

United States Department of the Interior
BUREAU OF LAND MANAGEMENT
Arizona State Office
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EMS TRANSMISSION 11/19/2015
Instruction Memorandum No. AZ-2016-007
Expires: 9/30/2019

To: District Managers and Field Managers
Attention: Botanists, Biologists, Fuels Specialists and Rangeland Specialists

From: State Director

Subject: Seed Collection Policy and Pricing

Program Area: Botany, Fuels Management, Emergency Stabilization and Rehabilitation (ES&R), Wildlife, Range Management and Forest Management

Purpose: This Instruction Memorandum (IM) directs the uniform Seed Collection Permitting and Pricing Policy within the Bureau of Land Management (BLM).

This IM will establish a framework that standardizes vegetative materials, wildland seed collection procedures and a pricing list while still allowing the BLM Arizona leeway for resource management. This IM will also establish a process for updating prices charged for permits on a more regular basis and establishes consistencies with neighboring BLM states and offices by utilizing a nationally posted minimum price list for seed.

Policy/Action: The current BLM policy for permitting the collection of wildland seed resources is to:

- Use the BLM planning process to determine land management objectives;
- Use the National Seed Strategy for Rehabilitation and Restoration 2015-2020 to promote the development and availability of native plant materials for use in restoration and revegetation efforts;
- Manage resources to maintain or improve soil, water and air resources;
- Meet public needs for commodity and non-commodity benefits and uses to the extent possible;
- Manage resources to maintain desired ecosystems and to improve the health of the land;
- Receive fair market value for the products sold while recognizing the validity of free use on a limited basis;

- Prevent unauthorized use of public lands and resources; and,
- Meet objectives and goals as outlined in land management and activity level plans and guidance documents.

General Guidance

1. Issuance of a seed collection permit or contract must be in conformance with the current land use plan. It must also be adequately analyzed through the National Environmental Policy Act (NEPA) procedures prior to issuance, including necessary archeological and Special Status Species clearances. Mitigation measures, in the form of special permit stipulations, can be attached to any BLM vegetative permit or contract. These stipulations should address and mitigate any issues identified through the NEPA process. If issues cannot be mitigated to an acceptable level through stipulations, then the permit or contract should not be issued.
2. Seed collection is generally not allowed on recently seeded areas or areas currently in a post-fire rest/recovery period (prescribed or wildfire). This must be addressed and evaluated on a case-by-case basis in each Field Office (FO) by the appropriate range or vegetation specialist.
3. Verification of good vegetative condition (species vigor, root reserves, viable seed, seed abundance, etc.) will be required prior to seed collection permit issuance. Generally, Field Botanists or Range Specialists are capable of making this determination.
4. Permits for federally-threatened, endangered or candidate species, State-sensitive species, and BLM-sensitive species will not be issued to the general public. Collection of these species will require special consultation with the U.S. Fish and Wildlife Service, and will only be permitted for scientific research or species propagation. Coordinate these permit requests in consultation with the State Threatened and Endangered Species Program Lead.
5. In compliance with the Wilderness Act, no commercial seed harvest or collection will be permitted within designated wilderness areas; although collection for recreational use is allowed and permits for personal use and free use may be issued. Collection must be conducted in a non-impairing manner.
6. Seed collection in Wilderness Study Areas (WSA) must adhere to the Interim Management Policy for Lands under Wilderness Review. As in designated wilderness areas, collection for recreational use is allowed and permits for personal use and free use may be issued. The FOs have discretion in determining whether to issue permits for commercial seed collection within WSA taking into consideration the extent, duration, and frequency of such use. Permits for commercial seed collection within WSA must include a stipulation that states the permit is subject to termination in the event that the area is designated as wilderness.

7. Only hand-powered collection of seed will be permitted unless motorized mechanical harvest is specified in writing within the permit and is in conformance with land use plans. Motorized, mechanical harvest will only be permitted for specific areas and acreages with an attached map specifying the area.
8. It is recommended that the Authorized Officer (AO) and/or the FO person responsible for seed permitting coordinate closely with rangeland staff, so that if necessary, grazing permittees may be notified of seed collection activity within their allotments.
9. Neither seed collection nor vehicle parking will be permitted within the rights-of-ways of Interstate (freeways) or State Highways. This is due to safety concern by the BLM and the State Department of Highways.

Permitting Procedures

1. There are four options which allow the public to collect vegetative materials such as seed from BLM-administered lands. These include 1) recreational use, 2) personal use, 3) commercial use, and 4) free use. The forms used and fees assessed depend on which option applies to the situation and the intended use of the seed. These options and appropriate permit forms are defined in more detail in Attachment 1. Permits will be reviewed by a Resource Staff Specialist who is familiar with the area and vegetative conditions where the seed is to be harvested.
2. All seed and plant material collection requests from multiple District areas (collections from one or more District Offices (DO)) will be routed through the Arizona State Native Plant Conservation Program Lead to issue a permission collection letter.
3. All seed collection requests from one FO or DO will use the Permit Stipulations (Suggested) Attachment 2-1 even if the requester obtains a permission collection letter from the BLM Arizona State Office. The original permittee signed copy of the stipulations (Attachment 2) will be sent to the Arizona State Native Plant Conservation Program Lead and files maintained at the BLM Arizona State Office. A second copy will be attached with the BLM FO/DO files, and a third copy will be attached to the permit and given to the permittee.
4. All plant material collection requests will follow procedures from Disposal of Forest Products and Other Vegetative Resources IM No. AZ-2016-006.
5. Regulation CFR 5402.0-6(c) specifies the conditions under which a permit for vegetative materials may be issued without advertising; generally it applies in situations where it is impracticable to obtain competition, for instance where the demand for seed or the amounts collected do not warrant competition. Regulation CFR 5401.0-6(a) states “All

sales other than those specified in CFR 5402.0-6 shall be made only after inviting competitive bids through publication and posting.” If FO experience indicates that there is competitive interest in either 1) specific seed collection areas or, 2) types of seed requested, they are encouraged to advertise locally for competitive sales, for example a sealed bid sale or notify the National Seed Coordinator for inclusion in an upcoming competitive bid. The FO may need to be prepared to provide enforcement to minimize poaching from seed areas awarded in an advertised sale.

6. All seed collection activities authorized by issuance of a permit or contract (refer to Attachment 1) will be reported in the Special Forest Products (SFP) database. Permits will only be issued by the AO after first obtaining an original permittee signature on the permit and the attached permit stipulations (Note: If necessary, the AO and permittee can sign several copies of the permit to accommodate multiple collection parties. If more than one “original” copy is signed by the AO each “copy” must have the quantity reduced so the combined total equals the total amount permitted to that specific permittee).
7. Original permit signed by the permittee and AO will be sent to Lisa Thornley, the BLM State Native Plant Conservation Program Lead.
8. Permits will state that they are valid only upon public lands administered by the BLM FO issuing the permit (or on an adjoining FO area where authority has been delegated to the issuing FO for such permits) and only for the area further identified by the legal description and location wording on the permit or by an attached map.
9. Permits will only be issued in 10-pound increments by species, sub-species or variety based upon an un-cleaned material (“dirt”) weight.
10. The permit must be in the possession of all collectors/harvesters working for the permit holder while collecting/harvesting on BLM-administered lands. The permit must remain with the harvested/collected material at all times. Copies of the permit will not be honored or considered valid without an original signature of the permittee and the AO. This permit must be presented to any Law Enforcement Officer or BLM official upon request.
11. The permittee will be encouraged to keep a seed collection log, listing materials collected by species and amounts with global positioning system locations taken. Source identified seed can command higher prices on the market. Contact the appropriate State Crop Improvement Association if more information is required for source identified seed certification protocols.
12. Bonding is required for not less than 20 percent of the total product sale value for all sales of \$2,500 or more. For sales valued at less than \$2,500, an appropriate performance bond may be required at the discretion of the AO.

13. Suggested Permit Stipulations are given in Attachment 2. The FO Managers may modify, add to, or customize a local list of stipulations. A list of stipulations determined appropriate by the FO Manager will be attached to, and made a part of, all seed collection permits and contracts. Contractors that employ non-English speaking workers are required to provide translated versions to workers or have translators on the job site.

Pricing Policy

The BLM pricing for collected seed will be standardized within the BLM and will follow the procedures given within Attachment 3. State Directors have the authority to set the pricing list based upon other prevailing market values. The policy for Disposal of Forest Products and Other Vegetative Resources IM No. AZ-2016-006, throughout the BLM is that the State Office sets the “Minimum Price List.” The FO may set a higher price for any product when based on a local market appraisal and supported with appropriate documentation. Prices have been set at 10 percent of the assessed retail market value in collaboration with various Federal, State and private entities. Prices are accessible on the BLM Intranet ES&R and Regional Seed Warehouse sites, and are scheduled for updating prior to collection seasons. The BLM states will adopt this minimum price list in order to increase consistency among BLM states and offices. For new species not currently on the price list, a minimum price of \$0.10 per pound will be used. The FO may set a higher price based on local market appraisal.

Timeframe: This IM is effective upon receipt. Refer to the nationally posted minimum seed price list for updates and changes in price.

Budget Impact: Additional resource management and compliance monitoring may be required. Management of the vegetative resource is part of our mission and will be completed along with other field duties. A calculation of the amount of additional work will vary from area to area and will be driven primarily by demand and prevailing markets for seed.

Background: Management of vegetative materials and wildland seed resources are an important component of ecosystem-based resource management. An effectively managed seed collection program will benefit both the BLM and the public. These benefits will complement other resource programs managed by the BLM; contribute to the economic stability and well-being in local communities; aid in restoration projects and programs as well as contribute to partnerships such as the Utah Partners for Conservation and Development, Restore New Mexico and others; resolve some of the conflicts created by commercial and personal use harvesters; and educate the public as to the social and economic value of our natural renewable resources.

The BLM is also involved in a Native Plant Materials Development program, which includes Seeds of Success and has identified certain areas for the collection of native seed. Permits may need to be temporarily restricted in areas set aside for this program. Any necessary restrictions are expected to be short term and temporary. The State Native Plant Conservation Program Lead, Lisa Thornley, will provide information regarding this program and potential restrictions to affected FO prior to the seed collection season to ensure sustainable populations.

The western United States has experienced recent periods of prolonged drought. Protection of the vegetative resource is paramount and caution should be used when authorizing seed collection during these periods of vegetation stress.

Directives Affected: Development of a Manual Supplement or Handbook may become necessary at a future date as other vegetative materials policy needs are addressed.

Coordination: This IM was coordinated with the Arizona State Office.

Contact: Lisa Thornley, State Native Plant Conservation Program Lead, at 602-417-9242 or email lthornley@blm.gov.

SIGNED BY:
Deborah K. Rawhouser
for State Director

AUTHENTICATED BY:
Susan Williams
Staff Assistant

3 Attachments:

- 1 - [Permitting for Seed Collection Activities](#)
(4 pp)
- 2 - [Suggested Permit Stipulations](#) (1 p)
- 3 - [BLM Seed Collection Permit Pricing Formula](#) (1 p)

Permitting for Seed Collection

There are four options which allow the public to collect seed materials from the Bureau of Land Management (BLM) administered lands. These include 1) Recreational use, 2) Personal use, 3) Commercial use, and 4) Free use.

1 – Recreational Use:

Authority for recreational use is found in 43 CFR 8360 Visitor Services. The specific reference to vegetation is at § 8365.1-5 Property and Resources; sections (b), (1) and (5) and (c).

This authority allows the public to collect seeds in “reasonable amounts,” in non-restricted areas, for “non-commercial purposes,” as well as several other types of commonly available renewable resources such as flowers, berries, nuts, cones and leaves.

For clarification, seed collected for recreational use includes seeds from only the portion of the plant which occurs above ground; and “reasonable amounts” with respect to seeds is less than or equal to about 1lb of dirt weight seed. There is an exception in the case of pine cones (other than pinyon) collected for seeds, and up to one bushel is considered “reasonable.” Cones collected for ornamental use or crafts and Pinyon nut collection are covered in CFR Subpart 5400 – Sales of Forest Products.

Collection for recreational use must be collected by hand or with simple hand tools. The seed materials collected under this regulation may be transported off public land for personal use.

No seeds or seed materials collected under the Visitor Services regulation may be sold or bartered. Activities meeting all of the above guidelines **do not require a permit for collection**. Activities exceeding any of the guidelines, either in amount collected, type of product collected, or intended use of the product, require a permit.

Restricting areas from vegetative recreational use collection may be implemented under the procedures for closing areas in 43 CFR § 8365.1-6 Supplementary Rules.

2 – Personal Use:

Authority for personal use is found in 43 CFR Subpart 5400 – Sales of Forest Products; General. Under this Subpart personal use is defined as “...use other than for sale, barter, trade, or obtaining a profit.” These resources may be utilized at the site of collection or transported off public land for personal use elsewhere. Personal Use may be differentiated from Recreational Use, both by intended purpose and by the amount of seed collected. Quantities of seed collected under this regulation are typically greater than what is allowed for under the Visitor Services/ Recreational Use regulation.

A **permit is required** for all seed collections issued under this regulation. The appropriate form depends on the value and length of the contract and whether a bond is issued.

Personal use can be authorized through completion of Form 5450-5, Vegetative or Mineral Material Negotiated Cash Sale Contract. This is a cash sale contract and must be paid in full

prior to issuance or signing by the Authorized Officer. This contract may not exceed \$2,499.⁰⁰ in value for seed. Bonds may be held with these permits and listed in the special stipulations section. The expiration period for this contract is short, usually 6 months or less, but can be made valid for up to 12 months.

If the value of the seed materials being sold exceeds \$2,499.⁰⁰ or if a bonding requirement is desired, or if the term of the contract needs to be greater than 12 months, use Form 5450-1, Contract for the Sale of Vegetative Resources.

3 – Commercial Use:

Authority for commercial use is also found in 43 CFR Subpart 5400 – Sales of Forest Products: General.

In this Subpart, commercial use is defined as “...use intended for resale, barter, trade, or for profit.” This type of use also encompasses all types of vegetative and woodland products (including seed collection) and **requires a contract or permit regardless of the quantities harvested**. The key difference between personal and commercial use lies in the “intended use” of the material and to a lesser extent, the quantities being harvested. Generally, quantities collected under commercial use will be greater than that collected under personal use. Care should be exercised in the issuance of commercial use permits to ensure that long term resource damage does not occur.

A **permit is required** for all vegetative material collections issued under this regulation. The appropriate form depends on the value and length of the contract and whether a bond is issued.

Commercial use can be authorized through completion of Form 5450-5, Vegetative or Mineral Material Negotiated Cash Sale Contract. This is a cash sale contract and must be paid in full prior to issuance or signing by the Authorized Officer. Pricing is explained in Attachment 3, and is based on fair market value and any applicable road maintenance fees. This contract may not exceed \$2,499.⁰⁰ in value for vegetative materials. Bonds can be held with these permits and listed in the special stipulations section. The expiration period for this contract is short, usually 6 months or less, but can be made valid for up to 12 months.

If the value of the seed materials being sold exceeds \$2,499.⁰⁰ or if a bonding requirement is desired, or if the term of the contract needs to be greater than 12 months, use Form 5450-1, Contract for the Sale of Vegetative Resources.

4 – Free Use:

Authority for free use is found in 43 CFR Part 5500 – Non-sale Disposals; General, (a) and (b). Under most cases, applications for free use permits for vegetative materials will fall under the Act of 1947, as amended by the Non-sale Disposals Act of July 23, 1955.

Applicants **must meet certain criteria in order for a free use permit to be issued**. They must be a resident of the State, a Federal or State Governmental agency, unit or subdivision including municipalities, or any association or corporation not organized for profit. Free use materials may not be used for commercial or industrial purposes or resale. There is no annual maximum value

for governmental units; however, a non-profit association or corporation may not receive more than \$100.⁰⁰ worth of seed in any one calendar year.

Free use permits for vegetative materials will be issued to Native Americans for ceremonial purposes when requested. Quantities will be limited to the amount identified in the personal use section above or specified in the local land use plan.

For free use applications that fall under the Act of 1947, Form 5510-1 Free Use Application and Permit should be used. The expiration period for this permit is six months. It may be extended by the Authorized Officer for three additional months.

The following is the policy concerning Free Use of forest products on BLM-administered lands:

- A. Free use of collected seed will only be allowed to non-profit organizations, research institutions and governmental units, as authorized by the AFM, Renewable Resources (43 CFR 5510.0-3.b).
- B. The only form authorized for issuing free use permits is BLM Form 5510-1, Free Use Application and Permit.
- C. Free use permits issued to governmental units shall have a \$100.⁰⁰ dollar limit per calendar year, and the seed materials collected must be used for a non-profit public project.
- D. Free use permits issued to nonprofit organizations have a dollar limit of \$100 worth of seed materials collected during any one calendar year. This would be based on the same BLM nationally posted minimum price list used for personal and commercial seed collection permits, as specified in Attachment 3.

Required information on all permits:

All permits will have an issue date, a harvest start date and a termination date specified on the permit. The permit will only be valid for the period between the harvest start date and the termination date. The length of time and timing for which the permit is valid should be commensurate with the amount of seed purchased and the species to be harvested.

Permits will state that they are valid only upon public lands administered by the BLM FO issuing the permit (or on an adjoining FO area where authority has been delegated to the issuing FO for such permits) and only for the area further identified by the legal description and location wording on the permit or by an attached map.

Permittee vehicle make, model, license plate number(s) and phone number(s) will be recorded on all permits. Alternate vehicles may be assigned, i.e., in case of vehicle breakdown or replacement, with written consent of FO representative, amending the permit.

All 5450-1 contracts permits will have a unique FO number in the following format: two digit year, State, FO number and consecutive number (example: 10-UT-010-001 for the first permit for the Fillmore FO for Fiscal Year 2010). The 5450-5 contracts are already numbered (i.e., the contracts that are commonly used for firewood.)

All permits shall have a signed copy of permit stipulations attached. (See Attachment 2 for suggestions).

All permits will be entered into the Special Forest Products (SFP) database. To request access to the SFP application and other questions, contact the State Forestry Program Lead. Access to SFP can also be requested from the Forest Resource Information System Launchpad (<http://teamspace/or/sites/fris/Pages/dataview.aspx>) and clicking on the maroon Request Access button.

Permit Stipulations (Suggested)

- This original permit must be in the possession of all collectors/harvesters working for the permit holder while collecting/harvesting on Bureau of Land Management (BLM) administered lands. This original permit must remain with the harvested/collected material at all times. Copies of the permit will not be honored or considered valid without an original signature by the Authorized Officer. This permit must be presented to any law officer or BLM official upon request;
- Only seed specifically listed by species, sub-species or variety can be legally harvested under this permit. This permit is issued in 10 pound increments based upon dirt (un-cleaned material) weight. There is no implied similar species collection under this permit, and non-permitted seed in your possession while on public lands will be considered a violation of this permit;
- Vehicles, equipment and clothing must be cleaned of all noxious weed seed prior to leaving an area where these species are present and prior to entering a new collection area;
- Only hand-powered collection of seed will be permitted unless motorized mechanical harvest is specified in writing within this permit. Motorized mechanical harvest will only be permitted for specific areas and acreages with an attached map specifying the area;
- Cutting of vegetative material for later seed removal is not allowed unless specifically specified on this permit. Species where this may be permitted include winterfat, squirrel-tail, lupines, penstemons and sagebrush;
- Vegetative material litter accumulated by the permittee will be scattered sufficiently to not create piles of material;
- All trash and garbage created by the harvesters/collectors will be removed from the public lands and properly disposed. The BLM practices a *Leave-No-Trace* policy and expects the same from its permittees;
- Seed collection and vehicle parking within the rights-of-ways of Interstate (freeways), State or county blacktop roads is prohibited;
- Vehicles are prohibited on all BLM roads, trails and lands if muddy conditions exist that will cause ruts to be formed greater than two inches deep. Vehicles are not permitted at any time off existing roads and trails;
- All livestock gates will be left as you found them. If they are open, leave them open, and if they are closed, leave them closed. No harvest is permitted within one-half mile of livestock watering troughs, springs, and reservoirs.
- Permit execution is subject to all Federal, State and local laws;
- If permit violations occur or if unforeseen unintended resource impacts occur, it may be canceled by the Authorized Officer prior to the termination date of the permit;

I have read and understand the above permit Stipulations and will abide by these restrictions.

Permit Holder Signature

Date Signed

Authorized Officer

Date

Pricing Policy and Permit Charges for Seed Collection

Charges for a permit will be based on the 1) fair market value of the seed materials to be collected, and 2) a road maintenance fee as described below.

1. Appraised Value of Collected Seed

This IM establishes a process for updating prices charged for permits on a more regular basis and establishes consistencies within the BLM by utilizing a nationally posted minimum price list (Native Plant Seed Collection Pricing Table) for seed. The Native Plant Seed Collection Pricing Table is posted on the BLM Internal Emergency Stabilization and Rehabilitation and National Seed Warehouse Website at: <http://web.blm.gov/internal/wo-200/wo-220/ESR>.

The Native Plant Seed Collection Pricing Table is intended to be used by those individuals that are responsible for issuing native seed collection contracts to seed collectors. The objectives for posting this spreadsheet include, providing BLM offices with easy access for up-to-date pricing when they have requests for collection contracts, and to bring pricing consistency to all BLM offices. This table will be periodically updated as needed. The appraisal system used for this product type is to charge 10 percent of the average retail price per pound the BLM paid in the last two most recent Consolidated Seed Buys. The spreadsheet calculates the price to be charged for each species listed, and is listed in the "BLM Charge Rate \$" column.

This spreadsheet is intended to be a working document and as such, if species need to be added, please contact the National Seed Coordinator, Patricia Roller at (208) 949-1265, proller@blm.gov.

No attempt is being made to establish a maximum price for any product. The local seed and/or vegetative products appraiser may establish a higher price for any vegetative product when based on a local market appraisal. These minimum prices are to be used when no better market data is available. Field Offices (FO) experiencing strong demands for forest products should appraise those products to establish their local fair market value.

The appraiser can adjust the price for their FO area by using 10 percent of the local retail market selling price or as long as this is higher than the set statewide minimum price. If price updates are needed, a FO may submit new, the price and documentation supporting the updated price to the National Seed Coordinator (the retail seed price estimates should be from at least three local sources) for approval and incorporation into the price list.

2. "Road Maintenance Fee"

A road maintenance fee of 10 percent will be added to the contract value (for use with form 5450-5) rounded to the nearest dollar. Fees collected for road maintenance will be deposited into the 9120 Road Maintenance account for that district/field office. For example, if you sell seed worth \$20.00, then you would add \$2.00 (10 percent of \$20.00). The total contract value would be \$22.00 with \$2.00 deposited in the 9120 account.