



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

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EMS TRANSMISSION 09/05/2008
Instruction Memorandum No. OR-2008-089
Expires: 9/30/2010

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

From: State Director, Oregon/Washington

Subject: Operating Procedures for Conducting the Five-Year Recomputation of Small Business Share Percentages

Program Area: Sales, Small Business Administration Set-Aside Program Management

Purpose: This Instruction Memorandum (IM) reissues procedures in IM No. 2006-055, which replaced a portion of the Bureau of Land Management (BLM) and Small Business Administration's (SBA) Operating Procedures in order to facilitate the scheduled five-year recomputation of Small Business Share Percentages. IM No. OR 2006-055 was extended to 09/30/2008 by IM No. OR-2008-11. Procedures in this IM may be incorporated into a permanent directive (manual section or handbook) prior to its expiration.

Policy/Action: This IM re-issues the procedures in IM No. OR-2006-055 without further modification. The procedures in this IM will remain in effect until they are incorporated into a permanent directive (manual section or handbook). Following are the procedures for the Five-Year Recomputation of Small Business Share Percentages.

Data Analysis Period for Recomputation of Small Business Share Percentages

For the 2005 recomputation, the small business share percentages were based on timber sale data for five full fiscal years, beginning October 1, 2000, and ending September 30, 2005. New shares were to be effective April 1, 2006.

For future recomputations, the data period for analysis will cover five full years beginning and ending at fiscal half-years. New shares will be effective on the first day of the following fiscal year. For example, for the 2010 recomputation, the small business share percentages will be based on the analysis period April 1, 2005, through March 31, 2010. New shares would be effective on October 1, 2010.

Calculating the Indicated Market Share

The Indicated Share is calculated as a cumulative percentage by dividing total small business sawtimber purchases over the data analysis period by the total sawtimber volume sold over the analysis period.

Limits on Market Shares and Share Change

The Indicated Share for each market area shall be adopted as the new small business share subject to the following limitations:

1. If the current share is 50 percent or less, the change in share shall be limited to ten share percentage points.
2. If the current share is over 50 percent, the change in share shall be limited to ten percent of the current share.
3. Provided, however, that in no case shall the small business share exceed 80 percent or be less than one-half the Original Base Share established in 1972.
4. Provided further, that in each market area where the Indicated Share would have changed more than ten percentage points without the limits in paragraphs 1 or 2 above, the BLM in consultation with SBA may conduct a review of the market area to determine the suitability of the limited share and the impacts of the limit. Such review shall include an opportunity for comment by the affected industry. The review shall consider changes in the structure of the industry, capacity of firms active in the area, timber supply, probable effects on communities where manufacturing facilities are located, effects of carryover volumes, and other items deemed appropriate. If, based on the analysis and comments from the affected industry, there are strong reasons that the change in share should exceed the ten share percentage points limit, an alternative share may be proposed and established.

Accounting for Deficits and Surpluses

Beginning with the 2005 recomputation, and for all future recomputations, no volume will be carried forward. All deficits and surpluses will be dropped on the effective date of the new shares.

Effective Date of New Shares and Use in Determination of Triggers and Set-Asides

In all cases, trigger status is determined on the last day of the semiannual period. If a market area is triggered, sales are selected for set-aside in the following six-month period; and the volume objective is based on the current share in effect on the date of the trigger. New shares following recomputation are made effective on the first day of a six-month period and are first used to determine trigger status at the end of that same period. For example, new shares made effective on April 1 are first used to determine a trigger on the following September 30. Shares made effective on October 1 are first used to determine a trigger on the following March 31. If triggered, the volume objective for set-aside in the following six months would be based on the new share which is now in effect.

Crediting Volume for Appealed, Litigated, Defaulted, or Assigned Timber Sales

In all cases, sawtimber volume will be credited to the size/class of the initial purchaser using the bid date of the timber sale. No adjustments will be made for defaults, assignments to a third party, or change in size/class of a purchaser during a recomputation period. No adjustments will

be made for sales unawarded but not terminated. Adjustments to data will be made in only two cases:

- Sales that are abnormally terminated prior to harvest (withdrawn, turned back, or otherwise cancelled) will be removed from the data used for the recomputation.
- For no-bid Set-Aside sales that are subsequently purchased by a large business, the volume will be credited to small business in the semiannual analysis but will be credited to large business in recomputations.

Changing Small Business Market Area Boundaries

Currently in western Oregon, there are eight Small Business Market Areas. At this time, there are no procedures for changing them. Current direction in BLM's *Timber Sale Procedure Handbook*, (Chapter H-5400-1– Sales of Forest Products) states that market areas may be no smaller than a BLM Master Unit and no larger than a BLM district. It further states, "The State Director in consultation with the District Manager and SBA determines appropriate marketing areas." The Forest Service has established procedures for changing market area boundaries. The BLM will update its handbook Chapter H-5400-1 by adapting the Forest Service approach. For the BLM, any adjustment or change to market area boundaries would only be allowed at the time of a scheduled five-year recomputation. The procedure would include analysis of the current market area(s) compared to the proposed change(s). The process would also provide for input from the affected industry concerning any proposal for change. In addition, informational meetings would be held if necessary.

Timeframe: The BLM-SBA Set-Aside Timber Sale Program procedures for share recomputations in this IM will be effective immediately.

Budget Impact: None.

Background: On March 10, 1959, the U.S. Department of the Interior and SBA established a Memorandum of Understanding (MOU) with respect to sales of timber and related forest products to small business concerns from Federal lands under the jurisdiction of the BLM. The MOU directed that the BLM and SBA jointly develop the details of operational procedures designed to support the sale of a percentage of timber sales to small businesses through the SBA Set-Aside program. The BLM and SBA periodically review the operational procedures guiding the program to ensure that the declared policy of Congress, as expressed in Section 15 of the Small Business Act, is carried out.

Instruction Memorandum No. OR-2006-055 updated provisions in the *Revised Operating Procedures for the BLM-SBA Set-Aside Timber Sale Program* (October 1, 1990) for regularly scheduled five-year recomputations of small business market share percentages. IM No. OR 2006-055 was extended to 09/30/2008 by IM No. OR-2008-11. This IM re-issues the procedures in IM No. OR-2006-055 without further modification.

The BLM's sale quantity has been reduced by 80 percent since 1990. Sale programs have become increasingly erratic due to National Environmental Policy Act requirements, protests, litigation, and appeals which may hamper award of timber sale contracts. During this same period, mill closures, consolidations, restructuring of the forest products industry, and changes in

size of some firms have occurred. The updated operating procedures for five-year recomputations will be more responsive to address these changes in the BLM timber supply, forest products markets, and the forest industry.

Manual/Handbook Sections Affected: H-5400-1 – Sales of Forest Products, Appendix 2.

Coordination: This IM reissuance was coordinated with the SBA Industrial Specialist (Forestry). Review and comments were received from representatives of both large and small businesses prior to issuance of IM No. OR-2006-055.

Contact: Questions or comments related to the BLM-SBA Small Business Timber Sale Set-Aside Program should be directed to Lindsey Goetz, Stewardship/Biomass Forester, at (503) 808-6451.

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
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Records Section

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