United States Department of the Interior

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EMS TRANSMISSON
Instruction Memorandum No. AZ-IM-2022-010
Expires: 12/31/2025

To: All District and Field Office Managers

From: State Director

Subject: Stipulations for Fire Prevention and Control into the Standard Stipulations for Rights-of-Way and other Land Use Authorizations in Arizona

Program Area: Lands and Realty Resources

Purpose: This Instruction Memorandum (IM) incorporates stipulations for Fire Prevention and Control into the Standard Stipulations for Rights-of-Way (ROWs) and other Land Use Authorizations (LUAs) in Arizona. Standard stipulations in ROW grants and other LUAs, including new authorizations, assignments, renewals, and amendments increases consistency. Regulations found at 43 CFR §§ 2800, 2880 and 2920 provide the direction that the Bureau of Land Management (BLM) must follow when considering issuance of ROWs, leases, and permits. General terms and conditions are found at 43 CFR §§ 2805.12/2885.11 for ROWs and 2920.7 for LUAs and leases. Further guidance is provided in Interim ROW Manual 2800/2880.

Policy/Action: Standard stipulations for ROWs and other LUAs have been collaboratively developed by State, District and Field Offices. When granting, renewing, assigning, or amending a ROW or LUAs, in addition to the above-referenced general terms and conditions, the standard fire stipulations in Attachment 1 would be implemented as follows:

- Standard fire stipulations should be included in ROW/LUA authorizations without revision. The Authorized Officer will use these standard guide fire prevention and control stipulations.

- Additional, non-standard stipulations may be developed to address site specific conditions above and beyond these standard guide fire stipulations. It is important to ensure additional stipulations are prepared as a result of the environmental analysis and appropriate mitigation, other pertinent laws and regulations, policies, and planning documents. Stipulations should not be developed or revised simply to appease a request for language modification. Additional stipulations will be approved by the management level above the officer delegated to authorize the grant.

- The only non-standard fire stipulation that requires a specific finding to be included is the strict liability stipulation (see attachment #4). The strict liability stipulations found at 43 CFR §§ 2807.12(a) and (b) and 2886.13 (a) and (b) must be included in an authorization if a risk of fire or other damage or injury to the United States (U.S.) is generally foreseeable, even if rare. The authorized officer must identify in the authorization the activity and/or facility posing such hazard or risk and the financial limitations. The authorized officer should pursue the maximum amount found in the annual instruction memorandum transmitting the strict liability amount on damages appropriate with such hazard or risk. The BLM updates this amount each year to account for "changes in the Consumer Price Index for All Urban Consumers, U.S. City Average as of July of each year" (43 CFR §§ 2807.12(b)(3) and 2886.13(b)(3)).

Where activities involve transmission of flammable material or may be a source of ignition, such as electricity, petroleum/oil or gases, strict liability stipulations should be included after a determination of foreseeable hazard or risk by the authorized officer in the authorization. Examples of such activities include, but are not limited to power sources (e.g. utilities, powerlines, generators, etc.), oil and gas operations, blasting activities, equipment and vehicle operation and maintenance, welding, and grinding.

Budget Impact: The implementation of this IM is not expected to have any budget impacts, processing ROWs and LUAs are covered by cost recovery under the regulations.

Background: Although standardized or "guide" stipulations have been included in previous manuals and training materials, the stipulations have often been edited in different ways by various offices over the years. Some of the subsequent language changes have resulted in different requirements, even though the stipulations attempt to address the same issue. The BLM Handbook 2801-1, Guide Stipulations for ROW and LUA Administration, contains a number of "guide" stipulations that are not current. These new standard fire guide stipulations are incorporated into the handbook though this IM for fire prevention and control to reduce inconsistencies among field offices.

Pages of Manual/ Handbook Sections Affected: This IM develops standard fire guide stipulations in the approved Handbook 2801-1, Guide Stipulations for ROW and LUA Administration .

Instruction Memorandums Affected: This IM expands on Headquarters IM 2022-036 for Standard Stipulations for Fire Prevention and Control for Electric Transmission and Distribution ROWs.

Coordination: This instruction memorandum was coordinated with the Office of the Solicitor, Branch of Lands and Realty, Branch of Fire, and District Offices.

Contact: If you have any questions concerning the content of this IM, please contact Jennifer Whyte, Senior Realty Program Lead, at (602) 471-9225 jwhyte@blm.gov or Koreena Haynes, Fire Trespass Program Lead, at (602) 471-9436 khaynes@blm.gov.

RAYMOND SUAZO

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2 Attachments:

1 - Additional Standard Guide Fire Stipulations for Use in Arizona BLM Rights-of-Way and Land Use Authorizations (3 pp)

2 - NERC/FERC ruling FAC 003-4 (31 pp)