In Reply Refer to:
9210 (OR-934) P

June 4, 2004

EMS TRANSMISSION 06/10/2004
Instruction Memorandum No. OR-2004-082
Expires: 9/30/2005

To: All District Managers
From: State Director, Oregon/Washington
Subject: Fire Trespass Program Update

Program Area: This clarifies the fire trespass procedures within the Fire and Aviation Management functional program.

Purpose: The attached Instruction Memorandum No. OF&A 2004-018 contains guidance for the Fire Trespass Program, and is in response to the Interior Board of Land Appeals (IBLA) decision regarding strict liability and the opinions outlined in the Solicitor’s letter of March 9, 2004. Copies of the Director, Office of Fire and Aviation, and the Solicitor’s letters are attached. Based on the IBLA decision and the Solicitor’s letter, fire trespass cases should proceed only if there is evidence of negligence or intent by the responsible party. This applies to pending cases that have yet to be billed or may be under negotiation for settlement.

Policy/Action: The attached Instruction Memorandum amends the Fire Trespass Handbook (H-9238-1), Chapter 1, Part C (1), regarding the role of State and District Offices. Under the revised guidelines, managers are responsible for reviewing the case file and, with input from fire staff and the State or Regional Solicitor’s Office, making the decision to proceed or close the case based on the evidence of either negligence or intent. At present, fire trespass case handling varies in terms of process. This sometimes results in duplication of efforts.

Given these circumstances, trespass case handling should be conducted in close collaboration with the fire trespass coordinator in the State Office/Regional Office Fire and Aviation Management Group. Trespass case settlement, billing discussions, collaboration, negotiations, and case evaluation for merit are key in keeping the process on track. This will also assist us in complying with the Office of Fire and Aviation direction with respect to fire trespass processing.

Timeframe: Districts should begin to implement upon receipt.

Budget Impact: There is no budget impact. The fire trespass function will not change.

Background: In the past, there have been some conflicting perceptions in the processing of fire trespass cases. The
new guidance will clarify these procedures.

**Manual/Handbook Sections Affected:** Instruction Memorandum No. OF&A 2004-018 amends the Fire Trespass Handbook (H-9238-1), Chapter 1, Part C (1), regarding the role of State and District Offices.

**Contact:** Please contact Leo Sidebotham, Chief, Branch of Fire and Aviation Management, or Dewey Tate, Fire Prevention Specialist/Trespass Coordinator, in the State Office/Regional Office Fire and Aviation Management Group with questions regarding this memorandum.

**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
Cathy Harris
Acting Associate State Director

Authenticated by
Mary O'Leary
Management Assistant

2 Attachment(s)
1 - [IM No. OF&A 2004-018 Fire Trespass Program Update](#) (2pp)
2 - [Fire Trespass Assessment Collection Standards](#) (6pp)

**Distribution**
WO (FA-100)
In Reply Refer To:
9210 (FA-640) I

EMS Transmission 05/12/04
Instruction Memorandum No. OF&A 2004-018
Expires: 09/30/05

To: State Directors

From: Director, Office of Fire and Aviation

Subject: Fire Trespass Program Update

This instruction memorandum (IM) contains guidance for the fire trespass program and is in response to the Interior Board of Land Appeals (IBLA) decisions regarding strict liability, and the opinions outlined in the Solicitor’s letter of March 9, 2004. A copy of the Solicitor’s letter is attached to this IM. Based on the IBLA decisions, and Solicitor’s letter, fire trespass cases should proceed only if there is evidence of negligence or intent by the responsible party.

This IM amends the Fire Trespass Handbook (H-9238-1) Chapter 1, Part C (1) regarding the role of the Field Office Manager (FOM). Under the revised guidelines, the Field Office Manager is responsible for reviewing the case file, and with input from fire staff and the state or regional Solicitor’s Office, makes the decision to proceed or close the case based on the evidence of either negligence or intent. If the FOM determines there is a case involving negligence or intent, then the case moves forward. If there is no case for negligence or intent, the case should be closed, and the reasons for closure identified, i.e. lack of evidence of negligence or intent.

State and field offices are encouraged to review past fire trespass cases that have not been closed to determine if they meet the negligence or intent standard. If they do not meet that standard, then these cases should be closed and recorded. If evidence of negligence or intent is found, then the cases should move forward as outlined in the Fire Trespass Handbook.

The requirement to identify evidence of negligence or intent highlights the importance of establishing and following proper guidelines in fire cause determination and any subsequent fire investigation. It has been shown that with proper cause determination and a thorough follow-up investigation, many cases can meet the negligence or intent threshold. To provide the FOM with the best possible information for their decision to proceed, fire cause determination and the extended investigation should be thorough and well documented. These efforts should follow the existing guidance found in the Fire Trespass Handbook.
Human-caused fires can threaten community and resource values, and have the potential to become elevated to a national security issue. Fire cause determination and fire investigation, as part of the fire trespass program, are important tools for reducing those threats by identifying trends and tracking human-caused fires.

In response to current issues and demands on the fire trespass program, a task group will be formed in the near future to revise the Fire Trespass Handbook. When that work is completed, additional information about updates to this program will be issued.

If you have any questions about this guidance or other fire trespass issues, please contact John Owens, Office of Fire and Aviation, Planning and Resources Group at 208-387-5186.

Signed by:  
Debie Chivers  
Acting Director  
Office of Fire and Aviation  

Authenticated by:  
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