

## Permitting for Seed Collection

There are four options which allow the public to collect seed materials from the Bureau of Land Management (BLM) administered lands. These include 1) Recreational use, 2) Personal use, 3) Commercial use, and 4) Free use.

### 1 – Recreational Use:

Authority for recreational use is found in 43 CFR 8360 Visitor Services. The specific reference to vegetation is at § 8365.1-5 Property and Resources; sections (b), (1) and (5) and (c).

This authority allows the public to collect seeds in “reasonable amounts,” in non-restricted areas, for “non-commercial purposes,” as well as several other types of commonly available renewable resources such as flowers, berries, nuts, cones and leaves.

For clarification, seed collected for recreational use includes seeds from only the portion of the plant which occurs above ground; and “reasonable amounts” with respect to seeds is less than or equal to about 1lb of dirt weight seed. There is an exception in the case of pine cones (other than pinyon) collected for seeds, and up to one bushel is considered “reasonable.” Cones collected for ornamental use or crafts and Pinyon nut collection are covered in CFR Subpart 5400 – Sales of Forest Products.

Collection for recreational use must be collected by hand or with simple hand tools. The seed materials collected under this regulation may be transported off public land for personal use.

No seeds or seed materials collected under the Visitor Services regulation may be sold or bartered. Activities meeting all of the above guidelines **do not require a permit for collection**. Activities exceeding any of the guidelines, either in amount collected, type of product collected, or intended use of the product, require a permit.

Restricting areas from vegetative recreational use collection may be implemented under the procedures for closing areas in 43 CFR § 8365.1-6 Supplementary Rules.

### 2 – Personal Use:

Authority for personal use is found in 43 CFR Subpart 5400 – Sales of Forest Products; General. Under this Subpart personal use is defined as “...use other than for sale, barter, trade, or obtaining a profit.” These resources may be utilized at the site of collection or transported off public land for personal use elsewhere. Personal Use may be differentiated from Recreational Use, both by intended purpose and by the amount of seed collected. Quantities of seed collected under this regulation are typically greater than what is allowed for under the Visitor Services/ Recreational Use regulation.

A **permit is required** for all seed collections issued under this regulation. The appropriate form depends on the value and length of the contract and whether a bond is issued.

Personal use can be authorized through completion of Form 5450-5, Vegetative or Mineral Material Negotiated Cash Sale Contract. This is a cash sale contract and must be paid in full

prior to issuance or signing by the Authorized Officer. This contract may not exceed \$2,499.<sup>00</sup> in value for seed. Bonds may be held with these permits and listed in the special stipulations section. The expiration period for this contract is short, usually 6 months or less, but can be made valid for up to 12 months.

If the value of the seed materials being sold exceeds \$2,499.<sup>00</sup> or if a bonding requirement is desired, or if the term of the contract needs to be greater than 12 months, use Form 5450-1, Contract for the Sale of Vegetative Resources.

### 3 – Commercial Use:

Authority for commercial use is also found in 43 CFR Subpart 5400 – Sales of Forest Products: General.

In this Subpart, commercial use is defined as “...use intended for resale, barter, trade, or for profit.” This type of use also encompasses all types of vegetative and woodland products (including seed collection) and **requires a contract or permit regardless of the quantities harvested**. The key difference between personal and commercial use lies in the “intended use” of the material and to a lesser extent, the quantities being harvested. Generally, quantities collected under commercial use will be greater than that collected under personal use. Care should be exercised in the issuance of commercial use permits to ensure that long term resource damage does not occur.

A **permit is required** for all vegetative material collections issued under this regulation. The appropriate form depends on the value and length of the contract and whether a bond is issued.

Commercial use can be authorized through completion of Form 5450-5, Vegetative or Mineral Material Negotiated Cash Sale Contract. This is a cash sale contract and must be paid in full prior to issuance or signing by the Authorized Officer. Pricing is explained in Attachment 3, and is based on fair market value and any applicable road maintenance fees. This contract may not exceed \$2,499.<sup>00</sup> in value for vegetative materials. Bonds can be held with these permits and listed in the special stipulations section. The expiration period for this contract is short, usually 6 months or less, but can be made valid for up to 12 months.

If the value of the seed materials being sold exceeds \$2,499.<sup>00</sup> or if a bonding requirement is desired, or if the term of the contract needs to be greater than 12 months, use Form 5450-1, Contract for the Sale of Vegetative Resources.

### 4 – Free Use:

Authority for free use is found in 43 CFR Part 5500 – Non-sale Disposals; General, (a) and (b). Under most cases, applications for free use permits for vegetative materials will fall under the Act of 1947, as amended by the Non-sale Disposals Act of July 23, 1955.

Applicants **must meet certain criteria in order for a free use permit to be issued**. They must be a resident of the State, a Federal or State Governmental agency, unit or subdivision including municipalities, or any association or corporation not organized for profit. Free use materials may not be used for commercial or industrial purposes or resale. There is no annual maximum value

for governmental units; however, a non-profit association or corporation may not receive more than \$100.<sup>00</sup> worth of seed in any one calendar year.

Free use permits for vegetative materials will be issued to Native Americans for ceremonial purposes when requested. Quantities will be limited to the amount identified in the personal use section above or specified in the local land use plan.

For free use applications that fall under the Act of 1947, Form 5510-1 Free Use Application and Permit should be used. The expiration period for this permit is six months. It may be extended by the Authorized Officer for three additional months.

The following is the policy concerning Free Use of forest products on BLM-administered lands:

- A. Free use of collected seed will only be allowed to non-profit organizations, research institutions and governmental units, as authorized by the AFM, Renewable Resources (43 CFR 5510.0-3.b).
- B. The only form authorized for issuing free use permits is BLM Form 5510-1, Free Use Application and Permit.
- C. Free use permits issued to governmental units shall have a \$100.<sup>00</sup> dollar limit per calendar year, and the seed materials collected must be used for a non-profit public project.
- D. Free use permits issued to nonprofit organizations have a dollar limit of \$100 worth of seed materials collected during any one calendar year. This would be based on the same BLM nationally posted minimum price list used for personal and commercial seed collection permits, as specified in Attachment 3.

**Required information on all permits:**

All permits will have an issue date, a harvest start date and a termination date specified on the permit. The permit will only be valid for the period between the harvest start date and the termination date. The length of time and timing for which the permit is valid should be commensurate with the amount of seed purchased and the species to be harvested.

Permits will state that they are valid only upon public lands administered by the BLM FO issuing the permit (or on an adjoining FO area where authority has been delegated to the issuing FO for such permits) and only for the area further identified by the legal description and location wording on the permit or by an attached map.

Permittee vehicle make, model, license plate number(s) and phone number(s) will be recorded on all permits. Alternate vehicles may be assigned, i.e., in case of vehicle breakdown or replacement, with written consent of FO representative, amending the permit.

All 5450-1 contracts permits will have a unique FO number in the following format: two digit year, State, FO number and consecutive number (example: 10-UT-010-001 for the first permit for the Fillmore FO for Fiscal Year 2010). The 5450-5 contracts are already numbered (i.e., the contracts that are commonly used for firewood.)

All permits shall have a signed copy of permit stipulations attached. (See Attachment 2 for suggestions).

All permits will be entered into the Special Forest Products (SFP) database. To request access to the SFP application and other questions, contact the State Forestry Program Lead. Access to SFP can also be requested from the Forest Resource Information System Launchpad (<http://teamspace/or/sites/fris/Pages/dataview.aspx>) and clicking on the maroon Request Access button.