

Conceptual SNPLMA Implementation Agreement Changes
SNPLMA Executive Committee Meeting
August 14-15, 2013

The SNPLMA Executive Committee (EC) is committed to continual improvement of SNPLMA program management and oversight. The EC continues to implement recommended changes from a third party review by the Department of the Interior Office of Policy Analysis (PPA) of the SNPLMA program in 2011, which will improve accountability and demonstrated results. The PPA review focused heavily on the need for project completions, which resulted in stepped up commitments from program partners and greater oversight by the EC to hold partners accountable to these commitments.

At the same time, agencies are faced with shrinking budgets and are seeking ways to streamline programs to do work more efficiently and to do less with less. In light of this, the EC continues to focus on opportunities to implement the SNPLMA program more efficiently and effectively.

While many changes have been implemented over the past several years to tighten program rules and improve project completion rates, further changes are needed as there continues to be scrutiny of the program at higher levels. The EC and the Partners Working Group have recently discussed proposed process changes as well as conceptual Implementation Agreement (IA) changes. These include:

1. To better align the program with more standard Federal programs and to utilize the PWG and EC's time more efficiently, the BLM Southern Nevada District Office, SNPLMA Assistant District Manager (ADM) will be delegated the authority to make most project modification requests decisions, with an elevation process through the EC. All decisions signed by the ADM will be sent to the EC for a seven-day review period, similar to the review afforded the EC now for all ADM decisions. All special account reserve (SAR) requests will continue to rest with the EC and be reviewed by the PWG.
2. The subgroups, PWG, and EC's time will be focused on the project nomination and recommendation process, developing and implementing strategic direction through the update of the SNPLMA Strategic Plan and overseeing further changes to the IA.
3. Provide greater clarity and transparency of SNPLMA business rules by changing the IA guidelines for time extension requests, terminations, projects of concern, etc. to ensure timely project completion and accountability of limited funds. The intent is to more clearly define the decision space for the SNPLMA ADM and EC in making project modification decisions and to set clear expectations for program partners implementing SNPLMA projects.

The intent of the August 14 discussion is to hear partner input on the IA conceptual changes in order to determine which to further develop into revised IA language. IA language revisions will be sent out electronically to all program partners, for review and comments. At a later date the EC will review partner input on the IA language and determine final IA changes. The EC is committed to ensuring partners have the opportunity to be fully engaged in the process of developing IA changes.

The following are conceptual IA changes to implement the goals identified above.

1. Time Extensions

IA Language: The IA addresses time extensions in Part VI. Phase 2 SNPLMA Business Process-Funding: Principles of Appropriations Law and Application to SNPLMA of the IA. The specific language on page 34 says: Availability of project funds approved by the Secretary is limited by the duration of the project stated in the nomination...**time extensions should be exceptions to the expected practice of timely implementation of projects and therefore limited in number and scope. (emphasis added).** The following are recommended changes to the IA time extension rules:

1. Additional requirements for time extension requests:
 - a. Information on the entity's attempt to accelerate timelines or to downsize or down-scope the project while still meeting the project purpose as defined in the approved project nomination.
 - b. Information regarding the entity's 2011 project completion commitments to the EC. If not submitted by the entity, this information shall be provided by the SNPLMA Division, as applicable.
 - c. All time extension requests must include all tasks/deliverables with associated completion dates and expected costs. This information will also assist the SNPLMA program manager approving the modified workplan submitted by the entity upon approval of a time extension.
2. When the ADM reviews the extension request, the ADM will:
 - a. Consider the current POC list and only under extenuating circumstances¹ will a time extension be granted for an orange or red project.
 - b. Consider the overall "track record" of the entity when analyzing a time extension request. If the entity has more than 50% of its projects (sorted by category and organizational unit) on the POC list (i.e., orange or red projects), the time extension request may be rejected.
3. No further time extensions, retroactive or otherwise, for PPP projects.
4. All time extensions will require conditional approval as defined in the IA on page 56. Entities must meet the deliverable and milestone deadlines before approval is given to move to the next stage of the project. As each deliverable is completed, the entity is required to report project progress to the SNPLMA Program Manager

¹ "Extenuating Circumstances" will be defined in the IA Glossary and will include examples of the type of extenuating circumstances that would merit further time extensions, similar to the current language on allowable scope changes.

via electronic correspondence and also include the same information in the quarterly database information.

5. If the project did not start on time and then there were extenuating circumstances that delayed the project, the time extension will not be approved. Currently, the IA states that if the entity cannot meet a milestone and there are extenuating circumstances, the project could receive a time extension or may be subject to termination. Recommend that the language be changed to read, “Even if there are extenuating circumstances, whether the project progressed at a reasonable rate, based on the original project nomination and project timeframes specified by the Secretary will be considered.” For example, if construction on a Capital Improvement or PTNA project (which are anticipated to take 5 years to complete) has not begun within a 1-2 year timeframe, and a flood occurrence happens in year 3 that would delay the project completion to a 6 year timeframe, the extenuating circumstance may be beyond the control of the entity, but not starting the project in a timely fashion was within the control of the entity.
6. As time extension requests are submitted, the category-specific project timeframes will be applied retroactively when making a decision to recommend a time extension. (Currently, category-specific timeframes only apply to projects in Round 11 and after). Project timeframes are on P. 23 of the IA and are as follows:
 - Land Acquisition-2 years
 - PTNA-5 years
 - Capital Improvements-5 years
 - MSHCP-5 years
 - Conservation Initiatives-5 years
 - ENLRP-4 years
 - Hazardous Fuels-6 years
 - Lake Tahoe-5 years for capital projects, 3 years for science projects, and 6 years for hazardous fuels projects

If an entity submits an extension request in the PTNA or Capital Improvement category for a project that is currently older than the category timeframe, plus 1 year, but is in the construction phase of the project, the EC will consider a waiver of the business rules to grant a conditional time extension (per #4 above) to insure construction is completed. If such a project has not started construction, an extension request will not be considered. Rather, such a project will be recommended for termination. Non-PTNA and Capital Improvement project extension requests for projects that are over the category timeframe, plus 1 year, will most likely not be granted an extension. Rather these projects will be recommended for termination at a logical and reasonable termination point in the project. For example, a logical stopping point for a revegetation project would be at the end of a field season.

7. Time extensions will be limited to 1 year if the project exceeds the above-referenced timeframes. After the 1 year time extension, approval for another may only be granted by the EC through a waiver of business rules. An approved

waiver of business rules will automatically move the project into an “orange” POC List status.

8. Continue to allow EC to authorize a longer timeframe, if the request is submitted in the project nomination and there is sufficient justification to approve an extended timeframe.

2. Terminations

IA Language: The IA addresses terminations in Part XII. Phase 4 SNPLMA Business Process: Project Closeout sections. On pages 69 and 70 the termination language says: “During the course of project implementation, a project may experience problems, delays, or changing circumstances such that implementing the project in its current form is not possible....If the problems cannot be resolved project termination may be necessary.”

The following are recommended changes to the IA termination rules:

1. If the completion dates identified in a conditional approval for any project modification are not met, the project will be recommended for termination.
2. Change the language on page 69 regarding when a termination is necessary to “will be” rather than “may be”.
3. If an entity does not adequately respond to the SNPLMA Division within 30 days regarding notification that the SNPLMA Division is considering termination, the project will be recommended for project termination.
4. The SNPLMA Division will recommend project termination if more than 2 quarters go by without the entity reporting complete information in the quarterly database.

3. POC List

The IA does not currently include language regarding the Projects of Concern (POC) List. In February 2012 the EC approved an IA decision memorandum (DM), outlining the purpose, scope, and implementation of a POC List. At the time, it was agreed not to incorporate the POC List process into the IA as it was expected the List would be temporary. It is recommended the POC List process be incorporated into the IA as it may take several years for this List to become unnecessary. In addition, if the language is incorporated into the IA, should the situation arise in the future, a DM or IA change will not be necessary.

An addition to the POC List process language is:

1. A project will be added to the POC list as orange if not reported on every quarter. It will remain in this status until complete information is updated in the database.

4. Other IA Changes

Recommended changes to the IA, not by subject (general):

1. All project modification requests and requests to use contingency funding must contain information from the entity about how they attempted to downsize or downscope the project, while still meeting the intent of the project purpose (Currently, this is only required if making a SAR request).
2. No authorization to exceed the 27% cap for planning for Capital Improvement projects, unless pre-authorized by the EC. Currently, several projects have exceeded this cap and the EC has been required to approve a waiver of business rules to retroactively approve the cap exceedance.
3. No project modification should be submitted by an entity, and none will be considered by the SNPLMA Division, that is in conflict with requirements in the IA or Appropriations Law.

5. Roles and Responsibilities

It has been discussed that the Partners Working Group (PWG) will no longer be part of the project modification decision process; rather the PWG will be involved in strategic planning, proposed changes to the IA, and project funding recommendations. The project modification decision authority will reside with the Assistant District Manager, SNPLMA Division, Southern Nevada District Office, with an elevation process to the EC. This change to the IA should contain the following caveats:

1. Currently, only the EC can approve funding requests, i.e., SAR. A request for additional funding will continue to be reviewed and voted on by the PWG before sending it to the EC for approval. There is no recommended change to this process.
2. All recommendations for project terminations must go to the EC for approval.
3. All other DMs, including denial of project modification requests will go to the EC for a 7-day review period, but are signed by the SNPLMA ADM.
4. All elevation requests will be submitted to the PWG Chairperson, the BLM Nevada Deputy State Director, Natural Resources, Lands and Planning, within 14 days of denial of a project modification request. The entity may submit for consideration, any other information they wish to provide, as part of its elevation request. The PWG Chairperson will review the elevation request, the decision memorandum provided by the SNPLMA Division, and any additional information; will conduct additional fact finding if necessary; and provide the information to the EC within 14 days of receipt of the elevation request. The EC will have 14 days to sustain or overturn the SNPLMA ADM decision.
5. Entities at the subgroup and PWG levels will not be allowed to rank or vote on their own project nominations.