



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Oregon State Office

P.O. Box 2965

Portland, Oregon 97208



In Reply Refer to:

2812/9100 (OR-936/959) P

August 1, 2006

EMS TRANSMISSION 08/01/2006

Instruction Memorandum No. OR-2006-053

Expires: 9/30/2007

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

From: State Director, Oregon/Washington

Subject: Implementation of Mineral Hauling Policy, Instruction Memorandum
No. OR-2006-034

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

Purpose: Policy guidance is provided on administrative actions necessary for implementation of the Mineral Hauling Policy, Instruction Memorandum (IM) No. 2006-034, dated March 16, 2006.

Policy/Action: Implementation of the subject policy will begin on August 1, 2006. This new policy will require certain administrative actions in order to provide for the reporting of mineral haul by either party under reciprocal right-of-way agreements and permits. These actions should take place immediately to ensure that the mineral hauling policy will be contractual and operational by the implementation date. All Bureau of Land Management (BLM) reciprocal right-of-way agreements and permits will require the following actions:

1. Actions required for reporting Permittee mineral haul on United States roads

The following language will be included as a provision in Exhibit A (or equivalent) of the O&C Logging Road Right-of-Way Permit for all existing and new reciprocal right-of-way agreements:

Whenever the Permittee moves any mineral materials over a road owned or controlled by the United States, the Permittee shall furnish a certified statement to the United States showing the road that was used, and the number of cubic yards of mineral material that was moved over such road. Unless otherwise agreed upon, such certified statement shall be made biannually on June 30 and December 31 of each calendar year.

2. Actions required for reporting United States mineral haul on Permittee roads

a. The following language will be included as a provision in Exhibit B (or equivalent) of the Right-of-Way and Road Use Agreement:

The party who performs the maintenance shall be entitled to receive from each road user a certified statement of the number of cubic yards of mineral material hauled over the road by such user. Unless otherwise agreed upon, such certified statement shall be made and submitted on or before June 30 and December 31 of each calendar year and show the cubic yards of mineral material hauled over the road during the previous six months. Unless otherwise agreed upon, payment of maintenance shall be made within thirty (30) days following the billing. Either party to the Agreement shall be entitled to examine the records of the other party relating to expenses for maintaining the roads covered by the agreement and the records of the other party relating to the collection of maintenance fees from road users. If the United States performs the maintenance of a road owned or controlled by it, and the Permittee pays the United States therefore, the Permittee shall be relieved of the maintenance requirements in 43 CFR 2812.6-2(b)(1) and (2).

b. All existing and new License Agreements will provide for the transportation of mineral material over Permittee roads and applicable maintenance fees associated with the BLM timber sale contract. Where a License Agreement is required as a term and condition in a Right-of-Way and Road Use Agreement, the License Agreement format should be revised to include the following provision:

If Licensor maintains such road, Licensee agrees to pay its pro rata share of the maintenance expense. Payment for such maintenance expense shall be made as follows:

Maintenance and/or Surface Replacement Fees (for Timber Hauling)								
Road No.	Seg. No.	Length to be Used	Volume (MBF)	Maintenance Fee/MBF	Total Maint. Fees	Surface Replacement Fee/MBF	Total Surface Repl. Fees	Remarks

Maintenance and/or Surface Replacement Fees (for Mineral Hauling)								
Road No.	Seg. No.	Length to be Used	Volume (CY)	Maintenance Fee/(CY)	Total Maint. Fees	Surface Replacement Fee/(CY)	Total Surface Repl. Fees	Remarks

Maintenance expense shall include all expenditures reasonably necessary to place such road in a satisfactory condition for log and/or mineral hauling, to keep it in such condition, and to reasonably protect such road from winter weather. If Licensor does not maintain such road, Licensee shall maintain it and shall be entitled to recover pro rata maintenance expense from others who use such road for the removal of forest products.

The above-described amendment actions will require bilateral approval by the United States and the Permittee. The BLM should begin negotiations and preparation of the necessary documents for delivery to the Permittee. Notify the Oregon State Office immediately if approval of the amendment action cannot be agreed upon with a Permittee.

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: Policy guidance was recently issued by the Oregon State Director (IM No. 2006-034, dated March 16, 2006) to ensure consistency for road maintenance and fee collection requirements and responsibilities involving mineral hauling on Permittee and BLM roads under reciprocal right-of-way agreements and permits in western Oregon. The BLM and Permittees have agreed to implement measures to ensure that appropriate notifications and fee collections are made in furtherance of this policy. These agreed-upon measures will require the amendment of language currently found in most reciprocal right-of-way agreement documents, including the terms and conditions of the Right-of-Way and Road Use Agreement (rights granted to the United States), the O&C Logging Road Right-of-Way Permit (rights granted to the Permittee), and the License Agreement (rights authorizing a licensee of the United States). An amendment is necessary to incorporate contractual stipulations for mineral haul maintenance, and collection and reporting requirements into the terms and conditions of the reciprocal right-of-way agreement and permit. The above-mentioned adjustments must be formally agreed to by the United States and the Permittee through a bilateral amendment action.

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

Coordination: Coordination in the development of this policy included the Oregon State Office Branch of Engineering; O&C Forest Management program lead; Western Oregon Transportation Team; the Office of the Solicitor, Pacific Northwest Region; and the Western Oregon Timber Sale Purchasers' Committee

Contact: John Styduhar, Realty Specialist, Oregon State Office, 503-808-6454.

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

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