Effectiveness and Monitoring (FTEM) database. For FTEM monitoring guidance, see chapter 6.

9. *Reporting accomplishments*

Community assistance treatment and activity accomplishments shall be recorded in the NFPORS Hazardous Fuels Module. Additionally, the community assistance program requires an annual End-of-Year report with a narrative and completion of accomplishments into a national database (spreadsheet) that tracks items such as number of non-federal acres treated, number of education programs delivered, number of new or existing CWPPs that were developed or updated with BLM assistance, etc.

## **D. Project File Management**

Only one project file may be designated as the official project file. The official project file will be kept with the District/Field office files. Fire Management staff and/or the Fuels Management Specialists should keep copies for reference. The official project file will contain all original documents and signatures.

At a minimum the project file will contain:

- a. A copy of the NEPA documents and related clearances.
- b. Maps, photos (pre- and post-treatment), and, if necessary, SBE Certificates.
- c. Agreements such as outside funding agreements, landowner agreements, assistance or cooperative agreements, and permits.
- d. Contract documents associated with the project such as task orders, statement of work, etc. or location of contract files if applicable (original contracts are usually kept in the contracting office files).
- e. Monitoring and evaluation data including the AIM Fuels Monitoring Design Worksheet (FMDW).
- f. Names and locations of pertinent GIS files.
- g. Documentation for prescribed fire projects as identified in the RX Fire Guide.

For more information on the storage and retention of project files, reference: *BLM Manual 1220, Records and Information Management*.

### **E. GIS and Data Standards**

The BLM Fuels Management Program provides monthly submissions of data into NFPORS to support national interagency programs such as Landscape Fire and Resource Management Planning Tools (LANDFIRE), the Wildland Fire Decision Support System (WFDSS), and Fuels Treatment Effectiveness Monitoring (FTEM). These data are recognized by the BLM as being a critical component to facilitating BLM, and interagency-wide, comprehensive data management at all levels.

All treatments funded by the fuels management program must have a treatment polygon submitted to the Vegetation Treatment Geodatabase (VTRT) when treatment accomplishment is reported into NFPORS, including those treatments on non-federal ownerships with contributed BLM fuels dollar funding or labor. States will ensure that 100% of all accomplished treatments reported in NFPORS have polygon data submitted into their State's VTRT. FA600 periodically checks to ensure states are performing quarterly uploads of polygons into VTRT.

States are not responsible for submitting or entering polygon data directly to NFPORS, LANDFIRE, WFDSS, or the CED. The Fire and Aviation Fuels Management and Fire Planning Division (FA600) submits polygons from VTRT to these systems in a batch upload.

District/Field offices completing vegetation treatments, including fuels management treatments, must at a minimum annually record the perimeters for all treatments by utilizing the Vegetation Treatment Area Data Standard, located at <http://web.blm.gov/internal/fire/fpfm/dmr.html> under: *Hazardous Fuels Vegetation Treatment Area Data Standard Documentation*. This link provides detailed instructions to assist those responsible to input data in meeting BLM vegetation treatment data standards. After the vegetation treatment perimeters have been created and attributed, subject matter experts (SME) and Geographic Information System (GIS) staff at the state office level will collect and compile all field/district office data and submit it to the National Operations Center (NOC) ArcSDE (Spatial Database Engine). Perimeters will be batch uploaded into NFPORS.

## Chapter 3: Program Implementation

### A. Cooperative Projects on Federal, State, Tribal, and Private Lands

Under certain authorities, the BLM may implement or provide support to fuels and community assistance projects, activities, and treatments on other Federal, State, Tribal and private lands. Common authorities include the Wyden Amendment, Title 16, chapter 18, section 1011 of the Code of Federal Regulations (CFR) and authority allows the BLM to enter into agreements with *“the heads of other Federal agencies, tribal, State, and local governments, private and nonprofit entities, and landowners for the protection, restoration, and enhancement of fish and wildlife habitat, and other resources on public or private land and the reduction of risk from natural disaster where public safety is threatened that benefit these resources on public lands within the watershed”*.

The 2004 Department of the Interior Appropriation Act provided direct authority for fuels treatments on private lands. The act states: *“That using the amounts designated under this title of this act, the Secretary of the Interior may enter into procurement contracts, grants, or cooperative agreements, for hazardous fuels reduction activities, and for training and monitoring associated with such hazardous fuels reduction activities, on federal land, or on adjacent non-federal land for activities that benefit resources on federal land: Provided further, that the costs of implementing any cooperative agreement between the Federal Government and any non-federal entity may be shared, as mutually agreed on by the affected parties”*.

Additional requirements may apply (NEPA, ESA, etc.) and fuels management staff should work closely with other specialists and the Agency Administrator when considering projects on non-BLM lands.

The Good Neighbor Authority (Agriculture Act, 2014, and as amended by the Agricultural Act 2018 (Farm Bill, as amended(16 USC 2113)) (Good Neighbor Authority Act) allows the Forest Service, BLM and Tribes *“to enter into cooperative agreements or contracts with States to allow States to perform watershed restoration and forest management services. It excludes construction, reconstruction, repair, or restoration of paved or permanent roads or parking areas and construction, alteration, repair, or replacement of public buildings or works; as well as projects in wilderness areas, wilderness study areas, and lands where removal of vegetation is prohibited or restricted.”* Reference the 2018 Good Neighbor Authority (GNA) Guidance (WO-2018-008) at <https://www.blm.gov/policy/im-2018-008>. This guidance emphasizes that GNA is available and encouraged to use across forest and rangelands and for a variety of projects.

Any work funded with Fuels Management Program funds must have benefit to BLM, align with other Fuels Program workload priorities, conform to LUPs, (although specific actions needed in the WUI and on non-BLM administered lands may not have been previously identified in LUPs), and be consistent with BLM goals and objectives.

Offices are not obligated to provide fuels management assistance if it conflicts with BLM workload priorities and jeopardizes achieving BLM's performance measures. Offices may decline requests from other offices to assist in fuels management activities. Offices should not provide personnel and resources at the expense of their own target accomplishments, nor

subsidize another office's fuels management activities.

## **B. Acquisition and Assistance Instruments**

Assistance Instruments include Grants, Assistance Agreements, Contracts and Memorandum of Understandings (MOUs). Offices should consult with their state or local grants and agreements specialists or procurement officers to determine the appropriate acquisition and assistance instruments. Some common instruments are described below:

### *1. Assistance Agreements*

Assistance agreements are commonly referred to as financial assistance are the legal instruments used whenever the principal purpose is the transfer of money, property, services, or anything of value to accomplish a public purpose of support or stimulation authorized by Federal law, **and substantial involvement** is anticipated between the Federal Government, and the recipient. An assistance agreement is distinguished from a grant in that **it provides for substantial involvement** between the Federal agency and the recipient in carrying out the activity contemplated by the award.

Several types of assistance agreements can be used to provide financial assistance, and the decision of using a specific type of agreement is determined in accordance with policy and authorities.

- a. Cooperative Management Agreement:* A site-specific agreement used in accordance with management plans for shared on-the-ground management of a specific management area. BLM does not receive funds, but work is accomplished on BLM lands.
- b. Intergovernmental Order (IGO):* An agreement between the BLM and other Federal Agencies used to reimburse goods or services.

The requester must provide a statement of work (a description of the purpose and what the BLM is receiving) and a requisition for the estimated dollars required for funding. If BLM funds are being obligated it is BLM's responsibility to write the agreement, quote the appropriate authorities, provide the billing information, determine appropriate clauses and provide appropriate funds.

### *2. Grants*

Grants are the instrument used to reflect a relationship between the Federal Government and a State or local government or other recipient whenever the principal purpose is the transfer of money, property, services, or anything of value to a recipient in order to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than acquisition, by purchase, lease, or barter, or property or services for the direct benefit or use of the Federal Government or other recipient during performance of the contemplated activity. The Federal Government **will not be substantially involved in projects or activities funded by grants**. A grant is distinguished from a contract, which is used to acquire the supplies or services for the Federal Government's direct benefit or use.

### 3. *Contracts*

Contracts are the instruments by which the Federal Government acquires goods, services, and interests in real property. Contracts for government procurement usually involve appropriated funds spent on supplies, and services by and for the use of the Federal Government through purchase or lease (*See* 48 C.F.R. § 2.101).

Fuels management contracts can include open market, indefinite delivery, indefinite quantity (IDIQ) contracts, blanket purchase agreements (under the Good Neighbor Authority), and (when appropriate) sole source. They may be used for on-the-ground treatments, assessments, mitigation plans, education and awareness programs, NEPA related work, cultural and biological surveys, and monitoring. To ensure the objectives of the treatment or activity are met, extra care must be taken to describe the exact service or end product when developing specifications for fuel treatment contracts.

### 4. *Stewardship Contracts*

Stewardship contracts are designed to achieve ecological restoration and maintenance objectives that may include the capture of some value of forest or rangeland material that is created as a part of the project. This material should offset the cost to taxpayers of the restoration project and should provide opportunities for local economic development in the fields of biomass for energy and alternative wood products.

Ultimately, these contracts will make forests and rangelands more resilient to natural disturbances, such as wind, flood, fire, insects, and disease. Key features of the authority:

- a. Allow for the exchange of goods for services.
- b. Facilitate land restoration and enhancement efforts by using value of traded goods to meet land health goals.
- c. Require contracts to be awarded based on “best value” basis as opposed to strict revenue generation.
- d. Per BLM policy permit contracts of up to 10 years in order to add value to material such as biomass for energy that requires certainty of supply to encourage investment in local communities.
- e. Encourage agreements with nonprofit organizations.
- f. Require contracts to be designed for end results.

Stewardship contracting was made permanent through the Agricultural Act of 2014 (PL 113-79, Section 8205). In response, the BLM developed the Stewardship Manual to replace expiring Stewardship contracting guidance IMs. For more information, reference guidance at: <https://www.blm.gov/programs/natural-resources/forests-and-woodlands/stewardship-contracting>

### 5. *Memorandum of Understanding (MOU)*

An MOU is similar to an agreement in many ways, but it does not obligate funds and does not serve as an instrument to obligate funds. An MOU is a letter of intent to cooperate with another party to accomplish a mutual goal. It is not an authority to create

an agreement or to spend appropriated dollars. MOUs are normally processed by and through an office's state or local fire business office, or local or state procurement office. This allows all MOUs to be numbered, tracked, and a copy maintained in a centralized location. MOUs are not contractual instruments and have no time limit unless established by the document itself. Either party may terminate an MOU at any time.

For a list of other financial instruments, reference: *Appendix D; Reference Guide to Instrument Selection*.

### **C. Receiving Non-Government Funding**

In order for the BLM to spend funds received from a non-federal or non-governmental organization (NGO) on fuels/vegetation related projects, a trust and reimbursable account (7122) needs to be established. This account may be established at the State, District or Field office level.

The process begins with the non-federal or NGO providing the project manager with a project proposal and a document stating outcomes, involvement and timing for the project (e.g. memorandum of understanding, collection agreement, cooperative management agreement, or rangeland cooperative agreement). For specifics regarding contributed funds accounts contact the State Office Budget Staff.

### **D. BLM, Interagency and Non-Federal Assistance**

#### *1. Assistance between the BLM offices*

Offices needing assistance in accomplishing their workload targets may informally arrange to share personnel and/or resources with other BLM offices. When sharing personnel and/or resources, both offices should set expectations regarding funding.

Charges between the BLM offices should be made to the requesting office, who will supply the proper organization code and WBS code. When the BLM offices are planning fuels management projects, the cost estimate should include all costs necessary to complete the project regardless of who completes the work. Offices anticipating assistance from other offices to accomplish work should coordinate early in the planning process.

#### *2. Assistance to other Wildland Fire Management agencies (Including State agencies)*

The BLM may enter into separate agreements for personnel and other resources to assist in planning and implementation of fuels management treatments and activities. These agreements may or may not result in exchange of funds subject to the applicable statutory authority used. BLM may enter into agreements with state governments to provide personnel and other resources to accomplish fuels management treatments and activities. Reference: [Interagency Agreement for Wildland Fire Management February 10, 2017](#)

BLM National, State, and District/Field offices may assist other wildland fire management agencies without a specific written agreement. When providing assistance

without a written agreement, opportunities for equitable reciprocal assistance should be identified and decided on between the partners. It is the State Office's responsibility to ensure that assistance provided to other agencies occurs on an equitable basis.

The BLM may consider requests from other DOI Bureaus, Forest Service or State Agencies for assistance on fuels treatment projects. If District/Field offices determine they can provide the requested assistance, all activities are handled between the two federal or state partners via an assistance agreement/contract and can utilize Good Neighbor Authority (GNA).

3. *Assistance to Department of Defense*

The BLM may enter into separate reimbursable agreements for personnel and other resources to assist in planning and implementation of fuels management treatments and activities on Department of Defense (DoD) lands. These agreements may or may not result in exchange of funds subject to the applicable statutory authority used. Reference: Sikes Act Section 103A (16 U.S.C. § 670c-1).

4. *Assistance to other non-fire federal agencies*

The BLM may enter into separate agreements for personnel and other resources to assist in planning and implementation of fuels management treatments and activities. These agreements may or may not result in exchange of funds subject to the applicable statutory authority used.

5. *Non-Prescribed Fire Assistance to non-federal government landowners*

BLM may enter into assistance agreements to plan and implement fuels management projects and associated treatments with non-federal landowners including private land or non-profit entities, State, local or tribal government, other public entity, or educational institution. Agreements may also be made indirectly through a non-profit or government organization, such as a watershed council or soil and water conservation district, that is managing the project for a landowner.

When planning and implementing cooperative fuels projects and treatments on private lands, both the BLM and the local non-federal government agency or landowner are required to be signatories of a direct assistance agreement. All work must be consistent with the agreement. The landowner or manager, acting individually or as part of a group or other organization, must be a willing, voluntary participant. The landowner should be willing to cooperate in the implementation and maintenance of the project; understand the terms and conditions of the agreement; agree to any post-project use limitations on lands and waters; and be committed to complying with the objectives of the project throughout the anticipated life span of work funded by the BLM.

6. *Prescribed fire on non-federal lands*

A cooperative agreement is required when BLM personnel participate on prescribed fires on non-federal lands. An approved prescribed fire plan and National Wildfire Coordinating Group (NWCG) qualified Burn Boss (RXB) is required. The approved plan will meet RX Fire Guide requirements. The burn boss must meet NWCG burn boss

qualifications for the complexity of the prescribed fire.

In the case where entities are not members of NWCG and/or signatory of the RX Fire Guide, the prescribed fire plan must be approved and leadership certified as a qualified burn boss by their sponsoring agency.

When Prescribed Fire Manager, Burn Boss, Firing Boss positions, and/or Holding Boss function is staffed by BLM personnel, the project must meet all applicable federal, state, and local laws, regulations, and policies. Permit requirements including NEPA compliance and approved prescribed fire plan that meets RX Fire Guide requirements must also be met.

7. *Prescribed fire on Right of Ways (ROWS)*

Federal personnel may assist in implementing prescribed fire on ROWs. The Line Manager may determine that the prescribed fire is implemented by the entity permitted under the ROW as a regulatory requirement\*.

The Line Manager may determine that BLM will implement the prescribed fire. In this case, the prescribed fire must meet all applicable federal (NEPA), state, and local laws, regulations, policies, and permit requirements, including an approved prescribed fire plan compliant with RX guide requirements.

8. *Private Landowners Using Portions of Public Lands*

Cases may occur when a non-federal entity may need to use a small portion of public lands to implement a prescribed fire and BLM will not be involved. For example, a private landowner may be able to use a roadway or maintained fence line located a short distance away on public lands to aid in holding the prescribed fire or limits the possibility of a declared wildfire affecting public lands. The local Line Manager has the discretion to use either a federal or non-federal prescribed fire plan.

An agreement is required, and the project must meet NEPA, the protection of survey corner and boundary line markers standard stipulation, and all applicable federal, state, and local laws, regulations, policies and permit requirements. Generally, BLM is still liable for the actions taken on the federal land portion of the prescribed fire.

\* The BLM authorized officer may determine that prescribed fires within ROWs by the grantee/holder are performed according to regulatory requirement to “*Do everything reasonable to prevent and suppress wildfires on or in the immediate vicinity of the right-of-way*” (43 CFR § 2805.12(a)(4).)



## Chapter 4: Budget and Fiscal Requirements and Guidance

### A. Developing an Integrated Program of Work

The goals of the Fuels Management Program are identified through Department and BLM policies and directives and supported by LUPs. Annually, each office that has a fuels program will develop, in an integrated fashion, a Program of Work for at least three (3) Fiscal Years and request fuels and other BLM program funding in the Hazardous Fuels Reduction (HFR) Module of NFPORS. BLM issues guidance annually via Instruction Memorandums and in the Planning Target Allocation (PTA) and Annual Work Plan (AWP) to ensure fuels program guidance meets DOI priorities that typically change on an annual basis.

A POW identifies vegetation management projects planned for and to be implemented in a fiscal year. Project funding requests identified in the POW should include the estimated costs of inventory, risk assessment, planning, community assistance actions, implementation, and monitoring. To identify types of monitoring and duration, reference: Chapter 6: Monitoring and BLM H-9211-1 Fire Planning Handbook; Chapter 5 Adaptive Management and Monitoring. The POW is developed and identified in coordination with other BLM resource programs, cooperators (i.e. state, private, county) and with approval from line managers. Annually, the POW targets are identified and negotiated in BLM's Planning Target Allocation (PTA) and finalized in the Annual Work Plan (AWP) directives once an appropriation passes.

After fuels program funding is received, offices will coordinate with other BLM programs and external partners to leverage and joint fund project work where possible.

### B. Fuels Program Appropriation and Budget Management

The DOI's Wildland Fire Management appropriation includes the Fuels Management sub-activity (LFHF3100). The allocation is split among the BLM, BIA, FWS, and NPS as identified through the DOI prioritization process. BLM uses a risk based prioritization process as well as other factors to inform Fuels Management Program allocations to the states. More specific guidance about BLM's wildland fire management appropriations can be found in the PTA, AWP and at: <https://web.blm.gov/internal/fire/budget/index.html>.

1. *Budget and Target Tracking in BLM's Management Information System (MIS)*
  - a. *MIS*: The Management Information System (MIS), <http://mis.blm.gov/>, integrates into one system all performance, budget, financial, and customer research data to drive accountability for BLM's organizational goals and performance measures.
  - b. *FBMS*: Financial Business Management System (FBMS) is the BLM's financial system accessed through MIS. It crosswalks the budgeting, acquisitions and financial reporting functions in one financial system. This system is part of the DOI budgeting system. Contracts, agreements, Inter-Governmental Orders (IGO), and grants are developed in this system. Once the financial component is completed, a purchase request (PR) is initiated to fund the contract, agreement,

- IGO, or Blanket Purchase Agreement (BPA). The Program Elements (PEs), Functional Area (FA), Work Breakdown Structure (WBS) and the Project codes are tracked within the system byline items and by fiscal year. WBS codes must be activated and de-activated in FBMS using BLM Form 1310-20.
- c. *PMDS*: The Performance Management Data System (PMDS) is a subset of MIS. PMDS is the system that tracks the lowest level of the BLM's work accomplishments. These work accomplishments are called program elements (PEs) or workload measures. This tracking of PEs is required by Congress in the form of two laws: The Government Performance Results Act of 1993 (GPRA) and the GPRA Modernization Act of 2010. These laws direct the Office of Management and Budget (OMB) to require each Agency to develop performance goals that were objective, quantifiable, and measurable. To meet this requirement the BLM uses PMDS to track and report accomplishments.
  - d. *Program Elements*: Program Elements (PEs) are combined at the Department of Interior (DOI) level. In order to merge them with other DOI accomplishments, PEs are translated and combined into performance measures. Although PEs do not translate directly into performance measures, they represent the underlying work that is necessary for the performance measure to be achieved. For a list of approved fuels program PEs and for PE definitions go to: <https://mis.blm.gov:8121/home/>
2. *The Hazardous Fuels Reduction (HFR) Module of the National Fire Plan Operations and Reporting System*
- The NFPORS is an inter-departmental, interagency automated data management and reporting system developed, operated, and maintained by the DOI collaboratively with the Department of Agriculture (USDA).

The HFR Module of NFPORS is used to provide accountability for fuels management, community assistance, and fire for resource benefit. It is used to identify an annual and out-year POW, and annual targets and accomplishments, including completed spatial data associated with fuels treatment polygons. It is used to identify joint and contributed funding, and accomplishments that meet the Fuels Management Program objectives see *Chapter 6; Fuels Treatment Monitoring, Reporting and Program Evaluation*.

BLM has developed supplemental NFPORS guidance that is updated annually or when needed. BLM's [NFPORS Guidance](#) is typically referenced in the POW guidance.

PMDS and NFPORS are both used to reflect fuels program targets and accomplishments associated with the Fuels Program. States are responsible for insuring **targets** are manually entered into PMDS while **accomplishments** are pulled from NFPORS monthly by the Fire and Aviation Directorate (FAD) to populate PMDS.

### C. Program Budget Expenditure Direction

#### 1. Use of Funds

- a. Program funding will meet DOI, BLM, and State office priorities for Fuels Management Program projects and Community Assistance. Expenditure of BLM

fuels program funding includes the costs of inventory, planning, implementing, maintaining, and monitoring of fuels management project work and community assistance actions that promote wildfire resiliency, fire adaptive communities, and help promote safe and effective response to wildfires.

- b. Expenditure of funds excludes work that does not meet the intent of the Fuels Program.
  - c. Expenditure of funds includes the purchase of capitalized equipment needed for the average annual workload that cannot be economically contracted, leased, or rented. Capitalized equipment is defined as equipment with acquisition costs greater than \$25,000. Before the standard procurement process is initiated, the proposed purchase must be supported by an analysis of cost alternatives and submitted with a request to authorize the purchase to the State FMO and or State Fuels Management Specialist.
2. Allocations
- a. *Base Allocations:* Base allocations are intended to account for costs associated with permanent labor, support of permanent labor, and operations to plan and implement a base level of fuels and community assistance projects, activities, and treatments. Each state should plan to expend a minimum of 50% of the total base allocation directly associated with projects to ensure implementation of projects will continue. Labor costs should not exceed 70% of each state's base allocation. Work that can be charged to a specific project should use the WBS project number.
    - i. *Direct costs* not associated with projects must be coded using WBS project codes PJ02, PJ04, and PJ06. National and state offices will monitor direct expenditures in FBMS using the project codes PJ02, PJ04, and PJ06 at the end of the fiscal year. Indirect PJ02, PJ04, and PJ06 expenditures shall not exceed more than 40% of the State's base allocation.
    - ii. *Indirect costs* associated with administrative expenditures should total no more than 10% of a State's annual base allocation. Indirect costs should not be assessed against project funding. Indirect costs must be coded using WBS project code PJ08. Indirect costs are defined as the costs for performing work of a general nature that supports multiple program areas and cannot be directly related to a specific program or output (workload measure). In the Fuels Management Program, program element "PN" should be used in association with indirect costs. National and state offices will monitor indirect expenditures in FBMS using the project code PJ08.

For some examples of coding fuels management work using the Direct and Indirect Cost guidance, reference: *Appendix E: Examples for Coding Fuels Management Work*

- b. *Project Allocations:* Project allocations shall be obligated towards achieving the project treatments and activities identified in NFPORS, consistent with DOI and BLM national priorities.

## D. Other Fiscal Guidance

### 1. *Wildfire Assignments*

Fuels funded employees will charge their regular base-8 hours and any overtime or premium pay to the fire suppression program (LF2000000.HU0000. LF.SP.XXXX0000) when they are assigned to a wildfire suppression incident. Employees should always charge to their own 10-character cost center when coding to suppression. All vehicles and equipment used on wildfire assignment will be charged to the incident.

### 2. *Administratively Determined (AD) Pay Plan*

The AD Pay Plan is a special hiring authority, providing a simplified process to hire casuals for specific needs. Within the BLM Fuels Management Program, AD hiring can occur only to assist with prescribed fire treatments, not for other fuels or community assistance projects.

- a. The term of hire may not begin until 24 hours before planned ignition and must be completed 24 hours after the perimeter is secured.
- b. Work on prescribed fires is limited to 300 hours per calendar year, per person. The hiring unit holds the responsibility to monitor prescribed fire hours, using the Casual Pay Data-mart system.

Questions should be addressed to the state incident business lead or national incident business lead when the state lead is not available. Reference: *BLM Standards for Fire Business Management (Orange Book) (April 2020)*:

[https://web.blm.gov/internal/fire/budget/Reference\\_docs/Incident%20Business/IB-new/OrangeBk.html](https://web.blm.gov/internal/fire/budget/Reference_docs/Incident%20Business/IB-new/OrangeBk.html)

## Chapter 5: Prescribed Fire

The RX Fire Guide (<https://www.nwcg.gov/sites/default/files/publications/pms484.pdf>) provides standardized procedures specifically associated with planning and implementing prescribed fire for the five Federal land management agencies. The guide describes what is minimally acceptable for prescribed fire planning and implementation.

When planning and implementing prescribed fire operations, the State and District/Field offices must adhere to the RX Fire Guide. Additional requirements to the RX Fire Guide policy are identified below. The State and/or District/Field offices may provide more restrictive standards and policy direction, but must adhere to the minimum requirements in the Rx Fire Guide and the additional BLM requirements identified in this document

Reference the RX Fire Guide and utilize the following information to determine additional BLM-specific requirements for planning and implementing prescribed fires.

### A. Additional BLM Requirements for Prescribed Fire

#### 1. *Prescribed Fire Plan Technical Review/Technical Reviewer*

Offices will ensure a minimum of one prescribed fire plan per district per year is technically reviewed by an individual **from outside of the office** that is qualified for the level of the prescribed fire complexity. The technical reviewer should have experience burning in the same fuel type(s).

#### 2. *Element 1 Signature Page*

The BLM District Manager, Field Manager, or Fire Management Officer (FMO) will review and sign all Prescribed Fire Plans covering BLM lands, and all multi-agency plans that will be implemented by the BLM. An FMO signature line will be inserted into the prescribed fire plan template.

#### 3. *Element 4D Maps*

When land and/or special area boundaries are shown on project maps, those boundaries, shall comply with Federal geospatial standards and be georeferenced in accordance with the PLSS Data Set.

#### 4. *Element 7 Prescription*

**At a minimum**, a description for rate of spread and flame length will be developed utilizing a standard fire behavior prediction system or empirical evidence. A drought indicator should be identified as part of the prescription parameters.

#### 5. *Element 9 Pre-Burn Considerations*

Prior to implementing the prescribed fire, the responsible dispatch office will be given a copy (printed or electronically) of the pages, maps, and appropriate appendices of the prescribed fire plan starting with the signature page through Element 21.

Pre-burn briefings will include a discussion of the risks identified in the BLM Risk Assessment Worksheet attached to the appendix as developed in Element 13.

**6. *Element 13 Public and Personnel Safety, Medical***

The BLM *Risk Management Process* will be used in place of the Job Hazard Analysis. Reference: *Chapter 8; Safety and Risk Management*.

**7. *Element 16 Holding Plan***

The mop-up and patrol portion of the Holding Plan will provide a general description of the procedures to be implemented between the time of ignition and the time the prescribed fire is declared out. The prescribed fire Burn Boss will determine resource needs for mop up, based on current and expected fire behavior and weather.

**8. *Element 17 Contingency Planning***

Implementation of the Contingency Plan will be documented. Actions and resource needs will be documented and placed in the project file.

**9. *Element 18 Wildfire Declaration***

If a prescribed fire is declared a wildfire, a wildfire number will be assigned, and all wildfire management costs will be charged accordingly.

In addition to the RX Fire Guide directions, the following actions will be taken by designated staff on all the BLM prescribed fires that are declared wildfires:

- a. The BLM Agency Administrator responsible for the area will be notified of the wildfire declaration by the Burn Boss or FMO.
  - b. The Agency Administrator or FMO will notify the State Office immediately following the declaration.
  - c. Notify any other Agency Administrators and/or landowners who may be affected (FMO, resource advisor, dispatch). Coordinate fire management actions with incident commanders, FMOs, and other affected parties.
  - d. Documentation will be placed in the prescribed fire project folder that identifies if recommendations from Declared Wildfire Reports have been implemented or a plan has been developed to implement the recommendations with time frames identified.
- 10. *Element 20 Monitoring***
- In addition to required fuels treatment monitoring (see chapter 6: Monitoring), the minimum prescribed fire monitoring requirements include weather and fire behavior observations during the fire, smoke dispersal, first order fire effects, and fire treatment objectives attainment. The prescribed fire plan will describe when the data will be collected, where on the prescribed fire site the data will be collected, which methods will

be used for each data element, and responsible positions for completing data collection.

**11. Element 21 Post Burn Activities**

*Prescribed Fire Report:* A post-fire evaluation and summary that documents burn day weather, fuel conditions, fire behavior, problems, and concerns is required. The report must also indicate if objectives were met and make recommendations for future projects. The summary report must be completed and signed by the Burn Boss and retained as part of the project file.

**12. Contractor and Cooperator Prescribed Fire Plan Development and Implementation**

The BLM will provide the technical review for contractor or cooperator written plans developed for the BLM. Contractors involved in prescribed fire operations must meet the same qualification standards as BLM employees.

If a contractor is actively involved in igniting, holding, or mopping up a prescribed fire on BLM administered lands, a Contracting Officers Representative (COR) or Project Inspector (PI) will be on site (exceptions can be made for mop up and patrol) to ensure that the burn objectives are being met and the terms of the contract are followed. The BLM representative (COR or PI) must have, at a minimum, wildland fire qualifications at the ICT4 level. For low complexity pile burns the BLM representative must have, at a minimum, wildland fire qualifications at the RXB3 level.

Prescribed fire projects conducted under timber sale or construction contracts, agreements, or special use authorizations must comply with all aspects of the approved prescribed fire plan.

**13. Prescribed Fire Qualifications**

The BLM has additional requirements for some prescribed fire positions. The qualifications for each position and additional BLM requirements to the RX Fire Guide are identified in: *Interagency Standards for Fire and Aviation Operations; Firefighter Training and Qualifications "Redbook"*, and; [\*BLM Standards for Fire training and Workforce Development; Appendix C\*](#). All BLM personnel assigned to prescribed fire operations will meet the minimum qualifications outlined in those documents. This will include the BLM personnel assigned to assist other agencies.

**14. Wildfire Declaration Reviews**

A summary of causal factors which contributed to the wildfire declaration will be included in the Declared Wildfire Analysis. This additional requirement will be placed as a part of the Declared Wildfire Outcome Review document. It will not be separated from the Declared Wildfire Outcome Review. Reference BLM Manual 9214 for information on responsibilities related to wildfire declaration reviews.

A plan of action must be developed which addresses the recommendations identified in the declared wildfire outcome review. The plan of action will be submitted to the official one level above the declared wildfire for approval. For example; a field/district office level declared wildfire outcome report plan of action will be submitted to the state FMO for review and approval. *Appendix I: Wildfire Declaration Reviews, Report Template and*

*Instructions* provides a template and instructions to perform a high-level review of a declared wildfire. The template and instructions will allow for a consistent review process and report. Even though it has been developed for a national level review, the template can be modified according to the scope of review needed.

#### **16. Wildfire Declaration Accomplishment Reporting**

If a prescribed fire is declared a wildfire, only the acreage burned during the prescribed fire may be reported in NFORS as a prescribed fire accomplishment. Acreage burned after the fire was declared a wildfire would be reported as wildfire acreage in the BLM Fire Reporting System (1202) using the wildfire fire number.

#### **17. Administrative Site and Special Consideration Burning**

The decision to prepare a prescribed fire plan for an administrative site (includes short lengths of fence line burning, debris piles, etc.) or special consideration burning (oil spill, marijuana disposal, squatter debris piles, construction site debris piles, etc.) will be determined and documented by the Line Manager in consultation with the FMO. Apply any smoke management and compliance requirements within individual states.

#### **18. Smoke Management**

Smoke management can be a significant part of planning and implementing a prescribed fire. It can also be a determining factor in analyzing and rating the complexity of a prescribed fire project.

Compliance with federal, state, and local air quality regulations is mandatory and will require coordination with state and local air quality authorities. Personnel developing prescribed fire plans must be aware of state and local regulations, and the impacts that a specific project may have on potentially impacted areas. State environmental quality agencies develop state implementation plans (SIPs) that define and describe customized programs that the state will implement to meet requirements of the Clean Air Act. State smoke management programs (SMP) may be included as part of a state's SIP.

- a. **Basic Smoke Management Practices:** Regardless of the existence of an applicable state SMP, all BLM prescribed fire planning and implementation should include the use of some or all of the basic smoke management practices (BSMPs). BSMPs are a set of applicable activities which help manage, track, and reduce the effect of prescribed fire on air quality. Although all BSMPs are not always appropriate, they should always be considered for use in addition to local requirements, such as obtaining a permit or participation in a state SMP. For a description of Environmental Protection Agency (EPA) approved BSMPs and how they may be used see *Appendix F: Basic Smoke Management Practices*. Additional BSMPs may be developed in cooperation with the state or local air quality authorities.

The National Wildfire Coordinating Group (NWCG) publication *PMS 420-2 Prescribed Fire Smoke Management Guide for Prescribed and Wildland Fire*, and the *RX Fire Guide* provides information on BSMPs and understanding smoke management concepts.



- b.* Notice of Air Quality Violation: Any office conducting a prescribed fire operation that results in a citation, violation or exceedance notice from the state DEQ, Air Quality Board, or similar state office will immediately report the citation, violation or notice to the State Office and Fire Planning and Fuels Management Division (FA-600). A formal outcome review is required. Reference the RX Fire Guide.

***19. Prescribed Fire During Preparedness Levels 4 and 5***

The State Director or designee will approve prescribed fire implementation at National or Geographic Area Preparedness Levels 4 or 5.

## Chapter 6: Fuels Project Monitoring, Accomplishment Reporting and Program Evaluation

### A. Treatment Monitoring

**All field units with fuels treatment programs are required to monitor and report on the effects and effectiveness of treatments.** Monitoring is a key part of "adaptive management." Monitoring measures progress toward or success in achieving an objective and provides the evidence for management change or continuation. The objective of monitoring is to determine if treatments are meeting the objectives (short and long term) as outlined in the LUPs, EAs and project plans. Implementation and effectiveness monitoring should be described in treatment planning and is a part of project implementation.

#### 1. *Monitoring in Coordination with the Assessment and Inventory Monitoring (AIM) Program*

The BLM fuels management program will monitor fuels management treatments through an interdisciplinary approach that includes AIM and other BLM vegetation management programs, and land tenure specialists.

The information and processes outlined in the *Incorporating Assessment Inventory and Monitoring (AIM) for Monitoring Fuels Project Effectiveness Guidebook* will be used to meet fuels monitoring requirements.

The guidebook describes when AIM core indicators and methods should be applied to treatment monitoring and provides instructions for using other supplemental indicators and methods. The scope, type and frequency of monitoring depends upon the monitoring objectives that are developed through an interdisciplinary team approach and are based on the project and treatment objectives. The monitoring project decision and design process is documented in the Fuels Monitoring Design Worksheet (FMDW). A Word template is provided and FMDW instructions can be found in the Guidebook.

Fuels Program staff must coordinate with AIM program staff and other program staff to identify opportunities to increase monitoring efficiencies by sharing monitoring resources with other programs (Range, Wildlife, Forestry etc.). Opportunities for sharing resources should be identified during the yearly POW development.

For examples of non-fire fuel treatments, management objectives, and associated monitoring techniques, also see *Appendix H: Non-fire Fuel Treatments, Management Objectives, and Associated Monitoring Techniques*.

#### 2. *Fuels Treatment Effectiveness Monitoring (FTEM) system*

FTEM is a DOI and USFS online spatial tool used to document fuels management treatment effectiveness. The purpose of FTEM is to have a single, interagency, national source to document the interaction of wildfires and fuels treatments. The system provides users a way to enter information about fire weather, fuels, and supporting documentation (e.g., photos, maps) from inside and outside treated areas in order to

demonstrate fuels treatment effectiveness. The data will be available for use at various levels of the DOI bureaus and the Forest Service. The data will also be used to answer congressional and Office of Management and Budget (OMB) questions about the effectiveness of the Fuels Program and demonstrate whether fuels treatments changed fire behavior. The system establishes baseline data to use when making future Fuels Program decisions and to document lessons learned from wildfire events in order to adjust future fuels treatment prescriptions.

All offices must complete a fuels treatment effectiveness assessment and input appropriate information into FTEM for all wildfires, which start in, burn into, or burn through any portion of a fuel treatment area that has been completed and reported in the Hazardous Fuels Module of the NFPORS. Offices should ensure that fuels treatment effectiveness data is reported in the FTEM system within 90 days of a wildfire intersecting a fuels treatment. It is important that treatment data entered into FTEM are consistent with the NFPORS, and that wildfire information is consistent with the Interagency Fire Occurrence Reporting Modules (InFORM).

FTEM is accessed through the Interagency Fuels Treatment Decision Support System ([IFTDSS](#)). Information for accessing FTEM can be found at: <http://web.blm.gov/internal/fire/fpfm/fuels.html>.

3. *Other Monitoring Requirements:* Appropriate species/habitat monitoring is required whenever formal ESA consultation occurs during the project planning phase. *BLM Manual 5000-1 Forest Inventory* and *H-1740-1 Integrated Vegetation Management Handbook* provides additional resources for treatment monitoring.

In addition, the minimum monitoring requirements established for individual prescribed fire projects have been established in the RX Fire Guide and BLM supplemental guidance identified in Chapter 5.

4. *Funding Monitoring Costs Including AIM Coordination*  
Fuels Management Program funds can be used for monitoring treatment objectives. Treatment objectives and long-term prescribed fire effects monitoring must be coordinated with the resource(s) benefiting from the prescribed fire treatment (benefiting resources usually includes both natural resources and fire management programs). The funding mechanism(s) should be established during the initial project development phase, within the interdisciplinary team setting. Numerous projects with similar objectives in similar vegetation types may be grouped under a single monitoring program. Monitoring costs must be included as a part of project costs identified in the NFPORS POW development.

For other descriptions, guidance and information on project level monitoring, reference: *BLM H-1740-2 Integrated Vegetation Management Handbook and Measuring and Monitoring Plant Populations (BLM Technical Reference: 1730-1, BLM/RS/ST-98/005+1730)*.

## B. Reporting Accomplishments

NFPORS is the DOI system for reporting Fuels Management Program funded accomplishments and identifying non-fuels funded project accomplishments that have meeting fuels management objectives as a secondary benefit. It is a comprehensive data base for DOI and BLM national Fuels Program accomplishments that assist in reporting to Congress, Office of Management and Budget (OMB), and other government and non-government entities. NFPORS is also used to track workload targets and accomplishments at the District/Field, and State office.

Treatment and activity accomplishments are to be reported into NFPORS within five days of completion. The reporting of partial accomplishments may occur at any time. Accomplishments will be automatically uploaded from NFPORS into PMDS monthly.

### 1. Reporting accomplishments with fuels treatments burned in a wildfire:

Reporting accomplishments of resource objectives from the management of wildfires will focus on post-fire outcomes that result in movement towards Land Use Plan (LUP) Objectives. Reporting fuels accomplishments should not be confused with the determination of wildfire response or management objectives because they may not always align.

BLM Offices will report all acres burned in a naturally caused wildfire that accomplish resource objectives in the HFR module of NFPORS when:

- a. An interdisciplinary team approach is used to determine the specific burned acres where LUP resource objectives were met by wildfire; and
- b. A Line Manager or Agency Administrator (AA) approves the determination and notifies the State Fuels Lead/Specialist to ensure appropriate reporting in NFPORS.

Accomplishment of resource objectives for known human caused wildfires will not be reported.

Once the Line Manager or AA decides to evaluate the outcomes from a naturally caused wildfire, the accomplishments should be reported in the HFR module of NFPORS according the direction found in *Appendix G: Instructions for Reporting Accomplishments*.

2. All treatments funded by the fuels management program must have a treatment polygon submitted to the Vegetation Treatment Geodatabase (VTRT) when treatment accomplishment is reported into NFPORS, including those treatments on non-federal ownerships with contributed BLM fuels dollar funding or labor. States will ensure that 100% of all accomplished treatments reported in NFPORS have polygon data submitted into their State's VTRT. States are not responsible for submitting or entering polygon data directly to other systems such as NFPORS, LANDFIRE, WFDSS, or the CED. The Fire and Aviation Fuels Management and Fire Planning Division (FA600) submits polygons from VTRT to these systems in a batch upload. Additionally, FA600 periodically checks to ensure states are performing quarterly uploads of polygons.

Additional information for NFPORS can be found at [www.NFPORS.gov](http://www.NFPORS.gov). For instructions on entering accomplishments into NFPORS, reference [BLM NFPORS Guidance](#).

### **C. Program Evaluations.**

The Division of Fire Planning and Fuels Management conducts annual evaluations of the Fuels Management Program, Community Assistance, Fire Planning, and Trespass in accordance with *BLM Manual 1240 - Evaluation Program*. Each year two states are evaluated. For complete evaluation guidance, reference the *BLM Fire Planning, Fuels Management and Community Assistance Evaluation Guide* at: <https://web.blm.gov/internal/fire/fpfm/fuels.html>

## Chapter 7: Coordinating with Other Programs and Initiatives

Federal Land Policy and Management Act (FLPMA) requires that all BLM lands be managed on the basis of multiple uses unless otherwise specified by law (also see the Oregon and California Railroad and Coos Bay Wagon Road Grant, (O&C Act of 1937). To meet this law, the Fuels Program integrates with staff at all levels of the organization involved in activities which modify vegetation on public lands. An integrated vegetation management program works closely together to achieve multiple common land and fire management goals and objectives identified in land and fire management plans.

The Fuels Management Program typically coordinates closely with the following BLM programs and initiatives to accomplish vegetative management and fire management program objectives:

### A. Divisions/Programs

#### 1. *Forest, Rangeland, Riparian and Plant Conservation and Restoration*

- a. *Forest Management:* Requirements for the management of forest lands are contained in FLPMA and in regulations published in *Title 43 CFR Part 5000-Forest Management and Part 9230-Trespass*. Additional policy, direction, and guidance are contained in BLM 5000 series manuals and handbooks, as well as in various Instruction Memoranda.

BLM Public Domain forest management policy is contained in *BLM Manual 5000-1 - Forest Management (Public Domain)*. BLM policy specifies management of forest lands to maintain and restore the short- and long-term desired forest conditions and to implement practices and investments which reflect the long-term cycle of forest management, in accordance with the management actions and standards and guidelines of the applicable land use plan. These goals can best be achieved through silvicultural treatments designed to meet land use plan goals.

The disposal of forest products, including timber and non-timber forest vegetative products, from public lands is authorized by the *Mineral Materials Disposal Act of 1947 and the O&C Act of 1937 (Public Law 75-405)*, and is governed by requirements contained in *43 CFR Part 5400-Sale of Forest Products General*. Regulation requires that all sales be made only after inviting competitive bids through publication and posting. Additional direction and guidance for fulfilling the requirements of the regulations governing the sale of forest products are contained in the *BLM 5400* series manuals and handbooks.

- b. *Range Management:* The requirement for the management of rangelands and the administration of livestock are contained in FLPMA, regulation *43 CFR 4100-Range Management* and through BLM manuals, handbooks, technical references and instruction memoranda. It is important to note that *43 CFR 4100* provides specific regulatory instructions on not just livestock grazing, but also on land

treatments. Any fuels management project, which requires a change or modification in a grazing permit or contains an agreement with a grazing permittee must be in compliance with the grazing regulations, *43 CFR 4100*. All fuels treatment projects that affect livestock grazing operations will be coordinated with the grazing permittees and the interested public through the complete process.

There is a direct linkage in assessing land health conditions and determining causal factors for failing to achieve land health standards in each state. Fire regime and fuels play an integral role in these assessments and can often result in the need to re-integrate fire onto landscapes to keep them healthy and properly functioning. Fuels treatments should be coordinated with the range program when wildland fuels conditions are causal factors in failing to achieve land health standards. For more information on Land Health Standards reference *BLM H-4180-1 Rangeland Health Standards Handbook*

- c. *Livestock Management:* Livestock management can be critical to the success of prescribed fire, mechanical and chemical vegetation treatments. Fuels management projects that could be affected by grazing should **not** be implemented unless and until grazing management is addressed. In areas where livestock grazing is authorized, fuels management projects must be closely coordinated with the rangeland management program. Livestock management should be included in fuels management project planning.

- i. *Livestock Grazing Deferment*

In most areas of the west, livestock grazing must be deferred **prior** to implementing a prescribed fire to allow enough fine fuel to accumulate to carry the fire. Following the prescribed fire and/or seeding, vegetation should be deferred from grazing for at least two growing seasons to allow grasses and forbs an opportunity to recover from the effects of defoliation caused by the prescribed fire and to allow vegetative cover to increase enough to guard against soil erosion.

Livestock closures for less than the two growing seasons may be justified on a case-by-case basis, based on sound resource data and experience. An interdisciplinary evaluation should be conducted at the end of the closure to determine whether additional livestock exclusion is required.

Additional grazing exclusions may be required to achieve resource objectives, especially when palatable, slow maturing shrubs are included in the project area.

Mechanical and chemical treatments usually do not require deferment from livestock grazing. For example, mechanical removal of a brush species normally does not require deferring livestock use because the ground cover of grasses and forbs are not affected and should protect soil from erosion. Deferment of livestock grazing may be necessary

following chemical treatments until adequate recovery and cover is established.

For pre and post treatment of livestock management information refer to the Grazing Management section in *NWCG Fire Effects Guides; NFES #2394*, and *BLM H-4120-1 Grazing Management Handbook*

ii. *Targeted Grazing*

Targeted grazing is the application of domestic livestock grazing and can be applied as a short-term strategic resource to reduce fuel in very specific conditions and areas. Targeted grazing can be used to accomplish defined vegetation or landscape goals by using fences, water sources, or dietary supplements.

d. *Plant Conservation and Restoration*

The mission of the BLM's plant conservation and management activities is to ensure that native plants and native plant communities on public lands are managed, conserved, and/or restored for the benefit of present and future generations.

The BLM's work in plant conservation and management is completed in partnership with all BLM programs, as well as with other Federal, State, local, and private sector entities. The program often works with fuels management to reduce or eliminate impacts on native plant communities especially related to altered fire regimes.

e. *Weed Management and Invasive Species Program*

Weeds and invasive species should be considered in all fuels treatment activities. An integrated proactive approach, including seeding for competition and integrated pest management, should be considered during project scoping, planning, and implementation to help minimize impacts.

Fuels staff planning or proposing the use of chemical treatments to meet resource and fuel management objectives or as a treatment follow up, should coordinate closely with the Field Office or State Office pesticide use program leader.

Reference: *BLM H-9011-1 Chemical Pest Control Handbook, and BLM Manuals 1112 (Safety), 9011 (Chemical Pest Control), and 9015 (Integrated Weed Management)*.

f. *Emergency Stabilization and Burned Area Rehabilitation*

Landscapes that are threatened from post-fire floods, debris flows, or are susceptible to serious degradation are assessed and treated by the Emergency Stabilization (ES) program within the Suppression Operations account.



The Burned Area Rehabilitation (BAR) Program initiates longer-term actions to repair damages caused by wildfire. Rehabilitation treatments are designed to repair or improve lands unlikely to recover naturally from severe wildfire damage.

The ES and BAR program coordinates with other resource and fire management programs (including fuels management) to ensure ES and BAR treatments align with LUP and FMP objectives.

Emergency stabilization or rehabilitation funding is not appropriate following prescribed fire projects in which fire behavior was within prescription. In the case of a prescribed fire being declared a wildfire, **emergency stabilization or rehabilitation funding may only be used on that portion of a fire that has been declared a wildfire.** Minor facilities and structures, such as fences or kiosks on BLM lands that are burned as a result of the declared wildfire may be repaired using ES funds. The use of ES and BAR funds for the repair/replacement of major facilities and structures such as telephone poles, buildings, or homes burned on BLM, other agency, or private lands, as a result of a declared wildfire, is prohibited. For more ES and BAR program information, reference: *BLM H-1742-1 Burned Area Emergency Stabilization and Rehabilitation Handbook*.

- g. *Soil*: The potential for soil erosion and accelerated water runoff exists after certain fuels management activities (especially prescribed fires) due to a reduction in plant material to stabilize the soil. Fuels management staff and soils specialists work together through the fuels management planning and implementation process to identify soils issues and mitigate the effects of a fuels management action.

## 2. *Wildhorse and Burros*

The BLM's goal is to ensure and maintain healthy wild horse populations on healthy public lands. To do this, the BLM works to achieve what the Appropriate Management Level (AML): the point at which wild horse and burro herd populations are consistent with the land's capacity to support them. In the context of its multiple-use mission, AML is the level at which wild horses and burros can thrive in balance with other public land uses and resources, including vegetation and wildlife.

When planning and implementing fuels management activities, fuels management and wildhorse and burro staff may work together to improve rangeland conditions and/or mitigate the effects of a fuels management action on wildhorse and burro HMA.

## 3. *Wildlife Conservation, Aquatics and Environmental Protection*

The BLM managed lands contribute to a diversity of fish, wildlife and plant species, including threatened, endangered and "at risk" species. The BLM manages these resources in cooperation with state and other federal agencies. When planning and implementing fuels management activities, offices must consider fisheries and wildlife.

- a. *Fisheries*: The BLM Fisheries Program maintains, restores and conserves fish habitat on public lands. Much of this work is accomplished in collaboration with other BLM programs (including fuels management) and funded through various partnerships with Federal, State and non-governmental organizations.
- b. *Wildlife*: The BLM manages wildlife habitat primarily in western shrub lands, grasslands, woodlands, forests and riparian areas as well as glaciers and Arctic tundra in Alaska. Where a habitat or watershed analysis indicates a need for action, the BLM works to improve habitat conditions through vegetation treatment programs such as the fuels treatments. Wildlife habitat restoration is often one of multiple goals for a fuels management project.
- c. *Water*: One purpose of the water program is to minimize harmful effects to water resources from land use activities, and to improve and enhance water resources through management. BLM partners and coordinates with other federal, state, and local government agencies and tribes, and complies with applicable federal and state water laws and administrative claims procedures in managing and administering all BLM programs and projects. Fuels management projects have the potential to impact water quality both positively and negatively related to vegetation reduction and/or soil erosion. Fuels management staff and resource specialists work together through the fuels management planning and implementation processes to identify water quality issues and mitigate any effects to water quality due to a fuels management action.
- d. *Air*: The BLM manages air resources to carry out FLPMA's direction and to ensure that the uses the BLM initiates or authorizes on public lands are consistent with the federal, state, local, and tribal regulatory framework under the Clean Air Act.

BLM air resource specialists work in BLM State Offices, the BLM National Operations Center, and the BLM Washington Office. They work with BLM national programs including the Fire Planning and Fuels Management Programs to develop policy, guidance, and tools for addressing air resources in the field.

BLM air resource specialists also support BLM State and District/Field offices in implementing policy and guidance relevant to air resources, and conduct NEPA analyses of potential impacts on air resources associated with fuels management actions especially prescribed fire. Specialists recommend appropriate Best Management Practices (BMPs) or other measures to mitigate adverse impacts to air resources.

The BLM Air Program also collaborates with other federal agencies; state, local, and tribal agencies, and stakeholders to address air quality issues. At times, the BLM Air Program participates in federal, state, tribal, and local air quality planning, regulatory, or permitting processes.

#### 4. *Lands, Realty Management/Rights of Way*

By federal regulation, any specific grant for a ROW has the requirement that the grantee will: “*Do everything reasonable to prevent and suppress wildfires on or in the immediate vicinity of the right-of-way*” (43 CFR § 2805.12(a)(4).)

Vegetation Management Actions for Electric Transmission and Distribution ROWs – the BLM has a national policy requiring specific vegetative maintenance or protection of ROWs. Detailed direction for addressing vegetation management in and adjacent to ROWs, including management of hazard trees, is contained in FLPMA Sec. 512 ([43 U.S.C. 1772](#)), IM WO-2018-070 (Attachment 1), and IM ID-2020-006 (Attachment 2). The BLM States and Districts/Field offices may also have specific policies for the protection and maintenance of ROWs. The BLM allows certain vegetation management actions and hazard tree removals necessary to operate and maintain the facilities in the ROW grant. The BLM may use maintained ROWs to aid in wildland fire operations and protect communities, resource values, and infrastructure.

Fuels Program staff should work with realty programs to ensure fuels management issues are addressed during the ROW permitting process, which typically includes vegetation maintenance requirements.

Vegetation treatments in areas adjacent to ROWs reduce wildfire hazard, increase protection of infrastructure, and increase the ability of fire management resources to safely manage wildfires, and protect communities and resource values. States should work with ROW holders and communities in partnerships to plan and implement infrastructure ROW maintenance plans and adjacent fuels treatments.

#### 5. *Cultural, Paleontological Resources and Tribal Consultation/Cultural and Paleo Resources*

The Archaeological Resources Protection Act and National Historic Preservation Act forms the basis for BLM's Cultural and Paleontological Program and the requirements must be followed when planning and implementing fuels treatment projects. For more guidance reference: *The BLM Manual 8100 - The Foundations for Managing Cultural Resources* and *Manual 8120 - Tribal Consultation under Cultural Resources*.

Fuels staff should closely coordinate with BLM archeologists to ensure cultural resource surveys and other needs related to fuels treatment planning and implementation are completed. During the project scoping process, coordination with the archeologists will determine the level of cultural survey necessary for a fuels treatment. Care should be taken to ensure that sensitive cultural information is not disclosed to the public. A copy of the cultural survey(s) concurrence should be included into the official project file.

#### 6. *Cadastral Survey Program*

Public Land Survey System (PLSS) boundary markers occur on all BLM lands. Federal Law (18 U.S.C. § 1858) prohibits disturbing these markers and other boundary evidence. Boundary evidence includes but is not limited to artificial and natural boundary monuments, witness corners, reference monuments, property corners, benchmarks,

bearing trees, and witness stones. The markers and boundary evidence of the PLSS are vulnerable to surface-disturbing activities. These markers protect at risk resources and must be considered and protected when analyzing a proposed project.

Fuels Program staff should work with their BLM cadastral survey staff to identify, assess and document boundary markers and/or evidence during the fuels treatment planning process. In accordance with 600 DM 5, the Standards for Boundary Evidence (SBE) process is a risk management tool for the Authorized Officer (AO) that assures that the PLSS is preserved and can support the project. The SBE review will be conducted for projects over \$10K in value and/or within 1/4 mile of a boundary. Through the fuels treatment planning and SBE process, the Fuels Program provides a Land Survey Services Request (LSSR) to Cadastral Survey who will then conduct the SBE and provide a Land Surveyor Report (LSR). This SBE Certificate documents the condition of the boundary evidence, e.g., boundary markers, and an opinion as to the sufficiency of the boundary evidence for the project. Relevant boundaries could include, e.g., special use areas. The LSR should be placed into the official treatment file. When Indian lands are involved, the process will be in accordance with 303 DM 7. This is very similar to 600 DM 5, and Fuels Program staff should consult with their Cadastral Surveyor early in the project planning.

Fuels and cadastral personnel should work collaboratively to maintain and protect boundary markers and/or evidence during the treatment implementation, including pre-marking boundary evidence before surface-disturbing activities. If fuels treatment activities damage or disturb federal boundary markers or evidence the appropriate BLM chief cadastral surveyor will be notified, to assure the necessary rehabilitation or reestablishment will be in accordance with BLM requirements. Fuels program funding may be used to reestablish the boundary marker or other boundary evidence. For more information reference: *H-9600-1, Cadastral Survey Handbook*.

The Standard Stipulation - "Protection of Survey Corner and Boundary Line Markers" is contained in H-9600-1, chapter 1:

"The responsible party will identify and protect evidence of the PLSS and related Federal property boundaries prior to commencement of any ground-disturbing activity. Contact BLM Cadastral Survey to coordinate data research, evidence examination and evaluation, and locating, referencing or protecting monuments of the PLSS and related land boundary markers from destruction. In the event of obliteration or disturbance of the Federal boundary evidence, the responsible party shall immediately report the incident, in writing, to the AO. BLM Cadastral Survey will determine how the marker is to be restored. In rehabilitating or replacing the evidence, the responsible party will reimburse the BLM for costs or, if instructed to use the services of a Certified Federal Surveyor, procurement shall be per qualification-based selection. All surveying activities will conform to the Manual of Surveying Instructions and appropriate State laws and regulations. Cadastral Survey will review local surveys before being finalized or filed in the appropriate State or county office. The responsible party will pay for all survey, investigation, penalties, and administrative costs."

## Chapter 8: Safety

### A. Safety Awareness

**The safety of firefighters, other employees and the public is the number one priority when planning and implementing fuels management projects.** Every person involved in planning and implementing a fuels management activity is responsible for identifying safety issues and concerns. Each individual participating in fuels management activities has the responsibility to notify management of any possible misunderstanding of assignment tasks or safety concerns related to the assignment.

#### 1. *SAFENET*

SAFENET is a form, process, and method for reporting and correcting safety concerns and is applicable to fuels management operations. SAFENETs can be filed electronically, verbally, or by SAFENET Field Card. For more information on SAFENETS, reference: [https://www.nifc.gov/safety/safety\\_main.html](https://www.nifc.gov/safety/safety_main.html)

#### 2. *The Aviation Safety Communique (SAFECOM)*

SAFECOM is a tool used to identify, document, track, and correct aviation safety related issues. SAFECOMs are entered directly on the internet. For more information on SAFECOMs, reference: *Interagency Standards for Fire and Aviation Operations, Chapter 16; Aviation Operations & Resources.*

### B. Personal Protective Equipment

All personnel implementing fuels management activities will use the required Personal Protective Equipment (PPE). For prescribed fire holding and ignition personnel, the minimum PPE (unless otherwise identified in the BLM Risk Assessment) is the same as that required for wildland fire assignments. If the prescribed fire plan identifies that operations can occur under adverse weather conditions such as: cold weather, rain, and/or snow with minimal or no opportunity for fire spread, PPE exemptions are allowed based upon the BLM Risk Assessment.

For safety equipment information, reference: *Interagency Standards for Fire and Aviation, Chapter 7: Safety and Risk Management.*

### C. Work Rest Guidelines

The Work Rest Guidelines that apply to fire suppression operations are also applicable to all fuels treatment projects. Limitations identified in the *Interagency Standards for Fire and Aviation Operations; Safety and Risk Management, Chapter 7* apply for prescribed fire.

### D. Prescribed Fire Smoke Hazards

#### 1. *Exposure*

Exposure to smoke during prescribed fire operations can be a significant health and

safety concern. Research has shown that exposure to smoke on prescribed fires, especially in the holding and ignition positions, often exceeds that on wildfires. There are many precautions that Prescribed Fire Project Planners and Prescribed Fire Burn Bosses can take to reduce personnel exposure to smoke.

*a. Planning*

Smoke exposure needs to be considered when planning prescribed fires. Simple actions such as altering line locations can have a significant impact on smoke exposure. Placing fire lines in areas of lighter fuels or moving lines to roads or other barriers that will require less holding, patrol, and mop up will significantly reduce the smoke exposure to personnel.

*b. Implementation*

Many techniques can help reduce the exposure of personnel to heavy smoke. Rotating people out of the heaviest smoke area may be the single most effective method. Changing firing patterns and pre-burning (black lining) during less severe conditions can greatly reduce exposure to smoke. The use of retardant, foam, or sprinklers can also significantly reduce the workload and exposure time for holding crews.

*2. Roadway Safety*

Recent roadway vehicle incidents where wildland fire smoke severely reduced roadway visibility resulting in unsafe driving conditions have led to fatalities and serious bodily injuries. The continued smoke-related accidents from wildland fire across the country underscore the critical need for including smoke and roadway safety in prescribed fire planning and implementation.

Prescribed fire personnel should minimize smoke related consequences by being aware of the conditions that reduce roadway visibility and by knowing when to implement timely mitigation measures.

BLM personnel should reference the information in *Smoke and Roadway Safety Guide (2020)* as appropriate to help identify and address the risks posed by smoke visibility impacts on roadways. The guide provides detailed technical information about smoke safety risks and mitigation strategies to address them in wildland fire (wildfire and prescribed fire). The contents of this guide are developed to assist anyone using wildland fire for land management (federal, state, tribe, county, and private landowners).

For more information on smoke exposure and smoke management mitigation techniques, reference: *NWCG PMS 420-2 Smoke Management Guide for Prescribed and Wildland Fire (2018)*.

## **E. Chemical Safety**

Any applications of pesticides or herbicides must be completed by a certified commercial applicator or under the direct supervision of a certified commercial applicator in the State where the application will occur. Use of any herbicide must be done in conformance with the chemical label directions and restrictions. For more chemical safety information, reference: *BLM H H-*

*9011-1 Chemical Pest Control Handbook, and BLM Manuals - 1112 (Safety), 9011 (Chemical Pest Control), and 9015 (Integrated Weed Management).*

#### **F. Fuel Safety**

Reference the *Interagency Transportation Guide for Gasoline, Mixed Gas, Drip-torch Fuel, and Diesel (PMS-442, 2011)*

#### **G. Logging Operations Safety**

When logging operations are authorized in a BLM timber sale contract, stewardship contract, agreement, or other contract, all Supervisors, Authorized Officers (AOs), Contracting Officers (COs), Contracting Officers Representatives (CORs), Grants Management Officers (GMOs), and Program Officers (PO's) who provide oversight of Bureau of Land Management contracts/agreements authorizing logging operations must follow the safety requirements identified in WO IM-2016-045 (<https://web.blm.gov/internal/wo-500/directives/dir-16/im2016-045.html>).

## Appendices

### Appendix A - Project Proposal Template

A Microsoft WORD document of this template can be found at: <http://web.blm.gov/internal/fire/fpfm/fuels.html>

**District/Field Office:**

**Date:**

**Project Fiscal Year (FY) Planning:      Project FY Implementation:**

**Project Duration:** (*consider time frames for NEPA completion to final implementation*)

**Contact Person:**

**Project Name:**

**Project Type:** (*WUI or Non-WUI, treatments/activities, HL or habitat restoration, meet goals of Cohesive Strategy, fuel break, community assistance, etc.*)

**Legal and Area Description:** (*Attach maps, describe location and size*)

**Access:** (*Identify how the project can be accessed. Describe any access constraints, alternatives or needs for agreements*).

**Land Ownership:**

**Project Purpose and Need:** *Identify the need for vegetative change. The purpose and need statement should explain why the BLM is proposing action. Note that you must describe the purpose and need for the action, not the purpose and need for the document).*

*The purpose and need statement should be brief, unambiguous, and as specific as possible. To the extent possible, construct the purpose and need statement to conform to existing decisions, policies, regulation, or law. The purpose and need for the action is usually related to achieving goals and objectives of the LUP; reflect this in your purpose and need statement.) Reference the BLM H-1790-1 NEPA Handbook for information on developing a project purpose and need statement.*

**Project Proposal (Preliminary Proposed Action):** (*Provide sufficient information to allow the Line Managers to evaluate the viability of the project. Details include the overarching goals and current and desired future conditions of the project, when and how implementation would occur, potential surveys and clearances, outcomes, tie between proposed action and FMP and LUP, and use past effectiveness reports to support your project when possible.*)

**Supporting Documents:** (*Identify any documents that support your action such as Land Use Plans, Community Assistance Mitigation Plan, Special Status Plans*).



**Proposed Funding Activity:** *(Identify the primary sub-activity):*

- Contributed Funds
- Joint Funding

**Support/Coordination Needed:** *(check all that apply):*

- Right of Way/Easements
- Biol. Eval./Section 7 Consultation
- Permits
- Engineering Survey/Design
- Weeds
- Chemical
- Cultural Clearance
- T& E Clearance
- Contracting
- Cadastral
- Forestry/Silvicultural
- Other

**Method of Implementation:**

- Contract
- Force Acct.
- Agreement
- Veterans
- Dept. of Corrections Crew
- Other

**Coordination:** *(permittees, interest groups or agencies)*

**Other Comments or Concerns:** *(Review the complexity analysis elements to identify possible issues, i.e., Air Quality, adjacency to state, and/or private lands, pre-marking land and/or special area boundaries, etc.)*

**Approved by the Line Manager for Further Planning and Implementation**

Yes/No \_\_\_\_\_ Signature: \_\_\_\_\_ Date \_\_\_\_\_

**Pre-plan Perceived Complexity/Risk:**    LOW                    MODERATE    HIGH

**Type of NEPA Recommended:**    DNA                    CX                    EA                    EIS

**Interdisciplinary Team Members Assigned:**

**Appendix B - Project Planning Checklist Example**

A Microsoft WORD document of this template can be found at: <http://web.blm.gov/internal/fire/fpfm/fuels.html>

**Project Name** \_\_\_\_\_ **Project Number** \_\_\_\_\_

Section 1 Action suggested two years prior to implementation	Date	Initial
<b>1. Line Manager approval and assigns project to appropriate project lead</b>		
<b>2. Site inspection. Map and initial boundary identification. Preliminary objective determined and discussed. Environmental concern identified and agreement made that objectives can be met.</b>		
<b>3. Check and document:</b> a. Planning documents b. Land claims c. Mining claims d. Wilderness status e. Water rights status f. Possible threatened and endangered species conflict g. Possible conflicts with wildlife concerns h. Possible problems with soil, water quality or air quality i. Possible problems with livestock, wild horses or burros j. Possible conflicts with other authorized uses k. Possible conflict with other federal, state or local government agencies and public l. Possible conflicts with recreation M. Possible conflicts with cadastral *Note: Indicate Conflict (C), Possible Conflict (PC), No Conflict (NC) or Not Applicable (NA). If a conflict or possible problem does exist, explain on a separate sheet or memo and attach.		
<b>5. Line Manager reviews and resolves or initiates resolution of conflicts or terminates the proposal</b>		
<b>6. Prepare a project file. Include this checklist, full documentation of all items and best available map of the project area</b>		
<b>7. Initiate possible cooperative agreement and contributions. Prepare draft of cooperative agreement(s)</b>		
Section II Action suggested one year prior to implementation		
<b>8. Special status species surveys and clearances</b>		
<b>9. Cultural resources/antiquities inventory completed and mitigated, if required</b>		
<b>10. Management of Land Boundaries risk assessment completed and pre-marked, if required</b>		
<b>11. Environmental analysis prepared, reviewed and signed</b>		
<b>12. Line Manager reviews the design features identified in Environmental Assessment, Cultural Resource Report, and draft cooperative agreements and resolves or mitigates conflicts</b>		
<b>13. Agreement with private landowners if needed</b>		
<b>14. Cooperative agreements finalized and signed</b>		
<b>15. Office staff review and approval</b>		
<b>16. Public review and/or involvement of interest groups, tribal entities, user groups or individuals</b>		
<b>17. Final project layout</b>		
<b>18. Project submitted to the Line Manager</b>		
<b>19. Final approval</b>		
Section III - AWP and project implementation/completion		
<b>20. Contracting draft prepared if this option selection:</b> a. Contract draft reviewed b. Contract advertised c. Bids reviewed d. Contract awarded e. Contract administration COR and PI assigned		

**Appendix C - Prescribed Fire Link Chart**

Purpose: To provide the prescribed fire plan preparer and reviewer with a chart that identifies the links between common elements of a prescribed fire plan. Prescribed fire plan elements do not stand alone. The development of one element affects how others are approached and developed. High quality plans can be produced by ensuring the prescribed fire plan elements complement and assist each other.

	EA	Risk Assessment	Complexity Analysis	Agency Administrator Ignition Authorization	Prescribed Fire Go/No Go Checklist	Complexity Analysis Summary	Description of Prescribed Fire Area	Resource Objectives	Prescribed Fire Objectives	Funding	Prescription Narrative	Prescription Parameters	Scheduling, Constraints, Duration	Pre-burn Considerations and Weather	Briefing	Organization and Equipment	Communications	Public and Personnel Safety, Medical	Test Fire	Ignition Plan	Holding Plan	Contingency Plan	Wildfire Declaration	Smoke Management and Air Quality	Monitoring	Post Burn Activities	Prescribed Fire Report	
EA							X																					
Risk Assessment			R			X	R	X	X		R	R	R	R	X	R	R	R	R	X	R	R	R	R	X	X	X	X
Complexity Analysis	X	R		X		R	X	R	R		R	R	X	R	X	R	X	R	R	R	R	R	R	R	R	X	X	
Agency Administrator Ignition Author	R	R	R			R	R		R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	
Prescribed Fire Go/No Go Checklist		R	R	R		R	R		R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	
Complexity Analysis Summary		R	R					R																				
Description of Prescribed Fire Area	R	X						X	X		X	X	X	X	X	X	X	X	X	X	X	X		X			X	
Resource Objectives																												
Prescribed Fire Objectives	R	X	X			X	R		X	X	X	X	X	X	X			X	X	X	X			X	X	X	X	X
Funding	X	R				X		R			X	X	X			R					X	X	X	X	X	X	X	X
Prescription Narrative	X	X	X			X	X	X	R			R	X	R	X	X		X	X	X	X	X	X	X	X	X		X
Prescription Parameters	X	X	X			X	X	X	R		X		X	X		X		X	X	X	X	X	X	X	X	X		X
Scheduling, Constraints, Duration	R	X	X			X		X	R		X	X		X					X	X		X		R			X	
Pre-burn Considerations and Weather	X	X	X			X		X		R	X	X	X		X			R	X	X	X			X	X			
Briefing			X			R	X	R	R	X	X	R	R	R		R	R	R	R	R	R	R	R	R				
Organization and Equipment		X	X			X	X	X	X	R		X	X	R			X	X	X	X	R	R	R	X	X	X	X	X
Communications		X	X									X	X	X	X		X	X	X	X	R	R	R	R				
Public and Personnel Safety, Medical		X	X			X	R		X		X	R	X	X	X	X	X		X	X	X	X	X	X	R			
Test Fire						X	R	R	R		X	X	X	X	X	X		X		R	X	X	X	X	R	R		X
Ignition Plan		X	X			X	R	R	R		X	R	X	X	X	X	X	X	X	R		R	X	X	R	R		X
Holding Plan		X	X			X	R	X	R	X	R	R	R	R	X	X	R	X	R	R			X	X	X		X	X
Contingency Plan		X	X			X	R	R	R	X	R	R	R	R	X	R	X	R	X	R	R			X	R	X	X	X
Wildfire Declaration		X	X			X	R	R	R	X	X	R	X	X	X	X	X	X	X	X	X	X	R		R	X		
Smoke Management and Air Quality	X	X	X			X	X		X		X	R	X	X	X			X	X	R	X	X	X	X		X		
Monitoring	R					X	R	R	X	X	R		X				X	X	X			X	X	R		X	X	
Post Burn Activities	X		X			X	X	X	X							X		X							R		X	
Prescribed Fire Report						X	X	R	R	R	X	R	X	X				R	R	R	R	X	X	X	R	R		

R - Information is required from this element (topic at the top) before you can write the element at the left (topic at the left)  
 X – Generally, a direct relationship exists between the two elements and should be considered during the plan development.  
 These cover the minimal direct links.

**Appendix D - Reference Guide to Instrument Selection**

INSTRUMENT	DEFINITION	SIGNATORY AUTHORITY	REFERENCES	CONTACT FOR INFORMATION
Contract	A mutually binding legal document obligating the seller to furnish supplies or services (including construction) and the buyer to pay for them.	Only warranted procurement personnel may award contracts.	Federal Acquisition Regulations (FAR), 48 CFR; Department of the Interior Acquisition Regulation System; BLM Manual Section 1510, Acquisition, and Handbooks H-1510.	State Procurement Analyst, State Office Contracting Officers, or Field Office Procurement Personnel.
Interagency Agreement	An agreement between the BLM and another Federal Agency(ies) outside the DOI used to reimburse that Agency for goods or services provided to the BLM.	Only warranted procurement personnel may award Interagency/Intra-Agency Agreements.	Federal Acquisition Regulations (FAR), 48 CFR 17.5; Department of the Interior Acquisition Regulation System, Part 1417; and BLM Manual Section 1510, Acquisition, 1510-17.5.	Same as above.
Intra-agency Agreement	An agreement between the BLM and another Bureau(s) within the DOI used to reimburse that Bureau for goods or services provided to the BLM.	Same as above.	Same as above.	Same as above.
Cooperative Agreement	Used when the primary purpose is to provide "public support or stimulation," rather than to acquire goods or services for the "direct benefit or use" of the Government. It must be authorized by Federal statute, and there must be substantial BLM involvement.	Only Grants Management Officers may award Cooperative Agreements.	Pertinent OMB Guidance, and BLM Manual Section 1511, Assistance Agreements	Grants Management Officer
Grant	A Grant is the same as a Cooperative Agreement except that there is no program involvement by the BLM during the course of the Grant.	Only Grants Management Officers may award Grants.	Same as above.	Same as above.

<p>Memorandum of Understanding</p>	<p>A written agreement between the BLM and another entity(ies) that confirms the use of cooperative policies or procedures to promote mutual endeavors.</p>	<p>MOUs are signed by the State Director. Signing of MOUs may be re-delegated to Field Office Managers. Check BLM Manual Section 1203, Delegation of Authority, and the State Supplement for a list of BLM officials authorized to sign MOUs.</p>	<p>BLM Manual Section 1786, Memorandums of Understanding.</p>	<p>State MOU Coordinator, MOU Custodian, or State Procurement Analyst.</p>
<p>Contributed Funds - Trust Fund Projects (7000 series) and Rights-of-Way Projects (5000 series)</p>	<p>An agreement for which BLM accepts contributed funds, services, and/or property for the management, protection, development, acquisition, and conveying of public lands.</p>	<p>Check BLM Manual Section 1203, Delegation of Authority, and the local Manual Supplement 1203, Delegation of Authority, for a list of BLM officials authorized to approve the required forms.</p>	<p>BLM Manual Section 1681, Annual Work Plan - Operating Budget, and the electronic version of BLM's Fund Coding Handbook available on WO-880's Electronic Reference Library on the Internet.</p>	<p>State, Field Office, or Denver Center(s) Budget personnel.</p>
<p>Cooperative Management Agreement</p>	<p>A site specific agreement used in accordance with management plans for shared on-the-ground management of a specific management area.</p>	<p>State Directors have signatory authority to approve CMAs. State Directors may delegate their authority to Field Office Managers. Check BLM Manual Section 1203, Delegation of Authority, and local Manual Supplement 1203, Delegation of Authority, for a list of BLM officials authorized to approve CMAs.</p>	<p>BLM Manual Section 8300, Recreation Management, and Handbook H-8357-1, Byways. BLM Manual Section 8560, Management of Designated Wilderness Areas, and Handbook H-8560-1, Management of Designated Wilderness Areas.</p>	<p>Recreation Specialist, MOU Coordinator, or the State Procurement Analyst.</p>
<p>Rangeland Cooperative Agreement</p>	<p>An agreement with BLM and any person for installation, use, maintenance, and/or modification of rangeland improvements necessary to achieve management objectives.</p>	<p>Field Managers have signatory authority to approve Cooperative Range Improvement Agreements.</p>	<p>BLM Manual Section 4100, Grazing Administration - Exclusive of Alaska; and Handbook H-4120-1, Grazing Management.</p>	<p>Same as above.</p>

## Appendix E - Examples for Coding Fuels Management Work

This list is not intended to be all-inclusive. Rather, it should be used as a guide to assist in coding timesheets and other obligation documents.

Direct Costs	Indirect Costs (Use PJ08)
Program Specialists and Managers doing work related to fuels management output or workload measure (including planning, designing, field visits, project implementation, supervision, monitoring, environmental analysis, preparing decision documents and maintaining records specific to a project or program area). Use WBS Project Number.	Administrative Specialists doing general administrative record keeping, filing, mail, supplies, etc.
Operational costs associated with a specific project (includes aircraft, vehicle, ignition fuel, plastic spheres, smoke management permits, monitoring if contracted and other costs). Use WBS Project Number.	
Operational costs that cannot be associated to a single project such as smoke management fees, equipment purchase, etc. Use PJ02, PJ04, PJ06 if program related.	
Supply, contract, small purchase and travel costs that are project-specific will use the WBS Project Number; if not program-related use PJ02, PJ04, PJ06.	Costs of general office supplies, furniture, rental, purchase and/or maintenance of copy or FAX machines or other business machines which support multiple programs,
Managers, Supervisors or Program Specialists working with the public or other agencies related to the Fuels Management Program or project proposal. Use WBS Project Number.	Receptionist or Public Contact Specialist answering telephones or meeting walk-in visitors and providing general BLM information or referring visitors or callers to appropriate Program Specialists.
Managers or Supervisors and program specialists attending fuels-specific meetings. PJ04-Resource Specialists/Other Support/Managers, PJ06-Mit/Ed Specialists, PJ02-Fuels/Fire Specialists.	Managers and multi-resource Supervisors attending Leadership Team Meetings where multiple programs and issues are discussed.
Program Specialists developing budget information for the Fuels Management Program; PJ02, PJ04, PJ06.	Program or Budget Analysts working on BLM, State or Field Office budgets for all functional areas (sub-activities).
Costs of maintaining a web site specific to the Fuels Management Program; PJ02, PJ04, PJ06.	Costs of maintaining a web site containing general information about the programs of BLM, a State or Field Office.
External or Public Affairs Specialists working on brochures or outreach materials or public meetings related to the Fuels Management Program; PJ02, PJ04, PJ06	Costs of preparing general reports of outreach activities not specific to a program area.

Contracting Officers, Procurement Specialists and Contracting Officer's Representatives working on developing, advertising and administering contracts or making purchases for the Fuels Management Program. WBS project code if for a project or PJ02, PJ04, PJ06 if for the program	General costs of developing Advance Procurement Plans, maintaining the PRISM system, preparing periodic or special reports on procurement activities, etc.
Reviewing and approving Charge Card bills for Program Specialists and Supervisors; PJ02, PJ04, PJ06	General costs of administering and overseeing the BLM Charge Card system.
Costs of preparing billings specific to the Fuels Program; PJ02, PJ04, PJ06	General costs of operating and maintaining the Collections and Billings System (CBS), including reconciling suspense accounts, periodic reporting requirements, audits, etc.
Information Technology hardware, software or systems required for a specific program area, such as RMIS, AFMSS, WHBIS, RAWS stations, Lightning Detection System, Fire dispatch systems, etc.; PJ02, PJ04, PJ06	Information Technology hardware, software and systems of a general nature to support office automation, LANs, WANs, voice and data communications used by all program areas and training related to security and use of these systems.
Warehousing and Property accounting costs associated with the Fuels Management Program; PJ02, PJ04, PJ06	Warehousing and Property accounting costs associated with maintaining general office supplies, furniture, IT equipment and supplies, etc.
Facility and space costs for temporary use of program specific facilities, such as Fire Dispatch Offices, Air Tanker Bases, Fire Stations, Wild Horse and Burro facilities, Recreation facilities, etc. which are separate from the BLM administrative office; PJ02, PJ04, PJ06	Facility and space management services for shared administrative offices, including janitorial and service contracts for BLM offices.

## Appendix F - Basic Smoke Management Practices

Some important aspects of BSMPs include:

1. BSMPs can protect the public from smoke exposure, help avoid an exceedance of a National Ambient Air Quality Standard (NAAQS) and minimize impacts on sensitive areas such as Class 1 areas.
2. BSMP's are recommended to be used by burners regardless of Smoke Management Programs or Enhanced Smoke Management Programs that are in place.
3. Documented use of BSMPs can allow for a State to flag data and seek exclusion for an exceedance of the NAAQS if the appropriate Exceptional Event Rule criteria are met.
4. BSMPs can also be considered smoke management techniques as cited in the Regional Haze Rule (RHR) and therefore, used to address visibility concerns in Class I areas.

Under the EPA's Exceptional Event Rule revision of 2016, showing use of BSMPs will also be a criterion for Exceptional Event consideration. The BSMP's recognized in the rule align with those described below:

<b>BSMP Practice</b>	<b>Benefit Achieved</b>	<b>When it's Applied</b>
Evaluate smoke dispersion conditions	Minimize smoke impacts	Before, during, and after the prescribed fire
Monitor effects on air quality	Awareness of where the smoke is going and degree of impacts to air quality	Before, during, and after the prescribed fire
Record keeping	Retain information about the weather, burn and smoke.	Before, during, and after the prescribed fire
Communication, public notification	Notify neighbors and those potentially impacted by smoke, especially sensitive receptors.	Before and during the prescribed fire
Consider emission reduction techniques	Reducing emissions through mechanisms such as reducing fuel loading can reduce downwind impacts.	Before, during, and after the prescribed fire.
Share the airshed	Coordinate multiple burns in the area to manage exposure of the public to smoke.	Before, during, and after the prescribed fire.



## **Appendix G - Instructions for Reporting Accomplishments of Fuels Treatments Burned in a Wildfire**

### *Reporting in NFPORS*

Once the Line Manager decides to evaluate the outcomes from a naturally caused wildfire, follow these reporting instructions in the Hazardous Fuel Reduction (HFR) module of National Fire Plan Operations Reporting System (NFPORS):

1. **Project:** The 'project area' for resource benefit acres reported in NFPORS will be the fire perimeter. Specific reporting guidelines associated with project fields include:
  - a. **Project Name:** In NFPORS, create a new project using the Integrated Reporting of Wildfire Information (IRWIN) fire name/year, and Fire Code, i.e. Beaver Creek Fire\_2016\_KA67.
  - b. **Project Location:** The fire perimeter will be referenced to at least PLSS corner and ensure the latitude/longitude identified for the project is located within the perimeter of the fire.
  - c. **WBS:** The Work Breakdown Structure (WBS) should be the assigned Fire Code.
2. **Activity:** An administration activity/monitoring will be completed to document Land Use Plan (LUP) objectives post-fire have been met.
  - a. **Activity Name:** Ensure the activity name contains the fire name/year, fire code and activity name (e.g. Beaver Creek Fire\_2016\_KA67\_monitoring).
  - b. **Monitoring acres:** Post-fire monitoring should be completed following the wildfire to determine where LUP objectives were met.
  - c. **Planned Direct Cost:** Use the planned direct cost field to report fuels management program funds used and labor associated with monitoring.
  - d. **Actual Completion Date:** Monitoring acres should be completed within the one calendar year after the wildfire has been declared out.
3. **Treatment:** Treatment(s) will be created that reflect the area(s) within the fire perimeter that were determined and approved as accomplishing resource objectives. The treatment must be within the fire perimeter and not larger than or outside of the project area/fire perimeter and reported only once over the lifetime of the project. Specific reporting guidelines associated with treatment fields include:

- a. Treatment Name: Ensure treatment name contains the fire name/year, fire code, and treatment type (i.e., Beaver Creek Fire\_2016\_KA67\_Fire Use). If the fire burned in a project area where a fuels treatment was planned for the same FY, retain the original name of the treatment that was approved and add the fire name/year, fire code, and treatment name (i.e. 2\_Fischer Draw RX Beaver Creek Fire 2016\_KA67\_Fire Use).
- b. Treatment Location: The latitude and longitude will be identified within the portion of the fire that resource benefit is being reported and located with the completed treatment polygon, and, if practicable, referenced to at least PLSS corner.
- c. Treatment Category: Select “Fire” as the treatment category
- d. Treatment Type: Select “Fire Use” as the treatment type.
- e. Planned Direct Cost: Use the planned direct cost field to report fuels management program funds used and labor associated with documenting, monitoring, or reporting the acres that accomplish resource objectives.
- f. Actual Fiscal Year Accomplishment Acres: Total acres reported as accomplishing resource objectives should be determined after monitoring and interdisciplinary team assessments are complete, and the AA approves the determination. Ensure the acres reported here are reflected by a fuels treatment polygon in the Vegetation Treatment Area Data Standard (VTRT) geospatial database.
- g. Actual Completion Date: Accomplished resource objectives acres will be identified as ‘completed’ in NFPORS. Notes: Document the findings, name of AA and rationale for reporting accomplishments.

#### *Reporting in VTRT*

The fuels treatment polygon must be submitted in VTRT in the fiscal year that the projects identified as completed in NFPORS. Additionally, the treatment polygons reflecting acres accomplishing resource objectives must be located within the wildfire perimeter.

### Appendix H - Examples of Non-fire Fuel Treatments, Management Objectives, and Associated Monitoring Techniques.

FUEL TREATMENT TECHNIQUE	COMMON OBJECTIVES	SUGGESTED MONITORING TECHNIQUES	HELPFUL REFERENCE
Hand Sawing and Piling	Reduce stand density, reduce fuel loads.	AIM Supplemental fixed plot measurement of stand density. Brown's fuel inventory. Photo points.	AIM, Lutes 2002. Brown et al. 1982.
Mechanized equipment (Stem cutters, chippers, masticators, shredders, brush-cutters, mowers)	Reduce stand density, reduce canopy cover, reduce biomass on-site, improve age/size class distribution, reduce aerial fuels.	AIM Core or Supplemental Methods. Random measurements of canopy cover using densimeter. Photo points. Brown's fuel inventory.	AIM Lutes 2002. Brown et al. 1982.
Chaining	Reduce stand density, improve herbaceous cover and composition.	AIM Core Methods Fixed plot measurement(s). Nested plot frequency sampling from FIREMON. Photo points.	AIM Lutes 2002. BLM Tech. Ref. 96/002.
Silvicultural	Reduce stand density, improve stand composition, reduce on-site fuel loading.	AIM Core or Supplemental Methods. Fixed plot measurement(s). Photo points.	AIM Lutes 2002. BLM Tech Ref. 96/002.
Herbicide application	Achieve mortality among woody plants, increase cover of desired herbaceous species.	AIM Core Methods Line intercepts sampling. Cover/Frequency sampling. Photo points.	AIM Lutes 2002. BLM Tech. Ref. 96/002.
Seeding	Improve or change grass and herbaceous cover species, improve habitat and range health.	AIM Core or Supplemental Methods. Photo points	AIM
Biological/Livestock Grazing	Reduce fuel loading and fire risk through herbivory.	AIM Core and or Supplemental Methods Modified Brown's fuel inventory. Photo points.	AIM Brown et al. 1982. BLM Tech. Ref. 96/002.

## **Appendix I – Wildfire Declaration Reviews, Report Template and Instructions Wildfire Declaration Review Process**

The following process is suggested for a BLM review of a prescribed fire declared a wildfire. The depth of the process will be determined by factors such as size and final cost of the declared wildfire, management issues and concerns, and national issues and concerns.

1. **Initial Information:** State and Field office(s) involved, name of project, prescribed fire number, wildfire number, names and positions of the key people involved, short briefing on what occurred, and other agencies involved.
2. **Assemble the review team.** Depending on the depth and scope of the review the team should consist of:
  - a. **Team Lead;** responsible for managing team, ensuring the team stays on task and is meeting deadlines, initial spokesperson for the team at in/out briefings. Can concurrently perform duties of subject matter expert.
  - b. **Subject Matter Experts(s);** responsible for providing review of technical aspects of the activities surrounding the prescribed fire. Should include someone with capability to analyze seasonal severity and fire behavior elements of the review. Possible subject matter experts:
    - i. National or State level Fire Planner
    - ii. National or State Fuels Management Specialist
    - iii. National or State level Safety Manager
    - iv. National or State Level Aviation Manager (if applicable)
  - b. **Agency Administrator;** responsible for liaison between the review team and State/District/Field office management and providing a management perspective.
  - c. **Logistical Coordinator;** responsible for logistical considerations to ensure the success of the review.
  - d. **Documentation Specialist;** Responsible for facilitating the assembling of information into a final document to the team lead.
3. **Obtain a Delegation of Authority to conduct the review.**
4. **Arrange an in-briefing with State Director to discuss the process(s), obtain input, including their concerns and any additional specific review needs, timeframes, and closeout day/time.**
5. **Offices should provide the review team with the following documents:**
  - a. Prescribed fire plan
  - b. The dispatch log copy of events
  - c. Chronology of events from the perspective of the RXB, FIRB and Holding Boss
  - d. The prescribed fire report and unit logs

- e. WX forecasts
  - f. RAWS data for the day of the escape
  - g. Photos of events (Very important for the visual chronology section of the report)
  - h. Training and experience records on each key person involved
6. Identify a personnel review schedule. The following personnel may need to be interviewed depending on the scope of the prescribed fire and declared wildfire:
    - a. Agency Administrator (include other agencies if multiple ownership)
    - b. FMO/AFMO
    - c. RXB1,2
    - d. FIRB/PLDO
    - e. Holding
    - f. Fuels Management Specialist
    - g. Fuels Technician (if applicable)
    - h. Technical reviewer (if applicable)
    - i. Prescribed Fire Planner
    - j. Engine/Crew Leadership
    - k. Local or State Government (if applicable)
    - l. Local Public/Landowners (if applicable)
    - m. Resource Advisor
    - n. Other
  7. Conduct Interviews: Obtain specific statements of events, issues, and problems encountered before, during and after the prescribed fire and wildfire declaration. Facilitate an atmosphere of open dialog at all times. The goal of the review is to learn from the event and guide future actions. **It should be understood that the goal of the review is not to identify and recommend punitive actions.** However, this does not mean that the BLM directorate at any level will not apply accountability if deemed warranted. People being interviewed should be allowed to tell the story of events from their perspective. Interviewers should ask questions to clarify and or expand information when needed. Interviews can be completed in a group or individual setting depending on the circumstances.
  8. Document the incident: Include all pertinent actions prior to and after the escape. Use the attached format and template. Positions will be used to identify personnel involved. **Do not use names of individuals in the report.** Example: *The RXB2 directed the ignition of the test fire., The FIRB initiated ignition operations., etc.* Pictures may be embedded throughout the report as needed to provide visual support.
  9. Set up a file that includes all pertinent information
    - a. The Prescribed Fire Plan
    - b. A chronology of events including the prescribed fire report, unit logs, and individual statements
    - c. Weather forecasts including any spot forecasts
    - d. Weather information taken on site and Remote Automated Weather Station (RAWS) and National Fire Danger Rating System (NFDRS) data for the day of the wildfire

declaration from the nearest station(s)

- e. Photos
  - f. Training and experience in planning and implementing prescribed fire in the fuel type
  - g. Other pertinent information.
10. Closeout:
- a. Identify initial draft report or findings
  - b. Address questions and concerns
  - c. Identify management concerns that reflect any changes to the initial draft review document
  - d. Identify time frames for final review document.
  - e. Identify timeframes for any follow-up items identified
11. Peer to Peer Discussion: Once the closeout is completed an informal, open peer to peer discussion should be completed between key operational or planning personnel involved with the event and review team subject matter experts. The purpose of this dialog is for the review SMEs to share lessons learned as a result of their successes and/or failures experienced on similar prescribed fires or fuel types.
12. Finalize the Report: Ensure completion of all required report elements and additional agency administrator requirements. Ensure only positions of personnel involved are identified in the report not individual names.

## **Wildfire Declaration Report Instructions**

**Title Page** (include picture(s))

**Table of Contents:** Section titles and associated page number(s)

**Executive Summary:** A short one to two-page summary of the event.

**Background:** A one-page overview describing the setting, project objectives and information on conditions of the wildfire declaration.

### **Goal(s) and Objectives:**

The goal and objectives identified on the template are required minimums and should not change. Additional or specific Line Manager requests may be identified.

### **Results:**

*Fire Narrative:* Provide a factual account (include dates and time if available) of what happened as told from the perspective of those involved.

*Chronology of Events:* Develop a timeline of major events as the prescribed fire unfolded to the point of declaring a wildfire. A photographic chronology of events should be developed and included.

*Lessons Learned:* List of what those involved in the event learned for themselves. Include a list of those lessons they believe the organization(s) could or should learn from this experience.

Once a draft of the Fire Narrative and Chronology of Events are completed individuals involved with the event should be given an opportunity to review these sections to validate and ensure events are captured appropriately by the review team.

*Compliance:* Use information from the Wildfire Declaration Review Checklist to inform the following compliance elements:

1. Analysis of seasonal severity, weather events, and on-site conditions leading up to the wildfire declaration. Provide an analysis of any unplanned weather events and seasonal severity related to fuels and environmental conditions.
2. An analysis of the prescribed fire plan consistency with interagency policy and guidance, and additional BLM policy related to prescribed fire planning and implementation. Provide a narrative on how the prescribed fire plan met both interagency and BLM specific policy.
3. An analysis of prescribed fire implementation for consistency with the prescription

actions and procedures identified in the prescribed fire plan. Analyze and identify the consistency of the prescribed fire plan prescription element with the on-site environmental and fire behavior parameters. Provide a narrative on how implementation personnel complied with the implementation procedures identified in the prescribed fire plan.

4. Causal agents contributing to the wildfire declaration. Identify those specific plan inadequacies, events, and/or actions of personnel on or off site that contributed to the need for wildfire declaration. **The review team will ensure that identified causal agents are supported by the review compliance elements.**
5. The approving Agency Administrators qualifications, experience, and involvement. Identify the qualifications and experience of the approving Agency Administrator and how they were involved in the planning, approval and implementation (if applicable) processes.
6. Qualifications of key personnel involved with the prescribed fire planning and implementation.

Additional requirements may be determined at the national and state levels depending on the nature and scope of the escape and additional issues and concerns.

**Recommendations:** Recommendations should be provided from subject matter experts that focus on actions the unit, state, or national office can take to guide future program actions and/or prevent future wildfire declarations from occurring. Be sure that the actions are realistic and achievable.

**Appendices:**

1. Maps
2. Prescribed Fire Plan (if necessary, to support the review findings)
3. Complexity Analysis
4. EA (if applicable)
5. Other Supporting Documentation (if necessary, to support the review findings)

**Review Team Members:** List the review team members and contact information.



## **Wildfire Declaration Report Template**

A Microsoft WORD document of this template can be found at: <http://web.blm.gov/internal/fire/fpfm/fuels.html>

### **TITLE PAGE**

#### **Table of Contents:**

#### **Executive Summary:**

#### **Background:**

#### **Goal of the Review:**

**The goal of the wildfire declaration review process is to learn from the event so as to guide future program actions and/or preventing future wildfire declarations from occurring. This will be accomplished by gathering knowledge and insight for incorporation into future resource management and prescribed fire planning.**

#### **Objectives of the Review:**

Determine if the Prescribed Fire Plan was adequate for the project and complied with policy and guidance related to prescribe fire planning and implementation.

- Determine if the prescription, actions, and procedures set forth in the Prescribed Fire Plan were followed.
- Describe and document factual information pertaining to the review.
- Determine if overall policy, guidance, and procedures relating to prescribed fire operations are adequate.
- Determine the level of awareness and the understanding of the personnel involved, in regard to procedures and guidance.

#### **Specific Line Manager Requests:**

#### **Results**

##### **Fire Narrative:**

##### **Chronology of Events:**

###### **1. Chronology:**

## 2. Photo Chronology:

### **Lessons Learned:**

#### **Compliance:**

1. Analysis of seasonal severity, weather events, and on-site conditions leading up to the wildfire declaration.
2. Analysis of the prescribed fire plan consistency with interagency policy and guidance, and additional BLM policy related to prescribed fire planning and implementation.
3. Analysis of prescribed fire implementation for consistency with the prescription actions and procedures identified in the prescribed fire plan.
4. Causal agents contributing to the wildfire declaration.
5. The approving Agency Administrators qualifications, experience, and involvement.
6. Qualifications of key personnel involved with the prescribed fire planning and implementation.

#### **Recommendations:**

#### **Appendices:**

1. Maps
2. Prescribed Fire Plan (if necessary, to support the review findings)
3. Complexity Analysis
4. EA (if applicable)
5. Other Supporting Documentation (if necessary, to support the review findings)

#### **Review Team Members:**

## Wildfire Declaration Review Checklist

A Microsoft WORD document of this checklist can be found at: <http://web.blm.gov/internal/fire/fpfm/fuels.html>

### 1. The Prescribed Fire Plan

Does the prescribed fire plan contain all of the required elements? (Refer to the: Interagency Prescribed Fire Planning and Implementation Procedures Reference Guide and current BLM Fire and Aviation Memorandum for supplemental policy.

Was the plan prepared by a qualified individual?

Was a proper technical review of the plan completed?

Was the technical reviewer qualified? **Note:** The Technical Reviewer and Prescribed Fire Plan Preparer must be qualified or have been previously qualified as a Prescribed Fire Burn boss at an experience level equal to or higher than the complexity being reviewed. **Either the Prescribed Fire Plan Preparer or Technical Reviewer must be currently qualified.**

Was the prescribed fire plan approved by the appropriate Agency Administrator?

Is the complexity analysis complete and in the review team's view is it an accurate assessment of the complexities involved with this prescribed fire?

Does the management summary accurately depict the project and the risks associated with it?

Are the resource and fire treatment objectives clear and attainable?

- Does the rest of the plan support these objectives?

Was the fire behavior prescription adequate to meet plan objectives?

- Was it too restrictive?

Does critical information in one portion of the plan carry over to other appropriate areas?

Given the fuel types and projected fire behavior were the holding resources assigned adequate for the project?

Did the holding plan identify adequate mop-up procedures (if applicable)?

Were the holding and contingency plans adequate when compared with the fire behavior predicted outside of the unit?

If there are amendments to the plan, did they receive a new technical review and Agency Administrator signature?

- Were the amendments proper and did they affect the complexity of the prescribed

fire?

**As a Burn Boss, if you were handed this plan could/would you go out and implement it?**

**2. Experience**

Were the Prescribed Fire Burn Boss, Firing Boss, and Holding Specialist experienced in this fuel type or experienced with the kind of fire behavior needed to meet the plan objectives?

**3. Implementation**

Pre-burn (2 days to 2 weeks): Was there adequate coordination and communication with all affected parties (the Agency Administrator, Dispatch, assigned resources, etc.)?

Was all of the pre work identified in the plan (firelines, hose lays, pump set up, etc.), completed prior to beginning the prescribed fire?

What type of monitoring if any, was done to determine if the project area was in prescription?

Were there unusual fuels and/or weather conditions being experienced at the time?

- If so, what types of mitigating measures were put into effect?

Were the on-site local weather conditions experienced different from the predicted weather conditions?

- If so, what types of mitigating measures were put into effect?

Did the responsible dispatch office have a copy of the prescribed fire plan?

Did the Burn Boss, FIRB, and Holding Specialist have adequate opportunity to review the burn plan?

Weather and prescription

- Was a spot weather forecast obtained each day of ignition?
- Were the forecast conditions within the prescriptive parameters identified in the prescribed fire plan?
- Were the onsite conditions within the prescriptive parameters identified in the prescribed fire plan?

Was there a project briefing each day? Look for the signed briefing checklists.

Was the Agency Administrator Pre-Ignition Approval Checklist signed and did it determine an adequate expiration date for the implementation of the prescribed fire plan?

Was the Go/No-Go checklist completed each day of ignition or active fire spread? Look for the signed checklists.

Did the on-site holding resources meet or exceed the type and amount identified in the prescribed fire plan?

- If so, did it affect the complexity of the prescribed fire

Was there a test fire?

- Was the test fire ignited in a representative location?
- Were the results (flame length & rate of spread) of the test fire within the parameters identified in the plan? Look for the documentation.

Were all of the appropriate notifications made?

Was the contingency plan implemented?

- If so, was it implemented according to the plan?

Was anyone prevented from taking action or not taking action at any time during implementation?

#### **4. Other**

Was a Fire Effects Monitor (FEMO) and or a Resource Advisor assigned to the project? While not required, they are often indicators of a well-planned project (if assigned these are excellent people to interview as they may provide different perspectives).

Were the live and dead fuel moistures physically measured prior to implementation? This may or may not be required as indicated in the plan.

- If measured were the results within the parameters in the plan?

Was there an undue pressure on the burn boss to implement?

Was the wildfire declared within required time limits?

#### **5. Post Burn**

Is there a record of mop up and or patrol assignments?

Is there a record of when the burn was declared out (if applicable)?

Is there a record of on-site weather and fire behavior observations?

Is there a Burn Boss Report(s)?

Are all of the required checklists signed and in the file?

Are copies of the weather forecasts in the file?

#### **6. Questions to Facilitate the Narrative**

What kind of surprises did you experience if any?

What do you see as key events of the wildfire declaration?

- What were your thoughts during those specific key events?
- What did your intuition or experience tell you at the time?

What did your intuition or experience tell you about the project overall?

Did you feel pressure to implement the project?

Did you feel that you were prevented from taking action or not taking action?

Did you look at the plan at any time during the event for guidance?

### **Prescribed Fire Position Responsibilities**

#### **Prescribed Fire Plan Preparer**

Element	Completed Y/N
Prepares the Prescribed Fire Plan in accordance with BLM policy and direction.	
Coordinates with the resource management specialists to ensure that the plan meets resource management objectives.	
Is a member of the interdisciplinary team that completes the necessary NEPA documentation	

#### **Prescribed Fire Plan Technical Reviewer**

Element	Completed Y/N
Ensures that Prescribed Fire Plans meet BLM policy and direction.	
Ensures that the Complexity Rating is appropriate for the planned project and that the rationale supports the assigned rating.	
Ensures that the Complexity Rating accurately represents the project, so the Agency Administrator understands the identified risks and the mitigating measures enacted.	
Checks the prescription parameters against the fuel types to ensure that the project as planned has a reasonable chance of meeting the resource management objectives	
Ensures that the fire behavior calculations are correct.	
Ensures that the holding and ignition plans are consistent with the predicted fire behavior.	
Completes the Prescribed Fire Plan review checklist.	

**Prescribed Fire Burn Boss 1, 2**

Element	Completed Y/N
Reviewing Prescribed Fire Plans prior to implementation and ensuring that plan requirements are met.	
Doing a reconnaissance of the site.	
Maintaining communication with the FMO and/or Agency Administrator.	
Obtaining weather forecasts, updates and advisories from a meteorologist.	
Ensure that the Agency Administrator Ignition Authorization is signed, and appropriate expiration date has been discussed and identified.	
Making the go/no-go decision.	
Ensure that the Prescribed Fire Go No-Go Checklist is complete and signed	
Conducting the personnel/safety briefing to ensure a safe operation. Ensure that all personnel understand their assignments.	
Conducting the test burn.	
Supervising assigned personnel. Ensures communication exists between the FIRB and Holding Specialist.	
Directing the ignition, holding and monitoring operations.	
Ensuring that a log records all activities during each operational period.	
Determining when the prescribed fire is not within prescription parameters or is not meeting project objectives.	
Managing the incident or overseeing the transition to another Incident Commander if an escape occurs.	
Evaluating and documenting objective accomplishments, operational procedure, assigned personnel and costs.	
Declaring the prescribed fire out.	
Ensuring that reports are completed.	

**FIRB**

Element	Completed Y/N
Reviewing the Prescribed Fire Plan and the burn unit prior to implementation.	
Instructing crews on project objectives and ignition operations and safety issues. Conducts ignition operations in a safe manner.	
Completing the test fire according to the ignition plan at the direction of the Prescribed Fire Burn Boss.	
Igniting the project area according to the ignition plan.	

Identifying the impacts of ignition on control and desired fire effects.	
Coordinating ignition operations with the Holding Specialist.	

### Fire Effects Monitor

Element	Completed Y/N
Reviewing the monitoring plan prior to implementation. Validates instructions from the Burn Boss.	
Doing a reconnaissance of the burn unit/area assigned.	
Monitoring and recording on-site weather data.	
Monitoring and recording fire behavior data.	
Plotting the burn area and perimeter on a map.	
Monitoring and recording smoke management information	
Monitoring first-order fire effects.	
Providing a monitoring summary	

### Resource Advisor

Element	Completed Y/N
Advising the Prescribed Fire Burn Boss regarding the accomplishment of resource objectives.	
Coordinating with landowners and permittees.	

### Prescribed Fire Holding Specialist

<b>The BLM has not formally identified the responsibilities of the Holding Specialist. The following elements are recommended.</b>	
Element	Completed Y/N
Instructs holding crews on project objectives, holding objectives, communications, and safety issues.	
Coordinating holding operations with the FIRB and or Burn Boss.	
Conducts holding operations in accordance with the plan and/or direction from the Burn Boss.	
Reports any fire occurring outside of the unit boundary to the Burn Boss.	



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1. Federal Claims Collection Standards (Regulations)

## H-9232-1 – REALTY TRESPASS ABATEMENT

### Foreword

Realty trespass abatement as used in this Handbook includes all aspects of trespass prevention, detection, and resolution. Realty trespass abatement is not an end in itself. The real aim of the procedures outlined in this Handbook is proper legal use and management of the lands and resources under the Bureau's jurisdiction. While this Handbook seeks to give an overall view of trespass abatement from initiation of Bureau action to case closure, it should not be relied on as the final authoritative word. Particular situations may arise which are not completely treated herein. In such cases, field personnel and managers should seek the advice of appropriate Bureau specialists and/or Field or Regional Solicitors through channels established by State Directors. The user of this Handbook is also encouraged to make appropriate notations in their personal copy of the Handbook to keep it current.

The Introduction to this Handbook summarizes information important to Bureau managers charged with realty trespass abatement on the public lands.

State Directors are encouraged to issue realty trespass prevention, detection and resolution guidance to supplement this Handbook.

**NOTE:** Illustrations in the Handbook should be modified to fit the circumstances of each trespass situation.

## H-9232-1 – REALTY TRESPASS ABATEMENT

### Introduction/Management Summary

This section summarizes key elements of the Handbook for ready reference by Bureau managers charged with realty trespass abatement on the public lands.

Realty trespass is defined as unauthorized use, occupancy, or development of the public lands for any purpose where authorization must be obtained under regulations at Title 43 CFR 2800 or 2920. This definition is derived from section 303(g) of the Federal Land Policy and Management Act (FLPMA) which states: “the use, occupancy, or development of any portion of the public lands contrary to any regulation of the Secretary . . . , or contrary to any order issued pursuant to any such regulation, is unlawful and prohibited.”

Bureau managers are responsible for carrying out an effective realty trespass abatement program and for providing subordinate personnel with guidance and training to carry out proficiently the Bureau’s realty trespass abatement program in their area of responsibility.

Realty trespass abatement includes all aspects of trespass prevention, detection, and resolution. Long-term realty trespass abatement may be accomplished under financial, information, or resource planning and management options available to managers.

Realty trespass prevention requires a public that is knowledgeable of the public lands and resources and conditions for authorized use of the public lands. Prevention is best achieved through the work of Bureau information specialist and shared knowledge of all Bureau personnel in formal and informal public contacts. Public awareness and support is essential to successful trespass prevention.

Realty trespass detection requires that all field personnel be alert to possible unauthorized activities on the public lands and aware of procedures for reporting such activities to appropriate Bureau personnel for action. Detection may also involve reports by the public, data of other agencies, and inventory or survey to identify or confirm suspected trespass.

Realty trespass recordation provides a reliable data base in the Bureau’s Automated Lands and Minerals Record System (ALMRS) on which the magnitude of public land trespass may be accurately and consistently portrayed to Congress as a budget justification for realty trespass abatement. Once appropriated by Congress, cost targets are allocated to the States on the basis of ALMRS data (i.e., those States with the greatest number of documented trespass and highest record of resolution receive the greatest share of any budget increases).



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Resolution of realty trespass and trespass liability are accomplished under the Bureau's realty trespass regulations and the Federal Claims Collection Act (FCCA) OF 1966.

The Bureau's realty trespass regulations, in general, provide that anyone determined by the authorized officer to be in trespass on the public lands shall be notified of such trespass and shall be liable to the United States for:

1. The administrative costs incurred by the United States as a consequence of such trespass.
2. The fair market value rental of the lands (i.e., land rent) or the charge for road use, amortization and maintenance, for the current year and past years of trespass.
3. Rehabilitating and stabilizing the land or costs incurred by the United States in rehabilitating and stabilizing the land.

If a realty trespass is willful, repeated or not resolved in a timely manner, the trespasser may also be subject to trespass penalties of:

1. An amount equal to twice the fair market value rental of the land or twice the charges for road use, amortization and maintenance, for non-willful trespass.
2. An amount equal to three times the fair market value rental of the land or three times the charges for road use, amortization and maintenance, for knowing and willful trespass.

Under the Bureau's realty trespass regulations the Bureau may also:

1. Deny a land use authorization to a trespasser.
2. Refuse to sell public land to a trespasser.
3. Refuse to enter into an exchange of lands with a trespasser.

Also, knowing and willful trespasser may be required to appear before a designated U.S. magistrate and may be subject to a fine of not more than \$1,000 or imprisonment of not more than 12 months, or both.

**NOTE:** Consult the appropriate regulations in Chapter I. Realty Trespass Regulations or at Title 43 CFR Parts 2800, 2810, 1880, 2920 and subparts 9239 and 9262 for specific guidance.

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The FLPMA at section 102(a)(9) states the policy “. . . the United States receive fair market value of the use of the public lands and their resources . . . .” This policy is implemented by various provisions of the FLPMA which require fair market value for the use of public lands and resources. Thus, a realty trespass is the basis for a liability claim by the United States against a trespasser under the FLPMA and the Bureau’s realty trespass regulations for money owed the United States as a consequence of the trespass.

Liability claims of the United States for money which has been determined to be owed the United States by any person, organization, or entity, are governed by the FCCA. The Federal claims Collection Standards (Standards), which implement the FCCA, provide the Bureau authority for initiation of collection action against a trespasser for a liability claim arising as a consequence of the trespass. BUREAU DEBT COLLECTION PROCEDURES IMPLEMENT THE STANDARDS. The Standards also provide management with several actions that may expedite trespass liability settlement. These include possible referral of delinquent debts to the following:

1. The Internal Revenue Service (IRS) as earned income or as an offset against income tax refunds.
2. The Agricultural Stabilization and Conservation Service (ASCS) for offset of trespass liability claims against ASCS program payments.
3. A debt collection contractor for collection action.
4. Consumer credit agencies.

Thus, the Bureau’s realty trespass regulations and the Standards provide managers with strong, previously unavailable, tools for realty trespass resolution and negotiation of trespass liability claims. In negotiations, managers should, as an aid to timely trespass resolution, advise trespassers of the application of the regulations and Standards to public land trespass.

Realty trespass resolution is accomplished under one or more of four options available to Bureau managers. The options are explained below.

1. Informal administrative resolution involves a process of meeting with the trespasser and arriving at an amicable settlement of the trespass and trespass liability. This process works best with a cooperative trespasser. Keep all contact on an informal basis. An informal letter and/or a Notice of Trespass is used in this informal process as necessary.
2. Formal administrative resolution procedures are appropriate when an uncooperative trespasser is involved or informal resolution has failed. The formal process is initiated with a Trespass Decision and bill for payment of trespass liability. The trespass Decision may be appealed to the Interior Board of Land Appeals (IBLA). Additional formal actions under the Bureau’s debt collection procedures include payment demand letter, referral for debt collection, etc.

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3. Civil court action for resolution of realty trespass and trespass liability may be required when formal administrative resolution is unsuccessful and trespasser clearly has the ability to pay the trespass liability, the Bureau has the evidence to support its case, trespass liability is significant, or successful court action would serve notice on other trespassers that resistance to resolution is not likely to succeed. The appropriate Solicitor should review the Bureau's case prior to initiation of court action.

4. Criminal prosecution of knowing and willful trespassers may be warranted when the trespasser is uncooperative, the act is a repeat offense, the Bureau has the necessary evidence, or the nature of the trespass is such that fines and/or imprisonment are warranted. Bureau law enforcement personnel and field or regional solicitors should be consulted on the merit of initiating criminal action.

Additional managerial information in the Handbook is summarized as follows:

1. Field investigation of trespass may be hazardous to employees if criminal activities or hazardous materials are suspected. It may be advisable to have law enforcement personnel accompany their field investigator in preliminary investigation.

2. Impoundment or disposal of real or personal property placed on the public lands in trespass requires careful handling to protect Bureau personnel from liability suits alleging improper handling or disposal of valuable, or allegedly valuable, property of the trespasser.

3. The circumstances of each realty trespass situation must be thoroughly investigated and actions documented. The ability of the Bureau to prove its case will depend on these early stages of trespass resolution actions.

4. Mining claim occupants may have valid rights afforded by the 1872 Mining Law and the Multiple Surface Use Act of 1955. To avoid violation of these rights, resolution of mining claim occupancy trespass should be a coordinated effort of lands and minerals personnel. Resolution may be achieved under BLM Manual 3893 – Residential Occupancy on Mining Claims, or procedures in this Handbook.

5. Realty trespass regulations hold the trespasser liable for monetary recovery by the Bureau. Informal negotiations to determine the recovery due to the Bureau may provide some latitude in negotiates where the Bureau's claims are disputed by the trespasser and the facts are not available to substantiate the Bureau's claims. When the Bureau's claim is firm and a bill for monetary recovery is issued to the trespasser, the Bureau is locked into collection procedures established by the Service Center, (SC-615).

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6. Administrative costs associated with a trespasser's financial liability and recovered in trespass resolution are available for use by the Bureau. Recovery of these funds may offset the actual cost to the Bureau for realty trespass abatement. Funds available to the Bureau include recovered administrative costs as well as costs for rehabilitation/ stabilization of damaged land. These recovered funds are deposited to Account 14X5017 in subactivities 5310 (O&C Lands) for 5320 (PD Lands).

7. State Directors have delegated authority to compromise or write-off trespass liability claims under certain conditions. Compromise and write-off actions are coordinated with the SC Branch of General Accounting, SC-615.

8. The Statute of Limitations does not constrain the Bureau from administrative collection of land rent liability for all previous years that proof of the trespass activity is available. In a legal action, however, the recovery period may be limited to 6 years if the defendant debtor pleads the Statute of Limitations.

9. Cooperation and coordination with State and local government entities as well as private individuals and special interest groups should be promoted to build understanding about the Bureau's realty trespass abatement program and the negative effects of trespass in terms of cost, loss of resources, and interference with legitimate uses of public lands.

10. Trespass abatement should be coordinated on a Statewide basis, by District and Area, and with adjoining States to ensure that all Field Offices are working in coordinated manner.

11. Managers have many sources of assistance and advice available in trespass resolution. Resolution should be a coordinated effort which utilizes all available expertise. **DON'T GO IT ALONE!**

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Chapter I – Realty Trespass Regulations.

Realty trespass regulations collectively include Title 43 CFR Parts 2800, 2810, 2880, 2920, 9230 (Section 9239.7), and 9260 (Subpart 9262). The regulations provide administrative, civil, and criminal authority for action on unauthorized use, occupancy, or development of public lands where authorization must be obtained under Title V or Section 302(b) of the Federal Land Policy and Management Act (FLPMA), the act of August 28, 1937 (43 U.S.C. §1181a and §1181b), or Section 28 of the Mineral Leasing Act of 1920 as amended. Criminal liability for realty trespass (i.e., knowing and willful trespass) is derived from the authority of Sections 303(a) through (g) of FLPMA and implemented through the regulations at Title 43 CFR Subpart 9262.

A. Realty Trespass Regulatory Relationships.

The Title 43 CFR Group 2800 and Part 2920 regulations are similar although minor differences occur. These reflect the time periods in which each was written and not a conscious effort to differentiate the regulations. Realty trespass regulations at Title 43 CFR Subpart 9262 apply equally to the Title 43 CFR Group 2800 and PART 2920 regulations.

B. Regulation Need, Use, and Implementation Guidance.

Supplemental regulatory information published with Bureau's realty trespass regulations defined the need for regulations and guidance on use and implementation of the regulations. Portions of the regulatory information paraphrased herein may be useful in explaining the basis of the regulations to trespassers, interest groups, the public, and public land users.

**NOTE:** Title 43 CFR Part 2920 (trespass regulations) became effective on January 28, 1988. Title 43 CFR Group 2800 (trespass regulations) became effective on July 20, 1989. Prior to these dates there was no effective regulatory control of realty trespass activities on the public lands.

1. Need for Realty Trespass Regulations. Trespass on the public lands for various realty activities requiring authorization through a right-of-way, temporary use permit, road use fee, lease, permit or easement has been a long-standing problem. Trespass activities have resulted in financial loss to the United States because of the loss of rental fees, road use amortization and maintenance fees, and damage to the public land resources from misuses, abuse, fire, theft, vandalism, and negligence. The Bureau of Land Management has tried to resolve cases involving unauthorized use of public lands, most of which are unintentional, by working with the individual and negotiating an amicable solution. In most circumstances, this has resolved the problem, but there are instances where it does not work, particularly where the trespass was knowingly and willfully committed. In these instances, a procedure is needed to allow the United States to obtain payment for the use of the land and, where appropriate, to impose civil and/or criminal penalties against those trespassing on the public lands.

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2. Use of Realty Trespass Regulations.

a. The regulations provide procedures for use by the Bureau of Land Management in carrying out its responsibility to protect the public lands, improvements, and resources from unauthorized use, occupancy or development of the public lands, improvements, or resources.

b. The regulations provide procedures for dealing with unauthorized use, occupancy or development of the public lands for uses and facilities that require rights-of-way, leases, permits, or easements for agricultural, industrial, residential, or commercial purposes. The regulations do not apply to authorizations under Revised Statute 2477 or 2339.

c. The provisions of the regulations are applicable only to activities which are required to be authorized under Title 43 CFR Parts 2800, 2810, 2880, and 2920 and do not apply to other types of unauthorized use such as grazing trespass, mineral trespass or timber trespass.

d. In those instances where law enforcement action is required for the prevention or abatement of an unauthorized use or development, such action will be aggressively pursued by the Bureau. When appropriate, the Bureau will cooperate with Federal, State and local law enforcement agencies.

3. Implementation of Realty Trespass Regulations.

a. Before resorting to the civil or criminal procedures provided by the regulations, the Bureau of Land Management will first attempt to reach an amicable solution for non-willful and non-repeated cases unless, in unusual and limited circumstances, the nature and severity of the unauthorized use would result in damage to the public lands and resources that would be unacceptable without an attempt to obtain legal redress.

b. In those instances where unauthorized use, occupancy, or development of the public lands and improvements is verified, the Bureau of Land Management will consider authorizing the use, occupancy, or development provided it conforms to Bureau plans, programs, policies and objectives and is in compliance with State and local requirements. In certain situations, residential occupants may be eligible for a non-assignable life-time lease under the provisions of 43 CFR Part 2920 if the occupant acknowledges that the lands being occupied are owned by the United States as the site is sole residence of the occupant.

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**NOTE:** Termination of the occupancy may be expedited if the real property is conveyed to the United States at the death of the occupant(s). Such conveyance should be documented in the land use authorization as well as the non-assignable nature of the authorization.

C. Regulatory Definitions.

This section contains only definition of terms relating to realty trespass. Refer to the appropriate regulations for a complete definition of terms relating to realty actions under Title 43 CFR Parts 2800 and 2920.

1. Realty Trespass Definitions at Title 43 CFR Part 2800.

a. “(u) ‘Trespass’ means any use, occupancy or development of the public lands or their resources without authorization where authorization is required to do so from the United States, or exceeds such authorization, or which causes unnecessary or undue degradation of the land or resources.”

b. “(v) ‘Willful trespass’ means the voluntary or conscious performance of an act constituting a trespass as defined at §2801 of this title. The term includes actions taken with criminal or malicious intent. A consistent pattern of trespass may be sufficient to establish the knowing or willful nature of the conduct, where such consistent pattern is neither the result of mistake or inadvertence. Conduct which is otherwise regarded as being knowing or willful does not become innocent through the belief that the conduct is reasonable or legal.”

c. “(w) ‘Non-willful trespass’ means a trespass, as defined at §2801.3(a) of this title, committed by mistake or inadvertence.”

d. “(x) ‘Unnecessary or undue degradation’ means surface disturbance greater than that which would normally result when the same or a similar activity is being accomplished by a prudent person in a usual, customary, and proficient manner and takes into consideration the effects of uses outside the area of activity. This disturbance may be either non-willful or willful as described as described in paragraphs 2800.0-5(v) through (w), depending upon the circumstances.”

e. “(y) ‘Written demand’ means a request in writing for payment and/or rehabilitation in the form of a billing delivered by certified mail, return receipt requested, or personally served.”

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f. “(z) ‘Road use, authorization and maintenance charges’ means the fees charged for commercial use of a road owned or controlled by the Bureau of Land Management. These fees normally include use fees, amortization fees and maintenance fees.”

2. Realty Trespass Definitions at Title 43 CFR Part 2920. Knowing and willful is defined in these regulations as: “. . . a violation is ‘knowingly and willfully’ committed if it constitutes the voluntary or conscious performance of an act which is prohibited or the voluntary or conscious failure to perform an act or duty that is required. The term does not include performances or failures to perform which are honest mistakes or which are merely inadvertent. The term includes, but does not require, performances or failures to perform which result from a criminal or evil intent or from a specific intent to violate the law. The knowing or willful nature of conduct may be established by plain indifference to or reckless disregard of the requirements of law, regulations, orders, or terms of a lease. A consistent pattern of performance or failure to perform also may be sufficient to establish the knowing or willful nature of the conduct, where such consistent pattern is neither the result of honest mistake or mere inadvertency. Conduct which is otherwise regarded as being knowing or willful is rendered neither accidental nor mitigated in character by the belief that the conduct is reasonable or legal.

D. Realty Trespass Regulations at Title 43 CFR Parts 2800, 2810 and 2880.

The regulations at Title 43 CFR 2800, 2810 and 2880 provide procedures for obtaining use authorizations in the form of the right-of-way or use permit for construction, operation, maintenance, and termination of transportation and other systems or facilities. Compensation for the authorizations is based on fair market rental for uses conforming to Bureau plans, policy, objectives, and resource management programs. The trespass abatement and resolution portion of these regulations is as follows:

1. Section 2801.3 Unauthorized Use, Occupancy, or Development. The regulations at this section are as follow:

“(a) Any use, occupancy, or development of the public lands that requires a right-of-way, temporary use permit, or other authorization pursuant to the regulations of this part and that has not been so authorized, or that is beyond the scope and specific limitations of such an authorization, or that causes unnecessary or undue degradation, shall constitute a trespass as defined in Section 2800.0-5.”

“(b) Anyone determined by the authorized officer to be in violation of paragraph (a) of this section shall be notified in writing of such trespass and shall be liable to the United States for:



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“(1) Reimbursement of all costs incurred by the United States in the investigation and the termination of such trespass:

“(2) The rental value of the lands as provided for in §2803.1-2 of this title, for the current year and past years of trespass, or where applicable, the cumulative value of the current use fee, amortization fee, and maintenance fee as determined by the authorized officer for unauthorized use of any road administered by the BLM; and

“(3) Rehabilitating and stabilizing any lands that were harmed by such trespass. If the trespasser does not rehabilitate and stabilize the lands within the time set by the authorized officer in the notice, he/she shall be liable for the costs incurred by the United States in rehabilitating and stabilizing such lands.

“(c) In addition to the provisions of subsection (b) of this section, the following penalties shall be assessed by the authorized officer:

“(1) For all non-willful trespass which is not resolved within 30 days of receipt of a written demand under paragraph (b) of this section—an amount equal to the rental value and for roads, an amount equal to the charges for road use, amortization or maintenance which have accrued since the inception of the trespass;

“(2) For repeated non-willful or for willful trespass - - an amount equal to 2 times the rental value and for roads, an amount equal to 2 times the charges for the road use, amortization and maintenance which have accrued since the inception of the trespass.

“(d) In no event shall settlement for trespass computed pursuant to paragraphs (b) and (c) of this section be less than the processing fee for a Category I application as provided for at §2808.3-1 of this title for non-willful trespass or less than 3 times this value for repeated non-willful or knowing and willful trespass. IN all cases the trespasser shall pay whichever is the higher of the computed penalty or minimum penalty amount.

“(e) Failure to satisfy the requirements of §2801-3(b) of this title shall result in the denial of any right-of-way, temporary land use, road use application or other lands use request but not yet granted under these parts until there has been compliance with the provisions of §9239.7-1 of this title.

“(f) Any person adversely affected by a decision of the authorized officer issued under this section may appeal that decision under the provisions of Part 4 of this title.

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“(g) In addition to the civil penalties provided for in this part, any person who knowingly and willfully violates the provisions of §2801.3(a) of this title may be tried before a United States magistrate and fined no more than \$1,000 or imprisoned for no more than 12 months, or both, as provided by section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)) and §9262.1 of this title.”

2. Section 2812.1-3 Unauthorized Use, Occupancy or Development. These regulations relate to the Revested Oregon and California Railroad and Reconveyed Coos Bay Wagon Road Grant Lands (O&C) tram roads as follows: “Any use, occupancy, or development of the Revested Oregon and California Railroad and Reconveyed Coos Bay Wagon Road Grant Lands (O&C) lands (as is pursuant to this subpart, or which is beyond the scope and specific limitations of such an authorization, or that causes unnecessary or undue degradation, is prohibited and shall constitute a trespass. Anyone determined by the authorized officer to be in violation of this section shall be notified of such trespass in writing and shall be liable to the United States for all costs and payments determined in the same manner as set forth at §2801.3, Part 2800 of this title.

3. Section 2881.3 Unauthorized Use, Occupancy or Development.

The regulations at this section state:

“Any use, occupancy, or development of the public lands that requires a right-of-way, temporary use permit, or other authorization pursuant to the regulations in this Part, and that has not been so authorized or that is beyond the scope and specific limitations of such authorization, or that causes unnecessary or undue degradation is prohibited and shall constitute a trespass as defined in Section 2800.0-5. Anyone determined by the authorized officer to be in trespass on the public lands shall be notified in writing of such trespass and shall be liable to the United States for all costs and payments determined in the same manner as set forth at §2801.3, Part 2800 of this title.

E. Realty Trespass Regulations at Title 43 CFR Part 2920.

The regulations at Title 43 CFR Part 2920 provide procedures for obtaining a land use authorization in the form of a lease, permit, or easement to use the public lands for agricultural, industrial, residential, or commercial purposes. The authorizations are based on a determination of the fair market rental value of the land and are issued only for those uses that are legal and conform to the Bureau plans, policy, objectives, and management programs. The trespass portion of these regulations is as follows:

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Section 2920.1-2 Unauthorized use.

“(a) Any use, occupancy, or development of the public lands, other than casual use as defined in §2920.05-(k) of this title, without authorization under the procedures in §2920.1-1 of this title shall be considered a trespass. Anyone determined by the authorized officer to be in trespass on the public lands shall be notified of such trespass and shall be liable to the United States for:

“(1) The administrative costs incurred by the United States as a consequence of such trespass; and

“(2) The fair market value rental of the lands for the current year and past years of trespass; and

“(3) Rehabilitating and stabilizing the lands that were the subject of such trespass, or if the person determined to be in trespass does not rehabilitate and stabilize the lands determined to be in trespass within the period set by the authorized officer in the notice, he/she shall be liable for the costs incurred by the United States in rehabilitating and stabilizing such lands.

“(b) In addition, the following penalties may be assessed by the authorized officer for a trespass not timely resolved under paragraph (a) of this section and where the trespass is determined to be:

“(1) Non-willful, twice the fair market rental value which has accrued since the inception of the trespass, not to exceed a total of 6 years; or

“(2) Knowing and willful, three times the fair market rental value which has accrued since the inception of the trespass, not to exceed a total of 6 years.

“(c) For any person found to be in trespass on the public lands under this section, the authorized officer may take action under §2920.9-3 of this title to terminate, revoke, or cancel any land use authorization issued to such person under this Part.

“(d) Failure to satisfy the liability and penalty requirements imposed under this section for unauthorized use of the public lands may result in denial of:

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“(1) A use authorization under this Part: and

“(2) A request to purchase or exchange public lands filed under Subparts 2711 and 2201 of this title.

“(e) Any person who knowingly and willfully violates the regulations in this Part by using the public lands without the authorization required by this part, in addition to the civil penalties provided for in this part, may be subject to a fine of not more than \$1,000 or imprisonment of not more than 12 months, or both under Subpart 9262 of this title.

“(f) Any person adversely affected by a decision issued under this section, may appeal that decision under the provisions of Part 4 of this Title.”

F. Realty Trespass Regulations at Title 43 CFR Section 9239.7.

These regulations currently apply to 43CR Group 2800. They have been revised to read:

Section 9239.7-1 Public lands

“The filing of application under Part 2800, 2810, or 2880 of this Chapter does not authorize the applicant to use or occupy the public lands for right-of-way purposes, except as provided at §2882.1 until written authorization has been issued by the authorized office and received by the applicant. Any unauthorized occupancy or use of public lands or improvements for right-of-way purposes constitutes a trespass against the United States for which the trespasser is liable for costs, damages, and penalties as provided in §2801.3, §2812.1-3, and §2881.3 of this Title. No new permit, license, or grant of any kind shall be issued to a trespasser until:

“(a) the trespass claim is fully satisfied; or

“(b) the trespasser files a bond conditioned upon payment of the amount of damages determined to be due to the United States: or

“(c) the authorized officer determines in writing that there is legitimate dispute as to the fact of the trespasser’s liability or as to the extent of his liability and the trespasser files a bond in an amount determined by the authorized officer to be sufficient to cover payment of a future court judgment in favor of the United States.”

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G. Realty Trespass Regulations at Title 43 CFR Subpart 9262.

The criminal citation provisions of realty trespass regulations are derived from Section 303(a) of the FLPMA. The regulatory provisions are as follow:

“9262.1 Penalties for unauthorized use, occupancy, or development of public lands.

“Under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733 (a)) any person who knowingly and willfully violates the provisions of §2801.3, §2881.3 or §2920.1-2 (a) of this title, by using public lands without the requisite authorization, may be tried before a United States magistrate and fined no more than \$1,000 or imprisoned for no more than 12 months, or both.

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Chapter II. Employee Responsibility, Authority, Protection and Liability

Each employee of the Bureau has certain responsibilities and authorities as a Federal official. When employees operate within the scope of their authority as Federal employees, they are afforded a level of protection by the United States from bodily harm and liability. However, if employees exceed their authority in trespass abatement efforts, they may be subject to legal action initiated by the other party. In cases where employees have clearly exceeded their authority, the employee may not be represented by the United States in the legal action.

A. Employee Responsibilities.

Employees of the Department of the Interior (Department) are required to carry out the policies and programs of the Department and to work to ensure the success of programs (Title 43 CFR Subtitle A). As related to realty trespass abatement these include:

1. All Bureau Employees.

a. Knowing how to report, and reporting, incidents of trespass or suspected trespass observed during the performance of assigned duties or functions. For the purpose of reporting incidents of trespass, employees shall record all occupancy, use, and development as if it is unauthorized, pending a determination that the use, occupancy, or development has been authorized by the Bureau (DM 600.4.1).

b. Reporting trespass or alleged trespass without regard to their immediate area of expertise or effect on their assigned program activity (e.g., range management personnel report suspected realty trespass and lands personnel report suspected grazing trespass, etc.).

c. Being familiar with the location of the public lands and authorized uses on the lands in order to recognize unauthorized activities.

d. Being familiar with realty trespass regulations in Chapter I. Realty Trespass Regulations, or at Title 43 CFR Group 2800, Part 2920, and Subpart 9262, categories of realty trespass, and consequences of violation of the regulations (i.e., administrative, civil, and criminal penalties).

e. Emphasizing trespass abatement through contacts with local officials, operators, opinion makers, local press, and the public.

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2. Lands and Realty Personnel.

a. Appropriate documentation and recordation of all reported realty trespass (see Chapter III. Realty Trespass Categories and Trespass Recordation, and Chapter IV. Realty Trespass Case Investigation, Documentation and Processing).

b. Preliminary trespass investigation and determination of trespass liability.

**NOTE:** When criminal activities are suspected or there is reason to doubt a trespasser's reaction to an on-the-ground investigation of suspected trespass, the initial investigation should be conducted by or with the assistance of Bureau law enforcement personnel.

c. Preparation of case files and records.

d. Case processing, staff assistance, technical support, and recommending a course of action for trespass resolution.

3. Authorized Officer (AO).

a. Carrying out an effective trespass abatement program.

b. Initiating trespass abatement actions.

c. Negotiating with trespassers on an informal basis to effect administrative resolution of the trespass whenever possible.

d. Initiating formal administrative resolution action when informal administrative negotiations are unsuccessful.

e. Recommending administrative resolution action or civil court action to the State Director.

f. Periodic training of employees in realty trespass detection, prevention, and resolution to increase employee awareness and proficiency in realty trespass abatement.

B. Employee Authorities. Bureau employees have authority to carry out the policies and programs of the Department. Bureau Special Agents and Law Enforcement Rangers have been delegated law enforcement authority that exceeds the authority of other employees. As related to realty trespass abatement, these law enforcement authorities are:

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1. Criminal Investigation. Criminal investigation of knowing and willful trespass and enforcement action is limited to Bureau law enforcement personnel.

2. Citation Authority. Issuance of citations under Title 43 CFR Subpart 9262 for knowing and willful trespass is limited to Bureau law enforcement personnel.

3. Criminal Action. Recommendation of criminal action to the United States (U.S.) Attorney's Office (coordinated through the State Director).

C. Employee Protection. Bureau employees are protected in the following instances:

1. Threat or Injury. Section 1114, Title 18 U.S.C., covers any officer or employee assigned to duty in the field service of the Bureau. The U.S. Attorney may prosecute if, while exercising their responsibility as a Federal official, an employee is forcibly assaulted, resisted, opposed, impeded, intimidated, or interfered with by a trespasser.

2. Personal Damage Suits. The U.S. Attorney may defend Bureau personnel in personal damage suits. The plaintiff must prove that the employee acted knowing that they lacked authority for the action and the action was clearly unreasonable. If the plaintiff prevails, the employee may be liable for court costs and damages.

D. Employee Liability.

1. Due Process. Certain administrative and legal rights must be provided the alleged trespasser to assure due process pursuant to laws and regulations.

2. Employee Actions. An employee may be considered as acting within the scope of Bureau employment when performing delegated duties and following and documenting proper procedures if it is necessary to destroy or impound private property located on public lands in trespass. These include:

a. Actions relating to destruction or impoundment of abandoned private property must be thoroughly documented.



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b. No Bureau employee may intentionally injure, destroy, or impound abandoned property in connection with the Bureau employment without, at a minimum, the written approval of the AO in whose area the property is located. (Law enforcement personnel can, of course, take emergency action necessary in criminal cases.)

3. Personal Liability. Employees who destroy, damage, or impound abandoned private property with knowledge of and without following proper procedures may be held personally liable to the owner of the property and may be considered to have acted outside the scope of their employment.

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Chapter III. Realty Trespass Categories and Trespass Recordation

Realty trespass categories are limited to three in section 303(g) of the Federal Land Policy and Management Act (FLPMA), in the realty trespass regulations and in this Handbook. Realty trespass is recorded, tracked and case closure documented in the Automated Lands and Minerals Records System (ALMRS) on the basis of the categories discussed in Section C. Realty Trespass Categories.

A. Realty Authorization Regulations.

These include the regulations at Title 43 CFR Parts 2800, 2810, 2880, and 2920 under which use, occupancy or development of the public lands for various specified purposes must be authorized.

**NOTE:** The decision as to whether or not to authorize the use, occupancy or development of the public lands is discretionary with the AO.

B. Realty Trespass.

Realty trespass is a violation of the Bureau's realty authorization regulations and collectively includes the categories of unauthorized use, occupancy, or development of any portion of the public lands or resources for any purpose that must be authorized under the Bureau's realty authorization regulations. Realty trespass also includes unnecessary or undue degradation, as well as use of lands or resources in excess of those authorized or use occurring outside the area of an approved authorization.

**NOTE:** Some development and use may be authorized on valid mining claims, oil and gas leases, etc., under the authority of the Mineral Leasing Act, the 1872 Mining Law, etc.

C. Realty Trespass Categories.

1. Unauthorized Use. Unauthorized use is an activity that does not appreciably alter the physical character of the public land or vegetative resource. Unauthorized use includes but is not limited to:

- a. Abandonment of property, trash, refuse, and litter.
- b. Filming where set construction is not involved.
- c. Harvest of hay or seed (native or introduced grass, forbs, and shrubs).
- d. Storage of sand and gravel, machinery, irrigation equipment, waste rock, farm implements or products (hay, grain, beets, potatoes, etc.), or construction materials (lumber, posts, metal sheeting, etc.).

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- e. Establishment of honey bee or leafcutter bee colonies.
- f. Dumping of construction, agricultural, processing plant, or hazardous wastes.
- g. Use of existing roads/trails for purposes which require a use fee or right-of-way.
- h. Livestock feeding, enclosures, locked gates, fences, etc., when not regulated by Title 43 CFR 4140.

Where surface disturbance (clearing, blading, digging, scalping, etc.) is involved, the above activities are considered unauthorized development as described in C.3. Unauthorized Development.

2. Unauthorized Occupancy. Unauthorized occupancy is an activity which results in full or part-time human occupancy or use. Unauthorized occupancy includes but is not limited to:

- a. The construction, placement, occupancy or assertion of ownership of a facility or structure (cabin, house, natural shelter, trailer, etc.) on the public lands for trade, commerce, manufacture, employment, residence, or recreational purposes.
- b. Mining claim occupancy when the occupancy is not reasonably incident to the mining operation.
- c. Residences, whether primary, secondary, or recreational residences.
- d. Business facilities.
- e. Occupancy of natural shelters, etc.

3. Unauthorized Development. Unauthorized development is an activity that physically alters the character of the public lands or vegetative resources. Unauthorized development includes but is not limited to:

- a. Cultivation.
- b. Construction of storage facilities (graineries, silage pits, barns, hay sheds, etc.).

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- c. Resource development projects (wells, catchments, dikes, dams, fences, corrals, feedlots, etc.).
- d. Construction of irrigation facilities (ditches, water lines, reservoirs, pump plants, etc.).
- e. Construction of pipelines (gas, oil, water, slurry, etc.).
- f. Construction or installation of utility lines/cables and communication repeater or relay facilities.
- g. Road and trail construction/realignment.
- h. Construction of advertising displays.
- i. Any other activity which requires the physical alteration of the land surface for development purposes.

**D. Multi-Trespass.**

Multi-trespass results when several trespass activities such as a road, power line, waterline, irrigation ditch, fence, hay stack, residence, littering, agricultural, etc., occur on a given land area or involve the same person or company. In these situations, the trespasses may be considered as either one trespass in a single case file and recorded under the major type of trespass, or the trespasses may be separated into multiple case files and recorded as several types of trespass. The decision may be based upon such factors as ease of settlement, timeframe in which different types of trespass may be settled, or proximity of one trespass type to another, etc.

**E. Trespass Recordation.**

Recordation of all suspected realty trespasses in ALMRS is one of the most important means available to the Bureau in obtaining the resources necessary to gain control of unauthorized realty activities on the public lands. Data derived from ALMRS provide the program base, i.e., magnitude of trespass, upon which requests for funding of realty trespass prevention, detection, and resolution can be justified. ALMRS provides the data for State funding allocations for realty trespass and provides a means of tracking trends and managing the Bureau's realty trespass abatement program. In many instances ALMRS data also will assist in preparation of standard reports. Additionally, ALMRS recordation has made some previously required realty input to trespass reports unnecessary.

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1. Initial Recordation. Upon receipt of an Initial Report of Unauthorized Use (Form 9230-10), serialize the case and record the trespass in ALMRS. Verification consists of checking the Mater Title Plats (MTP) and other office records to determine if: (1) the location of the suspected activity is public land and (2) the suspect activity is not authorized. (See Chapter IV. Realty Trespass Case Investigation, Documentation and Processing.)

2. Trespass Use Codes. ALMRS Use Codes permit refinement of each of the tree trespass categories into more specific types of trespass activities. Through the appropriate use codes, the broad category of unauthorized development, for example, may be specifically identified as agricultural, pipeline, road or other specific unauthorized development.

3. Title 43 CFR Group 2800 Trespass Recordation. Specific Case types for Title 43 CFR 2800 trespass have been developed to integrate with the existing Data Element Dictionary (DED). Case types include roads, railroads, power lines, communication sites, telephone and telegraph lines and facilities, water facilities, pipelines and facilities, including oil and gas, and produced water disposal facilities. While case types are specific, use codes provide a generic division of the rights-of-way program and provide additional reporting capabilities. There are only three use codes for rights-of-way: oil and gas related, other energy, and non-energy.

4. Title 43 CFR Part 2920 Trespass Recordation. Case types for Title 43 CFR 2920 trespass have been developed in ALMRS to integrate with the existing DED for permits, leases, and easements. Case types include unauthorized use, unauthorized development, and unauthorized occupancy. While the case types are general, use codes provides a specific definition of the trespass case types (e.g., apiaries, filming, mining, commercial, and residential occupancy, etc.).

5. Recordation Procedures for Criminal Trespass. Procedures for recordation of criminal trespass are to be determined by the Law Enforcement and Resource Protection Operations staff at the Washington or State Office levels. Where criminal violation is suspected, contact the District or Area Ranger or the State Office Special Agent-in-Charge for procedural guidance.

F. Trespass Reports.

1. Form 1681-6. Progress reports are sent to the Service Center (SC), on a regular schedule. This report contains units of accomplishment that are entered into the Bureau's Financial Management System (FMS) for cost and workload analyses. Currently, it is necessary to use Form 1681-6 to manually perform this function.

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2. ALMRS Generated Trespass Reports. ALMRS provides data that are used by the Bureau to determine budget allocations to the States and Districts for trespass abatement. Information for statistical reports and congressional inquiry responses is also derived from ALMRS. Reports obtained from ALMRS on a regular basis in the realty trespass program are as follows:

a. Serial Register Page Report (S03). This report allows the user to request serial register pages for all trespass cases as needed to document the case file and, if agricultural trespass cases as needed to document the case file and, if agricultural trespass is involved, to inform the Agricultural Stabilization and Conservation Service (ASCS) of the trespass.

b. Case Management Audit Report (M11). This report provides data for analyzing trespass workload, statistical information, and documentation of cases by category. Data selections may be by case type and action code, disposition, or use code, with or without timeframes. This report also provides basic information for responses to congressional inquiries, statistical reports, etc. This audit report also may be used to determine units of accomplishment for the Progress Report (Form 1681-6).

c. Cases Pending and Authorized Report (M03). this report aggregates the number of trespass cases and trespass acres, with or without timeframes, and can be used to analyze pending workloads for justification and allocation of budget.

d. Cases Aging Report (M02). This report provides a compilation of the number of trespass actions pending (Bureauwide, by State, District, etc.) and the length of time, in months, they have been pending. This report can be used in conjunction with the M03 report to analyze pending workloads and the effectiveness of budget allocations.

e. CR User's Guide. A full listing of other ALMRS reports is contained in the CR User's Guide.

3. Unused Realty Reports/Records. ALMRS recordation of realty trespass has rendered several trespass reports unnecessary for reporting realty trespass. Data from these reports/records can now be derived, as necessary, from ALMRS. FIELD OFFICES WILL NO LONGER BE REQUIRED TO COMPLETE THE REALTY RELATED PORTIONS FO THE REPORTS AND TRESPASS RECORDS LISTED BELOW.

- a. Trespass Register (Form 9230-8).
- b. Trespass Record (Form 9230-18).
- c. Tri-annual Trespass Report (Form 9230-17).

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Chapter IV. Realty Trespass Case Investigation, Documentation, and Processing.

The investigation and documentation of realty trespass case begins with discovery and recordation of suspected unauthorized use, occupancy, or development of the public lands. Accurate and complete investigation and documentation of the trespass facts are essential to successful case processing and trespass resolution. Any given trespass may be subject to judicial or Interior Board of Land Appeals (IBLA) review in which BLM employees may be required to testify; therefore, it is essential that a complete and factual record be established and maintained. The purpose of investigation is to determine what happened and who is responsible; whereas, documentation provides a written record of the trespass facts. Case processing involves all Bureau action steps from discovery to case closure.

A. Initial Report.

This is the essential first step in realty trespass resolution. On receipt of an Initial Report of Unauthorized Use (Form 9230-10), the investigator must determine if the activity in question is on public lands and, if so, whether or not it has been authorized under the Bureau's realty authorization regulations or other Bureau authorization. If it is determined that the activity is on public lands and is unauthorized, a case file is established and the case is serialized and recorded in ALMRS.

**NOTE:** Suspected trespass, for the purposes of this Handbook, is defined as those cases where an Initial Report of Unauthorized Use has been prepared and public land status confirmed with available status data (i.e., Master Title Plats (MTP), maps, aerial photographs, etc.).

B. Investigation.

Trespass investigation involves field examination and information collection from all sources as necessary to complete the trespass record. **DURING THE INVESTIGATION, DO NOT ACCUSE ANYONE OF TRESPASS!** Trespass investigation strives to answer these questions: who, what, why, where, when and how much? The investigation is documented in a Trespass Investigation Report (Form 9230-24) and attachments as necessary. Investigation should proceed as follows:

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1. Trespass Confirmation, “Where?”. A field investigation should be conducted to confirm the trespass and to verify the location, land status, and nature of the trespass with:

- a. Dated photographs showing the lands in trespass and the nature and condition of the trespass. Take sufficient photographs to document the trespass area and activities.
- b. Sketch maps showing location of the trespass, structures, identifying features, and identification of public lands, found corners, section lines, etc.
- c. Measurements as necessary to show size of trespass, location of improvements, etc.
- d. Unofficial survey maps and notes as used to identify boundary lines, etc.

**NOTE:** Request for cadastral surveys should be kept to a minimum but may be necessary in the case of legal challenge, lost or obliterated corners, etc.

2. Trespass Category, “What?”. The investigation should determine the category of the unauthorized activity (i.e., unauthorized use, occupancy, or development) and all unauthorized activities that have taken or are taking place. Document the category (i.e., case type) by commodity code in ALMRS. **IF KNOWING AND WILLFUL (CRIMINAL) TRESPASS ACTIVITIES ARE SUSPECTED, OR THE INVESTIGATOR’S SAFETY COULD BE JEOPARDIZED, SUSPEND THE INVESTIGATION AND REQUEST ASSISTANCE FROM BURUEAU LAW ENFORCEMENT PERSONNEL.** The “what?” of trespass investigation includes:

- a. The nature of the trespass, regulatory violations, crops being grown, permanent or temporary improvements (building, structures, trailers), abandoned property, condition of property, etc. Document with sketch maps, notes, and photos as appropriate.
- b. Photographs, notes, sketches, etc., fully documented as to the date taken or made, locations(s), photograph direction, and individual responsible for the documentation.
- c. Identification of unauthorized real or personal property that may require impoundment or destruction (see Chapter VI. Unauthorized Real and Personal Property).



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3. Initial Trespass, “When?”. The investigator should establish, whenever possible, when the initial trespass occurred. This may be accomplished by:

- a. Reviewing aerial photos of the area taken over time.
- b. Interviewing adjoining land owners, authorized users, and the suspected trespasser, if possible.
- c. Checking records of Agricultural Stabilization and Conservation Service (ASCS), utility companies, lumber yards, or construction contractors.

4. Intent of Trespass, “Why?”. This step should seek to establish the intent of the trespass and whether criminal trespass or civil trespass action is advisable or whether the trespass was accidental or inadvertent and may be resolved by the Bureau administratively. The investigation should focus on:

- a. Whether the trespasser knew, or had a reason to know, that what they were doing was unauthorized or contrary to law or regulation.
- b. Whether the trespasser had reason to believe that they had title to the land (i.e., warranty deed, quit claim deed, etc.).
- c. Whether the trespasser had knowledge of the location of the public lands and authorized uses (e.g., livestock operator, large landowner, long-time resident, land posted or fenced, etc.).
- d. Whether the trespass could be accidental or based on misinformation available, or provided, to the trespasser.
- e. Whether a prudent individual, operating on the information available to the trespasser, would arrive at the same conclusions as the trespasser.
- f. Whether knowing and willful activities are evident. If so, contact the appropriate Bureau law enforcement personnel.

5. Identity of Trespasser, “Who?”. The identity of the trespasser may be known by adjoining landowners or identified by various means. These include:

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a. Interviews, including the person reporting the trespass, adjacent owners, and the trespasser, if appropriate. Obtain signed written statements if possible. If not, document the interview(s) with memos to the file.

**NOTE:** If the trespass is reported by the trespasser, delay interviews until after the basic facts of the trespass are known.

b. Vehicle registration plates and serial numbers of equipment and vehicles may be helpful in determining the person responsible for the trespass.

c. ASCS records or farm subsidy payments.

d. Additional guidance in locating debtors (i.e., trespassers) as contained in Appendix 1, Title 4 CFR, Chapter II, Federal Claims Collection Standards (Standards).

**NOTE:** Close the case if the trespass is inactive and the trespasser cannot be located after a diligent search. Document the case file (see Statement of Diligent Search and Inquiry, Illustration 18).

6. Trespass Liability, "How Much?". This step of the investigation process establishes a trespasser's liability for land rent, administrative costs, and rehabilitation/stabilization costs as provided in the Bureau's realty trespass regulations. (See Chapter I. Realty Trespass Regulations.) Data gathered during the investigation may include:

a. Measurements to determine the area on which trespass liability claims are based.

b. Crops being grown, average yield, customary farm rent system in locale, whether trespass base acres received subsidy payments which attach to the land or whether ASCS subsidy payments were paid on Federal Land.

c. Estimates of rehabilitation/stabilization needs and costs and recommended treatment.

d. Investigation information on when, what, and why, to fully calculate the trespasser's liability and intent of trespass (i.e., whether trespass or criminal penalties are warranted).

e. Appraisal of rental values.

f. Estimated cost of impoundment or destruction of unauthorized real or personal property.

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C. Documentation.

Information documenting the facts of a realty trespass is placed in the trespass case file. Organize the case file data in chronological order on the right side of the jacket with the most recent information on top. Place accounting advices and bills on the left side of the jacket. The Reimbursable Project Log (Form 1323-1) is attached to the outside of the jacket for recording of administrative costs associated with the case.

**NOTE:** Administrative cost accounting begins with the completion of an Initial Report of Unauthorized Use and includes all costs associated with investigation, documentation, and case processing (i.e., case closure).

Documentation in the case file should include:

1. Initial Report of Unauthorized Use. (Form 9230-10).
2. Trespass Investigation Report. (Form 9230-24). Appropriate attachments to the report (dated and Identified) include:
  - a. Field notes, sketch maps, photographs, measurements, crops, etc.
  - b. Interview conducted in conjunction with the trespass investigation (i.e., county agents, utility companies, etc.).
3. Recordation. Copy of the computer generated serial register page.
4. Reimbursable Project Log. Form 1323-1 documenting the administrative costs of case processing (see Chapter VIII. Settlement of Realty Trespass Liability for guidance on administrative cost). It is extremely important that this log is maintained accurately since administrative costs assessed by the Bureau are subject to review by the trespasser and may be subject to judicial and IBLA review.
5. Land Status and Location Data. Document Bureau jurisdiction with Master Title Plats, survey notes, location maps, aerial photos, as appropriate.
6. Meetings, Communications, and Interviews. Include in the case file:
  - a. Notes from meetings with the trespasser as to why the trespass occurred, offers of settlement, attitude of the trespasser (cooperative v. uncooperative), the Bureau's position on settlement, etc.

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- b. Correspondence concerning the trespass.
- c. Records and notes of interviews and telephone conversations.

7. Real and Personal Property Actions. When unauthorized real and/or personal property is involved, the documentation required in Chapter VI. Unauthorized real and Personal Property, is included in the case file.

8. Letters – Notice of Trespass and Trespass Decision. Document informal resolution actions including Notice of Trespass (Illustration 2 or 3) and the initiation of formal administrative resolution procedures, Trespass Decision (Illustration 4 or 5), if informal administrative resolution action has not been successful or is not deemed appropriate.

9. Collection Efforts. Copies of bills (Form 1380-1), demand letters, bonds, etc.

10. Surface Use Determination Report. Prepared by Mineral Examiner for mining claim occupancy not reasonably incident to mining (see Bureau Manual Sections 3060 and 3893).

11. Right-of-Appeal. A copy of the trespasser's notice of appeal of adverse formal decision of the Bureau concerning the trespass to IBLA under Title 43 CFR Part 4.

12. Diligent Search and Inquiry. Document efforts to locate trespassers (Illustration 18).

D. Case Processing.

Each realty trespass case requires certain actions (i.e., processing steps) for initiation to case closure. Each action should be fully explained and documented in the case file in chronological order. The following is a description of the general processing steps for a typical realty trespass case and the identification of Bureau specialist or managers normally responsible for each.

<u>Responsible Office/Official</u>	<u>Step</u>	<u>Action</u>
All Employees	1.	Record who made discovery, address number, what was observed, who is suspected, etc., on Form 9230-10, and attach written statements as necessary. Preserve private citizen confidentiality as appropriate.

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<u>Responsible Office/Official</u>	<u>Step</u>	<u>Action</u>
Realty Personnel	2.	Completes initial trespass documentation , record in Automated Lands and Minerals Records System (ALMRS) and establish case file.
	3.	Forwards case file to AO with brief Report. If criminal activity is suspected (knowing and willful trespass) forward through AO to the Special Agent in Charge (SAC). If criminal, SAC will handle with District or Area Office assistance as requested.
Authorized Officer	4.	If not criminal, assigns employee to investigate case (i.e., responsible employee).
Responsible Employee	5.	Prepares maps; checks MTP, etc., to verify that the suspected trespass is on public land.
	6.	Obtains additional information from person reporting trespass. Gets written statement if necessary or possible.
	7.	Visits trespass area. Takes pictures, measurements and makes detailed notes. Completes Trespass Investigation Report (Form 9230-24) Requests survey and/or enforcement personnel if necessary. If no trespass, makes written report for file and closes case. Updates ALMRS and reports unit of accomplishment (form 1681-6).
	8.	Interviews witnesses or other interested parties. Prepares written statements and obtains signatures from interviewees and otherwise documents the trespasser's identity.

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<u>Responsible Office/Official</u>	<u>Step</u>	<u>Action</u>
Responsible Employee	9.	Identifies the trespasser if possible. If identity of trespasser cannot be confirmed, completes Statement of Diligent Search and Inquiry (Illustration 18) and arranges for rehabilitation/stabilization of the trespass area. Closes case, updates ALMRS, and reports unit of accomplishment (Form 1681-6).
Authorized Officer	10.	Determines preferred resolution option. (See Chapter V. <u>Realty Trespass Resolution</u> ).
Responsible Employee	11.	Estimates trespass liability. Calculates current and past years' land rent liability (on the basis of fair market rent), resource damages, rehabilitation/stabilization costs, and administrative costs. (See Chapter VII. <u>Settlement of Realty trespass Liability</u> .)
Authorized Officer	12.	Advises trespasser by letter (Illustration 1) of the trespass and requests a meeting. DO NOT BILL OR REVEAL THE ESTIMATE OF TRESPASS LIABILITY. If no response, may send Notice of Trespass (Illustration 2 or 3).
	13.	Begins negotiations. AO may negotiate informally to resolve the trespass and recover trespass liability and avoid formal administrative or civil resolution and collection processes. (See Chapter V. Section C. <u>Trespass Resolution Options</u> ). If trespasser is clearly uncooperative or unwilling to informally resolve the trespass, go to step 15.
	14.	If the trespasser presents new factual data, and/or makes settlement offer, AO evaluates offer and any additional information presented. If acceptable, and resolution action is still at the informal level, simultaneously accepts payment and issues bull (paid) for the amount agreed upon. Payment should include administrative and rehabilitation/stabilization costs as appropriate. Documents the case file to indicate that settlement is based on a reasoned judgment on the part of the Bureau. Closes case and updates ALMRS.

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<u>Responsible Office/Official</u>	<u>Step</u>	<u>Action</u>
Authorized Officer	15.	If unable to agree on trespass liability, notes case file and sends notice of trespass letter (Illustration 2 or 3).
	16.	If payment of liability results, accepts payment, closes case and notes ALMRS. If no response, or negative response, sends Trespass Decision (Illustration 4) or Trespass Decision/Notice to Remove (Illustration 5) and bill for collection of trespass liability including administrative and rehabilitation/stabilization cost (Form 1370-1).  <b><u>NOTE:</u></b> Assessment of trespass penalties should be considered at this point (i.e., land rent liability times two or three).
	17.	If Trespass Decision (Illustration 4) or Trespass Decision/Notice to Remove (Illustration 5) results in appeal to IBLA, suspends action on case until IBLA issues a decision. If no IBLA appeal and no payment of liability, sends appropriate demand letters (illustrations 8, 9, and 10).  <b><u>NOTE:</u></b> Once a bill and three demand letters are sent, without payment, the Bureau is locked into formal administrative collection procedures established by the Service Center (SC-615).
	18.	If payment is received in full, arranges for rehabilitation/stabilization or authorization, closes case, notes ALRMRS, and reports unit of accomplishment (Form 1681-6).

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<u>Responsible Office/Official</u>	<u>Step</u>	<u>Action</u>
	19.	<p>If no reply to the third demand letter and bill is not paid or a compromise offer is not received, sends file to SC-615 through the State Office with recommendation to write-off, demand full payment or initiate civil action. (Illustration 11, 12, and 15.)</p> <p><b>NOTE:</b> Prior to sending the case file to the SC, compromise offers may be accepted by the State Director with concurrence of the appropriate Field or Regional Solicitor. (Illustrations 12 and 15).</p>
SC-615	20.	Turn claim over to collection agency. Agency works the claim for 6 months. If unsuccessful, agency returns claim to the SC with recommendation for write-off, compromise or civil action. The SC-615 works with the Denver Regional Solicitor in recommending final resolution action.
State Office	21.	After SC-615 action, the case file is returned to the State Director with SC/Solicitor recommendation (i.e., civil action, compromise or write-off). If recommendation is acceptable, implements; if not acceptable, consults with Solicitor to arrive at an acceptable resolution. Returns case to originating office.
Originating Office	22.	Notes ALMRS, closes case, and reports as unit of accomplishment. Monitors following closure to insure satisfactory rehabilitation or stabilization, payment of liability, penalties, compliance, etc.



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Chapter V. Realty Trespass Resolution.

A trespass is resolved when the unauthorized activity is terminated, settlement of trespass liabilities are agreed to by the Bureau and the trespasser or established by court order, liabilities have been paid, improvements removed, the land rehabilitated and stabilized, and the case closed. A trespass is also resolved when the trespasser cannot be identified, improvements are removed, land rehabilitated and stabilized, and the case closed. The Bureau has several options available for resolving trespass. This chapter provides information which may be used in selecting a course of action for resolution of individual realty trespass cases.

A. Trespasser Intent.

Intent plays a major role in the determination of the course of action taken to resolve a trespass (i.e., administrative, civil, or criminal). Intent affects the extent of the trespasser's liability for the trespass action. However, where a willful trespasser cooperates with the Bureau to expedite resolution of the trespass action administratively, additional regulations may not be warranted. As the proof of the willful or non-willful intent of the trespasser in committing the unauthorized act must be made from data derived from investigation of the trespass, it is mandatory that investigations be carefully conducted and pertinent facts documented in the case file. This is especially true if civil court action or criminal prosecution of the trespasser is contemplated (see Chapter IV. Realty Trespass Case Investigation, Documentation, and Processing).

B. Trespass Liability and Penalties.

All trespassers, regardless of their intent or their attitude regarding trespass resolution (i.e., cooperative or uncooperative), are fully responsible for the trespass liabilities set forth in the Bureau's realty trespass regulations including: land rent (i.e., for current and past years of trespass calculated on the basis of fair market rental value for the use of the public lands), administrative costs incurred by the Bureau as a consequence of the trespass, and cost of, or rehabilitation/stabilization of, the lands used in trespass. Additionally, where a non-willful trespass is not resolved in a timely manner, a penalty equal to the fair market rental value of the land may be imposed making the total an amount that is twice the land rent liability. The penalty for knowing and willful or repeated trespass is twice the fair market rental value of the land making the total an amount that is three times the land rent liability.

**NOTE:** The number of past years for which penalties may be assessed is limited in the Title 43 CFR §2920.1-2 regulations but not in the Title 43 CFR 2800 regulations. A criminal penalty up to \$1,000 and/or imprisonment of up to 1 year (or both) may also be imposed for knowing and willful trespass under both cited regulations.

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C. Trespass Resolution Options.

There are four specific options available to the Bureau for realty trespass resolution. They are (1) informal administrative resolution, (2) formal administrative resolution, (3) civil court action, and (4) criminal prosecution. If resolution is initiated at the informal administrative level and resolution efforts fail, formal administrative resolution actions may be initiated, followed by civil court action if formal administrative efforts fail and the trespasser has not appealed to the Interior Board of Land Appeals (IBLA) (see Section E. Appeal Procedures). Failure to win a civil action will bar criminal prosecution for the same action because of the higher level of proof required for successful criminal prosecution. Successful criminal prosecution will not bar civil action for recovery of the trespasser's liability arising from the trespass. However, the courts do not look favorably on criminal prosecution for the purpose of securing a conviction in order to condition probation upon payment of a civil debt (i.e., trespass liability).

1. Informal Administrative Resolution. Realty trespass may be resolved administratively on an informal basis. Resolution action may be initiated with an informal letter (Illustration 1) or may progress to the issuance of a Notice of Trespass (Illustration 2 or 3). Informal resolution involves an agreed upon settlement of the trespass and trespass liability by the Bureau and the trespasser without resorting to legal action or formal administrative procedures (e.g., formal trespass decision, billings, demand letters, etc.). Informal resolution is the recommended course of action unless circumstances warrant more stringent measures. The goal is timely resolution of the trespass. Informal administrative resolution may be successful when:

- a. The trespasser is willing to cooperate with the Bureau in the timely resolution of the trespass.
- b. The trespass is clearly unintentional, accidental, a minor infraction of the Bureau's regulations, or a technical violation.
- c. The trespass is minor in terms of size and impact and informal resolution would serve the best interest of all parties involved.
- d. The evidence does not exist or is not available to prove the full extent of the trespass liability in terms of previous use, time, and size (i.e., the Bureau cannot prove the full amount due the United States as a consequence of the trespass).

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e. Acceptance of trespass liability payment and closing the case can be substantiated as a “reasoned judgment” on the part of the Bureau. Document the case file accordingly.

**NOTE:** Acceptance of negotiated trespass liability payment based on a reasoned judgment is subject to the write-off and compromise procedures and dollar limits specified in Section B, chapter VII. Settlement of Trespass Liability.

f. The Bureau’s trespass abatement policy in terms of deterrence and securing compliance (both present and future) would be adequately served by informal resolution.

g. A suspected trespass cannot be confirmed as an actual trespass or the trespasser cannot be identified. Close the case and monitor the area.

2. **Formal Administrative Resolution.** Formal administrative resolution procedures must be initiated when informal resolution is unsuccessful, the trespasser is clearly uncooperative, or for other reason including where the benefits of enforced collection of trespass liability will demonstrate to other trespasser in the area that resistance to liability payment is not likely to succeed. Formal administrative resolution actions are subject to appeal to IBLA and are initiated with a formal trespass decision (Illustrations 4 or 5) and a bill (Form 1370-1) for payment of trespass liability. (Section E, Appeal Procedures, provides procedures.) Formal administrative resolution actions (e.g., collection of trespass liability) may also include appropriate demand letters and referral to the Internal Revenue Service (IRS), debt collection contractors, and consumer credit agencies when the liability is not paid or not paid in full. (Illustrations 8, 9, 10, 11, 12 and 15.) Formal administrative procedures may be necessary when :

- a. The trespasser is clearly uncooperative.
- b. The trespasser disputes the Bureau’s trespass liability claim and the Bureau has evidence to substantiate its claim.
- c. The size and nature of the trespass cannot be excused as unintentional even though the Bureau cannot prove knowing and willful intent.
- d. Formal collection action would enhance the Bureau’s trespass abatement program in terms of deterrence and resolution of other public land trespass in the area.
- e. The trespass cannot be proven as knowing and willful trespass.
- f. The Bureau has expended significant sums of money (administrative costs) as a consequence of the trespass, and enforced collection action is necessary for full recovery.

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g. The trespasser has been positively identified, and evidence exists to support the identification.

h. Offers to settle trespass liability, if any, by the trespasser cannot be justified as reasonable.

**NOTE:** It is extremely important that trespass liability to be accurately calculated prior to formal billing and represents the minimum amount that the Bureau will accept in satisfaction of the trespasser's liability. Later downward adjustments, after billing, involve claim compromise or write-off. (See Chapter VII. Settlement of Trespass Liability.)

3. Resolution via Civil Court Action. Civil court action may be initiated where formal administrative resolution has been unproductive. Court action may also be initiated where successful outcome and follow-up publicity would assist the Bureau in eliminating other trespass in a geographic region and deterring trespass in the future. Civil actions are reviewed for adequacy by the appropriate Solicitor and initiated by the U.S. Attorney in the U.S. District Courts. U.S. Magistrates, if designated, may hear pretrial matters. Upon consent of the parties, a designated U.S. Magistrate may conduct all proceedings in a civil matter and order the entry of judgment in the case. A U.S. Magistrate's jurisdiction to hear a civil case depends on designation to do so from a U.S. District Court Judge. Whether prosecution will be brought in a given case is determined by the U.S. Attorney. Finally, the U.S. Government can pursue both civil and criminal remedies concurrently for the same offense. The fact that a trespasser is convicted of knowing and willful trespass does not preclude the Bureau from recovering monetary liability and court costs from the trespasser due to the recovering monetary liability and court costs from the trespasser due to the unauthorized activity. Circumstances that may merit civil action on the part of the Bureau to resolve a trespass and trespass liability include, but are not limited to, the following:

a. The Bureau has cause to believe that rehabilitation/stabilization of the lands in trespass would not be accomplished without a court order.

b. Attempts at informal and formal administrative resolution have been unsuccessful.

c. The Bureau has adequate evidence (i.e., a preponderance of evidence) to substantiate its case.

d. Criminal trespass cannot be substantiated (i.e., proof beyond a reasonable doubt).

e. The Bureau's trespass abatement program in terms of prevention, deterrence, and resolution would be enhanced by successful civil court action.

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f. Termination and/or eviction are required to resolve the trespass and a court order is required for these actions.

g. Personal and/or real property is involved in the trespass and a court order will assist in legally removing and/or disposing of the involved property.

h. The trespasser's liability for the trespass is significant and successful court action and monetary recovery would serve as a deterrent to present and future trespass.

i. Circumstances are such that the Bureau cannot accept a trespasser's liability settlement offer (if any) within the requirements of its debt collection procedures.

4. Resolution via Criminal Prosecution. As a practical matter, criminal prosecution will result in quicker resolution of trespass than civil action because of the Constitutional requirement for a speedy trial for criminal offenses. Successful criminal prosecution may not, however, result in recovery of trespass liability. However, a criminal case does not bar the Bureau from recovery action under civil law. Criminal action requires proof of knowing and willful trespass beyond a reasonable doubt whereas civil action requires a preponderance of evidence. Citations for criminal trespass may be issued by Bureau law enforcement personnel under Title 43 CFR §9262.1. When criminal prosecution or citations are contemplated, the appropriate Bureau law enforcement personnel must be involved in the decision process and initiate the appropriate criminal action. Input from Bureau law enforcement personnel will help to keep criminal resolution a viable option since premature administrative or civil action could jeopardize criminal prosecution. Situations where criminal citation or prosecution may be appropriate include those listed below:

a. The trespass is clearly knowing and willful.

b. Successful prosecution would service as a warning and deterrent to other criminal trespassers.

c. The Bureau has probable cause to believe that a trespass of a criminal nature has occurred.

d. Fines and/or imprisonment of the trespasser is warranted and will serve to prevent and deter present and future criminal trespass.

e. The trespass is continuing, or repeated, after appropriate notification of the illegal nature of the act.

**NOTE:** Injunctive relief may be required where the trespass activities are resulting in unnecessary or undue degradation of the public land and resources (see Section F, Injunctions).

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D. Cancellation or Revocation of Use Authorizations.

Under Title 4 CFR (Appendix 1, §102.6), agencies seeking collection of liability claims (i.e., trespass liability) are instructed to “. . . give serious consideration to the suspension of licenses or other privileges for an inexcusable, prolonged, or repeated failure of a debtor to pay such a claim and the debtor will be so advised.” As an aid to resolving trespass claims, consideration may be given to cancellation of contract negotiations, leases, permits (including grazing), or other Bureau authorizations that are held by a trespasser.

E. Appeal Procedures.

Any person adversely affected by a decision to resolve a realty trespass (e.g., termination, eviction, settlement of liability, etc.) may appeal that decision to the IBLA under the provisions of 43 CFR Part 4. In order to preserve a trespasser’s right of due process and the Bureau’s options for resolution, including addition of penalties, the following procedure should be closely adhered to in cases where formal administrative resolution procedures are required.

1. Trespass Notice. Issue a letter notice of trespass. These notices (Illustrations 1, 2 and 3) are interlocutory and, therefore, are not subject to IBLA appeals during the compliance period. Following the compliance period the Bureau, based on lack of response or evidence and information provided by the trespasser, may:

- a. Reconsider the validity of the trespass.
- b. Adjust the rent liability based on information provided by the trespasser (i.e., area, duration of trespass, etc.).
- c. Accept payment of trespass liability.
- d. Decide whether trespass penalties are warranted (i.e., one or two times rent liability).
- e. Close the case for lack of evidence.

2. Trespass Decision. If following the compliance period and evaluation of any information or evidence provided by the trespasser the trespass remains unresolved, a trespass decision (Illustration 4 or 5) is issued. The decision must include a bill for trespass liability (i.e., rent, administrative and rehabilitation/stabilization costs), and trespass penalties, if warranted. The decision must also inform the trespasser of the right of appeal to IBLA. At the end of the appeal period, if the trespasser has not appealed to IBLA and has not made payment in the amount of the bill for collection, issue Demand Letter No. 1. (See Section L., Chapter VII. Settlement of Realty Trespass Liability).

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3. Right of Appeal. Notification of trespasser's right of appeal to IBLA is mandatory. The standard appeal paragraph to be used to notify trespassers of appeal rights is as follows:

“Within 30 days of receipt of this decision, you have the right of appeal to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR 4.400. If an appeal is taken, you must follow the procedures outlined in the enclosed Form 1842-1. Information on Taking Appeals to the Interior Board of Land Appeals. The appellant has the burden of showing that the decision appealed from is in error.”

4. Effect of Appeal. When an appeal has been filed, IBLA has exclusive jurisdiction over the matter and BLM can take no action on the case.

5. Civil Action. If a trespasser does not appeal to IBLA and does not respond to liability collection action (i.e., three demand letters and collection by a debt collection contractor), civil action may be appropriate.

6. Criminal Action. Criminal prosecution actions are not subject to IBLA appeal.

F. Injunctions.

Injunctions cannot be used to resolve realty trespass. Injunctions will not be issued by the courts to restrain a trespasser merely because they are a trespasser: there must be irreparable harm occurring or of immediate threat. If a situation arises where lands administered by the Bureau are being subjected to, or threatened with, resource damage from trespass of such a nature as to require preventive action by the Bureau, the facts of the case should be presented to the appropriate Regional or Field Solicitor for advice as to whether injunctive relief should be sought. Injunctive relief will restrain a trespasser from continuing a trespass or initiating an action that would constitute trespass. It will not satisfy the trespasser's liability for trespass. Injunctions are not required to restrain a criminal trespass. Bureau laws enforcement personnel have the authority to arrest or otherwise restrain a criminal trespasser. Normally, an injunction should be sought for the following reasons:

1. Existing Trespass. A trespass is continued after service of a notice of trespass letter (Illustrations 1, 2, and 3) or a trespass decision (Illustrations 4 and 5) and irreparable resource damage is occurring or life or property is threatened.

2. Expected Trespass. A trespass is anticipated in spite of warning issued to the persons involved that their action would cause irreparable harm and would constitute trespass on the public lands.

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G. Statute of Limitations.

Title 28 U.S.C. §2415 provides: “That an action to recover damage resulting from trespass on lands of the United States . . . may be brought within six years after the right of action accrues . . . .” As used in the statute, “damages” means court awarded money to compensate for an actual loss or to punish and/or deter future trespass. Under the Bureau’s realty trespass regulations, compensation for damages may include: land rent liability and trespass penalties (both calculated on the basis of fair market rental value of the land), administrative costs, and rehabilitation/stabilization costs. The Bureau’s “right of action” under the statute pertains to the right to remedy and relief (i.e., termination and recovery of damages) from trespass through judicial procedure. This right of action occurs each day a trespass is continuing and does not necessarily rely on the date the trespass was initiated for purposes of calculating the 6-year limitation on initiating the Bureau’s right of action. In the recovery of money damages for trespass, there are situations which must be considered prior to writing off trespass liability by invoking the Statute of Limitations. These include:

1. Effect on Administrative Recovery. The Statute of Limitations is a defense which an alleged trespasser can only invoke in civil court. The Statute of Limitations does not bar the Bureau from informal or formal administrative action for collection of money owed that United States for all years, or portions thereof, where the trespass can be substantiated. Also, the Federal Land Policy and Management Act (FLPMA) requires that the United states receive fair market value of the use of the public lands and their resources unless otherwise provided for by statue [§102(a), (9)]. **THUS, THE BUREAU IS REQUIRED BY THE FLPMA, AND ITS REALTY TRESPASS REGULATIONS, TO RECOVER FAIR MARKET VALUE FOR ALL YEARS OF TRESPASS, UNLESS THE BUREUA IS LIMITED BY THE COURT IN A CIVIL ACTION TO RECOVERY UNDER THE STATUE OF LIMATIONS.**

2. Right-of-Action. The trespass activities covered by the Bureau’s realty trespass regulations normally are continuous over time. Therefore, each ensuing day that a trespass continues reestablishes the Bureau’s right of action under the Statute of Limitations to recover money damages resulting from trespass. However, on a 10-year period, the Bureau may be limited by the courts to recovery of money damages for only the last 6 years of trespass.

3. Computation of Limitation Period. Title 28 U.S.C. §2416 provides that for the purpose of computing statute limitation periods, time may be excluded from the limitation period for those periods in which “. . . facts material to the right of action are not known and reasonably could not be known by an official of the United States charged with the responsibility to act . . . .” Thus, the Bureau’s “right-of-action” on a trespass that has gone undetected (for good cause) for a number of years may not be constrained by the 6-year Statute of Limitations.



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H. Land Use Authorization/Title Transfer.

The Authorized Officer (AO) may consider legalizing a trespass activity under a land use authorization or title transfer (i.e., sale, exchange, color of title, etc.) under the following circumstances.

1. Liability Settlement. Liability for previous unauthorized use, occupancy, or development of the land has been or is being settled to the satisfaction of the AO.
2. Conformance. The activity to be legalized conforms to Bureau plans, programs, policies, and management objectives for the land and land in the vicinity.
3. Compliance. The use, occupancy, or development to be legalized is in, or can be brought into, compliance with Federal, State, and local planning and zoning as well as applicable laws.
4. Temporary Authorization. The AO may issue a short-term land use authorization to:
  - a. Prevent undue economic loss (e.g., crop harvest).
  - b. Authorize continued use while the trespasser is settling liability for the trespass.
  - c. Arrive at a decision to either terminate the trespass or legalize it under long-term authorization or title transfer.
5. Residential Occupancy. In certain situations residential trespass occupants may be eligible for non-assignable term or life-time lease under the provisions of Title 43 CFR Part 2920 if one or more of the following conditions is met:
  - a. The dwelling is the sole residence of the occupant and relocation would create an economic hardship.
  - b. The occupant acknowledges (in writing) the non-assignable nature of the authorization.
  - c. The dwelling is in, or can be brought into, compliance with State and local requirements for residential occupancy.
  - d. The occupancy resulted from misinformation available to the occupant (e.g., survey error), was unintentional, and/or was not known to be on public land.

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Chapter VI. Unauthorized Real and Personal Property.

It is extremely important that proper procedures be followed to protect the interest of the United States and Bureau employees in the handling of unauthorized real or personal property to be disposed of or removed from the public lands. Bureau Manual Sections 1527 and 1533 provide guidance on the possession, removal, care, or disposal of unauthorized real and personal property before and after title or ownership vests to the United States. Trespass cases involving real and personal property are processed in accordance with the general procedures in this Handbook and the specific guidance in this Chapter.

A. Real Property.

Unauthorized real property (for purposes of this chapter) consists of structures, improvements, and facilities more or less attached to the land. Typically these consist of shacks, cabins, corrals, fences, shelters, etc., of little or no useable, historic, or commercial value. Occasionally unauthorized real property with significant commercial value may be discovered on the public lands. Where this occurs the cause may be traced to erroneous information concerning property lines and land ownership. Such trespass normally falls into the category of non-willful trespass under the Bureau's realty trespass regulations. Real property does not lend itself to impoundment and is normally removed or destroyed on site, after title vests to the United States. Where appropriate to the circumstances of the trespass, continued use of the unauthorized real property may be authorized following settlement of trespass liability.

1. Personal Notice. If the real property owner or occupant, if any, are known, personally notify (Illustrations 1 and 3) and attempt to effect informal administrative resolution of the trespass including removal of the property, rehabilitation/stabilization of the site, and recovery of liability for administrative costs and previous use (see Section C. 1, Chapter V, Informal Administrative Resolution). Negotiate a use authorization if appropriate (see Section H, Chapter V, Land Use Authorization/Title Transfer). If informal resolution efforts are unsuccessful:

a. Serve a formal Trespass Decision/Notice to Remove (Illustration 5) on the trespasser by certified mail, return receipt requested, or personal service (service by Bureau law enforcement personnel is recommended). Document the service in the case file (Illustration 17).

b. If the owner responds in an appropriate manner settle the trespass liability and close the case.

c. The property owner may relinquish the real property (and associated personal property) to the United States (see Section D. Relinquishment). Document the relinquishment in the case file (Illustration 16).

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d. If the owner fails to respond, remove, relinquish, or reimburse the Bureau for removal of the unauthorized property follow the guidance in Section E. Failure to Remove, F. Possession by the United States, and G. Destruction and Removal.

2. Legal Notice. If the real property owner is unknown:

a. Securely attach the Legal Notice (Illustration 6) to the unauthorized property in a conspicuous location. Provide protection of the notice from the weather as appropriate. Maintain the posted notice concurrent with the removal period specified in the notice.

b. Photograph the property to clearly show the posted notice. A minimum of two photographs are necessary; a close-up to show the notice in detail and a second to clearly identify the property and the posted notice. Include recognizable physical features of the land in the photos if possible.

c. Post copies of the Legal Notice at appropriate locations in the nearest post office, county courthouse, and local Bureau office.

d. Publish the Legal Notice in a local newspaper having general circulation in the vicinity.

e. Periodically examine the posted notices, and re-post if vandalized, damaged, or removed.

f. If there is no response to the Legal Notice, proceed to Section E. Failure to Remove.

B. Personal Property.

Unauthorized personal property (for purposes of this Chapter) includes machinery, trailers, vehicles, irrigation and mining equipment, construction debris and other worthless, discarded personal items such as household trash, appliances, etc., that collectively can be classified as litter, garbage or rubbish. Other personal property items may consist of rocks, rubble, and vegetative materials removed from private land and deposited on public land. These items are usually dumped with the full knowledge that the owner does not own the land or have the right to deposit the unwanted, discarded items on the land. **THUS, THE ACTION USUALLY CONSTITUTES KNOWING AND WILLFULL TRESPASS.**

On occasion unauthorized personal property of value (i.e. vehicles, camping equipment, etc.) may be abandoned on the public lands. Since there may be valid mitigating reasons for abandonment (i.e., sickness, breakdown, weather, etc.), such abandonment may be treated as NONWILLFULL TRESPASS unless willful intent can be substantiated. Personal property items may not lend themselves to posting and where valuable items are involved immediate impoundment may be necessary to protect the property.

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1. Vehicles. In certain States the local Sheriff's Office or the State Police are authorized to effect impoundment or disposal of abandoned trailers and vehicles. Consult with Bureau law enforcement personnel for guidance or assistance.

2. Property With No Value – Ownership Established. In some cases the identity and culpability of persons disposing of worthless personal property on the public lands can be identified by witnesses, addresses, or serial numbers on the discarded items. Where the personal property clearly has no value (i.e. trash, rubble, garbage, etc.) and the individual responsible has been positively identified:

a. Immediately serve a Notice to Cease and Desist (Illustration 3) on the trespasser by certified mail, return receipt requested, or personal service (service by Bureau law enforcement personnel is recommended). Include copies of the appropriate realty trespass regulations with the notice (normally Title 43 CFR §2920 1-2 AND §9262.1).

**NOTE:** Notification of the trespasser by Notice to Cease and Desist prior to citation is recommended since the notice establishes the trespasser's liability for rental penalty and administrative and rehabilitation/stabilization costs incurred by the Bureau. These costs may not be directly recovered under Title 43 CFR §9262.1.

3. Property With No Value – Ownership Not Established. When unauthorized dumping and discarding of worthless items takes place on one site over a period of time, numerous trespassers may be involved and responsibility may be difficult to establish. In these situations:

- a. Post the site (sign) as government property.
- b. Monitor the site for evidence as to persons responsible.
- c. As funds permit, or as volunteers are available, rehabilitate/stabilize (clean-up) the site.
- d. Monitor to prevent, or detect, renewed violations.

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4. Valuable Property – Owner Known. Notify the persona property owner by informal letter (i.e. certified mail, return receipt requested) explaining that the property must be removed from the public lands or, if the Bureau has removed the property, where the property may be reclaimed. Allow a reasonable time for the owner to remove, or reclaim, the property considering the nature and value of the property, location of the owner, weather, accessibility of the site and other mitigating factors. The removal/claim period will usually not exceed 30 days. If the property is not claimed or removed:

**NOTE:** If the property is readily movable, except vehicles, and could be subject to theft or vandalism, obtain permission and remove the property for safekeeping (see Section B. Personal Property, and G. Destruction and Removal).

a. Serve a Trespass Decision/Notice to Remove on the property owner (Illustration 5) by certified mail, return receipt requested, or personal service. Document the service in the case file (Illustration 17).

b. If the property owner fails to respond satisfactorily or to file an appeal, the United States may take possession (see Section F. Possession by the United States).

c. If the property is unusable or the expense of its care and the handling is so great that its retention is clearly not economical, treat it as scrap/junk and dispose of it in accordance with Section G. Destruction and Removal. Case files must be maintained for 3 years from the date of disposing of such property.

d. If the property warrants impoundment, and the time of possession exceeds 30 days from the date of notification, title vests in the United States. However, the property may revert to the owner when a proper claim is filed by the owner prior to transfer for official use or sale of the property (see Bureau Manual Section 1527 – Disposal).

e. If the property is unclaimed and usable by the Bureau it may be added to the Bureau's inventory by entering it on the Receiving Report (Form DI-102). Or it may be entered on an Available Property Report (Form 1520-34) for disposal action. Refer to Bureau Manual Section 1527 – Disposal, for specific guidance.

5. Valuable Property – Owner Unknown. If the owner of abandoned personal property is unknown:

a. If valuable personal property is readily removable (i.e. subject to theft), get approval to remove (see Section G. Destruction and Removal). If removed to a Bureau facility for safekeeping or allowed to remain on the public lands, proceed as follows.

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- b. Photograph the item(s) for identification and valuation purposes.
- c. Post the Legal Notice (Illustration 6) on the property (if appropriate) and photograph. Also post copies of the Legal Notice in one or more local county courthouses, post offices, local Bureau office, or other public places as appropriate. Document the posting in the case file.
- d. Publish the Legal Notice in a local newspaper having general circulation in the vicinity.
- e. Maintain the posting concurrently with the publication and removal period specified in the Legal Notice.
- f. If the legal notice evokes no response and other attempts to locate the owner are unsuccessful, complete affidavit of diligent search (Illustration 18) and place in case file. Take possession and dispose of as in Section B. Personal Property.

C. Documentation.

All real or personal property associated with unauthorized use, occupancy, or development should be photographed and inventoried to document and support Bureau and employee actions to remove, take possession, or otherwise dispose of the property. Other documentation includes postings, notices, correspondence, certification, diligent search, etc. All actions, inventory, photographs, etc., should be placed in the case file.

1. Inventory. Note the condition of each item or structure and its estimated value. A broken, useless piece of furniture, for example, with no commercial value would not be regarded as an item of value. Nor would a shack, shed, etc., constructed of tin, discarded lumber or other improvised building materials. Note items or structures of historic or cultural value.

2. Photographs. Photograph the property and structures, etc., to support value judgments and decisions to remove or destroy. Photograph posted notices as appropriate. Mount, date, and describe all photos as appropriate.

D. Relinquishment.

The owner of unauthorized real and/or personal property may relinquish said property to the United States (Illustration 16). Acceptance of relinquished property may be appropriate when:

1. Satisfactory Settlement. The owner has satisfied all trespass liability including cost of removing the relinquished property and site rehabilitation/stabilization.

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2. Site Rehabilitation/Stabilization. Relinquishment will expedite removal and disposal of unauthorized/unwanted real property and site rehabilitation/stabilization of the public lands.

3. Mitigating Factors. The trespasser clearly does not have the ability (financial, age, equipment, etc.) to effect removal/disposal of the unwanted property. Document the case file to support acceptance of the relinquished property as a “reasoned judgment” on the part of the Bureau.

4. Valuable Property. The property has commercial or historic value or is useable by the Bureau.

E. Failure to Remove.

Failure of the trespasser to remove real or personal property after due notice may result in one or more of the following actions:

1. United States Possession. Title may vest to the United States (see Section F. Possession by the United States).

2. Penalty. When the trespass is repeated, willful or not resolved in a timely manner, a penalty of 2 times fair market value rent may be assessed in addition to rental liability making the total amount equal to 3 times the rental liability.

3. Citation. After proper notification, and failure to act, a trespass is held to be knowingly and willfully committed. A citation under Title 43 CFR §9262.1 may be served requiring an appearance before a designated United States magistrate.

4. Court Action. The Bureau, with Solicitor’s concurrence, may seek U.S. Attorney assistance in resolution of the trespass through the civil or criminal courts as appropriate.

F. Possession by the United States.

Upon relinquishment or expiration of the removal period specified in the appropriate notices, the property may be considered abandoned for purposes of possession by the United States (see Bureau Manual Sections 1527 and 1533). Post the property as Property of the United States (Illustration 7). The property may revert to the owner when a proper claim is filed by the owner prior to disposal, sale or transfer for official use.

1. Disposal. Property with no value, or little value, or property where the expense of its care and handling is so great that its retention is clearly not economical may be destroyed or sold (see Section G. Destruction and Removal). Photograph as appropriate to support value judgments.

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2. Sale. Proceeds from sale are retained in suspense account for a period of 3 years from the date title vests in the United States in order that a former owner, upon filing a proper claim, may claim this amount, less the actual costs for the care and handling. Costs incurred by the Bureau as a consequence of the trespass and trespass liability penalties may be offset by the sale proceeds if the owner agrees in writing.

3. Official Use. Useable personal and real property may be added to the Bureau's inventory. For example a cabin or structure with historic significance may merit retention for interpretative value. Evaluate all items recovered through trespass abatement actions for potential utility.

G. Destruction and Removal.

Obtain written approval from the AO prior to destruction, removal, or sale of unclaimed or relinquished real or personal property to verify that proper procedures have been followed. Document the case file accordingly.



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Chapter VII. Settlement of Realty Trespass Liability.

The Federal Land Policy and Management Act (FLPMA) AT SECTION 102(A)(9) states the policy that “. . . the United States receive fair market value of the use of the public lands and their resources . . . .” The FLPMA’s implementing regulations at Title 43 CFR 2920, 2800, 2810 and 2880 (i.e., realty trespass regulations) establish liability for use of public lands without appropriate authorization. Thus, a realty trespass establishes a liability claim by the United States against a trespasser under FLPMA and the Bureau’s realty trespass regulations for money owed the United States as a consequence of the trespass. Liability claims by the United States for money that has been determined to be owed to the United States from any person, organization, or entity are governed by the Federal Claims Collection Act of 1966, as amended and supplemented. The Federal Claims Collection Standards (Standards) of the General Accounting Office and of the Department of Justice (DOJ) [Title 4 CFR, Chapter II (January 1, 1986 ed.)], which implement the Federal Claims Collection Act, provide the Bureau authority for initiation of collection action against a trespasser for a claim arising as a consequence of the trespass. Bureau debt collection procedures implement the Standards.

**NOTE:** The Bureau will not accept property or performance of services in lieu of full cash settlement of trespass liability.

A. Trespass Liability.

Trespass liability includes land rent liability, all costs of trespass resolution, (i.e., administrative costs), restitution for damage to the land or resource(s) and rehabilitation/stabilization costs. This Chapter provides information on calculating trespasser liability. It also provides guidance on alternative methods of determining land rent liability (calculated on the basis of fair market rental value), negotiations trespass penalties, bonding, rehabilitation/stabilization, general billing procedures, and referral to the Service Center (SC) for collection action.

1. Satisfactory Settlement. Settlement of trespass liability is met when the appropriate following steps are accomplished.

a. Payment of all monetary liabilities is made or a promissory note for payment is executed and approved.

b. Rehabilitation/stabilization is successfully accomplished by the trespasser or payment or performance bond received to cover Bureau costs for rehabilitation/stabilization.

c. Building, structures, personal property, etc., are removed voluntarily or by the Bureau under impoundment and disposal proceedings (see Chapter VI. Unauthorized Real and Personal Property) or authorized by permit, lease, right-of-way, etc.

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2. Other Settlement. Trespass liability may also be settled in the following ways:
  - a. Liabilities are compromised, the amount paid, and the case closed.
  - b. The case is referred to DOJ for resolution.
  - c. Court-ordered settlement has resolved trespass liabilities.

B. Authority to Compromise or Write-off Trespass Liability Claims.

State Directors have delegated authority to accept compromise trespass liability settlement offers for claims up to \$20,000, exclusive of interest. Acceptance of compromise settlement offers must be based on concurrence of Field or Regional Solicitors (Illustration 14). State Directors may write off (i.e., suspend collection action) uncollectible trespass liability claims up to \$600 without Solicitor concurrence. Write-offs in the amount of \$601 up to \$20,000 need the concurrence of Field or Regional Solicitors (Illustration 12). The effect of compromise and write-off is as follows.

**NOTE:** Write-off amounts and concurrence levels may increase over time. Check with the Service Center, Branch of General Accounting (SC-615), for current write-off and concurrence levels as well as write-off procedures.

1. Compromise. Compromise differs from write-off in that it extinguishes the trespasser's liability for the unpaid portion of the debt. The amount accepted is compromise between full liability payment to the Bureau and a reduced payment by the trespasser. Accordingly, collection action terminates with the acceptance of the compromise by the Bureau and payment of the reduced amount by the trespasser. However, the difference between full payment and the compromise settlement may be reported by SC-615 as earned income to the Internal Revenue Service (IRS) if the compromise involves extinguishing a legitimate debt. However, if there is real doubt as to the Bureau's ability to prove the full amount of trespass liability due, a compromise offer may be accepted and difference not presorted to the IRS (Illustration 15). Trespass liabilities are normally compromised after referral, through SC-615, to a debt collection contractor (Illustration 11) and a subsequent recommendation by SC-615 to the State Director for compromise. When a compromise offer is accepted and paid, the trespass case is closed.

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2. Write-off. Collection activity is not terminated with write-off of a trespasser's liability, nor is the liability for the debt extinguished by a write-off. Writing off a debt is the accounting recognition that a debt is unlikely to be collected. Debts are normally written off only after referral, through SC-615, to a debt collection contractor and a subsequent recommendation to the State Director by the SC-615. When a trespasser's liability has been written off and the public land vacated, the case may be closed even though collection action has been suspended. Notify SC-615 of the write-off (Illustration 12). Monitor the trespass area to prevent reoccurrence of the trespass.

**NOTE:** When a claim, exclusive of interest, penalties and administrative costs, exceeds \$20,000 the authority to compromise the claim, suspend or terminate collection action rests solely with the DOJ.

C. Standards for Collection, Compromise, and Write-off of Trespass Liability Claims.

The Standards and their application to trespass claims are interpreted, and instructions issued, by the Washington Office (WO) Division of Finance through SC-615. A brief discussion of Standards is presented herein for the information of the Handbook user. Specific questions on implementation should be directed to the District or State Office Accounts Clerk or SC-615. The Standards are provided in their entirety in Appendix 1. Sections of the Standards herein summarized are referenced in parentheses. Refer to the specific section in Appendix 1 for the precise regulatory language.

1. Referral of Trespass Liability Claims to Field or Regional Solicitors and the Department of Justice.

a. Any trespass in which there is an indication of fraud, the presentation of a false claim, or misrepresentation on the part of a trespasser, or any other party having liability in the trespass action, must be referred to the Field or Regional Solicitor for possible litigation (§101.3). They, in turn may refer the case to the DOJ.

b. When a claim against a trespasser, exclusive of interest, penalties and administrative costs, exceeds \$20,000, the decision to accept a compromise offer, suspend or terminate collection action rests solely with the DOJ (§103.1 and §104.1).

c. Any claim over \$600 on which aggressive collection action has been taken by the Bureau and which cannot be compromised or terminated, must be referred promptly to the Field or Regional Solicitor. If referred by the Solicitor to the DOJ, the Bureau must refrain from having any contact with the trespasser. The trespasser should be directed to the appropriate DOJ office (§105.1).

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d. Claims against trespassers of less than \$600, exclusive of interest, penalties and administrative costs, are not referred to the DOJ (through the Field or Regional Solicitor) unless referral is important to a significant enforcement policy or the trespasser clearly has the ability to pay the claim (§105.4).

2. Administrative Actions to Settle Trespass Liability Claims. The following are actions the Bureau may initiate to resolve liability claims as prescribed by the Standards. Also see Chapter V. Realty Trespass Resolution.

a. The Bureau should attempt to reach a mutually acceptable agreement with a trespasser prior to initiation of formal claim collection procedures. Such agreement should be discussed in personal interviews (§102.7 and §102.12). Document the settlement agreement in the case file (Illustration 13).

b. The Bureau shall add interest and administrative costs of collection to claims arising from public land trespass. Before assessing these charges (costs), the Bureau must send by certified mail, return receipt requested, or hand-deliver with service, a written notice to the trespasser explaining the charges and requirements for payment. (See Illustrations 4, 5, 8, 9 and 10). Such notice must be dated and mailed, return receipt requested, or hand-delivered, with service, on the same day, (§102.13).

c. Appropriate written demands for payment (Illustrations 8, 9 and 10) may be made upon a trespasser in terms which inform the trespasser of the consequences of failure to cooperate. Demand letter should be mailed, return receipt requested, or hand-delivered, with service, on the same day that they are actually dated (§102.2). Document personal service in the case file (Illustration 17).

d. The Bureau is required to give serious consideration to suspension or revocation of licenses or other privileges authorized by the Bureau to a trespasser for any inexcusable, prolonged, or repeated failure to pay a claim arising from the trespass (§102.9).

e. Whenever feasible, trespass liability payments should be collected in full, in one lump sum. However, if the trespasser is financially unable to pay the Bureau's claim in one lump sum, payment may be accepted by promissory note (Form 1371-1) or in regular installments, under certain conditions (§102.11).

f. The Bureau has the authority to contract with collection agencies for collection of trespass claims (§102.6).

g. Delinquent trespass claims may be reported to consumer credit agencies (§102.5).

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h. All administrative collection action shall be documented and the basis for compromise or for write-off (i.e., termination or suspension of collection action) explained in detail (Illustrations 12 and 15). Such documentation shall be retained in the trespass case file (§102.17).

3. Compromise of Trespass Liability Claims. The Bureau may consider a compromise of a trespass liability claim under the following criteria of the Standards. (See Illustrations 15 for sample write off of trespass liability resulting from a compromise offer.)

a. A trespass claim may be compromised (reduced) if the Bureau cannot collect the full amount because of the trespasser's inability to pay or refusal to pay the claim in full and the Bureau is unable to collect in full within a reasonable time by enforced collection proceedings. Factors that may be considered in determining a trespasser's ability to pay include, but are not limited to, age, health, present and potential income, assets, and inheritance prospects, etc. (§103.2).

b. A trespass claim may be compromised if there is real doubt concerning the Bureau's ability to prove its case in court for the full amount claimed, either because of the legal issues involved or a bona fide dispute as to the facts. Factors that may be considered include court costs if the Bureau loses the case, availability of witnesses, evidence, and probability of full or partial recovery (§103.4).

c. A trespass claim may be compromised if the cost of collection does not justify the enforced collection of the full amount. The amount accepted may reflect a discount for the probable administrative and litigative costs of collection and time involved in collection. However, the cost of collection does not necessarily mean that a claim should be compromised. Enforced collection may demonstrate to other trespassers that resistance to payment is not likely to succeed (§103.4).

d. Land rent liability, rehabilitation/stabilization and administrative costs incurred by the Bureau may be compromised if the Bureau's policy in terms of deterrence and securing compliance, both present and future, will be adequately serviced by acceptance of compromise offer. Accidental or technical trespass may be dealt with less severely than willful and substantial trespass (§103.5).

e. When two or more trespassers are jointly and severally liable to the Bureau for costs arising from the same trespass, collection action will not be withheld against one until the other(s) pay their proportionate share. Care should be taken that a compromise agreement does not release the Bureau's claim against the remaining parties (§103.6).

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f. If the Bureau has a firm written offer of compromise, which is substantial in amount, and the Bureau is uncertain as to whether the offer should be accepted, it may refer the offer, the supporting data, and particulars concerning the claim through the Field or Regional Solicitor to the DOJ. The DOJ may act upon the offer or return it to the Bureau with instructions or advice (§103.8).

4. Suspension or Termination of Trespass Liability Claims. The Bureau may suspend or terminate collection activity on a trespass liability claim under various criteria of Part 104 of the Standards. Suspension is a temporary measure, whereas termination permits the Bureau to close the trespass case. Criteria in the Standards for both suspension and termination are very similar. The following generally relate to both suspension or termination of claims under the Standards. Specific criteria for each may be determined by referring to Part 104 in Appendix 1.

a. The Bureau cannot collect a significant sum from the trespasser because of age, lack of assets, etc. [§104.3(a)].

b. The Bureau has identified, but is unable to locate the trespasser. Suggested sources of assistance in locating trespassers include telephone directories, city directories, postmasters, drivers license records, automobile title and registration records, State and local government agencies, the IRS, employers, relatives, credit agency skip locate reports, and credit bureaus [§104.2(a) and §104.3(b)]. Bureau law enforcement personnel may be helpful in locating trespassers.

c. Collection action should be terminated on a trespass liability claim when it is likely that the cost of further collection action will exceed the amount recoverable [§104.3(c)].

**NOTE:** The Bureau's realty trespass regulations provide for recovery of administrative costs, including cost of collection. Therefore, the cost of collection should not exceed the amount recovered; however, there will be situations where the trespasser may not have sufficient assets to cover their trespass liability (i.e., land rent, administrative costs, restoration/rehabilitation costs, etc.). In these situations, the Bureau may terminate collection actions since the cost of recovery would exceed the amount that can be recovered. The rationale for termination should be well documented as a reasoned judgment on the part of the Bureau.

d. Collection action on a trespass liability claim should be terminated immediately whenever it is determined that the claim is legally without merit [§104.3(d)].

e. Collection action should be terminated when it is determined that the evidence necessary to prove the trespass cannot be produced or the necessary witnesses are unavailable and efforts to induce voluntary liability payment are unsuccessful [§104.3(e)].

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D. Negotiation of Realty Trespass Liability Claims.

When the trespass investigation and documentation are complete and before a notice of trespass letter or trespass decision and bill for trespass liability is sent, a meeting with the trespasser is recommended. The meeting time and place may be established by an informal letter (Illustration 1), telephone, or direct contact. The purpose of the meeting is to inform the trespasser of the Bureau's information concerning the trespass activity (i.e., suspected trespass), regulatory provisions for trespass resolution, and trespass liability claim collection procedures. The meeting should also be directed toward gathering new information from the trespasser and refining existing Bureau information. Factual, proven data are not subject to negotiation, but many items such as acreage, year-to-year use, type of value of improvements, crops production units, prices received, etc., can vary and the trespasser should be given the opportunity to present information on their behalf prior to any demands for settlement. The tone of the meeting should be cordial, while attempting to affect an informal administrative resolution of the trespass. In the meeting (negotiations) avoid threats, but explain the following to the trespasser.

1. Administrative Costs. Liability for costs incurred by the Bureau as a consequence of the trespass and how these costs can increase if settlement is delayed.
2. Land Rent Liability. Liability for the current and past years of trespass (based on the fair market value rental of the land) and the regulatory provision for trespass penalties if the trespass is not resolved in a timely manner. Land rent liability may be doubled for non-willful or tripled for repeated or knowing and willful trespass, as a penalty, where warranted (See Section I. Trespass Penalties).
3. Resolution Options. The options available to the Bureau for trespass resolution action if informal procedures break down, i.e., formal administrative action, civil court action, and criminal prosecution for willful trespass. (See Chapter V. Realty Trespass Resolution.)
4. Referral. The Bureau's formal administrative resolution process (i.e., debt collection procedures) including billing, demand letters, and referral of delinquent accounts to debt collection contractors, the IRS, and consumer credit agencies.
5. Administrative Offset. The Bureau may collect the trespass liability by administrative offset against IRS tax refunds or farm subsidy payments of the ASCS. (See Section L. 5. Collection by Administrative Offset.)

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6. Reports to IRS. Debts owed to the United States (i.e., trespass liability) and not paid, are income to the debtor (i.e., trespasser) and may be reported as income earned to the IRS. Also explain that the difference between an accepted compromise and the Bureau's bill for payment in full may also be reported to the IRS as earned income. Trespass liability may also be reported to IRS as addition to income.

7. Doing Business with Trespassers. The Standards suggest that the Bureau consider cancellation of any use authorization held by the trespasser if trespass liability is not paid and that, under the Bureau's realty trespass regulations, a land use authorization may be denied or canceled and sale or exchange lands denied if the trespass is not resolved.

8. Fines and/or Imprisonment. The Bureau has the authority to bring the trespasser before a U.S. magistrate (for a trespass knowingly and willfully committed) and the magistrate may impose a fine (in addition to trespass liability) of up to \$1,000 and imprisonment of not more than 112 months, or both.

**NOTE:** If the meeting(s) result in mutual agreement on trespass resolution, complete a Trespass Settlement Agreement (Illustration 13).

E. Administrative Cost – Liability and Calculation.

The trespasser's liability is for the actual costs incurred by the Bureau (United States) in resolving the trespass (i.e., salary and benefits, travel, materials, equipment and facilities, and utility costs). These costs begin with the confirmation of trespass and are categorized according to labor costs, operation costs, and indirect administrative costs. The definitions of each and the calculations for determining the total administrative costs are provided in Chapter II of the Annual Work Plan (AWP) Handbook (H-1681-1). Administrative costs assessed to individual trespassers may be subject to various levels of administrative and judicial review; therefore, it is extremely important that all costs and collections are properly deposited and documented. Form 1323-1 (Reimbursable Project Log) must be used to track these cost. Administrative costs and the log cover the period from case file establishment to the point to Bureau no longer controls the resolution action. Administrative costs are calculated according to the following formula:

$$\begin{array}{ccccccc} \text{Total} & & \text{Total} & & \text{Indirect} & & \text{Total} \\ \text{Labor Costs} & \text{Plus} & \text{Operation Costs} & \text{Plus} & \text{Cost} & = & \text{Administrative} \\ & & & & & & \text{Cost} \end{array}$$



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1. Labor Costs. When determining Bureau labor costs to resolve a realty trespass calculate the full cost of personnel salaries and benefits, including the cost of leave. Leave costs are a legitimate Bureau incurred labor costs. Although there are three common methods available to calculate full labor costs in the AWP Handbook (H-1681-1, Chapter II), the hourly rate method will be sufficient to calculate liability for most realty trespasses. Hourly rate is calculated as follows: From the GS/WG salary schedules, use the hourly rate for the proper grade level and step of the employee(s) who work on the trespass. Then determine the number of hours spent in performing the work. Remember, this is direct time and must be adjusted to account for leave surcharge because leave has not been included in the hourly calculations. This method also requires an adjustment to add employee benefits. The formula for total labor costs using this method is:

Hourly Rate	Benefit Adjustment	x	Hours	x	Leave Surcharge Adjustment	=	Total Labor
<u>Example:</u> \$14.76	x 1.20*	x	200	x	1.18*	=	\$4,180

\*Current rates are provided by the WO, Division of Budget.

2. Operation Costs. In addition to full labor costs, operation costs incurred as a consequence of the trespass must be calculated. All direct costs such as travel, appraisals, transportation, and contracts must be included. Equipment purchase costs should not be included in the calculation unless the equipment purchase is necessary to resolve the specific trespass case.

3. Indirect Administrative Costs. After the labor costs and direct operation costs have been calculated, add the Bureau-wide indirect cost rate. This rate covers the Bureau's cost of providing administrative support services (including those which cannot be identified as a direct cost) incurred as a consequence of trespass. This rate is calculated and provided to Field Offices each year by the Bureau's WO Division of Finance. As with leave costs, these are legitimate administrative costs attributable to each trespass resolution action. The total administrative costs are arrived at by multiplying the sum of the total labor costs and operation costs by one plus the indirect cost rate.

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4. Administrative Cost Documentation. The Interior Board of Land Appeals (IBLA) has upheld the Bureau's recovery of administrative costs for trespass settlement in Henry Deaton, 101 IBLA 177, February 17, 1988. However, in this decision the IBLA closely examined the fairness of the administrative costs claimed by the Bureau. Therefore, it is very important that a record of administrative costs (e.g., Form 1323-1, Reimbursable Project Log) specific to each trespass be maintained. This record will also be valuable in the future for the development of administrative costs recovery schedules specific to realty trespass abatement.

F. Deposit and Use of Administrative Costs.

Administrative costs received in trespass liability settlements are deposited to account 14X5017, Service Charges, Deposits, and Forfeitures within sub-activity 5310 (O&C Lands) or 5320 (PD Lands). These collections are available to the Bureau to offset the administrative costs of trespass resolution consistent with their availability in the Financial Management System (FMS). The ongoing costs of trespass resolution, however, are appropriately charged to the subactivity program area in which the trespass occurs as recorded in the Reimbursable Project Log (Form 1323-1). Amounts collected or administrative costs should relate directly to the cost of resolving a specific trespass.

G. Recovery of Land Rent Liability.

The United States is entitled to recover land rent for the current and all past years, and portions thereof, for which the unauthorized activities can be substantiated. There are several methods that may be used to determine land rent liability for realty trespass. Whatever method is used, the values should reflect the value in the local market for similar lands for the same or similar purposes as the trespassed public lands. In each case, exercise judgment in the method used for determining the amount of land rent due. Land rent liability may be determined or calculated on the basis of the following:

1. Rent or Fee Schedules. Schedules that reduce the Bureau administrative cost of land rent liability determination may be developed. For example if the schedule(s) will give a reasonable estimate of market rent in the area and a more precise determination would require unreasonable amounts of time and money that would be passed on to the trespasser as administrative costs, fee schedules are acceptable, unless the trespasser objects.

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2. Appraisal. The standard method of determining fair market rental value for Bureau purposes is through an appraisal. Appraisals are conducted in accordance with the BLM Manual 9310 – Real Property Appraisal. The value of improvements to, or on, the public lands is not included in the appraisal of market rent unless the improvements are owned by the United States and their value/use is a legitimate appraisal consideration. It should not be assumed that appraisals are always required to determine land rent liability. In fact, appraisals should only be considered if no other value determination method is satisfactory for the specific situation or if the trespasser insists on an appraisal. **THE COST OF APPRAISAL IS IN ADMINISTRATIVE COST THAT IS PASSED ON TO THE TRESPASSER.** The potential of this added cost should be explained to the trespasser at the negotiation stage. Appraisals should be requested if there is a strong likelihood for litigation.

3. Agricultural Cropshare. Rental liability for unauthorized agricultural development may be based upon a share of income realized from crop production. The landlord's share is normally one-third of the NET income. However, since the rent is based on unauthorized cropping, in which the United States is unwilling landlord, the trespasser shall not be given credit for expenses relating to crop production (i.e., seed, fertilizer, land improvement, etc.). Therefore, the landlord's share due the United States shall normally be one-third of the Gross value of crops produced. Also, land rent liability should reflect the average gross value of crops produced in the area, over the years of trespass, without reduction for years of crop failure or poor farm management. If reliable information on actual yields is unavailable, crop yield and crop value may be determined by using county averages contained in annual State agricultural reports as well as information from county extension agents and the Agriculture Stabilization and Conservation Service (ASCS). Application of the Cropshare method of determining value may require a local market comparison since Cropshare agreements may vary from area to area. Where local market Cropshare agreements are different than the one-third landlord's share, rent liability may be calculated on the basis of the local agreements.

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4. Agricultural Land Rent. Farmers Home Administration (FHA) and private banks are a good source for farm rental information. However, much of their information is confidential and should be used only to support information that is verifiable and available to anyone involved. For dryland farming, the particular State agency administering State land leases may be the best source for lease/rent comparison. State lands normally are the most similar to public lands in terms of improvements, tax status, legal liability, and public use. In some States, counties have developed a system for classifying and rating farm lands according to their agricultural productivity potential and value in relation to crops produced. Where this or similar systems occur, the land rent liability may reflect the county method of determining fair market rental value. Under this method the land is rated for its highest agricultural productivity potential (e.g., grain, alfalfa, row crops). A per-acre value is then put on the land based on that potential. This rate is charged no matter what crop is raised and simplifies the establishment of fair market rental values for multi-year trespass situations where crop rotation may occur. A simple method of determining a rental value uses crop acres times yield times crop price times rate of return. The return rate used is the Current Value of Funds Rate (CVFR) which is the 5-year rate used in calculating interest charges for outstanding debts or claims owed the U.S. Government. This rate is published in the Federal Register before October 31 each year and is used for the subsequent calendar year.

Example: Alfalfa Hay, 1988 CVFR.

$3 \text{ (acres)} \times 5 \text{ (tons/ac)} \times \$55 \text{ (price/ton)} \times 0.085 \text{ (CVFR)} = \$70$

This gives total rental, not per acre value.

5. Rights-of-Way Rent. Fair market value rental penalties for unauthorized linear rights-of-way are computed in accordance with the schedule in Title 43 CFR Part 2803.1-2, unless the exception applies. Fair market rental values for unauthorized site rights-of-way (e.g., communication sites) are determined through standard appraisal procedures.

6. Occupancy Rent. Residential, commercial, and/or industrial trespass rental liability may be determined by appraisal, established fee schedules, or rental rates common in the area.

**NOTE**: The cost of making an appraisal is an administrative cost charged to the trespasser.

7. Road Use-Maintenance Fees. When Bureau roads are used for commercial purposes (e.g., log hauling, leasable mineral development, etc.) under a Road Use-Maintenance Agreement, the agreements normally allow for nonexclusive use and include a fee, or a service, to provide for road improvement and/or maintenance. For violations (i.e., trespass when this type agreement is involved, rental liability should be commensurate with the fee schedules common to the appropriate use plus any other costs deemed appropriate.

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H. Deposit of Rental Liability Collections and Trespass Penalties.

Realty trespass rental liability funds and trespass penalties are deposited to account 141099, Fines, Penalties, and Forfeitures. THESE FUNDS ARE NOT AVAILABLE TO THE BUREAU.

I. Trespass Penalties.

When a trespass is willful, repeated or not resolved in a timely manner, a trespass penalty may be assessed in addition to the trespassers land rent liability. If the trespass is non-willful, a penalty equal to the fair market rental rate may be added making the total amount twice the land rent liability. If the trespass is knowing and willful, a penalty equal to twice the rental liability may be added making the total amount three times the land rent liability.

**NOTE:** THE REALTY TRESPASS REGULATIONS AT TITLE 43 CFR PART 2920 LIMIT THE TIME A TRESPASS PENALTY MAY BE ADDED TO 6 YEARS. There are no time limitations in the other realty trespass regulations and trespass penalties under these regulations should be assessed for the entire period that the trespass can be substantiated.

J. Rehabilitation/Stabilization of Trespass Lands.

Rehabilitation/stabilization liability includes all costs associated with restoring the trespass lands to their previous condition (i.e., landform and vegetative cover) or stabilizing the land to allow natural recovery to occur. Rehabilitation/stabilization liability also includes all costs associated with planning for and monitoring restoration/stabilization results.

1. Rehabilitation/Stabilization Plan. A rehabilitation/stabilization plan should be prepared for each site where rehabilitation/stabilization at the expense of the trespasser is appropriate. The plan should provide for monitoring and accounting of monies provided by the trespasser for rehabilitation/stabilization. The plan may cover nothing more than removal of litter using one individual and vehicle. It may, however, be a major document requiring extensive environmental considerations (EA/EIS), especially if hazardous materials or waste is involved. The timeframe covered by the plan is important. Long-term monitoring may be required where revegetation, stabilization, and long-term health hazards are involved. The plan should define satisfactory rehabilitation/stabilization in terms of when a trespasser may be released from rehabilitation/stabilization liability.

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2. Substance Removal. When realty trespass involves dumping of residential, commercial, or industrial waste, violation of local, county, or State Laws or ordinances may also have occurred (see Chapter VI. B. Personal Property and Chapter VIII. A. 8. State and Local Law Enforcement Officials). Requiring the removal of the dumped materials may be sufficient. IN some cases, however, toxic, flammable, or other health or safety endangering materials may be present which require extensive cleanup and sanitizing measures. There may be a need to keep the public away from the contaminated area, as well as surrounding areas. Long-term monitoring of the site and off site areas may be necessary. When land has been rendered useless or cannot be rehabilitated, the penalty (requested in a legal action) should be no less than the fair market value of the land for the time period over which the unauthorized activity can be substantiated as well as the time in the future that the land is rendered useless. Where criminal intent can be established, a fine and/or imprisonment under Title 43 CFR Subpart 9262 may also be appropriate. Refer hazardous waste trespass matters to the Hazardous Waste Coordinator and Bureau law enforcement personnel.

3. Rehabilitation/Stabilization by the Trespasser. The trespasser may perform the rehabilitation/stabilization requirements instead of paying such costs if it is determined by the Authorized Officer (AO) to be to the advantage of the U.S. Government. Consideration by the AO will include the difficulty and extent of rehabilitation needs, financial and technical capability of the trespasser to accomplish the job, equipment and manpower availability, and overall reliability of the trespasser. These considerations should be measured against the Bureau's ability to accomplish the same job within personnel, time, and budget constraints. A performance bond for the amount of the rehabilitation/stabilization cost estimate is required if the AO determines the trespasser may do the work (see the discussion of performance bonds at Items 5. Surety Bonds and 6. Personal Bonds, of this Section). The mere act of initially performing rehabilitation/stabilization work (e.g., seeding or planting) does not necessarily fulfill the trespasser's rehabilitation/stabilization liability. Several treatments may be required before success is achieved and an acceptable vegetative stand is established. The case file is not closed nor is the trespasser relieved of rehabilitation/stabilization liability until successful rehabilitation/stabilization has been achieved.

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4. Rehabilitation/Stabilization by the Bureau. The trespasser may, at the option of the AO, provide the Bureau with the funds necessary for rehabilitation/stabilization of the public lands damaged as a consequence of the trespass. The decision to accept rehabilitation/stabilization funds, and thereby, the responsibility for successful rehabilitation/stabilization, must be carefully weighed. The disadvantage of this option is that the Bureau absolves the trespasser of liability for rehabilitation/stabilization of the damaged lands. Advantages may include cost effectiveness or savings which may be utilized on other public lands or the Bureau may have expertise in rehabilitation (i.e., archaeological, cultural, endangered species, etc.) that are required for successful rehabilitation/stabilization (see Section K. Deposit and Use of Rehabilitation/Stabilization Funds).

5. Surety Bonds. A surety bond consists of a promise to the United States by the holder (trespasser) and a guarantee by the surety corporation that the surety will correct any failure by the holder to meet their obligations (i.e., under a rehabilitation/stabilization plan) or pay the United States the amount of the bond. For all Federal bonds, the surety corporation must be approved by the Department of the Treasury as an acceptable surety. The acceptance of the surety bond by the AO on behalf of the United States completes the cycle. The bond is a three-way contract between the holder, the surety and the United States that can be enforced should the holder fail to complete the rehabilitation/stabilization, or provide rehabilitation/stabilization funds to the Bureau, as required. The money paid by the holder to obtain the surety's entry into the arrangement is normally called the premium and is solely a matter between the holder and the surety.

6. Personal Bonds. With a personal bond, the holder (trespasser) may furnish cash to the United States to ensure adherence to rehabilitation/stabilization requirements. A personal bond can also be a deposit of a treasury bond or note (book entry deposit). This latter form of personal bond allows the holder to collect interest on the notes or bonds during the time required to complete obligations to the United States. Personal bond limitations are as follow:

a. The only acceptable forms of security for personal bonds are cash and book entry deposits. Certified or cashier's checks, negotiable bonds, notes issued by the United States, Certificates of Deposit, U.S. Savings Bonds, and notes of bonds issued by State of local governments or private companies are not acceptable forms of security. These instruments cannot be transferred to the Federal Reserve System and therefore would need to be physically stored in a Bureau facility. Fire, theft, and loss all pose unacceptable risks. THEREFORE, THE AO WILL NOT ACCEPT THESE INSTRUMENTS AS PERSONAL BONDS.

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b. Book entry deposits must be accompanied by a Power of Attorney authorizing the Secretary to collect the proceeds in the event the holder fails to adhere to the requirements covered by the bond. Under procedures of the Department of the Treasury, the notes or bonds are in a book entry form on deposit in the Federal Reserve System and no actual handling of the securities by the Bureau is involved. A charge is assessed by the Federal Reserve System for security safekeeping and transfer services. This charge is paid by the holder. Book entry deposits are acceptable as personal bonds.

K. Deposit and Use of Rehabilitation/Stabilization Funds.

Money received by the Bureau for rehabilitation/stabilization of lands damaged as a result of trespass settlement or bond forfeiture are deposited to account 14X5017, Service Charges, Deposits and Forfeitures within the subactivity 5310 (O&C Lands) or 5320 (PD Lands). THE MONIES RECEIVED ARE AVAILABLE FOR IN-STATE REHABILITATION AND STABILIZATION WORK ON THE LANDS DAMAGED BY THE TRESPASS. Reimbursable Projects, upon approval, allow charging costs to subactivity 5320 or 5310 within the approved limits. Cost accounting is accomplished by using individual project codes for specific rehabilitation projects. If there are funds in excess to those needed for repair of trespass area, these monies may be used to repair or protect other damaged public lands.

L. Liability Collection.

Liability billing procedures are found in Bureau Manual Section 1371, collections in 1372, and delinquent accounts in 1375. The following is provided for the general information of this Handbook user. Refer to the Accounts Clerk and referenced Manuals for specific guidance.

1. Request for Payment. When total trespass liability (administrative costs, land rent, restitution for land or resources used or damaged, rehabilitation/stabilization costs) has been determined and informal administrative resolution is unsuccessful, a trespass decision (Illustration 4 or 5) and request for payment is made (Form 1371-22). (See Chapter V, Section E. Appeal Procedures). This request should be made only when the AO has completed all negotiations and liability values are firm. Consult with the District or State Office Accounts Clerk for payment procedures.

2. Settlement Offer. After initiation of formal administrative action, the AO can accept offers of settlement for full liability only. If the trespasser offers to pay the full amount of liability, acceptance is by the AO. All payments should be held until cleared (if by check) before closing the case file. If there are unmet liabilities and a third demand letter (Illustration 16) is ignored, the claim is referred to SC-615, through the State Director, for collection action (Illustration 11).



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3. Promissory Notes. In cases where the trespasser is willing to meet full liability, but is not able to pay the obligation in full, a promissory note, not to exceed 3 years, may be executed (Form 1372-1). The note may provide for a single payment or payment in installments. When payment schedules are not met, issue the third demand letter. If the debt remains unpaid, send a case file summary (Illustration 11) to SC-615 for action (i.e., referral to a collection agency, the Denver Regional Solicitor, and/or the IRS).

4. Delinquent Accounts. Prior to referring delinquent trespass claims to SC-615 the following sequence of events must be accomplished by the Accounts Clerk in the originating office:

a. Demand Letters.

(1) Issue the first Demand Letter 31 days from the receipt (service of the Trespass Decision) of the original bill (Illustration 8).

(2) If payment has not been received within 15 days of the issuance of Demand Letter No. 1, issue the second Demand Letter (Illustration 9).

(3) If payment has not been received within 15 days of the issuance of Demand Letter No. 2, then issue a final Demand Letter (Illustration 10). This final demand letter is signed by the State Director or delegated official.

b. Referral for Collection. If debt is still outstanding after the third demand letter (91 days from the receipt (service of the Trespass Decision) of the original bill), the delinquent account file is forwarded to SC-615 (Illustration 11 or 12) for appropriate collection action (i.e., possible referral to a Debt Collection Contractor, the Denver Regional Solicitor for litigation, or the IRS).

5. Collection by Administrative Offset. Collection of trespass liability claims by administrative offset may be accomplished under regulations of the IRS and the ASCS. Recovery under the IRS regulations is offset against income tax refunds. Under the ASCS regulations, offset is against agricultural payment programs such as the Conservation Reserve Program. Collection by administrative offset is handled by the Service Center Debt Collection Coordinator (SC-615). Action to collect trespass liability by administrative offset is initiated by State Directors through the Service Center. The essential requirements to be met in administrative offset are:

a. A statement that the Bureau has, before requesting offset, first attempted to collect trespass liability and that all collection resources available to it have been exhausted.

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b. The specific debtors' names, address, and the county in which the offset should be taken (ASCS offset), a brief statement as to the basis for the debt, and the appropriate claim number used to identify the debt.

c. The amount of the debt set forth separately as to principal and interest. Interest, if any shall be computed to a date shown on the offset request. If interest continues to accrue after this date, the annual rate of interest and the amount of interest accruing on a daily basis shall be provided.

d. Certification that the debtor owes the debt and that the Bureau has complied with the administrative offset requirements of the Debt Collection Act (31 U.S.C. 3716) and the Federal Claims Collection Standards (4 CFR Part 102).

e. Whether or not the debtors, for whom offset is requested, have filed for bankruptcy. If so, the Bureau MUST enclose with its offset request a copy of the bankruptcy court order relieving the Bureau from the automatic stay provisions of the bankruptcy code.

**NOTE:** The cited statute and regulations require that an Agency, before collection by offset, provide a debtor with a written notice that provides: The nature and amount of the debt and the Agency's intention to collect by offset; an opportunity to inspect and copy Agency records pertaining to the debt; an opportunity to obtain review within the Agency of the determination of indebtedness; and an opportunity to enter into a written agreement with the Agency to repay the debt.

6. Compromise Offers and Liability Write-Off. Any offer less than the amount identified in the demand letter is a compromise offer and must be settled under procedures established by SC-615. Under these procedures State Directors at certain authorized levels may either accept compromise offers or write off liabilities (Illustrations 12 and 15). The District Accounts Clerk and/or SC-615 must be consulted for established settlement procedures. Also see Section B, Item 1. Compromise and 2. Write-off.

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Chapter VIII – Assistance in Realty Trespass Abatement and Coordination of Abatement Actions.

Bureau realty personnel and Authorized Officers (AO) have access to various Bureau specialists and legal and law enforcement personnel who can provide direct assistance in trespass abatement. Additionally, some public and private entities may provide indirect assistance in deterring, preventing, and resolving realty trespass and trespass liability. Coordination with, and utilization of, these various resources will enable the Bureau to establish an effective realty trespass abatement program. This chapter provides information on assistance that may be available in realty trespass abatement and coordination of realty trespass abatement efforts.

**NOTE:** In most cases State Directors or the Service Center has established formal contact procedures with many of the individuals and entities discussed herein. These procedures should be adhered to at all times.

A. Legal and Law Enforcement Assistance.

1. Special Agent-in-Charge and Special Agents. The Special Agent-in-Charge (SAC), located at the State Office, is responsible for the overall law enforcement program within that respective State. Depending on the program size, the law enforcement staff may consist of additional Special Agents and District and Area Rangers. One of the major responsibilities of Special Agents is to investigate known or suspected violations of law that pertain to the management, occupancy, development, and use of the public lands and protection of natural resources. In order to accomplish this the SAC and Special Agents are authorized by law to exercise “police powers.” This means they have the authority to carry firearms and have the powers of arrest, search, and seizure. Bureau Special Agents can participate in trespass abatement actions in various ways, including those listed below:

a. Review realty trespass situations prior to formal trespass notice to determine the following:

- If sufficient evidence exists.
- If criminal action is warranted.

b. Conduct investigations relative to trespass.

c. Assist District and Area personnel with trespass investigations.

d. Officer advice and support concerning the following:

- Trespass investigations.
- Collection and protection of evidence.
- Willful or innocent intent of trespass (i.e., criminal or civil).
- Options to pursue in trespass resolution.

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2. Law Enforcement Rangers. The Bureau Law Enforcement Rangers are the uniformed division of the Bureau's law enforcement program. They have identical law enforcement authority as the Special Agents and can perform the same actions as those listed above. However, they are utilized differently than Special Agents to assist in accomplishing the overall objective of the Bureau's law enforcement and resource protection program. By design, these uniformed Rangers provide high visibility on the public lands through constant patrol in marked vehicles. Their overall purpose is to protect the public lands and natural resources through deterrence. Ranges can assist in realty trespass abatement actions in the following manner:

- a. Provide personal service letters, notices of trespass, trespass decisions, etc.
- b. Provide security for District and Area personnel during trespass investigation or contact with trespassers.

3. Field or Regional Solicitor. The Field or Regional Solicitor's Office may provide assistance in realty trespass abatement in the following ways:

- a. Concur in State Director decisions to compromise or write off trespass liability claims (Illustrations 12 and 15).
- b. Review information relating to a realty trespass case and advise on the legal sufficiency of the Bureau's case.
- c. Represent the Bureau before the Interior Board of Land Appeals (IBLA) and Hearing Examiners of the Office of Hearings and Appeals.
- d. Provide advice on appropriate action by the Bureau when appeal of trespass action is before the IBLA.
- e. Advise on injunctive action to restrain a trespasser or prevent expected trespass.
- f. Serve as primary contact with the U.S. Attorney on civil trespass cases of the Bureau. Assists the U.S. Attorney if a Bureau trespass case goes to court.

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4. U.S. Attorney/Assistant U.S. Attorney. The U.S. Attorney's Office, Department of Justice, must be associated with any action, criminal or civil, involving the Federal court system. The U.S. Attorney prosecutes criminal violations for the U.S. Government. Civil actions initiated by the Bureau, through the Solicitor, are prosecuted in Federal court by the U.S. Attorney. The Office of the U.S. Attorney may also defend the United States or its employees from civil or criminal complaints filed by other parties. The U.S. Attorney also has the responsibility to review for legal sufficiency any criminal investigations conducted by other Federal agencies; represent the Bureau in civil and criminal matters in U.S. District Court, determine the type of case (civil or criminal) the Government will initiate and makes the decision as to whether or not a trespasser will be prosecuted by the United States.

5. U.S. Magistrate. The U.S. Magistrate is a Federal judicial officer. In the Federal court system, magistrates may conduct many of the preliminary or pretrial proceedings in both civil and criminal cases. Magistrates will try most criminal trespass violations according to regulations promulgated under Section 303(a) of the FLPMA. If arrest, search, or seizure warrants are needed to conduct criminal investigations, they are normally secured through the U.S. magistrate. Bureau Special Agents and Law Enforcement Rangers may appear before U.S. magistrates acting on behalf of the U.S. Attorney.

6. U.S. District Court. Normally, the U.S. district court will try the civil complaints filed with the district court on behalf of, or against, the United States. The U.S. district court judge will also try the more serious criminal violations resulting from criminal investigations conducted by Bureau Special Agents. Upon request of the defendant, misdemeanor violations also can be heard by the U.S. district court judge.

7. U.S. Parole and Probation Officers. These officials may also become involved with realty trespass abatement. If the Bureau initiates criminal action and the defendant is convicted, normally a pre-sentence investigation will be conducted by the parole and probation officer. During the course of that investigation, key BLM personnel may be contacted concerning the trespass or other violation. Their input may become part of the presentence investigation which is the basis for recommending an appropriate sentence to the court.

8. State and Local Law Enforcement Officials. Various State and local law enforcement officials may become involved in trespass abatement actions. It is appropriate to involve those officials as cooperative or participating parties in resolving trespass that violates State or local law or permitting or authorizing authority. These same officials can be valuable sources of information in investigations of trespass cases and also can be utilized as witnesses where appropriate.

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B. Indirect Trespass Abatement Assistance.

The Bureau has assistance available which, while not directly related to realty trespass on the public lands, can aid in the prevention and deterrence of trespass and the settlement of trespass liability claims. This assistance derives from the Federal Debt Collection Act and implementing Standards (see Appendix 1). Any trespass liability claim that is not properly resolved may be referred to tax, credit, or collection entities under the Standards and the Bureau's debt collection procedures. The potential of such referral should help prevent new trespass, deter existing trespass, and expedite resolution of trespass liability claims. The possibility of such referral should be well publicized in the local area of trespass occurrence and explained to trespassers in the early stages of trespass resolution negotiations. The referral entities and actions on unpaid trespass liability claims are discussed below:

1. Internal Revenue Service (IRS). Any unpaid trespass liability claim of the Bureau may be reported to the IRS as possible additions to the trespasser's income for Federal income tax reporting and payment purposes. Also the difference between the Bureau's trespass liability claim and compromise offer of the trespasser accepted by the Bureau may be reported by the Service Center (SC-615) to the IRS as earned income. Where these monies (additions to income) are not reported by the trespasser to the IRS, the trespasser may be subject to income tax penalties. Further, the Bureau may ask the IRS to recover trespass liability by offset against any income tax refunds due the trespasser. Requests for offset are initiated by the State Director through SC 615. (See Chapter VII. Settlement of Realty Trespass Liability)
2. Agricultural Stabilization and Conservation Service (ASCS). The ASCS may assist the Bureau in the settlement of trespass Liability claims by offset of the amount of the claim against any ASCS program payments being received by the trespasser. The program payments to be offset need not be directly related to the land in trespass. The primary criteria are that the trespasser is receiving ASCS payments and is financially liable to the Bureau for public land trespass. (See Chapter VII. Settlement of Realty Trespass Liability.)
3. Debt collection Contractors. A trespass liability claim which remains unpaid after three required demand letters is referred to SC-615. The SC may refer this claim to a debt collection contractor who has 6 months to attempt to collect the debt.
4. Consumer Credit Agencies. Any uncollected realty trespass liability claim may be reported to consumer credit agencies. This unpaid liability may adversely affect a trespasser's credit rating.

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C. Coordination of Trespass Abatement Actions.

Whenever civil or criminal action to resolve a trespass is considered, close coordination with the Bureau's law enforcement personnel and legal counsel is mandatory. In criminal cases, the SAC will coordinate actions with the State Director. In civil actions, direct contact with Field and Regional Solicitors may be limited to the State Director and delegated officials. In all instances, the State Director or other authorized official must be informed prior to initiating civil or criminal action on the part of the Bureau. Coordination with minerals personnel is mandatory in the resolution of mining claim occupancy trespass. Collection action on trespass liability claims is initiated by Bureau Accounts Clerks. Other Bureau specialists should be consulted as appropriate to each individual trespass case. Key coordination points are listed below:

1. Accounts Clerk. Close coordination must be maintained with State and District Office Account Clerks for current procedures and guidance on billing and collection of realty trespass claims. The Accounts Clerk initiates trespass claim collection action (billing and demand letters) and may request guidance on specific billing/collection action from the Bureau's Debt Collection Coordinator, Branch of General Accounting, SC-615.

2. Minerals Examiners. Bureau Manual Section 3893 provides guidance on determining when residential occupancy is not valid mining activity and the occupancy is "not reasonably incident to" determinations. Where residential occupancy is not reasonably incident to mining, the occupancy constitutes coordinated effort by Lands and Minerals personnel. The trespass may be resolved under procedures contained in Manual Section 3893 or in this Handbook. The goal should be prompt and efficient resolution of the trespass and restitution to the United States for past use and occupancy.

3. Range, Forestry, and Minerals Specialist. The use, destruction, or disposition of mineral and vegetative materials, including timber, without appropriate authorization, also constitutes trespass. Where unauthorized activities involve such resources, coordinate resolution efforts accordingly. The value and damages for mineral and vegetative materials used, destroyed, or disposed of will be recovered under trespass regulations appropriate to the unauthorized vegetative or mineral use, destruction, or disposal (e.g., timber, minerals, etc.).

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4. Cultural and Historic Resource Specialists. If historic, cultural, or archeologic resources are damaged or destroyed as a consequence of a realty trespass, alert the appropriate Bureau Cultural Resource Specialist and/or Bureau law enforcement personnel. Penalties may be assessed under the Archaeological Resources Protection Act of 1979 or Section 106 of the National Historical Preservation Act of 1966.



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Chapter IX. Planning for Realty Trespass Prevention, Detection, and Resolution.

Realty trespass prevention may be initiated through the Bureau Planning System (BPS), Annual Work Plan (AWP), and State, District, or Area Public Affairs Plans (PAP's). Planned actions for realty trespass detection and resolution are identified through the BPS or in the AWP. Trespass prevention relies on a fully informed public and Bureau personnel to spread the word. Trespass prevention may be facilitated through actions included in PAP's although some preventive measures may be prescribed through the BPS or in the AWP. Detection relies on knowledge of the location and authorized use of public lands and an alert staff to detect unauthorized activities. Resolution of realty trespass may be accomplished through termination of trespass authorization of the activity under realty authorization regulations, or arrangements for the trespasser to acquire the public lands on which the trespass has occurred through sale or exchange. Decisions for long-term land use authorizations and public land disposal (i.e., sale or exchange) must be made through the BPS. Such decisions cannot be implemented until after the trespass itself has been resolved. Plans and planned actions that may be taken to prevent, detect, and resolve realty trespass are as follow:

A. Statewide Realty Trespass Prevention, Detection, and Resolution Plans.

In 1987 each State, based on recommendations of the Inspector General, was directed to prepare and implement Statewide plans for realty trespass prevention, detection, and resolution. Data from these plans should be incorporated into AWP's, Resource Management Plans (RMP's), or PAP updates as appropriate. Plan implementation is achieved through the AWP process.

B. Maintenance of Statewide Realty Trespass Prevention, Detection, and Resolution Plans.

Statewide plans for realty trespass prevention, detection, and resolution must be maintained and updated as new realty trespass information becomes available. However, those plans do not replace formal established Bureau planning processes. As data from the Statewide plans are incorporated into the AWP, RMP, or PAP, the Statewide plans may be phased out.

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C. Bureau Planning System.

1. Pre-Planning. Realty trespass must always be evaluated to determine whether or not it is a planning issue. This evaluation must take place for all new planning starts or plan amendments.

2. Planning Scope. Districts where realty trespass is not a major problem may only need to evaluate realty trespass as a management concern in the lands planning element of the RMP process. Where realty trespass activities are not under control, it may be an issue and actions may be defined in the RMP to address the trespass problem. Implementation of RMP decisions may require activity plans for realty trespass prevention, detection, and resolution.

D. Planning Considerations. The following are suggested actions for realty trespass prevention, detection, and resolution that should be evaluated as input to the AWP, RMP, or PAP as appropriate.

1. Trespass Prevention. Planned actions to prevent realty trespass may include these steps:

- a. Signing or fencing of public land boundaries.
- b. Brochures to inform the public of prohibitions against realty trespass and requirements for authorized use of the public lands. Distribution may include Bureau Offices, courthouses, post offices, and other appropriate public places.
- c. Establishment and posting of surveillance maps in Bureau offices and establishment of scheduled patrol by Bureau personnel.
- d. Cadastral survey of boundaries of trespass problem areas.
- e. Preparation of topographic maps, aerial photos, or orthophotoquads showing common private/public land boundaries for distribution to adjacent owners.
- f. Media releases to publicize successful trespass resolution efforts.
- g. Dissemination of realty trespass information to the public, District Advisory Boards, users and operators, etc. Provide information on the public costs of trespass, requirements for use authorizations, the Bureau's desire to work with trespassers, etc.

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h. Inclusion of summary of realty authorization and mining claim occupancy regulations (trespass and authorized use) with grazing bills, right-of-way grants, land use authorization, approved plans of operations for mining claims, etc. Make summaries available to the public in District and Area Offices.

2. Trespass Detection.

a. Plan for a systematic inventory to identify realty trespass activities. Utilize orthophotoquads, aerial flights and photography, remote sensing, field investigation, staff knowledge, ASCS data, and other data as available.

b. Concentrate inventory/detection efforts on areas particularly susceptible to trespass, such as private/public land areas with common boundaries, springs and streams, productive soils, developing rural subdivisions, areas of mineral activity, inactive and abandoned buildings, etc.

c. Inventory on a logical geographic or township, range and section basis. Areas with a history of low realty trespass activities may be excluded.

d. Record all areas of suspect trespass on planning map overlays.

3. Trespass Resolution. Trespass may be resolved by terminating the use, settling of trespass liability and legalizing the use under a land use authorization or transferring the land in trespass from public ownership. Termination of the trespass may be accomplished by informal or formal administrative action, by citation under Title 43 CFR 9262, or by civil or criminal action in the courts (see Chapter V. Realty Trespass Resolution). By regulation, a land use authorization or disposal of public lands (i.e., sale or exchange) may not be accomplished until the trespass is resolved. In practice, the trespass liability may be resolved and authorized use or land disposal action processed concurrently. Planned actions for trespass resolution may include:

a. Termination.

(1) When the trespass violates State or local law(s), it may be appropriate to plan for the involvement of State or local law enforcement officials in the termination action.

(2) Plan immediate posting, restoration, and rehabilitation of trespass sites to discourage new or repeat trespass.

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(3) Plan for the involvement of Bureau law enforcement personnel in trespasses which are, or may be, criminal in nature.

(4) Plan a course of action for termination(s) prior to initiating termination/eviction actions. This may include contacting local new media, Congressional staffs, local government officials, etc.

b. Use Authorizations. Unauthorized use, occupancy, and development may be legalized, following resolution of the trespass, under a land use authorization if the use is consistent with or does not conflict with Bureau plans and management programs. (Also see Section H, Chapter V. Realty Trespass Resolution.) Consistency determinations of use authorizations are made through, and documented in, the RMP or Activity Plans. Trespass liability must be satisfactorily resolved prior to authorizing use. Consideration of use authorizations may include:

(1) Short-term land use authorizations may be generated on an interim basis, following liability payment, to provide the Bureau time to arrive at a decision, through the RMP process, to terminate, authorize, or dispose of the lands in trespass.

(2) In certain situations, residential occupants may be eligible for a non-assignable life time lease under the provisions of Title 43 CFR §2920.1 if the occupant acknowledges in writing that the lands being occupied are owned by the United States and the site is the sole residence of the occupant.

(3) Where the authorized use is short-term and the use is the same or similar to the trespass use, the authorization action will qualify for a categorical exclusion under the National Environmental Policy Act (516 DM 6, Appendix 5).

(4) Where a significant number of post trespass, short-term authorizations are anticipated, the Bureau's intention to consider authorization of the trespass activities should be included in the draft RMP/EIS for public comment. The RMP should stress "consider" and avoid making a commitment to authorize.

(5) Short-term authorizations via Minimum Impact Permits, under Title 43 CFR §2920.2-2, may be used to legalize trespasses in the absence of specific plans, if the legalized activity will not cause appreciable damage or adversely impact the land.

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c. Land Disposal. Decisions on sale or exchange of public lands on which a trespass has been resolved must be made through the Bureau Planning System. If a parcel of land found to be in trespass has not been identified for disposal in the applicable land use plan, then a plan amendment is required in order to proceed with a disposal action. (See Title 43 CFR Subparts 2711 and 2201 as well as appropriate Manual sections for guidance on sales, color-or-title, and exchanges.)

E. Planning for Site Rehabilitation/Stabilization.

Rehabilitation/stabilization of lands following termination of a trespass could involve removal of buildings and structures and in some cases significant earth movement. (Also see Section J, Chapter VII. Settlement of Realty Trespass Liability.) The following should be considered as part of the NEPA process prior to the initiation of rehabilitation/stabilization efforts:

1. Historic Resources. In some instances buildings or structures with potential historic significance may remain after a trespass is resolved. The historic significance of such buildings and structures should be evaluated by appropriate Bureau personnel prior to removal or destruction. (Also see Chapter VI. Unauthorized Real and Personal Property.) Planned actions for protection, rehabilitation/stabilization, and interpretation of historic buildings or structures acquired by the Bureau may be developed in the RMP.
2. Cultural Resources. In some cases rehabilitation/stabilization could adversely affect cultural resources on or adjacent to the trespass site. Cultural clearance by appropriate Bureau specialists is advisable in areas of known cultural resource values.
3. Threatened and Endangered Species. Rehabilitation/stabilization impacts on known habitats of threatened and endangered plant and animal species should be evaluated and rehabilitation/stabilization directed to enhance species recovery whenever possible.
4. Modification of Landforms. Where rehabilitation/stabilization involves removal of artificial landforms (e.g., dikes, earthen dams, etc.), the relocation of distribution of the earth must be properly “engineered” to avoid adverse physical and environmental effects at the new location and on plant and animal species (e.g., plugged water channels, erosion, gullies, etc.).

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F. Plan Maintenance and Utilization.

1. Review. Review planned trespass prevention, detection, and resolution actions at least annually to assure that current Bureau policy, procedures, and realty trespass abatement directives are being followed.

2. Coordination.

a. Coordinate plans on a Statewide basis, by District, and with adjoining States to assure that all Field Offices are working in a coordinated effort to detect, prevent, and resolve realty trespass.

b. Coordinate plan implementation and maintenance efforts with other affected subactivities.

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Glossary of Terms

-A-

Abate: to reduce in amount, intensity, to put an end to or to suppress something (a nuisance).

Administrative costs: all costs incurred by the Bureau as a consequence of a realty trespass.  
Administrative costs include labor, operation, and indirect administrative costs.

Administrative resolution: the resolution of a realty trespass utilizing informal or formal administrative procedures available to the Bureau without resorting to civil or criminal resolution procedures.

-C-

Civil resolution: resolution of trespass in the civil court. Civil resolution is initiated when administrative resolution efforts are unsuccessful.

Civil trespass: any realty trespass where knowing and willful trespass cannot be substantiated.  
Civil trespass may be resolved administratively on an informal or formal basis; or, by civil court action.

Criminal penalty: a fine of not more than \$1,000 or imprisonment of not more than 12 months, or both, that may be imposed upon persons convicted of knowing and willful trespass. A trespass penalty may also be applied.

Criminal resolution: prosecution in criminal court. Criminal prosecution is initiated where the nature or severity of the trespass warrants criminal action. Successful criminal prosecution may result in a fine up to \$1,000 and imprisonment up to one year or both.

-D-

Damages: includes trespass liability, trespass penalties and any court ordered monetary award to punish or deter future trespass - - a legal term.

-F-

Formal administrative resolution: settlement of trespass and trespass liability under formal administrative procedures available to the Bureau (i.e., termination, debt collection, citation, and other manualized or regulatory processes).

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-I-

Informal administrative resolution: settlement of trespass and trespass liability without resorting to formal procedures available to the Bureau (i.e., formal administrative resolution).

-K-

Knowing and willful trespass: violation of the Bureau's realty trespass regulations committed deliberately, not accidentally, repeatedly, or with prior knowledge or intent.

-L-

Land rent liability: the fair market rental value of public lands used in trespass (also land rent or rental liability). Land rent is calculated on the basis of the current and past years, or portions thereof, that the public lands were used in trespass.

Land use authorization: authorization by lease, permit, easement, or right-of-way grant for non-Bureau use of the public lands as provided in Title 43 CFR Part 2800, 2810, 2880, or 2920.

Liability: see trespass liability.

Liability compromise: an agreed upon settlement of a trespass liability claim for less than the Bureau's total liability claim against a realty trespasser.

Liability write-off: suspension or termination of trespass liability claim collection action, generally in recognition that the collection of the claim is unlikely. Write-off does not extinguish a trespasser's liability.

-N-

Non-willful trespass: unintentional or unknowing violation of the Bureau's realty trespass regulations or violation where knowing and willful intent cannot be substantiated.

-P-

Penalty: see trespass penalty and/or criminal penalty.

-R-

Realty authorization regulations: the regulations of Title 43 CFR Parts 2800, 2810, 2880, and 2920 under which use, occupancy, or development of the public lands for various specified purposes may be authorized.



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**Realty trespass:** the use, occupancy or development of the public lands or resources without a valid land use authorization issued under 43 CFR Parts 2800, 2810, 2880, or 2920. Also includes use of additional lands or resources not specifically authorized in a valid land use authorization and unnecessary and undue degradation of lands in a valid land use authorization.

**Realty trespass abatement:** all actions to prevent, detect, and resolve realty trespass on the public lands.

**Realty trespass activities:** use, occupancy, or development of the public lands without authorization and where the use, occupancy, or development could be authorized under the Bureau's realty authorization regulations (also realty trespass).

**Realty trespass regulations:** the Bureau's realty trespass regulations collectively include the regulations at 43 CFR Parts 2800, 2810, 2880, 2920, and subparts 9239 and 9262.

**Reasoned judgment:** a decision, based on documented facts, that would be arrived at by a majority of knowledgeable individuals when presented with the same factual information.

**Rehabilitation/stabilization costs:** all costs of returning lands damaged as a consequence of the trespass to their original productive capability; or measures designed to halt damage to the land in order to permit natural processes to restore the land to its condition prior to the trespass activity.

-S-

**Standards:** the Federal Claim Collection Standards (Title 4 CFR, Chapter II) which implement the Federal Claims Collection Act of 1966.

**Suspected trespass:** any realty activity where public land status is reasonably confirmed, the activity requires use authorization, and the use authorization has not been confirmed.

-T-

**Term or life time lease:** authorization via a lease for a fixed time period or the life time of the holder(s).

**Timely manner:** prompt efficient resolution of a trespass without unnecessary delaying actions on the part of the trespasser.

**Title transfer:** change in land status accomplished by sale, exchange, color-of-title, etc.

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**Trespass decision:** initiation of formal action to administratively resolve a trespass. Trespass decisions are accompanied by a bill for collection of total trespass liability and constitutes a written demand. Trespass decisions may be appealed to the Interior Board of Land Appeals. Administrative actions following a trespass decision may include appropriate demand letters and referral to the Bureau's Debt Collection coordinator.

**Trespass detection:** includes public land inventory utilizing available information, field examination, aerial photography, orthophoto quads, etc., to locate and identify trespass on the public lands.

**Trespass liability:** includes land rent, administrative costs incurred as a consequence of trespass and responsibility for rehabilitation/stabilization of public land altered as a consequence of trespass activities (also liability).

**Trespass liability claim:** a monetary debt (i.e., liability claim) incurred as a consequence of reality trespass on the public lands. Trespass liability claims are collected under the authority of the Federal Claims Collection Act and its implementing Standards.

**Trespass notice:** a notice that the Bureau has initiated trespass proceedings against a trespasser. Trespass notices provide a compliance period and are not appealable to the Interior Board of Land Appeals (see trespass decision).

**Trespass penalty:** Two or three times land rent liability (also penalty). Trespass penalties may be imposed for a trespass which is not resolved in a timely manner. For non-willful trespass the penalty is equal to the land rent liability making the total an amount that is twice the land rent liability. For knowing and willful trespass a penalty equal to two times the land rent liability may be imposed making the total an amount that is three times the land rent liability.

**Trespass prevention:** those actions designed to inform the public of the requirements for legal use, occupancy, or development of the public lands. Trespass prevention seeks to eliminate potential trespass prior to its establishment.

**Trespass recordation:** the documentation of suspected realty trespass in the Bureau's Automated Land and Minerals Record System.

**Trespass resolution:** includes termination or legalization of the trespass activity and settlement of trespass liability incurred by a trespasser.

**Trespass settlement:** an agreed upon payment of trespass liability or termination of a trespass liability claim. Settlement may include payment in full, compromise, or write-off.

H-9232-1 – REALTY TRESPASS ABATEMENT

Trespass termination: may include termination of the unauthorized activity or legalizing the activity under an appropriate land use authorization or title transfer.

-U-

Unauthorized activities: use, occupancy, or development of the public lands without authorization under the Bureau's realty authorization regulations (also realty trespass).

Unauthorized occupancy: those activities which result in full or part time human occupancy of the public lands. Unauthorized occupancy may include occupancy of natural shelters, placement or construction of dwellings, cabins, and other structures or vehicles on the public lands for trade, commercial, manufacture, residential, or recreational purposes (includes mining claim occupancy when the occupancy is not reasonably incident to mining).

Unauthorized use: those activities that do not appreciably alter the physical character of the land or resources. Unauthorized use includes: abandonment of property, trash, refuse, litter, and filming where set construction is not involved; harvest of hay and seed (native or introduced); storage of machinery, sand and gravel, farm implements and products, fences, corrals, etc., on the public lands.

Unauthorized development: those activities that physically alter the character of the public lands. Unauthorized development includes cultivation, resource development (wells, catchments, dams, etc.) irrigation, and other land alteration for development purposes.

Unnecessary or undue degradation: surface disturbance greater than that which would normally result when the same or similar activity is being accomplished by a prudent person in a usual, customary, and proficient manner and takes into consideration the effects of the activity on other resources and land uses, including those resources and uses outside the area activity.

-W-

Written demand: a request in writing for payment and/or rehabilitation/stabilization in the form of billing delivered by certified mail, return receipt requested, or personally serviced (also see trespass decision).

H-9232-1 – REALTY TRESPASS ABATEMENT

Sample Letter – Informal Administrative Resolution

UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
Blizzard Resource Area  
987 E. Snow Street  
Blizzard, Montana 87654

In Reply Refer to:  
9232 (Case Number)

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

(Name)  
123 Main Street  
Anywhere, USA 20000

Dear (Name):

A recent examination of the public land located near (describe the area using local landmarks) indicates that you may be using public land without authorization. It appears that you are (describe unauthorized activity). This activity is unauthorized and is in violation of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732) and Title 43 CFR §2920.2 1-2.1/

I would appreciate meeting with you to discuss this situation. Please let me know within (no.) days of receipts of this letter when you can meet with me. If you have any questions concerning this letter, please contact (name) in this office at (phone number). I am confident we can work together in arriving at an agreeable solution in this matter. Thank you.

Sincerely,

(Area Manager)

---

1/ For right-of-way trespass cite Title 43 CFR Part 2800 and FLPMA or Title 43 CFR Part 2880 and the Mineral Leasing Act as appropriate.

H-9232-1 – REALTY TRESPASS ABATEMENT  
Sample Letter – Notice of Trespass

UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
Folsom Resource Area  
63 Natoma Street  
Folsom, California 95630-2679

In Reply Refer To:  
9232 (Case Number)

NOTICE OF TRESPASS

CERTIFIED MAIL – RETURN RECEIPT REQUESTED  
OR  
PERSONAL SERVICE 1/

(Name)  
6130 Holbrook Road  
Ione, California 95640

Dear (Name):

The United States of America, through the Bureau of Land Management, has instituted trespass proceedings against you for unauthorized use of public lands pursuant to Title 43 CFR §2920.1-2 under the authority of the Federal Land Policy and Management Act of 1976 (U.S.C. 1701 et seq.). 2/

(Describe the trespass activity)

If you have evidence or information which tends to show you are not a trespasser as we have alleged, you are allowed (no.) day from receipt of this notice to present such evidence or information at the Bureau of Land Management office at (address). Failure to respond to this notice in a timely manner may result in trespass penalties and a citation for your appearance before a designated United States magistrate who may impose a fine of not more than \$1,000 or imprisonment of not more than 12 months, or both, under Title 43 CFR §9262.1.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_  
(Name and title of authorized officer)

---

1/ If by personal service, complete Certificate of Service, Illustration 17.

2/ For right-of-way trespass cite 43 CFR Part 2800 and FLPMA or 43 CFR Part 2880 and the Mineral Leasing Act as appropriate.

H-9232-1 – REALTY TRESPASS ABATEMENT  
Sample Letter – Notice to Cease and Desist

UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
Folsom Resource Area  
63 Natoma Street  
Folsom, California 95630-2679

In Reply Refer To:  
9232 (Case Number)

NOTICE TO CEASE AND DESIST

CERTIFIED MAIL – RETURN RECEIPT REQUESTED  
OR

PERSONAL SERVICE 1/

(Name)  
6130 Holbrook Road  
Ione, California 95640

Dear (Name):

You are hereby notified that the Bureau of Land Management has made an investigation and evidence tends to show that you are in trespass. We allege that you (maybe, have, or are) (violated, violating) the law(s) specified below and the regulation(s) approved by the Secretary of the Interior pursuant to the authority vested in the Secretary by said law. Therefore, it is our opinion that you: (Name)

Have: (Describe trespass act such as: discarded personal property items consisting of household trash, litter, appliances, and construction refuse on the public lands described herein.)

Are in violation of: The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

And are in violation of the following regulations: Title 43 CFR §2920.1-2 and §9262.1 (copies attached).

On the following described land: (describe by legal subdivision, or if un-surveyed by concise reference to natural or manmade features):

As a consequence of this act you are liable for fair market value rent of the public lands, rehabilitation/stabilization of the lands damaged by your act, and administrative costs incurred by the Bureau as a consequence of your act.

---

1/ If by Personal Service, complete Certificate of Service Illustration 17

H-9232-1 – REALTY TRESPASS ABATEMENT

If allegations we have made are correct you must permanently cease and desist from the violations charged. You are allowed (no.) days to arrange settlement of trespass liability, or to present evidence to show that you are not a trespasser as we have alleged, at (address of District or Area Office).

Failure to comply with this notice and resolve your trespass liability may result in trespass penalties and a citation for your appearance before a designated United States magistrate who may impose a fine of not more than \$1,000 or imprisonment of not more than 12 months, or both, under Title 43 CRF §9262.1.

Sincerely,

---

(Name and title of authorized officer)

H-9232-1 – REALTY TRESPASS ABATEMENT  
Sample Letter – Formal Trespass Decision

UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
(Address)

In Reply Refer To:  
9232 (Case Number)

\_\_\_\_\_  
(Date)

TRESPASS DECISION

CERTIFIED MAIL – RETURN RECEIPT REQUESTED  
OR  
PERSONAL SERVICE 1/

(Name)  
6130 Holbrook Road  
Ione, California 95640

Dear (Name):

On (date of letter – Notice of Trespass) you were advised, by certified mail, that the United States of America, through the Bureau of Land Management, had instituted trespass proceedings against you for the unauthorized cutting and removal of forest product from public lands pursuant to Title 43 CFR §2920.1-2 under the authority of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.). 2/

The purpose of our letter was to provide you time in which to make restitution for your trespass (payment of your trespass liability) or provide information or evidence to assist in the equitable adjudication of BLM’S trespass claim against you. (Based on your response we have determined your trespass liability to date) or (Based on your failure to comply or respond we have determined your trespass liability, including a trespass penalty, to date) or (Appropriate Statement of trespasser’s response and BLM action following the letter notice of trespass). Your liability is summarized on the enclosed bill.

Within 30 days of receipt of this decision, you have the right to appeal to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR 4.400. If an appeal is taken, you must follow the procedures outlined in the enclosed Form 1842-1, Information on Taking Appeals to the Interior Board of Land Appeals. The appellant has the burden of showing that the decision appealed from is in error.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Name and Title of authorized officer)

Enclosures

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1/ If by personal service, complete Certificate of Service, Illustration 21.  
2/ For right-of-way trespass cite 43 CFR Part 2800 and FLPMA or 43 CFR Part 2880 and the Mineral Leasing Act as appropriate.



H-9232-1 – REALTY TRESPASS ABATEMENT  
Sample Letter – Formal Trespass Decision/Notice to Remove

TRESPASS DECISION/NOTICE TO REMOVE

Sample Letter – Formal Trespass Decision

UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
Folsom Resource Area  
63 Natoma Street  
Folsom, California 95630-2679

In Reply Refer To:  
9232 (Case Number)

CERTIFIED MAIL – RETURN RECEIPT REQUESTED  
OR  
PERSONAL SERVICE 1/

(Name)  
6130 Holbrook Road  
Ione, California 95640

Dear (Name):

On (date of letter – Notice of Trespass) you were advised, by certified mail, that the United States of America, through the Bureau of Land Management, had initiated trespass proceedings against you pursuant to Title 43 CFR §2920.1-2 under the authority of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) 2/ for certain unauthorized property generally described as (one 12’X18’ wood frame cabin, outbuildings, and personal property in the cabin and outbuildings) which our investigation discloses that you own located on the following described lands under the jurisdiction of the Bureau of Land Management:

(Land Description)

WHEREAS, the existence of said property upon said lands constitutes unlawful trespass for which you are liable in the amount shown on the enclosed bill.

NOW, THEREFORE, PLEASE TAKE NOTICE that all said trespass liability is required to be paid and said property is hereby required to be removed on or prior to (date)3/, an, in the absence of such payment and removal by such time, the United State, in order to prevent further trespass upon said land, will without further or any additional notice of any kind whatsoever and without liability, take possession, destroy, or remove said property at your expense.

---

1/ If by personal service, complete Certificate of Service, Illustration 21.

2/ For right-of-way trespass cite 43 CFR Part 2800 and FLPMA or 43 CFR Part 2880 and the Mineral Leasing Act as appropriate.

3/correlate the date with the 30 day appeal period as appropriate.

H-9232-1 – REALTY TRESPASS ABATEMENT

Also, the United States will take possession of and remove any personal property of value that may be found on the premises, and the land, by the removal date given in this notice, and will store said personal property, all at the owner's expense at (name and address of District Office or other storage facility.) Such property may be claimed within 30 days after removal, upon payment of trespass liability including expenses as may accrue. Failure to claim said property within the specified time will constitute abandonment and said property shall become the property of this United States.

Failure to remove said property and resolve your trespass liability by the removal date may result in trespass penalties and a citation for your appearance before a designated United States magistrate who may impose fine of not more than \$1,000 or imprisonment of not more than 12 months, or both, under Title 43 CFR §9262.1.

Within 30 days of receipt of this decision, you have the right of appeal to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR 4.400. If an appeal is taken, you must follow the procedures outlined in the enclosed Form 1842-1. Information on Taking Appeals to the Interior Board of Land Appeals. The appellant has the burden of showing that the decision appealed from is in error.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

\_\_\_\_\_  
(Name and title of authorized officer)

Enclosures

H-9232-1 – REALTY TRESPASS ABATEMENT  
Sample Legal Notice

UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
Billings Resource Area  
810 E. Main Street  
Billings, Montana 59105

9232 (Case Number)

LEGAL NOTICE

TO WHOM IT MAY CONCERN:

The United States of America, through the Bureau of Land Management, (name) District Office, (address), has instituted trespass proceedings pursuant to Title 43 CFR §2920.1-2 under the authority of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) 1/ for certain unauthorized property generally described as (one 12'X18' wood frame cabin, outbuildings, and personal property in the cabin and outbuildings) located on the following described lands under the jurisdiction of the Bureau of Land Management:

(Description of Land)

WHEREAS, the existence of said property upon said lands constitutes unlawful trespass for and interferes with the proper and efficient administration and management of said lands, and in addition thereto establishes liability to the United States for the unauthorized use and occupancy of said lands.

NOW, THEREFORE, PLEASE TAKE NOTICE that all said trespass liability is required to be paid and said property is hereby required to be removed on or prior to (date)3/, an, in the absence of such payment and removal by such time, the United State, in order to prevent further trespass upon said land, will without further or any additional notice of any kind whatsoever and without liability, take possession, destroy, or remove said property at your expense.

The United States will take possession of and remove any personal property of value that may be found on the premises, and the land, by the removal date given in this notice, and will store said personal property, all at the owner's expense at (name and address of District Office or other storage facility.) Such property may be claimed within 30 days after removal, upon payment of trespass liability including expenses as may accrue. Failure to claim said property within the specified time will constitute abandonment and said property shall become the property of this United States.

---

1/ For right-of-way trespass cite 43 CFR Part 2800 and FLPMA or 43 CFR Part 2880 and the Mineral Leasing Act as appropriate.

H-9232-1 – REALTY TRESPASS ABATEMENT

Failure to remove said property and resolve your trespass liability by the removal date may result in trespass penalties and a citation for your appearance before a designated United States magistrate who may impose fine of not more than \$1,000 or imprisonment of not more than 12 months, or both, under Title 43 CFR §9262.1.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

---

(Name and title of authorized officer)

H-9232-1 – REALTY TRESPASS ABATEMENT

Sample Warning Notice – Property of the United States

..... 9232 (Case Number)

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
(Office Address)

PROPERTY OF THE UNITED STATES

THIS PROPERTY IS ON PUBLIC LAND AND IN THE POSSESSION OF THE UNITED STATES. ALL PERSONS ARE PROHIBITED UNDER PENALTY OF THE LAW FROM USING, MOLESTING, DESTROYING, OR REMOVING THIS PROPERTY, EXCEPT BY ORDER OF THE UNITED STATES. ALL VIOLATORS WILL BE PROSECUTED TO THE FULL EXTENT OF THEIR CIVIL OR CRIMINAL LIABILITY.

WARNING

DO NOT DESTROY THIS NOTICE. THE LAW PRESCRIBES PUNISHMENT FOR ANY PERSON REMOVING OR DEFACING THIS NOTICE.

SECRETARY OF THE INTERIOR

By: \_\_\_\_\_  
(Name and title of authorized officer)

\_\_\_\_\_  
(Date)

.....

9231-1 – REALTY TRESPASS ABATEMENT

Sample Demand Letter No. 1

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
(Office Address)

In Reply Refer To:  
9232 (Case Number)

\_\_\_\_\_  
(Date)

CERTIFIED MAIL – RETURN RECEIPT REQUESTED  
OR  
PERSONAL SERVICE<sup>1/</sup>

(Name)  
123 Main Street  
Anywhere, USA 2000

Dear (Name):

Payment has not been received on our Bill for Collection (number), in the amount of \$ (amount). This bill, issued for trespass liability incurred as a consequence of trespass upon the public lands of the United States, has now become delinquent.

As indicated in our original bill, additional charges have been incurred due to your failure to pay on time. The amount of your indebtedness, as of (date), is as follows:

Principal:	\$	.
Interest at (no.) % per year:	\$	.
Administrative Handling Charge (at \$5 per billing notice):	\$	.
Administrative Penalty at (no.) % per year <sup>2/</sup> :	\$	.
Total Now Due:	\$	.

Interest at the above indicated rate will continue to accrue for each day until this bill is paid. For each additional billing necessitated by your failure to remit payment, a \$5 administrative handling charge will be added.

If you have any questions concerning this bill, please contact (name) in this office at (phone number).

Sincerely,

\_\_\_\_\_  
(Name and title of authorized officer)

Enclosure: <sup>3/</sup>

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<sup>1/</sup> If by personal service, complete Certificate of Service. (Illustration 21)  
<sup>2/</sup> Add this line and current percentage rate only if the bill is more than 90 days delinquent  
<sup>3/</sup> Enclose a copy of Notice of Actions in Event of Delinquency (back of Form 1371-22).

9231-1 – REALTY TRESPASS ABATEMENT

Sample Demand Letter No. 2

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
(Office Address)

In Reply Refer To:  
9232 (Case Number)

\_\_\_\_\_  
(Date)

CERTIFIED MAIL – RETURN RECEIPT REQUESTED  
OR  
PERSONAL SERVICE<sup>1/</sup>

(Name)  
123 Main Street  
Anywhere, USA 2000

Dear (Name):

On (date) this office (personally served or sent you a letter by Certified Mail) requesting that you either pay our Bill for Collection (number), or advise us if you had any questions regarding your liability.

Since we have not heard from you, we assume you acknowledge this liability and have allowed it to become even further delinquent. Interest will continue to accrue until payment is received.

The amount of your indebtedness as of (date) is as follows:

Principal:	\$	.
Interest at (no.) % per year:	\$	.
Administrative Handling Charge (at \$5 per billing notice):	\$	.
Administrative Penalty at (no.) % per year <sup>2/</sup> :	\$	.
Total Now Due:	\$	.

If you have any questions concerning this bill, please contact (name) in this office at (phone number).

Sincerely,

\_\_\_\_\_  
(Name and title of authorized officer)

Enclosure: <sup>3/</sup>

<sup>1/</sup> If by personal service, complete Certificate of Service. (Illustration 21)

<sup>2/</sup> Add this line and current percentage rate only if the bill is more than 90 days delinquent

<sup>3/</sup> Enclose a copy of Notice of Actions in Event of Delinquency (back of Form 1371-22).

H-9232-1 – REALTY TRESPASS ABATEMENT

Sample Demand Letter No. 3

UNITED STATES  
 DEPARTMENT OF THE INTERIOR  
 BUREAU OF LAND MANAGEMENT  
 (Office Address)

In Reply Refer To:  
 9232 (Case Number)

\_\_\_\_\_  
 (Date)

CERTIFIED MAIL – RETURN RECEIPT REQUESTED  
 OR  
 PERSONAL SERVICE<sup>1/</sup>

(Name)  
 123 Main Street  
 Anywhere, USA 2000

Dear (Name):

Our records indicate that payment has not been received on our Bill for Collection (number). This bill is now seriously past due. If payment is not received within 30 days of the date of this notice, this account will be referred to a debt collection agency and to a credit reporting agency (credit bureau).

In accordance with Department of Interior collection procedures, this account may also be referred to legal counsel for legal action and to the Internal Revenue Service for inclusion as income to you, as well as possible refund off-set. Assessment of interest and penalty charges will continue to accrue until the debt is liquidated.

The amount of your indebtedness as of (date) is as follows:

Principal:	\$	.
Interest at (no.) % per year:	\$	.
Administrative Handling Charge (at \$5 per billing notice):	\$	.
Administrative Penalty at (no.) % per year <sup>2/</sup> :	\$	.
Total Now Due:	\$	.

If you have any questions concerning this bill, please contact (name) in this office at (phone number).

Sincerely,

\_\_\_\_\_  
 (Name and title of authorized officer)

Enclosure: <sup>2/</sup>

---

<sup>1/</sup> If by personal service, complete Certificate of Service. (Illustration 21)

<sup>2/</sup> Enclose a copy of Notice of Actions in Event of Delinquency. (back of Form 1371-22).



H-9232-1 – REALTY TRESPASS ABATEMENT

Sample Memorandum – Case File summary-Delinquent Account

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
(Office Address)

In Reply Refer To:  
9232 (Case Number)

MEMORANDUM

To: Service Center Director (SC-615)  
From: State Director,  
Subject: Case File Summary of Final Bill

All delinquent account procedures have been executed for this case. The case file is being transmitted for referral to a Debt Collection Agency.

CASE FILE SUMMARY OF FINAL BILL

Date: \_\_\_\_\_ Referring Office Code: \_\_\_\_\_  
Debtor Contact in Office \_\_\_\_\_  
Name: \_\_\_\_\_ Phone No. (FTS) \_\_\_\_\_  
Address: \_\_\_\_\_ Bill Number \_\_\_\_\_  
\_\_\_\_\_

Bill for Collection No. \_\_\_\_\_ is summarized as follows:

Principal Balance: \$ \_\_\_\_\_  
Interest at \_\_\_\_\_ % per Year: \$ \_\_\_\_\_  
Administrative Handling Charges: \$ \_\_\_\_\_  
(at \$5 per billing notice)  
Administrative Penalty Charges \$ \_\_\_\_\_  
@ \_\_\_\_\_ % per year (if more than 90  
Days delinquent):  
Total Due: \$ \_\_\_\_\_

Attachment: Case File

H-9232-1 – REALTY TRESPASS ABATEMENT  
Sample Memorandum – Uncollectible Claim/Referral Recommendation

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
(Office Address)

In Reply Refer To:  
9232 (Case Number)

MEMORANDUM

To: Service Center Director (SC-615)  
From: State Director,  
Subject: Write-off of Uncollectible Trespass Liability Claim

The following claim has been written off by a Journal Voucher (Form 1370-39).

JV No. \_\_\_\_\_ Dated \_\_\_\_\_ (copy attached):  
Amount \$ \_\_\_\_\_ Bill for Collection No. \_\_\_\_\_

The claim has been written off for the following reason:

\_\_\_\_\_  
\_\_\_\_\_

We recommend that this write-off amount be referred to a credit reporting agency and to the Internal Revenue Service. Attached for your use is a completed cover sheet for write-offs (Form 1370-45).

.....

(To be completed by Field or Regional Solicitor for amounts of \$601 to \$2,500. The Solicitor must approve amounts of \$2,501 to \$20,000.)

This write-off action meets the Standards for suspending or terminating claims contained in 4 CFR Part 104.

\_\_\_\_\_  
(Solicitor)

\_\_\_\_\_  
(Date)

Attachments

Cc: DM

H-9232-1 – REALTY TRESPASS ABATEMENT  
Sample Trespass Settlement Agreement

9232 (Case Number)

AGREEMENT

I hereby agree to the following terms to resolve trespass liability on the described public lands.

I. Legal Description:

II. Settlement: \$ \_\_\_\_\_ (Land rent, administrative costs, and rehabilitation/stabilization.)

- a.  Payment in full, receipt of which is hereby acknowledged.  
Personal check no. \_\_\_\_\_
- b.  Promissory Note: completed Form 1372-1 attached.

III. Resolution:

- a.  Termination.
- b.  Authorization by permit.
- c.  Other (specify).

IV. Rehabilitation/Stabilization:

- a.  I agree to rehabilitate and/or stabilize the described land in accordance with the attached rehabilitation plan. Bond in the amount of \$ \_\_\_\_\_ will be provided to ensure compliance.
- b.  Settlement in II above includes funding for the necessary rehabilitation/stabilization by the Bureau of Land Management.

V. Further action required of the undersigned: (permit application, exchange proposal, etc.) explain.

\_\_\_\_\_  
(Name, Please Print)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(City, State, Zip Code)

\_\_\_\_\_  
(Name and title of authorized officer)

Attachments:

- Promissory Note (Form 1372-1).
- Rehabilitation Plan.

H-9232-1 – REALTY TRESPASS ABATEMENT  
Sample Liability Compromise Offer

9232 (Case Number)

TRESPASS SETTLEMENT OFFER

(To be completed by offeror)

I hereby submit a compromise offer of \$ \_\_\_\_\_ to  
settle \_\_\_\_\_ Trespass No. \_\_\_\_\_ which was  
originally assessed at \$ \_\_\_\_\_

By signing below, I agree that deposit by the United States into a holding (suspense) account of the money offered will not constitute a release, satisfaction, or discharge of trespass liability unless and until the offer has been accepted by the proper authority. I understand that if the offer is rejected, a refund will be issued to me by Government check.

\_\_\_\_\_  
(Name, Please Print)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City, State, Zip Code)

\_\_\_\_\_  
(Date)



(To be completed by Field or Regional Solicitor)

Per BLM Manual 1372.33A3b, I hereby advise that trespass liability will not be discharged by depositing the above specified remittance.

\_\_\_\_\_  
(Solicitor)

\_\_\_\_\_  
(Date)

H-9232-1 – REALTY TRESPASS ABATEMENT  
Sample Memorandum – Write-Off Based on Compromise Offer

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
(Office Address)

In Reply Refer To:  
9232 (Case Number)

MEMORANDUM

To: Service Center Director (SC-615)  
From: State Director,  
Subject: Write-off Of Debt Due To Compromise Offer

The following debt balance has been written off by a Collection Data Sheet (Form 1370-35) dated \_\_\_\_\_ (copy attached):

Amount \$ \_\_\_\_\_ Bill for Collection No. \_\_\_\_\_  
(write off amount) (Form 1371-22)

The amount to be written off is the difference between the Bill for Collection and the accepted compromise offer of settlement.

The Bill for Collection amount has been negotiated, adjusted, and compromised because there is real doubt as to the Government’s ability to prove its case in court for the full amount claimed. Therefore, we recommend that this write –off amount (be or not be) reported to the Internal Revenue Service. Attached for your use is a completed cover sheet for write-offs (Form 1370-45).

.....  
(To be completed by Field or Regional Solicitor for amount to \$20,000.)

This write-off action meets the Standards for compromise of claims contained in 4 CFR Part 103.

\_\_\_\_\_  
(Solicitor)

\_\_\_\_\_  
(Date)

Attachments

Cc: DM

H-9232-1 – REALTY TRESPASS ABATEMENT

Sample Statement of Relinquishment

\*\*\*\*\*

9232 (Case Number)

RELINQUISHMENT

This is to advise you that I (we) \_\_\_\_\_

\_\_\_\_\_  
(Name(s) of Persons Executing Relinquishment)

Have no further interest in the property located on the following described public land:

(land description)

The property which I (we) wish to relinquish is generally described as follows:

(Description of property: e.g. one 12' x 18' wood frame cabin, outbuildings, and personal property in the cabin and outbuildings.)

By this document, all my (our) right, title, or interest in and to the above described property on the above described land, is hereby quitclaimed and relinquished to the United States by the undersigned, and disposition may be made in any manner that is in the interest of the United States, free and clear of any liability for damages accruing to the disposal of said property.

I (we) understand that this relinquishment does not satisfy any trespass liability incurred as a consequence of placing the relinquished property on public lands administered by the Bureau of Land Management.

Date: \_\_\_\_\_

\_\_\_\_\_  
(Name)

\*\*\*\*\*

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Sample Certificate of Personal Service

\*\*\*\*\*

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
(Office Address)

9232 (Case Number)

CERTIFICATE OF PERSONAL SERVICE

I, \_\_\_\_\_, CERTIFY that on  
the \_\_\_\_\_ day of \_\_\_\_\_,  
19 \_\_\_\_\_, I served written notice on \_\_\_\_\_, of  
(address) \_\_\_\_\_,

The party's address of record, by a true copy of the within notice by  
Personal Service.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

\*\*\*\*\*

H-9232-1 – REALTY TRESPASS ABATEMENT

Sample  
Statement of Diligent Search & Inquiry

\*\*\*\*\*

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
(Office Address)

9232 (Case Number)

STATEMENT OF DILIGENT SEARCH AND INQUIRY

I, \_\_\_\_\_, an employee of the Bureau of Land Management,  
(District Office and State), certify that I began a diligent search and inquiry on (date) to locate  
the owner of the following property:

(Describe Property)

Located on public land in:

(Legal Description)

I was unable to locate the property owner after diligent search and inquiry which I completed on  
(date)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

\*\*\*\*\*



## H-9232-1 – REALTY TRESPASS ABATEMENT

## **CHAPTER II – FEDERAL CLAIMS COLLECTION STANDARDS (GENREAL ACCOUNTING OFFICE – DEPARTMENT OF JUSTICE)**

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**§101.1****PART 101—SCOPE OF STANDARDS**

Sec.

101.1 Prescription of standards.

101.2 Definitions.

101.3 Antitrust, fraud, tax, and interagency claims excluded.

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101.6 Subdivision of claims not authorized.

101.7 Required administrative proceedings.

101.8 Omissions not a defense.

AUTHORITY: 31 U.S.C. 3711.

SOURCE: 49 FR 8896, Mar. 9, 1984, unless otherwise noted.

**§ 101.1 Prescription of standards.**

The regulations in this chapter, issued jointly by the Comptroller General of the United States and the Attorney General of the United States under 31 U.S.C. 3711(e)(2), prescribe standards for the administrative collection, compromise, termination of agency collection, and the referral to the General Accounting Office, and to the Department of Justice for litigation, of civil claims as defined by 31 U.S.C. 3701(b), by the Federal Government for money or property. Additional guidance is contained in Title 4 of the General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies. Regulations prescribed by the head of an agency pursuant to 31 U.S.C. 3711(e)(1) will be reviewed by the General Accounting Office as a part of its audit of the agency's activities.

**§ 101.2 Definitions.**

(a) *Claim and debt.* For the purposes of these standards, the terms "claim" and "debt" are deemed synonymous and interchangeable. They refer to an amount of money or property which has been determined by an appropriate agency official to be owed to the United States from any person, organization, or entity, except another Federal agency.

(b) A debt is considered *delinquent* if it has not been paid by the date specified in the agency's initial written notification (§ 102.2 of this chapter) or applicable contractual agreement, unless other satisfactory payment arrangements have been made by that date, or if, at any time thereafter, the debtor fails to satisfy obligations under a payment agreement with the creditor agency.

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(c) As used in this chapter, *referral for litigation* means referral to the Department of Justice for appropriate legal proceedings, unless the agency concerned has statutory authority for handling its own litigation.

(d) In this chapter, words in the plural form shall include the singular and vice versa; and words importing the masculine gender shall include the feminine and vice versa. The terms "includes" and "including" do not exclude matters not listed but which are in the same general class.

**§ 101.3 Antitrust, fraud, tax, and interagency claims excluded.**

(a) The standards in this chapter relating to compromise, suspension, and termination of collection action (parts 103 and 104) do not apply to any claim based in whole or in part on conduct in violation of the antitrust laws, or to any claim as to which there is an indication of fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any other party having an interest in the claim. Only the Department of Justice has authority to compromise, suspend, or terminate collection action on such claims. The standards in this chapter relating to the administrative collection of claims (part 102) do apply, but only to the extent authorized by the Department of Justice in a particular case. Upon identification of a claim of any of the types described in the first sentence of this paragraph, the agency involved should refer the matter promptly to the Department of Justice. At its discretion, the Department of Justice may return the claim to the forwarding agency for further handling in accordance with the regulations in this chapter.

(b) Tax claims, as to which differing exemptions, administrative considerations, enforcement considerations, and statutes apply, are also excluded from the coverage of this chapter.

(c) This chapter does not apply to claims between Federal agencies. Federal agencies should attempt to resolve interagency claims by negotiation. If

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**Federal Claims Collection Standards****§ 101.4 4 CFR Ch. II (1–1–00 Edition)**

the claim cannot be resolved by the agencies involved, it should be referred to the General Accounting Office.

**§ 101.4 Compromise, waiver, or disposition under other statutes not precluded.**

Nothing contained in this chapter is intended to preclude agency disposition of any claim under statutes and implementing regulations other than Subchapter II of Chapter 37 of Title 31 of the United States Code and these Standards, providing for the collection, compromise, termination of collection action, or waiver in whole or in part of such a claim. See, for example, the Federal Medical Care Recovery Act, 76 Stat. 593, 42 U.S.C. 2651 et seq., and applicable regulations, 28 CFR 43.1 et seq.

In such cases, the laws and regulations which are specifically applicable to claims collection activities of a particular agency take precedence over this chapter. Except as provided in § 102.19 of this chapter (Exemptions), the standards set forth in this chapter should be followed in the disposition of civil claims by the Federal Government by collection, compromise, or termination of collection action (other than by waiver pursuant to other statutory authority) where neither the specific statute nor its implementing regulations establish standards governing such matters.

**§ 101.5 Conversion claims.**

The instructions contained in this chapter are directed primarily at the recovery of money on behalf of the United States and the circumstances in which Government claims may be disposed of for less than the full amount claimed. Nothing contained in this chapter is intended, however, to deter an agency from demanding the return of specific property or from demanding, in the alternative, either the return of the property or the payment of its value.

**§ 101.6 Subdivision of claims not authorized.**

Claims may not be subdivided to avoid the monetary ceiling established by 31 U.S.C. 3711(a)(2). A debtor's liability

arising from a particular transaction or contract shall be considered a single claim in determining whether the claim is one of less than \$20,000, exclusive of interest, penalties, and administrative costs, for purposes of compromise (§ 103.1 of this chapter) or suspension or termination of collection action (§ 104.1 of this chapter).

**§ 101.7 Required administrative proceedings.**

Nothing contained in this chapter is intended to require an agency to omit, foreclose, or duplicate administrative proceedings required by contract or other laws or regulations.

**§ 101.8 Omissions not a defense.**

The standards set forth in this chapter shall apply to the administrative handling of civil claims of the Federal Government for money or property but the failure of an agency to comply with any provision of this chapter shall not be available as a defense to any debtor.

**PART 102—STANDARDS FOR THE ADMINISTRATIVE COLLECTION OF CLAIMS**

Sec.

- 102.1 Aggressive agency collection action.
- 102.2 Demand for payment.
- 102.3 Collection by administrative offset.
- 102.4 Administrative offset against amounts payable from Civil Service Retirement and Disability Fund.
- 102.5 Use of consumer reporting agencies.
- 102.6 Contracting for collection services.
- 102.7 Personal interview with debtor.
- 102.8 Contact with debtor's employing agency.
- 102.9 Suspension or revocation of license or eligibility.
- 102.10 Liquidation of collateral.
- 102.11 Collection in installments.
- 102.12 Exploration of compromise.
- 102.13 Interest, penalties, and administrative costs.
- 102.14 Analysis of costs.
- 102.15 Documentation of administrative collection action.
- 102.16 Automation.
- 102.17 Prevention of overpayments, delinquencies, and defaults.
- 102.18 Use and disclosure of mailing addresses.
- 102.19 Exemptions.
- 102.20 Additional administrative collection action.

AUTHORITY: Subchapter II of Chapter 37 of Title 31, U.S.C.

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SOURCE: 49 FR 8897, Mar. 9, 1984, unless otherwise noted.

**§ 102.1 Aggressive agency collection action.**

(a) Each Federal agency shall take aggressive action, on a timely basis with effective follow-up, to collect all claims of the United States for money or property arising out of the activities of, or referred to, that agency in accordance with the standards set forth in this chapter. However, nothing contained in this chapter is intended to require the General Accounting Office or the Department of Justice to duplicate collection actions previously undertaken by any other agency, or to perform collection actions which should have been undertaken by any other agency in accordance with the standards set forth in this chapter.

(b) All agencies are expected to cooperate with one another in their debt collection activities.

**§ 102.2 Demand for payment.**

(a) Appropriate written demands shall be made promptly upon a debtor of the United States in terms which inform the debtor of the consequences of failure to cooperate. A total of three progressively stronger written demands at not more than 30-day intervals will normally be made unless a response to the first or second demand indicates that a further demand would be futile and the debtor's response does not require rebuttal. In determining the timing of demand letters, agencies should give due regard to the need to act promptly so that, as a general rule, if necessary to refer the debt to the Department of Justice for litigation, such referral can be made within one year of the agency's final determination of the fact and the amount of the debt. When necessary to protect the Government's interests (for example, to prevent the statute of limitations, 28 U.S.C. 2415, from expiring), written demand may be preceded by other appropriate actions under this chapter, including immediate referral for litigation.

(b) The initial demand letter should inform the debtor of: (1) The basis for the indebtedness and whatever rights the debtor may have to seek review within the agency; (2) the applicable standards for assessing interest, penalties,

and administrative costs (§ 102.13); and (3) the date by which payment is to be made, which normally should be not more than 30 days from the date that the initial demand letter was mailed or hand-delivered. Agencies should exercise care to insure that demand letters are mailed or hand-delivered on the same day that they are actually dated. Apart from this, there is no prescribed format for the demand letters. Agencies should utilize demand letters and procedures that will lead to the earliest practicable determination of whether the debt can be resolved administratively or must be referred for litigation.

(c) As appropriate to the circumstances, agencies may consider including, either in the initial demand letter or in subsequent letters, such items as the agency's willingness to discuss alternative methods of payment, policies with respect to use of consumer reporting agencies (§ 102.5) and collection services (§ 102.6), the agency's intentions with respect to referral of the debt to the Department of Justice for litigation, and, depending on applicable statutory authority, the debtor's entitlement to consideration of waiver.

(d) Agencies should respond promptly to communications from the debtor, within 30 days whenever feasible, and should advise debtors who dispute the debt to furnish available evidence to support their contentions.

(e) If, either prior to the initiation of, at any time during, or after completion of the demand cycle, an agency determines to pursue offset, then the procedures specified in §§ 102.3, 102.4, or 5 U.S.C. 5514, as applicable, should be followed. The availability of funds for offset and the agency's determination to pursue it release the agency from the necessity of further compliance with paragraphs (a), (b), and (c) of this section. If the agency has not already sent the first demand letter, the agency's written notification of its intent to offset must give the debtor the opportunity to make voluntary payment, a requirement which will be satisfied by compliance with the notice requirements of §§ 102.3, 102.4, or 5 U.S.C. 5514.

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**§ 102.3 4 CFR Ch. II (1–1–00 Edition)****§ 102.3 Collection by administrative offset.**

(a) Collection by administrative offset will be undertaken in accordance with these standards and implementing regulations established by each agency on all claims which are liquidated or certain in amount in every instance in which such collection is determined to be feasible and not otherwise prohibited.

(1) For purposes of this section, the term “administrative offset” has the meaning provided in 31 U.S.C. 3716(a)(1).

(2) Whether collection by administrative offset is feasible is a determination to be made by the creditor agency on a case-by-case basis, in the exercise of sound discretion. Agencies should consider not only whether administrative offset can be accomplished, both practically and legally, but also whether offset is best suited to further and protect all of the Government’s interests. In appropriate circumstances, agencies may give due consideration to the debtor’s financial condition, and are not required to use offset in every instance in which there is an available source of funds. Agencies may also consider whether offset would tend to substantially interfere with or defeat the purposes of the program authorizing the payments against which offset is contemplated. For example, under a grant program in which payments are made in advance of the grantee’s performance, offset will normally be inappropriate. This concept generally does not apply, however, where payment is in the form of reimbursement.

(b) Except as provided in § 101.4, this paragraph or § 102.4, the standards in this paragraph shall apply to the collection of debts by administrative offset under 31 U.S.C. 3716, some other statutory authority, or the common law.

(1) Agencies shall prescribe regulations for the exercise of administrative offset.

(2) Agency regulations required by paragraph (b)(1) of this section shall establish procedures for providing a debtor, before the offset is made, with appropriate procedural rights. Except as otherwise required by law, those regulations shall provide for: Written notice

of the nature and amount of the debt, and the agency’s intention to collect by offset; opportunity to inspect and copy agency records pertaining to the debt; opportunity to obtain review within the agency of the determination of indebtedness; and opportunity to enter into a written agreement with the agency to repay the debt. Agency regulations shall also establish procedures for making requests for offset to other agencies holding funds payable to the debtor, and for processing requests for offset that are received from other agencies.

(i) Agencies have discretion and should exercise sound judgment in determining whether to accept a repayment agreement in lieu of offset. The determination should balance the Government’s interest in collecting the debt against fairness to the debtor. If the debt is delinquent and the debtor has not disputed its existence or amount, an agency should accept a repayment agreement in lieu of offset only if the debtor is able to establish that offset would result in undue financial hardship or would be against equity and good conscience.

(ii) In cases where the procedural requirements specified in paragraph

(b)(2) of this section have previously been provided to the debtor in connection with the same debt under some other statutory or regulatory authority, such as pursuant to a notice of audit disallowance, the agency is not required to duplicate those requirements before taking administrative offset.

(3) Agencies may not initiate administrative offset to collect a debt under 31 U.S.C. 3716 more than 10 years after the Government’s right to collect the debt first accrued, unless facts material to the Government’s right to collect the debt were not known and could not reasonably have been known by the official or officials of the Government who were charged with the responsibility to discover and collect such debts. When the debt first accrued is to be determined according to existing law regarding the accrual of debts, such as under 28 U.S.C. 2415.

(4) Agencies are not authorized by 31 U.S.C. 3716 to use administrative offset with respect to: (i) Debts owed by any

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**Federal Claims Collection Standards § 102.3**

State or local Government; (ii) debts arising under or payments made under the Social Security Act, the Internal Revenue Code of 1954, or the tariff laws of the United States; or (iii) any case in which collection of the type of debt involved by administrative offset is explicitly provided for or prohibited by another statute. However, unless otherwise provided by contract or law, debts or payments which are not subject to administrative offset under 31 U.S.C. 3716 may be collected by administrative offset under the common law or other applicable statutory authority.

(5) Agencies may affect administrative offset against a payment to be made to a debtor prior to the completion of the procedures required by paragraph (b)(2) of this section if: (i) Failure to take the offset would substantially prejudice the Government's ability to collect the debt, and (ii) the time before the payment is to be made does not reasonably permit the completion of those procedures. Such prior offset must be promptly followed by the completion of those procedures. Amounts recovered by offset but later found not to be owed to the Government shall be promptly refunded.

(c) Type of hearing or review: (1) For purposes of this section, whenever an agency is required to afford a debtor with a hearing or review within the agency, the agency shall provide the debtor with a reasonable opportunity for an oral hearing when: (i) An applicable statute authorizes or requires the agency to consider waiver of the indebtedness involved, the debtor requests waiver of the indebtedness, and the waiver determination turns on an issue of credibility or veracity; or (ii) the debtor requests reconsideration of the debt and the agency determines that the question of the indebtedness cannot be resolved by review of the documentary evidence, for example, when the validity of the debt turns on an issue of credibility or veracity. Unless otherwise required by law, an oral hearing under this section is not required to be a formal evidentiary-type hearing, although the agency should always carefully document all significant matters discussed at the hearing.

(2) This section does not require an oral hearing with respect to debt collection systems in which determinations of indebtedness or waiver rarely involve issues of credibility or veracity and the agency has determined that review of the written record is ordinarily an adequate means to correct prior mistakes. In administering such a system, the agency is not required to sift through all of the requests received in order to accord oral hearings in those few cases which may involve issues of credibility or veracity.

(3) In those cases where an oral hearing is not required by this section, the agency shall nevertheless accord the debtor a "paper hearing," that is, the agency will make its determination on the request for waiver or reconsideration based upon a review of the written record.

(d) Appropriate use should be made of the cooperative efforts of other agencies in effecting collection by administrative offset, including use of the Army Holdup List. Generally, agencies should not refuse to comply with requests from other agencies to initiate administrative offset to collect debts owed to the United States, unless the requesting agency has not complied with the applicable provisions of these standards or the offset would be otherwise contrary to law.

(e) Collection by offset against a judgment obtained by a debtor against the United States shall be accomplished in accordance with 31 U.S.C. 3728.

(f) Whenever the creditor agency is not the agency which is responsible for making the payment against which administrative offset is sought, the latter agency shall not initiate the requested offset until it has been provided by the creditor agency with an appropriate written certification that the debtor owes a debt (including the amount) and that the provisions of this section have been fully complied with.

(g) When collecting multiple debts by administrative offset, agencies should apply the recovered amounts to those debts in accordance with the best interests of the United States, as determined by the facts and circumstances of the particular case, paying special

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attention to applicable statutes of limitations.

**§ 102.4 Administrative offset against amounts payable from Civil Service Retirement and Disability Fund.**

(a) Unless otherwise prohibited by law, agencies may request that moneys which are due and payable to a debtor from the Civil Service Retirement and Disability Fund be administratively offset in reasonable amounts in order to collect in one full payment or a minimal number of payments debts owed to the United States by the debtor. Such requests shall be made to the appropriate officials of the Office of Personnel Management in accordance with such regulations as may be prescribed by the Director of that Office.

(b) When making a request for administrative offset under paragraph (a) of this section, an agency shall include a written certification that:

- (1) The debtor owes the United States a debt, including the amount of the debt;
- (2) The requesting agency has complied with the applicable statutes, regulations, and procedures of the Office of Personnel Management; and
- (3) The requesting agency has complied with the requirements of § 102.3 of this part, including any required hearing or review.

(c) Once an agency decides to request administrative offset under paragraph (a) of this section, it should make the request as soon as practical after completion of the applicable procedures in order that the Office of Personnel Management may identify and “flag” the debtor’s account in anticipation of the time when the debtor requests or becomes eligible to receive payments from the Fund. This will satisfy any requirement that offset be initiated prior to expiration of the applicable statute of limitations. At such time as the debtor makes a claim for payments from the Fund, if at least a year has elapsed since the offset request was originally made, the debtor should be permitted to offer a satisfactory repayment plan in lieu of offset upon establishing that changed financial circumstances

would render the offset unjust.

(d) If the requesting agency collects part or all of the debt by other means before deductions are made or completed pursuant to paragraph (a) of this section, the agency shall act promptly to modify or terminate its request for offset under paragraph (a) of this section.

(e) This section does not require or authorize the Office of Personnel Management to review the merits of the requesting agency’s determination with respect to the amount and validity of the debt, its determination as to waiver under an applicable statute, or its determination to provide or not provide an oral hearing.

**§ 102.5 Use of consumer reporting agencies.**

(a) Agencies shall develop and implement procedures for reporting delinquent debts to consumer reporting agencies. For purposes of this section, the term “consumer reporting agency” has the meaning provided in 31 U.S.C. 3701(a)(3).

(b) In developing procedures under paragraph (a) of this section, agencies must have due regard for compliance with the Privacy Act of 1974, as amended, 5 U.S.C. 552a. However, consumer reporting agencies themselves are not subject to the Privacy Act.

(c) Agency procedures developed under paragraph (a) of this section shall be consistent with the requirements of 31 U.S.C. 3711(f) and § 102.3(c) of this part.

**§ 102.6 Contracting for collection services.**

(a) All agencies have authority to contract for collection services to recover delinquent debts, provided that the following conditions are satisfied:

- (1) The authority to resolve disputes, compromise claims, suspend or terminate collection action, and refer the matter for litigation (§ 105.1) must be retained by the agency;
- (2) The contractor shall be subject to the Privacy Act of 1974, as amended, to the extent specified in 5 U.S.C. 552a(m), and to applicable Federal and State laws and regulations pertaining to debt collection practices, such as the Fair Debt Collection Practices Act, 15 U.S.C. 1692;

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**Federal Claims Collection Standards § 102.10**

(3) The contractor must be required to account strictly for all amounts collected; and

(4) The contractor must agree to provide any data contained in its files relating to § 105.2(a) (1), (2), and (3) of this chapter upon returning an account to the creditor agency for subsequent referral to the Department of Justice for litigation.

(b) Funding of collection service contracts:

(1) An agency may fund a collection service contract on a fixed-fee basis, that is, payment of a fixed fee determined without regard to the amount actually collected under the contract. Payment of the fee under this type of contract must be charged to available agency appropriations.

(2) An agency may also fund a collection service contract on a contingent fee basis, that is, by including a provision in the contract permitting the contractor to deduct its fee from amounts collected under the contract. The fee should be based on a percentage of the amount collected, consistent with prevailing commercial practice.

(3) An agency may enter into a contract under paragraph (b)(1) of this section only if and to the extent provided in advance in its appropriation act or other legislation, except that this requirement does not apply to the use of a revolving fund authorized by statute.

(4) Except as authorized under paragraph (b)(2) of this section, or unless otherwise specifically provided by law, agencies must deposit all amounts recovered under collection service contracts (or by agency employees on behalf of the agency) in the Treasury as miscellaneous receipts pursuant to 31 U.S.C. 3302.

**§ 102.7 Personal interview with debtor.**

Agencies will undertake personal interviews with their debtors whenever this is feasible, having regard for the amounts involved and the proximity of agency representatives to such debtors.

**§ 102.8 Contact with debtor's employing agency.**

When a debtor is employed by the Federal Government or is a member of

the military establishment or the Coast Guard, and collection by offset cannot be accomplished in accordance with 5 U.S.C. 5514, the employing agency will be contacted for the purpose of arranging with the debtor for payment of the indebtedness by allotment or otherwise in accordance with section 206 of Executive Order 11222, May 8, 1965, 30 FR 6469.

**§ 102.9 Suspension or revocation of license or eligibility.**

Agencies seeking the collection of statutory penalties, forfeitures, or debts provided for as an enforcement aid or for compelling compliance should give serious consideration to the suspension or revocation of licenses or other privileges for any inexcusable, prolonged or repeated failure of a debtor to pay such a claim, and the debtor should be so advised. Any agency making, guaranteeing, insuring, acquiring, or participating in loans should give serious consideration to suspending or disqualifying any lender, contractor, broker, borrower or other debtor from doing further business with it or engaging in programs sponsored by it if such a debtor fails to pay its debts to the Government within a reasonable time, and the debtor should be so advised. The failure of any surety to honor its obligations in accordance with 31 U.S.C. 9305 is to be reported to the Treasury Department at once. Notification that a surety's certificate of authority to do business with the Federal Government has been revoked or forfeited by the Treasury Department will be forwarded by that Department to all interested agencies.

**§ 102.10 Liquidation of collateral.**

An agency holding security or collateral which may be liquidated and the proceeds applied on debts due it through the exercise of a power of sale in the security instrument or a nonjudicial foreclosure should do so by such procedures if the debtor fails to pay the debt within a reasonable time after demand, unless the cost of disposing of the collateral will be disproportionate to its value or special circumstances require judicial foreclosure. The agency should provide the debtor with reasonable notice of the



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sale, an accounting of any surplus proceeds, and any other procedures required by contract or law. Collection from other sources, including liquidation of security or collateral, is not a prerequisite to requiring payment by a surety or insurance concern unless such action is expressly required by statute or contract.

**§ 102.11 Collection in installments.**

(a) Whenever feasible, and except as otherwise provided by law, debts owed to the United States, together with interest, penalties, and administrative costs as required by § 102.13 of this part, should be collected in full in one lump sum. This is true whether the debt is being collected by administrative offset or by another method, including voluntary payment. However, if the debtor is financially unable to pay the indebtedness in one lump sum, payment may be accepted in regular installments. Agencies should obtain financial statements from debtors who represent that they are unable to pay the debt in one lump sum. Agencies which agree to accept payment in regular installments should obtain a legally enforceable written agreement from the debtor which specifies all of the terms of the arrangement and which contains a provision accelerating the debt in the event the debtor defaults. The size and frequency of installment payments should bear a reasonable relation to the size of the debt and the debtor's ability to pay. If possible, the installment payments should be sufficient in size and frequency to liquidate the Government's claim in not more than 3 years. Installment payments of less than \$50 per month should be accepted only if justifiable on the grounds of financial hardship or for some other reasonable cause. An agency holding an unsecured claim for administrative collection should attempt to obtain an executed confess-judgment note, comparable to the Department of Justice Form USA–70a, from a debtor when the total amount of the deferred installments will exceed \$750. Such notes may be sought when an unsecured obligation of a lesser amount is involved. When attempting

to obtain confess-judgment notes, agencies should provide their debtors with written explanation of the consequences of signing the note, and should maintain documentation sufficient to demonstrate that the debtor has signed the note knowingly and voluntarily. Security for deferred payments other than a confess-judgment note may be accepted in appropriate cases. An agency may accept installment payments notwithstanding the refusal of a debtor to execute a confess judgment note or to give other security, at the agency's option.

(b) If the debtor owes more than one debt and designates how a voluntary installment payment is to be applied as among those debts, that designation must be followed. If the debtor does not designate the application of the payment, agencies should apply payments to the various debts in accordance with the best interests of the United States, as determined by the facts and circumstances of the particular case, paying special attention to applicable statutes of limitations.

**§ 102.12 Exploration of compromise.**

Agencies may attempt to effect compromise, preferably during the course of personal interviews, in accordance with the standards set forth in part 103 of this chapter.

**§ 102.13 Interest, penalties, and administrative costs.**

(a) Except as provided in paragraphs (h) and (i) of this section, agencies shall assess interest, penalties, and administrative costs on debts owed to the United States pursuant to 31 U.S.C.

3717. Before assessing these charges, an agency must mail or hand-deliver a written notice to the debtor explaining the agency's requirements concerning the charges. (See § 102.2 of this part.)

(b) Interest shall accrue from the date on which notice of the debt and the interest requirements is first mailed or hand-delivered to the debtor (on or after October 25, 1982), using the most current address that is available to the agency. If an agency uses an "advance billing" procedure—that is, if it mails a bill before the debt is actually owed—it can include the required interest notification in the advance billing, but interest may not start to accrue before the debt is actually owed.

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Agencies should exercise care to insure that the notices required by this section are dated and mailed or hand-delivered on the same day.

(c) The rate of interest assessed shall be the rate of the current value of funds to the U.S. Treasury (*i.e.*, the Treasury tax and loan account rate), as prescribed and published by the Secretary of the Treasury in the FEDERAL REGISTER and the Treasury Fiscal Requirements Manual Bulletins annually or quarterly, in accordance with 31 U.S.C. 3717. An agency may assess a higher rate of interest if it reasonably determines that a higher rate is necessary to protect the interests of the United States. The rate of interest, as initially assessed, shall remain fixed for the duration of the indebtedness, except that where a debtor has defaulted on a repayment agreement and seeks to enter into a new agreement, the agency may set a new interest rate which reflects the current value of funds to the Treasury at the time the new agreement is executed. Interest should not be assessed on interest, penalties, or administrative costs required by this section. However, if the debtor defaults on a previous repayment agreement, charges which accrued but were not collected under the defaulted agreement shall be added to the principal to be paid under a new repayment agreement.

(d) An agency shall assess against a debtor charges to cover administrative costs incurred as a result of a delinquent debt,—that is, the additional costs incurred in processing and handling the debt because it became delinquent as defined in § 101.2(b) of this chapter. Calculation of administrative costs should be based upon actual costs incurred or upon cost analyses establishing an average of actual additional costs incurred by the agency in processing and handling claims against other debtors in similar stages of delinquency. Administrative costs may include costs incurred in obtaining a credit report or in using a private debt collector, to the extent they are attributable to delinquency.

(e) An agency shall assess a penalty charge, not to exceed 6 percent a year,

on any portion of a debt that is delinquent as defined in § 101.2(b) of this chapter for more than 90 days. This charge need not be calculated until the 91st day of delinquency, but shall accrue from the date that the debt became delinquent.

(f) When a debt is paid in partial or installment payments, amounts received by the agency shall be applied first to outstanding penalty and administrative cost charges, second to accrued interest, and third to outstanding principal.

(g) An agency shall waive the collection of interest on the debt or any portion of the debt which is paid within 30 days after the date on which interest began to accrue. An agency may extend this 30-day period, on a case-by-case basis, if it reasonably determines that such action is appropriate. Also, an agency may waive, in whole or in part, the collection of interest, penalties, and/or administrative costs assessed under this section under the criteria specified in part 103 of this chapter relating to the compromise of claims (without regard to the amount of the debt), or if the agency determines that collection of these charges would be against equity and good conscience or not in the best interests of the United States. Waiver under the first sentence of this paragraph (g) is mandatory. Under the second and third sentences, it may be exercised only in accordance with regulations issued by the agency identifying the standards and appropriate circumstances for waiver. Examples of situations which agencies may consider including in their interest waiver regulations are: (1) Waiver of interest pending consideration of a request for reconsideration, administrative review, or waiver of the underlying debt under a permissive statute, and (2) waiver of interest where the agency has accepted an installment plan under § 102.11 of this part, there is no indication of fault or lack of good faith on the part of the debtor, and the amount of interest is large enough in relation to the size of the installments that the debtor can reasonably afford to pay that the debt will never be repaid.

(h) Where a mandatory waiver or review statute applies, interest and related charges may not be assessed for those periods during which collection

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action must be suspended under § 104.2(c)(1) of this chapter.

(i) *Exemptions.* (1) The provisions of 31 U.S.C. 3717 do not apply: (i) To debts owed by any State or local government; (ii) To debts arising under contracts which were executed prior to, and were in effect on (i.e., were not completed as of), October 25, 1982; (iii) To debts where an applicable statute, regulation required by statute, loan agreement, or contract either prohibits such charges or explicitly fixes the charges that apply to the debts involved; or

(iv) To debts arising under the Social Security Act, the Internal Revenue Code of 1954, or the tariff laws of the United States.

(2) However, agencies are authorized to assess interest and related charges on debts which are not subject to 31 U.S.C. 3717 to the extent authorized under the common law or other applicable statutory authority.

**§ 102.14 Analysis of costs.**

Agency collection procedures should provide for periodic comparison of costs incurred and amounts collected. Data on costs and corresponding recovery rates for debts of different types and in various dollar ranges should be used to compare the cost effectiveness of alternative collection techniques, establish guidelines with respect to points at which costs of further collection efforts are likely to exceed recoveries, assist in evaluating offers in compromise, and establish minimum debt amounts below which collection efforts need not be taken. Cost and recovery data should also be useful in justifying adequate resources for an effective collection program, evaluating the feasibility and cost effectiveness of contracting for debt collection services under § 102.6, and determining appropriate charges for administrative costs under § 102.13(d).

**§ 102.15 Documentation of administrative collection action.**

All administrative collection action shall be documented and the bases for compromise, or for termination or suspension

of collection action, should be set out in detail. Such documentation shall be retained in the appropriate claims file.

**§ 102.16 Automation.**

Agencies should automate their debt collection operations to the extent it is cost effective and feasible.

**§ 102.17 Prevention of overpayments, delinquencies, and defaults.**

Agencies should establish procedures to identify the causes of overpayments, delinquencies, and defaults and the corrective actions needed.

**§ 102.18 Use and disclosure of mailing addresses.**

(a) When attempting to locate a debtor in order to collect or compromise a debt under this chapter, an agency may send a written request to the Secretary of the Treasury (or designee) in order to obtain a debtor's mailing address from the records of the Internal Revenue Service.

(b) An agency may disclose a mailing address obtained under paragraph (a) of this section to other agents, including collection service contractors, in order to facilitate the collection or compromise of debts under this chapter, except that a mailing address may be disclosed to a consumer reporting agency only for the limited purpose of obtaining a commercial credit report on the particular taxpayer.

(c) Each agency shall ensure, by appropriate regulations and contract administration, that the agency and its agents, including consumer reporting agencies and collection service contractors, comply with the provisions of 26 U.S.C. 6103(p)(4) and applicable regulations of the Internal Revenue Service.

**§ 102.19 Exemptions.**

(a) The preceding sections of this part, to the extent they reflect remedies or procedures prescribed by the Debt Collection Act of 1982, such as administrative offset (§§ 102.3 and 102.4), use of consumer reporting agencies (§ 102.5), contracting for collection services (§ 102.6), and interest and related charges (§ 102.13), do not apply to debts arising under or payments made under the Internal Revenue Code of 1954, as amended (26 U.S.C. 1 *et seq.*), the Social

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Security Act (42 U.S.C. 301 *et seq.*), or the tariff laws of the United States. However, these remedies and procedures may still be authorized with respect to debts which are exempt from the purview of the Debt Collection Act of 1982, to the extent that they are authorized under some other statute or the common law.

(b) This section should not be construed as prohibiting use of these authorities or requirements when collecting debts owed by persons employed by agencies administering the laws cited in the preceding paragraph unless the debt “arose under” those laws.

**§ 102.20 Additional administrative collection action.**

Nothing contained in this chapter is intended to preclude the utilization of any other administrative remedy which may be available.

**PART 103—STANDARDS FOR THE COMPROMISE OF CLAIMS**

Sec.

103.1 Scope and application.

103.2 Inability to pay.

103.3 Litigative probabilities.

103.4 Cost of collecting claim.

103.5 Enforcement policy.

103.6 Joint and several liability.

103.7 Compromise for a combination of reasons.

103.8 Further review of compromise offers.

103.9 Restrictions.

AUTHORITY: 31 U.S.C. 3711.

SOURCE: 49 FR 8902, Mar. 9, 1984, unless otherwise noted.

**§ 103.1 Scope and application.**

(a) The standards set forth in this part apply to the compromise of claims pursuant to 31 U.S.C. 3711. The head of an agency may exercise such compromise authority with respect to claims for money or property arising out of the activities of that agency where the claim, exclusive of interest, penalties, and administrative costs, does not exceed \$20,000, prior to the referral of such claims to the General Accounting Office, or to the Department of Justice for litigation. The Comptroller General may exercise such compromise authority with respect to

claims referred to the General Accounting Office prior to their further referral for litigation. Only the Comptroller General may affect the compromise of a claim that arises out of an exception made by the General Accounting Office in the account of an accountable officer, including a claim against the payee, prior to its referral by that Office for litigation. Agency heads, including the Comptroller General, may designate officials within their respective agencies to exercise the authorities referred to in this section.

(b) When the claim, exclusive of interest, penalties, and administrative costs, exceeds \$20,000, the authority to accept the compromise rests solely with the Department of Justice. The agency should evaluate the offer, using the factors set forth in this part. If the agency then wishes to accept the compromise, it must refer the matter to the Department of Justice, using the Claims Collection Litigation Report. See 4 CFR 105.2(b). Claims for which the gross amount is over \$100,000 shall be referred to the Commercial Litigation Branch, Civil Division, Department of Justice, Washington, D.C. 20530. Claims for which the gross original amount is \$100,000 or less shall be referred to the United States Attorney in whose judicial district the debtor can be found. The referral should specify the reasons for the agency's recommendation. Justice Department approval is not required if the agency wishes to reject the compromise offer.

**§ 103.2 Inability to pay.**

(a) A claim may be compromised pursuant to this part if the Government cannot collect the full amount because of: (1) The debtor's inability to pay the full amount within a reasonable time, or (2) the refusal of the debtor to pay the claim in full and the Government's inability to enforce collection in full within a reasonable time by enforced collection proceedings.

(b) In determining the debtor's inability to pay, the following factors, among others, may be considered:

- (1) Age and health of the debtor;
- (2) Present and potential income;
- (3) Inheritance prospects;

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(4) The possibility that assets have been concealed or improperly transferred by the debtor; and

(5) The availability of assets or income which may be realized by enforced collection proceedings.

(c) The agency should give consideration to the applicable exemptions available to the debtor under State and Federal law in determining the Government's ability to enforce collection.

Uncertainty as to the price which collateral or other property will bring at forced sale may properly be considered in determining the Government's ability to enforce collection. A compromise effected under this section should be for an amount which bears a reasonable relation to the amount which can be recovered by enforced collection procedures, having regard for the exemptions available to the debtor and the time which collection will take.

(d) Compromises payable in installments are to be discouraged. However, if payment of a compromise by installments is necessary, a legally enforceable agreement for the reinstatement of the prior indebtedness less sums paid thereon and acceleration of the balance due upon default in the payment of any installment should be obtained, together with security in the manner set forth in § 102.11 of this chapter, in every case in which this is possible.

(e) If the agency's files do not contain reasonably up-to-date credit information as a basis for assessing a compromise proposal, such information may be obtained from the individual debtor by obtaining a statement executed under penalty of perjury showing the debtor's assets and liabilities, income and expenses. Forms such as Department of Justice Form OBD-500 or OBD-500B may be used for this purpose. Similar data may be obtained from corporate debtors using a form such as Department of Justice Form OBD-500C or by resort to balance sheets and such additional data as seems required.

**§ 103.3 Litigative probabilities.**

A claim may be compromised pursuant to this part if there is a real doubt concerning the Government's ability to prove its case in court for the full

amount claimed, either because of the legal issues involved or a *bona fide* dispute as to the facts. The amount accepted in compromise in such cases should fairly reflect the probability of prevailing on the legal question involved, the probabilities with respect to full or partial recovery of a judgment, paying due regard to the availability of witnesses and other evidentiary support for the Government claim, and related pragmatic considerations. In determining the litigative risks involved, proportionate weight should be given to the probable amount of court costs and attorney fees pursuant to the Equal Access to Justice Act which may be assessed against the Government if it is unsuccessful in litigation. See 28 U.S.C. 2412.

**§ 103.4 Cost of collecting claim.**

A claim may be compromised pursuant to this part if the cost of collecting the claim does not justify the enforced collection of the full amount. The amount accepted in compromise in such cases may reflect an appropriate discount for the administrative and litigative costs of collection, paying heed to the time which it will take to effect collection. Costs of collecting may be a substantial factor in the settlement of small claims, but normally will not carry great weight in the settlement of large claims. In determining whether the cost of collecting justifies enforced collection of the full amount, it is legitimate to consider the positive effect that enforced collection of some claims may have on the collection of other claims. Since debtors are more likely to pay when first requested to do so if an agency has a policy of vigorous collection of all claims, the fact that the cost of collection of any one claim may exceed the amount of the claim does not necessarily mean that the claim should be compromised. The practical benefits of vigorous collection of a small claim may include a demonstration to other debtors that resistance to payment is not likely to succeed.

**§ 103.5 Enforcement policy.**

Statutory penalties, forfeitures, or debts established as an aid to enforcement and to compel compliance may be compromised pursuant to this part if

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**Federal Claims Collection Standards § 104.1**

the agency's enforcement policy in terms of deterrence and securing compliance, both present and future, will be adequately served by acceptance of the sum to be agreed upon. Mere accidental or technical violations may be dealt with less severely than willful and substantial violations.

**§ 103.6 Joint and several liability.**

When two or more debtors are jointly and severally liable, collection action will not be withheld against one such debtor until the other or others pay their proportionate shares. The agency should not attempt to allocate the burden of paying such claims as between the debtors but should proceed to liquidate the indebtedness as quickly as possible. Care should be taken that a compromise agreement with one such debtor does not release the agency's claim against the remaining debtors. The amount of a compromise with one such debtor shall not be considered a precedent or as morally binding in determining the amount which will be required from other debtors jointly and severally liable on the claim.

**§ 103.7 Compromise for a combination of reasons.**

A claim may be compromised for one or for more than one of the reasons authorized in this part.

**§ 103.8 Further review of compromise offers.**

If an agency holds a debtor's firm written offer of compromise which is substantial in amount and the agency is uncertain as to whether the offer should be accepted, it may refer the offer, the supporting data, and particulars concerning the claim to the General Accounting Office or to the Department of Justice. The General Accounting Office or the Department of Justice may act upon such an offer or return it to the agency with instructions or advice.

**§ 103.9 Restrictions.**

Neither a percentage of a debtor's profits nor stock in a debtor corporation will be accepted in compromise of a claim. In negotiating a compromise with a business concern, consideration should be given to requiring a waiver of

the tax-loss-carry-forward and tax-loss carry-back rights of the debtor.

**PART 104—STANDARDS FOR SUSPENDING OR TERMINATING COLLECTION ACTION**

Sec.

104.1 Scope and application.

104.2 Suspension of collection activity.

104.3 Termination of collection activity.

104.4 Transfer of claims.

AUTHORITY: 31 U.S.C. 3711(a)(3).

SOURCE: 49 FR 8903, Mar. 9, 1984, unless otherwise noted.

**§ 104.1 Scope and application.**

(a) The standards set forth in this part apply to the suspension or termination of collection action pursuant to 31 U.S.C. 3711(a)(3) on claims which do not exceed \$20,000, exclusive of interest, penalties, and administrative costs, after deducting the amount of partial payments or collections, if any. The head of an agency (or designee) may suspend or terminate collection action under this part with respect to claims for money or property arising out of activities of that agency prior to the referral of such claims to the General Accounting Office or to the Department of Justice for litigation. The Comptroller General (or designee) may exercise such authority with respect to claims referred to the General Accounting Office prior to their further referral for litigation.

(b) If, after deducting the amount of partial payments or collections, if any, a claim exceeds \$20,000, exclusive of interest, penalties, and administrative costs, the authority to suspend or terminate rests solely with the Department of Justice. If the agency thinks suspension or termination may be appropriate, it should evaluate the matter, using the factors set forth in this part. If the agency then concludes that suspension or termination is appropriate, it must refer the matter to the Department of Justice, using the Claims Collection Litigation Report. See 4 CFR 105.2(b). The referral should specify the reasons for the agency's recommendation. If the agency decides not to suspend or terminate collection action on the claim, Justice Department approval is not required. If an

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agency determines that its claim is plainly erroneous or clearly without legal merit, it may terminate collection action regardless of the amount involved, without the need for Department of Justice concurrence.

**§ 104.2 Suspension of collection activity.**

(a) *Inability to locate debtor.* Collection action may be suspended temporarily on a claim when the debtor cannot be located after diligent effort and there is reason to believe that future collection action may be sufficiently productive to justify periodic review and action on the claim, with due consideration for the size and amount which may be realized thereon. The following sources may be of assistance in locating missing debtors: Telephone directories; city directories; postmasters; drivers' license records; automobile title and registration records; state and local governmental agencies; the Internal Revenue Service (§ 102.18 of this chapter); other Federal agencies; employers, relatives, friends; credit agency skip locate reports, and credit bureaus. Suspension as to a particular debtor should not defer the early liquidation of security for the debt. Every reasonable effort should be made to locate missing debtors sufficiently in advance of the bar of the applicable statute of limitations, such as 28 U.S.C. 2415, to permit the timely filing of suit if such action is warranted. If the missing debtor has signed a confess-judgment note and is in default, referral of the note for the entry of judgment should not be delayed because of the debtor's missing status.

(b) *Financial condition of debtor.* Collection action may also be suspended temporarily on a claim when the debtor owns no substantial equity in realty or personal property and is unable to make payments on the Government's claim or effect a compromise at the time but the debtor's future prospects justify retention of the claim for periodic review and action, and:

- (1) The applicable statute of limitations has been tolled or started running anew; or
- (2) Future collection can be effected by offset, notwithstanding the statute of limitations, with due regard to the 10-year limitation prescribed by 31

U.S.C. 3716(c)(1); or

(3) The debtor agrees to pay interest on the amount of the debt on which collection action will be temporarily suspended, and such temporary suspension is likely to enhance the debtor's ability to fully pay the principal amount of the debt with interest at a later date.

(c) *Request for waiver or administrative review.* (1) If the statute under which waiver or administrative review is sought is "mandatory," that is, if it prohibits the agency from collecting the debt prior to the agency's consideration of the request for waiver or review (see *Califano v. Yamasaki*, 422 U.S. 682 (1979)), then collection action must be suspended until either: (i) The agency has considered the request for waiver/review, or (ii) the applicable time limit for making the waiver/review request, as prescribed in the agency's regulations, has expired and the debtor, upon proper notice, has not made such a request.

(2) If the applicable waiver/review statute is "permissive," that is, if it does not require all requests for waiver/review to be considered, and if it does not prohibit collection action pending consideration of a waiver/review request (for example, 5 U.S.C. 5584), collection action may be suspended pending agency action on a waiver/review request based upon appropriate consideration, on a case-by-case basis, as to whether:

(i) There is a reasonable possibility that waiver will be granted, or that the debt (in whole or in part) will be found not owing from the debtor;

(ii) The Government's interests would be protected, if suspension were granted, by reasonable assurance that the debt could be recovered if the debtor does not prevail; and

(iii) Collection of the debt will cause undue hardship.

(3) If the applicable statutes and regulations would not authorize refund by the agency to the debtor of amounts collected prior to agency consideration of the debtor's waiver/review request in the event the agency acts favorably on it, collection action should ordinarily be suspended, without regard to the factors specified in paragraph (c)(2) of

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this section, unless it appears clear, based on the request and the surrounding circumstances, that the request is frivolous and was made primarily to delay collection.

**§ 104.3 Termination of collection activity.**

The head of an agency (or designee) may terminate collection activity and consider the agency's file on the claim closed under the following standards:

(a) *Inability to collect any substantial amount.* Collection action may be terminated on a claim when it becomes clear that the Government cannot collect or enforce collection of any significant sum from the debtor, having due regard for the judicial remedies available to the Government, the debtor's future financial prospects, and the exemptions available to the debtor under State and Federal law. In determining the debtor's inability to pay, the following factors, among others, may be considered: Age and health of the debtor; present and potential income; inheritance prospects; the possibility that assets have been concealed or improperly transferred by the debtor; the availability of assets or income which may be realized by enforced collection proceedings.

(b) *Inability to locate debtor.* Collection action may be terminated on a claim when the debtor cannot be located, and either: (1) There is no security remaining to be liquidated, or (2) the applicable statute of limitations has run and the prospects of collecting by offset, notwithstanding the bar of the statute of limitations, are too remote to justify retention of the claim.

(c) *Cost will exceed recovery.* Collection action may be terminated on a claim when it is likely that the cost of further collection action will exceed the amount recoverable thereby.

(d) *Claim legally without merit.* Collection action should be terminated immediately on a claim whenever it is determined that the claim is legally without merit.

(e) *Claim cannot be substantiated by evidence.* Collection action should be terminated when it is determined that the evidence necessary to prove the

claim cannot be produced or the necessary witnesses are unavailable and efforts to induce voluntary payment are unavailing.

**§ 104.4 Transfer of claims.**

When an agency has doubt as to whether collection action should be suspended or terminated on a claim, it may refer the claim to the General Accounting Office for advice. When a significant enforcement policy is involved in reducing a statutory penalty or forfeiture to judgment, or recovery of a judgment is a prerequisite to the imposition of administrative sanctions, such as the suspension or revocation of a license or the privilege of participating in a Government sponsored program, an agency may refer such a claim for litigation even though termination of collection activity might otherwise be given consideration under § 104.3 (a) or (c). Claims on which an agency holds a judgment by assignment or otherwise will be referred to the Department of Justice for further action if renewal of the judgment lien or enforced collection proceedings are justified under the criteria discussed in this part, unless the agency concerned has statutory authority for handling its own litigation.

**PART 105—REFERRALS TO DEPARTMENT OF JUSTICE OR GAO**  
Sec.

105.1 Prompt referral.

105.2 Claims collection litigation report.

105.3 Preservation of evidence.

105.4 Minimum amount of referrals to Department of Justice.

105.5 Preliminary referrals to GAO.

AUTHORITY: 31 U.S.C. 3711.

SOURCE: 49 FR 8904, Mar. 9, 1984, unless otherwise noted.

**§ 105.1 Prompt referral.**

(a) Except as provided in paragraphs (b) and (c) of this section, claims on which aggressive collection action has been taken in accordance with part 102 of this chapter and which cannot be compromised, or on which collection action cannot be suspended or terminated, in accordance with parts 103 and 104 of this chapter, shall be promptly referred to the Department of Justice for litigation. Claims for which the gross original amount is over \$100,000



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shall be referred to the Commercial Litigation Branch, Civil Division, Department of Justice, Washington, D.C.

20530. Claims for which the gross original amount is \$100,000 or less shall be referred to the U.S. Attorney in whose judicial district the debtor can be found. Referrals should be made as early as possible, consistent with aggressive agency collection action and the observance of the regulations contained in this chapter, and in any event, well within the period for bringing a timely suit against the debtor. Ordinarily, referrals should be made within one year of the agency's final determination of the fact and the amount of the debt.

(b) Claims arising from audit exceptions taken by the General Accounting Office to payments made by agencies must be referred to the General Accounting Office for review and approval prior to referral to the Department of Justice for litigation, unless the agency concerned has been granted an exception by the General Accounting Office.

(c) When the merits of the Government's claim, the amount owed on the claim, or the propriety of acceptance of a proposed compromise, suspension, or termination are in doubt, the agency concerned should refer the matter to the General Accounting Office for resolution and instructions prior to proceeding with collection action and/or referral to the Department of Justice for litigation.

(d) Once a claim has been referred to GAO or to the Department of Justice pursuant to this section, the referring agency shall refrain from having any contact with the debtor and shall direct the debtor to GAO or the Department of Justice, as appropriate, when questions concerning the claim are raised by the debtor. GAO or the Department of Justice, as appropriate, shall be immediately notified by the referring agency of any payments which are received from the debtor subsequent to referral of a claim under this section.

**§ 105.2 Claims collection litigation report.**

(a) Unless an exception has been granted by the Department of Justice

in consultation with the General Accounting Office, the Claims Collection Litigation Report (CCLR), which was officially implemented by the General Accounting Office on January 20, 1983, shall be used with all referrals of administratively uncollectible claims made pursuant to § 105.1. As required by the CCLR, the following information shall be included.

(1) *Report of prior collection actions.* A checklist or brief summary of the actions previously taken to collect or compromise the claim will be forwarded with the claim upon its referral. If any of the administrative collection actions enumerated in part 102 of this chapter have been omitted, the reason for their omission must be provided. GAO, the U.S. Attorney, or the Civil Division of the Department of Justice may return claims at their option when there is insufficient justification for the omission of one or more of the administrative collection actions enumerated in part 102 of this chapter.

(2) *Current address of debtor.* The current address of the debtor, or the name and address of the agent for a corporation upon whom service may be made shall be provided. Reasonable and appropriate steps will be taken to locate missing parties in all cases. Referrals to the Department of Justice for the institution of foreclosure or other proceedings, in which the current address of any party is unknown, will be accompanied by a listing of the prior known addresses of such party and a statement of the steps taken to locate that party.

(3) *Credit data.* Reasonably current credit data indicating that there is a reasonable prospect of effecting enforced collection from the debtor, having due regard for the exemptions available to the debtor under State and Federal law and the judicial remedies available to the Government, shall be included.

(i) Such credit data may take the form of:

- (A) A commercial credit report;
- (B) An agency investigative report showing the debtor's assets, liabilities, income, and expenses;

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(C) The individual debtor's own financial statement executed under penalty of perjury reflecting the debtor's assets, liabilities, income, and expenses;  
or

(D) An audited balance sheet of a corporate debtor.

(ii) Such credit data may be omitted if:

(A) A surety bond is available in an amount sufficient to satisfy the claim in full;

(B) The forced sale value of the security available for application to the Government's claim is sufficient to satisfy the claim in full;

(C) The referring agency wishes to liquidate loan collateral through judicial foreclosure but does not desire a deficiency judgment;

(D) The debtor is in bankruptcy or receivership;

(E) The debtor's liability to the Government is fully covered by insurance, in which case the agency will furnish such information as it can develop concerning the identity and address of the insurer and the type and amount of insurance coverage; or

(F) The nature of the debtor is such that credit data is not normally available or cannot reasonably be obtained, for example, a unit of State or local government.

(b) Agencies shall also use the CCLR when referring claims to the Department of Justice in order to obtain the approval of that Department with respect to compromise, suspension, or termination, as required by §§ 103.1(b) and 104.1(b).

**§ 105.3 Preservation of evidence.**

Care will be taken to preserve all files, records, and exhibits on claims referred or to be referred to the Department of Justice for litigation. Under no circumstances should original documents be sent to the Department of Justice or to the U.S. Attorney without specific prior approval to do so. Copies of relevant documents should be sent whenever necessary.

**§ 105.4 Minimum amount of referrals to Department of Justice.**

Agencies will not refer claims of less than \$600, exclusive of interest, penalties, and administrative costs, for litigation unless: (a) Referral is important to a significant enforcement policy,

or (b) the debtor not only has the clear ability to pay the claim but the Government can effectively enforce payment, having due regard for the exemptions available to the debtor under State and Federal law and the judicial remedies available to the Government.

**§ 105.5 Preliminary referrals to GAO.**

Preliminary referrals of claims to the General Accounting Office, as required by § 105.1(b) and (c), will be in accordance with instructions, including monetary limitations, contained in the General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies, and the provisions of §§ 105.2 and 105.3 of this part.



UNITED STATES DEPARTMENT OF  
THE INTERIOR BUREAU OF LAND  
MANAGEMENT

MANUAL TRANSMITTAL SHEET

Release

9-409

Date

09/24/2015

Subject

H-9238-1 FIRE TRESPASS HANDBOOK (INTERNAL)

1. Explanation of Materials Transmitted: This release is a complete rewrite of H9238-1, Fire Trespass Handbook
2. Reports Required: None
3. Materials Superseded: The Handbook supersedes H-9238-1, Fire Handbook, Release 9-356
4. Filing Instructions: File as directed below.

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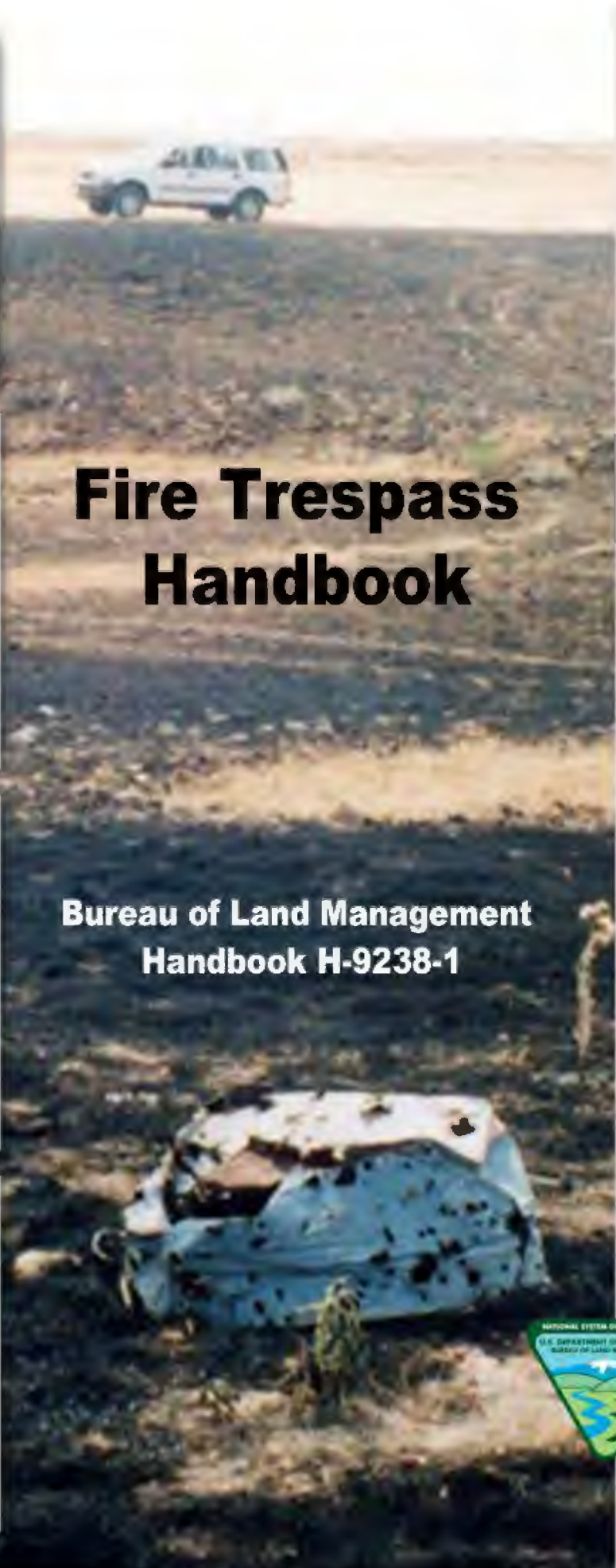
All H-9238-1 (Rel. 9-356)  
(Total: 68 pages)

INSERT

All of H-9238-1  
(Total: 37 pages)

*Ron Dunton*

Assistant Director  
Fire and Aviation



# Fire Trespass Handbook

Bureau of Land Management  
Handbook H-9238-1



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### **Introduction:**

Fire trespass refers to the occurrence of unauthorized wildland fire on Bureau of Land Management (BLM) lands when the source of ignition is a result of human activity. Actions shall be taken to recover costs and damages incurred by the BLM when the responsible party(s) is identified and legal liability or intent exists.

A successful Fire Trespass Program must have all the necessary personnel in place and working together. This includes initial attack firefighters, fire investigators, Law Enforcement Officers (LEOs), unit and state level fire trespass coordinators Fire Management Officers (FMOs), solicitor's offices, US Attorney's Offices (USAO), field/district managers, State Directors, costs and billings specialists, and initial attack firefighters. State Fire Trespass Operating Plans must be established that will outline the roles and responsibilities for these positions as well as procedures and protocols for effective case resolution.

### **Background:**

There are three different avenues available to the government for cost recovery on wildland fires – administrative, civil, and criminal. This BLM Fire Trespass Handbook, H-9238-1, focuses mostly on the **administrative** fire trespass process where BLM has the lead role. Civil and criminal processes are conducted through the Department of Justice (DOJ), and the BLM provides a support role.

The BLM fire investigations are conducted by qualified Wildland Fire Investigators (INVFs) in cooperation with law enforcement. Evidence of legal liability must be found to proceed with a fire trespass cost recovery effort. Legal liability includes, but is not limited to, negligence and strict liability (including statutory and contractual liability), products liability and other theories of liability. Criminal proceedings (arson) are not covered in this handbook as they will be handled by law enforcement.

Fire Trespass action is both cost recovery and an effective deterrent to prevent future wildfires and the risk they pose to our firefighters, resources and the public. Fire investigations help identify specific causes and, with statistical analysis, can help develop effective prevention programs that reduce human-caused fires. Fire trespass collections will be deposited and managed by the state that collects the funds and expended within the direction contained in this handbook.

### **Purpose:**

This handbook provides guidance to state fire investigation and trespass programs for cost recovery efforts on fires occurring on BLM lands. Cost recovery for fires that BLM suppresses on other lands as part of cooperative agreements should be outlined in, and pursued according to, those agreements. Specific questions about fire trespass policy and procedures may be directed to the National Fire Trespass Program Lead.

## Chapter 1 – Authorities, References and Policy

### A. Authorities

1. The Federal Land Policy and Management Act of 1976, as amended (43 USC 1701, et seq).
2. United States Code (USC).
  - a) Title 18 U.S.C. 1855 – Timber set afire
  - b) Title 18 U.S.C. 1856 – Fires left unattended and unextinguished
  - c) Title 31 U.S.C. 3711 – Collections and Compromise
3. Departmental Manual – Part 620 DM (Wildland Fire Management), 1.7 (Fire Trespass): Bureaus will enforce rules and regulations concerning unauthorized ignition of wildland fires, and aggressively pursue violations.
4. Reciprocal Fire Protection Act of May 27, 1955, as Amended (69 Stat. 66; 42 U.S.C. 1856 et seq.).
5. United States Code of Federal Regulations (CFRs).
  - a) Title 43 - 2807.12 – If I hold a grant, for what am I liable?
  - b) Title 43 - 2808 – Trespass
  - c) Title 43 – 2886.13 – If I hold a grant or TUP, for what am I liable?
  - d) Title 43 - 2920.1-2 – Unauthorized Use
  - e) Title 43 - 9212. – Wildfire Prevention
  - f) Title 43 - 9212.4 – Penalties
  - g) Title 43 – 9239 – Trespass
  - h) Title 28 – 2415– Time for commencing Actions brought by the U.S.
  - i) Title 31, Chapters 900-904 – Aggressive Agency Collection Activity
6. The fiscal year (FY)1999 Interior Appropriation (Department of the Interior (DOI) and Related Agencies Appropriations Act, 1999, as included in Public Law 105-277, Section 101 [e]) provided permanent authority to keep sums received for fire protection rendered pursuant to the authorities in the 1955 Fire Reciprocal Protection Act (42 U.S.C. 1856 et seq.). This authority states, "...notwithstanding 42 U.S.C. 1856 d, sums received by a bureau or office of the DOI for fire protection rendered pursuant to 42 U.S.C. 1856 et seq., Protection of United States Property, may be credited to the appropriation from which funds were expended to provide that protection, and are available without FY limitation."



## B. References

1. **Interagency Standards for Fire and Aviation Operations:** This annual publication states, references or supplements policy for Bureau of Land Management, Forest Service, Fish and Wildlife Service and National Park Service fire and aviation program management. It contains a specific section on Fire Cause Determination and Trespass Investigation.
2. **The BLM Standards for Fire Business Management:** This annually updated publication includes guidance for depositing and managing fire trespass collections that are received as part of BLM fire trespass cost recovery efforts.

## C. BLM Policy

1. All fires of human or unknown origin that burn BLM land shall be investigated to determine origin, cause and, if possible, the responsible party(s) with the following exception. If a fire is not investigated due to safety, costs or other considerations, that decision must be recorded, signed by an Authorized Officer, and maintained at the local unit.
2. The BLM strongly recommends that all fires are investigated by a BLM National Wildfire Coordinating Group (NWCG)-certified Wildland Fire Investigator (INVF) or, if not a BLM employee, an agency-certified fire investigator who has received wildland fire investigation training. If a certified fire investigator is not available, a BLM trainee *may* be sent to the fire. However, this is not recommended as it could adversely affect the BLM's ability to pursue collection.
3. The BLM shall pursue cost recovery for all costs and damages incurred from human-caused fires on BLM lands when the responsible party(s) has been identified and evidence of legal liability or intent exists. Legal liability includes, but is not limited to, negligence and strict liability (including statutory and contractual liability), products liability, and other theories of liability. If cost recovery is not pursued on human-caused fires, due to lack of evidence or a responsible party(s), BLM must document the reasons why cost recovery was not initiated in the fire report and in the fire trespass case file.
4. During the initial investigation, if evidence exists that the fire may have been intentionally set (arson), the Special Agent-in-Charge (SAC) must be notified and law enforcement will assume the lead role in the investigation. Criminal proceedings (arson) are not covered in this handbook as they will be handled by law enforcement.
5. A Fire Trespass Recommendation Document (Illustration 1) will be completed at the unit level for every human-caused fire. The Fire Trespass Coordinator, Law Enforcement Officer, and Fire Management Officer at the unit shall all be given a chance to review the facts and evidence of the case and provide a

- recommendation to the Authorized Officer as to whether to proceed with cost recovery.
6. For all human-caused wildland fires where the responsible party(s) has been identified, the Authorized Officer (e.g. Field or District Manager) will consult with the Solicitor's Office as to whether potential legal liability (negligence, strict liability, products liability, etc.) exists before making the decision whether to proceed. If there is a disagreement between the Authorized Officer and the Solicitor's Office on whether to proceed, the State Director will make the final decision with concurrence from the Solicitor's Office.
  7. The BLM may pursue cost recovery for other lands where BLM responds under a cooperative fire protection agreement where BLM is not reimbursed for suppression actions, as stipulated in the agreement. However, these cases must be pursued in a civil action through the United States Attorney's Office (USAO) as BLM regulations require the fire to have burned BLM lands to recover costs through the administrative trespass process. Any effort to pursue cost recovery on wildland fires that occur on non-BLM land should be done in close consultation with the Solicitor's Office and in coordination with the respective jurisdictional agency.
  8. All relevant fire trespass decisions and supporting documentation will be kept in the official Fire Trespass case file which is maintained at the local unit. Ensure all file copies are identical, complete and accurate. Any information in the file that would fall under attorney-client privilege shall be clearly marked as such.
  9. For human-caused fires, where cost recovery is pursued, the BLM will pursue cost recovery for suppression activities, emergency stabilization and rehabilitation planning and treatments, and damages to resources and improvements.
  10. The *initial* recommendation and decision whether to proceed with a trespass action must be made on incident facts, not on the cost of the fire or the ability of the responsible party to pay. However, debts owed to the BLM may be compromised or written off later in the fire trespass process in accordance with applicable CFRs. Trespass collection is both cost recovery and a deterrent to prevent future fires and the damages and risk they pose to firefighters, resources and the public.
  11. The Authorized Officer has the responsibility to bill for the total cost of the fire and authority to accept only full payment. The Authorized Officer may recommend the acceptance of a compromise offer to the State Director who may accept or reject these offers with concurrence from the appropriate legal counsel and in accordance with BLM Manual 1203 – Delegation of Authority (see Chapter 5, Section F – Table of Monetary Settlement Authorities).

12. The BLM recommends that all Incident Commanders (ICs) have basic training in wildland fire cause determination, such as the Wildland Fire Origin and Cause Determination for First Responders class (FI-110) or an equivalent course. The ICs play a critical role in the fire investigation process by ensuring the point of origin is protected and observations are documented by fire crews on scene.
13. All Wildland Fire Investigators (INVs) used to investigate human-caused fires will meet standards set forth in the Wildland and Prescribed Fire Qualification System Guide, PMS 310-1, or be certified by their respective agency. This includes state, county and local agencies that may have a Certified Fire Investigator (CFI) qualification. However, the BLM should ensure these cooperators have the training and expertise to conduct a wildland fire investigation.
14. Each state will develop a Fire Trespass Operating Plan. Units may also develop Fire Trespass Operating Plans, as appropriate.

## Chapter 2 – Roles and Responsibilities

### A. Jurisdictional Responsibilities for Cost Recovery

Unless specified otherwise in a fire protection agreement, fire investigation and cost recovery involving federal agencies will proceed as follows:

1. The federal agency that has the land management jurisdiction/administration role is generally responsible for proceeding with a fire trespass action and takes the lead role in gathering and validating all federal firefighting costs and damages. The jurisdictional agency and the protection agency each have the right to pursue cost recovery regardless of whether the other agency decides to proceed.
2. The agency with the fire protection responsibility role provides the initial determination of fire cause and responsible party to the agency with the land management jurisdiction/administration role. The protecting agency(s) should also provide the jurisdictional agency a timely, accurate, and detailed report of activities and costs if requested.
3. Each agency's role in fire trespass billing and collection should be specifically defined in the Cooperative Fire Protection Agreement. **The common billing and collection process for federal agencies is:**
  - a. When BLM responds to a fire in another federal agency's jurisdiction, and it is determined to be a trespass fire, the BLM will provide an itemization of the BLM's cost of assistance to that federal agency for trespass billing. The jurisdictional agency bills and collects for trespass and BLM is reimbursed for its share of the collection.
  - b. Generally, in cases where BLM and one or more federal agencies are involved in joint suppression activities, the agency with jurisdiction where the fire started will be the lead agency in the cost recovery effort.
  - c. When a compromise offer is accepted, each agency receives its pro-rata share of the collection. For example, if the agencies involved in a fire trespass accept a payment that equates to 70% of the total cost of the fire, each agency will receive 70% of their costs (unless other arrangements have been made prior to negotiations).
  - d. An authorization letter (see Illustration 13) should be used between federal agencies when one agency is taking the lead on cost recovery. This letter authorizes the lead agency to include other agencies' costs as part of the Bill for Collection to the responsible party. Language in this letter should include the right for all agencies to review any settlement offers that come

forward before they are accepted. The State Fire Trespass Coordinator is responsible for ensuring these authorization letters are completed and the procedures for this process should be covered in each State's Fire Trespass Operating Plan.

4. Where BLM administered land is protected by a **state** agency, the process for pursuing cost recovery will be included in the Cooperative Fire Protection Agreement.

## **B. Roles and Responsibilities**

1. **State Director (SD)**. The SD is responsible for oversight of the Fire Management program including fire investigation and trespass collection. The responsibilities include:
  - a. Accepting or rejecting settlement offers in accordance with BLM policy (M-1203). See Chapter 5, Section F – Table of Monetary Settlement Authorities for further responsibilities related to collections and compromise offers.
  - b. With concurrence from the Solicitor's Office, making the final decision whether to proceed if there is disagreement between the Authorized Officer and the Solicitor's Office on whether to proceed with a fire trespass action.
  - c. Ensuring the state has a fire trespass program that pursues cost recovery for any human caused fires for which there is legal liability and that result in the expenditure of suppression funds and/or damage or loss.
  - d. Approving the State Fire Trespass Operating Plan.
2. **State Fire Management Officer (SFMO)**. The SFMO has the overall operational responsibility for fire management activities, including wildland fire cause determination, investigation and trespass in each state. The responsibilities include:
  - a. Identifying a State Fire Trespass Coordinator.
  - b. Establishing a State Fire Trespass Operating Plan.
  - c. Ensuring the State Director is notified when trespass actions are initiated.
  - d. Developing and maintaining a qualified fire investigation cadre.
  - e. Managing and tracking fire trespass collections and expenditures to ensure BLM policy is followed.
3. **Special Agent-in-Charge (SAC)**. The SAC, or their designated representative

such as the Assistant Special Agent in Charge (ASAC) for a given state or region, has the overall agency responsibility in the criminal investigation and prosecution of all criminal intent fires (arson). In addition, the responsibilities include:

- a. Representing BLM in criminal proceedings with the US Attorney's Office.
  - b. Assisting the SFMO, the State Fire Trespass Coordinator, the District/Field Office Manager and the field level Law Enforcement Officers (LEOs) to implement an effective program as outlined in the State Fire Trespass Operating Plan.
  - c. Assigning a LEO (usually a Special Agent) in cases of suspected arson.
4. **Office of the Solicitor (Solicitor's Office)**. Each state has an assigned Solicitor's Office that may be at the Regional or Field level. The Solicitor's Office is responsible for legal counsel regarding fire trespass actions. The responsibilities include:
- a. Providing legal counsel to BLM on whether to proceed with fire trespass cases and/or how to settle fire trespass cases according to protocols and timelines established between the BLM and Solicitor's Office in each state.
  - b. Working with BLM to refer appropriate trespass cases to the US Attorneys' Office (USAO).
  - c. Assisting and representing the BLM to the Interior Board of Land Appeals (IBLA) on all matters related to fire trespass.
5. **State Fire Trespass Coordinator**. The State Fire Trespass Coordinator has the responsibility of establishing and maintaining an effective fire trespass program. This position is critical to the overall success of the program and should be a priority workload for the position covering these duties. The responsibilities include:
- a. Acting as liaison with other agencies and departments including the Solicitor's office, USAO, State Director and SAC/ASAC.
  - b. Coordinating with other organizational units within BLM including law enforcement, Emergency Stabilization and Rehabilitation (ES&R), resources, fire, and budget/financial sections.
  - c. Assisting in the preparation and tracking of fire trespass cases and ensuring appropriate staff has up-to-date information, including the line managers, SFMO, and SD.

- d. Reviewing financial documents and working with Collections and Billings staff to pursue payment and track collections.
  - e. Providing guidance, policy information and training regarding fire investigation and trespass issues.
  - f. Developing and updating a State Fire Trespass Operating Plan.
6. **Authorized Officer.** This may be the District or Field Office Manager depending on how each state has delegated authority. The BLM Authorized Officer has the overall program responsibility for wildland fire investigation and trespass on their unit as outlined in the State and Unit Fire Trespass Operating Plans. The responsibilities include:
- a. Coordinating with the Unit Fire Trespass Coordinator and providing recommendations and the case file of the investigation through the State Fire Trespass Coordinator to the Solicitor's office for review.
  - b. Requesting a consultation with the Solicitor's Office to determine whether to proceed with fire trespass actions.
  - c. Issuing "Notice of Suspected Trespass," Trespass Decisions, and Bills for Collection.
  - d. Ensuring local Law Enforcement Officers understand their role in the fire investigation process to provide assistance (follow-up investigation, interviews, etc.) when necessary.
  - e. Notifying the State Director regarding fire trespass issues and actions taken at the unit level.
  - f. Working with the DFMO to develop a cadre of qualified staff, including INVs, to conduct fire investigations.
  - g. Developing a unit Fire Trespass Operating Plan (if desired) in coordination with the State Fire Trespass Coordinator, local Fire Management Officer and local Law Enforcement Officer.
  - h. Making recommendations to the State Director and Solicitor's Office for resolution of the trespass case (See Table of Monetary Settlement Authorities, Chapter 5, Section F and Illustration 1).
7. **Unit Fire Management Officer (FMO).** The unit FMO has the overall operational responsibility for wildland fire cause determination, investigation and trespass. The responsibilities include:
- a. Ensuring all fires are investigated to determine cause, origin and, if

possible, the responsible party(s).

- b. Designating a Unit Fire Trespass Coordinator.
  - c. Providing adequate staffing and training for fire investigation and trespass program.
  - d. Ensuring that the initial information regarding the report of a fire is documented by dispatch to inform the fire investigation and trespass process.
  - e. Ensuring the completion of all appropriate documentation pertaining to the fire investigation and trespass collection process.
  - f. Ensuring the notification of law enforcement when appropriate.
  - g. Advising the Authorized Officer regarding the Fire Trespass Recommendation Document.
  - h. Ensuring involvement and coordination among resource specialists, collection/accounting personnel, law enforcement personnel and the Authorized Officer to complete trespass processes.
  - i. Developing a unit Fire Trespass Operating Plan (if desired) in coordination with the State Fire Trespass Coordinator and local Law Enforcement Officer that follows the State Fire Trespass Operating Plan.
8. **Unit Fire Trespass Coordinator.** Works with the State Fire Trespass Coordinator, SFMO, DFMO, and LEO to ensure an effective fire trespass program. The responsibilities include:
- a. Maintaining all case files and documentation related to each fire investigation.
  - b. Tracking and reporting fire trespass information in case files and fire reports in the Wildland Fire Management Information (WFMI) reporting system.
  - c. Obtaining detailed financial reports, and reviews, edits, and finalizes costs for billing.
  - d. Recording fire investigation and trespass case actions and providing this information, as appropriate, upon request.
  - e. Preparing fire trespass documents and correspondence for the Authorized Officer.



- f. Ensuring completion of fire cause and determination reports and the Trespass portion of the DI-1202 (Fire Report) in the WFMI reporting system. Ensures FMO is aware of fire investigation status.
9. **Initial Attack Incident Commander (IAIC)**. The IAIC has the overall responsibility for operations on the fire. The responsibilities include:
- a. Documenting and reporting initial observations and protecting the general point of origin.
  - b. Ensuring origin and cause determination is initiated. Determining if fire is a result of a lightning strike (if possible). If fire cause is unknown or human caused, ensures that a Wildland Fire Investigator (INVF) is ordered.
  - c. Involving law enforcement when appropriate.
  - d. Providing written input to fire investigation reports when necessary.
10. **Wildland Fire Investigator (INVF)**. The INVF is responsible for origin and cause determination of the fire; the INVF should arrive on the fire as soon as possible and continue without any additional responsibilities on the fire until the investigation is completed. The responsibilities include:
- a. Upon arrival on the fire, reporting to the IAIC and obtaining briefing concerning fire status. Reports significant findings to pertinent management and law enforcement.
  - b. Identifying the point of origin, helping to ensure it is protected until the investigation is complete, determining the cause of the fire, and identifying responsible parties in cooperation with the Incident Commander and Law Enforcement (if present).
  - c. Conducting and documenting the fire origin and cause determination in accordance with NWCG (FI-210) and National Fire Protection Association (NFPA) standard 1033 and guide 921. (Deviations from these standards are allowed but should be explained in the official fire investigation case file.)
  - d. Determining land status of the general area of origin. If not public lands administered by BLM, works with the IC and Dispatch to notify the appropriate agency for the dispatch of their fire investigator.
  - e. Identifying potential witnesses and conducting initial on-scene interviews and/or collecting witness statements.

- f. Coordinating with BLM law enforcement and other agency investigators.
11. **Law Enforcement Officer (LEO)**. The LEO will usually be the unit Law Enforcement Ranger. The LEOs who are qualified INVFs, may assume the lead in origin and cause determination and be the fire investigator of record on a human-caused fire. The LEOs who are not INVf-qualified can assume the lead in the overall investigation and assist the qualified INVf with normal law enforcement roles such as evidence collection, witness interviews and suspect interrogation. (When a non-LEO INVf needs to interview a potential suspect or witness who has left the scene, they must first coordinate with law enforcement.)

A LEO that is an INVf will have the same responsibilities listed above under Section 10. Additional responsibilities include:

- a. Seizing and collecting evidence from the scene or from the INVf and maintaining custody of evidence for storage. (INVfs may also collect evidence as long as BLM Law Enforcement standards and local protocols are established and followed).
- b. Retrieving personal identity information from suspects/witnesses or from the INVf.
- c. Conducting initial or secondary on-scene witness/suspect interviews and/or conducting off-scene follow-up interviews.
- d. Reporting and documenting any violations/crimes in the Law Enforcement Reporting System.
- e. Determining if probable cause exists for criminal action and coordinating with the SAC to initiate criminal proceedings when appropriate.
- f. Taking witness and suspect statements (voluntary or under oath).
- g. Initiating criminal proceedings, if applicable, in coordination with the unit FMO, Authorized Officer, SAC, and USAO.

12. **Law Enforcement Arson Investigator**. The SAC will assign an investigator when arson is suspected. The arson investigator will usually be a Special Agent (SA) due to the time required in a long-term arson investigation; however, a trained/experienced LEO may serve in this role. The LEOs that are assigned the responsibilities of being an arson investigator should be qualified Wildland Fire Investigators (INVfs) when possible. The NWCG qualifications of INVf and Investigative Team Member (INTM) are avenues for this. The responsibilities include:

- a. Leading field investigation including all off-scene follow-up investigative activities and coordinating the duties of the local LEO and INVF.
- b. Coordinating the prosecution of arson cases with the U.S. Attorney/County District Attorney.

13. **Finance Personnel.** The role of finance personnel is to administer all financial activities relating to fire trespass actions. The responsibilities include:

- a. Assisting the fire trespass coordinator in the retrieval and validation of all the detailed cost information related to the fire.
- b. Preparing the Bill for Collection (Illustration 7), adhering to current guidance.
- c. Depositing fire trespass collections in accordance with guidelines. Reports receipt(s) of collections to District FMO and state fire trespass coordinator. See Chapter 5.

14. **National Office Fire Trespass Lead.** It is the responsibility of the Office of Fire and Aviation to oversee the fire trespass program, provide policy and guidance, and to monitor and evaluate activities. The responsibilities include:

- a. Provide management and administrative oversight of BLM's fire trespass program by establishing policy and guidance.
- b. Ensure fire investigation and trespass cases are monitored and tracked in each state.
- c. Conduct reviews of fire investigation and trespass programs.
- d. Work with states to resolve fire investigation and trespass issues.

### Chapter 3: Fire Investigation Procedures

All fires of human or unknown origin that burn BLM land shall be investigated to determine origin, cause and, if possible, the responsible party(s) with the following exception. If a fire is not investigated due to safety, costs or other considerations, that decision must be recorded, signed by an Authorized Officer, and maintained at the local unit.

These investigations should be completed by certified fire investigators (INVs or Agency-certified). If arson (or other criminal intent) is suspected, the investigation will be managed by law enforcement. If juveniles are suspected or involved, all interviews will be coordinated by law enforcement.

All investigations will follow the methodology outlined in the Wildland Fire Investigation course (FI-210). Deviations from this methodology are allowed but should be explained and documented so they are defensible in any subsequent legal proceedings.

Protection of the origin area and cause determination must begin as soon as possible after the fire start because evidence can be quickly destroyed and witnesses and suspects may leave the scene. The information in this chapter will assist personnel in completing this important job.

#### A. Investigation Procedures and Information Gathering

A fire investigation includes the on-scene cause determination and the off-scene follow-up. Since it is not known at the time a fire is reported whether it is natural or human-caused, observations and information from the first report of the fire must be documented.

From the start, each fire should be treated as a potential human-caused fire and each investigation as a potential criminal case. Missed opportunities to obtain information in the earliest phase can have a severe impact on cost recovery efforts.

The dispatcher or person receiving the report of a fire should record the personal information of the person(s) reporting the fire as well as all pertinent information provided by the caller. Initial responders must record observations made in route to the fire and upon arrival on scene. The size-up of the fire by the IC should also include cause determination factors.

1. **Initial Determination:** The initial determination of whether a fire is a natural start or human caused can be made by the initial attack IC or fire investigation personnel (if dispatched concurrently with suppression forces). This determination does not have to be made by a qualified INV; however, completion of FI-110 is strongly recommended for personnel responsible for

initial determinations.

2. **Origin and Cause Determination:** Upon arrival on scene, and in keeping with personnel safety and the suppression tactic to be used, the fire's general area of origin shall be identified and protected from further disturbance (including acts of suppression or emergency rehabilitation) until an initial determination can be made and, if appropriate, an origin and cause determination initiated. This investigation will usually be conducted by a qualified INVF. If there are no qualified INVFs immediately available, the scene may be secured by a trainee or other designated employee with training in origin scene protection until a qualified INVF arrives.

If another agency is investigating a fire on BLM land as part of a cooperative agreement or other arrangement, the BLM may accept the qualification standards of that agency and not require that their investigators are INVF qualified. (This can occur when working with state, county and local agencies who may have a Certified Fire Investigator (CFI) qualification.) However, the BLM should ensure these cooperators have the training and expertise to conduct a wildland fire investigation on public lands. Additionally, many Solicitors Offices do not advise this as non-BLM wildland fire investigators may not be available to defend BLM's case in subsequent legal proceedings (depositions, hearings, trials, etc.).

If the fire's origin is not on BLM land and access to the origin is denied by the land owner, consult with law enforcement to determine how to proceed. This process could also be addressed in each State's Fire Trespass Operating Plan.

3. **Identify Witnesses and obtain written statements.** Persons at the scene will often give written statements voluntarily but may be reluctant to do so at a later date. Request witnesses to write detailed facts and sign and date a written statement (see Illustration 4). The BLM employee obtaining and witnessing the voluntary statement should sign, date, and record the time on the statement. On scene interviews and witness statements may be done by non-Law Enforcement personnel.

Possible suspects should be interviewed by an INVF or a LEO. When a non-LEO INVF needs to interview a potential suspect that has left the scene, they must first coordinate with law enforcement. Law enforcement will coordinate all juvenile (17 years of age or younger) interviews.

4. **Follow-up Investigation:** The off-scene follow-up investigation may require professional law enforcement expertise to collect/preserve evidence, conduct witness and suspect interviews, and for surveillance of suspects; and in all instances where intentional, criminal, repeated, or negligent acts are suspected, or when juveniles are suspected or involved. The INVFs will not conduct off-scene interviews with witnesses and suspects without first coordinating with a LEO.

5. **Land Ownership:** It is important to accurately establish land ownership both at the point of origin and for all acres burned in the fire. A cadastral surveyor should be brought in if there is doubt as to whether the fire burned BLM land. This information is critical for determining how to proceed with a potential fire trespass action. For fires that threaten BLM land but do not spread on to it, cost recovery (at this time) can only be pursued through a civil action. For fires that trespass and burn BLM land, collection can be pursued through either the administrative or civil collection process (federal court) depending on protocols and thresholds established in each State's Fire Trespass Operating Plan and in consultation with each state's Solicitor's Office.
6. **Working with Juveniles:** When the suspect is a juvenile (17 or under) Law Enforcement will coordinate all interviews. The LEOs or INVFs should advise legal guardians of state or local Youth Fire Intervention Programs if available.

## **B. Rewards**

Any district office or state office desiring to offer a reward leading to the arrest and conviction of someone suspected of igniting a fire through negligence or intent should contact their ASAC. The ASAC will coordinate with the SAC to offer the reward in accordance with law enforcement policy.

The benefiting activity must provide the funding for any rewards. For arson fires, the most common benefiting activity would be the fire trespass program. If a state does not have any fire trespass funds, a Fire Preparedness code may be used.

## **C. Release of Information**

Any BLM employee with information concerning a fire under investigation will not share that information with anyone except law enforcement, INVFs, Solicitor's Office attorneys, fire managers or agency managers *directly* involved in the investigation.

**Freedom of Information Act (FOIA) Requests for Fire Investigation Case File:** Fire investigation information and documentation shall not be shared with individuals or agencies who are not directly involved with the fire investigation until it is complete, unless authorized by the Solicitor's office and Law Enforcement. The fire investigation case file is not considered complete until it has gone through the review process outlined in each State's Fire Trespass Operating Plan. The BLM recommends marking the case file as "Draft" until the review process, including any follow-up investigation, has been completed. Once complete, all requests for copies of the fire investigation case file should be referred to the State FOIA coordinator.

**D. Electronic Case Files**

States may find it more efficient to store fire investigation case files and related information on a shared files directory. This will allow the review process to proceed more quickly and saves time and money associated with copying and updating case information. However, states should ensure that these files are secure and that access to this site is limited to appropriate personnel (law enforcement, Solicitor's Office, investigation and trespass personnel, etc.).

**E. Written communications on Fire Trespass Cases and Attorney/Client Privilege**

Written communications regarding open fire trespass cases in the form of emails, texts, and comments residing in trespass case tracking spreadsheets, etc., may be discoverable by opposing counsel during the litigation discovery process. The BLM personnel should ensure that all correspondence regarding an open fire trespass case is clearly marked as "attorney-client privileged" and should be addressed to the Solicitor's Office attorney or include the Solicitor's Office attorney on the cc/distribution list. In general, any written communications regarding an on-going fire trespass case should be limited and BLM personnel should avoid opining in writing about things such as negligence or perceived problems with the case.

Potential solutions include marking all correspondence and contents of fire trespass case files as "draft" during the Solicitor Office review and recommendation phase. Also, engaging in oral conversations rather than emails is encouraged. Do not be careless about what is written in emails and other documents as this could cause problems for the United States at trial. Do not assume all of your communications will be protected by attorney-client or deliberative process privilege.

## **Chapter 4: Making the Decision to Trespass**

The BLM will pursue cost recovery for human-caused fires on public lands administered by the BLM when evidence of legal liability or intent has been established in consultation with the Solicitor's Office. Administrative, civil or criminal actions may be pursued to recover the cost of suppression activities, emergency stabilization and rehabilitation planning and treatments, and damages to resources and improvements.

The decision whether to proceed with either a civil or administrative action will be made in consultation with the Solicitor's Office and outlined in State Fire Trespass Operating Plans.

If marketable timber has been damaged or injured by a trespass fire, consult with a forestry specialist before proceeding as it may be appropriate to use the timber trespass regulations which allow for collection above the fair market value of the timber depending on whether the act was willful. See 43 CFR, 9239.1-3. (b).

### **A. Lightning Caused Fires**

If the cause of a fire is determined to be lightning, at a minimum, a short explanation will be provided to the official fire report file and the investigation closed. The appropriate information would be entered into the BLM fire reporting system. No further documentation or action is required.

### **B. Human Caused Fires with no known Responsible Party and/or Cause is "Undetermined"**

If a fire cause is undetermined or it is determined to be human-caused but no responsible party has been identified, the original case file shall be documented as such and the case file can be retained at the local unit pending any further information that becomes available. The Authorized Officer's Fire Trespass Recommendation Document (Illustration 1) is the appropriate form to utilize. The required information should also be entered into the BLM fire reporting system and updated if the responsible party(s) or new evidence becomes available, making the case active again.

The local unit may decide to close these cases and complete the fire trespass sub-form in the BLM fire reporting system. Procedures and requirements for officially closing fire trespass cases should be outlined in each State's Fire Trespass Operating Plan. No further action or documentation is required unless additional evidence is found.

### **C. Human Caused Fires with a Known Responsible Party**

For all human-caused wildland fires where the responsible party(s) has been identified, the Authorized Officer will consult with the Solicitor's Office in regards to whether



potential legal liability (negligence, strict liability, products liability, etc.) exists before making the final decision whether to proceed (except for arson fires). If there is a disagreement between the Authorized Officer and the Solicitor's office on whether to proceed, the State Director will make the final decision with concurrence of the Solicitor's Office.

#### **D. Threat Fires**

According to past IBLA decisions which are based upon BLM fire trespass regulations that don't address threat fires at this time, the BLM lacks the *administrative* authority to recover suppression and other costs on fires that threaten but do not burn (trespass) BLM lands. States should consult with their Solicitor's Office regarding these types of fires if cost recovery is desired. These costs may be recoverable in a civil action using the authority in the Federal Land Policy and Management Act of 1976 that allows the Secretary of Interior to "take any action necessary to prevent the undue degradation of the lands" and/or common law tort claims.

#### **E. Initial Recommendation Whether to Proceed**

The initial recommendation whether to proceed for a human-caused fire with a known responsible party will be made by the Authorized Officer and documented on the Fire Trespass Recommendation Document (see Illustration 1). States should consider marking this document "draft" at this phase since the official decision whether to proceed has not been made. This will also ensure that the document is not releasable under FOIA and falls under attorney/client privilege. This recommendation is made in consultation with the local Fire Management Officer, Unit Fire Trespass Coordinator, and LEO. This recommendation, along with the case file, is then forwarded to the State Fire Trespass Coordinator for review and then to the Solicitor's Office for review and a determination as to whether legal liability exists.

#### **F. Final Decision Whether to Proceed**

Once Solicitor's Office and state office reviews are completed, a final decision whether to proceed is made by the Authorized Officer with Solicitor's Office concurrence. This is an administrative step that either closes the fire trespass case or initiates the cost recovery process.

1. **Decision Not To Proceed:** The decision "Not To Proceed" is based upon the facts of the investigation when legal liability or intent cannot be established and/or responsible parties cannot be identified. This determination is recorded on the DI-1202's Trespass Investigation sub-form and the case is closed. Trespass investigation information is filed in the official case file and in the unit's Official Fire Report Folder along with the fire report.

2. **Decision To Proceed:** The determination to proceed is based upon the facts of the investigation when a responsible party can be identified and there is evidence of legal liability. This determination is recorded on the WFMI Trespass Investigation sub-form, the case is established, and a trespass number assigned. The trespass investigation information is filed in the trespass case folder along with a copy of the DI-1202.

## G. Proceeding with Cost Recovery

Fire Trespass cases may proceed through either an administrative or civil action. (Criminal proceedings are not covered in this handbook as they will be handled by Law Enforcement.) The decision on *how* to proceed may be driven by the circumstances of the case, the dollar amount involved, or other factors as outlined in each State's Fire Trespass Operating Plan. The federal **statute of limitations** for civil fire trespass actions is six years (28 USC, 2415 (b)). For purposes of the fire trespass program, this same statute will apply to administrative fire trespass actions. However, it is important to note that states may have shorter statutes for certain types of actions such as a statutory strict liability claim against a railroad or tort claim against a state or local government. These statutes should be researched and included in each State's Fire Trespass Operating Plan.

1. **Administrative Actions:** Those that follow BLM's statutory authorities as outlined in the Code of Federal Regulations (43 CFR, Parts 9230 and 2808). In these cases, BLM takes the lead role and is represented by the Solicitor's Office. The ruling body is the Interior Board of Land Appeals (see chapter 5).
2. **Civil Actions:** Those referred to the USAO at the Department of Justice (DOJ) and are adjudicated in federal court. When civil proceedings occur, the BLM's role is to provide support to the USAO, which has the lead role and responsibility for all proceedings. Many USAO offices will handle these cases through their Affirmative Civil Enforcement (ACE) Attorney. A referral letter from the Solicitor's Office to DOJ is usually necessary before proceeding with a case through the USAO.
3. **Criminal and Civil/Administrative Action:** Criminal proceedings and administrative or civil actions can occur on the same trespass case either consecutively or concurrently. This is known as parallel proceedings. However, civil actions should be in lieu of an administrative trespass action and vice versa. It may strengthen the administrative or civil trespass case if any kind of criminal judgment is passed against the responsible party. This is one of the principal reasons that criminal proceedings are often allowed to proceed first.
4. **Criminal Restitution:** Costs incurred by the federal government in response to a wildfire can be awarded as part of the criminal sentencing process. This can occur at any level of criminal court (federal, municipal, etc.). The BLM offices should work closely with Law Enforcement staff and the U.S. Attorney's Office to coordinate with any criminal court that is prosecuting an individual that has caused a fire which burned

BLM land. These courts can sentence individuals for a criminal action and also award BLM (and other cooperating agencies) their costs and damages that resulted from the fire.

The incident facts must show intent for a criminal process to proceed. The criminal process can take one of two forms; a criminal citation or a criminal prosecution through an indictment/complaint. If the criminal process does not result in any cost recovery through a restitution order, a subsequent cost recovery collection action can be initiated through the administrative process outlined in this handbook or through the civil process.

## Chapter 5: The BLM Administrative Fire Trespass Process

This process may vary by state and should be addressed in each State's Fire Trespass Operating Plan (Illustration 12). See Illustration 18 (Fire Trespass Flowcharts) for additional information.

### A. The Fire Investigation Case File

An official Fire Investigation Case File should be established and maintained at the local unit for every fire that is investigated. It should be organized in a logical manner, preferably in chronological order. States are encouraged to meet with their Solicitor's Office and Law Enforcement staff to come up with a standard fire investigation case file format that fits their needs (see Illustration 24 for a sample checklist).

1. **Fire Trespass Case Numbering System:** A case number should be assigned when the final decision is made to proceed with a fire trespass case. The trespass case number is assigned from the trespass register and maintained at either the state or Unit office. Procedures for numbering fire trespass cases should be included in each State's Fire Trespass Operating Plan.

BLM *recommends* that each state follow the fire trespass case numbering sequence below. However, the only requirement is that each case receives a unique identifier for tracking purposes. Therefore, deviations from the recommendation below are allowed as some states may choose to use the actual Fire Number for the last four digits or may have other tracking protocols.

Each case file number consists of three groups of alpha/numeric numbers. For example: **NV010-10-1401**. The first two alpha letters, **NV**, identify the state in which the trespass occurred - Nevada. The next three numeric numbers, **010**, identify the office - Elko Field Office. The number 10 identifies the unauthorized use as a fire trespass. The next two numbers, **14**, indicate the fiscal year the fire started in and the last two numbers, **01**, are assigned from the trespass register maintained at each district/field office location (units should go all the way to 99 before starting over again at 01). The trespass case number should be recorded on all documents relating to the trespass and filed in the official fire investigation case file.

The Authorized Officer's Fire Trespass Recommendation Document and a copy of the fire report (DI-1202) are filed in the trespass case folder. The original DI-1202 is filed in the official fire report folder in the unit's central files. *Note:* Refer to the current BLM fire reporting (WFMI) user guide for instructions on how to enter fire trespass data.

2. **Fire Trespass Case File - Records Retention Requirements:** The original Fire Trespass Case File should be maintained at the local unit for a minimum of six

years. This duration can be extended by states or due to a litigation hold that may be placed on all records by legal counsel. Consult with your State Records Manager to ensure compliance with federal records regulations.

## B. Recoverable Costs and Damages

The gathering and validation of costs should be completed prior to sending the Notice of Suspected Trespass. These costs should be noted in the Notice of Suspected Trespass and include all costs and damages incurred by the BLM as a result of the fire. Offices should collect and retain all documents related to the cost summaries including timesheets, receipts, contracts and invoices.

Every attempt should be made to validate all costs in the initial estimate. However, if costs have not been validated, be sure to inform the suspected trespasser that you are providing an *estimate* that is subject to change. Costs incurred after the initial estimate or billing should be documented and added to the bill during negotiation, settlement, or court trial. **All costs must be validated before inclusion in the final Bill for Collection.** *Note: Consult with your State's Solicitor's Office as some attorneys may want all costs validated and verified before any contact with the responsible party occurs.*

The following is a general list of costs that could be included in the Bill for Collection. See Illustration 3 for an example of a fire cost summary.

1. **Fire Suppression Costs:** Costs incurred by the United States, including, but not limited to, salary costs, travel, fleet, contracts, aviation, repairs, supplies, and costs of providing rescue or emergency services. Salary costs include base time, overtime, hazard pay, and employer's contributions to retirement, social security, life insurance, and health benefits.

Make sure to include all states when pulling these costs from the BLM financial system as out-of-state resources may have been ordered in to fight the fire, assist in the rehabilitation effort, etc. It is also important to check whether other federal agencies incurred costs so all federal costs can be brought in one billing.

2. **Resource Damages:** Generally, damages will be the cost of re-establishing the resource, less any salvage value. Other damages may include habitat loss, loss of scenic or aesthetic values, damage to rare natural features, replacement of recently planted vegetation, archaeological damage, paleontological damage (cost to rehabilitate damaged fossils, bones, etc.) etc. Habitat Equivalency Analysis and Resource Equivalency Analysis are two examples of ways to value resource damages. Consult with Burned Area Emergency Rehabilitation teams and resource specialists to value these costs and ensure they are included as part of the cost recovery effort. Some of these costs may be included in ES&R plans.

If a burned area was recently rehabilitated or had a fuels treatment that included the planting of vegetation, the costs of the plants lost in the fire are also recoverable. These replacement costs may also be doubled as stated in 43 CFR, 9239.1-3 which covers damages to “timber and other vegetative resources”.

3. **Emergency Stabilization and Rehabilitation (ES&R) Costs:** Costs of approved emergency stabilization and rehabilitation activities or actual ES&R costs charged to the ES&R sub-activities and project codes. Consult with ES&R specialists to include and validate these costs and to ensure that an approved ES&R plan is in place. Some ES&R efforts may not occur prior to cost recovery efforts but are still appropriate to include in the Bill for Collection as long as they are included in an approved ES&R plan.
4. **Cost of Repairing or Replacing Physical Improvements:** The damage or destruction of physical improvements caused by the fire, e.g., water guzzlers, fences, roads, bridges, etc. Some of these costs may be included in ES&R Plans.
5. **Cost of Repairing, Replacing, or Rehabilitating Offsite Values:** These values are usually related to water structures which have dried up or in some other way been damaged as a result of fire. Damage should be assessed using replacement costs.
6. **Lost Visitor Use and Lost AUMs (grazing fees):** Lost permit fees for public land use may be recoverable as well as lost AUMs as a result of having to rest the area while vegetation re-establishes.
7. **Expert Witnesses Contracted to Provide Analysis and Expertise:** These costs may be charged to the fire and are recoverable. For example, a structural engineer may be hired to analyze a broken power pole to determine if it was structurally sound.
8. **Direct Administrative Costs:** All appropriate labor, equipment, materials and other costs incurred to suppress, rehabilitate, investigate, or otherwise directly support suppression, rehabilitation and investigation of the fire should be charged to the fire number and included in the Bill for Collection. Labor includes but is not limited to fire investigators, fire trespass coordinators, dispatchers, cost and billings personnel, law enforcement and others who directly support and charge to the fire.
9. **Indirect Administrative Costs - BLM Indirect Cost Rate:** The BLM annually determines a standard percentage for an Indirect Cost Rate for administrative support costs. This rate should be added to the total fire trespass bill. Requests to waive or reduce this rate may be considered and should be done in accordance with current BLM policy.

### **C. Joint Cost Recovery on Multi-Jurisdictional Fires**

Per 31 C.F.R. § 901.1 (c), “(federal) agencies shall cooperate with one another in their debt collection activities.” Therefore, all costs incurred by federal agencies in support of the fire should be consolidated into one billing. A lead agency is established (usually the agency on whose land the fire originated) and is responsible for requesting costs from participating agencies. An authorization letter from each participating agency shall also be completed that authorizes the lead agency to collect costs on their behalf (see Illustration 13). All participating agencies should provide supporting cost documentation on request and be prepared to defend those costs if requested. The State Fire Trespass Coordinator is responsible for coordinating these activities in conjunction with the State’s Fire Business Specialist.

It is critical that all agencies (federal, state and local) are informed of any collection action. If insurance policy limits are involved or the responsible party is unable to pay the full amount, there may not be funding available to satisfy additional claims. For federal agencies, this is further complicated if a Release of Liability is signed as part of a settlement agreement as that may prohibit other agencies of the United States government to pursue cost recovery. Generally, if BLM is executing a release it should only apply to BLM, not the United States unless all federal agencies have been included.

*Note: If the case is referred to the USAO, they will work with all affected federal agencies to gather costs and distribute any funds that are collected (minus a 3% administrative charge).*

### **D. Notice of Suspected Trespass**

Following concurrence from the State Fire Trespass Coordinator and the Solicitor’s Office regarding the Authorized Officer’s Recommendation Document to proceed, the Authorized Officer may initiate the administrative fire trespass process. Contact with the responsible party is initiated by sending the Notice of Suspected Trespass (see Illustration 2) and a meeting with the responsible party is offered. This Notice requests that the responsible party provide evidence or information showing they are not responsible for the fire trespass within 21 days of receipt of the Notice and also an opportunity to pay and settle the claim at that time (if all fire costs have been received and reconciled prior to sending the Notice). This Notice, as well as all correspondence with the responsible party, will be sent and tracked via certified mail.

Prior to sending the Notice of Suspected Trespass, an estimate of costs associated with the fire are gathered, reviewed, and placed in the fire trespass case file. It is not necessary to delay the meeting until the final cost figures are available. However, if costs are included in the Notice of Suspected Trespass or presented to the responsible party at the initial meeting, it is important to inform them that the costs presented to them are merely an estimate and may change once the cost validation process is complete. The BLM recommends that cases are not settled at this stage if all BLM costs are not yet

known and validated.

It is recommended that the Authorized Officer, unit FMO, and INVf attend any meetings with the suspected trespasser resulting from the Notice. If the suspected trespasser's attorney will attend, a Solicitor's Office attorney should be present. At the meeting with the suspected trespasser, the trespass information, including estimated costs, is discussed and clarified. This purpose of this meeting is to examine the information currently available to the government and any information the suspected trespasser may have that further clarifies the circumstances that lead to the fire. BLM should obtain any insurance information and settlement can be *discussed* if costs have been validated. Information from this meeting should be added to the case file and communicated to the Solicitor's Office.

Communication between the BLM and suspected trespasser is allowed and expected during this Notice of Suspected Trespass phase. However, if BLM is contacted by the suspected trespasser's attorney, fire investigator, insurance company or other representative, the Solicitor's Office should be notified before proceeding further.

#### **E. Trespass Decision and Bill for Collection**

If the case is not settled after the Notice of Suspected Trespass has been sent or the time for response by the responsible party has passed with no contact, BLM may proceed to issue a Trespass Decision and Bill for Collection. It is recommended that the Solicitor's Office review the draft Trespass Decision before transmittal to the responsible party by the Authorized Officer (in coordination with the State Fire Trespass Coordinator) because the Decision, once issued, is immediately appealable to the IBLA by the responsible party.

For an example of an Authorized Officer's Trespass Decision Letter, see Illustration 5. The letter must include a detailed rationale for the Decision including a thorough description of the evidence of legal liability with reference to documents contained in the administrative record (such as the fire origin and cause investigation report). This is important because the Decision sets forth the legal case that BLM will have to defend before the IBLA. The BLM must ensure that the administrative record (case file) is complete before issuing the Decision Letter. If an appeal is received, BLM must transmit the administrative record to the IBLA within ten days. The administrative record must contain all relevant documents regarding the fire that the BLM Authorized Officer relied upon to make the Trespass Decision. This is very important because if the administrative record does not include all of the documents that support the Fire Trespass Decision, the IBLA may rule against BLM, even though BLM may have made a legally correct determination.

The fire trespass may be settled at any time during the process. However, it is important to remember that the Authorized Officer may only *recommend* settlement offers. Additional review is required before accepting a settlement of less than the full amount (see Section F below).



The Trespass Decision Letter is sent to the suspected trespasser by certified mail, return receipt requested, and will contain:

1. Trespass Decision Letter and Bill for Collection;
2. Notice of Actions in Event of Delinquency; and
3. Notice of Right to Appeal and instructions on the appeal process (including mailing address for Solicitor's Office and Authorized Officer's Office).

The suspected trespasser has thirty (30) days from receipt of the Trespass Decision letter to either make full payment or appeal the decision. If the suspected trespasser appeals the decision, they must send the original appeal notification to the Interior Board of Land Appeals (IBLA) *and* copies to the Authorized Officer's field/district office and the appropriate Solicitor's Office. Upon notification of appeal, further collection action is suspended until IBLA makes a determination. States should consult with their State Costs and Billings personnel for rules and regulations regarding the assessment of penalties and interest to outstanding bills and the process for turning delinquent bills over to the Department of Treasury.

The **Bill for Collection** (Illustration 7) along with a billing document to report the debt as an accounts receivable, is prepared in cooperation with BLM Collections and Billings staff. The backup documentation for the Bill for Collection should be summarized by major categories, such as personnel, emergency stabilization and rehabilitation, resource damages, etc. (see Illustration 3) and be part of the Administrative Record (case file).

If no appeal has been filed or no payment arrangements made within 30 days from the date of receipt of the Trespass Decision and Bill for Collection, the Demand Letter process is then executed by a designated collection official. This is also the process used when the IBLA affirms the Trespass Decision and no payment has been made within 30 days of that Decision. The Demand Letter process may be administered at any office level or support center.

**Demand Letter Process:** The Bill for Collection states that interest will be assessed if payment is not made within 30 days of receipt of the date of the original bill. Further, an administrative charge of \$5 will be added to each follow-up billing (Demand Letter) necessitated by failure to pay on time. Upon receipt, the trespasser has 30 days to either pay in full, negotiate a settlement of less than full payment, or appeal. If payment in full is not received, or settlement not achieved within the time allowed, and no appeal has been filed, the Demand Letter Process is started.

If the trespasser does not respond to the third and final Demand Letter, the case file is referred to the State Director (SD). At this time, the SD must decide whether to refer the case to the Solicitor's Office for civil action or to the National Business Center for referral to the Department of Treasury for collection action. An administrative penalty of six percent per year will be assessed for failure to pay any portion of the debt that is more than 90 days past due. Consult with State Office Collections and Billings staff

for further information or any questions about the Demand Letter process. *Note: In addition to the Demand Letter process, states can (through the Solicitor's Office) contact their local USAO who may be able to assist in the collection.*

**Promissory Note:** If the suspected trespasser has accepted responsibility for the trespass and is willing to pay the damages but cannot pay in full within the time allowed, a Promissory Note can be completed. Further collection action is suspended until the note is paid in full – at which time the case file will be closed. If the note is not paid as promised, the debt collection process is re-instituted and collection proceedings begin. Consult with State Cost and Billings personnel for guidance on Promissory Notes and options for verifying a party's ability to pay through credit reports or other financial information.

#### F. Monetary Settlement Authorities

Settlement Is:	Actual Charges/ Damages Are:	Recommending Official:	Concurring Official:	Accepting Officer:	Reference:
Full Payment	No Limit	None	None	Field Manager (FM) or District Manager (DM) or State Director (SD)	None
Compromise Offer or Write-Off of entire debt	\$1- \$49,999*	FM/DM	Solicitor	SD	31 USC 3711
Compromise Offer or Write-Off of entire debt	\$50,000 - \$99,999*	FM/DM	Solicitor and NOC Director**	SD	31 USC 3711
Compromise Offer or Write-Off of entire debt	> \$100,000*	FM/DM	SD/Solicitor and NOC Director**	Dept. of Justice	31 USC 3711
Real Property in lieu of or in addition to monies	< or = \$100,000*	FM/DM	Solicitor	SD	31 USC 3711

\*Amount of recoverable costs and damages resulting from fire, exclusive of interest and penalties (not the actual amount of the compromise offer).

**\*\*The National Operations Center (NOC) considers this to be a reporting requirement. When a settlement/compromise is reached, a write-off request must be submitted to the NOC with a standardized form (contact the State Office Collections and Billings Staff for the form) and copies of the agreement or approval signed by the State Director and Solicitor if required. This is how the bill is closed. All write-off requests are forwarded to the NOC Director for concurrence. The NOC Director will not typically question or deny a write-off approved by a State Director. This is part of the process BLM goes through to keep the NOC Director aware of financial activity.**

### **G. Basis for Compromise or Write Off**

The Code of Federal Regulations provides the following statutory authority for compromising a debt of the US Government.

#### **31 CFR Part 902.2 - Basis for compromise**

- (a) Agencies may compromise a debt if the Government cannot collect the full amount because:
  - (1) The debtor is unable to pay the full amount in a reasonable time, as verified through credit reports or other financial information;
  - (2) The Government is unable to collect the debt in full within a reasonable time by enforced collection proceedings;
  - (3) The cost of collecting the debt does not justify the enforced collection of the full amount; or
  - (4) There is significant doubt concerning the Government's ability to prove its case in court.

### **H. Services in Lieu of Payment**

The BLM does **NOT** have authority to accept Services in Lieu of Payment for fire trespass bills. The Federal Claims Collection Standards define a "claim" or "debt" to be synonymous and refer to "an amount of money, funds, or property that has been determined by an agency official to be due to the United States from any person, organization, or entity, except another federal Agency – see 31 CFR, 900.2 (a). These standards also dictate the form of payment, stating that "claims may be paid in the form of money or, *when a contractual basis exists*; the Government may demand the return of specific property or the performance of specific services (31 CFR 900.5).

Therefore, payment of money is required unless a contract exists. In other words, the provision allows the agency to choose to enforce a contract and obtain whatever services or property it originally contracted to obtain, rather than just obtaining the monetary value of those items. The provision does not authorize the agency to accept services in lieu of payment under any other circumstance, including as a compromise for a fire trespass bill.

## I. No Permits, Authorizations or Grants to Trespassers

If BLM has a pending Fire Trespass (or any kind of trespass) case against an individual, no permit, authorization, or grant of any kind may be issued to that person until the trespass case is resolved. Applicable CFRs are listed below.

43 CFR, Part 2808.12 states: “Until you satisfy your liability for a trespass, BLM will not process any applications you have pending for any activity on BLM-administered lands.”

43 CFR, Part 9239.7-1 states “No new permit, license, authorization or grant of any kind shall be issued to a trespasser until:

- (a) The trespass claim is fully satisfied; or
- (b) The trespasser files a bond condition upon payment of the amount of damages determined to be due the United States; or
- (c) The authorized officer determines in writing that there is a legitimate dispute as to the fact of the trespasser’s liability or as to the extent of his liability, and the trespasser files a bond in an amount determined by the authorized officer to be sufficient to cover payment of a future court judgment in favor of the United States.”

## Chapter 6: Managing Fire Trespass Collections

### A. Deposits of Fire Trespass Collections

Fire trespass actions and collections will be identified, administered, and tracked according to established procedures within this BLM Fire Trespass Handbook (H-9238-1).

Fire Trespass collections will be deposited into the State Fire Trespass account in which the fire occurred. For example, a fire in Wyoming may have BLM resources from several other states charging to that fire. Those costs will be added to the Wyoming BLM costs and Wyoming BLM will deposit them into its Fire Trespass account as described below.

All fire trespass collections will be deposited into either sub-activity 5310 (Repair of Damaged Lands, Oregon and California Railroad Lands) or sub-activity 5320 (Repair of Damaged lands, Public Lands). This includes collections resulting from criminal or civil court-ordered restitution. Use program element "RD" and project code "FIRE" when depositing these collections. **The project code must be attached to the collection or the funds risk being lost into a general collections category.** Each state office has designated a specific office organization code in which collections will be summarized (see Fire Trespass Collections Quick Reference Guide – Illustration 16).

If fire occurs on Western Oregon (O&C) lands, deposit the collections into Functional area L53100000. If fire occurs on other public lands deposit the collections into Functional area L53200000. **Example:** BLM Utah recovers \$400,000 from a trespass fire action on public land. The entire \$400,000 would be deposited in LUT930-000L53200000-RD0000-LVDP-FIREUT00. However, if the fire occurred on O&C lands, Functional area L53100000 would be used, and the amount would be deposited in LLOR930000-L53100000.RD0000-LVDP-FIREOR00.

Programs L53100000 and L53200000 include other BLM activities; therefore, it is critical that fire trespass collections and resultant spending transactions cite the **LVDP-FIRE\*\*00** WBS, or the funds will be deposited to the general Repair of Damaged Lands account for each state.

If other federal agency's costs were part of the trespass bill, BLM will transfer their percentage of the collection via IPAC (a Treasury subsystem for interagency electronic transfer of funds). State agencies do not usually fall into this situation because a net reimbursement between the two agencies usually occurs at the end of the fire season covering the entire year's suppression actions.

## **B. Use of Fire Trespass Collections**

Once fire trespass funds are deposited, they will be managed by the state where the collection was made within the directives contained in this Handbook. These funds are available as soon as collected and may be maintained in the state office for statewide activities or targeted to district offices. Trespass Funds are not base funds; they are considered one-time funds. These funds do not have to be applied to the same lands that generated the collections and can be used without fiscal year limitation.

Funds collected from fire trespass actions can only be used for fire program activities that support the protection of life, resources and property. Examples include fire prevention, mitigation, education, investigation, cost recovery, and preparedness activities. These funds can also be used for restoration activities that are needed as a result of a fire where, due to limitations on the use of Emergency Stabilization and Rehabilitation (ES&R) funds, restoration of developments damaged by a fire could not be accomplished.

Trespass funds may be used for non-recurring contracts and one time purchases that do not require continued monetary commitment beyond what is available in the trespass account. Funds can be used for labor, training, travel and support and administration of fire program activities. However, while labor charges are allowed, these funds should not be used as the basis for hiring permanent positions.

## Chapter 7: Fire Trespass Reporting

To effectively manage the fire program and to meet external mandates, fire information needs to be collected and recorded in a timely manner. This information includes data about the fire trespass program.

### A. Fire Trespass Recommendation Document

As described in Chapter 4, the Authorized Officer's Fire Trespass Recommendation Document records the official recommendation whether to proceed with a trespass. A 1998 Office of the Inspector General (OIG) audit stated the BLM must, "ensure that all fires are adequately investigated as to cause and responsibility and that investigations are properly documented..." Therefore this document is the pivotal point of the fire trespass process and must be retained in the official fire report folder or the fire trespass case file at the local unit.

### B. Entering Trespass Information into BLM Fire Reporting System

The DI-1202 is the BLM's official reporting document for all wildland fire activities and is contained in the Wildland Fire Management Information (WFMI) system. When a fire is identified as human caused, the electronic fire reporting system will prompt the user to complete the necessary fire trespass data elements. Refer to H-9218-1 for instructions on how to enter data into WFMI which records items such as cause, suspect classification, case status, amount billed and collected, and other pertinent data.

States should annually request to the national office that fire numbers associated with potential fire trespass cases remain open for charges into the next fiscal year. This will allow for accurate coding of all costs associated with fire investigation and cost recovery efforts. Consult the State Fire Business Lead regarding the process and timing for this request.

### C. Tracking Fire Trespass Cases and Collections

The Office of Inspector General (OIG) audit report entitled *Reimbursement of Firefighting Costs, Bureau of Land Management* (Report No. 98-I-551, July 1998) requires BLM state offices to track, and prepare for management review and oversight, the following items:

1. Number of human caused fires each year
2. Number of human caused fires where BLM has pursued collection each year
3. Cost of fires where BLM has pursued collection
4. Amounts billed
5. Amounts collected
6. Amounts written off (compromise offer or write-off of entire amount)
7. Reasons for amounts "not billed" or "written off"

- a. Amounts not Billed: For human-caused fires where BLM has made a decision not to pursue collection, the basis for this decision should be documented on the Authorized Officer's Fire Trespass Recommendation Document (Illustration 1) and, following Solicitor's Office concurrence, included in the official fire investigation case file at the local level.
- b. Amounts Written off: For human-caused fires where BLM has made a decision to pursue collection and a compromise offer has been accepted or the entire amount has been written off, the reason for that decision should be documented and tracked at the unit level in the official fire investigation case file and by state and unit level Fire Trespass Coordinators.

It is understood that, for most fires, cost recovery efforts may take several years which makes it difficult to produce an annual summary of billings and collections. Therefore, state offices should consider keeping a running spreadsheet that tracks, at a minimum, the items listed above for all fire trespass cases where their state has pursued collection. For all other human caused fires where BLM has chosen not to pursue collection, that documentation should reside within the individual fire investigation case files as explained above under the "Amounts not Billed" section. This documentation would include reasons such as "no responsible party identified", "negligence or intent could not be established", or some other appropriate reason.



**Illustration 1**

**AUTHORIZED OFFICER'S FIRE TRESPASS RECOMMENDATION DOCUMENT**

Fire Name:	Fire #:	State:	District Office:
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**Evaluation Criteria**

	Yes	No
1. Has a fire cause been determined?		
2. Has a suspect(s) been identified?		
3. Can suspect(s) be located?		
4. Criminal misdemeanor citation issued?		
5. Criminal felony investigation initiated?		
6. Are there facts, circumstances, and/or other evidence present to sustain a trespass action?		

Investigation Summary of Facts (continued on page 2):

**Recommendations**

	INVF	FMO	LEO
The BLM should proceed.			
The BLM should not proceed, case file closed.			
The BLM should not proceed, at this time, in lieu of civil action, case file remains open.			
The BLM should not proceed, at this time, in lieu of criminal felony action, case file remains open.			
The BLM should proceed, due to unsuccessful cost recovery in civil/criminal action.			
The BLM should not proceed, due to successful cost recovery in civil/criminal action, case file closed.			

Recommendation Rationale (continued on page 2):

FMO Signature: \_\_\_\_\_

Date:	Printed Name:
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**Solicitor's Review (when responsible party has been identified)**

**Proceed**

**Do Not Proceed**

**Authorized Officer's (DM/AM) Recommendation (circle one):**

**Proceed**

**Do Not Proceed**

**Rationale (continue on page 2 if necessary):**

Authorized Officer's (AM/DM) Signature:	Printed Name:	Date:
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Investigation Summary of facts (continued):

Recommendation Rationale (continued):

Authorized Officer's Recommendation Rationale (continued):

**Illustration 2 - Notice of Suspected Trespass**

**United States Department of the Interior**

BUREAU OF LAND MANAGEMENT

*Your Office Name*

*Your Office Address*

*Your Office City, State and Zip Code*

*Your office website address*

In Reply Refer To:  
9238 (XX-XXX)

Date

**NOTICE OF SUSPECTED TRESPASS**

CERTIFIED - RETURN RECEIPT REQUESTED

*Name of Alleged Trespasser*

*Address*

*City, State, & Zip Code*

Re: *Fire Name & Number*

Dear XXXX,

On *date* the *name* fire occurred in the *general* area and burned public land without authorization. A map of the burned area has been attached for your reference. The Bureau of Land Management (BLM) has incurred costs totaling \$\$\$ to respond to and suppress the fire. (If costs are estimated, make this clear in letter.) Our investigation indicates that the fire was started due to (how fire started here) and that you may be responsible for the ignition of the fire. This action may be in violation of the Code of Federal Regulations (43 CFR 9212.1). (be sure to list any other CFRs that may apply here).

If you have evidence or information which tends to show that you are not responsible for starting the fire, you are allowed 21 days from receipt of this notice to present such evidence or information or to affect settlement of this claim at the Bureau of Land Management, *Your District Office Name and Address*.

The BLM (enter field or district office name here) desire is to resolve and close this fire trespass case. Please contact *person's name* at *phone number* to establish a meeting time or with any questions that you may have or to arrange payment. If no contact is made within the time allowed, a Trespass Decision and Bill for Collection may be issued without further notice

Your immediate attention to this matter is appreciated.

Sincerely,  
Authorized Officer

**Illustration 3- Fire Cost Summary****SAMPLE FIRE (C1R1)****Table 1: BLM Suppression & Rehabilitation Costs**

<b>Cost Category</b>	<b>BLM Suppression Costs</b>	<b>BLM Rehabilitation Costs</b>	<b>BLM Costs Total</b>
Aircraft Costs	\$209,985.93	\$0.00	\$209,985.93
Cache Costs	\$2,654.39	\$0.00	\$2,654.39
Contracts & Services	\$79,865.17	\$26,934.28	\$106,799.45
Emergency Fire Fighter Costs	\$25,496.25	\$0.00	\$25,496.25
Salaried Labor Costs	\$92,434.18	\$48,735.65	\$141,169.83
Supplies & Materials Costs	\$48,683.97	\$177,935.87	\$226,619.84
Travel Costs	\$4,924.53	\$0.00	\$4,924.53
Vehicle Costs	\$12,700.94	\$818.32	\$13,519.26
Indirect Cost Rate (Administrative)	\$109,174.68		
<b>TOTAL</b>	<b>\$585,920.04</b>	<b>\$254,424.12</b>	<b>\$840,344.16</b>

**Table 2: Total Damages Allocated for BLM**

<b>Description</b>	<b>Cost</b>
Suppression and Rehabilitation Costs	\$731,169.48
Reimbursement by the State of Utah to the BLM	-\$20,634.73
<b>Total Damages</b>	<b>\$710,534.75</b>

**Table 3: Costs by Agency**

<b>Agency</b>	<b>Suppression and Rehabilitation</b>	<b>Reimbursement by the State of Utah</b>	<b>Totals</b>
Bureau of Land Management	\$731,169.48	-\$20,634.73	\$710,534.75
Bureau of Indian Affairs	\$67,179.66	\$0.00	\$67,179.66
National Park Service	\$34,903.88	-\$2,792.31	\$32,111.57
U.S. Forest Service	\$1,066,384.29	-\$87,990.89	\$978,393.40
<b>Total</b>	<b>\$1,899,637.31</b>	<b>-\$111,417.93</b>	<b>\$1,788,219.38</b>

*Note: This is just one example of a fire cost summary. Consult with your Solicitor's Office to determine a standardized format for presenting costs in your State. This format should be included in your State's Fire Trespass Operating Plan.*

**Illustration 4 – Voluntary Statement**

**Voluntary Statement**

(EXAMPLE)

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Phone Number:** \_\_\_\_\_ **Cell Phone Number:** \_\_\_\_\_

**Purpose for Statement (Fire Name & Number):** \_\_\_\_\_

**Date:** \_\_\_\_\_ **Time:** \_\_\_\_\_

**Location:** \_\_\_\_\_

**Write down information about fire in space below** (Please be as specific as you can and make sure it is legible):

*\*Note: This is intended to be a sample form for voluntary witness statements obtained by non-LEO personnel. Consult with your Law Enforcement staff to establish protocols for obtaining witness statements and include this information in your State Fire Trespass Operating Plan. A statement may be taken on a blank piece of paper or a form may be used – the important thing is to make sure it is legible, signed, and contains enough contact information to allow for follow-up if needed. If the statement is written by a BLM employee for the witness, the statement should be read back to the witness before it is signed.*

**Signatures** (Please print and sign your name below):

**Witness:** \_\_\_\_\_

**BLM Employee:** \_\_\_\_\_

**Illustration 5- Authorized Officer's Trespass Decision Letter (2 pgs)**

UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

*Your Office Name*

*Your Office Address*

*Your Office City, State, & Zip Code*

*Responsible Party Name and Address*

RE: Decision and Request for Payment for the *(fire name & number)*

Dear XXXXXX:

On *(date)*, a fire was reported to the *XXXXXX Fire Center*. The investigation has found that you were responsible for the ignition of this fire and negligent in your actions. Enclosed is a Bill for Collection (#XXXXX) for \$XXXX for *(suppression and ESR)* costs. Also enclosed is a Notice of Actions in Event of Delinquency. The check or money order should be made payable to the Department of Interior – BLM.

A Notice of Suspected Trespass was sent to you on *(date)*. *(Summarize your communications with them in a short paragraph)*.

As noted, the BLM has determined that you caused a fire that required suppression *(include other general cost categories as appropriate here such as damages, ES&R, etc.)* efforts and that you are liable for these costs. The following facts are relevant to this determination:

1. *(state your facts in detail and refer to documents in the administrative record such as the fire investigation report.)*
- 2.
- 3.

Within 30 days of receipt of this decision, you have the right to appeal the decision to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations found in 43 Code of Federal Regulations Part 4 and the enclosed form, 1842-1, Information on Taking Appeals and Stays to the IBLA. If an appeal is taken, the appeal must be filed at the *(your district office)* at the address shown above. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition for a stay pursuant to 43 C.F.R. Part 4, Subpart B §4.21, during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay must show sufficient justification based on the standards

listed below. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

*Note: Solicitor's Office review of the draft Decision Letter is recommended before transmittal to assist with articulating the legal basis of liability (negligence, strict liability, etc.).*

### **Standards for Obtaining a Stay**

Except as otherwise provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall be evaluated based on the following standards:

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellant's success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

Copies of any notice of appeal, petition for stay, and statement of reasons also must be submitted to each party named in this decision and to the Office of the Solicitor, (*your Solicitor's Office*), at the same time the original documents are filed in this office.

If you have any questions regarding this matter, please contact (*your name*), Fire Trespass Coordinator (*phone #*).

Sincerely,

(*field manager name*)  
Field Manager

#### Enclosures - 3

Bill for Collection

Notice of Actions in Event of Delinquency (P.L. 97-365, 31 U.S.C. 951-953)

Information on Taking Appeals and Stays to the Board of Land Appeals (1842-1)

**Illustration 6 - Information on Taking Appeals to the IBLA (2 pgs)**

Form 1842-1  
(September 2006)

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

**INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS**

**DO NOT APPEAL UNLESS**

1. This decision is adverse to you,  
AND
2. You believe it is incorrect

**IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED**

**1. NOTICE OF APPEAL**..... A person who wishes to appeal to the Interior Board of Land Appeals must file in the office of the officer who made the decision (not the Interior Board of Land Appeals) a notice that they wish to appeal. A person served with the decision being appealed must transmit the *Notice of Appeal* in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a *Notice of Appeal* in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).

**2. WHERE TO FILE**  
NOTICE OF APPEAL.....

WITH COPY TO SOLICITOR.....

**3. STATEMENT OF REASONS** Within 30 days after filing the *Notice of Appeal*, file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary (43 CFR 4.412 and 4.413).

WITH COPY TO SOLICITOR.....

**4. ADVERSE PARTIES**..... Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413).

**5. PROOF OF SERVICE**..... Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)).

**6. REQUEST FOR STAY**..... Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a *Notice of Appeal* (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your *Notice of Appeal* (43 CFR 4.21 or 43 CFR 2801.10 or 43 CFR 2881.10). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the *Notice of Appeal* and Petition for a Stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

**Standards for Obtaining a Stay.** Except as otherwise provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards: (1) the relative harm to the parties if the stay is granted or denied, (2) the likelihood of the appellant's success on the merits, (3) the likelihood of immediate and irreparable harm if the stay is not granted, and (4) whether the public interest favors granting the stay.

Unless these procedures are followed, your appeal will be subject to dismissal (43 CFR 4.402). Be certain that all communications are identified by serial number of the case being appealed.

**NOTE:** A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, Subpart B for general rules relating to procedures and practice involving appeals.

(Continued on page 2)



**43 CFR SUBPART 1821—GENERAL INFORMATION**

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

**STATE OFFICES AND AREAS OF JURISDICTION:**

Alaska State Office ----- Alaska  
 Arizona State Office ----- Arizona  
 California State Office ----- California  
 Colorado State Office ----- Colorado  
 Eastern States Office ----- Arkansas, Iowa, Louisiana, Minnesota, Missouri  
 and, all States east of the Mississippi River  
 Idaho State Office ----- Idaho  
 Montana State Office ----- Montana, North Dakota and South Dakota  
 Nevada State Office ----- Nevada  
 New Mexico State Office ----- New Mexico, Kansas, Oklahoma and Texas  
 Oregon State Office ----- Oregon and Washington  
 Utah State Office ----- Utah  
 Wyoming State Office ----- Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.

(Form 1842-1, September 2006)

**Illustration 7 - Bill for Collection**

UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT <b>Bill for Collection</b>		<b>Bill Number:</b> 2015025996
		<b>Date:</b> 04/15/2015
Make Remittance Payable To <i>DO/BLM</i> and Mail To: IDSO PAYMENT CENTER 1387 S. VINNELL WAY BOISE, ID 83709-1657 (888)246-7523		Please include bill number on all remittances.
Payor:		

DATE	DESCRIPTION	AMOUNT
	WESTPARK FIRE, DATE OF FIRE: 7-15-2014, FIRE NUMBER: H8HG  REF NO: LLIDB00400102210	\$16,565.99
	BLM CONTACT:	
<b>AMOUNT DUE THIS BILL:</b>		<b>\$16,565.99</b>
<b>DATE DUE:</b>		<b>05/15/2015</b>
<ul style="list-style-type: none"> <li>• Payment is due within 30 days of date of receipt (certified receipt documentation).</li> <li>• <b>Payment is due immediately upon receipt of this bill; however, payment must be received no later than the due date shown above.</b></li> <li>• <b>Please return a copy of this Bill for Collection with payment or include the Bill Number on your remittance.</b></li> <li>• Payment can be made by cash, check, money order or credit card (VISA, MasterCard, Discover, and American Express) or by Electronic Fund Transfer (EFT) via automated clearing house (ACH) or wire transfer. Make checks or money orders payable to DOI/BLM. To pay by credit card, complete the credit card payment form (attached) and return to the billing office or call the office listed above to pay by phone. You may use debit cards with the VISA or MasterCard logo. To make an electronic payment, see attached document.</li> <li>• Effective June 1, 2015 – credit card payments can only be accepted for amounts of \$24,999.99 or less.</li> <li>• See attached Notice of Actions in Event of Delinquency.</li> <li>• Interest will be assessed at the rate of 1% per year if full payment is not made.</li> <li>• If the above name and address is incorrect, please contact the BLM office listed above.</li> </ul>		

This Bill was generated by the automated BLM Collections and Billings System and is a paper representation of a portion of the official electronic record contained therein.

**Illustration 8 - Notice of Actions in Event of Delinquency****NOTICE OF ACTIONS IN EVENT OF DELINQUENCY**

Revised 10/01/2007

If payment is not received by the due date, the Bureau of Land Management (BLM) will pursue collection by all appropriate methods, and when appropriate will assess late fees, civil penalties, interest, administrative charges, and penalties on past due amounts.

1. Interest will be assessed when the bill is 31 days delinquent. Interest charges accrue from the Date of the bill or the Due Date, as specified by program authorities
2. Administrative charges of \$15 per demand letter will be assessed.
3. A penalty of 6% per year is assessed on any portion of the debt more than 90 days past due.
4. *Late fees will be assessed as stated on the bill and as authorized in program authorities.*
5. *Incidents of Noncompliance(INC) bills only:*
  - a. Failure to pay will result in additional enforcement action, including civil penalties, lease shut-in and/or attachment of bond.
  - b. Failure to pay and subsequent attachment of bond may also put federal lease in jeopardy of cancellation.
6. Delinquent accounts will be sent to the Department of the Treasury for referral to collection agencies and credit reporting bureaus. Treasury will assess administrative costs incurred in collecting the debt. Collection may be pursued from salary or administrative offsets from any Federal and State payments, including payments for goods or services, lump sum leave payments, travel reimbursements, federal and state tax refunds, and retirement payments. Debts may also be sent to the Internal Revenue Service for inclusion as income to the debtor on form 1099C, Cancellation of Debt.
7. You may request a full explanation of the bill and you have the right to inspect and copy government records relating to your debt other than investigative, security or privacy act files. You may dispute information in BLM records and have the right to administrative appeal or review of the claim, in accordance with 43 CFR Part IV and applicable legislation.
8. You may enter into a written repayment agreement with the Bureau of Land Management, if such an agreement is acceptable to the BLM. Your request must be submitted to the BLM office at the address shown on the bill.

*Authority: Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982.*

*Authority: The Debt Collection Improvement Act of 1996(P.L. 104-134)*

*Regulatory: 31 CFR §285, Debt Collection Authorities under the Debt Collection Act of 1996*

**Illustration 9 - Sample Solicitor Referral Letter**

UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

*Your State Office Name*  
*Your Office Address*  
*Your Office City, State, and Zip Code*  
*Your Office Website Address*

In Reply Refer To:  
9238 (XX-XXX)

Date

TO: *Solicitor*  
*(Through State Director)*

FROM: *Authorized Officer (unit level)*

SUBJECT: Request for Solicitor Review of *Proposed Fire Trespass Action(s)*

Please review the enclosed fire trespass case file for your concurrence regarding the Authorized Officer's recommendation to proceed or not to proceed regarding the *Name* fire, which occurred on *Date*. This fire burned *XXX* acres of public land and falls within the *Name District Office*. The fire investigation determined that *Able Baker* was responsible for starting the fire.

The fire trespass case file includes a copy of the fire investigation, fire report, cost summary and other supporting documents specific to this case.

If you have any questions concerning this case, please contact *Name*, State Fire Management Officer or *Name*, State Fire Trespass Coordinator at *their phone number*.

Sincerely,

*Name*, Field Manager

Attachment:  
*Fire Name Case File*

*Note: a similar letter should be prepared for each fire case that is sent forward (or for a group of fire cases that are all forwarded at once).*

**Illustration 10 - Sample Fire Investigation Case Summary****Fire Investigation – Case Summary  
Eight Mile Fire (G4Q9)**

Confidential Attorney Client Communication - DO NOT RELEASE

**Incident Date:** 7/18/2012

**Fire Number:** G4Q9

**Location:** Johnson County – near Steelhead, ID

**Total Estimated Cost:** \$200,000 including suppression, rehabilitation and damages

**Other:** Approximately 20% of total costs are USFS

**Summary:**

The 8 Mile Wildfire occurred on 7/18/2012 in 8 Mile Canyon near Steelhead ID. Units from the Johnson County FD, USFS and BLM responded to this incident which was immediately threatening at least two homes, was a threat to 2 additional subdivisions (approx. 2 miles away) and ended up burning one home and a total of 440 acres including 436 acres of BLM administered lands.

The origin of the fire was located and the cause was determined to be the result of an individual who was shooting at an exploding target which resulted in the ignition of this fire. The individual was shooting at the target on his private property which borders BLM land. The cause has been established by physical evidence at the scene which includes the remnants of a wooden wire spool which the target was attached to and was blown apart into pieces; and through the subject's own admission which is supported by a written statement provided by him and one provided by his wife who was also present at the time of the ignition.

Further investigation has revealed that the exploding target was provided to him by a friend who is also a local Police Officer and that the exploding target was made by the officer.

- When interviewed, the officer stated that she started with a commercially available ½ pound Star® brand exploding rifle target but she had manipulated it in such a way that it was more sensitive and could be detonated by a simple .22 LR bullet. The product was mixed and placed in the back of a clay pigeon (used for trapshooting) which was used as a mold or form to hold the product together. According to the officer, the process takes approximately 10 days in the mold before the exploding targets are ready to use. She had made three targets and provided her friend (the landowner) with two of them.
- The officer states that she did not believe her friend would have known or been aware of the danger of shooting these targets with regard to the potential for igniting fires. She stated that she had not thought about it either when she was making them and that she doesn't have any more of them and would never make another one.

*(Star rifle targets are binary explosives that are commercially available and legal to purchase by the public. There are 2 components (ammonium nitrate and aluminum perchlorate) that when mixed become an explosive but require a high velocity rifle round in order to detonate the product. Normally a .22 LR will not be sufficient to detonate the explosive).*

- I have spoken with BATF and am researching whether or not any laws were broken with regard to the construction, alteration and transportation of these devices. I have been told by a BATF Agent that unless someone manufactures an explosive and sells it, it is not illegal. I have researched the publication on explosive laws and regulations provided by BATF (and included in the case file) and it appears that a violation occurred when the binary components were mixed and then the device was transported.
- The investigation was conducted in cooperation with Carla Lopez who is a Law Enforcement Officer employed by the US Forest Service in Salmon, ID
- Other fires were going on in the area at the time of the 8 mile fire and fire danger indices for the Salmon area were considered “HIGH” fire danger.
- No fire restrictions were in place on public lands at the time of the fire with regard to campfire or equipment use, but the BLM has a statewide fire restriction in place which specifically prohibits the use of fireworks and exploding targets on BLM lands in the state of Idaho from May 10-October 20. This restriction cannot be enforced on private lands however.


*Name here*

District Fire Trespass Coordinator


***Note:** A fire case summary document is not required but can be a useful tool in providing a quick synopsis of a potential fire trespass case. States should consult with their Solicitor’s Office to establish a standard format and process for providing this document and to determine whether it should be protected under attorney-client privilege and/or be included as part of the fire trespass case file. If it is desired to not have this document discoverable, it may be best to keep and send this document separate from the fire trespass case file and label it similar to this sample or label it as “draft” until the review process is complete..*

**Illustration 11 Sample - Fire Cause Determination Report (5pgs)**

<b>Bureau of Land Management</b> (enter District name here)	<b>Wildland Fire Investigation</b> <b>Origin &amp; Cause</b> 	Incident Number:	
		Incident Date:	
<b>LOCATION</b>			
Fire Name	Account Code	Field Office	County
Origin Location: landmarks, highways etc		Range	Section
Township		¼ Section	Meridian
UTM:		Latitude (D-M'-S")	Longitude (D-M'-S")
<b>JURISDICTION</b>			
Land Status	Responsible Agency	Lead Investigator	
<b>EVENT SEQUENCE</b>			
Estimated Time of Ignition			
Time Fire Reported			
Time Origin Protected			
Time Origin Released			
Mo.	Day	Year	Time
Mo.	Day	Year	Time
Mo.	Day	Year	Time
Mo.	Day	Year	Time
Official		RP	Official
<b>FIRE BEHAVIOR</b>			
Estimated Acres	Fuel Type @ Origin Material First Ignited	Weather Observer (On Scene)	Temperature
Slope %	Aspect	Elevation	Weather Station
<b>CAUSE DETERMINATION: (X) = Possible Cause (O) = Eliminated Cause (State Reasons for Determinations)</b>			
<input type="checkbox"/>	Lightning	(Detection Method)	
<input type="checkbox"/>	Equipment Use	(Exhaust, Brake Shoe, Aircraft, Vehicle Fire, Other)	
<input type="checkbox"/>	Smoking	(Tobacco, Other)	
<input type="checkbox"/>	Campfire	(Cooking, Warming, Ceremonial, Other)	
<input type="checkbox"/>	Debris Burning	(Slash, Refuse, Other)	
<input type="checkbox"/>	Railroad	(Ignition Activities Associated with Railroads)	
<input type="checkbox"/>	Incendiary	(Ignition Component / Material First Ignited)	
<input type="checkbox"/>	Children	(Ignition Activities Associated with Children)	
<input type="checkbox"/>	Miscellaneous	(Blasting, Structures, Fireworks, Pest Control, Logging, Power Line, Glass, Target Shooting, Spontaneous Combustion, Other)	
<input type="checkbox"/>	<b>Cause Determined:</b> State Brief Reason & Include in Narrative		<input type="checkbox"/> <b>Cause Undetermined:</b> State Brief Reason & Include in Narrative
<input type="checkbox"/>			<input type="checkbox"/>
Prepared by	Date	Submitted to	Date
<b>Attachments</b>			
<input type="checkbox"/>	LAWNET Report	<input type="checkbox"/>	Interviews
<input type="checkbox"/>	Maps	<input type="checkbox"/>	Photographs
<input type="checkbox"/>		<input type="checkbox"/>	Statements
<input type="checkbox"/>		<input type="checkbox"/>	Notes
<input type="checkbox"/>		<input type="checkbox"/>	Sketches
<input type="checkbox"/>		<input type="checkbox"/>	Fire Report

	<b>Wildland Fire Investigation Origin &amp; Cause</b>			Incident Number:	CA-CDD-		
				Incident Date:			
(Code: S – Suspect, W – Witness, V – Victim, RP – Reporting Party, O – Other)							
Name (Last, First, Middle)		Alias		DOB	Race	Gender	
S							
Address (Home)		Phone (Home)		SSN	OLN	State	
Employer		Address (Business)		Phone (Work)			
Name (Last, First, Middle)		Alias		DOB	Race	Gender	
Address (Home)		Phone (Home)		SSN	OLN	State	
Employer		Address (Business)		Phone (Work)			
Name (Last, First, Middle)		Alias		DOB	Race	Gender	
Address (Home)		Phone (Home)		SSN	OLN	State	
Employer		Address (Business)		Phone (Work)			
Name (Last, First, Middle)		Alias		DOB	Race	Gender	
Address (Home)		Phone (Home)		SSN	OLN	State	
Employer		Address (Business)		Phone (Work)			
Name (Last, First, Middle)		Alias		DOB	Race	Gender	
Address (Home)		Phone (Home)		SSN	OLN	State	
Employer		Address (Business)		Phone (Work)			
<b>VEHICLE INFORMATION:</b> D – Damaged, E – Evidence, I – Impounded, S – Suspect Vehicle, W – Witness Vehicle, O – Other							
	License Number	State	VIN	Year	Make	Style	Other Information
	License Number	State	VIN	Year	Make	Style	Other Information
	License Number	State	VIN	Year	Make	Style	Other Information
	License Number	State	VIN	Year	Make	Style	Other Information
<b>EVIDENCE / PROPERTY INFORMATION:</b> D – Damaged, E – Evidence, I – Impounded, O – Other							
	Description	Disposition	Date	Time	Owner		
<b>INSURANCE INFORMATION (Home, Auto, Liability, Other)</b>							
Insurance Company		Policy Number	Insurance Agent	Address		Phone Number	
Prepared by		Date		Submitted to		Date	




	<h3>Wildland Fire Investigation Origin &amp; Cause</h3>	Incident Number:	<b>CA-CDD-</b>
		Incident Date:	
<b>SYNOPSIS:</b> Date Fire Ignited: Estimated Cause Location: Investigation Estimated Cost Property Damages Cause Determination			
<b>DETAILS OF INVESTIGATION:</b> Report, Interview, Investigation, Fire Behavior, Regional Context, Mitigation, Prevention, and Elimination			
<b>SUMMARY:</b> Cause Determined/Undetermined Suspect Information/Action			
Prepared by	Date	Submitted to	Date

	<b>Wildland Fire Investigation</b>		Incident Number:	CA-CDD-
	<b>Origin &amp; Cause</b>		Incident Date:	

Title						
Latitude				Longitude		
Include: Scale, Author, North Arrow, Date and Time						

Wildland Legend	
↑	Advancing Fire
▶	Lateral Fire
U	Backing Fire
⊗	Point of Origin

Scale	Not to scale	Author		Date		Time	
Prepared by		Date		Submitted to		Date	

	<b>Wildland Fire Investigation Origin &amp; Cause</b>		Incident Number:	<b>CA-CDD-</b>	
			Incident Date:		
(Code: S – Suspect, W – Witness, V – Victim, RP – Reporting Party, O – Other)					
Name (Last, First, Middle)		Alias	DOB	Race	Gender
Address (Home)		Phone (Home)	SSN	OLN	State
Employer		Address (Business)		Phone (Work)	
Name (Last, First, Middle)		Alias	DOB	Race	Gender
Address (Home)		Phone (Home)	SSN	OLN	State
Employer		Address (Business)		Phone (Work)	
Name (Last, First, Middle)		Alias	DOB	Race	Gender
Address (Home)		Phone (Home)	SSN	OLN	State
Employer		Address (Business)		Phone (Work)	
Name (Last, First, Middle)		Alias	DOB	Race	Gender
Address (Home)		Phone (Home)	SSN	OLN	State
Employer		Address (Business)		Phone (Work)	
Name (Last, First, Middle)		Alias	DOB	Race	Gender
Address (Home)		Phone (Home)	SSN	OLN	State
Employer		Address (Business)		Phone (Work)	

**Illustration 12 – Fire Trespass Operating Plan Outline**

The following includes *suggested* sections and topics to cover in a State or District Office Fire Trespass Operating Plan. States and district offices are encouraged to develop plans based on their specific needs and situations. Examples of these plans may be obtained by contacting the BLM National Fire Trespass Lead.

1. Introduction/Overview of program
2. Policy (Reference to National Policy, CFRs, US Code, etc.)
3. Roles and Responsibilities
4. Process for Making Decision to Trespass
5. Administrative and Civil Processes
6. Criminal Processes
7. Fire Investigation Protocols
8. Fire Trespass Case File requirements
9. Appeals Process
10. Compromise Offers and Write-Offs
11. Managing Collections
12. Fire Trespass Reporting Requirements (in WFMI or additional national or in-State requirements)
13. Fire Cost Gathering and Validation Procedures
14. FOIA requests (may include information security section)
15. Multi-jurisdictional Fire Procedures (including billing and collection process)
16. Case Tracking
17. Training
18. Contact List

**Illustration 13 - Sample Letter Authorizing USFS to Collect on BLM's Behalf****United States Department of the Interior****BUREAU OF LAND MANAGEMENT**

Utah State Office  
 P.O. Box 45155  
 Salt Lake City, UT 84145-0155  
[www.ut.blm.gov](http://www.ut.blm.gov)



Jane Smith, Claims Officer US  
 Forest Service Albuquerque  
 Service Center  
 101 B. Sun Ave. NE  
 Albuquerque, NM 87109

Dear Ms. Smith,

I am writing in reference to the Explosives wildland fire (Forest Service code P4B3VX) that occurred on the Smokey Bear National Forest on August 10, 2005. The corresponding Bureau of Land Management (BLM) code for this fire is B3VX. This fire was human-caused, and originated in Clearwater County, Utah. According to your report and investigation, the fire was caused by a vehicle carrying explosives, wrecking and exploding on Highway 6.

The BLM assisted the Forest Service in suppressing the fire and incurred suppression costs totaling \$9,799.90. We understand your agency has completed the fire investigation and identified a perpetrator who you plan to bill for recovery of fire suppression costs.

Rather than duplicate your agency's efforts for cost recovery, we request and authorize the US Forest Service, Albuquerque Service center to bill for the BLM's portion of fire suppression costs. In authorizing your agency to collect funds for the BLM, we will require that the US Forest Service obtain the BLM's consent prior to all settlements. In addition, if a settlement is made for less than the full amount, then the BLM shall be paid its pro rata share of the total cost collected. Funds received on the BLM's behalf may be payable to the BLM and sent to this office, or shall be collected by the Forest Service and funds transferred to the BLM (through Treasury's IPAC system).

In the event that your billing process is unsuccessful in recovering costs, then the BLM will work with your agency and the US Attorney's office to further pursue cost recovery through Affirmative Civil Enforcement.

Should you have questions concerning this request and authorization, please contact BLM Fire Management Analyst, John Doe at (501) XXX-XXXX.

- *Signed by SD or DM*  
 -

**Illustration 14- Sample Release of All Claims (VERSION 1) (3 pgs)**

(Each State should develop a standard Release that is used for all cases. Many Insurance Companies and others may offer their own release but it is best to have our own so we are sure it covers everything we need to)

RELEASE OF ALL CLAIMS  
(XXXXXX Fire, Fire Number XXXX)

BY

United States Department of the Interior

KNOW ALL PERSONS BY THESE PRESENTS:

That the undersigned, the United States Department of the Interior, Bureau of Land Management (hereinafter "Department"), for the sole consideration of Ninety Six Thousand, Six Hundred, Eighty One Dollars and sixty two cents (\$96,681.62) to the undersigned Department in hand paid, receipt whereof is hereby acknowledged, does hereby and for its successors and assigns release, acquit, and forever discharge XXXXXXXX, individual, and the individual's agents, servants, successors, heirs, executors, administrators, insurers, and all other persons, firms corporations, associations or partnerships (hereinafter "Releasees"), of and from any and all claims, actions, causes of action, demands, rights, damages, costs, loss of service, expenses, and compensation whatsoever, which the undersigned Department now has or which may hereafter accrue on account of or in any way growing out of any and all fire suppression expenses and property damages and the consequences thereof resulting or to result from the accident, casualty, or event which occurred beginning on or about the 16th day of September, 2009, and continuing thereafter at or near the Butte Round Area, near XXXXXXX, ID, Fire Number XXXX.

It is understood and agreed that this settlement is the compromise of a claim, and that the payment made is not to be construed as an admission of liability on the part of the party or parties hereby released, and that said Releasees deny any liability therefore and intend merely to avoid litigation and buy their peace.

The undersigned Department hereby declares and represents that the damages sustained to the public lands are or may be permanent and progressive and that recovery therefrom is uncertain and indefinite, and in making this Release it is understood and agreed that the undersigned Department relies wholly upon its judgment, belief and knowledge of the nature, extent, effect and duration of said damages, and liability therefore, and its decision to compromise is made without reliance upon any statement or representation of the party or parties hereby released, or upon their agents or representatives. The undersigned Department further declares and represents that no promise, inducement, or agreement not herein expressed has been made to the undersigned Department, and that this Release contains the entire agreement between the parties hereto, and that the terms of this Release are contractual and not a mere recital.

DATED this \_\_XXXXth day of September, 2009.

UNITED STATES DEPARTMENT OF THE  
INTERIOR, BUREAU OF LAND  
MANAGEMENT

By: \_\_\_\_\_

State Director  
Idaho State Office

CONCURRENCE:

UNITED STATES DEPARTMENT OF THE  
INTERIOR, OFFICE OF THE SOLICITOR

By: \_\_\_\_\_ Date \_\_\_\_\_

CHRIS COUNSEL  
Field Solicitor's Office

**Illustration 14 - Sample Mutual Release of all Claims (VERSION 2)**

(XXXXXX Fire, Fire Number XXXX)

By Notice of Suspected Trespass letter dated (XXXXXX), The United States Department of the Interior, Bureau of Land Management (hereinafter "BLM") notified (XXXXXX) that it may be responsible for the ignition of the (XXXXXX) Fire that started on (XXXXXX date) and costs incurred by BLM for fire response, suppression, resource damages and rehabilitation of public land.

In consideration of payment of (XXXXXX) and conditioned upon receipt of this payment within 14 days of final signature, BLM releases (XXXXXX) and its officers, employees, agents, insurers, heirs, representatives and assigns from any civil or administrative monetary actions or claims for fire response, suppression, resource damage and rehabilitation of public land arising out of the (XXXXXX) Fire of (XXXXXX date). Expressly excluded from the scope of this release are all other claims unrelated to the (XXXXXX date and fire name) that BLM has or may have in the future against (XXXXXX) or its officers, employees, agents, insurers, heirs, representatives, and assigns.

Upon full execution of this Release, (XXXXXX) releases the BLM, its employees and agents from any claims of any kind with respect to the (XXXXXX fire name) of (XXXXXX date).

It is further agreed that payment is made as a full compromise settlement of the above referenced claim in the interest of avoiding further litigation of the claim. This release contains the entire agreement between the parties hereto. The terms of the release are intended to be contractual and not merely a recital.

DATED this \_\_XXXXth day of (XXXX), (20XX).

UNITED STATES DEPARTMENT OF THE  
INTERIOR, BUREAU OF LAND  
MANAGEMENT

By: \_\_\_\_\_  
(XXXXXX name)  
BLM STATE DIRECTOR (*only SD's are delegated authority to sign releases*)

CONCURRENCE:

UNITED STATES DEPARTMENT OF THE  
INTERIOR, OFFICE OF THE SOLICITOR

By: \_\_\_\_\_ Date \_\_\_\_\_  
JANE SOLICITOR  
OFFICE OF THE SOLICITOR



### **Illustration 15 - Sample Checklist - Fire Trespass Case File Contents**

Each State Fire Trespass Coordinator should work with the Field Solicitor, Law Enforcement, and district office personnel to come up with a standard format for Fire Trespass Case Files. It is also recommended that this information be included in State Fire Trespass Operating Plans. A sample checklist of items is included below:

- Case Synopsis
- Trespass Case Tracking Form
- Manager's Recommendation Document
- Investigator / Law Enforcement Report
- Cause Determination (if separate from Investigator/ Law Enforcement Report)
- Maps (Perimeter, Origin, and Sketch)
- Sketch/Diagram
- Photos (Also check with Air Attack, Helitack, Operations, etc.)
- Photo Log
- Evidence Log
- Witness Statements
- Witness Log
- Dispatch Log (Wildcad)
- County Dispatch Call Detail Report (Log)
- Local Law Enforcement Reports (Sheriff, UHP, City Police, etc)
- Lightning Map for the 7 days prior to ignition (or more as needed)
- Fire Weather Forecast (Morning or Afternoon Information Report)
- Fire Danger Rating System Indices (including Fire Danger Rating Map)
- RAWs and other weather data (precipitation summary, etc.)
- Fire Report from the Wildland Fire Management Information System (DI-1202)
- Restriction Orders, Permits, Easements, or other regulations or authorizations
- Investigation Organizer
- Incident Organizer
- Resource Orders
- Fire Code System Printout
- Estimated Costs to Date
- News Clippings
- CD of All Items on Checklist

**Illustration 16 - Fire Trespass Collections Quick Reference Guide**

Collection	Where to deposit	Where to spend
Fire Trespass (O&C lands)	Repair of Damaged Lands, O&C (*L53100000-RD0000-LVDP-FIREOR00) (ex.LLOR930000- L53100000-RD0000-LVDP-FIREOR00)	*- L53100000-**0000-LVDPFIREOR00 (ex. LLOR930000-L53100000-HT0000-LVDP-FIREOR00)
Fire Trespass (PD lands)	Repair of Damaged Lands, Public Domain (*L53200000-RD0000-LVDP-FIREUT00) (ex. LLUT930000- L53200000-RD0000-LVDP-FIREOR00)	*- L53200000-**0000-LVDPFIREUT00 (ex. LLUT930000- L53200000-HT0000-LVDP-FIREUT00)

<sup>1</sup> Fire trespass funds are managed by each state.

\* Use the appropriate state and office code

\*\* Use the appropriate Program Elements. In 2014, this would be **PN** (Protection of lives, resources or property) or **HT** (Fire Preparedness)

<b>Offices for State Collections in 5320/5310 for Fire Trespass</b>
AK310
AZ930
CA940
CO950
ES020
ID916
MT920
NM930
NV913
OR930
UT930
WY950

**Illustration 17 - Fire Trespass Investigation Section of BLM Fire Report**

**Fire Reporting - Trespass Investigation:**

[ Cancel ]

<b>Fire Code:</b>	<b>Fire Type:</b>
<b>Fire Name:</b>	<b>Protection</b>
<b>Discovery/Start</b>	<b>Type:</b>
<b>Date:</b>	<b>Latitude:</b>
<b>Bureau:</b>	<b>Longitude:</b>
<b>State:</b>	<b>UTM:</b>
<b>Field Office:</b>	<b>Datum:</b>

**Fire Cause Information**

<b>Fire Cause Code (General - Specific):</b> _____
<b>Other Cause:</b> (if the specific Fire Cause selected above is "Other, known") _____
<b>Suspect</b> _____
<b>Classification:</b> _____

**Case Information**

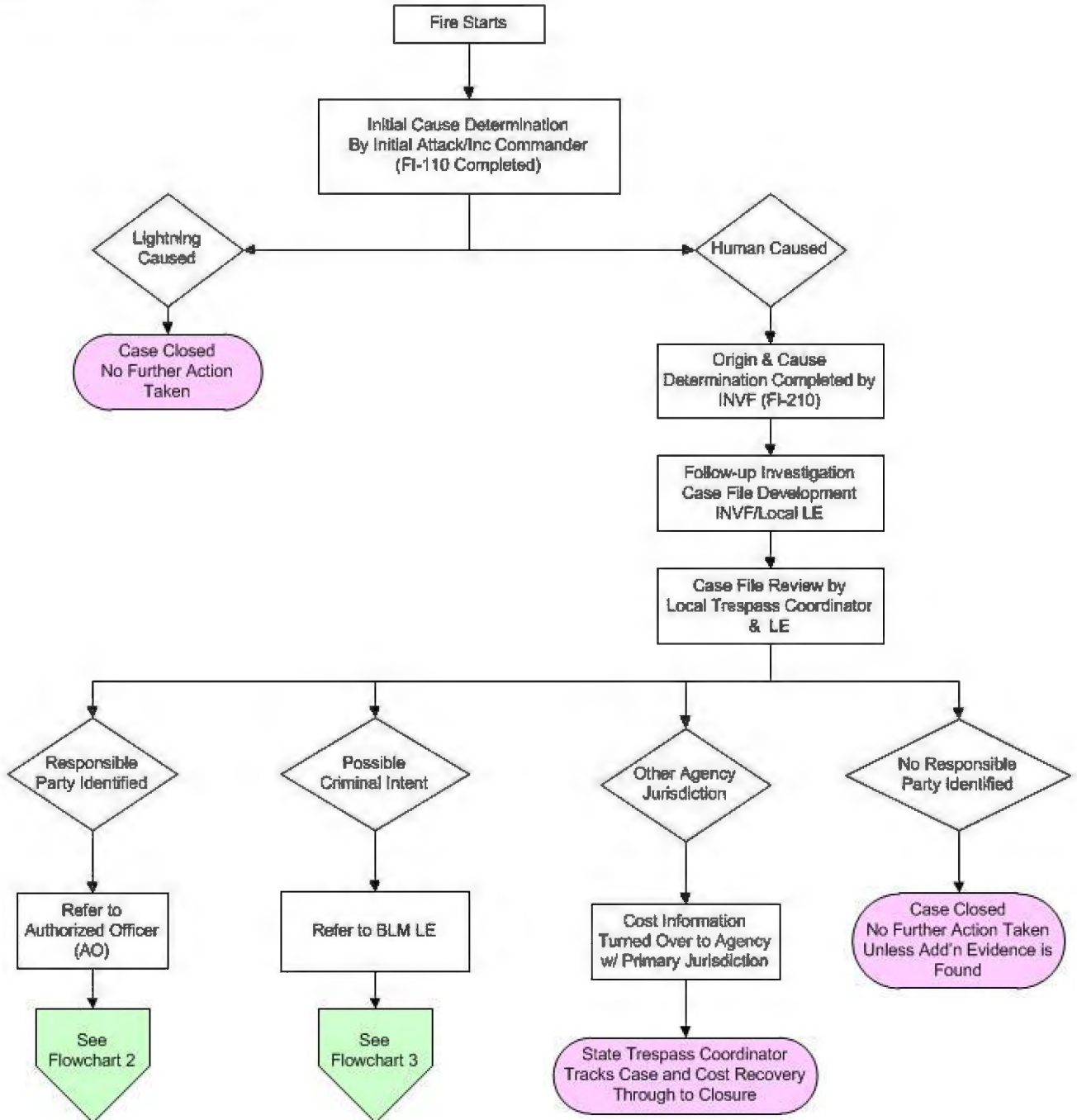
<b>Status:</b> _____
<i>If there is a case, you must provide the trespass case number.</i>
<b>Trespass Case Number:</b> _____ - 10 - _____ <i>format: aannn-10-nnnn</i>
<i>If there is not a case, you must provide the name and title of the Field Office/District Manager and the rationale for the decision.</i>
<b>Authorized by Name:</b> _____ <b>Title:</b> _____
<b>Rationale:</b> _____

**Billing Information**

	\$ Amount	Month	Day	Year
<b>Billed</b>	\$ _____	_____	_____	_____
<b>Recovered</b>	\$ _____	_____	_____	_____
<b>Received by BLM</b>	\$ _____	_____	_____	_____

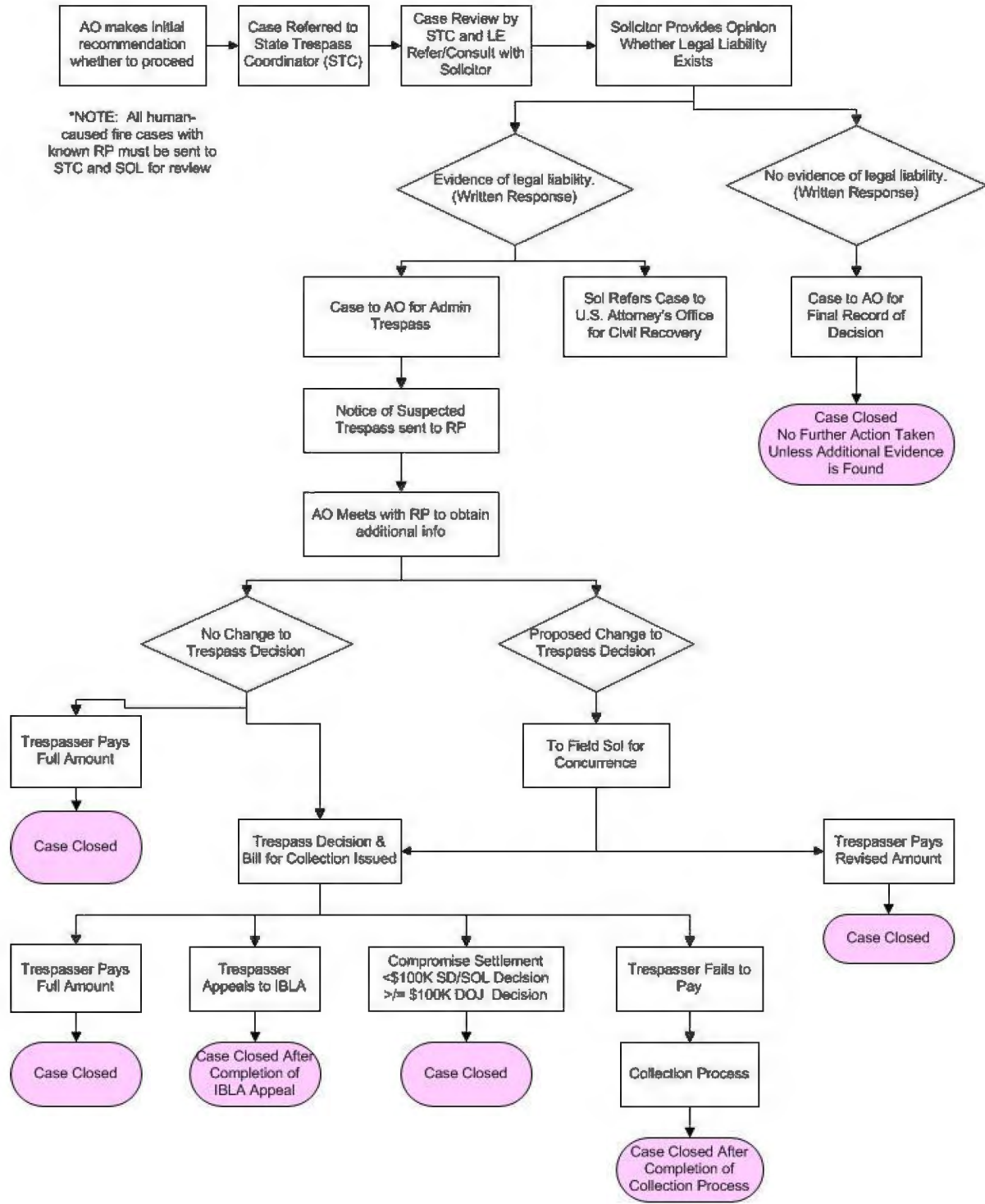
**Illustration 18 - Fire Trespass Flow Charts**

**Flowchart 1  
Wildland Fire Cost Recovery**



**Illustration 18  
(continued)**

**Flowchart 2  
Administrative Fire Trespass/Civil Recovery**



**Illustration 18 (continued)**

**Flowchart 3  
Criminal Process**

