

Standard Fire Prevention and Control Stipulations

1. When performing construction and maintenance (including emergency repairs) activities when state or Federal fire prevention restrictions or closures are in effect, the Holder shall ensure there is at least one functioning on-site vehicle with firefighting equipment, including, but not limited to, all of the following: fire suppression hand tools (e.g., shovels, rakes, and pulaskis); a 16-20 pound fire extinguisher; and a sufficient supply of water (minimum of 5 gallons) to extinguish a potential fire start, with a mechanism to effectively spray the water (e.g., backpack pumps or a water sprayer). A BLM Authorized Officer may issue a Fire Prevention Order that requires the Holder to implement additional fire prevention measures. The Holder must adhere to current state and federal requirements in effect at time of operation.
2. Within, and in the immediate vicinity of, an electric transmission and distribution ROW, the Holder shall provide and maintain a sufficient vegetation clearance around the base of wood poles or other facilities with the potential to catch or spread fire in accordance with minimum clearance standards adopted by the State where the powerline resides.
3. The Holder shall do everything reasonable to prevent and suppress wildfires on all structures, equipment, and facilities that are on the electric transmission and distribution line for which the ROW is granted, without regard to whether they are located within the ROW or on non-federal land, and where a failure or fire ignition could reasonably lead to adverse impacts to public land.
4. *(Refer to Note below before making the determination required to include this stipulation)* As provided in [43 CFR 2807.12\(b\)](#), the Holder shall be strictly liable for any activity or facility associated with the ROW area that the BLM determines presents a foreseeable hazard or risk of damage or injury to the United States. The BLM has determined that the following authorized activities or facilities present a foreseeable hazard or risk of damage or injury to the United States: *(describe here)*. The BLM has also determined that the financial limitation on strict liability under 43 CFR 2807.12(b) and this grant will be the amount specified in the most current annual [BLM Calendar Year ROW Cost Recovery Fee Schedule and Strict Liability Amount instruction memorandum](#) issued in the year that the incident occurred, subject to any other statutory or court-ordered strict liability standards. Refer to [43 CFR 2807.12](#) “If I hold a grant, for what am I liable?” for all liability regulations that apply to this grant.

*[*Note to those processing these Grants: When making the determination whether there is a foreseeable risk of fire or other damage to public lands from the operation of electric transmission and distribution lines, facilities, structures, and components (electrical equipment), the BLM should consult with fire or fuels management to assist*

in the analysis or develop a protocol for proper consideration of fire as a foreseeable risk. The following questions are examples of those that may be considered:

- A. *Will electrical equipment be operating over or on wildland vegetation?*
- B. *Has the same type of electrical equipment ignited fires in the past on lands with similar topography, climate, weather, and vegetation; or other factors that affect wildfire risk?*
- C. *If a fire were to ignite in the area of the ROW, what values would be at risk? Refer to [43 CFR 2805.12\(a\)\(8\)\(iii\)](#), which allows the BLM to include project-specific terms, conditions, and stipulations in a grant, including requirements to “Control or prevent damage to: Scenic, aesthetic, cultural and environmental values including fish and wildlife habitat; Public and private property; and Public health and safety.”*
- D. *Has an Operations and Maintenance Plan or Agreement been submitted to identify and repair or replace electrical equipment on a consistent basis?*
- E. *Has a Vegetation Management Plan been submitted that includes clearances around the base of poles, removal of hazard trees, and treatment of other burnable vegetation in the ROW?*
- F. *Has a Fire Prevention Plan been submitted that includes measures to prevent wildfires from the electrical equipment that also includes measures to be taken during construction and maintenance operations that often require grinding, welding, vehicles, and heavy equipment that can ignite wildfires?*
- G. *Are the electrical equipment and structures designed to reduce the likelihood of fire?]*

5. Limitations on Imposition of Strict Liability:

- A. Strict liability in tort may not be imposed on an owner or operator for injury or damages resulting from the BLM Authorized Officer unreasonably withholding or delaying approval of an Operating Plan or Agreement or unreasonably failing to adhere to an applicable schedule in an approved Operating Plan or Agreement. Refer to 43 U.S.C. § 1772(g)(1).
- B. For the period of 10 years from March 23, 2018, strict liability in tort for injury or damages resulting from activities conducted by an owner or operator **under an approved Agreement** may not exceed \$500,000 per incident. Refer to 43 U.S.C. § 1772(g)(2). (Operators of electric transmission and distribution facilities that are not subject to the mandatory reliability standards established by the Electric Reliability Organization or that sold no more than 1,000,000 megawatt hours of electric energy for purposes other than resale during each of the three (3) calendar years immediately preceding March 23, 2018, may secure a BLM-approved Agreement, instead of an Operating Plan.)
- C. BLM will not impose strict liability for damage or injury resulting primarily from an act of war, an act of God, or the negligence of the United States, except as otherwise provided by law. Refer to [43 CFR 2807.12 \(b\) \(1\)](#).

6. On-scene and post-fire cooperation: If a fire ignites within the ROW area, burns on to the ROW area, or threatens the ROW area, the Holder shall cooperate with the BLM in its efforts to respond to, investigate, and suppress all fires and will:

- a. Immediately report fires to the BLM Authorized Officer or local fire dispatch (*enter phone number(s)*) and take all necessary fire suppression actions, when safe to do so, on any fires they cause to ignite.
- b. To the extent practicable, consistent with the timely restoration of power, maintain the condition of the origin area of the fire from additional disturbance to enable the BLM Fire Investigator to properly assess the origin area and cause of the fire.
- c. Defer to and follow the instructions of the BLM's Incident Commander or designee during fire suppression operations regarding activities within the boundaries of the fire including checking in and out of the fire, not entering the origin areas unless given permission to do so and recognizing the BLM's primary authority over the fire scene.
- d. Share factual information with the BLM concerning fires, including, but not limited to, the names of Holder's employees and invitees with knowledge of the fire, and allow the Holder's employees and their invitees to be interviewed by the BLM's investigators regarding the fire.
- e. Provide an account to the BLM of the actions taken at the scene of a fire by the Holder and Holder's employees and invitees.
- f. To the extent practicable, consistent with the timely restoration of power, minimize disturbance of potential evidence located at the scene, including by not engaging in any evidence collection or destruction without the BLM's express written consent; properly handling and preserving any evidence collected; and making all documents and other evidence, including expert reports, available to the BLM in a rapid and timely manner upon request of the BLM or its counsel. If the Holder determines that evidence is under immediate threat of destruction due to the fire itself, suppression operations, or weather, that evidence may be collected at the scene if it is properly handled and preserved and the BLM is notified, in writing, in a timely manner.
- g. Not hamper the BLM's investigation of origin and cause of the fire and reasonably assist the BLM's investigation.
- h. Provide information upon request of the BLM or its counsel concerning the construction, monitoring, inspection, maintenance, or repairs of any of Holder's facilities the BLM determines may be relevant to the BLM's

investigation of a fire.

7. The holder will undertake appropriate emergency Operations and Maintenance (O&M) activities consistent with their Fire Prevention Plan to prevent wildfire. The Holder will identify as soon as practicable following any emergency O&M activities:
 - a. The ROW serial number and location of the ROW (GIS or other comparable spatial data, legal description, maps);
 - b. The O&M activities undertaken;
 - c. Access route(s);
 - d. Type of treatment work;
 - e. Acreage of treatment area;
 - f. Equipment used;
 - g. Start and end dates;
 - h. Species, height, and exact diameter of trees cut that are greater than 8 inches at breast height (diameter breast height);
 - i. Best management practices used;
 - j. The utility company point of contact.

This information shall be submitted no later than 30 days after the date of response to emergency conditions. Any biological data or cultural survey data collected under terms of the grant will be provided when requested by the BLM Authorized Officer (cultural resource data must be submitted in a confidential folder supplied by each BLM office).