

**Forest Service Manual  
National Headquarters - Washington Office  
Washington, DC**

**Forest Service Manual 1500 – External Relations  
Chapter 1530 - Interdepartmental**

**Amendment:** 1500-2004-8

**Effective date:** May 26, 2004

**Duration:** This amendment is effective until superseded or removed.

**Superseded Directive:** 1531.07-1531.07h, Amendment 1500-1990-1, June 1, 1990

**Approved by:** Thomas L. Tidwell, Acting Associate Deputy Chief for National Forest System

**Date approved:** May 10, 2004

**Responsible Staff:**

**Explanation of changes:** Following is an explanation of the changes throughout the directive by section.

**1531.07i:** Establishes code and caption for Memorandum of Understanding (MOU) signed in July 1990 between the U.S. Department of the Interior, Office of Surface Mining Control and Reclamation and the U.S. Department of Agriculture, Forest Service, relating to the management of surface coal mining operations on National Forest System lands.

## Table of Contents

<b>1531.07 - Management and Utilization .....</b>	<b>3</b>
<b>1531.07a - Jurisdictional Responsibilities of Departments of the Interior and Agriculture .....</b>	<b>3</b>
<b>1531.07b - National Trails System Agreement.....</b>	<b>6</b>
<b>1531.07d - Memorandum of Understanding on Coordination of Federal Coal- Management Program.....</b>	<b>8</b>
<b>1531.07e - Interagency Cooperation on Matters Relating to Management of Government Furnished Quarters .....</b>	<b>13</b>
<b>1531.07f - Master Memorandum of Understanding for Coordination of Forestry and Associated of Rangeland Research.....</b>	<b>16</b>
<b>1531.07g - Policy and Model Interagency Road Maintenance Exchange Agreement...</b>	<b>20</b>
<b>1531.07h - Joint Investigation of Aviation Accidents .....</b>	<b>29</b>
<b>1531.07i - Memorandum of Understanding between the U.S. Department of the Interior, Office of Surface Mining Reclamation and Enforcement and the U.S. Department of Agriculture, Forest Service for Management of Surface Coal Mining Operations on National Forest System Lands .....</b>	<b>31</b>

## **1531.07 - Management and Utilization**

### **1531.07a - Jurisdictional Responsibilities of Departments of the Interior and Agriculture**

January 28, 1963

Dear Mr. President:

We are pleased to advise you that the Department of Agriculture and the Department of the Interior have developed a new conservation policy to help implement the outdoor recreation program of the Administration.

We have reached agreement on a broad range of issues, which should enable our Departments to enter into a "new era of cooperation" in the management of Federal lands for outdoor recreation. This agreement settles issues, which have long been involved in public controversy; we have closed the book on these disputes and are now ready to harmoniously implement the agreed-upon solutions.

The decisions reached will do much to further development of Federal recreation resources, eliminate costly competition, promote cooperation, and recognize the major role that the Departments of Agriculture and the Interior both have in administering Federal lands under their jurisdiction for recreation purposes. We have agreed upon the following principles of cooperation:

1. Mutual recognition is accorded the distinctive administrative functions and land management plans used by the Forest Service and the National Park Service in administering lands under their jurisdiction.
2. Except for existing Administration proposals, those covered in our agreement, or routine boundary adjustments, jurisdictional responsibility will not be disturbed among the agencies of our two Departments which are managing and developing lands for public recreation.
3. Neither Department will initiate unilaterally new proposals to change the status of lands under jurisdiction of the other Department. Independent studies by one Department of lands administered by the other will not be carried on. Joint studies will be the rule.
4. Likewise, each Department, with the support and cooperation of the other, will endeavor to fully develop and effectively manage the recreation lands now under its administration.

In furtherance of the above principles of cooperation, and in recognition of the growing demand for outdoor recreation, we plan to recommend to you the establishment of two new Federally administered National Recreation Areas. These areas are planned to help meet existing and foreseeable outdoor recreation needs.

The Recreation Advisory Council, established by Executive Order 11017, has been considering the need for National Recreation Areas and criteria for their selection and establishment. We expect that the Recreation Advisory Council will soon recommend to you the creation of a limited system of National Recreation Areas along with criteria to guide their selection and establishment. The proposals for National Recreation Areas contained in this letter have been reviewed and are concurred in by the other members of the Recreation Advisory Council.

National Recreation Areas would be established only by Act of Congress and would be administered by the Department of the Interior, the Department of Agriculture, or other Federal agencies or departments having responsibility in outdoor recreation as may be recommended by the Executive Branch and determined by the Congress. National Recreation Areas would be administered primarily for recreation but with utilization of other resources permitted, provided such use is not incompatible with and does not unduly interfere with the basic recreation purpose. Advice of the Recreation Advisory Council will be sought with regard to qualification of particular areas, priority for establishment, and jurisdictional responsibility.

National Recreation Areas will be in addition to national parks, national monuments, or other special categories of land administered by the National Park Service, and to the wilderness system or other special categories of land having recreation significance now administered by the Forest Service. In our judgment as well as in the judgment of the other members of the recreation Advisory Council, these two areas will conform fully with the National Recreation Area criteria, now in the final stage of formulation.

Subsequent to the adoption of these criteria, we shall recommend to you that the Administration submit legislation to establish:

1. Whiskeytown-Shasta-Trinity National Recreation Area of about 280,000 acres in north central California. This area will consist of three non-contiguous units, surrounding reclamation reservoirs. The areas around Shasta Lake and the Trinity-Lewiston Reservoirs are within the exterior boundaries of the Shasta-Trinity National Forests. These will be recommended for administration by the Forest Service. The 50,000-acre Whiskeytown unit lying outside the National Forest will be recommended for National Park Service administration.

2. The Flaming Gorge National Recreation Area in Wyoming and Utah. This is an area of about 160,000 acres lying upstream on the Green River from the Bureau of Reclamation dam under construction at Flaming Gorge within the Ashley National Forest in northeastern Utah.

The two Departments have agreed that the 40,000-acre area within the National Forest boundary will be administered by the Forest Service, and the larger area of about 120,000 acres lying primarily in Wyoming and outside the National Forest boundary will be administered by the National Park Service.

We have agreed further that:

1. An Oregon Dunes National Seashore should be recommended consisting of about 35,000 acres primarily of sand dunes along the central Oregon coast. This land for the most part has been under the protection and management of the Forest Service. Administration would be by the National Park Service under the same criteria as for National Recreation Areas.

2. A joint study should be made of Federal lands in the North Cascade Mountains of Washington to determine the management and administration of those lands that will best serve the public interest. These lands for the most part have been under the administration of the Forest Service as National Forests for many years. A study team should explore in an objective manner all the resource potentials of the area and the management and administration that appears to be in the public interest. The study team will consist of representatives of the two Departments and will be chaired by an individual jointly selected by us.

Recommendations of the study group will be submitted to us and we in turn will make our recommendations to you. We believe these agreements represent a major improvement in National Conservation policy. We earnestly hope you will approve them.

Respectfully yours,

/s/

Secretary of Agriculture

/s/

Secretary of the Interior

The President  
The White House  
Washington 25, D.C.

AGREEMENT  
BETWEEN THE  
UNITED STATES DEPARTMENT OF AGRICULTURE  
AND THE  
UNITED STATES DEPARTMENT OF THE INTERIOR  
FOR THE DEVELOPMENT AND OPERATION  
OF THE NATIONAL TRAILS SYSTEM

This MEMORANDUM OF AGREEMENT between the U.S. Department of Agriculture and the U.S. Department of the Interior establishes procedures for the planning, coordination, development, and administration of the National Trails System as established by Public Law 90-543.

This MEMORANDUM OF AGREEMENT provides for consultation between the two Secretaries to resolve specific responsibilities for the trails covered under PL 90-543 and establishes agreement on general matters, which pertain to all operations of the National Trails System involving both Departments.

An Interagency Task Force composed of members of each Department shall be established, members to be selected by the respective Secretaries. The Task Force shall:

- a. Develop the procedures for studies of the routes identified in Section 5(c) of the Act, and studies of other trails to determine the feasibility and desirability of proposing designation as National Scenic Trails.
- b. Develop a uniform marker for the National Trails System including thereon an appropriate and distinctive symbol for each national recreation and scenic trail.
- c. Develop standards for erection and maintenance of markers along the trails.
- d. Develop criteria and standards for the selection of trail location.
- e. Develop regulations governing the use, protection, management, development, and administration of the trails.
- f. Develop uniform regulations necessary for governing conduct on and along trails located within federally administered areas to provide for proper government and protection of such trails.

g. Develop procedures, the objectives of which shall basically be uniformity, for the identification and designation of national recreation trails (sec. 4, P.L. 90-543) and for connecting or side trails (Sec. 6, P.L. 90-543).

h. Submit the results of the above to the respective Secretaries for approval.

Necessary lands or interests in lands for rights-of-way across private lands within the exterior boundaries of federally administered units will be acquired by the agency administering such units.

Prior to publication in the Federal Register of the rights-of-way for a national scenic trail, the trail's administrator(s) shall grant to those Federal agencies having actively participated in the trail's establishment, the right, if they so desire it, of reviewing the selected right-of-way. The purpose of this review will be to determine the relation of the trail's route to all resource management and fire protection activities under the jurisdiction of the participating agency or to other such activities situated outside its authority and to suggest minor changes to the right-of-way where it is thought that by doing so will better improve the trail.

Agencies of each Department will enter directly into supplemental agreements to cover development and management of specific trails where two or more agencies are involved. Such supplemental agreements shall be consistent with this Agreement.

Date: May 12, 1969

U.S. DEPARTMENT OF AGRICULTURE

/s/ Clifford M. Hardin

Secretary of Agriculture

U.S. DEPARTMENT OF THE INTERIOR

Date: May 23, 1969

/s/ Walter J. Hickel

Secretary of the Interior

**1531.07d - Memorandum of Understanding on Coordination of Federal Coal-Management Program**

No. 80-SIE-001

MEMORANDUM OF UNDERSTANDING  
BETWEEN THE DEPARTMENT OF AGRICULTURE  
AND THE DEPARTMENT OF INTERIOR  
PROVIDING FOR COORDINATION OF ACTIVITIES  
PURSUANT TO THE FEDERAL COAL MANAGEMENT PROGRAM

I. GENERAL

A. Purpose

1. This Memorandum of Understanding (MOU) authorizes the Secretary of Agriculture to assess whether lands within the National Forest System boundaries are unsuitable for surface coal mining operations as part of the Federal lands review under Section 522 of the Surface Mining Control and Reclamation Act (SMCRA) of 1977 (P.L. 95-87, 30 U.S.C. 1272). This delegation is made in order to facilitate the use of surface management agency land use planning as the integrated method for resource inventory and evaluation; to avoid duplication of agency efforts and increase efficiency; and to assure the systematic application of the unsuitability criteria, and exceptions (43 U.S.C. 3461.1), in agency planning that involves a Federal lands review.

2. This MOU establishes principles and procedures for cooperation between the Department of Agriculture's Forest Service (FS) and the Department of the Interior's (DOI's) Bureau of Land Management (BLM) in the application of unsuitability criteria and private surface owner consultation (43 CFR 3420.2-3) for surface coal mining under the general provisions of the Surface Mining Control and Reclamation Act of 1977. It references common criteria for use by each agency to satisfy statutory requirements regarding identification and assessment of areas unsuitable for surface coal mining (as set forth in Section 522 of the SMCRA and 43 CFR Part 3400). This MOU sets forth arrangements by which the two agencies will carry out respective and joint application of unsuitability criteria on Federal lands under the management of each agency. Its intent is to assure that both Federal agencies conduct the Federal lands review in a coordinated fashion and use approved criteria which are comparable and, at the same time, responsive to the statutory responsibilities which govern each. Additionally, it will ensure systematic application of criteria in the respective agency land management planning processes.

3. The MOU establishes a system for coordination between the BLM and FS on the Federal coal management program.

B. Definitions



1. Federal Lands means any land, including mineral interest, owned by the United States without regard to how the United States acquired ownership of the land and without regard to the agency having responsibility for management thereof, except Indian lands, but does not include privately owned mineral rights.

2. Comprehensive Land Use Planning or Land Management Planning means those land use planning and decision-making processes conducted by the BLM pursuant to the Federal Land Policy and Management Act (FLPMA) and the Federal Coal Leasing Amendments Act (FCLAA), and by the FS pursuant to the National Forest Management Act.

3. National Forest System includes all National forest lands reserved or withdrawn from the public domain of the United States, all National forest lands acquired through purchase, exchange, donation, or other means; the national grasslands, land utilization projects administered under Title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010 et seq.); and other lands, waters, or interests therein which are administered by the FS or are designated for administration through the FS as a part of the System.

4. Public Lands means any land and interest in land owned by the United States within the several states and administered by the Secretary of the Interior through the BLM, without regard to how the United States acquired ownership, except--

(a) Lands located on the Other Continental Shelf

(b) Lands held for the benefit of Indians, Aleuts, and Eskimos

5. Surface Coal Mining Operations means activities conducted on the surface of lands in connection with a surface coal mine and surface impacts incident to an underground coal mine.

#### C. Extent

The provisions of the MOU shall apply only to the extent determined by available workforce and financial resources.

## II. AUTHORITIES

### A. Secretary of Agriculture

The Multiple-Use Sustained Yield Act (P.L. 86-517), the National Forest Management Act (P.L. 94-588), the Surface Mining Control and Reclamation Act (P.L. 95-87).

## B. Secretary of the Interior

The Federal Land Policy and Management Act (P.L. 94-579), the Surface Mining Control and Reclamation Act (P.L. 95-87), and the Federal Coal Leasing Amendments Act (P.L. 94-377).

### III. OPERATIONS

A. The Secretaries agree to use the following procedures in carrying out the Federal lands review under Section 522 of the SMCRA and the surface owner consultation under Section 714 of the SMCRA.

#### 1. Application of Criteria

The Secretary of the Interior and the Secretary of Agriculture will review Federal lands under their respective jurisdictions to determine which are unsuitable for all or certain types of surface coal mining operations. Such reviews shall be conducted and such assessments shall be made by the FS and the BLM using criteria, which have been promulgated as regulations by the Secretary of the Interior as part of the Federal coal management program (43 CFR Part 3400). The Secretary of the Interior will provide for variations in those criteria, as they will be applied by the FS, based on statutory or land use planning requirements. Any necessary variations in the criteria will be submitted through the Director of BLM to the Secretary of the Interior for adoption by rulemaking.

#### 2. Land Management Planning and Surface Owner Consultation

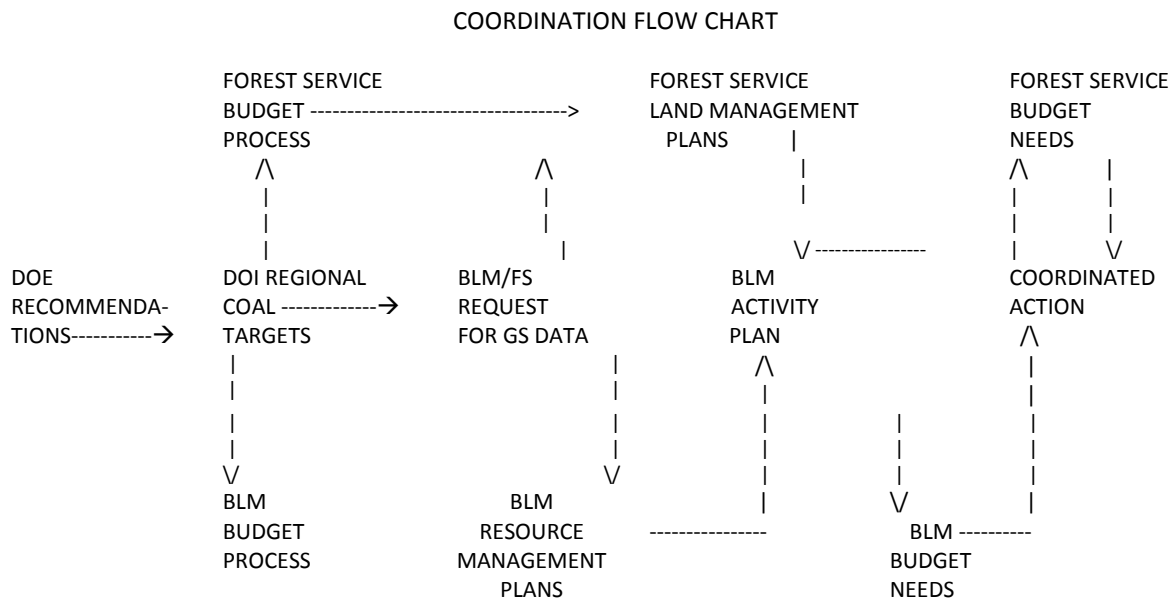
The Secretaries agree to conduct requisite reviews and consultations in the course of their respective planning processes. In the conduct of these reviews and consultations the Secretaries agree to apply these criteria systematically to identify lands unsuitable for all or certain types of surface coal mining operations. This agreement implies no role or responsibility for the FS in the surface owner consent procedures established under subpart 3427 of Federal Coal Management Regulations (43 CFR 3400).

B. The Secretary of the Interior shall apply the unsuitability criteria and exceptions (43 CFR 3461.1), and conduct surface owner consultation on all public lands. The Secretary of Agriculture shall apply the unsuitability criteria and exceptions (43 CFR 3461.1), and conduct surface owner consultation of all Federal lands and private surface in holdings within the National Forest System boundaries. In those instances where a potential exists for surface coal mining on a lease, which would incorporate lands under both these jurisdictions, the Secretaries agree that the BLM and FS shall mutually determine the manner in which the criteria will be employed.

As a result of the Federal lands review and private surface owner consultation, as well as other planning considerations, the FS shall recommend to the BLM areas acceptable for further consideration for coal leasing.

### C. Program and Budget Coordination

1. The BLM and the FS will implement the following system to provide needed coordination between the two agencies in program development and budgeting, establishing schedules for land use plans, the determination of areas suitable for leasing, and environmental analyses and other preparations necessary for carrying out the Federal coal management program.



See definitions of terms for this chart beginning on the following page.

Definitions of terms indicated on the above flow chart are as follows:

DOE Recommendations - means the Department of Energy's regional production goals, which establish desired levels of production of various types of coal.

DOI Regional Coal Targets - means a process by which the Department of the Interior merges the DOE regional productions goals with advice from State and local governments, the coal industry, and other interests to determine leasing targets.

BLM/FS Request for GS Data - means the Bureau of Land Management and the Forest Service may request the Geological Survey to provide coal development potential and occurrence data for use in development of comprehensive land use plans.

Forest Service Budget and BLM Budget Process - means the procedure by which the Forest Service obtains coal program funding within the framework of the Forest and Rangeland Renewable Resources Planning Act of 1974; and the procedure by which the Bureau of Land Management projects coal program needs and obtains funding. These procedures will be coordinated between the BLM and the FS.

Forest Service Land Management Plans and BLM Resource Management Plans - means plans in which high and moderate potential coal lands are identified, the unsuitability criteria adopted by the Secretary of the Interior are applied, and multiple resource use tradeoffs are made. Surface owners are consulted during development of these plans to identify their preferences for or against leasing in every area containing leaseable coal. For Federal mineral interests in private lands, it is understood that the preparation of comprehensive plans required by FCLAA is the responsibility of the Department of the Interior. These plans are prepared prior to activity planning by the BLM and results in the identification of areas suitable for further consideration for coal leasing.

BLM Activity Plan - means the process for identifying, ranking, selecting, and scheduling coal lease tracts after land use planning has been completed. The FS will be asked to participate in the process where National Forest System lands are involved.

Forest Service Budget Needs and BLM Budget Needs - means funding requirements to implement decisions made as a result of BLM activity planning.

Coordinated Action - means all Federal Coal Program actions involving both the Forest Service and the BLM will be fully coordinated. Information supplied to the BLM by the FS will include:

- a. Priorities
  - b. Workforce needs (initially)
  - c. Coordination between the BLM and the FS on land use plans
  - d. Areas acceptable for further consideration according to the coal regulations
- Information supplied by the BLM to the FS will include:

- a. Identification of production region
- b. Coordination between the BLM and the FS on land use plans
- c. Priorities
- d. Workforce needs (initially)
- e. Budget information
- f. Task list (initially)

2. A Coal Program Coordination Committee co-chaired by the Assistant to the Director for Coal Management, BLM, and the Deputy Chief, National Forest System, is hereby established to provide the necessary direction to ensure that the system is satisfactorily implemented.

APPROVED

<u>/s/</u> Secretary, Department of the Interior	<u>May 20, 1980</u> Date
<u>/s/</u> Secretary, Department of the Agriculture	<u>March 28, 1980</u> Date
<u>/s/</u> Director, Bureau of Land Management	<u>January 18, 1980</u> Date
<u>for /s/ Douglas Leisy</u> Chief, Forest Service	<u>March 3, 1980</u> Date

**1531.07e - Interagency Cooperation on Matters Relating to Management of Government  
Furnished Quarters**

No. 80-SIE-002

INTERAGENCY AGREEMENT  
between the  
UNITED STATES DEPARTMENT OF AGRICULTURE  
and the  
UNITED STATES DEPARTMENT OF THE INTERIOR  
concerning  
THE INTERAGENCY COOPERATION ON MATTERS RELATING  
TO MANAGEMENT OF GOVERNMENT-FURNISHED QUARTERS

Government Furnished Quarters, hereafter referred to as GFQs, under both Forest Service and Department of Interior management responsibility are often located within the same towns or Economically Homogeneous Area (EHA).

It is agreed that close interagency cooperation in management of GFQs can do much toward improvement of the efficiency and continuity of GFQ program management. This Interagency Agreement is, therefore entered into for the purpose of cooperating to improve the

management of GFQs and to achieve reasonable uniformity in the rental rates charged to government employees within EHAs where both parties maintain GFQs, said charges being established in accordance with OMB Circular No. A-45, as revised.

To bring about the cooperation the parties agree to authorize and direct the Deputy Chief for Administration, USDA, Forest Service (FS), and the Assistant Secretary of Policy, Budget and Administration, Department of the Interior (DI), to prepare jointly, approve, and implement annual program agreements for achieving coordinated management.

Quarters Management activities are based upon P.L. 88-459 (Federal Facilities Quarters and Facilities Act of 1964, now 5 U.S.C. 5911) and implementing guidelines issued by the Office of Management and Budget in OMB Circular No. A-45, as revised.

Authorization to perform work for another agency is provided by the Act of June 30, 1932, (31 U.S.C. 686) as well as other authorities. Annual agreements shall describe the planned quarters management activities and the administrative and financial responsibilities of each party.

Forest Service Agrees:

1. To provide all needed input in DI program format.
2. To pay annual costs of survey and computing services for rental rate calculation as agreed in annual agreement.
3. To designate an individual to be the agency's official survey coordinator for each survey.
4. To share with DI all costs of computer programming essential to management of GFQs based on the percentage the Forest Service housing units are of the total units in the system. Any management information systems development cost will be shared on the basis of need that the Forest Service requires of any part of the system.

Department of the Interior Agrees:

1. To develop, operate, and maintain computer program(s) for inventory, rental base rates and Computer Price Index adjustments.
2. To provide computer access to other signatories based upon payment agreements noted in annual agreement.
3. To maintain appropriate computer user guides.
4. To designate an individual to be the agency's official survey coordinator for each survey.

Both Parties Agree:

1. To meet annually before the start of each fiscal year's budgeting process to develop a survey program and determine administrative and financial responsibilities for the coming fiscal year. Planning meetings prior to starting a survey will be called by the party responsible for the survey.

2. To designate survey areas and schedules on an annual basis.

3. To prepare, issue and administer rental rate survey contracts for EHAs by the party, which has the majority of housing units.

4. To analyze data from surveys and supply base rate data to all parties to the agreement.

5. To standardize, to the extent possible, the adjustments permitted by OMB Circular A-45, as revised, to achieve a uniform base rate structure within each survey area, and to develop operation manuals that reflect the above procedures and agreements.

6. To independently conduct surveys for any quarters not located within a designated EHA.

7. To develop and use the same forms.

8. To designate established communities within each survey area.

9. To inform affected employee tenants and designated employee organization prior to initiation of any survey.

Other Considerations:

There will at all times be a free exchange of pertinent data and frank discussions between the two parties. The jurisdictional responsibilities of each party must be recognized.

The Department of the Interior and the Forest Service mutually agree that amendments to this Interagency Agreement may be proposed by either party and will become effective upon approval of both parties. Either party can cancel this agreement at any time.

Additional parties may become part of this agreement by agreeing to its terms.

DEPARTMENT OF AGRICULTURE  
FOREST SERVICE

DEPARTMENT OF THE INTERIOR

By: /s/  
for Deputy Chief for Administration

By: /s/  
Assistant Secretary of Policy, Budget  
and Administration

Date: August 7, 1980

Date: September 12, 1980

**1531.07f - Master Memorandum of Understanding for Coordination of Forestry and Associated of Rangeland Research**

81-SIE-003

MASTER MEMORANDUM OF UNDERSTANDING  
FOR COORDINATION OF FORESTRY AND ASSOCIATED RANGELAND  
RESEARCH BETWEEN  
UNITED STATES DEPARTMENT OF THE INTERIOR  
AND  
THE UNITED STATES DEPARTMENT OF AGRICULTURE

I. Identification of Parties

This Memorandum of Understanding is entered into between the United States Department of the Interior (USDI), and the United States Department of Agriculture (USDA). The bureaus and agencies that this Memorandum applies to within USDI are: The Bureau of Land Management (BLM), the Fish and Wildlife Service (FWS), and the National Park Service (NPS). The agencies that this Memorandum applies to within USDA are the Forest Service (FS), the Soil Conservation Service (SCS), the Science and Education Administration/Cooperative Forestry Research (SEA/CR), and the Science and Education Administration/Agriculture Research (SEA/AR). Other bureaus and agencies may be added to the list of participants as appropriate, and as mutually agreed by USDI and USDA.

II. Purpose

The purpose of this Memorandum is to set forth certain agreements and understandings that will provide a mechanism for USDI and USDA to improve coordination in planning research, conducting research, and communicating results of research programs. This improved coordination is desirable (1) to enhance and maximize the research capabilities of the respective bureaus and agencies; (2) to encourage joint efforts to resolve common problems; (3) to avoid duplication of research efforts; and (4) to help insure that the manner and methods of data collection and analysis among agencies are similar, so that results can be compared.

III. Background

In this Memorandum, "research" is defined as systematic, critical, intensive investigation directed toward development of new or fuller scientific knowledge or methodology. It may be with or without reference to specific application. Such research includes, but is not limited to, theoretical and experimental investigations: (1) to determine the nature, magnitude and



interrelationships of physical, biological, and psychological phenomena and processes as well as investigation of socioeconomic and cultural phenomena and processes; (2) to create or develop means of investigating such phenomena and processes; and (3) to develop principles, criteria, methods, and a body of data of general applicability for use by others. Such research also includes developmental efforts based upon systems analysis operations research, and other approaches that integrate and apply technology for operational uses.

Much has been accomplished already by USDI and USDA working together in a spirit of cooperation, as reflected by past joint participation in and sponsorship of many seminars, workshops, and conferences. Past efforts also have involved mutual support and collaboration in research and exchange of personnel between the two Departments.

In addition, both formal and informal interdepartmental coordinating groups have been used to foster better research planning. Joint participation in various kinds of research program reviews have provided opportunities for respective bureaus and agencies to inform one another about the scope, direction, and accomplishments of research programs. In addition, several bureaus and agencies in USDI and USDA are already effectively cooperating on planning, conducting, and utilizing survey and inventory information.

#### IV. Authority

The work to be accomplished by USDA under this Memorandum is authorized by the Forest and Rangeland Renewable Resources Research Act of 1978; the Cooperative Forestry Research Act of 1963; and the Hetch Act, as amended.

The work to be performed by USDI under this Memorandum is authorized by the Fish and Wildlife Act of 1956; the Federal Land Policy and Management Act of 1976; the Public Rangelands Improvement Act of 1978; and the National Park Service Act of 1916, as amended.

#### V. Delegation

A. The Secretary of the Interior, or such other person whose name and title shall be communicated in writing to the USDA, will administer this Memorandum for the USDI.

B. The Secretary of Agriculture, or such other person whose name and title shall be communicated in writing to the USDI, will administer this Memorandum for the USDA.

#### VI. Responsibilities of the Parties

The USDI and USDA mutually agree that the bureaus and agencies covered by this Memorandum will where mutually acceptable:

A. Assist each other in planning of research.

1. The agencies will identify research needs for resources and responsibilities of mutual interest, and will mutually plan research.

2. Periodically during the year, the agencies will provide each other with summary statements of research budget initiatives and new and emerging areas of research emphasis.

3. Annually, the agencies will exchange summaries of current research needs that are related to their resource management action programs or to programs of their cooperators.

4. The agencies will inform each other of how users of research results will be involved to help identify research needs and help set research priorities.

5. Each agency will include representatives of the other's in unit and personnel research performance evaluations.

6. To the extent practicable within the responsibilities of each agency, the agencies will develop common standards, techniques, and practices for research, including data collection and analysis, so that results will be mutually compatible and comparable.

B. Assist each other in conducting research.

1. The agencies will cooperatively conduct research, or conduct research for each other.

2. Each agency will include representatives of the other's in the reviews of their research programs.

3. The agencies will explore possibilities for collocating and sharing research staffs and facilities.

4. At least annually, the agencies will prepare summaries of the status and scope of their current research programs and distribute them appropriately.

C. Assist each other in communicating results of research.

1. Annually, the agencies will prepare and share summaries of results of current research programs.

2. Agencies will explore opportunities to develop a common information data base that describes past and current research findings.

3. Agencies will cooperate in efforts to disseminate the results of research to users of that information and to the general public.

VII. Supplementation

As needed to cover specific projects, national problems, or local or regional conditions, this Memorandum may be supplemented by specific agreement at the appropriate administrative level for the agencies involved.

### VIII. Implementation

Activities resulting from this agreement shall be coordinated through a Steering Group, appointed by the Secretaries of the Interior and Agriculture, and consisting of one member from each of the participating bureaus or agencies involved. The Chairperson position of the Steering Group shall rotate annually among these bureaus or agencies; the Group shall meet at least semi-annually. The Steering Group will complete an annual plan of work by September 1 that describes specific targets and time frames for accomplishing mutually acceptable responsibilities set forth in item VI above. This annual plan will cover the fiscal year that starts one month after the plan is complete. On December 1 the Steering Group will provide a report of accomplishments during the fiscal year that ended two months earlier.

### IX. Effective Date

The effective date of this Memorandum is the latter date of signature by the parties and it shall remain in effect until modified in writing upon 90 days written notice to the other.

IN WITNESS THEREOF, the parties have executed this Memorandum in several counterparts.

U.S. DEPARTMENT OF THE INTERIOR

U.S. DEPARTMENT OF AGRICULTURE

By: /s/

By: /s/

Title: Secretary

Title: Acting Secretary

Date: \_\_\_\_\_

Date: December 29, 1980

Date: 12/18/80

/s/  
Science and Education Administration

Date: 12/18/80

/s/  
Soil Conservation Service

Date: 12/29/80

/s/  
Forest Service

## **1531.07g - Policy and Model Interagency Road Maintenance Exchange Agreement**

### **POLICY ON INTERAGENCY EXCHANGE OF ROAD MAINTENANCE**

RELATING TO THE ESTABLISHMENT OF A POLICY ON INTERAGENCY EXCHANGE OF ROAD MAINTENANCE FOR THE MUTUAL BENEFIT AND BETTERMENT OF PARTICIPATING AGENCIES.

The HEREAFTER, signatory Federal agencies or departments having responsibility for road maintenance activities associated with the development, production, utilization, or protection of federally administered lands and land resources, subscribe to the following Policy Statement:

EXCHANGE OF ROAD MAINTENANCE RESPONSIBILITIES OR MAINTENANCE OPERATIONS BETWEEN FEDERAL AGENCIES, THAT CONSERVE AND PROTECT THE RESOURCES, PROMOTE OPERATIONAL EFFICIENCIES, PROVIDE FOR USER SAFETY, AND PROVIDE OTHER PUBLIC BENEFITS, ARE TO BE ENCOURAGED.

#### Major Principles and Standards

1. Agreements for the exchange of maintenance activities shall apply to Federal Agency Roads.
2. Exchange of maintenance activities between agencies must be in compliance with the Economy Act of 1936, as amended (31 U.S.C. 1535-36) or other available authorities.
3. Agreements for the exchange of maintenance activities are to promote operational efficiencies by combining similar or like work across administrative boundaries.
4. Maintenance activities are to be conducted so as not to contribute to the unacceptable degradation of the environment.
5. Road maintenance activities are to be conducted in a manner that provides for user safety.

#### Policy Implementation

To the extent practicable, this policy shall be implemented by the execution of an Interagency Agreement between agencies wishing to cooperate on road maintenance activities.

#### Interagency Agreement

The Interagency Agreement is an enabling document, which provides an umbrella for the local agencies to enter into a simple, yearly, seasonal, or periodic Road Maintenance Agreement.

### Road Maintenance Agreement

1. Road Maintenance Agreements are the means by which agencies retain the flexibility to make periodic localized changes within the working structure of the Interagency Agreement.
2. Road Maintenance Agreements between agencies implementing this policy will probably be the most successful if they reflect these guidelines:
  - a. Encourage existing formal agreements between agencies that provide for a cooperative effort on road maintenance to continue.
  - b. Formalize existing informal maintenance agreements or understandings between local agency offices to avoid misunderstandings or confusion, and provide a record for future cooperative efforts.
  - c. Handle the exchange of maintenance activities at the local level between agency representatives who are intimately familiar with the local road conditions.
  - d. Opportunities for effective exchange of maintenance are generally limited to short segments of roads along or near administrative boundaries.

### Model Agreements

Agencies authorized to exchange road maintenance responsibilities or operations are encouraged to execute an Interagency Agreement patterned after the Interagency Road Maintenance Agreement, Exhibit A; and Road Maintenance Agreement, Exhibit B.

IN WITNESS WHEREOF, the parties subscribing to this policy statement have executed the same as of the last date written below.

<u>/s/</u> Director, Bureau of Land Management	<u>1/30/85</u> Date
<u>/s/</u> Director, Fish and Wildlife Service	<u>2/15/85</u> Date
<u>/s/</u> Director, National Park Service	<u>2/19/85</u> Date
<u>/s/</u> Deputy Assistant Secretary - Operations, Bureau of Indian Affairs	<u>2/20/85</u> Date
<u>/s/</u> Chief, Forest Service	<u>3/14/85</u> Date

MODEL INTERAGENCY  
ROAD MAINTENANCE AGREEMENT

(Example)

INTERAGENCY  
ROAD MAINTENANCE AGREEMENT  
BETWEEN

---

and

---

I. Purpose. The purpose of this agreement is to establish interagency procedures for the maintenance of road(s) belonging to another agency through execution or exchange of road maintenance responsibilities or operations for the mutual benefit of the cooperating agencies.

II. Authority. (Cite agencies; authority here.)

III. Definitions. For the purpose of this interagency road maintenance agreement, the following terms are defined:

Federal Agency Road. Any road under the jurisdiction of the management agency, where the control and use of the road is at the discretion of the management agency.

Agency. Any Federal department, bureau, office, service, or other independent Federal office or entity charged with the management of and/or having jurisdiction over the development, production, utilization, and protection of federally-administered lands and land resources.

Interagency Agreement. A written document between Federal agencies having authority to commit themselves to setting forth a policy covering respective or mutual goals and the manner by which such responsibilities will be carried out.

Maintenance. The work required for the upkeep of the road(s) and support facilities to an agreed upon condition standard as is necessary for safe and efficient utilization.

IV. Joint Responsibilities.

Meet annually for coordination and/or development of a Road Maintenance Agreement to implement this Interagency Agreement.

Maintain close contact and communication with the other party(ies) to this agreement during period when is being accomplished under terms of this agreement, to insure that work is consistent with terms and intent of agreement.

Each party to the agreement shall designate a point of contact, if other than official executing agreement.

Shall notify the other parties to the agreement of any changed conditions.

Refer any event, dispute, or other issue, likely to cause a stalemate, to a higher echelon for resolution.

V. Agreement Implementation. The implementation of this agreement is to be accomplished through the development and execution of a Road Maintenance Agreement (Exhibit B) between local agency offices. The Road Maintenance Agreement is a periodically developed appendix to the Interagency Agreement, whereby changes in the working structure of the Interagency Agreement may be accomplished.

VI. Agreement Forms. The Road Maintenance Agreement (Exhibit B) shown at the end of this section, is an approved format, but may be revised to provide for additional cooperative effort. Revisions shall be made and executed in advance of work or activities to be performed subject to agency review and approval at the signatory level of the Interagency Agreement.

A. Road/Facility. Each party to the agreement shall determine that facility (ies) named in the agreement are properly described, located on a map or otherwise identified, and that there is no duplication of names, route numbers, project numbers, or identifiers that might lead to confusion or a misunderstanding.

B. Maintenance Plan. The maintenance plan should clearly define the standards or results desired and any special condition to be observed during agreement term. Maintenance activities routinely performed, whether by exchange on an equal value basis or monetary reimbursement basis, generally fit into one or more of the following categories:

1. Routine maintenance of existing roads.
2. Maintenance of structural facilities that are part of the road.
3. Maintenance during periods of other than normal use (e.g. timber sales, mineral sales).
4. Seasonal or partial maintenance.
5. Extraordinary maintenance (e.g. overweight or oversize).

C. Benefits and Compensation. Work entered into as a result of this agreement may be compensated for, based on appropriate authorities cited in Section II, in one or more of the following ways:

1. Exchange of road maintenance operations on an equal value basis. Value can be established on equal units of work, mile for mile; hourly trade-off based on equipment hours to do a standard job; or each performing the maintenance on a rotational basis (monthly, seasonally, annually).

2. Use of standard agency procedures for the reimbursement or advance of funds between agencies. (Economy Act requirements can be met.)

3. Furnish supplies or material to the performing agency for incorporation into the road that the agencies are cooperating on.

## VII. General Provisions.

### A. Expenditure of Appropriated Funds.

All performance is subject to availability of appropriated funds and existing statutory authority.

### B. Termination of Agreement.

This agreement may be terminated by any of the parties to the agreement upon giving ninety (90) days written notice to other parties, provided that the termination notice provides sufficient time for an orderly close out of work in progress.

### C. Reviews.

This agreement will be reviewed every three (3) years to determine if changes should be sought.

### D. Renegotiation.

Renegotiation for any part of this agreement may be initiated at any time by any party to this agreement. Any changes in the provisions of this agreement which are necessary will be made by formal amendment.

### E. Limitations.

Nothing in this agreement is to be construed as conflicting with existing laws, regulations, and prescribed agency responsibilities. This agreement does not include damage to, or loss of, material stockpiles; maintenance of or repairs caused by natural disasters.

Agencies are not responsible for the lack of accomplishment or the timely completion of maintenance activities or other user inconvenience, unless such delays have previously been



made a condition of the maintenance plan. Agencies are responsible for insuring that user and public is not jeopardized by maintenance activities resulting from this agreement. Reimbursement for the performance of maintenance activities under this agreement shall be subject to the provisions of the authorities cited under Section II of this agreement.

IN WITNESS THEREOF, the parties have executed this Interagency Agreement as of the last date written below:

_____	_____
(Agency)	(Agency)
By: _____	By: _____
Title: _____	Title: _____
Date: _____	Date: _____



C. Appropriate maps or right-of-way plat attached?

\_\_\_\_\_  
(if applicable)

D. Right-of-way width \_\_\_\_\_ acreage \_\_\_\_\_  
(if applicable)

E. Length \_\_\_\_\_  
(if applicable)

Specify period of time for which maintenance is to be performed.

☐ Perpetual      ☐ Term \_\_\_\_\_  
(Years)      ☐ Other

Explanation \_\_\_\_\_  
(if applicable)

Maintenance Frequency \_\_\_\_\_  
(if applicable)

Specification required?

☐ Not required

☐ Attached      ☐ On file at \_\_\_\_\_  
Identified as \_\_\_\_\_

A-76 Analysis required?

☐ Not required

☐ Attached      ☐ On file at \_\_\_\_\_  
Identified as \_\_\_\_\_

Environmental assessment required.

☐ Not required

☐ Attached      ☐ On file at \_\_\_\_\_  
Identified as \_\_\_\_\_

Regulatory clearance checklist required.

☐ Not required

☐ Attached

☐ On file at \_\_\_\_\_  
Identified as \_\_\_\_\_

Other conditions \_\_\_\_\_  
\_\_\_\_\_

Work accomplished by?

☐ Forest account

☐ Contract

Estimated cost of work? \_\_\_\_\_ / \_\_\_\_\_  
(Dollars) (Time Period)

Third party contributions? \_\_\_\_\_  
(Dollars)

\_\_\_\_\_  
(Agency)

\_\_\_\_\_  
(Agency)

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

INTERAGENCY AGREEMENT  
between the  
USDI, OFFICE OF AIRCRAFT SERVICES  
and  
USDA, FOREST SERVICE  
for the  
JOINT INVESTIGATION OF AVIATION ACCIDENTS

I. PURPOSE AND AUTHORITY

This agreement is entered into by the undersigned under authority of the Memorandum of Understanding between the United States Department of the Interior and the United States Department of Agriculture, dated January 28, 1943, which provides entry into "authorized agreements or other proper arrangements providing for corroboration and cooperation in the solution of aviation problems of mutual concern." It applies to aircraft, which are being used jointly by both agencies on a project or fire at the time of the accident.

II. AGREEMENT

A. The agency having operational control of the mishap aircraft at the time of the accident shall be designated the Lead Agency. Operational control is defined as the exercise of direct authority over the use of the aircraft. Operational control normally starts at the time the aircraft is ordered and ends when it is released. In those instances in which it is not clear as to which Agency is exercising direct authority (such as the involvement of an interagency team), the Lead Agency in the investigation shall be that agency benefiting from the use of the aircraft.

The Lead Agency shall:

1. Supply a qualified Chief Investigator.
2. Exercise the authority for the conduct of the investigation and the timely completion of the final report. The other agency may provide a qualified investigator to assist the act as liaison to the Chief Investigator. This relationship shall not prevent either investigator from evaluating their agency's policy, procedures, directives, or management decisions as a possible contributing factor. The Chief Investigator determines the probable cause of the accident. If the other agency does not agree with this determination, a dissenting opinion report may be completed and filed as a permanent part of the final report.
3. Determine need for National Transportation Safety Board involvement and arrange for their assistance as necessary.

4. Be Custodian of Record for the final report. Each agency shall provide the other a copy of the report on any documented actions taken relative to the accident.

B. The Chief Investigator shall be qualified for this duty according to Lead Agency standards.

C. Costs associated with items such as component removal and analysis, laboratory services or other consultants, shall be borne by the Lead Agency when such services are determined necessary by the Lead Agency.

D. This Agreement, which established procedures for interagency aircraft accident investigations, is effective upon signature by the heads of the respective agencies. This agreement may be changed at any time by mutual agreement of both agencies or terminated at any time by either agency.

/s/

\_\_\_\_\_  
U.S. Dept. of the Interior  
Office of Aircraft Services

\_\_\_\_\_  
Date

/s/

\_\_\_\_\_  
U.S. Dept. of Agriculture Forest Service

\_\_\_\_\_  
Date

**1531.07i - Memorandum of Understanding between the U.S. Department of the Interior,  
Office of Surface Mining Reclamation and Enforcement and the U.S. Department of  
Agriculture, Forest Service for Management of Surface Coal Mining Operations on National  
Forest System Lands**

MANAGEMENT OF SURFACE COAL MINING OPERATIONS  
ON NATIONAL FOREST SYSTEM LANDS  
MEMORANDUM OF UNDERSTANDING  
BETWEEN THE  
OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT  
U.S. DEPARTMENT OF THE INTERIOR  
AND THE  
FOREST SERVICE  
U.S. DEPARTMENT OF AGRICULTURE

**TABLE OF CONTENTS**

General	33
Article A - DEFINITIONS	34
Article B - RESPONSIBILITIES/PROCEDURES	35
I. Permitting and Mining Plan Review	35
A. Permitting	35
B. Mining Plan Review and Approval	36
II. Petitions to Designate Areas Unsuitable for Surface Coal Mining Operations	37
III. Section 522(e) Determinations	38
A. Valid Existing Rights	38
B. Compatibility and Compliance Findings	39
IV. Bond Release	401
V. State-Federal Cooperative Agreements	401

Article C - ADMINISTRATION OF MOU	41
I. Effective Date, Revising, and Terminating MUO	41
II. Flow of Information	41
III. Resolution of Differences	42
IV. Supplementing MOU	42
APPROVAL OF MOU	42
APPENDICES	
I. Regulatory Authorities	
II. OSM Offices	
III. Forest Service Offices	

MEMORANDUM OF UNDERSTANDING  
OFFICE OF SURFACE MINING - FOREST SERVICE  
MANAGEMENT OF SURFACE COAL MINING OPERATIONS  
ON NATIONAL FOREST SYSTEM LANDS

General

This Memorandum of Understanding (MOU) establishes the framework for consultation and coordination between the Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior, and the Forest Service, U.S. Department of Agriculture, for the management of surface coal mining operations on National Forest System (NFS) lands and lands adjacent to NFS boundaries. The purpose of this MOU is to foster interagency cooperation and to clarify the roles of OSM and the Forest Service in implementation and administration of the Federal lands program (30 CFR Chapter VII, Subchapter D) promulgated pursuant to the Surface Mining Control and Reclamation Act of 1977 (SMCRA), and in the Forest Service's review and determination of land titles on affected lands which it administers.

Section 523(b) of SMCRA directed the Secretary of the Interior (Secretary) to promulgate and implement a Federal lands program for regulation of surface coal mining operations on Federal lands. Under the Federal lands program, any State which has an approved regulatory program to implement SMCRA on non-Federal and non-Indian lands in the State may enter into a cooperative agreement with the Secretary to provide for State regulation of surface coal mining operations on Federal lands. In the absence of a cooperative agreement, OSM is the regulatory authority for surface coal mining operations on Federal lands in a State. Appendix 1 lists the States that have entered into cooperative agreements with the Secretary. The text of these cooperative agreements may be found at 30 CFR Chapter VII, Subchapter T. Appendix 1, also lists the States where OSM is the regulatory authority on Federal lands; these include States with approved State programs but no cooperative agreements and Federal program States where OSM is the regulatory authority on all lands within the State.



The Forest Service will continue to administer mining operations on NFS lands pursuant to applicable laws, regulations, agreements, and restrictions. Under the National Forest Management Act and other laws pertaining to the National Forest System, the Forest Service has the authority to ensure that mining operations on lands it administers are consistent with State and Federal property laws and applicable regulations of the Secretary of Agriculture, and use environmentally sound procedures. For operations involving Federal coal leased by the Bureau of Land Management under the Mineral Leasing Acts (MLA), Forest Service consent is required prior to authorization of mining operations on NFS lands within a lease area. Where private coal is to be mined on NFS lands, an applicant must obtain Forest Service approval before operations can begin on NFS lands. For off-lease activities and activities outside those areas where minerals are privately owned, the Forest Service requires that an applicant obtain a use permit (in addition to the SMCRA permit) before beginning mining-related operations.

It is the intent of the agencies that this MOU not affect any rights or obligations under any law or use authorization including the right to pursue appropriate legal remedies. In the event of a conflict between the regulations and this MOU, the regulations shall prevail. In the event of a conflict between this MOU and the provisions of any permit or Federal local lease or license where the regulations are silent, lease or license shall prevail over this MOU.

#### ARTICLE A - DEFINITIONS

Cooperating Agency means an agency cooperating in National Environmental Policy Act (NEPA) compliance pursuant to 40 CFR 1501.6.

Cooperating Agreement means a State-Federal cooperative agreement entered into in accordance with section 523(c) of SMCRA and 30 CFR Part 745 between the Secretary of the Interior and a State to provide for State regulation of surface coal mining operations on Federal lands within the State.

Federal Land means any land, including mineral interest, owned by the United States without regard to how the United States acquired ownership of the lands or which agency manages the lands. It does not include Indian lands.

Federal Land Management Agency means a Federal agency having administrative jurisdiction over the surface of Federal lands that are subject to 30 CFR Chapter VII. (The Forest Service is the Federal land management agency for lands where the federally-owned surface is under its jurisdiction.)

Lead Agency means the agency with primary responsibility for NEPA compliance pursuant to 40 CFR 1501.5.

Mineral Leasing Acts (MLA) mean the mineral Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.) and the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351-359).

Mining Plan means the plan for mining leased Federal coal required by the MLA.

National Forest System (NFS) is defined as 16 U.S.C. 1609 and includes all National Forest lands reserved or withdrawn from the public domain of the United States, all National Forest lands acquired through purchase, exchange, donation, or other means; the National Grasslands, land utilization projects administered under Title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010 et seq.); and other

lands, waters, or interests therein which are administered by the Forest Service or are designated for administration through the Forest Service as a part of the System.

Performance Bond means a surety bond, collateral bond or self-bond, or a combination thereof, by which a permittee assures faithful performance of all the requirements of SMCRA, 30 CFR Chapter VII, a State, Federal, or Federal lands program, and the requirements of the permit and reclamation plan.

Permit Application Package (PAP) means a proposal to conduct surface coal mining and reclamation operations on Federal lands, including an application for a permit, permit revision or permit renewal, all the information required by SMCRA, 30 CFR Chapter VII, Subchapter D, the applicable laws and regulations including, with respect to leased Federal coal, the MLA.

Regulatory Authority means the State regulatory authority where there is a Cooperative Agreement under 30 CFR 745, or OSM in States without a Cooperative Agreement and in States with Federal programs.

SMCRA Permit means the permit to conduct surface coal mining operations required by Section 506 of SMCRA.

State Regulatory Program means the State program approved by the Secretary pursuant to section 503 of SMCRA or, in the absence of an approved State program, the Federal program for the State promulgated by the Secretary pursuant to section 504 of SMCRA.

Surface Coal Mining Operations means activities conducted on the surface of lands in connection with a surface coal mine or surface operations and surface impacts incident to an underground coal mine, as defined at 30 CFR 700.5.

Use Permit means a permit issued by the Forest Service, including reserved mineral permits (Forest Service Manual 2830.) and special use permits (36 CFR 251), that authorizes use and/or occupancy of the NFS for purposes related to the use and development of privately owned minerals, but located outside a Federal lease boundary.

Valid Existing Rights (VER) are rights to conduct surface coal mining operations on an area protected under section 522(e) of SMCRA.

## ARTICLE B - RESPONSIBILITIES/PROCEDURES

### I. Permitting and Mining Plan Review

Prior to conducting surface coal mining operations on NFS lands, an applicant must obtain a SMCRA permit from the regulatory authority and use permits from the Forest Service. The permit application package (PAP) submitted under SMCRA to conduct surface coal mining operations on Federal lands must contain information adequate to enable the regulatory authority to evaluate the operator's ability to comply with all regulatory program requirements, including right-of-entry onto NFS lands. For proposals to mine lease Federal coal under the MLA, a mining plan approval is also needed from the Secretary of the Interior.

## A. Permitting

### 1. Where OSM is the regulatory authority, OSM will:

- a. Receive and review PAPs for permits, permit revisions and permit renewals, and applications for transfer, sale, or assignment of permit rights.
- b. Distribute PAPs to the Forest Service and to other Federal agencies, and serve as the point of contact for coordination with the Forest Service, other Federal agencies, and the operator on all issues concerned with permit application review.
- c. Consult with the Forest Service to obtain its determination of the post-mining land use and measures needed to protect non-mineral resources, and its recommendation on compatibility and determination of compliance in accordance with Article B, Section III.B. of this MOU.
- d. Incorporate in the permit appropriate conditions required by the Forest Service to regulate surface coal mining operations under provisions of law other than SMCRA that are applicable to NFS lands.
- e. Involve the Forest Service as a cooperating agency when OSM is the lead agency responsible for assuring compliance with NEPA.
- f. Provide a copy of its decision on all permit applications for surface coal mining operations involving NFS lands, and a copy of the permit when issued, to the Forest Service.

### 2. The Forest Service will:

- a. Determine whether to issue use permits for NFS lands following appropriate NEPA analysis and documentation, and provide OSM with a copy of the permits.
- b. Review PAPs for NFS lands and determine the post-mining land use and the adequacy of measures to protect non-mineral resources.
- c. Provide to the regulatory authority prior to permit application decisions, (1) the Forest Service's written concurrence or non-concurrence with the proposed post-mining land use, (2) recommendations of compatibility and determinations of compliance (see Article B, Section III.B. of this MOU), and (3) any conditions of approval needed to regulate surface coal mining operations under provisions of law other than SMCRA that are applicable to lands under Forest Service jurisdiction.
- d. Act as a cooperating agency for NEPA compliance to ensure that all Forest Service concerns are considered.

## B. Mining Plan Review and Approval

### 1. For mining plans involving lands where the Forest Service is the Federal land management agency, OSM will:

- a. Act as the lead agency responsible for assuring compliance with NEPA and request cooperation from the Forest Service, as appropriate.

b. Obtain the consent of the Forest Service on the terms and conditions of mining plan approval.

c. Provide a copy of the signed mining plan approval document to the Forest Service.

2. The Forest Service will:

a. Act as a cooperating agency for NEPA compliance, when appropriate.

b. Inform OSM of any conditions of mining plan approval needed to regulate surface coal mining operations under provisions of law or regulations other than SMCRA that are applicable to lands under Forest Service jurisdiction.

## II. Petitions to Designate Areas Unsuitable for Surface Coal Mining Operations

Procedures to designate Federal lands as unsuitable through the petition process are addressed at 30 CFR Part 769. The petition process does not apply to lands within the boundaries of National Forests on which surface coal mining operations are prohibited, with limited exception, under section 522(e) of SMCRA (see Article B, Section III of this MOU).

1. OSM will:

a. Receive and process petitions to designate NFS lands as unsuitable for all or certain types of surface coal mining operations, or to terminate such designations.

b. Forward a copy of the petition to the Forest Service within two weeks of determining that it is complete, and request the Forest Service to submit all relevant information, and to recommend whether OSM should grant the petition pursuant to 30 CFR 769.14(d) (2).

c. Inform the Forest Service of any public hearing on the petition at least 30 days before the hearing is held.

d. Provide for Forest Service participation as a cooperating agency in NEPA compliance activities related to the petition.

e. If OSM concurs with the recommendation of the Forest Service, issue a final written decision on the petition. If OSM does not concur with the recommendation of the Forest Service and the agencies cannot come to agreement through consultation, OSM will notify the Forest Service of its proposed decision and forward its recommendation to the Secretary for resolution and issuance of a final decision in accordance with 30 CFR 769.18.

f. Provide the Forest Service with a copy of the final written decision.

2. The Forest Service will:

a. Furnish a recommendation to OSM on the petition within 30 days of its receipt, if the area covered by the petition has been included in a completed Federal lands review under section 522(b) of SMCRA, or within nine months, if the area has not been included in a Federal lands review.

- b. Act as a cooperating agency for NEPA compliance.

### III. Section 522(e) Determinations

Section 522(e) of SMCRA contains restrictions on mining activities on specified protected lands, including Federal lands within the boundaries of National Forests. To conduct surface coal mining operations on such areas, an applicant must have a surface coal mining operation which existed on August 3, 1977, or valid existing rights. In the alternative, for Federal lands within a National Forest, surface coal mining operations may be permitted if, under section 522(e)(2) of SMCRA, either a compatibility determination is made to allow surface impacts incident to underground coal mining activities or, for lands west of the 100th meridian, determinations of compatibility and compliance are made.

#### A. Valid Existing Rights

Valid Existing Rights (VER) are rights to conduct surface coal mining operations on areas protected under section 522(e) of SMCRA. An applicant claiming VER on Federal lands within the boundaries of any National Forest must request a determination of VER from OSM.

##### 1. OSM will:

- a. Promptly notify the Forest Service of receipt of a request for a VER determination for lands within the boundaries of any National Forest; provide the Forest Service with a copy of the documentation submitted by the applicant; and consult with the Forest Service on the VER request, including whether additional material is needed from the applicant.
- b. Request the Forest Service's opinion, including any supporting documentation, as to whether the deeds reserving the mineral rights provide the right to mine under applicable law. If the Forest Service's opinion is that the applicant does not have all necessary property rights to mine by the method intended, OSM will not make a VER determination until any property rights dispute is resolved.
- c. Make a decision on the request for a VER determination after considering the Forest Service's opinion concerning mining rights under the deeds, and applicable law. If the Forest Service's opinion is that the applicant does not have all necessary property rights to mine by the method intended, OSM will not make a VER determination until any property rights dispute is resolved.

##### 2. The Forest Service will:

- a. Consult with OSM on the VER request and on whether additional material is needed from the applicant.
- b. Provide OSM with its opinion, including any supporting documentation, as to whether the deeds reserving the mineral rights and applicable law provide the right to mine by the mining method for which a VER determination was requested. Every effort will be made to provide this opinion within 60 days of the receipt of the request.

## B. Compatibility and Compliance Findings

Section 522(e)(2) of SMCRA allows for surface coal mining operations and surface impacts incident to an underground coal mine on Federal lands within the boundaries of a National Forest even without VER if certain determinations are made by the Secretaries of the Interior and Agriculture.

### 1. When processing PAPS in accordance with Article B, Section I of this MOU, OSM will:

a. Consult with the Forest Service to obtain its findings and recommendations as to whether there are significant recreational, timber, economic, or other values which may be incompatible with proposed surface coal mining operations or surface impacts incident to an underground coal mine before making a compatibility determination.

b. For permit applications involving surface coal mining operations within national forests west of the 100th meridian, obtain a determination from the Forest Service as to whether there is significant forest cover. (See 30 CFR 761.5)

c. For NFS lands which do not have significant forest cover within national forests west of the 100th meridian, obtain from the Forest Service the Secretary of Agriculture's determination of whether the proposed mining operations would be in compliance with the Multiple-Use Sustained Yield Act of 1960, the Federal Coal Leasing Amendments Act of 1975, the National Forest Management Act of 1976, and SMCRA.

### 2. The Forest Service will:

a. Provide its recommendation as to whether there are significant recreational, timber, economic, or other values which may be incompatible with proposed surface impacts of the mining operations.

b. Within 30 days of receiving a request for a determination of whether there is significant forest cover within national forests west of the 100th meridian, notify OSM of its determination.

c. For NFS lands which do not have significant forest cover within national forests west of the 100th meridian, obtain the Secretary of Agriculture's determination as to whether the proposed mining operations would be in compliance with the Multiple-Use Sustained Yield Act of 1960, the Federal Coal Leasing Amendments Act of 1975, the National Forest Management Act of 1976, and SMCRA, and notify OSM of the determination.

## IV. Bond Release

Performance bonds for reclamation of surface coal mining operations are required by SMCRA, 30 CFR Part 800, and the State program counterparts thereof. An operator may file for release of all or part of a performance bond in accordance with 30 CFR 800.40 or the State program counterpart. Where the State is the regulatory authority on Federal lands, the bond is made payable to the State and the United States, and OSM participates in bond release proceedings. Where OSM is the regulatory authority, the bond is made payable to the United States.

### A. OSM will:

1. Participate in the joint bond release inspection along with the State, where the State is the regulatory authority, the operator, the Forest Service, and any other surface owners to determine whether applicable requirements for performance bond release have been met.

2. Ensure that the Forest Service is notified at least 30 days prior to performance bond release that the regulatory authority has determined that the State regulatory program requirements for performance bond release have been met and all or part of the performance bond is to be released.

B. The Forest Service may:

1. Participate in joint inspections on NFS lands prior to any release of the operator's performance bond.

2. Inform OSM and the regulatory authority, if other than OSM, of any objections to the performance bond release in writing within the timeframe specified in 30 CFR 800.40(f).

#### V. State-Federal Cooperative Agreements

Under the Federal lands program, any State which has an approved regulatory program may enter into a cooperative agreement with the Secretary of the Interior for State regulation of surface coal mining operations on Federal lands. Each cooperative agreement contains the terms for coordination among the State regulatory authority, the Federal land management agency, and OSM regarding those responsibilities that can be delegated under 30 CFR 740.4(c).

A. OSM will:

1. Consult with the Forest Service and provide an opportunity for comment on the terms before adopting or amending a cooperative agreement.

2. In preparing reports on a State's performance under a cooperative agreement, address any reports from the Forest Service concerning problems in the State's implementation of the regulatory program on NFS lands.

B. The Forest Service will:

1. Review any proposed cooperative agreement or amendment and provide comments as appropriate.

2. Inform OSM of any problems it has encountered with a State's implementation of its program on NFS lands.

### ARTICLE C - ADMINISTRATION OF MOU

#### I. Effective Date, Revising, and Terminating MOU

This MOU is effective upon the date of the last signature.

OSM will update Appendices I and II as changes occur and provide to the Forest Service copies of the updated appendices. The Forest Service will update Appendix III as changes occur and provide to OSM a copy of the updated appendix.

The MOU may be otherwise revised or amended by mutual agreement of the two parties, or it may be terminated upon 30 days notice by either party.

## II. Flow of Information

Interagency transmittal of information, as specified in the text of the MOU, will be as follows:

- For operations in States with cooperative agreements, the Forest Service will submit information to the State regulatory authority or to OSM in accordance with the cooperative agreement. The addresses for State regulatory authorities are in Appendix I.
- In States without cooperative agreements and in States where OSM is the regulatory authority under a Federal program, the Forest Service will submit information to OSM. The addresses for the OSM offices are in Appendix II. Information shall be submitted to OSM, as follows:
  - For all operations west of the Mississippi River, to the OSM Western Support Center in Denver, Colorado.
  - For operations east of the Mississippi River that concern permit application or mining plan approval and lands unsuitable for mining, to the Knoxville Field Office.
  - For operations east of the Mississippi that concern valid existing rights determinations, to the OSM Eastern Support Center in Pittsburgh, Pennsylvania.
  - OSM will submit information to the appropriate Forest Service Office with direct jurisdiction over the National Forest in which surface coal mining operations have been proposed. When contacting the Forest Service concerning a VER request, OSM will also send an information copy of the request to Forest Service Headquarters in Washington, D.C. The Forest Service offices are listed in Appendix III.

Where a concurrence, consultation, or recommendation is required by regulation, the requesting agency will notify the responding agency if the requesting agency had not received a reply within the specified response period.

## III. Resolution of Differences

OSM and the Forest Service will refer to their respective headquarters offices and differences between them concerning coordination responsibilities and activities under this MOU that cannot be resolved at the field level. Differences which remain unresolved will be referred to the respective agency heads for resolution.



#### IV. Supplementing MOU

This MOU may be supplemented by additional memoranda of understanding or other agreements prepared at the Field Office level to which decision authority for the specific actions covered have been delegated. Any supplemental agreement should be coordinated with the respective headquarter offices of OSM and the Forest Service before approval.

MEMORANDUM OF UNDERSTANDING  
OFFICE OF SURFACE MINING - FOREST SERVICE  
MANAGEMENT OF SURFACE COAL MINING OPERATIONS  
ON NATIONAL FOREST SYSTEM LANDS

Approved:

/s/ Harry M. Snyder  
Director, Office of Surface Mining Reclamation and Enforcement

7/27/90  
Date

/s/ F. Dale Robertson  
Chief, Forest Service

7/31/90  
Date