

Bureau of Land Management, Interior

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violations shall immediately be made available to the Secretary, who shall make the data available to the public as soon as possible.

(3) No penalty under this section may be assessed unless such person is given notice and opportunity for a hearing with respect to such violation pursuant to part 4 of this chapter.

[35 FR 9800, June 13, 1970, as amended at 41 FR 36023, Aug. 26, 1976; 42 FR 4460, Jan. 25, 1977]

§ 9239.6 Materials.

§ 9239.6-1 Turpentine.

For turpentine trespass in a State where there is no State law governing such trespass, the measure of damages will be as follows:

(a) *Innocent trespass.* Value of the gum and injury done to the trees. *United States v. Taylor* (35 Fed. 484).

(b) *Willful trespass.* Value of the product manufactured from the crude turpentine by the settler, or any person into whose possession same may have passed, without credit for labor bestowed on the turpentine by the wrongdoer. *Union Naval Stores Co. v. United States* (240 U.S. 284, 60 L. ed. 644).

§ 9239.7 Right-of-way.

§ 9239.7-1 Public lands.

The filing of an application under part 2800, 2810, or 2880, of this chapter does not authorize the applicant to use or occupy the public lands for right-of-way purposes, except as provided by the definition of "Casual use" in § 2801.5(b) and by §§ 2804.29 and 2884.25 of this chapter, until written authorization has been issued by the authorized officer. Any unauthorized occupancy or use of public lands or improvements for right-of-way purposes constitutes a trespass against the United States for which the trespasser is liable for costs, damages, and penalties as provided in subpart 2808 and §§ 2812.1-3 and 2888.10 of this chapter. No new permit, license, authorization, or grant of any kind shall be issued to a trespasser until:

- (a) The trespass claim is fully satisfied; or
- (b) The trespasser files a bond conditioned upon payment of the amount of

damages determined to be due the United States; or

(c) The authorized officer determines in writing that there is a legitimate dispute as to the fact of the trespasser's liability or as to the extent of his liability and the trespasser files a bond in an amount determined by the authorized officer to be sufficient to cover payment of a future court judgment in favor of the United States.

[54 FR 25855, June 20, 1989, as amended at 70 FR 21090, Apr. 22, 2005]

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AUTHORITY: 16 U.S.C. 4601-6a, 16 U.S.C. 670h, 16 U.S.C. 1246(i), 16 U.S.C. 1336, 43 U.S.C. 315a, 43 U.S.C. 1733(a), 43 U.S.C. 1740, and Executive Order 11644, 37 FR 2877, 3 CFR, 1971-1975 Comp., p. 666.

SOURCE: 45 FR 31276, May 12, 1980, unless otherwise noted.

**Subpart 9260—Law Enforcement,
General**

§ 9260.0-1 Purpose.

This part establishes a single regulatory section in title 43 where the law enforcement provisions of all the various public land use regulations can be found.

§ 9260.0-2 Objective.

To provide in a single part a compilation of all criminal violations relating to public lands that appear throughout title 43 of the Code of Federal Regulations.

§ 9260.0-3 Authority.

Under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733), the Secretary of the Interior is authorized to issue regulations with respect to the management, use, and protection of the public lands, including property located thereon, the violation of which is punishable as a criminal offense. Section

303(c) of the Act authorizes the Secretary to enter into contracts with appropriate local officials having law enforcement authority and to authorize Federal personnel to carry out the enforcement of Federal laws and regulations relating to the public lands and their resources. Section 303(d) of the Act authorizes the Secretary to enter into cooperative agreements with State and local regulatory and law enforcement officials for the enforcement of State laws and local ordinances on the public lands. In addition to general authority under FLPMA, other specific authorities are noted where applicable.

§§ 9260.0-4—9260.0-6 [Reserved]

§ 9260.0-7 Penalties.

Any person violating any provision of part 9260 of this title shall be subject to the specific penalties as noted under this part.

**Subpart 9261—General
Management [Reserved]**

**Subpart 9262—Land Resource
Management**

§ 9262.0 Authority.

43 U.S.C. 1732, 1733, 1740, 1761-1771.

[54 FR 25855, June 20, 1989]

**§ 9262.1 Penalties for unauthorized
use, occupancy, or development of
public lands.**

Under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)) any person who knowingly and willfully violates the provisions of §§ 2808.10(a), 2812.1-3, 2888.10, or 2920.1-2(a) of this chapter, by using public lands without the requisite authorization, may be tried before a United States magistrate and fined no more than \$1,000 or imprisoned for no more than 12 months, or both.

[70 FR 21090, Apr. 22, 2005]