

renew the grant if doing so is in the public interest.

(c) Submit your application under paragraph (a) or (b) of this section and include the same information necessary for a new application (*see* subpart 2804 of this part). You must reimburse BLM in advance for the administrative costs of processing the renewal in accordance with § 2804.14 of this part.

(d) BLM will review your application and determine the applicable terms and conditions of any renewed grant.

(e) BLM will not renew grants issued before October 21, 1976. If you hold such a grant and would like to continue to use the right-of-way beyond your grant's expiration date, you must apply to BLM for a new FLPMA grant (*see* subpart 2804 of this part). You must send BLM your application at least 120 calendar days before your grant expires.

(f) If BLM denies your application, you may appeal the decision under § 2801.10 of this part.

Subpart 2808—Trespass

§ 2808.10 What is trespass?

(a) Trespass is using, occupying, or developing the public lands or their resources without a required authorization or in a way that is beyond the scope and terms and conditions of your authorization. Trespass is a prohibited act.

(b) Trespass includes acts or omissions causing unnecessary or undue degradation to the public lands or their resources. In determining whether such degradation is occurring, BLM may consider the effects of the activity on resources and land uses outside the area of the activity.

(c) There are two kinds of trespass, willful and non-willful.

(1) *Willful trespass* is voluntary or conscious trespass and includes trespass committed with criminal or malicious intent. It includes a consistent pattern of actions taken with knowledge, even if those actions are taken in the belief that the conduct is reasonable or legal.

(2) *Non-willful trespass* is trespass committed by mistake or inadvertence.

§ 2808.11 What will BLM do if it determines that I am in trespass?

(a) BLM will notify you in writing of the trespass and explain your liability. Your liability includes:

(1) Reimbursing the United States for all costs incurred in investigating and terminating the trespass;

(2) Paying the rental for the lands, as provided for in subpart 2806 of this part, for the current and past years of trespass, or, where applicable, the cumulative value of the current use fee, amortization fee, and maintenance fee for unauthorized use of any BLM-administered road; and

(3) Rehabilitating and restoring any damaged lands or resources. If you do not rehabilitate and restore the lands and resources within the time set by BLM in the notice, you will be liable for the costs the United States incurs in rehabilitating and restoring the lands and resources.

(b) In addition to amounts you owe under paragraph (a) of this section, BLM may assess penalties as follows:

(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