

(1) For willful or repeated non-willful trespass, the penalty is two times the rent. For roads, the penalty is two times the charges for road use, amortization, and maintenance which have accrued since the trespass began.

(2) For non-willful trespass not resolved within 30 calendar days after receiving the written notice under paragraph (a) of this section, the penalty is an amount equal to the rent. To resolve the trespass you must meet one of the conditions identified in 43 CFR 9239.7-1. For roads, the penalty is an amount equal to the charges for road use, amortization, and maintenance which have accrued since the trespass began.

(c) The penalty will not be less than the fee for a Processing Category 2 application (*see* §2804.14 of this part) for non-willful trespass or less than three times this amount for willful or repeated non-willful trespass. You must pay whichever is the higher of:

(1) The amount computed in paragraph (b) of this section; or

(2) The minimum penalty amount in paragraph (c) of this section.

(d) In addition to civil penalties under paragraph (b) of this section, you may be tried before a United States magistrate judge and fined no more than \$1,000 or imprisoned for no more than 12 months, or both, for a knowing and willful trespass, as provided at 43 CFR 9262.1 and 43 U.S.C. 1733(a).

(e) Until you comply with the requirements of 43 CFR 9239.7-1, BLM will not process any of your applications for any activities on BLM lands.

(f) You may appeal a trespass decision under §2801.10 of this part.

(g) Nothing in this section limits your liability under any other Federal or state law.

**§ 2808.12 May I receive a grant if I am or have been in trespass?**

Until you satisfy your liability for a trespass, BLM will not process any applications you have pending for any activity on BLM-administered lands. A history of trespass will not necessarily disqualify you from receiving a grant. In order to correct a trespass, you must apply under the procedures described at subpart 2804 of this part. BLM will process your application as if it were a

new use. Prior unauthorized use does not create a preference for receiving a grant.

**Subpart 2809—Grants for Federal Agencies**

**§ 2809.10 Do the regulations in this part apply to Federal agencies?**

The regulations in this part apply to Federal agencies to the extent possible, except that:

(a) BLM may suspend or terminate a Federal agency's grant only if:

(1) The terms and conditions of the Federal agency's grant allow it; or

(2) The agency head holding the grant consents to it; and

(b) Federal agencies are generally not required to pay rent for a grant (*see* §2806.14 of this part).

**PART 2810—TRAMROADS AND LOGGING ROADS**

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AUTHORITY: 43 U.S.C. 1181e, 1732, 1733, and 1740.

### Subpart 2812—Over O. and C. and Coos Bay Revested Lands

SOURCE: 35 FR 9638, June 13, 1970, unless otherwise noted.

#### § 2812.0-3 Authority.

Sections 303 and 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732, 1733, and 1740), and the Act of August 28, 1937 (43 U.S.C. 1181a and 1181b), provide for the conservation and management of the Oregon and California Railroad lands and the Coos Bay Wagon Road lands and authorize the Secretary of the Interior to issue regulations providing for the use, occupancy, and development of the public lands through permits and rights-of-way.

[54 FR 25855, June 20, 1989]

#### § 2812.0-5 Definitions.

Except as the context may otherwise indicate, as the terms are used in this paragraph:

- (a) *Bureau* means Bureau of Land Management.
- (b) *Timber of the United States or federal timber* means timber owned by the

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United States or managed by any agency thereof, including timber on allotted and tribal Indian lands in the O. and C. area.

(c) *State Director* means the State Director, Bureau of Land Management, or his authorized representative.

(d) *Authorized Officer* means an employee of the Bureau of Land Management to whom has been delegated the authority to take action.

(e) *O. and C. lands* means the Revested Oregon and California Railroad and Reconveyed Coos Bay Wagon Road Grant Lands, other lands administered by the Bureau under the provisions of the act approved August 28, 1937, and the public lands administered by the Bureau of Land Management which are in Oregon and in and west of Range 8 E., Willamette Meridian, Oregon.

(f) *Tramroads* include tramways, and wagon or motor-truck roads to be used in connection with logging, and the manufacturing of lumber; it also includes railroads to be used principally for the transportation, in connection with such activities, of the property of the owner of such railroad.

(g) *Management* means police protection, fire presuppression and suppression, inspection, cruising, reforestation, thinning, stand improvement, inventorying, surveying, construction and maintenance of improvements, disposal of land, the eradication of forest insects, pests and disease, and other activities of a similar nature.

(h) *Licensee* of the United States is, with respect to any road or right-of-way, any person who is authorized to remove timber or forest products from lands of the United States, or to remove timber or forest products from other lands committed by a cooperative agreement to coordinated administration with the timber of the United States over such road or right-of-way while it is covered by an outstanding permit, or while a former permittee is entitled to receive compensation for such use under the provisions of these regulations. A licensee is not an agent of the United States.

(i) *Direct control* of a road, right-of-way, or land, by an applicant for a permit hereunder means that such applicant has authority to permit the United States and its licensees to use