



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Oregon State Office

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In Reply Refer to:

9100/2812 (OR-959/936) P

March 16, 2006

EMS TRANSMISSION 03/20/2006

Instruction Memorandum No. OR-2006-034

Expires: 9/30/2007

To: District Managers: Lakeview, Salem, Eugene, Roseburg, Medford, and Coos Bay

From: State Director, Oregon/Washington

Subject: Mineral Hauling Under Reciprocal Right-of-Way Agreements and Permits

Program Area: Engineering and Oregon & California (O&C) Rights-of-way (43 CFR 2812)

Purpose: Policy guidance is provided to ensure consistency for road maintenance and fee collection involving Permittee mineral haul on Bureau of Land Management (BLM) roads in western Oregon.

Policy/Action: The hauling of mineral materials is an integral part of the maintenance and construction of roads used for the transportation of timber and other forest products in western Oregon. Authorization to haul mineral materials over BLM-controlled roads is provided through reciprocal right-of-way agreements and permits under the regulations in 43 CFR 2812. The regulations authorize the BLM to recover expenses for the maintenance of BLM roads during periods of use either through: 1) collecting pro rata maintenance fees, 2) operator maintenance/rock replacement in lieu of fees, or 3) a combination of 1 and 2.

The following procedures will be implemented to ensure adequate maintenance on BLM roads during mineral haul:

1. The Authorized Officer will notify Permittees within their jurisdiction to begin reporting mineral hauling activities on BLM-controlled roads beginning August 1, 2006. The attached letter should be utilized for this notification. Permittees will use the Report of Road Use, Form OR 2812-6, to report their mineral hauling activities to the BLM. Form OR 2812-6 provides for the reporting of mineral materials; the mineral hauled will be recorded in **estimated** truck volume of cubic yards. Permittees and BLM shall report volume of mineral haul on June 30 and December 31 of each year. For BLM timber sale Purchasers, reporting occurs in the license agreements. Permittees will be required to

report all mineral haul on BLM-controlled roads regardless of road maintenance responsibility. Road maintenance rock quantities associated with mineral material haul used for patch rock, pothole repair, culvert replacement, and bridge renovation and replacement will be exempt from this reporting requirement. BLM will report mineral haul in the same manner as Permittees.

2. The Authorized Officer will either charge maintenance fees or receive maintenance/rock replacement in lieu of fees for Permittee mineral hauling in effect during the period of use.
3. Where a Permittee is responsible to maintain BLM roads for mineral hauling, the BLM will inspect the roads in advance and after use to ensure that adequate road maintenance is being performed. Where multiple users are hauling on the same BLM-controlled road, the BLM should elect to perform maintenance and collect current road maintenance fee for mineral haul from all Permittees using that road.
4. Where BLM is responsible to maintain Permittee roads for mineral hauling, the Permittee will inspect the roads in advance and after use to ensure that adequate road maintenance is being performed. Where multiple users are hauling on the same Permittee-controlled road, the BLM should elect to pay the current road maintenance fee for mineral haul on that road.
5. Beginning August 1, 2006, the Authorized Officer will make allowances and include provisions in all new (unadvertised) BLM timber sale contracts for Purchaser payment of maintenance and/or surface replacement fees involved with mineral haul related to the timber sale over Permittee and BLM maintained roads, and Purchaser payment of surface replacement fees involved with mineral haul related to the timber sale over Purchaser-maintained roads. Ensure all license agreements display the quantities of mineral haul over Permittee roads along with the associated maintenance fees.
6. Authorized Officers will continue to charge road maintenance and surface replacement fees on BLM-maintained roads for the haul of mineral materials not associated with the transportation of timber. This addresses commercial mineral haul by entities other than Permittees and BLM timber sale Purchasers.

Timeframe: Immediate upon release.

Budget Impact: This policy will apply to all existing and future reciprocal right-of-way agreements and permits in western Oregon.

Background: The BLM is responsible for maintaining roads under its control at standards set forth in BLM 9100 Series Manuals and the Best Management Practices as listed in each District's approved Resource Management Plan. The right-of-way provisions in Section 502 of the Federal Land Management and Policy Act of 1976 as amended authorizes the Secretary of the Interior to provide for the maintenance of roads within and near the public lands and perform that work, in part, by cooperative financing with other public agencies and with private agencies and persons in proportion to their use. The terms and conditions of reciprocal right-of-way agreements entered into between the United States and private parties in western Oregon provide that the party who performs the maintenance on a road shall be entitled to recover pro rata

maintenance expenses from others who use the road for the removal of forest products. The 43 CFR 2812 regulations include the following provisions related to road maintenance and fee collections:

43 CFR 2812.6-2 Terms and conditions of permit.

(b) As to permits for the use of an existing road: In addition, every permittee to whom a permit is issued for the use of an existing road is required to agree:

(1) To maintain such a road in an adequate and satisfactory condition or to arrange therefore with the other users of the road. In the absence of satisfactory performance, the Authorized Officer may have such maintenance work performed as may be necessary in his judgment, determine the proportionate share allocable to each user, and collect the cost thereof from the parties or the sureties on the bonds furnished by said parties.

(2) Upon the expiration or other termination of his right to its use, to leave said road and right-of-way in at least as good a condition as existed prior to the commencement of his use.

Manual/Handbook Sections Affected: The O&C Logging Road Right-of-way Handbook H-2812-1, Release 2-165.

Coordination: Coordination occurred with the Branch of Engineering and Facilities, Oregon State Office, the BLM Western Oregon Transportation Team, and industry representatives.

Contact: Paul Fredericks, State Engineer, Oregon State Office, (503) 808-6404.

Districts with Unions are reminded to notify their unions of this Instruction Memorandum and satisfy any bargaining obligations before implementation. Your servicing Human Resources Office or Labor Relations Specialist can provide you assistance in this matter.

Signed by
James G. Kenna
Associate State Director

Authenticated by
Mary O'Leary
Management Assistant

1 Attachment(s)

1 - [Permittee Letter](#) (1 p)

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