

Special Recreation Permits for Predator Hunting Contests Questions & Answers

Why is the Bureau of Land Management trying to regulate hunting?

The issue is not about hunting. The Bureau of Land Management (BLM) works closely with state game and fish agencies, which regulate hunting. The BLM regulates and issues permits for recreational activities when they meet the definitions of commercial, competitive, vending, or group uses/events as defined at 43 CFR Subpart 2932.5. The fact that the activity taking place is hunting is incidental to the commercial or competitive aspects of some events.

How do we know when a Special Recreation Permit is required?

Review the criteria listed in 43 CFR Subpart 2932 and follow the processes laid out in the Recreation Permit Administration Handbook H-2930-1, Chapter 1. Contact the promoter to clarify the use or non-use of public lands. If a sponsor or promoter of an event advertises, promotes, or knowingly expects to use public lands during the event, then the sponsor is benefitting from the use of the public lands

Why does commercial or competitive hunting fall under Special Recreation Permit regulations?

The Special Recreation Permit (SRP) regulations established in 1978 under 43 CFR Part 8372.4(c)(1) stated, "Nothing contained herein shall authorize Federal hunting, trapping, or fishing licenses, permits or fees. Fees under provisions of this part shall not be charged and permits shall not be required for commercial or other activities not related to recreation." In 2002 the entire 8370 section was deleted and replaced by 43 CFR 2930. The section above was removed and replaced with Part 2932.14 "Do I need a Special Recreation Permit to hunt, trap, or fish?" That section states, "(b) Outfitters and guides providing services to hunters, trappers, or anglers must obtain Special Recreation Permits from BLM. Competitive event operators and organized groups may also need a Special Recreation Permit for these activities." Language that supports the intent of this section was found in the Federal Register notice that published the 2002 regulations as follows, "The point of this amendment is that if the subject of an activity or event is hunting or fishing, it does not excuse the organizer or sponsor from obtaining a permit if the regulations otherwise require a permit because the event is commercial or competitive."

Due to the dispersed nature of event participants, can we exclude these events from permitting?

The regulations for commercial and competitive recreational activities do not include an exception for dispersed activities. There are many permitted uses that include dispersed participants such as; hunting outfitters, some adventure races, and competitive geo-caching, to name a few. With the rapid introduction of technological advances in communication, tools, toys, and other equipment, we expect an increase in commercial and competitive SRPs of a

dispersed nature in the future. To carve out exemptions for dispersed use would have a negative effect on the BLM's ability to evaluate and mitigate effects on resources from these uses.

If we issue an SRP for this type of activity, does this mean that SRPs are required for trapping, horn hunting, or similar type of activities?

No. The BLM does not issue an SRP based on activity type, so comparisons to similar activities are not applicable. The definitions found at 43 CFR Subpart 2932 describe two parties who have formed a relationship: the event sponsor/promoter and the participant. Public engagement in activities such as rock hounding, horn hunting, trapping, or similar activities that may provide a personal monetary benefit do not require an SRP because the individuals engaged in the activities are not participants in a sponsored recreational activity. Rather, they are individuals engaged in what is normally a recreational activity for individual financial gain. There may be other state or Federal permits or regulations which govern these individual commercial activities, and local resource management plans may have established a threshold for organized group use or allocated individual use which could trigger either an SRP or an individual SRP.

For example:

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

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

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

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

If participants of a sponsored commercial or competitive hunt are found using public lands, and the event sponsor failed to inform those participants that BLM-managed lands could not be used, the sponsor may be held civilly or criminally liable. If the sponsor informed participants that using BLM lands was not permitted, then participants may be held civilly or criminally liable.

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

Each local BLM office is best positioned to know how to best monitor for illegal activities, and should take appropriate steps based upon that local knowledge and the resources available. Hunting violations are usually the responsibility of the respective state fish and game agencies, so routine monitoring for any type of non-permitted or illegal recreational activities should be the focus.

Given the dispersed nature of event participants, how can we determine the percent of time spent on public lands?

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

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

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

What if we determine an SRP is required, but do not have the time or resources available to process it?

Coordinate with the event promoter to inform the participants that BLM-managed lands are not available to contest participants engaged in event activities, and document in a follow-up letter to the promoter. It is also in the promoter's best interest to document that they have informed participants not to use public lands in order to avoid potential penalties and liability.

Due to level of controversy involved with predator hunting events, we believe an Environmental Impact Statement is necessary, and we just don't have the resources to do this.

The level or type of National Environmental Policy Act (NEPA) documentation required for a specific SRP will be determined based on findings of context and intensity that result in significant effects. An Environmental Impact Statement is normally used when a proposed action will have a significant environmental impact. It is important to remind all parties involved that NEPA does not analyze the level of controversy. The BLM National Environmental Policy Handbook H-1790-1, states at page 71, "Controversy in this context means disagreement about

the nature of the effects, not expressions of opposition to the proposed action or preference among the alternatives”.

I understand the U.S. Forest Service did not require a permit for a competitive hunt in Idaho.

There are distinct differences between the Forest Service and BLM regulations. The BLM’s commercial and competitive definitions are both more specific and cover more types and categories of recreational use. It is understood the Idaho predator hunting event changed and evolved in the days and weeks before taking place, which re-emphasizes the importance of analyzing each event based on its own unique characteristics, and following the guidance contained within H-2930-1.

Didn’t the Court uphold the Forest Service’s decision in Idaho not to issue a permit?

The Court stated that “under *Winter*, plaintiffs must establish that irreparable harm is *likely*, not just possible, in order to obtain a preliminary injunction....Even if the Court were to conclude that plaintiffs raise serious questions about the merits, the Court finds plaintiffs have not demonstrated that the balance of hardships tips sharply in their favor.” The question before the Court was whether to issue a temporary restraining order (TRO), which requires a high degree of certainty of irreparable harm. A judge’s ruling on a TRO has nothing to do whatsoever on the merits of the question. This decision only addressed that the plaintiffs did not succeed in proving the likelihood of irreparable harm.

What takes place during a predator hunt?

There are number of scenarios, but for coyote hunts, participants typically set up in a location and use a device to call animals in. Usually they mimic an injured prey species like a rabbit. They often stay in one place for long periods of time. It is also common for participants to have prey, or prey areas, scouted out ahead of the event. It is reported that many participants have pre-arranged agreements with private landowners, typically large ranches, to use their lands. Of course, public lands could be used if permitted, and it is expected that some event sponsors or participants will want to use them.

Does the BLM have a set of suggested stipulations for predator hunting events?

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

What if an event does not fall under the BLM's commercial or competitive definitions, but is covered under Group Use/Events?

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

What else should I know?

The BLM state-specific guidance may bar the issuance of hunting contest SRPs for BLM-listed sensitive species. Refer to your state guidance if applicable.