United States Department of the Interior

FISH AND WILDLIFE SERVICE
Washington, D.C. 20240

In Reply Refer To:
FWS/AWSR/FA/029386

MAR 2 9 2007

Memorandum

To: Service Directorate

From: Acting Director Kenneth Stansell

Subject: Prescribed Burning Off-Service Lands: Clarification of the Sept. 16, 2005, Addendum to the *Fish and Wildlife Service Fire Management Handbook*

The purpose of this memorandum is to clarify the attached Sept.16, 2005, addendum to chapter 18 of the *Fish and Wildlife Service Fire Management Handbook*. The addendum addresses the requirements applicable to local, State, tribal, and other Federal agencies when they are the Service's partners in implementing prescribed fire on private lands. These requirements are in the section "Use of Certified Agencies".

Some individuals have expressed concern that the addendum could indirectly and inappropriately require State personnel to meet National Wildfire Coordinating Group qualification standards when conducting prescribed burns under Service-administered grant agreements. To avoid any misinterpretation of the Sept.16, 2005 addendum, I am approving the following addendum to chapter 18 of the *Fish and Wildlife Service Fire Management Handbook*:

Prescribed Burning off Service Lands: Standards for prescribed burning activities under Service-administered grant agreements

When conducting prescribed burning off Service lands under a Service-administered grant agreement, State fish and wildlife agencies: (a) must comply with existing State protocols that include compliance with pertinent Federal, State, and local laws; and (b) do not have to comply with any requirements of the *Fish and Wildlife Service Fire Management Handbook* provided that the Service does not have "substantial involvement" in the project, as provided in 31 USC 6301-6308. Therefore, if these requirements are met, State grantees under a Service-administered grant agreement do not have to submit documentation under the grant agreement to reflect compliance with requirements of the *Fish and Wildlife Service Fire Management Handbook*.

If you have any questions about this addendum, please contact Geoffrey Haskett, the Assistant Director for the National Wildlife Refuge System at 202-208-1979 or Rowan Gould, the Assistant Director for Wildlife and Sport Fish Restoration, at 202-208-1050.

Attachments

TAKE PRIDE IN AMERICA

In Reply Refer To:
FWS/AWSR/FA/029386

Memorandum

To: H. Dale Hall, Director, Fish and Wildlife Service
Edward Parker, President, Association of Fish and Wildlife Agencies

From: Rowan Gould, Cochair, Joint Federal/State Task Force on Federal Assistance Policy
Glen Salmon, Cochair, Joint Federal/State Task Force on Federal Assistance Policy

Subject: Prescribed Burning off Service Lands: Clarification of the Sept. 16, 2005 Addendum to *Fish and Wildlife Service Fire Management Handbook*

The purpose of this memorandum is to recommend that the Director clarify the attached Sept. 16, 2005, addendum to chapter 18 of the *Fish and Wildlife Service Fire Management Handbook.* The addendum addressed the requirements of local, State, tribal, and other Federal agencies when they are the Service's partners in implementing prescribed fire off Service lands. We recommend that the Director clarify these requirements by signing the memorandum to the Service Directorate that accompanies this recommendation.

We are recommending this because some Service and State personnel have expressed concerns that the Sept. 16, 2005, addendum could indirectly require State personnel to meet National Wildfire Coordinating Group qualification standards when conducting prescribed burns under grant agreements. We understand that this was not the intent of the Sept. 16, 2005, addendum. It indicated that the Service may enter into grant agreements with a noncertified State agency for that agency to restore and enhance Federal trust species habitats on private lands. It stated that such restoration and enhancement may or may not include prescribed burning, but the Service could not stipulate the technique.

The management and control of a federally assisted project is clearly the responsibility of a State grantee under a grant agreement in contrast to a cooperative agreement which always includes substantial involvement by the awarding agency. We noted that the addendum sought to eliminate any implication that the Service shared responsibility for determining how to

accomplish a federally assisted project. It did this by prohibiting the use of a cooperative agreement with a noncertified agency to fund general habitat restoration activities where prescribed burning may be used.

Nevertheless, to avoid any misinterpretation of the Sept. 16, 2005, addendum, we recommend this additional addendum to chapter 18 of the *Fish and Wildlife Service Fire Management Handbook*:

> **Prescribed Burning off Service Lands: Standards for prescribed burning activities under Service-administered grant agreements**
>
> When conducting prescribed burning off Service lands under a Service-administered grant agreement, State fish and wildlife agencies: (a) must comply with existing State protocols that include compliance with pertinent Federal, State, and local laws; and (b) do not have to comply with any requirements of the *Fish and Wildlife Service Fire Management Handbook* provided that the Service does not have "substantial involvement" in the project, as provided in 31 USC 6301-6308. Therefore, if these requirements are met, State grantees under a Service-administered grant agreement do not have to submit documentation under the grant agreement to reflect compliance with requirements of the *Fish and Wildlife Service Fire Management Handbook*.

The above recommendation reflects the consensus opinion of the Joint Federal/State Task Force on Federal Assistance Policy (JTF) on the need for these revisions. If you have any questions, please contact either of us or any member of the JTF.

Attachments

Transmittal of Final

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Surname	Date
See Attached	
Surnames	
[illegible]	8-26-05
[illegible]	9-6-05
[illegible]	9-7-05
[illegible]	9/8
[illegible]	9/8
Acting ADFWC [illegible]	9/8/2005

In Reply Refer to:
FWS/MAHR/BHR

SEP 16 2005

Memorandum

To: Service Directorate

From: Acting Director /s/ Marshall P. Jones

Subject: Final Addendum to Chapter 18 of the Service Fire Management Handbook Regarding Prescribed Burning Off-Service Lands

This memorandum transmits an addendum to Chapter 18 of the Service Fire Management Handbook. This addendum clarifies that when the Fish and Wildlife Service conducts or funds fire management on lands other than National Wildlife Refuge System lands, the activity will be conducted by qualified personnel who meet agency or interagency standards as identified in established policy documents for wildland fire management activities. Unqualified personnel must not be dispatched to wildland or prescribed fire duty even on off-Service lands. Additional clarifications regarding the qualifications of sub-contractors and the project managers are described.

The Service recognizes that prescribed fire is a necessary tool to properly manage wildlife and its habitats in many areas of the Nation. The Service's role in conserving Federal trust resources has expanded beyond the boundaries of the Refuge System to off-Service lands. In fact, during FY 2003 and FY 2004 the Partners for Fish and Wildlife and Coastal Programs used prescribed fire to restore and enhance more than 57,000 acres on private lands. Projected acreage is similar for FY 2005.

Many habitat restoration projects on off-Service lands involve multiple Service and non-Service funding sources for their implementation. As a result, uncertainty may exist among the Regions and field stations concerning which policies to follow when prescribed fire is used on off-Service lands. The lack of consistent policy application for prescribed fire on off-Service lands increases the risk of personal and property damage, increases the Service's liability, and minimizes the effectiveness of habitat management efforts.

The act of providing funds to a private landowner, organization or agency for the specific purpose of prescribed burning obligates the Service to ensure that the proposed activities meet certain legal and Federal standards. There are national safety standards and operational guidelines that help ensure public safety and reduce agency liability should an injury, fatality, or loss of property occur. Safety is the primary reason to encourage Service employees to conduct all prescribed fire operations within agency and interagency policy.

The Service's Fire Management Handbook provides detailed guidance on implementing departmental and Service policy regarding the Fire Management Program. The Handbook reflects wildland fire management terminology and implementation procedures for agency and interagency operations. It incorporates planning, program management, preparedness, prescribed fire management, wildland fire suppression, fire investigation procedures, cost determination, fire trespass, and other aspects of wildland fire management into a single guiding document. The Handbook is tiered off the Interagency Standards for Fire and Fire Aviation Operations guide known as the "Red Book," which contains standard interagency policy for all facets of wildland fire management.

The Assistant Director of the National Wildlife Refuge System and the Assistant Director for Fisheries and Habitat Conservation directed staff to work collaboratively with affected programs to develop language that clarifies the Service Policy with respect to prescribed burning off-Service lands. The Branch of Fire Management and the Branch of Habitat Restoration invited personnel from the Endangered Species Program, the Migratory Bird Program, and the Wildlife and Sport Fish Restoration Program to participate on a team to draft clarifying language. The result of that collaboration is the attached addendum to the Service fire management policy. This addendum is designed to ensure safe and timely implementation of prescribed burning practices on private lands. It will be added to the current Fire Management Handbook, Chapter 18, Fuels Treatment/Prescribed Fire, and will be incorporated into future editions.

Attachment

Attachment

Addendum to Chapter 18 of the Service Fire Management Handbook

Prescribed Burning Off-Service Lands: Standards for alternative mechanisms of implementing prescribed burning activities through the Service's private lands programs.

Use of Service personnel. Service personnel planning or implementing habitat restoration projects on off-Service lands, using prescribed burning, must be certified, and in compliance with all applicable departmental, Service, and regional fire management policies. The project must have an agreement signed by the landowner authorizing the use of prescribed fire on private land, and clearly stating the benefit to Federal Trust resources.

The project officer or the person in charge of fire operations specifically must meet the Burn Boss certification requirements appropriate for the complexity level of the burn as derived from the National Wildfire Coordinating Group (NWCG) Prescribed Fire Complexity Rating System Guide. Based upon the outcome of the Complexity Analysis, the project officer qualifications (RXB1, RXB2, or RXB3) will be assigned to oversee the implementation of the project. The project must meet National Environmental Policy Act requirements prior to ignition (621FW 2, 4A(2)), and have all the necessary permits and approvals. All Service personnel participating in prescribed fires must meet the appropriate Service training and experience qualification requirements as detailed in the Fire Management Handbook. For all fire activities where the Service is involved a written prescribed fire plan must be prepared, reviewed, and approved according to Service and regional policies.

Non-certified Service personnel may provide technical assistance regarding the ecological benefits of conducting a prescribed fire on a project. They must clearly state that their recommendation for the use of fire is only to describe or project ecological improvements and they are not certified to provide any recommendations regarding the actual design and implementation of the prescribed fire, nor will they participate in the operational aspects of the prescribed fire.

Use of certified agencies. Local, State, Tribal and other Federal agencies could be the partner actually planning and/or implementing the prescribed fire on private lands. If these fires are determined to be of moderate or higher complexity (see NWCG Prescribed Fire Complexity Rating System Guide) the cooperator should adopt the NWCG standards contained within the Wildland and Prescribed Fire Qualification Subsystem Guide, PMS 310-1. This guide identifies minimum qualification standards for interagency prescribed fire operations. Departmental policy requires all Service personnel engaged in interagency operations to meet these standards. PMS 310-1 contains specific guidance concerning interagency wildland and prescribed fire qualifications. For prescribed fires evaluated to have low complexity (see NWCG Prescribed Fire Complexity Rating System Guide), the Service and its local cooperators will jointly agree on qualifications required. A written prescribed fire plan must be prepared, reviewed, and approved according to Local, Service, and regional policies.

In some limited cases, the Service could provide funds to non-certified agencies for the restoration and enhancement of Federal trust species habitats on private lands where prescribed burning may or may not be used as a management tool. In these cases, the Service will not have "substantial involvement" as defined in 31 U.S.C. 6301-6308. The only mechanism to transfer funds to non-certified agencies where prescribed fire may be used is a Grant Agreement. Grant Agreements with a non-certified state agency are for the purpose of general habitat restoration activities. The Service cannot identify or stipulate the techniques to be used for these habitat restoration projects. The task of identifying these techniques is a responsibility of the state agency. Other funding mechanisms such as Cooperative Agreements and Procurement Contracts require "substantial involvement" of Service personnel and should not be used with non-certified agencies.

Use of private cooperators. Private cooperators conducting a burn that is funded by Service must be in compliance with NWCG, Service and regional policies regarding prescribed burning. PMS 310-1 allows the establishment of standards to meet Service-specific needs for operations that involve only Service personnel or, in some cases, local cooperators. A written prescribed fire plan must be prepared, reviewed, and approved according to Service and regional policies.

Hire private contractors certified by the Service. Private contractors who specialize in providing fire management services must meet the NWCG standards contained within the Wildland and Prescribed Fire Qualification Subsystem Guide, PMS 310-1, and meet any other Service standards for qualifications and personal protective equipment (PPE). The contract should specify these requirements as well as other regional and local standards or work accomplishments they are to meet. There are vendors that are certified as meeting the NWCG standards; however, the Service must still approve the burn plan. A written prescribed fire plan must be prepared, reviewed, and approved according to local, Service and regional policies.

Support only non-fire components. In the event one of the options above is not available, the Service maintains the ability to only provide funding and/or technical assistance on the non-fire components of the project. For example, the landowner is willing to implement a project using prescribed burning without financial or technical assistance from the Service, and the Service provides financial/technical assistance only to plant trees or conduct seeding after the burn is complete. Service personnel may acknowledge the potential ecological benefits of conducting a prescribed fire on a project, and that prescribed fire may be used to complement activities funded by the Service, but the planning documents and agreements must clearly state the limits of the Service's involvement, that the Service is not responsible for the implementation of prescribed fire, that the decision to use prescribed fire is the responsibility of the landowner, and that the Service is not certified to provide any technical recommendations regarding the actual design or execution of a prescribed fire.