

## §9185.4-2

nearly correct as the available information will permit, its accuracy cannot be guaranteed, and, consequently, all such estimates are subject to revision, if necessary, as the work proceeds and the field conditions are more fully developed. Any deposit in excess of actual cost will be returned to the applicants as provided by law, but in cases where the cost exceeds the deposit made in accordance with the estimate, an additional deposit will be required, failing which, operations will be suspended.

(c) In the application of the terms of this Act it is not intended that there shall be undertaken any work involving the mere reestablishment of lost or obliterated or misplaced corners in a limited area of a township, such work being within the province of the local surveyor, and the authority of the State Director will be restricted to the giving of advice in accordance with the circular for the restoration of lost or obliterated corners. Employees of the Government are prohibited from participating in the resurvey of a township or the reestablishment of lost corners or in the subdivision of sections for private parties, even if the expense is borne by the county or State authorities or by individuals, except as such action is specifically authorized by the Director, Bureau of Land Management, in accordance with the provisions of existing statutes.

(d) Deposit required: The deposit required of the petitioners by law must accompany the application and must be made in the amount, at the place and in the manner prescribed by the instructions which will accompany the estimate.

### §9185.4-2 Showing required.

(a) *Necessity.* The applicants for the resurvey of any township are required to present satisfactory prima facie evidence of the necessity for such action. In general, it must be shown that the evidences of the original survey are so widely obliterated or that the prevailing survey conditions are so grossly defective as to preclude the satisfactory identification of the subdivisions of the subsisting survey or that the evidences of the original survey are in such an advanced state of deterioration

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that action looking to their preservation and perpetuation is expedient as in the public interest.

(b) *Ownership of land.* The applicants for resurvey are required to preface their petition by the statement that the extent of privately owned lands within the township is in excess of 50 percent of the total area thereof. If necessary, information in this connection may be obtained by the petitioners from the manager of the land office having local jurisdiction. Failure to comply with the condition set forth in this section or material error in the showing made, will not only result in delaying action upon the petition, but may require its rejection if it is found that the township is not properly subject to resurvey under the terms of the governing Act.

### §9185.4-3 Three-fourths of land owners.

The owners of three-fourths of the privately owned lands within the township are required to join in the application, and all petitioners in whom ownership is vested, either individuals, the State, or corporations such as railroad companies whose interests are involved, are further required to supply, following their respective signatures, an accurate description by legal subdivision, section, township, and range of the lands to which title is claimed. Moreover, it must appear that notice of the proposed resurvey has been served upon all owners who have for any reason failed to join in the petition, and, in addition, it is highly desirable that all record entrymen who, under the terms of the act are not required to become parties to the petition, be similarly informed to the end that their objections, if any, may be heard and subsequent protest based upon the plea of ignorance may, insofar as possible, be avoided.

## Group 9200—Protection

### PART 9210—FIRE MANAGEMENT

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AUTHORITY: 43 U.S.C. 1701 *et seq.*

SOURCE: 46 FR 42828, Aug. 24, 1981, unless otherwise noted.

### Subpart 9212—Wildfire Prevention

#### § 9212.0-1 Purpose.

The purpose of this subpart is to set forth procedures to prevent wildfires on the public lands.

#### § 9212.0-2 Objective.

The objective of this subpart is to prevent wildfires on the public lands.

#### § 9212.0-3 Authority.

This subpart is issued under the authority of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*).

#### § 9212.0-5 Definitions.

As used in this subpart, the term:

(a) *Person* means individuals, corporations, companies, associations, firms, partnerships, societies or joint stock companies.

(b) *Authorized officer* means any employee of the Bureau of Land Management to whom has been delegated the authority to perform the duties described in this subpart.

(c) *Public lands* means any lands and interest in lands owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership, except:

(1) Lands located on the Outer Continental Shelf; and

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

(d) *Fire* means the burning of timber, trees, slash, brush, tundra, grass or other flammable material such as, but not limited to, petroleum products, trash, rubbish, lumber, paper, cloth or agricultural refuse occurring out of doors and includes *campfire* as defined in this section.

(e) *Campfire* means a controlled fire occurring out of doors used for cooking, branding, personal warmth, lighting, ceremonial or esthetic purposes.

(f) *Permit* means authorization in writing by the authorized officer.

(g) *Closed area* means public lands closed to entry by a Bureau of Land Management fire prevention order.

(h) *Wildlife* means any wildland fire that requires a suppression response.

(i) *Restricted area* means public lands restricted as to use(s) by a Bureau of Land Management fire prevention order.

#### § 9212.0-6 Policy.

It is the policy of the Bureau of Land Management to take all necessary actions to protect human life, the public lands and the resources and improvements thereon through the prevention of wildfires. Wherever possible, the Bureau of Land Management's actions will complement and support State and local wildfire prevention actions.

#### § 9212.1 Prohibited acts.

Unless permitted in writing by the authorized officer, it is prohibited on the public lands to:

(a) Cause a fire, other than a campfire, or the industrial flaring of gas, to be ignited by any source;

(b) Fire a tracer or incendiary device;

(c) Burn, timber, trees, slash, brush, tundra or grass except as used in campfires;

(d) Leave a fire without extinguishing it, except to report it if it has spread beyond control;

(e) Build, attend, maintain or use a campfire without removing all flammable material from around the campfire adequate to prevent its escape;

(f) Resist or interfere with the efforts of firefighter(s) to extinguish a fire;

(g) Enter an area which is closed by a fire prevention order, or

(h) perform any act restricted by a fire prevention order.

#### § 9212.2 Fire prevention orders.

(a) To prevent wildfire or facilitate its suppression, an authorized officer may issue fire prevention orders that close entry to, or restrict uses of, designated public lands.

(b) Each fire prevention order shall:

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(1) Identify the public lands, roads, trails or waterways that are closed to entry or restricted as to use;

(2) Specify the time during which the closure or restriction shall apply;

(3) Identify those persons who, without a written permit, are exempt from the closure or restrictions;

(4) Be posted in the local Bureau of Land Management office having jurisdiction over the lands to which the order applies; and

(5) Be posted at places near the closed or restricted area where it can be readily seen.

#### § 9212.3 Permits.

(a) Permits may be issued to enter and use public lands designated in fire prevention orders when the authorized officer determines that the permitted activities will not conflict with the purpose of the order.

(b) Each permit shall specify:

(1) The public lands, roads, trails or waterways where entry or use is permitted;

(2) The person(s) to whom the permit applies;

(3) Activities that are permitted in the closed area;

(4) Fire prevention requirements with which the permittee shall comply; and

(5) An expiration date.

(c) An authorized officer may cancel a permit at any time.

#### § 9212.4 Penalties.

Any person who knowingly and willfully violates the regulations at § 9212.1 of this title shall, upon conviction, be subject to a fine of not more than \$1,000 or to imprisonment of not more than 12 months, or both.

## PART 9230—TRESPASS

### Subpart 9239—Kinds of Trespass

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9239.7 Right-of-way.

9239.7-1 Public lands.

AUTHORITY: R.S. 2478 and 43 U.S.C. 1201.

SOURCE: 35 FR 9800, June 13, 1970, unless otherwise noted.

### Subpart 9239—Kinds of Trespass

#### § 9239.0-3 Authority.

(a) Sections 9239.0-3 to 9239.7 are issued under the authority of R.S. 2478; 43 U.S.C. 1201.

(b) In addition to liability for trespass on the public lands, as indicated in this part, persons responsible for such trespass may be prosecuted criminally under any applicable Federal law. Penalties are prescribed by the following statutes:

(1) Timber trespass. 18 U.S.C. 1852, 1853.

(2) Turpentine trespass. 18 U.S.C. 1854.

(3) Coal trespass. 18 U.S.C. 1851; 30 U.S.C. 201(b)(4).

[35 FR 9800, June 13, 1970, as amended at 42 FR 4460, Jan. 25, 1977]

#### § 9239.0-7 Penalty for unauthorized removal of material.

The extraction, severance, injury, or removal of timber or other vegetative resources or mineral materials from public lands under the jurisdiction of the Department of the Interior, except when authorized by law and the regulations of the Department, is an act of trespass. Trespassers will be liable in damages to the United States, and will be subject to prosecution for such unlawful acts.

[35 FR 9800, June 13, 1970, as amended at 56 FR 10176, Mar. 11, 1991]