

Dated: July 13, 2004.

**Robert E. Roberts,**

*Regional Administrator, Region 8.*

[FR Doc. 04-16448 Filed 7-19-04; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

#### 43 CFR Part 1600

[Docket No. WO-350-2520-24 1A]

RIN 1004-AD 57

#### Land Use Planning

**AGENCY:** Bureau of Land Management (BLM), Interior.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would modify the BLM's planning regulations for three reasons. It defines cooperating agency and cooperating agency status. It clarifies the responsibility of managers to offer this status to qualified agencies and governments and to respond to requests for this status. Finally, it makes clear the rule of cooperating agencies in the various steps of BLM's planning process.

The rule is needed to emphasize the importance of working with federal and state agencies and local and tribal governments through cooperating agency relationships in developing, amending, and revising the Bureau's resource management plans. BLM's current planning regulations do not mention the cooperating agency relationship.

**DATES:** You should submit your comments on or before September 20, 2004. The BLM may not necessarily consider comments postmarked or received by messenger or electronic mail after the above date in the decision-making process on the final rule.

**ADDRESSES:**

Mail: Director (630), Bureau of Land Management, Eastern States Office, 7450 Boston Boulevard, Springfield, Virginia, 22153, Attention: RIN 1004-AD57.

Personal or messenger delivery: Room 401, 1620 L Street, NW., Washington, DC, 20036.

Direct Internet: [www.blm.gov/nhp/news/regulatory/index.htm](http://www.blm.gov/nhp/news/regulatory/index.htm)

Internet e-mail: [WOCComment@BLM.gov](mailto:WOCComment@BLM.gov) (Include "Attn: AD57").

Federal eRulemaking Portal: <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Robert Winthrop at (202) 785-6597 or

Mark Lambert at (202) 452-7763.

Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339, 24 hours a day, 7 days a week.

**SUPPLEMENTARY INFORMATION:**

- I. Public Comment Procedures
- II. Background
- III. Why Are We Proposing This Rule?
- IV. Section-by-Section Analysis
- V. Procedural Matters

**I. Public Comment Procedures**

*A. How Do I File Comments?*

You may submit your comments by any one of several methods:

- You may mail your comments to: Director (630), Bureau of Land Management, Eastern States Office, 7450 Boston Boulevard, Springfield, Virginia, 22153, Attention: RIN 1004-AD57.

- You may deliver comments to 1620 L Street, NW., Suite 401, Washington, DC 20036.

- You may comment directly via the Internet by accessing our automated commenting system located at [www.blm.gov/mhp/news/regulatory/index.htm](http://www.blm.gov/mhp/news/regulatory/index.htm) and following the instructions there.

- You may e-mail your comment to: [WOCComment@blm.gov](mailto:WOCComment@blm.gov) (Include "Attn: AD57" in the subject line).

Please make your comments on the proposed rule as specific as possible, confine them to issues pertinent to the proposed rule, and explain the reason for any changes you recommend. Where possible, your comments should reference the specific section or paragraph of the proposal that you are addressing.

The Department of the Interior may not necessarily consider or include in the Administrative Record for the final rule comments that we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

*B. May I Review Comments Others Submit?*

BLM intends to post all comments on the Internet. If you are requesting that your comment remain confidential, do not send us your comment at the direct internet address or the e-mail address because we immediately post all comments we receive on the internet. Also, comments, including names and street addresses of respondents, will be available for public review at the address listed under **ADDRESSES**: Personal or messenger delivery" during regular business hours (7:45 a.m. to 4:15

p.m.), Monday through Friday, except holidays.

Individual respondents may request confidentiality, which we will honor to the extent allowable by law. If you wish to withhold your name and address, except for the city or town, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

**II. Background**

Cooperative agency status provides a formal framework for governmental units—local, state, tribal, or federal—to engage in active collaboration with a lead federal agency to implement the requirements of the National Environmental Policy Act of 1969 (NEPA) 42 U.S.C. 4321, *et seq.* The goals of the cooperating agency relationship include:

- Gaining early and consistent involvement;
- incorporating local knowledge of economic and social conditions;
- addressing intergovernmental issues;
- avoiding duplication of effort; and
- building relationships of trust and collaboration for long-term mutual gain.

To focus our efforts and those of our cooperating agencies, at the start of the land use planning process BLM should indicate general goals of the land use plan, including potential land allocation parameters consistent with statutory and regulatory requirements.

The Council on Environmental Quality (CEQ) defines cooperating agency in regulations implementing NEPA, particularly at 40 CFR 1501.6 and 1508.5. The regulations specify that a federal agency qualifies as a cooperating agency because of "jurisdiction by law or special expertise" in federal actions significantly affecting the quality of the human environment. A state agency, local government, or tribal government having similar qualifications may also serve as a cooperating agency. The Federal Land Policy and Management Act of 1976 (FLPMA, 43 U.S.C. 1712(c)(9)) mandates that to the extent practical and consistent with laws governing public lands, BLM coordinate the planning it undertakes with the plans of other federal agencies, state agencies, and local and tribal governments. As proposed here, the cooperating agency relationship complements FLPMA's coordination requirement. It would require BLM,

except in unusual circumstances, to collaborate with its counterparts from cooperating Federal, state, local or tribal agencies or governments in developing or revising BLM's resource management plans. The BLM Planning Handbook (H-1601-1) defines collaboration as "a cooperative process in which interested parties, often with widely varied interests, work together to seek solutions with broad support for managing public and other lands."

Because this proposed rule would modify BLM's planning, it does not address the use of the cooperating agency relationship or collaboration with interested parties in other contexts, particularly project-level actions. This proposed rule is not intended to restrict other uses of cooperating agency or collaboration.

### III. Why Are We Proposing This Rule?

BLM's policy emphasizes the importance of working with federal and state agencies and local and tribal governments to develop the Bureau's resource management plans. BLM's current planning regulations do not mention the cooperating agency relationship, an important tool for working with other agencies and governments. The proposed rule:

- Defines cooperating agency and cooperating agency status;
- Clarifies the responsibility of managers to offer this status to qualified agencies and governments, and to respond to requests for this status; and,
- Formally establishes the role of cooperating agencies in the various steps of BLM's planning process.

The proposed rule would not make any substantive changes in the public participation requirements found at § 1610.2. These requirements direct BLM to provide the public with meaningful opportunities to participate in the preparation of plans, amendments, and related guidance. The collaboration between BLM and cooperating agencies envisioned by the proposal is in addition to existing requirements to engage the public in the planning process.

Because cooperating agencies are government agencies, any meetings between BLM and agencies that have attained cooperating agency status would not be subject to the requirements of the Federal Advisory Committee Act (FACA), 5 U.S.C. Appendix section 2. This is because Section 204(b) of the Unfunded Mandates Reform Act of 1995, Public Law 104-4, provides that FACA does not apply to meetings held exclusively between Federal officials and officers of state, local, and tribal governments.

BLM is proposing other minor changes not directly related to cooperating agencies that update our planning regulations to reflect our current organizational structure. BLM was reorganized in many district and area jurisdictions. We now use the term "field office" in referencing these jurisdictions. Therefore, resource management plan boundaries do not typically follow the previous "resource area" boundaries and managers of these new jurisdictions have assumed the title of field manager. These organizational adjustments are reflected in the proposed rule changes.

### IV. Section-by-Section Analysis

#### *Section 1601.4 Responsibilities*

\* \* \* \* \*

The only changes proposed for this section are editorial, and would not affect the substance of the rule.

#### *Section 1601.0-5 Definitions*

We propose to amend this section by adding definitions of "cooperating agency" and "cooperating agency status." The definition of cooperating agency is drawn directly from the cooperating agency definition in the Council of Environmental Quality (CEQ) regulations in 40 CFR 1501.6 and 1508.5. The definition of cooperating agency status makes clear that an agency becomes a cooperating agency only after it has entered into a written agreement with BLM.

We are also adding a definition of Field Manager. The purpose of the definition is to update the regulations to reflect BLM's current organizational structure. In many cases, BLM has moved away from having district offices and subordinate area offices. BLM now has field offices that we formerly called area offices or district offices. However, in some instances, we maintain a district office with subordinate field offices. Therefore, to avoid having to use the term "District Manager and/or Field Manager" we are defining Field Manager to include both positions.

#### *Section 1610.1 Resource Management Planning Guidance*

The only changes proposed for this section are editorial, and would not affect the substance of the rule.

#### *Section 1610.2 Public Participation*

The only changes proposed for this section are editorial, and would not affect the substance of the rule.

#### *Section 1610.3-1 Coordination of Planning Efforts*

Changes to this section would provide direction that explicitly requires State

Directors and Field Managers to utilize the cooperating agency relationship in their efforts to coordinate with other federal and state agencies and local and tribal governments, where possible and appropriate. We propose to include language instructing State Directors and Field Managers to invite qualifying federal agencies, state and local governments, and tribal governments to participate as cooperating agencies in the development, amendment, and revision of resource management plans. New language also would require Field Managers to consider requests for cooperating agency status from other federal and state agencies and local and tribal governments, and to inform the State Director if the Field Manager denies the request. These changes would provide a more consistent approach to the use of cooperating agencies by the BLM. Other changes proposed for this section are editorial, and would not affect the substance of the rule.

#### *Section 1610.4-1 Identification of Issues*

We propose revising this section to instruct Field Managers to collaborate with cooperating agencies throughout the scoping process. Other changes proposed for this section are editorial, and would not affect the substance of the rule.

#### *Section 1610.4-2 Development of Planning Criteria*

We propose revising the first sentence of this section to expressly include cooperating agencies among those the BLM will coordinate with in developing planning criteria for resource management plans and revisions.

#### *Section 1610.4-3 Inventory Data and Information Collection*

We propose revising the first sentence of this section to instruct Field Managers to collaborate with cooperating agencies in arranging for the collection of data and information. Other changes proposed for this section are editorial, and would not affect the substance of the rule.

#### *Section 1610.4-4 Analysis of the Management Situation*

We propose revising the first sentence of this section to instruct Field Managers to collaborate with cooperating agencies in preparing the analysis of the management situation.

#### *Section 1610.4-5 Formulation of Alternatives*

We propose revising the first sentence of this section to instruct BLM to

collaborate with cooperating agencies in formulating alternatives. We also would emphasize that the decision to identify a preferred alternative remains the exclusive responsibility of the BLM.

#### *Section 1610.4-6 Estimation of Effects of Alternatives*

We propose revising this section to instruct Field Managers to collaborate with cooperating agencies in analyzing and displaying the effects of implementing each alternative. The second sentence would emphasize that the decision to identify a preferred alternative remains the exclusive responsibility of the BLM. Other changes proposed for this section are editorial, and would not affect the substance of the rule.

#### *Section 1610.4-7 Identification of Preferred Alternative*

We are changing the title of the section to be consistent with CEQ regulations that address the identification of a preferred alternative, not the selection of the preferred alternative. We propose rewriting the first sentence of this section into two sentences. The first sentence would instruct Field Managers to collaborate with cooperating agencies in evaluating the alternatives and identifying a preferred alternative. The second sentence would emphasize that the decision to identify a preferred alternative remains the exclusive responsibility of the BLM. Other changes proposed for this section are editorial, and would not affect the substance of the rule.

#### *Changing Titles*

We are proposing numerous changes throughout Part 1600 when referring to position titles. These changes would replace the title of District Manager and Area Manager with the term Field Manager to reflect the current BLM organization.

### **V. Procedural Matters**

#### *Executive Order 12866, Regulatory Planning and Review*

This proposed rule is not a significant regulatory action and is not subject to review by the Office of Management and Budget under Executive Order 12866. The effect of the rule is limited to governmental entities, and merely clarifies within BLM's planning regulations the criteria for cooperating agency relationships, and their application to BLM's planning process. This rule does not create new opportunities or obligations for other agencies beyond those already existing under the Council on Environmental

Quality's regulations, particularly 40 CFR 1501.6 and 1508.5.

The proposed rule will not have an effect of \$100 million or more on the economy. It will not adversely affect in a material way the economy, productivity competition, jobs, the environment, public health, or safety, of State, local or tribal governments or communities. The proposed rule will not interfere or create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. This proposed rule does not alter the budgetary effects of entitlements, grants, user fees, loan payments, or the right or obligations of their recipients; nor does it raise novel legal or policy issues.

BLM does not have to assess the potential costs and benefits of the rule under section 6(a)(3) of that order because the rule does not meet the criteria for assessment described in that section. That is, the proposed rule does not result in economic impacts of \$100 million or more per year, does not propose any novel policy changes, does not cause any significant sectoral impacts, and does not conflict with any other regulations.

#### *Regulatory Flexibility Act*

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended, 5 U.S.C. 601-612, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. This rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act. The effect of the rule is limited to governmental entities, and merely clarifies within BLM's planning regulations the criteria for cooperating agency relationships, and their application to BLM's planning process. While state agencies and local and tribal governments may entail some expense in participating as cooperating agencies in BLM planning processes, their participation is entirely voluntary. Moreover, this rule does not alter their opportunities to participate as cooperating agencies, which is already provided for in the Council on Environmental Quality (40 CFR 1500 *et seq.*) regulations.

#### *Small Business Regulatory Enforcement Fairness Act (SBREFA)*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business

Regulatory Enforcement Fairness Act. This rule does not have an annual effect on the economy of \$100 million or more. It will not cause an increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. While state agencies and local and tribal governments may entail some expense in participating as cooperating agencies in BLM planning processes, their participation is voluntary. This rule does not alter their opportunities to participate as cooperating agencies. The rule does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

#### *Unfunded Mandates Reform Act*

BLM has determined that this proposed rule is not significant under the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532, because it will not result in State, local, and tribal government, or private sector expenditures of \$100 million or more in any one year. This proposed rule will not significantly or uniquely affect small governments. Therefore, BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*).

#### *Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)*

The proposed rule does not represent a government action capable of interfering with constitutionally protected property rights. Therefore, the Department of the Interior has determined that the rule would not cause a taking of private property or require further discussion of takings implications under this Executive Order.

#### *Executive Order 13132, Federalism*

The proposed rule would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. The rule only codifies existing policy that allows states and local government to participate in land use planning with BLM and neither adds nor removes these entities from a decision making role. Therefore, BLM has determined that this proposed rule does not have sufficient Federalism implications to

warrant BLM preparation of a Federalism Assessment.

*Executive Order 13175—Consultation and Coordination With Indian Tribal Governments*

The proposed rule does not include policies that have tribal implications as defined in Executive Order 13175. That is, it would not “have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes”. The proposed rule would not alter the right of a federally recognized tribal government to serve as a cooperating agency in the BLM planning process. Moreover, tribal governments are sovereign dependent nations, standing in a government-to-government relationship with the U.S. government. This provides the primary basis for consultation with federal agencies, taking precedence over any consultation procedures established through regulation, including the rule proposed here.

*Executive Order 12988, Civil Justice Reform*

Under Executive Order 12988, the Office of the Solicitor has determined that this proposed rule would not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order.

*Paperwork Reduction Act*

This proposed regulation does not contain any information collection requirements.

*National Environmental Policy Act of 1969*

BLM has determined that this proposed rule is categorically excluded from environmental review under section 102(2)(c) of the National Environmental Policy Act (NEPA). Under the Department of the Interior Manual 516 DM, Chapter 2, Appendix 1, § 1.10, this proposed rule qualifies as a categorical exclusion because it is procedural in nature and because its environmental effect is too broad, speculative or conjectural to analyze. Furthermore, the proposed rule does not meet any of the 10 criteria for exceptions to the categorical exclusions listed in 516 DM, Chapter 2, Appendix 2. Under Council on Environmental Quality regulations (40 CFR 1508.4) and the environmental policies and procedures of the Department of the Interior, the term “categorical exclusions” means a category of actions

that do not individually or cumulatively have a significant effect on the human environment and that have been found to have no such effect in procedures adopted by a Federal agency and for which neither an environmental assessment nor an environmental impact statement is required.

*Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use*

In accordance with Executive Order 13211, BLM has determined that the proposed rule will not have substantial direct effects on the energy supply, distribution or use, including a shortfall in supply or price increase.

*Clarity of the Regulations*

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. We invite your comments on how to make these proposed regulations easier to understand, including answers to questions such as the following:

- (1) Are the requirements in the proposed regulations clearly stated?
- (2) Do the proposed regulations contain technical language or jargon that interferes with their clarity?
- (3) Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- (4) Would the regulations be easier to understand if they were divided into more (but shorter) sections? (A “section” appears in bold type and is preceded by the symbol “§” and a numbered heading, for example § 2522.42 If I am an assignee, what must I provide to BLM to obtain my assignment?)

(5) Is the description of the proposed regulations in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful in understanding the proposed regulations? How could this description be more helpful in making the proposed regulations easier to understand?

Please send any comments you have on the clarity of the regulations to the address specified in the **ADDRESSES** section.

The principal authors of this proposed rulemaking are Robert Winthrop and Mark Lambert, of BLM’s Planning, Assessment, and Community Support Group, assisted by Michael Schwartz, of BLM’s Regulatory Affairs Group.

**List of Subjects at 43 CFR Part 1600**

Administrative practice and procedures, Environmental impact

statements, Indians, Intergovernmental relations, Public lands.

Dated: July 7, 2004.

**Rebecca W. Watson,**

*Assistant Secretary, Land and Minerals Management.*

For reasons set forth in the preamble and under the authority of the FLPMA (43 U.S.C. 1740), BLM proposes to amend part 1600 of title 43 of the Code of Federal Regulations as set forth below:

1. The authority citation for part 1600 continues to read as follows:

**Authority:** 43 U.S.C. 1711–1712.

2. Amend § 1601.0–4 by revising paragraphs (b) and (c) to read as follows:

**§ 1601.0–4 Responsibilities.**

\* \* \* \* \*

(b) State Directors will provide quality control and supervisory review, including plan approval, for plans and related environmental impact statements and provide additional guidance, as necessary, for use by Field Managers. State Directors will file draft and final environmental impact statements associated with resource management plans and amendments.

(c) Field Managers will prepare resource management plans, amendments, revisions and related environmental impact statements. State Directors must approve these documents.

3. Amend § 1601.0–5 by redesignating paragraphs (d) through (k) as paragraphs (g) through (n) respectively, by adding in newly redesignated paragraph (m) “or field office” following the word “area” in the first sentence, and by adding new paragraphs (d), (e), and (f) to read as follows:

**§ 1601.0–5 Definitions.**

\* \* \* \* \*

(d) *Cooperating agency* has the same meaning as provided in the Council of Environmental quality regulations at 40 CFR 1501.6 and 1508.5, and meaning a government entity that—

(1) Is one of the following agencies:

(i) Any Federal agency other than a lead agency;

(ii) A similarly qualified—

(A) State agency;

(B) Local government agency; or

(C) Indian tribe or tribal agency when the effects are on a reservation or on ceded public land with reserved treaty rights; and

(2) Is qualified to participate in the development of environmental impact statements as provided in 40 CFR 1501.6 and 1508.5 or, as necessary, other environmental documents that BLM prepares, by virtue of its:

(j) Jurisdiction by law as defined in 40 CFR 1508.15 or,

(ii) Special expertise as defined in 40 CFR 1508.26.

(e) *Cooperating agency status* means a cooperating agency that has entered into a written agreement with the BLM establishing the respective responsibilities of the parties in the planning and NEPA processes. BLM and the cooperating agency will work together under the terms of the agreement. Cooperating agencies will participate in the various steps of BLM's planning process as feasible, given the constraints of the agencies' resources and expertise.

(f) *Field Manager* means a BLM employee with the title "Field Manager" or "District Manager."

\* \* \* \* \*

**§ 1610.1 [Amended]**

4. Amend § 1610.1 by inserting after "resource areas" wherever it appears, the term "or field office."

5. Amend § 1610.2 by revising the first sentence of paragraph (c) and revising paragraph (g) to read as follows:

**§ 1610.2 Public participation.**

\* \* \* \* \*

(c) When BLM starts to prepare, amend or revise resource management plans we will begin the process by publishing a notice in the **Federal Register** and appropriate local media, including newspapers of general circulation in the state and field office area. The Field Manager may also decide if it is appropriate to publish a notice in media in adjoining States.

\* \* \*

\* \* \* \* \*

(g) BLM will make copies of an approved resource management plan and amendments reasonably available for public review. Upon request, we will make single copies available to the public during the public participation process. After BLM approves a plan, amendment, or revision we may charge a fee for additional copies. We will also have copies available for public review at:

- (1) The State Office that has jurisdiction over the lands;
- (2) The Field Office that prepared the plan; and
- (3) The District Office, if any, having jurisdiction over the Field Office that prepared the plan.

\* \* \* \* \*

- 6. Amend § 1610.3-1 by:
  - a. Revising paragraph (a),
  - b. Redesignating existing paragraphs (b), (c), (d), (e), and (f) as (c), (d), (e), (f), and (g) respectively,

- c. Revising newly redesignated paragraph (g) and,
- d. Adding a new paragraph (b) to read as follows:

**§ 1610.3-1 Coordination of planning efforts.**

(a) In addition to the public involvement prescribed by § 1610.2 the following coordination is to be accomplished with other Federal agencies, state and local governments, and Indian tribes. The objectives of the coordination are for the State Directors and Field Manager to:

- (1) Keep apprised of non-Bureau of Land Management plans;
- (2) Assure that BLM considers those plans that are germane in the development of resource management plans for public lands;
- (3) Assist in resolving, to the extent practicable, inconsistencies between Federal and non-Federal government plans;
- (4) Provide for meaningful public involvement of other Federal agencies, State and local government officials, both elected and appointed, and Indian tribes in the development of resource management plans, including early public notice of proposed decisions that may have a significant impact on non-Federal lands; and
- (5) Where possible and appropriate, develop resource management plans collaboratively with cooperating agencies.

(b) When developing or revising resource management plans, BLM State Directors and Field Managers will invite qualifying Federal agencies and state, local, and tribal governments to participate as cooperating agencies. The same requirement applies when BLM amends resource management plans through an environmental impact statement. State Directors and Field Managers will consider any requests of other Federal agencies and State, local, and tribal governments for cooperating agency status. Field Managers who deny such requests will inform the State Director of the denial. The State Director will determine if the denial is appropriate.

\* \* \* \* \*

(g) When an advisory council has been formed under section 309 of the Federal Land Policy and Management Act of 1976 for the area addressed in a resource management plan or plan amendment, BLM will inform that council, seek its views, and consider them throughout the planning process.

- 7. Amend § 1610.4-1 by revising the second sentence to read as follows:

**§ 1610.4-1 Identification of issues.**

\* \* \* The Field Manager, in collaboration with any participating cooperating agencies, will analyze those suggestions and other available data, such as records of resource conditions, trends, needs, and problems, and select topics and determine the issues to be addressed during the planning process.

\* \* \*

- 8. Revise § 1610.4-2 to read as follows:

**§ 1610.4-2 Development of planning criteria.**

(a) The Field Manager will prepare criteria to guide development of the resource management plan or revision, to ensure:

- (1) It is tailored to the issues previously identified and
- (2) That BLM avoids unnecessary data collection and analyses.

(b) Planning criteria will generally be based upon applicable law, Director and State Director guidance, the results of public participation and coordination with any participating cooperating agencies and other Federal agencies, State and local governments, and Indian tribes.

(c) BLM will make proposed planning criteria, including any significant changes, available for public comment prior to being approved by the Field Manager for use in the planning process.

(d) BLM may change planning criteria as planning proceeds if we determine that public suggestions or study and assessment findings make such changes desirable.

- 9. Amend § 1610.4-3 by revising the first sentence to read as follows:

**§ 1610.4-3 Inventory data and information collection.**

(a) The Field Manager, in collaboration with any participating cooperating agencies, will arrange for resource, environmental, social, economic and institutional data and information to be collected, or assembled if already available. \* \* \*

- 10. Revise § 1610.4-4 by amending the first sentence of the introductory text to read as follows:

**§ 1610.4-4 Analysis of the management situation.**

The Field Manager, in collaboration with any participating cooperating agencies, will analyze the inventory data and other information available to determine the ability of the resource area to respond to identified issues and opportunities. \* \* \*

- 11. Amend § 1610.4-5 by revising the first sentence to read as follows:

**§ 1610.4-5 Formulation of alternatives.**

At the direction of the Field Manager, in collaboration with any participating cooperating agencies, BLM will consider all reasonable resource management alternatives and develop several complete alternatives for detailed study. Nonetheless, the decision to designate alternatives for the further development and analysis remains the exclusive responsibility of the BLM. \* \* \*

12. Amend § 1610.4-6 by revising the first sentence to read as follows:

**§ 1610.4-6 Estimating effects of alternatives.**

The Field Manager, in collaboration with any participating cooperating

agencies, will estimate and display the physical, biological, economic, and social effects of implementing each alternative considered in detail. \* \* \*

13. Amend § 1610.4-7 by revising the section heading and the first sentence to read as follows:

**§ 1610.4-7 Identification of preferred alternatives.**

The Field Manager, in collaboration with any participating cooperating agencies, will evaluate the alternatives, estimate their effects according to the planning criteria, and identify a preferred alternative that best meets Director and State Director guidance. Nonetheless, the decision to identify a

preferred alternative remains the exclusive responsibility of the BLM. \* \* \*

14. In addition to the amendments set forth above, in 43 CFR part 1600, in the table below, for each section indicated in the left column, remove the title indicated in the middle column from wherever it appears in the section, and add the title indicated in the right column.

**§§ 1610.0-5, 1610.1, 1610.2, 1610.3-1, 1610.3-2, 1610.4-8, 1610.4-9, 1610.5-1, 1610.5-3, 1610.5-5, 1610.5-7, 1610.7-1, 1610.8 [Amended]**

Section	Remove	Add
1601.0-5 .....	District and Area Manager .....	Field Manager.
1610.1 .....	District and Area Manager .....	Field Manager.
1610.2 .....	District Manager .....	Field Manager.
1610.3-1 .....	District or Area Manager .....	Field Manager.
1610.3-2 .....	District and Area Managers .....	Field Managers.
1610.4-8 .....	District Manager .....	Field Manager.
1610.4-9 .....	District Manager .....	Field Manager.
1610.5-1 .....	District Manager .....	Field Manager.
1610.5-3 .....	District and Area Manager .....	Field Manager.
1610.5-5 .....	District Manager .....	Field Manager.
1610.5-7 .....	District and Area Manager .....	Field Manager.
1610.7-1 .....	District Manager .....	Field Manager.
1610.8 .....	District or Area Manager .....	Field Manager.

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 660**

[Docket No. 040706201-4201-01; I.D. 060204F]

RIN 0648-AR97

**Fisheries off West Coast States and in the Western Pacific; Coastal Pelagic Species Fisheries; Annual Specifications**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes a regulation to implement the annual harvest guideline for Pacific mackerel in the exclusive economic zone (EEZ) off the Pacific coast. The Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) and its implementing regulations require NMFS to set an annual harvest

guideline for Pacific mackerel based on the formula in the FMP. This action proposes allowable harvest levels for Pacific mackerel off the Pacific coast.

**DATES:** Comments must be received by August 4, 2004.

**ADDRESSES:** Copies of the report *Stock Assessment of Pacific Mackerel with Recommendations for the 2004-2005 Management Season*, and the Regulatory Impact Review may be obtained from the Southwest Regional Office (see **ADDRESSES**).

You may submit comments on this proposed rule, identified by [I.D. 060204F] by any of the following methods:

- E-mail: 0648-AR97.SWR@noaa.gov. Include the I.D. number in the subject line of the message.
- Federal e-Rulemaking portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail: Rodney R. McInnis, Acting Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802.
- Fax: (562) 980-4047.

**FOR FURTHER INFORMATION CONTACT:** Tonya L. Ramsey, Southwest Region, NMFS, (562) 980-4036.

**SUPPLEMENTARY INFORMATION:** The FMP, which was implemented by publication

of the final rule in the **Federal Register** on December 15, 1999 (64 FR 69888), divides management unit species into the categories of actively managed and monitored. Harvest guidelines of actively managed species (Pacific sardine and Pacific mackerel) are based on formulas applied to current biomass estimates. Biomass estimates are not calculated for species that are only monitored (jack mackerel, northern anchovy, and market squid).

At a public meeting each year, the biomass for each actively managed species is reviewed by the Pacific Fishery Management Council's (Council) CPS Management Team (Team). The biomass, harvest guideline, and status of the fisheries are then reviewed at a public meeting of the Council's CPS Advisory Subpanel (Subpanel). This information is also reviewed by the Council's Scientific and Statistical Committee (SSC). The Council reviews reports from the Team, Subpanel, and SSC, then, after providing time for public comment, makes its recommendation to NMFS. The annual harvest guideline and season structure is published by NMFS in the **Federal Register** as soon as practicable before the beginning of the