

## § 9268.4

EFFECTIVE DATE NOTE: At 67 FR 61745, Oct. 1, 2002, § 9268.3 was amended by removing from the first sentence of paragraph (e)(1) the phrase “subpart 8372 of this title” and adding the phrase “part 2930 of this chapter”, effective Oct. 31, 2002.

### § 9268.4 Visual resource management. [Reserved]

### § 9268.5 Wilderness management. [Reserved]

### § 9268.6 Environmental education and protection. [Reserved]

## Subpart 9269—Technical Services

### § 9269.0–3 Authority.

(a) The provisions of this subpart are issued under the authority of R.S. 2478; 43 U.S.C. 1201.

(b) In addition to liability for trespass on the public lands, as indicated in parts 9230 and 9260 of this title, persons responsible for such trespass may be prosecuted criminally under any applicable Federal law. Penalties are prescribed by the following statutes:

(1) Timber trespass. 18 U.S.C. 1852, 1953.

(2) Turpentine trespass. 18 U.S.C. 1854.

(3) Coal trespass. 18 U.S.C. 1851, 30 U.S.C. 201(b)(4).

### § 9269.3 Criminal trespass.

#### § 9269.3–1 General management. [Reserved]

#### § 9269.3–2 Land resource management. [Reserved]

#### § 9269.3–3 Minerals management.

(a) *Oil and gas leasing.* [Reserved]

(b) *Geothermal resources leasing.* [Reserved]

(c) *Outer continental shelf leasing.* [Reserved]

(d) *Coal management—(1) Trespass.* Mining operations conducted prior to the effective date of a lease shall constitute an act of trespass and be subject to penalties specified in § 9239.5 of this title.

(2) *Penalty for unauthorized exploration for coal.* (i) Any person who willfully conducts coal exploration for commercial purposes without an exploration license issued under subpart 3410

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of this title shall be subject to a fine of not more than \$1,000 for each day of violation.

(ii) All data collected by said person on any Federal lands as a result of such violations shall immediately be made available to the Secretary, who shall make the data available to the public as soon as possible.

(iii) 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 title.

(e) *Minerals other than oil, gas and coal.* [Reserved]

(f) *Minerals materials disposal.* [Reserved]

(g) *Multiple use mining.* [Reserved]

(h) *Mining claims under the general mining laws.* [Reserved]

### § 9269.3–4 Range management.

(a) *Grazing administration—exclusive of Alaska—(1) Unlawful enclosures or occupancy.* Section 1 of the Act of February 25, 1885 (43 U.S.C. 1061), declares any enclosure of public lands made or maintained by any party, association, or corporation who “had no claim or color of title made or acquired in good faith, or an asserted right thereto, by or under claim, made in good faith with a view to entry thereof at the proper land office under the general laws of the United States at the time any such enclosure was or shall be made” to be unlawful and prohibits the maintenance or erection thereof. (See § 9269.3–4(a)(2) of this title).

(2) *Penalties.* Under section 4 of the Act of February 25, 1885 (43 U.S.C. 1064), any person violating any of the provisions of this Act, whether as owner, part owner, or agent, or who shall aid, abet, counsel, advise, or assist in any violation hereof, shall be deemed guilty of a misdemeanor and fined a sum not exceeding \$1,000, or be imprisoned not exceeding one year, or both, for each offense.

(b) *Grazing administration; Alaska; livestock.* (1) Grazing livestock upon, allowing livestock to drift and graze on, or driving livestock across lands that are subject to lease or permit under the provisions of part 9230 of this title or within a stock driveway, without a lease or other authorization from the

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Bureau of Land Management, is prohibited and constitutes trespass. Trespassers will be liable in damages to the United States for forage consumed and for injury to Federal property, and may be subject to criminal prosecution for such unlawful acts. A lessee who grazes livestock in violation of the terms and conditions of his lease by exceeding numbers specified, or by allowing the livestock to be on Federal land in an area or at a time different from that designated in his lease shall be in default and shall be subject to the provisions of § 4220.7 (g) and (h) of this title.

(2) *Penalties.* Under section 2 of the Taylor Grazing Act, any person who willfully grazes livestock in such areas without such authority shall, upon conviction, be punished by a fine of not more than \$500.

(c) *Grazing administration; Alaska; reindeer.* (1) Any use of the Federal lands for reindeer grazing purposes, unless authorized by a valid permit issued in accordance with the regulations in part 4300 of this title, is unlawful and is prohibited.

(2) *Penalties.* Any person who willfully violates any of the rules and regulations in part 4300 of this title shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by imprisonment for not more than one year, or by a fine of not more than \$500.

(d) *Wild free-roaming horse and burro protection, management, and control.* [Reserved]

### § 9269.3-5 Timber management.

(a) *Sales of forest products; general.* [Reserved]

(b) *Non-sale disposals; general—*(1) *Unauthorized cutting of timber-mineral and non-mineral lands.* (i) The cutting or removing of the timber referred to in §§ 5511.1 to 5511.1-4 of this title in any other manner than that authorized by such sections will be considered a trespass.

(ii) The cutting of timber for sale and speculation, or for use by others than the permittee, is strictly prohibited.

(iii) Where permits are secured by fraud or timber is not used in accordance with § 5511.1-4 of this title, the Government will enforce the same civil and criminal liabilities as in other cases of timber trespass upon public lands.

(2) *Unauthorized cutting of timber—Alaska.* The cutting of the timber from the public land in Alaska, other than in accordance with the terms of the law and §§ 5511.2 to 5511.2-6 of this title shall render the persons responsible for trespass and such persons may be prosecuted criminally under title 18 U.S.C., (see § 9265.5(d) of this title), or under State law.