

### § 2805.13

(k) Not dispose of or store hazardous material on your right-of-way, except as provided by the terms, conditions, and stipulations of your grant;

(l) Certify your compliance with all requirements of the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. 11001 *et seq.*, when you receive, assign, renew, amend, or terminate your grant;

(m) Control and remove any release or discharge of hazardous material on or near the right-of-way arising in connection with your use and occupancy of the right-of-way, whether or not the release or discharge is authorized under the grant. You must also remediate and restore lands and resources affected by the release or discharge to BLM's satisfaction and to the satisfaction of any other Federal, state, tribal, or local agency having jurisdiction over the land, resource, or hazardous material;

(n) Comply with all liability and indemnification provisions and stipulations in the grant;

(o) As BLM directs, provide diagrams or maps showing the location of any constructed facility; and

(p) Comply with all other stipulations that BLM may require.

#### § 2805.13 When is a grant effective?

A grant is effective after both you and BLM sign it. You must accept its terms and conditions in writing and pay any necessary rent and monitoring fees as set forth in subpart 2806 of this part and § 2805.16 of this subpart. Your written acceptance constitutes an agreement between you and BLM that your right to use the public lands, as specified in the grant, is subject to the terms and conditions of the grant and applicable laws and regulations.

#### § 2805.14 What rights does a grant convey?

The grant conveys to you only those rights which it expressly contains. BLM issues it subject to the valid existing rights of others, including the United States. Rights which the grant conveys to you include the right to:

(a) Use the described lands to construct, operate, maintain, and terminate facilities within the right-of-way

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for authorized purposes under the terms and conditions of the grant;

(b) If your grant specifically authorizes, allow other parties to use your facility for the purposes specified in your grant and you may charge for such use. If your grant does not specifically authorize it, you may not let anyone else use your facility and you may not charge for its use unless BLM authorizes or requires it in writing;

(c) Allow others to use the land as your agent in the exercise of the rights that the grant specifies;

(d) Do minor trimming, pruning, and removing of vegetation to maintain the right-of-way or facility;

(e) Use common varieties of stone and soil which are necessarily removed during construction of the project, without additional BLM authorization or payment, in constructing the project within the authorized right-of-way; and

(f) Assign the grant to another, provided that you obtain BLM's prior written approval.

#### § 2805.15 What rights does the United States retain?

The United States retains and may exercise any rights the grant does not expressly convey to you. These include BLM's right to:

(a) Access the lands covered by the grant at any time and enter any facility you construct on the right-of-way. BLM will give you reasonable notice before it enters any facility on the right-of-way;

(b) Require common use of your right-of-way, including subsurface and air space, and authorize use of the right-of-way for compatible uses. You may not charge for the use of the lands made subject to such additional right-of-way grants;

(c) Retain ownership of the resources of the land, including timber and vegetative or mineral materials and any other living or non-living resources. You have no right to use these resources, except as noted in § 2805.14(e) of this subpart;

(d) Determine whether or not your grant is renewable; and

(e) Change the terms and conditions of your grant as a result of changes in legislation, regulation, or as otherwise

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necessary to protect public health or safety or the environment.

**§ 2805.16 If I hold a grant, what monitoring fees must I pay?**

(a) *Monitoring fees.* You must pay a fee to BLM for the reasonable costs the Federal government incurs in monitoring the construction, operation, maintenance, and termination of the

project and protection and rehabilitation of the public lands your grant covers. BLM categorizes the monitoring fees based on the estimated number of work hours necessary to monitor your grant. Monitoring Category 1 through 4 fees are one-time fees and are not refundable. The work hours and fees for 2005 are as follows:

2005 MONITORING FEE SCHEDULE

Monitoring category	Federal work hours involved	Monitoring fee as of June 21, 2005. To be adjusted annually for changes in the IPD-GDP. See paragraph (b) of this section for update information
(1) Applications for new grants, assignments, renewals, and amendments to existing grants.	Estimated Federal work hours are > 1 ≤ 8.	\$97.
(2) Applications for new grants, assignments, renewals, and amendments to existing grants.	Estimated Federal work hours are > 8 ≤ 24.	\$343.
(3) Applications for new grants, assignments, renewals, and amendments to existing grants.	Estimated Federal work hours are > 24 ≤ 36.	\$644.
(4) Applications for new grants, assignments, renewals, and amendments to existing grants.	Estimated Federal work hours > 36 ≤ 50.	\$923.
(5) Master Agreements .....	Varies .....	As specified in the Agreement.
(6) Applications for new grants, assignments, renewals, and amendments to existing grants.	Estimated Federal work hours are > 50.	Full reasonable costs.

(b) *Updating the schedule.* BLM will revise paragraph (a) of this section annually to update Category 1 through 4 monitoring fees in the manner described at §2804.14(c) of this part. BLM will update Category 5 monitoring fees as specified in the Master Agreement. The monitoring cost schedule is available from any BLM state or field office or by writing: Director, Bureau of Land Management, 1849 C St., NW., Mail Stop 1000LS, Washington, DC 20240. BLM also posts the current schedule on the BLM Homepage on the Internet at <http://www.blm.gov>.

**§ 2805.17 When do I pay monitoring fees?**

(a) *Monitoring Categories 1 through 4.* Unless BLM otherwise directs, you must pay monitoring fees when you submit to BLM your written acceptance of the terms and conditions of the grant.

(b) *Monitoring Category 5.* You must pay monitoring fees as specified in the Master Agreement. BLM will not issue your grant until it receives the required payment.

(c) *Monitoring Category 6.* BLM may periodically estimate the costs of monitoring your use of the grant. BLM will

include this fee in the costs associated with processing fees described at §2804.14 of this part. If BLM has underestimated the monitoring costs, we will notify you of the shortfall. If your payments exceed the reasonable costs that Federal employees incurred for monitoring, BLM will either reimburse you the difference, or adjust the next billing to reflect the overpayment. Unless BLM gives you written authorization, you may not offset or deduct the overpayment from your payments.

(d) *Monitoring Categories 1-4 and 6.* If you disagree with the category BLM has determined for your grant, you may appeal the decision under §2801.10 of this part.

**Subpart 2806—Rents**

GENERAL PROVISIONS

**§ 2806.10 What rent must I pay for my grant?**

(a) You must pay in advance a rent BLM establishes based on sound business management principles and, as far as practical and feasible, using comparable commercial practices. Rent does not include processing or monitoring fees and rent is not offset by