U.S. DEPARTMENT OF THE INTERIOR **BUREAU OF LAND MANAGEMENT**
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BUREAU OF LAND MANAGEMENT
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Instruction Memorandum No. 2014-119
Expires: 09/30/2015

To: All Washington Office and Field Office Officials

From: Assistant Director, Resources and Planning

Subject: Special Recreation Permit Administration

Program Area: Recreation and Visitor Services

Purpose: The purpose of this Instruction Memorandum (IM) is to emphasize agency requirements for the administration of special recreation permits for commercial, competitive, and organized group activities and events.

Policy/Action: Officials are directed to 43 CFR Part 2930, the Bureau of Land Management (BLM) Manual 2930, and the H-2930-1 Recreation Permit Administration Handbook. All organized events including commercial and competitive contests must be carefully considered to determine whether the issuance of a special recreation permit (SRP) is required. Each organized event is different and must be analyzed as a unique individual event for the activity, location, timing and potential management concerns. The SRPs are a discretionary action and are issued by the local BLM offices with jurisdiction and control over the public lands where the recreational activities are proposed to occur. Once a complete application is filed and the BLM determines that an SRP is needed, a National Environmental Policy Act (NEPA) review must be conducted. A programmatic approach to NEPA analysis of SRPs is appropriate if multiple applications for the same use or type of event are expected.

In evaluating contests and event proposals, several factors outlined in 43 CFR §2932.5, §2932.11, and §2932.12 will determine whether or not an SRP is required. These include, but are not limited to: advertising or promoting the use of public lands; charging an entry fee that is not an equal sharing of expenses; a person, group, or organization attempting to make a profit from participants; awarding of cash prizes; or a scheduled event on, or occupation of, public lands for the purpose of recreational use.

The exemption for waiving SRP fees found at 43 CFR 2932.34 may apply in limited circumstances. The criteria for waiving the requirement to obtain an SRP outlined at 43 CFR 2932.12 may also apply in limited circumstances.

The BLM may determine that an SRP is required but may not have adequate time to process the application or the resources available to monitor the activity. In this situation the proponent may choose to work with an agency approved third party to provide NEPA, surveys and monitoring. If the BLM cannot process the request and the proponent is not able or willing to provide the necessary items the event will not be authorized. In this case, BLM will request that the event organizer inform their participants that they are not authorized to use public lands while they are participating in the event. BLM should monitor the public lands to determine if unauthorized use associated with the event occurs. If event related unauthorized use does occur on the public lands, BLM will contact the event organizer to address the situation.

Timeframe: Effective immediately.

Budget Impact: Processing SRPs is a routine function of the field office recreation workload and paid for by base funding and cost recovery accounts as appropriate. Offices should refer to guidance for cost-recovery collection, if applicable (for permit processing and monitoring in excess of 50 hours of staff time).

Background: The BLM issues SRPs as a means to manage visitor use, protect natural and cultural resources, achieve the goals and objectives of the field office recreation program as outlined in a land use plan, minimize recreational use conflicts and to provide for the health and safety of visitors. The SRPs are issued as a mechanism to provide a fair return to the government for the permitted recreational use of public lands.

Manual/Handbook Sections Affected: None.

Coordination: Development of this IM was coordinated among the Division of Recreation and Visitor Services (WO-250), BLM State offices, and DOI Office of the Solicitor.

Contact: Any questions or concerns regarding this policy, please contact Andy Tenney, Division Chief, Recreation and Visitor Services by email at atenney@blm.gov, or by telephone at 202-912-7094, or David Ballenger, Outdoor Recreation Planner by email at dballeng@blm.gov, or by telephone at 202-912-7642.

Signed by:
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Authenticated by:
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1 Attachment
1 – Special Recreation Permits for Events and Contests - Questions and Answers (4 pp)

Special Recreation Permits for Contests and Events
Questions & Answers

When is a special recreation permit required for a Contest or Event?

The Bureau of Land Management (BLM) regulates and issues special recreation permits (SRPs) for recreational activities when they meet the definitions of commercial, competitive, vending, or group uses/events as defined at 43 CFR §2932.5. Specific contests or events may include elements of several above mentioned categories, and 43 CFR §2932.11 defines when an SRP is required. 43 CFR §2932.12 also provides guidance on when the BLM may waive the requirements to obtain an SRP.

Follow the processes laid out in the Recreation Permit Administration Handbook H-2930-1, Chapter 1. Contact the event applicant to clarify the use or non-use of public lands. If a sponsor or promoter of an event advertises, promotes, or knowingly expects to use public lands during the event, then the sponsor is benefitting from the use of the public lands and an SRP is appropriate.

If the event participants are dispersed, can we exclude these events from permitting?

The regulations for commercial, competitive, and organized group recreational activities do not have an exception for dispersed activities. There are many currently permitted uses that include dispersed participants such as, but not limited to, jeep jamborees, mountain bike rallies, hunting outfitters, adventure races, and competitive geo-caching. With the rapid introduction of technological advances in communication, tools, toys, and other equipment, we expect an increase in commercial, competitive and organized group SRPs of a dispersed nature in the future. To carve out exemptions for dispersed use would have a negative effect on the BLM's ability to evaluate, manage, mitigate and monitor effects on resources from these uses.

What types of competitive events can be excluded from permitting, and does public advertising or the awarding of cash prizes require an SRP?

43 CFR §2932.12 (c) describes criteria for waiving the requirement to obtain an SRP if the use is competitive. Unless the contest or event meets all of these criteria, permit requirements must be applied.

Do all activities that benefit participants monetarily, have to be permitted?

No. The BLM does not issue an SRP based on activity type or personal material/monetary benefit. The definitions found at 43 CFR § 2932 describe two parties who have formed a relationship: the event sponsor/promoter and the participant. Public engagement in activities such as rock hounding, horn or shed hunting, trapping, or similar activities that may provide a personal monetary benefit do not require an SRP because the individuals engaged in the activities are not participants in a sponsored or organized recreational activity. Rather, they are individuals, not participants, engaged in what is a recreational activity for individual financial gain. There may be other state or Federal permits or regulations which govern these individual

commercial activities, and local resource management plans may have established a threshold for organized group use or allocated individual use which could trigger a requirement for either an SRP or an individual SRP.

For example:

- A recreational gold panner may be engaged in the activity as a fun and interesting hobby – no SRP required.
- Another recreational gold panner may be engaged in the activity for profit and sell the gold – no SRP required.
- A contest promoter registers participants, charges fees, awards prizes, and promotes the use of the public lands for whoever brings in the largest gold nugget in a 2 day period – the promoter is required to have an SRP.

What if the event sponsor is silent on promoting the use of public lands?

If the event promoter is silent on the use of public lands (either intentionally or otherwise) and the BLM determines that use of the public land is expected, the BLM should work with the event promoter to confirm whether an SRP is required. If the promoter remains unable to identify the location to be used, the BLM should inform them that BLM-managed lands are not available to contest participants engaged in the event activities, unless and until such time that an SRP is issued. The BLM should document this discussion in a letter to the event promoter. By doing so, the BLM will have performed its due diligence by informing the promoter of both parties responsibilities under 43 CFR §2932. The promoter will use this information to determine whether to apply for a permit. If they do apply for an SRP, the BLM will process it as time and resources allow (applications should be received at least 180 days before use – 43 CFR §2932.22). If they do not apply, and the activity occurs on public lands, the promoter may be subject to penalties as outlined in 43 CFR §2932.57.

Who is likely to be cited if found violating 43 CFR §2932.57?

If participants of a sponsored commercial or competitive event are found using public lands, and the event sponsor failed to inform those participants that BLM-managed lands could not be used, the sponsor may be cited (43 CFR §2932.57 (1), (2), (4), (5), (6), (7)). If the sponsor informed participants that using BLM lands was not permitted, then participants may be cited (43 CFR §2932.57 (3), (6), (7).

Our office does not have the capability to monitor the entire land area for events. How can we detect illegal or unpermitted activities?

Each local BLM office is best positioned to know how to best monitor for and identify unauthorized or illegal activities within their boundaries. Each office should take appropriate steps based upon local knowledge and the resources available to document the observed activities. Enforcement of the respective states' regulations are usually the responsibility of the local Sheriff's office, state fish and game agencies and state police, so routine monitoring for any type of non-permitted or illegal recreational activities should be the focus.

If participants are dispersed during the event, how can we determine the percentage of time spent on public lands?

As with all SRPs, it is important to coordinate with the applicant on the appropriate fee discount for time spent off public lands, if applicable, before finalizing and issuing the permit. Some factors to consider are: the percentage of public lands within the expected use area, the expected use of other public agency lands, and the expected use of private lands. If a local office is able to reasonably verify the participants have obtained permission and will use private lands, the appropriate fee reduction should be applied. See H-2930-1, Chapter 1, Fee Payment and Calculation.

What if the contest area is very large, or includes multiple districts?

One BLM office should take the lead and work with the event sponsor to determine the probable area of use. Multi-district permits may be jointly signed by the authorized officers. Additional direction for multi-jurisdictional permits will be released with the revised handbook. In the meantime, see H-2930, Chapter 1, Coordination and Joint Permits.

What if we determine an SRP is required, but do not have the time or resources available to process it, or monitor the use if a permit were issued?

Applicants may themselves provide required products, such as environmental analyses, clearances, monitoring, global positioning system (GPS) or geographic information system (GIS) maps, or other required products. Applicants may also hire qualified, DOI-approved contractors to complete necessary clearances when it is clearly in their interest to have these efforts completed more quickly than the BLM is able to do; however, BLM staff time will still be necessary to review applicant or contractor-provided work. See H-2930, Chapter 1, Cost Recovery.

<u>All states, districts, and field offices are reminded that if they are unable to fulfill or complete all the necessary steps of issuing and managing an SRP authorization, then an SRP must not be issued</u>. Coordinate with the event promoter to inform the participants that BLM-managed lands are not available to event participants engaged in event activities, and document in a follow-up letter to the promoter. It is also in the promoter's best interest to document that they have informed participants not to use public lands in order to avoid potential penalties and liability.

Does a controversial event require an Environmental Impact Statement (EIS)?

The level or type of National Environmental Policy Act (NEPA) analysis required for a specific SRP proposal will be determined based on findings of context and intensity which result in potentially significant effects on resources. An Environmental Impact Statement is normally used when a proposed action will have significant environmental impact. The BLM National Environmental Policy Handbook H-1790-1, states at page 71, "Controversy in this context means disagreement about the nature of the effects, not expressions of opposition to the proposed action or preference among the alternatives."

Conducting pre-application consultation with the applicant and following the guidance contained within H-2930-1 may simplify the proposal and avoid lengthy review.

Why does the BLM require an SRP when sometimes the U.S. Forest Service does not require a permit?

There are distinct differences between the Forest Service and BLM regulations. The BLM's commercial, competitive, and organized group use/activity definitions are both more specific and cover more categories of recreational use. The two agencies also have differing authorizing legislation depending on the nature of the recreational use. Therefore, comparisons of the two agencies regulations are not useful.

Does the BLM have a set of suggested stipulations for events and contests?

Activity specific national stipulations do not exist due to the individual variability of events, local land use plans, local resources, political concerns, etc. Many states have developed both general and activity specific stipulations, which could serve as a reference. The on-line Knowledge Resource Center hosted by the National Training Center has example stipulations, and state SRP leads and the Recreation and Visitor Services Division (WO-250) may be consulted in order to help field offices draft event-specific stipulations.

What if an event is neither commercial nor competitive, but is covered under Group Use/Events?

Group size thresholds maybe established in local land-use plans. Resource specialists can measure resource impacts at differing intensities and types of use and should be consulted. Refer to H-2930-1, Organized Group Activity and Event Use.

What else should I know?

Additional state-specific guidance may be developed for your area. Refer to your state guidance if applicable.