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FSH 2709.11 – SPECIAL USES HANDBOOK

**CHAPTER 80 – OPERATING PLANS AND AGREEMENTS
FOR POWERLINE FACILITIES**

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Digest:

80 – This new chapter implements section 512 of the Federal Land Policy and Management Act (FLPMA), as added by section 211 of division O, Consolidated Appropriations Act, 2018, codified at 43 U.S.C. 1772, and the Forest Service’s implementing regulations at 36 CFR 251.56(h). Section 512 of FLPMA and its implementing regulations govern the development, review, and approval of proposed operating plans and agreements for vegetation management, inspection, and operation and maintenance of electric transmission and distribution line facilities (powerline facilities) on National Forest System (NFS) lands. Section 512 operating plans and agreements apply inside the linear right-of-way for powerline facilities and on NFS lands adjacent to either side of the right-of-way as provided for in the directive.

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80.1 – Objective

The objective of this directive is to implement the requirements in section 512 of the Federal Land Policy and Management Act (FLPMA), as added by section 211 of division O, Consolidated Appropriations Act, 2018, which governs the development, review, and approval of proposed operating plans and agreements for vegetation management, inspection, and operation and maintenance of powerline facilities on National Forest System (NFS) lands inside the linear right-of-way for powerline facilities and on NFS lands adjacent to either side of the right-of-way as provided for in this directive.

The goal of approved operating plans and agreements is to provide for long-term, cost-effective, efficient, and timely inspection, operation and maintenance, and vegetation management of powerline facilities on NFS lands, within the linear right-of-way for the powerline facilities and on NFS lands adjacent to either side of the right-of-way as provided in this directive, to enhance electrical grid reliability, promote public safety, and avoid fire hazards.

As required by section 512 of FLPMA and the Forest Service's implementing regulations, this directive:

1. Was developed in consultation with owners;
2. Is compatible with mandatory reliability standards established by the Electric Reliability Organization;
3. Considers all applicable law, including fire safety and electrical system reliability requirements, such as the reliability standards established by the Electric Reliability Organization;
4. Considers the 2016 Memorandum of Understanding on Vegetation Management for Powerline Rights-of-Way Among the Edison Electric Institute, Utility Arborist Association, the National Park Service, the Bureau of Land Management, the Forest Service, and the U.S. Environmental Protection Agency (2016 MOU), and any successor memorandum of understanding (MOU);
5. Seeks to minimize the need for case-by-case approvals for routine vegetation management (including hazard tree removal), powerline facility inspection, and operation and maintenance of powerline facilities; and
6. Provides for prompt and timely review of requests to conduct routine vegetation management.

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80.2 – Authorities

The principal laws and regulations governing this directive include:

1. Title V of FLPMA, 43 U.S.C. 1761-1772. This act establishes requirements for authorizing powerline facilities on NFS lands, including the scope of and liability for special use authorizations for powerline facilities. Section 512 of FLPMA, 43 U.S.C. 1772, establishes requirements and procedures for operating plans and agreements for special use authorizations for powerline facilities on NFS lands, both within the linear right-of-way for powerline facilities and on NFS lands adjacent to either side of the right-of-way.
2. Special Uses Regulations, 36 CFR Part 251, Subpart B. These regulations govern issuance and administration of special use authorizations for use and occupancy of NFS lands, including review and approval of proposed operating plans and agreements for special use authorizations for powerline facilities in accordance with section 512 of FLPMA.

80.3 – Policy

It is the Forest Service's policy to require, review, and approve proposed operating plans and agreements for special use authorizations for powerline facilities consistent with section 512 of FLPMA, the Forest Service's special use regulations at 36 CFR Part 251, Subpart B, and this directive.

80.4 – Responsibilities

1. The Washington Office Director of Lands and Realty Management is responsible for:
 - a. Developing, issuing, and maintaining directives implementing section 512 of FLPMA, including procedures developed jointly by the Forest Service and the United States Department of the Interior, Bureau of Land Management, for review and approval of proposed operating plans and agreements for special use authorizations for powerline facilities.
 - b. Developing standard clauses in special use authorizations for powerline facilities governing operating plans and agreements consistent with section 512 of FLPMA, the Forest Service's implementing regulations, and this directive and ensuring the standard clauses are included in existing and new special use authorizations for powerline facilities.

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- c. Ensuring that documentation of requests for approval of routine vegetation management under approved operating plans and agreements and responses or lack of responses to those requests are reported annually on the Washington Office Lands and Realty Management website by April 1 of the year following submission of the documentation by authorized officers.
 - d. Providing training and training materials with input from the electric utility industry that include instruction on reliability standards established by North American Electric Reliability Corporation (NERC) and new technologies for operating, maintaining, and inspecting powerline facilities.
 - e. Assisting field units in resolving programmatic issues related to implementation of this directive and associated statutes and regulations.
2. Authorized officers are responsible for:
- a. Implementing this directive for existing and new powerline facilities on NFS lands under their jurisdiction and for existing and new powerline facilities on NFS lands for which they have delegated authority from the regional forester for purposes of issuance and administration of a master powerline facility permit or easement.
 - b. Consistent with 36 CFR 251.58 and its implementing directives, executing category 5 master or category 6 major cost recovery agreements with owners and operators for review and approval of proposed operating plans and agreements, modification of approved operating plans and agreements, and Class III activities (sec. 87.3).
 - c. Ensuring to the maximum extent practicable that their employees who work with owners and operators on the development of proposed operating plans and agreements and who review and approve the proposed operating plans and agreements are trained on this directive.
 - d. Annually documenting requests for approval of routine vegetation management and responses or lack of responses to those requests under approved operating plans and agreements for powerline facilities on NFS lands under the authorized officer's jurisdiction or delegated authority and submitting that documentation to the Washington Office Director of Lands and Realty Management by March 1 the following calendar year.

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80.5 – Definitions

Access Road or Trail. A road or trail constructed, operated, and maintained by an owner or operator that is necessary to access powerline facilities.

Bulk-Power System. A system consisting of powerline facilities and control systems necessary for operating an interconnected electric energy transmission network or any part of it, other than facilities used in the local distribution of electric energy, and electric energy from generation facilities needed to maintain transmission reliability.

Conductor. Cable or wire that transmits electricity and is often referred to as a “transmission line.”

Edison Electric Institute (EEI). The association that represents all investor-owned electric companies in the United States.

Electric Reliability Organization. An independent, self-regulating entity created by the Energy Policy Act of 2005 that has been certified by Federal Energy Regulatory Commission (FERC) to enforce reliability standards on all users, owners, and operators of the nation’s electric transmission system.

Fiber Optic Cable. An all-dielectric, self-supporting, non-conducting cable consisting of a central core surrounded by buffer tubes containing optical fibers and covered with a protective polyethylene jacket; an optical ground wire; or an overhead ground wire with optical fibers integrated into the design of the cable to provide communications capability as well as lightning protection.

Hazard Tree. For purposes of vegetation management for a powerline facility, any tree, brush, shrub, other plant, or part thereof, hereinafter “vegetation” (whether located on NFS lands inside or outside the linear right-of-way for the powerline facility), that has been designated, prior to failure, by a certified or licensed arborist or forester under the supervision of the Forest Service or the owner or operator to be:

1. Dead; likely to die or fail before the next routine vegetation management cycle; or in a position that, under geographical or atmospheric conditions, could cause the vegetation to fall, sway, or grow into the powerline facility before the next routine vegetation management cycle; and
2. Likely to cause substantial damage to the powerline facility; disrupt powerline facility service; come within 10 feet of the powerline facility; or come within the minimum vegetation clearance distance as determined in accordance with applicable reliability

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and safety standards and as identified in the special use authorization for the powerline facility and the associated approved operating plan or agreement.

Linear Right-of-Way. An authorized right-of-way for a linear facility, such as a road, trail, pipeline, powerline facility, fence, water transmission facility, or fiber optic cable, whose linear boundary is delineated by its legal description.

Master Powerline Facility Permit or Easement. A permit or an easement that covers more than one powerline facility to streamline authorization of an owner's or operator's powerline facilities and administration of the associated powerline facility permits or easements, including consolidation of the number of powerline facility permits and easements and their expiration dates, points of contact, and operating plans or agreements.

Maximum Operating Sag. The theoretical position of a powerline facility conductor (wire) when operating at 100 degrees Celsius, which must be accounted for when determining minimum vegetation clearance distance.

Minimum Vegetation Clearance Distance. A calculated minimum distance stated in feet or meters measured from a powerline facility conductor (wire) at maximum operating sag to vegetation on NFS lands within the linear right-of-way for a powerline facility and on NFS lands adjacent to either side of the right-of-way to remove or prune hazard trees, which the owner or operator uses to determine whether vegetation poses a system reliability hazard to the powerline facility.

North American Electric Reliability Corporation (NERC). The Electric Reliability Organization certified by FERC for the purpose of developing and enforcing reliability standards for the bulk-power system in North America.

North American Electrical Power Grid (the Electrical Grid). The interconnection of hundreds of thousands of miles of high-voltage powerline facilities and millions of miles of low-voltage powerline facilities with distribution transformers that connect thousands of power plants to hundreds of millions of electricity customers across North America.

Operating Plan or Agreement for a Powerline Facility (Operating Plan or Agreement). A plan or agreement prepared by the owner or operator of a powerline facility, approved by the authorized officer, and incorporated by reference into the corresponding special use authorization that provides for long-term, cost-effective, efficient, and timely inspection, operation, maintenance, and vegetation management of the powerline facility on NFS lands within the linear right-of-way for the powerline facility and on NFS lands adjacent to either side of the right-of-way to remove or prune hazard trees and to construct, reconstruct, and

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maintain access roads and trails, to enhance electric reliability, promote public safety, and avoid fire hazards.

Owner or Operator. For purposes of a powerline facility, the owner or operator of the powerline facility or a contractor or other agent engaged by the owner or operator of the powerline facility.

Powerline Facility. One or more electric distribution or transmission lines authorized by a special use authorization, and all appurtenances to those lines supporting conductors of one or more electric circuits of any voltage for the transmission of electric energy, overhead ground wires, and communications equipment for communications uses that solely support operation and maintenance of the electric distribution or transmission lines and is not leased to other parties for communications uses that serve other purposes.

Powerline Facility Maintenance.

1. Emergency Maintenance. Immediate repair or replacement of any component of a powerline facility that is necessary to prevent imminent loss, or to redress the loss, of electrical service due to equipment failure in accordance with applicable reliability and safety standards and as identified in an approved operating plan or agreement.
2. Non-Routine Maintenance. Realigning, upgrading, rebuilding, or replacing an entire powerline facility or any segment of it, including reconductoring, as identified in an approved operating plan or agreement.
3. Routine Maintenance. Repair or replacement of any component of a powerline facility due to ordinary wear and tear, such as repair of broken strands of conductors and overhead ground wire; replacement of hardware (e.g., insulator assembly) and accessories; maintenance of counterpoise, vibration dampers, and grading rings; scheduled replacement of decayed and deteriorated wood poles; and aerial or ground patrols to perform observations, conduct inspections, correct problems, and document conditions to provide for operation in accordance with applicable reliability and safety standards and as identified in an approved operating plan or agreement.

Reliability Standard. A requirement developed and enforced by NERC to provide for reliable planning and operation of the bulk-power system in North America, including operation of existing bulk-power system facilities and the design of planned additions or modifications to those facilities to the extent necessary to provide for reliable operation of the bulk-power system, but not including any requirement to enlarge bulk-power facilities or to construct new transmission or generation capacity.

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Vegetation Management.

1. Emergency Vegetation Management. Unplanned pruning or removal of vegetation on NFS lands within the linear right-of-way for a powerline facility and unplanned pruning or removal of hazard trees on NFS lands adjacent to either side of the right-of-way that have contacted or present an imminent danger of contacting the powerline facility to avoid the disruption of electric service or to eliminate an immediate fire or safety hazard.
2. Non-Emergency (Routine) Vegetation Management. Planned actions as described in an operating plan or agreement periodically taken to remove vegetation, in whole or in part, on NFS lands within the linear right-of-way for a powerline facility and on NFS lands adjacent to either side of the right-of-way to remove or prune hazard trees to ensure normal powerline facility operations and to prevent wildfire in accordance with applicable reliability and safety standards and as identified in an approved operating plan or agreement.

81 – USE OF OPERATING PLANS AND AGREEMENTS

An operating plan or agreement consistent with section 512 of FLPMA, the Forest Service's implementing regulations, and this directive is required for all new and existing powerline facilities on NFS lands. The authorized officer shall ensure that clauses requiring an operating plan or agreement that meets these requirements are included in all existing special use authorizations for powerline facilities using the appropriate clauses in Chapter 50 of this Handbook and in all new special use authorizations for powerline facilities using the appropriate approved powerline facility authorization form.

Operating plans and agreements differ in terms of when they may be utilized and the strict liability limit that applies to activities conducted under them.

81.1 – When Operating Plans Must be Utilized

An operating plan, rather than an operating agreement, must be utilized for powerline facilities that:

1. Are subject to NERC reliability standards; and
2. Sold more than 1,000,000 megawatt hours of electricity for purposes other than resale during each of the 3 calendar years during the period of March 23, 2015, to March 23, 2018.

DURATION: This (policy) is effective until superseded or removed.

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Generally, powerline facilities that carry 69 or more kilovolts of electricity meet both of these criteria and must have an operating plan, rather than an operating agreement.

Activities conducted under an operating plan are subject to strict liability up to the limit specified in 36 CFR 251.56(h)(2), as amended, per occurrence (sec. 89, para. 1).

81.2 – When Operating Agreements May be Utilized

An operating agreement, rather than an operating plan, may be utilized for powerline facilities that:

1. Are not subject to NERC reliability standards; or
2. Sold 1,000,000 megawatt hours or less of electricity for purposes other than resale during each of the 3 calendar years during the period of March 23, 2015, to March 23, 2018.

Generally, powerline facilities that carry less than 69 kilovolts of electricity meet one or both criteria and may have an operating agreement.

Activities conducted under an operating agreement are subject to strict liability up to \$500,000 per occurrence until March 23, 2028, at which time they are subject to strict liability up to the limit specified in 36 CFR 251.56(d)(2), as amended, per occurrence (sec. 89, para. 3).

82 – SCOPE OF OPERATING PLANS AND AGREEMENTS

An operating plan or agreement shall cover all the activities authorized under a powerline facility special use authorization, both inside the linear right-of-way for the powerline facilities and on NFS lands adjacent to either side of the linear right-of-way, including:

1. Emergency and routine vegetation management; emergency, non-routine, and routine powerline facility maintenance; and inspection and operation of powerline facilities inside their linear right-of-way;
2. Emergency and routine vegetation management involving removal and pruning of hazard trees adjacent to either side of the linear right-of-way for powerline facilities; and
3. Construction, reconstruction, and maintenance of access roads and trails inside and adjacent to either side of the linear right-of-way for powerline facilities.

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83 – REQUIREMENTS FOR SUBMITTING PROPOSED OPERATING PLANS AND AGREEMENTS FOR REVIEW AND APPROVAL

The authorized officer shall ensure that a proposed operating plan or agreement for all existing and new powerline facilities on NFS lands for which the authorized officer has jurisdiction or delegated authority is submitted to the authorized officer for review and written approval in accordance with this directive before the operating plan or agreement is implemented.

1. Existing Operating Plans. If an existing powerline facility has an operating plan, the authorized officer shall determine, in consultation with the owner or operator, whether the operating plan is consistent with this directive and whether the owner or operator is eligible for an operating agreement or must have an operating plan (sec. 81.1 and 81.2), and shall notify the owner or operator of those determinations.
 - a. If the authorized officer determines that the existing operating plan is consistent with this directive (including compliance with applicable laws for environmental analysis and consultation), the operating plan does not have to be submitted for reapproval by the authorized officer. If the authorized officer determines that the owner or operator is eligible for an operating agreement and the owner or operator chooses to have an operating agreement, the authorized officer shall rename the operating plan as an operating agreement and shall administer the associated powerline facility permit or easement in accordance with the strict liability provisions in section 89, paragraph 3.
 - b. If the authorized officer determines that the existing operating plan is inconsistent with this directive, the authorized officer shall ensure that, within 18 months of the date of notification that the operating plan is inconsistent with this directive, the owner or operator modifies the operating plan to be consistent with this directive and submits it to the authorized officer for review and approval (sec. 86, para. 1 and 2). The owner or operator may continue to operate its authorized powerline facility pending approval of a modified operating plan. If the authorized officer determines that the owner or operator is eligible for an operating agreement, the owner or operator may submit an operating plan or an operating agreement for review and approval.
2. Lack of an Operating Plan. If an existing powerline facility does not have an operating plan, the authorized officer shall ensure that by August 10, 2023, the owner or operator submits a proposed operating plan or agreement consistent with this directive for review and approval (sec. 86, para. 1 and 2). The owner or operator may continue to operate its authorized powerline facility pending approval of a proposed operating plan or agreement.

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3. New Powerline Facilities. The authorized officer shall ensure that a new powerline facility has an operating plan or agreement consistent with this directive that has been reviewed and approved by the authorized officer (sec. 86, para. 1 and 2) before issuing a special use authorization for the new powerline facility. The authorized officer may also require the owner or operator to submit a short-term plan for protection and restoration of NFS lands and resources during the construction phase for the new powerline facility.
4. Review of Approved Operating Plans and Agreements. Every 5 years from the approval date of an operating plan or agreement, the authorized officer shall ensure that the owner or operator review and, as necessary, update the approved operating plan or agreement to be consistent with changed conditions and submit it to the authorized officer for review and approval (sec. 86, para. 1 and 2).
5. Expiration of an Approved Operating Plan or Agreement. Upon expiration of a powerline facility permit or easement, the associated approved operating plan or agreement shall expire. The authorized officer shall ensure that the owner or operator prepare a new proposed operating plan or agreement, either solely or in consultation with the authorized officer, and submit it to the authorized officer for review and approval (sec. 86, para. 1 and 2).

84 – MINIMUM CONTENT OF OPERATING PLANS AND AGREEMENTS

Owners and operators may develop a proposed operating plan or agreement on their own or in consultation with the authorized officer.

An operating plan or agreement should include provisions deemed necessary or important by the owner or operator and the authorized officer to ensure safe and reliable operation of powerline facilities on NFS lands, while minimizing the need for case-by-case environmental analysis and authorized officer approval for routine vegetation management (including hazard tree removal inside the linear right-of-way for the powerline facilities and on NFS lands adjacent to either side of the linear right-of-way), powerline facility inspection, routine powerline facility operation and maintenance, and routine operation and maintenance of access roads and trails. Section 84, exhibit 01, contains a sample operating plan or agreement that is consistent with section 512 of FLPMA, the Forest Service's implementing regulations, and this directive.

At a minimum, the authorized officer shall ensure that operating plans and agreements for powerline facilities on NFS lands under the jurisdiction of the authorized officer or for which the authorized officer has delegated authority:

1. Identify the powerline facilities covered by the operating plan or agreement, including supporting equipment such as fiber optic cable and communications equipment, using

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nomenclature employed for tracking special uses in the Special Uses Data System;

2. Specify the length and width and the location of the powerline facilities covered by the operating plan or agreement, including a geographical description and a map of the associated permit or easement area;
3. Consider preexisting operating plans and agreements for the powerline facilities covered by the operating plan or agreement;
4. Address the roles and responsibilities of the authorized officer and owner or operator and provide contact information (including a cellular telephone number and email address) during the workday and after hours for the authorized officer and owner or operator, their relevant staffs, and contractors and agents;
5. Specify requirements and procedures for coordination and notification between the owner or operator and the authorized officer and for review and acknowledgment or approval by the authorized officer;
6. Classify the types of activities to be conducted under the operating plan or agreement based on whether they will require additional environmental analysis and prior notice to, coordination with, and acknowledgment or approval from the authorized officer; specify the type of additional environmental analysis, prior notice, coordination, and acknowledgment or approval required for each type of activity; and specify the timeframes for prior notice, coordination, and acknowledgment or approval for each type of activity (sec. 87);
7. Cite to applicable Federal and State laws, land management plans, reliability and safety standards, and the 2016 MOU or the current successor MOU;
8. Document measures taken to comply with applicable laws for environmental analysis and consultation for protection of threatened and endangered species, other species of concern, and cultural resources and specify any limitations or restrictions based on applicable land management plans; threatened or endangered species or other species of concern; archaeological and paleontological discoveries; or other resource concerns, including maps, as appropriate;
9. Describe the vegetation management, inspection, and operation and maintenance methods that may be used to ensure compliance with all applicable law (including fire safety requirements and NERC reliability standards); applicable land management plans; and any limitations or restrictions based on resource concerns and that may be used to provide for environmental compliance; fire control; routine, non-routine, and emergency

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powerline facility maintenance; and road and trail construction, reconstruction, and maintenance in support of the powerline facilities covered by the operating plan or agreement;

10. Identify best management practices for vegetation management; schedules for conducting routine vegetation management; the applicable minimum vegetation clearance distance; procedures for designating, marking, and removing or pruning hazard trees and other vegetation; and road and trail standards and best management practices;
11. Describe the types of equipment (including unmanned aircraft systems, i.e., drones) and pesticides that may be used and how they may be used to conduct activities under the operating plan or agreement, including any restrictions on their use;
12. Identify fire mitigation and general safety requirements, including a plan for controlling fire;
13. Specify procedures for disposal and payment of timber and removal of slash;
14. Include an inventory of access roads and trails and NFS roads and trails that maybe used in conducting activities under the operating plan or agreement, including any restrictions on use, requirements for a road use permit, and construction, reconstruction, and maintenance requirements;
15. For an operating agreement only, reflect the financial resources of the owner or operator, including at a minimum documentation that the owner or operator sold 1,000,000 megawatt hours or less of electricity for purposes other than resale during each of the 3 calendar years during the period of March 23, 2015, to March 23, 2018; and
16. Specify the procedures for modifying the approved operating plan or agreement (sec. 86, para. 3 and 4).

85 – REQUIREMENTS, STANDARDS, AND OTHER CONSIDERATIONS FOR DEVELOPING, REVIEWING, AND APPROVING PROPOSED OPERATING PLANS AND AGREEMENTS

The authorized officer shall ensure that a category 5 master or category 6 major cost recovery agreement is in place and that the requisite environmental analysis has been completed before reviewing and approving a proposed operating plan or agreement. The authorized officer should consider whether it would be feasible and appropriate to perform a programmatic environmental analysis to expedite review and approval of proposed operating plans and agreements for

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powerline facilities on NFS lands under the jurisdiction of the authorized officer or for which the authorized officer has delegated authority.

In developing, reviewing, and approving proposed operating plans and agreements, the authorized officer shall:

1. Ensure compliance with the statutory and regulatory requirements governing use and occupancy of NFS lands, including section 512 of FLPMA, the Forest Service's implementing regulations, and this directive;
2. Address compliance with other applicable Federal and State laws;
3. To the greatest extent practicable and to the extent allowed by law, conduct only the environmental analysis and consultation necessary to authorize routine vegetation management and routine powerline facility maintenance and inspection for the term of the powerline facility permit or easement without requiring case-by-case environmental analysis and approval;
4. Consider all applicable fire safety and bulk-power system reliability standards and requirements, including but not limited to:
 - a. NERC FAC-003. NERC FAC-003 is the national reliability standard for maintaining the minimum vegetation clearance distance for powerline facilities that carry 230 kilovolts or more of electricity and for certain other powerline facilities identified as critical by NERC;
 - b. The National Electric Safety Code and the Institute of Electrical and Electronic Engineers Standards. The National Electric Safety Code and the Institute of Electrical and Electronic Engineers Standards specify the minimum clearance between conductors (wires) and workers, tools, or vegetation under normal operating conditions; and
 - c. American National Standards Institute (ANSI) A300. ANSI A300 is the national standard used by industry and governments to develop written specifications for projects involving pruning or removal of vegetation;
5. Consider the 2016 MOU or the current successor MOU, which addresses cooperation and coordination among the parties regarding vegetation management on NFS lands inside the linear right-of-way for a powerline facility and on NFS lands adjacent to either side of the linear right-of-way;

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6. Ensure that the proposed operating plan or agreement provides for integrated vegetation management (IVM) that specifically addresses efforts to increase or sustain pollinator habitats. IVM is a type of forest management that controls the growth and composition of forest vegetation for an array of objectives, including wildlife habitat, timber, water resources, and recreation. IVM seeks to promote desirable and stable plant communities using appropriate, environmentally sound, and cost-effective control methods. These methods can include a combination of chemical, biological, cultural, mechanical, and manual treatments; and
7. Consider best management practices for powerline facility safety, including the use of new technologies.

86 – PROCEDURES FOR DEVELOPMENT, REVIEW, AND APPROVAL OF PROPOSED OPERATING PLANS AND AGREEMENTS AND PROPOSED MODIFICATIONS TO APPROVED OPERATING PLANS AND AGREEMENTS

1. Development of Proposed Operating Plans and Agreements.
 - a. The authorized officer shall ensure that owners or operators are aware of their obligation to prepare a proposed operating plan or agreement consistent with section 512 of FLPMA, the Forest Service's implementing regulations, and this directive.
 - b. To allow for and expedite review and approval, the authorized officer shall encourage owners and operators to consult with the authorized officer in developing a proposed operating plan or agreement.
2. To ensure completeness and compliance of proposed operating plans and agreements, the authorized officer shall use, to the maximum extent practicable, the process iterated in section 86, exhibit 01, for consulting with owners and operators on development of proposed operating plans and agreements. To expedite review and approval of proposed operating plans and agreements and implementation of approved operating plans and agreements, the authorized officer shall follow the process iterated in section 86, exhibit 01, and paragraph 2 of this section.
3. Procedures for Review and Approval of Proposed Operating Plans and Agreements. The authorized officer shall review and approve proposed operating plans and agreements in accordance with procedures developed jointly by the Forest Service and the BLM, which shall be consistent with applicable law and which are outlined in this section. These procedures:

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- a. Provide that the requisite environmental analysis must be completed before a proposed operating plan or agreement is submitted for review and approval by the authorized officer;
- b. Specify that the authorized officer has 30 days to submit comments on a proposed operating plan or agreement to the owner or operator; and
- c. Provide that a proposed operating plan or agreement shall be approved, to the maximum extent practicable, within 120 days from the date the proposed operating plan or agreement was received by the authorized officer, with the understanding that such factors as the number of proposed operating plans and agreements and proposed modifications to approved operating plans and agreements under review by the authorized officer and the number of powerline facilities covered under a single operating plan or agreement may affect the practicability of approving a proposed operating plan or agreement within 120 days from the date of receipt.

A proposed operating plan or agreement must be approved in writing by the authorized officer and must be signed and dated by the authorized officer and the owner or operator prior to implementation.

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86, para. 1 through 3 – Exhibit 01

**Development, Review, and Approval of
Proposed Operating Plans and Agreements**

STAGE AND RECOMMENDED TIMELINE	KEY ACTIONS
Planning: 90 days	<ul style="list-style-type: none"> <input type="checkbox"/> Document owner’s or operator’s intent to submit a proposed operating plan or agreement. <input type="checkbox"/> Determine whether the owner or operator would like to convert to a current powerline facility permit or easement and whether the owner or operator would like a master powerline facility permit or easement. <input type="checkbox"/> Schedule and convene an initial in-person meeting: <ul style="list-style-type: none"> <input type="checkbox"/> Discuss the requirements and minimum content of an operating plan or agreement. <input type="checkbox"/> Discuss applicable cost recovery fees and the requisite environmental analysis and consultation. <input type="checkbox"/> Discuss the timeline for review and approval of a proposed operating plan or agreement. <input type="checkbox"/> Share contact information for key Forest Service and owner or operator personnel.
Development: 90 days	<ul style="list-style-type: none"> <input type="checkbox"/> Agree on development schedule, including site visits and meetings. <input type="checkbox"/> Draft an outline of the proposed operating plan or agreement. <input type="checkbox"/> Establish a project team, including relevant specialists, relevant program managers, and the authorization administrators. <input type="checkbox"/> Plan a rollout strategy, including training, communication, and implementation. <input type="checkbox"/> Initiate environmental review and consultation processes: <ul style="list-style-type: none"> <input type="checkbox"/> Clearly delimit the affected area, using maps and GIS. <input type="checkbox"/> Compile existing environmental analyses and applicable categorical exclusions (CEs), applicable land management plans, and programmatic agreements for consultation. <input type="checkbox"/> Assess whether existing environmental analysis is sufficient. <input type="checkbox"/> Draft the cost recovery agreement.

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<p>Analysis:</p> <p>240 days</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Prepare and submit the cost recovery agreement. <input type="checkbox"/> Consider all activities for vegetation management, operation and maintenance, and inspection of the powerline facilities to be covered by the proposed operating plan or agreement, including the types of equipment and methods to be used and any potential impacts. <input type="checkbox"/> Identify needed access routes, availability and utilization of environmental screening software, the process for internal review, necessary or appropriate resource protection measures, invasive weed management, road construction and maintenance, use of equipment, and other factors affecting environmental analysis. <input type="checkbox"/> NEPA <ul style="list-style-type: none"> ○ Agency directives for complying with NEPA are found at FSM 1950 and FSH 1909.15. ○ Assess existing environmental analysis (programmatic, site-specific, and land management plan analysis), and apply CEs to the maximum extent possible. ○ Consider whether to conduct surveys or on-site monitoring. ○ Conduct the requisite environmental analysis. <input type="checkbox"/> ESA Section 7 <ul style="list-style-type: none"> ○ Identify the action area. ○ Assess the potential impacts on threatened and endangered species and other species of concern and their habitat (if there are no impacts, consultation is not required). ○ Request formal consultation if adverse effects are likely. ○ Identify any needed protective or mitigation measures. <input type="checkbox"/> NHPA Section 106 <ul style="list-style-type: none"> ○ Identify historic properties in the permit or easement area. ○ Determine whether activities under the proposed operating plan or agreement may affect any historic properties. ○ Assess the adverse effects. ○ Address adverse effects in alternatives and mitigation measures. ○ Reach agreement with the affected State, affected tribes, the SHPO, and other affected parties. ○ Involve the public as appropriate. <input type="checkbox"/> Pre-Decisional Administrative Review <ul style="list-style-type: none"> ○ The objections process outlined at 36 CFR Part 218 imposes specific requirements for decisions documented with a decision notice (following an environmental assessment) or a record of decision (following an environmental impact statement).
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<p>Submission, Review, and Approval:</p> <p>120 days</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Acknowledge receipt of the proposed operating plan or agreement. <input type="checkbox"/> Review the proposed operating plan or agreement for sufficiency. <ul style="list-style-type: none"> <input type="checkbox"/> Report any missing information to the owner or operator. <input type="checkbox"/> Approve and sign the operating plan or agreement and the new authorization, if applicable). <input type="checkbox"/> Develop a rollout plan.
<p>Implementation:</p> <p>Submission of first project or annual schedule of work (sec. 87.2)</p>	<ul style="list-style-type: none"> <input type="checkbox"/> File the approved operating plan or agreement. <input type="checkbox"/> Submit a copy of the approved operating plan or agreement to the Washington Office Lands and Realty Management staff. <input type="checkbox"/> Implement the rollout plan. <input type="checkbox"/> Plan for initial activities under the approved operating plan or agreement.

4. Procedures for Modification of Approved Operating Plans and Agreements by the Authorized Officer.

- a. The authorized officer shall give an owner or operator prior written notice of any changed conditions that warrant a modification to an approved operating plan or agreement.
- b. The authorized officer shall give the owner or operator 30 days to submit a proposed modification in writing of the approved operating plan or agreement to address the changed conditions.
- c. The authorized officer shall consider and respond in writing to the proposed modification, to the maximum extent practicable, within 120 days from the date it was received by the authorized officer, with the understanding that such factors as the number of proposed operating plans and agreements and proposed modifications to approved operating plans and agreements under review by the authorized officer and the number of powerline facilities covered under a single operating plan or agreement may affect the practicability of responding to the proposed modification within 120 days from the date of receipt.
- d. Modifications to the approved operating plan or agreement by the authorized officer must be made in writing and must be signed and dated by the authorized officer and the owner or operator.

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- e. The owner or operator may continue to implement the approved operating plan or agreement pending adoption of the modification to the extent implementation does not directly and adversely affect the conditions prompting the modification.
5. Procedures for Modification of Approved Operating Plans and Agreements Proposed by Owners or Operators.
- a. At any time, the owner or operator may submit a proposed modification to the approved operating plan or agreement for review and approval by the authorized officer.
 - b. The authorized officer shall consider the proposed modification consistent with the procedures described in paragraph 3c of this section and shall respond in writing to the proposed modification.
 - c. Modifications to the approved operating plan or agreement proposed by the owner or operator must be submitted in writing and, if approved by the authorized officer, must be signed and dated by the authorized officer and the owner or operator.

87 – CLASSES OF ACTIVITIES UNDER OPERATING PLANS AND AGREEMENTS

Prior notice to, coordination, with, and acknowledgment or approval from the authorized officer of activities conducted under approved operating plans and agreements allow for compliance with Forest Service regulations requiring an application for new, changed, or additional uses or area (36 CFR 251.61) and compliance with applicable environmental and resource protection laws. In addition, prior notice, coordination, and acknowledgment or approval of activities conducted under approved operating plans and agreements allow the authorized officer to ensure the activities will not interfere with other authorized activities on NFS lands or pose a threat to the public, Forest Service staff, or owner or operator personnel.

To facilitate orderly and consistent prior notice, coordination, and acknowledgment or approval of activities conducted under approved operating plans and agreements, the authorized officer shall ensure that owners and operators classify activities under proposed operating plans and agreements as described below, with the specified prior notice and acknowledgment or approval requirements.

The authorized officer shall ensure that proposed operating plans and agreements specify timeframes for prior notice and acknowledgment or approval of activities conducted under approved operating plans and agreements. The timeframes may vary depending on the scope and scale of an owner's or operator's powerline facilities.

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The authorized officer shall ensure that all activities conducted under approved operating plans and agreements are consistent with the approved operating plan or agreement.

87.1 – Class I Activities

1. Description. Class I activities are routine activities that are deemed by the authorized officer to involve minimal or no ground disturbance or impacts on vegetation inside and outside the linear right-of-way for the powerline facilities and that do not require additional environmental analysis or consultation for threatened and endangered species and cultural resource impacts. Examples include but are not limited to inspections, ground and aerial patrols, and mapping.
2. Prior Notice. A telephone call or email is sufficient prior notice for Class I activities.
3. Prior Acknowledgment or Approval. Prior approval from the authorized officer is not required for Class I activities. However, Class I activities must have prior acknowledgment from the authorized officer by telephone or email.

87.2 – Class II Activities

1. Description. Class II activities are routine activities that are deemed by the authorized officer to involve minimal ground disturbance and impacts on vegetation inside and outside the linear right-of-way for the powerline facilities and that do not require additional environmental analysis or consultation for threatened and endangered species and cultural resource impacts. Examples include but are not limited to routine vegetation management, routine powerline facility maintenance, routine maintenance of access roads and trails and NFS roads and NFS trails, and routine repair or replacement of fiber optic cable.
2. Prior Notice. The requirement for prior notice of Class II activities conducted under an approved operating plan or agreement may be satisfied by the owner or operator submitting an annual schedule of work identifying the activities planned for the calendar year. An email or letter regarding a single project or an email transmitting an annual schedule of work is sufficient prior notice for Class II activities.
3. Prior Acknowledgment or Approval. Prior written acknowledgment from the authorized officer by email or letter is required for Class II activities, except for routine maintenance of NFS roads that requires a road use permit, which requires prior written approval by email or letter, and routine vegetation management, which requires prior written approval by email or letter, unless all 3 of the following conditions are met:

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- a. The owner or operator has submitted an email or letter requesting approval of a single routine vegetation management project or an annual schedule of work for routine vegetation management to the authorized officer in accordance with the specified timeframe in the approved operating plan or agreement;
- b. The proposed routine vegetation management is in accordance with the approved operating plan or agreement; and
- c. The authorized officer has failed to respond to the email or letter in accordance with the specified timeframe in the approved operating plan or agreement.

An annual schedule of work requires prior written acknowledgment or approval from the authorized officer by email or letter in accordance with a schedule specified in the approved operating plan or agreement. Before acknowledging or approving an annual schedule of work, the authorized officer shall ensure that it complies with the approved operating plan or agreement; determine whether additional authorization may be required for any activities in the annual schedule of work; and determine whether any changes in laws, regulations, or directives have occurred that may expedite or delay the activities in the annual schedule of work. The authorized officer may adjust an acknowledged or approved annual schedule of work to address changed conditions in accordance with section 86, paragraph 3.

87.3 – Class III Activities

1. Description. Class III activities involve new, changed, or additional uses or areas under 36 CFR 251.61. Due to their complexity, impacts, and scope, Class III activities will typically require additional environmental analysis and consultation for threatened and endangered species and cultural resource impacts. Examples include but are not limited to new construction and rerouting of powerline facilities; non-routine powerline facility maintenance; major hazard tree removal that extends beyond the linear right-of-way for a powerline facility; road and trail construction and reconstruction, non-routine road and trail use and maintenance, e.g., involving installation of drainage features, fences, gates, or signs; and installation of fiber optic cable on powerline facilities.
2. Prior Notice. Submission of an application (form FS-299) is required for prior notice of Class III activities.
3. Prior Acknowledgment or Approval. Per 36 CFR 251.61, Class III activities require prior written approval in a signed letter from the authorized officer. A new or additional special use authorization is not required. However, if Class III activities are approved, the existing powerline permit or easement must be amended to reflect the approved activities.

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87.4 – Class IV Activities

1. Description. Class IV activities include emergency vegetation management and emergency powerline facility maintenance. Class IV activities do not require additional environmental analysis and consultation for threatened and endangered species and cultural resource impacts. Examples include but are not limited to unplanned pruning or removal of hazard trees to prevent imminent contact with a powerline facility and immediate repair or replacement of powerline facility components that is necessary to restore electrical service.
2. Prior Notice. Prior notice is not required for Class IV activities.
3. Prior Acknowledgment or Approval. Prior acknowledgment or approval is not required for Class IV activities.
4. Subsequent Notice. Within 24 hours of initiating a Class IV activity, the owner or operator must notify the authorized officer by telephone or email of the location of the activity and the quantity of the emergency vegetation management or the type and scope of emergency powerline facility maintenance. Within 30 days of completing a Class IV activity, the owner or operator must submit to the authorized officer a written report detailing at a minimum the location and type of activity conducted, the reason it was conducted, its scope, the methods used to conduct it, and the resulting benefit.

88 – ADMINISTRATION OF ACTIVITIES UNDER APPROVED OPERATING PLANS AND AGREEMENTS

Activities under approved operating plans and agreements will generally be characterized as vegetation management, powerline facility maintenance, maintenance of ancillary uses such as fiber optic cable and access roads and trails, and inspections. The classification of activities (sec. 87) will determine how they are administered by the authorized officer.

88.1 – Inspections

Routine and activity-related inspections of powerline facilities are necessary to ensure their safe and reliable operation. Owners and operators are responsible for planning and conducting inspections of their powerline facilities in compliance with their powerline facility permit or easement and applicable laws and regulations and in accordance with the schedules in their approved operating plan or agreement.

1. Owners and operators are required to maintain their powerline facilities and permit or easement area to standards of repair, orderliness, neatness, sanitation, and safety deemed

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acceptable to the authorized officer and consistent with their powerline facility permit or easement and operating plan or agreement. Standards shall be subject to periodic change by the authorized officer when deemed necessary to meet statutory, regulatory, or policy requirements or to protect NFS resources.

2. The authorized officer shall perform site inspections and monitor compliance with the applicable powerline facility permit or easement and operating plan or agreement during powerline facility construction, operation, maintenance, and vegetation management, including inside the linear right-of-way for the powerline facility and on NFS lands adjacent to either side of the right-of-way, equipment staging areas, and access roads and trails. Forest Service monitoring shall ensure compliance, for example, with applicable requirements for the prevention of soil erosion and gullyng, fire safety, environmental mitigation, and protection of employees, contractors, and the public.

88.2 – Annual Reporting of Routine Vegetation Management

Each calendar year, the authorized officer shall document all requests and responses or lack of responses to requests to conduct routine vegetation management under an approved operating plan or agreement for powerline facilities on NFS lands under the jurisdiction of the authorized officer or for which the authorized officer has delegated authority. For each request, the documentation shall include:

1. The name of the owner or operator;
2. The date the request was received;
3. A brief description of the requested activity; and
4. The date and a description of the response or a statement that prior written approval was not required because all 3 criteria in section 87.2, paragraph 3, were met and an explanation showing how all 3 criteria were met.

The authorized officer shall send the documentation of annual requests and responses or lack of responses to requests to conduct routine vegetation management under an approved operating plan or agreement to the Washington Office Director of Lands and Realty Management by March 1 of the following year. The Washington Office Director of Lands and Realty Management shall post the documentation by April 1 of the following year on the Washington Office Lands and Realty Management website.

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89 – LIABILITY STANDARDS

1. Strict Liability and Negligence Generally. Except as provided in paragraphs 2 and 3 of this section, owners and operators shall be strictly liable (liable without proof of negligence) up to the limit specified in 36 CFR 251.56(d)(2), as amended, per occurrence for any injury, loss, or damage (including but not limited to fire suppression costs and destruction of or damage to NFS lands and federally owned improvements) arising in tort under owners' and operators' powerline facility special use authorizations, including but not limited to injury, loss, or damage resulting from emergency and routine vegetation management; emergency, non-routine, and routine maintenance; and inspection activities, both inside the linear right-of-way for their powerlines and on NFS lands adjacent to either side of the linear right-of-way, and both before and after an operating plan or agreement consistent with section 512, the Forest Service's implementing regulations, and this directive is approved for their powerline facility special use authorization. Liability in tort for injury, loss, or damage to the United States exceeding the prescribed amount of strict liability in tort shall be determined under the law of negligence.
2. Limitations on Imposition of Strict Liability. Notwithstanding paragraph 1 of this section, strict liability in tort may not be imposed on an owner or operator for injury, loss, or damage resulting from the authorized officer's:
 - a. Unreasonably withholding or delaying approval of a proposed operating plan or agreement; or
 - b. Unreasonably failing to adhere to an applicable timeframe in an approved operating plan or agreement.
3. Strict Liability Cap for Operating Agreements. Notwithstanding paragraph 1 of this section, owners and operators that have an operating agreement shall be strictly liable (liable without proof of negligence) up to \$500,000 per occurrence until March 23, 2028, after which time owners and operators that have an operating agreement shall be strictly liable to the United States up to the limit specified in 36 CFR 251.56(d)(2), as amended, per occurrence. Liability in tort for injury, loss, or damage to the United States exceeding the prescribed amount of strict liability in tort shall be determined under the law of negligence.

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84 – Exhibit 01

Sample Operating Plan or Agreement

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WO AMENDMENT xxxx-xxxx-x

EFFECTIVE DATE: xx/xx/2020

DURATION: This (policy) is effective until superseded or removed.

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D. SUPERIOR CLAUSES

I. PURPOSE

A. SCOPE

This operating [plan/agreement] governs vegetation management, inspection, and operation and maintenance of the powerline facilities and the [holder's/grantee's] roads and trails authorized by the Forest Service under a powerline facility [permit/easement], Authorization Identification Number [XXX] (the [permit/easement]).

B. DEFINITIONS

The definitions in Appendix A to the [permit/easement] also apply to this operating [plan/agreement].

II. COMPLIANCE WITH FEDERAL LAW AND APPLICABLE RELIABILITY AND SAFETY STANDARDS

A. FEDERAL LAW

This operating [plan/agreement] is executed under Title V of the Federal Land Policy and Management Act (FLPMA), 43 U.S.C. 1761-1772. The Forest Service must comply with the National Environmental Policy Act (NEPA), Endangered Species Act (ESA), and National Historic Preservation Act (NHPA) to the extent applicable in connection with the [permit/easement] and this operating [plan/agreement]. Pursuant to section 6 the National Forest Management Act of 1976, as amended, 16 U.S.C. 1704(i), all authorized activities and projects conducted by the [holder/grantee] within the [permit/easement] area shall be consistent with the applicable national forest land management plan and any other applicable land management plans.

B. APPLICABLE RELIABILITY AND SAFETY STANDARDS

The [holder/grantee] is subject to utility reliability standards issued by the Federal Energy Regulatory Commission (FERC), the North American Electric Reliability Council (NERC), and, as applicable, the regional entity designated by NERC (e.g., the Western Electricity Coordination Council (WECC) and other standards, including the National Electrical Safety Code (NESC) and standards issued by the Occupational Safety and Health Administration (OSHA) and the American National Standards Institute (ANSI).

III. COORDINATION

A. RESPONSIBLE PARTIES

The authorized officer for the Forest Service and the [holder's/grantee's] designated principal contact or the programmatic contacts listed in paragraph XI.A are responsible for implementation of this operating [plan/agreement].

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B. TYPES OF ACTIVITIES AND PROJECTS

1. The [holder/grantee] shall coordinate with the Forest Service regarding activities and projects planned or proposed by the [holder/grantee] under this operating [plan/agreement] as set forth in the [permit/easement] and this operating [plan/agreement] and using Appendix A of this operating [plan/agreement], [Holder/Grantee] Activities, as a guide.
2. This operating [plan/agreement] outlines the work the [holder/grantee] conducts in three distinct categories: operation and maintenance of powerline facilities, roads and trails, and vegetation management.

C. MEETINGS REGARDING ACTIVITIES AND PROJECTS

1. The [holder/grantee] and the Forest Service shall plan to meet annually regarding activities and projects planned or proposed by the [holder/grantee] or the Forest Service within the [permit/easement] area. The [holder/grantee] and the Forest Service may agree to shorter intervals based upon resources and planned or proposed activities or projects. Either party may request, organize, and schedule additional meetings. Meetings may occur at different levels of responsibility and at different locations. Discussion topics may include but are not limited to:
 - Planned activities and proposed projects (annual and long-term);
 - Road and trail work requests;
 - Road abandonment;
 - Public use of the permit area;
 - Unauthorized use of NFS lands;
 - Vegetation management, including invasive plant management; and
 - Public safety.
2. At least 30 days prior to a scheduled meeting, the [holder/grantee] and the Forest Service shall provide each other with a description of and schedule for planned activities and proposed projects to be addressed at the meeting.

D. NOTICE OF FOREST SERVICE ACTIVITIES AND PROJECTS

The Forest Service shall give advance notice to and coordinate with the [holder/grantee] regarding activities and projects planned or proposed by the Forest Service within the [permit/easement] area that may impact operation or maintenance of or access to the powerline facilities, such as:

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- Timber sales;
- Major road maintenance;
- Road closures or changes to motor vehicle access;
- Revisions to the applicable land management plan;
- Land sales, land adjustments, and mining operations;
- Fish, wildlife, plant, soil, and water resource management; and
- Forest management (e.g., burning, thinning, brushing, spraying, and planting).

The Forest Service shall take appropriate precautions to prevent a prescribed burn conducted outside the linear right-of-way for the powerline facilities on NFS lands from moving inside the linear right-of-way for the powerline facilities.

When preparing a package for a timber sale near the [holder's/grantee's] powerline facilities on NFS lands, the Forest Service shall include the following language in the associated National Environmental Policy Act document, timber sale prospectus, and timber sale contract:

No sale operations are allowed within XXX feet of [holder's/grantee's] powerline facility right-of-way without XX days prior written notice to [holder/grantee] and review of and compliance with [holder's/grantee's] safety plan for the powerline facilities. Written notice should be given to [name, address, email address, and telephone number].

E. NOTICE OF [HOLDER/GRANTEE] ACTIVITIES

The [holder/grantee] shall provide prior notice to the authorized officer of the [holder's/grantee's] activities in accordance with applicable law and applicable prior notification, coordination, and acknowledgment or approval requirements in 36 CFR 251.61(a), the [permit/easement], and this operating [plan/agreement], using Appendix A as a guide.

IV. LAND MANAGEMENT PLANS, ENVIRONMENTAL COMPLIANCE, AND RESOURCE PROTECTION

A. LAND MANAGEMENT PLANS

The Forest Service shall be responsible for determining whether activities conducted under the [permit/easement] and this operating [plan/agreement] are consistent with applicable land management plans.

The [holder/grantee] shall coordinate with the Forest Service in the preliminary design stage for the [holder's/grantee's] proposed non-routine powerline facility maintenance, road

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construction and reconstruction, and fiber optic cable installation projects in the [permit/easement] area regarding whether these projects are consistent with applicable land management plans.

B. ENVIRONMENTAL COMPLIANCE

See Appendix A for guidance on environmental compliance associated with Class III activities conducted by the [holder/grantee] under this operating plan.

C. INVASIVE SPECIES MANAGEMENT

In planning activities in the [permit/easement] area and in conducting supporting environmental analysis, the [holder/grantee] and the Forest Service shall strive to address the need to minimize the introduction and spread of invasive species.

E. PESTICIDE APPLICATION

The [holder/grantee] shall comply with the pesticide application provision in the [permit/easement].

V. POWERLINE FACILITIES

A. OBJECTIVES AND STANDARDS

1. The [holder's/grantee's] maintenance objectives for the powerline facilities are to provide for cost-effective, safe, and reliable operation while minimizing impacts on the environment.
2. All powerline facility maintenance activities and projects shall meet all applicable safety and industrial standards, including FERC, NERC, NESC, OSHA, and WECC standards.

B. BEST MANAGEMENT PRACTICES (BMPs)

1. The [holder's/grantee's] powerline facility maintenance activities and projects in the [permit/easement] area shall follow applicable Forest Service National Core BMPs, which are incorporated in the Forest Service's BMP Technical Guide. The Forest Service's BMP Technical Guide is posted at <http://www.fs.fed.us/biology/watershed/BMP.html>. Not all BMPs apply to every activity. BMPs should be applied consistent with local conditions, resource values, and designated uses of water.

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2. In addition to following applicable Forest Service National Core BMPs, the [holder/grantee] shall minimize soil disturbance during powerline facility maintenance activities.

VI. ROADS AND TRAILS

A. STANDARDS AND BMPS

1. Access roads and trails and NFS roads and NFS trails shall be constructed, reconstructed, and maintained in accordance with applicable standards.
2. The [holder's/grantee's] road and trail maintenance activities and projects in the [permit/easement] area shall follow applicable Forest Service National Core BMPs, which are incorporated in the Forest Service's BMP Technical Guide. Not all BMPs apply to every activity. BMPs should be applied consistent with local conditions, resource values, and designated uses of water.

B. ROAD AND TRAIL CONSTRUCTION

1. Existing Condition. No existing road or trail prism.
2. Activities. Road and trail construction in the [permit/easement] area requires prior written approval from the authorized officer and may involve the following, as applicable:
 - a. Clearing and grubbing existing vegetation, subject to the [permit/easement].
 - b. Shaping and compacting natural subgrade.
 - c. Installing, blading, shaping, and compacting aggregate.
 - d. Installing drainage features such as water bars, drain dips, cross drain culverts, and ditches.
 - e. Installing crossing structures as directed in the statement of work and applicable drawings.
 - f. In the case of temporary roads and trails, restoration of the underlying land, as described on photomaps and in the statement of work.

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C. ROAD AND TRAIL RECONSTRUCTION

1. Existing Condition. The existing road or trail prism is in poor condition or, in the case of a road, not in accordance with the cross-section prescribed by applicable standards. The road or trail may or may not be traversable. For roads, the curves, grades, bearing strength, and/or drainage crossings are insufficient for safe, reliable, and environmentally sound access.
2. Activities. Road and trail reconstruction in the [permit/easement] area requires prior written approval from the authorized officer and may involve the following, as applicable:
 - a. For widening outside the existing road or trail prism and/or slope stabilization work, grubbing and clearing any existing vegetation, subject to the [permit/easement].
 - b. Cutting and filling required to meet the applicable standard for the road cross-section and curve widening.
 - c. Shaping and compacting the subgrade.
 - d. Installing, blading, shaping, and compacting aggregate.
 - e. Installing drainage features such as water bars, drain dips, cross drain culverts, and ditches.
 - f. Installing crossing structures as directed in the statement of work and applicable drawings.

D. ROAD AND TRAIL MAINTENANCE

The [holder's/grantee's] maintenance objectives for the NFS roads and NFS trails and access roads and trails are to ensure continuous, safe access to all the powerline facilities while minimizing impacts on the environment.

1. Existing Condition. The original road or trail condition has deteriorated due to wear, weathering, or damage.
2. Activities. Road and trail maintenance in the [permit/easement] area does not require prior written approval from the authorized officer, except as otherwise noted in paragraphs 2(c) through 2(f) below. Road and trail maintenance in the [permit/easement] area may involve the following, as applicable:

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- a. Reshaping and compacting the existing road surface (native or aggregate).
- b. Replacing surface rock, including installing, blading, shaping, and compacting aggregate.
- c. Cutting roadside vegetation, subject to the [permit/easement].
- d. Cleaning, maintaining, and, with prior written approval of the authorized officer, installing drainage features such as water bars, drain dips, cross drain culverts, and ditches.
- e. Repairing or, with prior written approval of the authorized officer, installing gates or fences.
- f. Removing obstructions and hazards such as sloughs, slides, boulders, and, subject to the [permit/easement], hazard trees.
- g. Repairing and maintaining road signs and traffic markers.
- h. Shaping and compacting the existing road surface.
- i. Excavating and replacing failed foundation.

E. ADDITIONAL BMPs

In addition to following applicable Forest Service National Core BMPs, in conducting any type of road and trail work in the [permit/easement] area, the [holder/grantee] shall:

1. Protect water quality; avoid sediment loading into water bodies; develop and implement erosion control plans; control surface water on roads; and maintain effective erosion control, especially at stream crossings, and dispersion of subsurface drainage.
2. Protect sensitive areas, such as areas with threatened and endangered species or other species of concern and their habitat, wetlands, and other resources of concern.
3. Maintain natural channels, natural stream flow, and passage for aquatic species.
4. Stabilize the driving surface by:
 - a. Treating road surfaces to prevent loss of materials; and

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- b. Providing for traffic control during wet periods.
5. Implement road slope stabilization measures and reduce mass wasting, as needed.
6. Minimize soil disturbance.
7. Establish appropriate native vegetation in disturbed areas, as designated by Forest Service revegetation specialists, provided that Forest Service revegetation specialists may allow non-invasive, non-native species to be used when they deem it necessary.
8. Prevent the introduction, establishment, and spread of invasive plant species by:
 - a. Requiring heavy equipment to be free of mud and vegetative material prior to entering NFS lands;
 - b. Ensuring that vehicles that drive outside the road prism are free of mud and invasive vegetative material;
 - c. Timing work and cleaning of equipment to avoid moving seeds and propagules from infested to uninfested areas;
 - d. Avoiding disturbance of existing populations of invasive plants after they have set seed during road and trail maintenance;
 - e. Utilizing weed-free straw and mulch; and
 - f. Utilizing sand, rock, gravel, and fill from a Forest Service-approved source.

VII. VEGETATION MANAGEMENT

A. [PERMIT/EASEMENT] REQUIREMENTS

See section III of the [permit/easement].

B. MAINTENANCE OBJECTIVES

The parties' maintenance objectives for vegetation management under this operating [plan/agreement] are to:

1. Maintain reliability, address public safety, and eliminate the risk of vegetation-caused outages;
2. Minimize the introduction and spread of invasive plant species in the permit area;

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3. Maintain and enhance vegetation conditions to improve habitat for fish, wildlife, and plant species and water and soil resources; and
4. Encourage low-growing vegetation, to the extent feasible.

C. TYPES OF ACTIVITIES

Vegetation management includes:

1. Canopy reduction and removal to maintain clearance from powerline facilities;
2. Clearing vegetation, including trees, around structures within the permit area for powerline facilities and access roads and trails;
3. Managing invasive plant species by:
 - a. Minimizing ground disturbance during vegetation management activities;
 - b. Avoiding disturbance of invasive plants during times of the year they are most likely to spread (e.g., after seed set); and
 - c. Removing priority target invasive plants within the linear right-of-way for the powerline facilities.

D. BMPs

In conducting vegetation management, the [holder/grantee] shall:

1. Comply with section III of the [permit/easement] and the vegetation management provisions of this operating [plan/agreement].
2. Follow applicable Forest Service National Core BMPs, which are incorporated in the Forest Service's BMP Technical Guide. Not all BMPs apply to every activity. BMPs should be applied consistent with local conditions, resource values, and designated uses of water.
3. Comply with applicable standards and guidelines in the applicable national forest land management plan, other applicable land management plans, and any additional regional guidance.
4. Meet applicable FERC and NERC standards and WECC guidelines and follow the standards and guidelines in the [holder's/grantee's] NERC-compliant transmission vegetation management program.

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5. Meet all applicable National Electrical Code Standards, particularly CR2-2012, Section 218, which specifies factors to consider in determining the extent of vegetation management required, including but not limited to line voltage class, species growth rates and failure characteristics, the vegetation's location in relation to the conductors, the potential combined movement of vegetation and conductors during routine winds, and sagging of conductors due to elevated temperatures or icing.
6. Follow applicable guidance in the NEPA document and record of decision for the powerline facilities, as amended or updated, and any additional site-specific environmental analysis.
7. Ensure that the [holder's/grantee's] vegetation management for the [permit/easement] area follows ANSI A300 Part 7 as a BMP, in accordance with paragraph VII.E.4 of this operating [plan/agreement].
8. Ensure that use of pesticides, including aerial application, is consistent with the [permit/easement] and paragraph IV.E of this operating [plan/agreement] and is conducive with adjacent habitat, so as to minimize adverse environmental impacts. Pesticides may be used to treat native and non-native vegetation to maintain desirable low-growing vegetation and treat invasive plants.
9. Mark the edge of the linear right-of-way for the powerline facilities, all hazard trees, and appropriate stream buffers prior to pesticide application.
10. Clean heavy equipment prior to entering NFS lands to ensure that it is free of soil, seeds, and plant propagules.
11. Minimize soil disturbance.
12. Use weed-free straw and mulch.
13. Use appropriate native seed mixtures for low-growing species, as designated by Forest Service revegetation specialists, provided that Forest Service revegetation specialists may allow non-invasive, non-native species to be used when they deem it necessary.
14. Manage invasive plants within the [permit/easement] area in coordination with invasive plant specialists in the Forest Service.
15. Use appropriate procedures and materials for marking or other identification of vegetation inside the linear right-of-way for the powerline facilities and on NFS lands

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adjacent to either side of the right-of-way as specified in paragraph VII.F of this operating [plan/agreement].

16. Use the 2015 Pollinator-Friendly Practices for Federal Lands, issued by the United States Department of Agriculture, the United States Department of the Interior, and the United States Environmental Protection Agency, for promoting pollinator habitat.

E. ROUTINE VEGETATION MANAGEMENT

The [holder/grantee] shall provide prior written notice and obtain prior written approval for routine vegetation management in accordance with the [permit/easement] and this operating [plan/agreement].

1. The [holder/grantee] shall document the schedule and work performed for routine vegetation management in an appendix to this operating [plan/agreement], provided that the Forest Service, in consultation with the [holder/grantee], may revise the timing of routine vegetation management on a case-specific basis as needed to minimize adverse environmental effects (e.g., impacts on threatened or endangered species, sensitive species, or species of conservation concern and adverse impacts on other authorized activities in or near the [permit/easement] area, such as a recreation event).
2. The [holder/grantee] shall manage routine vegetation management as follows:
 - a. If the Forest Service has concurred per the [permit/easement] with follow-up pesticide treatments (e.g., for elimination of re-sprouting species) after trees are cut per the [permit/easement] and this operating [plan/agreement], the [holder/grantee] may apply pesticide treatments to kill roots in accordance with the approved pesticide-use proposal for the [permit/easement] area.
 - b. Consistent with the [permit/easement], and to ensure access to the powerline facilities, the [holder/grantee] shall be allowed to control all vegetation within a perimeter of approximately 30 feet or 9 meters from the powerline facilities within the [permit/easement] area. The [holder/grantee] may control all vegetation within a larger perimeter from the powerline facilities within the [permit/easement] area if required by applicable reliability, electrical, or safety standards. The [holder/grantee] shall notify the Forest Service of deviations from the 30-foot/9-meter standard and the reason for the deviations.
3. The [holder/grantee] shall deposit slash and debris within the [permit/easement] area, with the following exceptions:

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- a. Slash and debris shall not be deposited within a 30-foot area around the powerline facilities or within the specified area required by applicable reliability, electrical, or safety codes.
 - b. When it is not feasible to deposit the slash and debris within the [permit/easement] area, the [holder/grantee] shall arrange for another appropriate disposal method with the authorized officer.
 - c. The [holder/grantee] shall not place slash and debris in streams or along stream embankments.
 - d. The [holder/grantee] shall move any slash or debris that is inadvertently deposited outside the [permit/easement] area, unless directed otherwise by the authorized officer. The [holder/grantee] shall use slash and debris treatments prescribed by the Forest Service per industry standards.
4. The [holder/grantee] shall selectively employ integrated vegetation management (IVM), as described in ANSI A300 Part 7, as amended, which requires less frequent use of resources and reduces fuel loading, based on the vegetation needing to be controlled, cost-effectiveness, and the environmental conditions present. The [holder/grantee], in coordination with the Forest Service, shall choose methods or combinations of methods for IVM. The goal for IVM powerline facility vegetation management is to convert vegetation in the linear right-of-way for the powerline facilities to low-growing plant communities that are non-invasive and that keep tall-growing vegetation out. Low-growing plants can often out-compete trees and tall-growing brush for sunlight and nutrients. This IVM practice shall also include the method used for replanting or reseeding when no ground cover exists in the permit area or if there is a low potential for natural revegetation by low-growing species and a high potential for natural revegetation by tall-growing species in the [permit/easement] area.
 5. The [holder/grantee] shall require any contractor conducting vegetation management for the [holder/grantee] to coordinate with and notify the Forest Service prior to commencing work.

F. TIMBER MARKING

The [holder/grantee] shall identify hazard trees that need to be removed or pruned and shall mark them with an “H” on top of a “T” on the side of the tree facing the linear right-of-way for the powerline facility. For roads, the HT mark faces the road. The [holder/grantee] shall generally use a specific paint color (orange) for timber marking.

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VIII. EMERGENCY POWERLINE FACILITY MAINTENANCE AND EMERGENCY VEGETATION MANAGEMENT

A. IN GENERAL

Emergency powerline facility maintenance and emergency vegetation management involve unexpected work or activities conducted in response to situations created by events such as windstorms, snowstorms, fires, floods, vandalism, or other events that interrupt or pose an imminent threat to the transmission of electricity in the [permit/easement] area or road conditions that block access needed to respond to emergency events in the [permit/easement] area. These situations represent potential threats to life, public safety, or property. Emergency powerline facility maintenance and emergency vegetation management shall be accomplished in an expedient manner to restore or maintain service to the communities served by the powerline facilities in the [permit/easement] area, including homes, hospitals, and emergency services.

B. TYPES OF EMERGENCY POWERLINE FACILITY MAINTENANCE AND EMERGENCY VEGETATION MANAGEMENT

Emergency powerline facility maintenance may include clearing blocked culverts, repairing roads, replacement of downed poles or transmission towers, or repairing segments of a powerline facility. Emergency vegetation management shall be conducted in accordance with the [permit/easement] using Appendix A as a guide.

C. NOTICE OF EMERGENCY POWERLINE FACILITY MAINTENANCE AND EMERGENCY VEGETATION MANAGEMENT

The [holder/grantee] shall notify the Forest Service by telephone or email of the location and the type and scope of any emergency powerline facility maintenance or the quantity of emergency vegetation management as soon as possible but no later than 24 hours after initiating the response. The [holder/grantee] shall submit a written report within 30 days of completion of the response.

D. RESOURCE PROTECTION

The [holder/grantee] shall take all measures necessary to protect natural resources during emergency powerline facility maintenance and emergency vegetation management to the extent feasible. If emergency powerline facility maintenance or emergency vegetation management jeopardizes threatened or endangered species or their critical habitat, cultural resources, or human remains or objects of cultural patrimony as defined by the Native American Graves Protection and Repatriation Act, the [holder/grantee] shall:

1. Comply with the [permit/easement].

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2. Comply with applicable environmental laws and regulations that apply in the event of an emergency in the [permit/easement] area.
- IX. COORDINATION FOR PROJECTS CONDUCTED BY THE [HOLDER/GRANTEE], CONTRACTORS, OR VENDORS
- A. PREPARATION FOR POWERLINE FACILITY AND ROAD AND TRAIL PROJECTS CONDUCTED BY THE [HOLDER/GRANTEE], CONTRACTORS, OR VENDORS
1. To ensure applicable legal requirements are met, the [holder/grantee] shall coordinate with the Forest Service regarding project execution planning, contract solicitation scheduling, and mobilization for:
 - a. non-routine powerline facility maintenance projects to be conducted by the [holder/grantee], contractors, or vendors in the [permit/easement] area;
 - b. fiber optic cable installation to be conducted by the [holder/grantee], contractors, or vendors in the [permit/easement] area; and
 - c. road and trail construction and reconstruction projects conducted by the [holder/grantee], contractors, or vendors in the [permit/easement] area, hereinafter “section IX projects.”
 2. Coordination for section IX projects shall address project access, parking of equipment, sources and storage of materials, emergency communications, fire management, designation of sites for disposal of slough material, and any other resource management issues pertaining to the permit area that arise in connection with a section IX project.
 3. The [holder/grantee] shall ensure that section IX project contracts are consistent with applicable law, applicable land management plans, the [permit/easement], and this operating [plan/agreement].
 4. The [holder/grantee] shall include appropriate measures for preventing the introduction and spread of invasive plant species in all contracts for section IX projects which involve ground-disturbing activities.
 5. The [holder/grantee] shall inform the Forest Service of contract awards for section IX projects and shall require the selected contractor to contact the Forest Service point of contact (POC) designated under paragraph IX.B.2 before commencing any project work to address access, resource protection, and compliance with applicable legal requirements, including any additional necessary permits.

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6. The [holder/grantee] shall ensure that contractors and vendors for section IX projects have a copy of the [permit/easement] and this operating [plan/agreement], including their appendices, before commencement of project work.

B. PROJECT MONITORING AND INSPECTION OF SECTION IX PROJECTS

1. The [holder/grantee] shall designate a project manager for each section IX project to represent the [holder/grantee] in all matters pertaining to that project.
2. The Forest Service shall designate a POC for each section IX project to represent the Forest Service in all matters pertaining to that project.
3. The Forest Service may conduct onsite monitoring and inspection of section IX projects to ensure compliance with the [permit/easement], this operating [plan/agreement], and Forest Service requirements such as environmental mitigation.
4. The [holder/grantee] or its contractor and the Forest Service may participate in the final walk-through for section IX projects when they are complete. The [holder/grantee] shall give the Forest Service prior notice of completion of section IX projects to facilitate Forest Service participation in final walk-throughs. The [holder/grantee] and the Forest Service shall agree on how much notice is required for each section IX project.
5. The [holder/grantee] is responsible for contractors' and vendors' compliance with the terms and conditions of the [permit/easement] and this operating [plan/agreement] in performing work on section IX projects. The [holder/grantee] shall notify the Forest Service immediately of any damage to NFS lands or resources in connection with section IX project work performed by contractors and vendors.

X. FIRE CONTROL

A. FIRE PREVENTION AND SUPPRESSION PLAN

In conducting activities and projects in the permit area, the [holder's/grantee's] employees, contractors, and vendors shall adhere to the fire prevention and suppression plan for the [permit/easement] area, which is included as an appendix to this operating [plan/agreement].

B. FIRE PREVENTION MEASURES

The [holder/grantee] shall take all measures necessary in operating and maintaining the powerline facilities to prevent fires from starting and spreading, including but not limited to the following:

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1. Fire Equipment. The [holder/grantee] shall ensure that all vehicles operating in the [permit/easement] area carry a serviceable shovel and a fire extinguisher with at least a 5-B:C rating from the Underwriters Laboratories.

2. Safety Procedures and Fire Prevention and Control Measures. The [holder/grantee] shall ensure that its employees, contractors, and vendors working in the [permit/easement] area have training on the safety procedures and fire prevention measures in the fire prevention and suppression plan for the [permit/easement] area. The [holder/grantee] shall ensure that its employees, contractors, and vendors follow the safety procedures in the fire prevention and suppression plan and take all measures necessary, consistent with that plan, to prevent fires from starting and spreading.

3. Industrial Fire Precaution Level (IFPL). IFPL levels and corresponding restrictions and prohibitions are shown below:

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IFPL Level	Industrial Fire Precaution Levels Definition
I	Closed Season - Fire precaution requirements are in effect. A Fire Watch/Security is required at this and all higher levels unless otherwise waived.
II	Partial Hootowl - The following may operate only between the hours of 8 p.m. and 1 p.m. local time: <ul style="list-style-type: none">• power saws except at loading sites;• cable yarding;• blasting;• welding or cutting of metal.
III	Partial Shutdown - the following are prohibited except as indicated: <ul style="list-style-type: none">• cable yarding - except that gravity operated logging systems employing nonmotorized carriages may operate between 8 p.m. and 1 p.m. when all blocks and moving lines are suspended 10 feet above the ground except the line between the carriage and the chokers.• power saws - except power saws may be used at loading sites and on tractor/skidder operations between the hours of 8 p.m. and 1 p.m. local time. In addition , the following are permitted to operate between the hours of 8 p.m. and 1 p.m. local time: <ul style="list-style-type: none">• Tractor, skidder, feller-buncher, forwarder, or shovel logging operations where tractors, skidders, or other equipment with a blade capable of constructing fireline are immediately available to quickly reach and effectively attack a fire start;• mechanized loading or hauling of any product or material; blasting;• welding or cutting of metal• any other spark emitting operation not specifically mentioned.
IV	General Shutdown - All Operations

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4. IPFL Status Checks and Waivers. The [holder's/grantee's] employees, contractors, and vendors shall check the IFPL daily during the fire season (usually June through October depending upon fire indicators) before conducting any activities or projects in the permit area. The [holder's/grantee's] employees, contractors, and vendors working in the [permit/easement] area shall comply with the restrictions and prohibitions under the applicable IFPL, unless a waiver of the applicable IFPL granting permission to use otherwise prohibited equipment or engage in otherwise prohibited activities is obtained in writing from the Forest Service. Any IFPL waiver shall be attached as an appendix to this operating [plan/agreement]. The Forest Service may require the [holder's/grantee's] employees, contractors, and vendors to take additional resource protection measures in conducting activities and projects in the [permit/easement] area to be consistent with the applicable IFPL. These measures shall be listed in the fire waiver.

5. Fire Safety Inspections. The Forest Service may make periodic inspections to ensure [holder/grantee] employee, contractor, and vendor compliance with fire safety requirements. Failure to comply with these requirements shall result in a temporary shutdown of all activities or projects conducted by [holder/grantee] employees, contractors, and vendors in the [permit/easement] area until full compliance is achieved.

XI. MISCELLANEOUS PROVISIONS

A. PRINCIPAL CONTACTS

The individuals listed below are authorized to act in their respective areas for matters related to this operating [plan/agreement]. The [holder/grantee] and the Forest Service shall update each other as soon as possible on any changes to these principal contacts. The principal contacts for each party shall contact and work with their counterparts to address any issues or concerns that arise in connection with this operating [plan/agreement] and to otherwise facilitate its implementation.

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1. Principal [Holder/Grantee] Contacts

[Holder/Grantee] Administrative Contact	[Holder/Grantee] Real Property Program Contact
Name:	Name:
Title:	Title:
Address:	Address:
State:	State:
Office Telephone:	Office Telephone:
Cellular Telephone:	Cellular Telephone:
Facsimile:	Facsimile:
E-mail Address:	E-mail Address:
Areas of expertise and other information _____ _____	Areas of expertise and other information _____ _____
[Holder/Grantee] Program Contact for Environment	
Name:	
Title:	
Address:	
State:	
Office Telephone:	
Cellular Telephone:	
Facsimile:	
E-mail Address:	
Areas of expertise and other information _____ _____	_____

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[Holder/Grantee] Program Contact for Vegetation Management	
Name:	
Title:	
Address:	
State:	
Office Telephone:	
Cellular Telephone:	
Facsimile:	
E-mail Address:	
Areas of expertise and other information	_____

2. Principal Forest Service Contacts

Forest Service Administrative Contact	Forest Service Special Uses Program Contact
Title:	Title:
Address:	Address:
State:	State:
Office Telephone:	Office Telephone:
Cellular Telephone:	Cellular Telephone:
Facsimile:	Facsimile:
E-mail Address:	E-mail Address:
Areas of Expertise and Other Information	Areas of Expertise and Other Information

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Forest Service Program Contact for Environment	Forest Service Program Contact for Construction and Maintenance
Title:	Title:
Address:	Address:
State:	State:
Office Telephone:	Office Telephone:
Cellular Telephone:	Cellular Telephone:
Facsimile:	Facsimile:
E-mail Address:	E-mail Address:
Areas of Expertise and Other Information _____	Areas of Expertise and Other Information _____
Forest Service Program Contact for Vegetation Management	
Name:	
Title:	
Address:	
State:	
Office Telephone:	
Cellular Telephone:	
Facsimile:	
E-mail Address:	
Areas of expertise and other information _____	

3. Changes in Principal Contacts

- a. Forest Service changes in principal contacts shall be submitted in writing to the [holder's/grantee's] administrative contact.
- b. [Holder/Grantee] changes in principal contacts shall be submitted in writing to the authorized officer.

B. MODIFICATIONS

1. Modifications by the Authorized Officer.

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- a. The authorized officer shall give the [holder/grantee] prior written notice of any changed conditions that warrant a modification to this operating [plan/agreement].
 - b. The authorized officer shall give the [holder/grantee] XXX [days/weeks: timeframe for authorized officer to comment on proposed operating plan or agreement] to submit a proposed modification in writing of this operating [plan/agreement] to address the changed conditions.
 - c. The authorized officer shall consider and respond in writing to the proposed modification, to the maximum extent practicable, within 120 days from the date it was received by the authorized officer, with the understanding that such factors as the number of proposed operating plans and agreements and proposed modifications to approved operating plans and agreements under review by the authorized officer and the number of powerline facilities covered under a single operating plan or agreement may affect the practicability of approving a proposed modification within 120 days from the date of receipt.
 - d. Modifications to this operating [plan/agreement] by the authorized officer must be made in writing and must be signed and dated by the authorized officer and the [holder/grantee].
 - e. The [holder/grantee] may continue to implement this operating [plan/agreement] to the extent it does not directly and adversely affect the conditions prompting the modification.
2. Modifications Proposed by the [Holder/Grantee].
- a. At any time, the [holder/grantee] may submit a proposed modification to this operating [plan/agreement] for review and approval by the authorized officer.
 - b. The authorized officer shall consider and respond to the proposed modification, to the maximum extent practicable, within 120 days from the date it was received by the authorized officer, with the understanding that such factors as the number of proposed operating plans and agreements and proposed modifications to approved operating plans and agreements under review by the authorized officer and the number of powerline facilities covered under a single operating plan or agreement may affect the practicability of approving a proposed modification within 120 days from the date of receipt.
 - c. Modifications to this operating [plan/agreement] proposed by the [holder/grantee] must be submitted in writing and, if approved by the authorized officer, must be signed and dated by the authorized officer and the [holder/grantee].

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C. REVIEW AND EXPIRATION

1. Review. Every 5 years from the approval date of this operating [plan/agreement], the [holder/grantee] shall review and, as necessary, update this operating [plan/agreement] to be consistent with changed conditions and submit it to the authorized officer for review and approval.
2. Expiration. Upon expiration of the [permit/easement], this operating [plan/agreement] shall expire, and the [holder/grantee] shall prepare a new proposed operating [plan/agreement], either solely or in consultation with the authorized officer, and submit it to the authorized officer for review and approval.

D. SUPERIOR CLAUSES

If there is any conflict between the terms of this operating [plan/agreement] and the terms of the [permit/easement], the terms of the [permit/easement] shall control.

[name] Date
[title]
[national forest]

[name] Date
[title]
[holder/grantee]

<Attach any appendices, including holder or grantee activities; resource protection measures for threatened and endangered species and other species of concern; cultural resource management; the fire prevention and suppression plan; any road maintenance or road project agreements; and any road use permits.>

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APPENDIX A TO SAMPLE OPERATING PLAN OR AGREEMENT

[HOLDER/GRANTEE] ACTIVITIES

Class I Activities

Class II Activities

Class III Activities

Class IV Activities

(END SAMPLE APPENDIX A)

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APPENDIX B TO SAMPLE OPERATING PLAN OR AGREEMENT

**RESOURCE PROTECTION MEASURES
FOR THREATENED AND ENDANGERED SPECIES
AND OTHER SPECIES OF CONCERN**

B.1 Conservation Measures for Not Likely to Adversely Affect Determinations

B.1.1 Invertebrates

B.1.1.1 Kern Primrose Sphinx Moth

1. Activities that could kill Kern primrose sphinx moth eggs, larvae, and pupae, including vegetation removal, ground-disturbing activities, driving off-road, and driving on or maintaining roads that have been colonized with vegetation, will not be conducted in occupied habitat or suitable habitat that has not been surveyed unless a habitat assessment indicates there are no host plants in the project area because there is no suitable habitat for the plant or moth (see Measure 6).

B.1.1.2 Smith's Blue Butterfly

1. Activities that could kill Smith's blue butterfly eggs, larvae, and pupae, including vegetation removal, ground-disturbing activities, driving off road, and driving on or maintaining roads that have been colonized with vegetation, will not be conducted in Smith's blue butterfly occupied habitat or suitable habitat that has not been surveyed unless a qualified biologist determines that no host plants are in the project area. If a biologist or biological monitor observes host plants in the vicinity of the project area, the biologist/monitor will oversee the activity to ensure that impacts on host plants and diapausing larvae or pupae adjacent to the host plants are avoided (e.g., designating a buffer around host plants, establishing alternative access routes).

B.1.1.3 Quino Checkerspot Butterfly

1. Activities that could kill Quino checkerspot butterfly eggs, larvae, and pupae, including vegetation removal, ground-disturbing activities, driving off road, and driving on or maintaining roads that have been colonized with vegetation, will not be conducted in Quino checkerspot butterfly occupied habitat or suitable habitat that has not been surveyed unless a habitat assessment indicates that no host plants are in the project area. If host plants occur in the vicinity of the project area, project activities will occur during a year and at the time of year when host plants can be observed; and a biologist or biological monitor will oversee the activity to ensure that impacts on host plants and diapausing larvae or pupae adjacent to the host plants are avoided (e.g., designating a buffer around host plants, establishing alternative access routes).

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B.1.2 Amphibians

B.1.2.1 Arroyo Toad

1. Within occupied habitat, identified as (1) aquatic and terrestrial habitat with known extant occurrences of the species; and (2) upland habitat (including unpaved roads and staging areas) within 82 feet in elevation (i.e., vertical distance) of known breeding habitat, project activities will be restricted as follows.

B.1.2.2 Yosemite Toad (YOTO)

1. For all known occurrences (including all upland habitat within 0.78 mile from known occurrences):
 - a. No habitat assessment or survey needed.
 - b. Forest Service project specific review²: No activities involving vegetation removal/maintenance, hazard tree removal, off-road vehicle traffic, or ground disturbance will be conducted, unless the Forest Service biologist reviews the activities and determine that they can be implemented without adversely affecting Yosemite toads. The Forest Service may determine that some activities, such as patrolling or working in a bucket truck from existing roads, are not expected to adversely affect the species with adherence to identified measures.

B.1.3 Reptiles

B.1.3.1 Desert Tortoise (DETO)

1. Class 2 activities occurring within suitable desert tortoise habitat will be supervised by a qualified biological monitor approved by the Service.
 - a. For Class 2 activities in suitable desert tortoise habitat during the tortoise active season, currently identified as September 1 through October 31 and May 1 through June 30, a Service-approved biologist will conduct focused surveys no more than 14 days prior to project implementation. Focused surveys will follow the Service's most recent desert tortoise survey protocol.

B.1.4 Birds

B.1.4.1 Coastal California Gnatcatcher, Least Bell's Vireo, Southwestern Willow Flycatcher, and Western Yellow-Billed Cuckoo

1. No more than 0.05 acre (2,178 square feet) of suitable habitat will be removed or significantly degraded (e.g., from vegetation clearing around poles or tree trimming or removal) from any one location. Impacts at one location will consist of all impacts within 500 feet of each other.
2. Removal of suitable habitat will be conducted outside the breeding season, unless protocol surveys have been conducted within the past year with negative results. The breeding season

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for these birds is as follows:

- a. Southwestern willow flycatcher: May 1 to September 30;
- b. Least Bell's vireo: March 1 to August 31;
- c. Coastal California gnatcatcher: February 15 to August 31; and
- d. Western yellow-billed cuckoo: May 15 to September 15

B.1.4.2 Western Snowy Plover

1. No more than 0.05 acres (2,178 square feet) of suitable habitat will be removed or degraded (e.g., from vegetation clearing around poles or tree trimming or removal) from any one location. Impacts at one location will consist of all impacts within 500 feet of each other.

2. Removal of suitable habitat will be conducted outside the breeding season, unless surveys are conducted by a qualified biological monitor and coordinated with the Service. The breeding season for these birds is as follows:

Western snowy plover: March 1 to September 30

B.1.5 Fish

B.1.5.1 Lahontan Cutthroat Trout (LCT)

1. No activities will be conducted within the active stream channel or aquatic habitat that is occupied by Lahontan cutthroat trout.

2. A qualified biological monitor will be onsite during project activities involving ground disturbance (e.g. grading existing roads or replacing anchor lines) and/or vegetation removal within 25 feet of occupied Lahontan cutthroat trout habitat to ensure that adverse effects on the species and its habitat are avoided.

3. Activities involving ground disturbance and/or vegetation removal within 25 feet of occupied Lahontan cutthroat trout habitat will occur outside the primary spawning season, which extends from March through July.

B.1.5.2 Owen Tui Chub

1. No activities will be conducted within the active stream channel or aquatic habitat that is occupied by Owens tui chub.

2. A biological monitor will be onsite during project activities involving ground disturbance (e.g., grading existing roads or replace anchor lines) and/or vegetation removal within 25 feet of occupied Owens tui chub habitat to ensure that adverse effects on the species and its habitat are avoided.

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B.1.6.2 Gray Wolf

1. The Forest Service will notify the Utility if dens or rendezvous sites are within 1 mile of the activity. If records exist, then the biologist, in coordination with the Forest Service, will establish a buffer of no work between the proposed activity and the den site/rendezvous site. The buffer will be at least 1 mile, but is likely to be larger and irregularly shaped based on topography and concerns for revealing the exact site location. The Forest Service is expected to coordinate with the California Department of Fish and Wildlife (CDFW) when determining whether dens or rendezvous sites are present and when designating buffers. Activities within the buffer will be seasonally restricted from April 1 to July 15.

B.1.7 Plant Species

B.1.7.1 Species

Chorro creek bog thistle, Keck's checker mallow, Kern mallow, Layne's butterweed, purple amole, Camatta Canyon amole, Springville clarkia, Gaviota tarplant, Ash-gray paintbrush, Bakersfield cactus, Big Bear Valley sandwort, Braunton's milk-vetch, California dandelion, California jewelflower, Cushenbury buckwheat, Cushenbury milk-vetch, Cushenbury oxytheca, fleshy owl's clover, Gaviota tarplant, Kern mallow, Keck's checker-mallow, Mariposa pussypaws, Munz's onion, Nevin's barberry, Parish's daisy, and pedate checker-mallow.

B.1.7.2 Plant Measures

1. Prior to conducting project activities with the potential to impact listed plant species (e.g., ground-disturbing activity, vegetation removal, and off-road vehicle use) and within the species range for any listed plant species, conduct a desktop habitat assessment within and adjacent to the project area to determine habitat suitability for each species potentially present. If a desktop habitat assessment is inconclusive, then a botanist familiar with the species will conduct a site visit to determine habitat suitability. If suitable habitat is present, follow Measure 2.
2. Conduct field surveys to determine species presence; the survey period will occur when nearby reference populations are in bloom, using known blooming periods and local Forest blooming data as a guide. The activity will be conducted in the same year following the survey, or prior to the next blooming season. If a nearby reference population is not available, a qualified botanist will conduct early-, mid-, and late-blooming period site surveys when the species is most likely to be found.
3. Occurrences/sightings of a federally listed plant species found by Utility biologists/botanists (or their contractors) will be reported to the Forest Service to ensure ESA compliance. The reports will include GPS locations, geospatial data (e.g., shapefile or geodatabase), and an Element Occurrence report.

(END SAMPLE APPENDIX B)

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APPENDIX C TO SAMPLE OPERATING PLAN OR AGREEMENT

CULTURAL RESOURCE MANAGEMENT

Documentation of measures to preserve historic properties in the powerline facility permit or easement area.

A National Phasing Programmatic Agreement is being developed that can be used agencywide and that will cover large corridor projects, including powerline facilities. When it is completed, the National Phasing Programmatic Agreement will be added as Appendix C to the sample operating plan or agreement in the directive.

(END SAMPLE APPENDIX C)

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APPENDIX D TO SAMPLE OPERATING PLAN OR AGREEMENT

ROAD MAINTENANCE OR ROAD PROJECT AGREEMENT

<This template may be supplemented as needed to address additional types of work with the written agreement of both parties.>

<Delete all user notes prior to printing.>

<USER NOTES FOR TITLE>

<Select the applicable title, and delete the remaining title. Delete the brackets.>

[ROAD MAINTENANCE AGREEMENT] [ROAD PROJECT AGREEMENT]

Between

[HOLDER/GRANTEE]

and the

**UNITED STATES DEPARTMENT OF AGRICULTURE
UNITED STATES FOREST SERVICE
____ NATIONAL FOREST**

<USER NOTES FOR FIRST PARAGRAPH>

<Include “routine” for road maintenance agreements, and delete “non-routine.” Include “non-routine” for road project agreements, and delete “routine.” Delete the brackets.>

The [holder/grantee] and the United States Department of Agriculture, United States Forest Service (FS), ____ National Forest, hereby enter into the following agreement for [routine] [non-routine] maintenance of National Forest System (NFS) roads (hereinafter “Agreement”) under the powerline facility [permit/easement] issued by the FS to [holder/grantee], Authorization Identification Number [XXX].

1. NFS Roads (name, route number, or other identifier):

2. Maintenance Plan (at a minimum, specify types of maintenance, e.g., routine, seasonal, or partial maintenance and maintenance of structural facilities; desired standards and results; and

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any applicable special conditions):

3. [Holder's/Grantee's] Commensurate Share

(a) [Holder's/Grantee's] Commensurate Share Responsibility. The [holder/grantee] shall perform maintenance, or deposit funds sufficient to cover the cost of maintenance, commensurate with the [holder's/grantee's] use of the roads covered by this Agreement (the [holder's/grantee's] commensurate share), measured, e.g., in thousand board feet, cubic yards, or vehicle units. The [holder's/grantee's] commensurate share is maintenance that is necessitated by the [holder's/grantee's] use, i.e., maintenance which would not be necessary if the [holder's/grantee's] use did not occur.

(b) Commensurate Share Calculation. The initial calculation of the [holder's/grantee's] commensurate share, including the maintenance made necessary by the [holder's/grantee's] use and the cost of the maintenance, is shown in an appendix to this Agreement. The value of the [holder's/grantee's] commensurate share is \$_____, provided that the rate shall be revised upward or downward on the anniversary date of this Agreement, based on estimated costs and anticipated use of the roads covered by this Agreement. If the value of the [holder's/grantee's] commensurate share exceeds the cost of maintenance that is performed on the roads covered by this Agreement, the difference between the value of the [holder's/grantee's] commensurate share and the cost of the maintenance performed shall be deposited in cash, as provided in paragraph 3(c).

<USER NOTES FOR PARAGRAPH 3(c)>

<Include paragraph 3(c) when payments are made in lieu of performance of maintenance. Otherwise, delete paragraph 3(c).>

(c) Payment in Lieu of Performance. An initial payment in lieu of performance of maintenance in the amount of \$_____ shall be made before road use commences under this Agreement. Thereafter, payments in lieu of performance shall be made [weekly] [monthly] in the amount of \$_____, calculated using the rate of payment for the [holder's/grantee's] commensurate share in paragraph 3(b). Payments shall be sent to [address].

4. Location as Shown on Attached Map (drawing number, name, date, or other identification):

5. Legal Description (if applicable): _____

6. County: _____

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7. Appropriate Maps or Right-of-Way Plat Attached (if applicable), y/n: _____

8. Right-of-Way Width: _____

9. Right-of-Way Length: _____

10. Maintenance Period: Perpetual Term Years Other

Explanation: _____

11. Maintenance Frequency: _____

12. Specifications: Not Required On File at _____
 Attached
Description: _____

13. Environmental Assessment: Not Required On File at _____
 Attached

14. Regulatory Clearance Checklist: Not Required On File at _____
 Attached

15. Other Conditions: _____

16. Estimated Cost: _____

17. Funding Sources (if multiple sources, give breakdown for each):

Forest Account Contract

18. Performance under this Agreement will be subject to availability of appropriated funds and existing statutory authority.

19. This Agreement may be terminated by either party after sufficient written notice to the other party, typically 90 days, for orderly closeout of any work in progress.

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<USER NOTES FOR PARAGRAPH 20>

**<Include the first two sentences of paragraph 20 only in road maintenance agreements.
Delete them in road project agreements. Delete the brackets.>**

20. [Appropriate [holder/grantee] and FS officials will review this Agreement every 3 years or as needed to track the [holder's/grantee's] maintenance cycle or future projects to determine if changes are needed to the agreement. Revisions to this Agreement may be made as a result of reviews.] Revisions to this Agreement may be initiated at any time by either party. Revisions to this Agreement must be agreed to in writing by both parties.

21. This Agreement does not cover damage to or loss of materials or maintenance or repairs necessitated by natural disasters. The parties are not responsible for failure to timely complete maintenance or for other inconvenience to road users, unless otherwise provided in the maintenance plan for this Agreement. The parties are responsible for ensuring that road users and other members of the public are not jeopardized by work performed under this Agreement.

22. Points of Contact:

[HOLDER/GRANTEE]:

FOREST SERVICE:

[name]

[name]

[title]

[title]

[address]

[address]

[telephone number]

[telephone number]

[email address]

[email address]

[NAME AND TITLE OF PERSON SIGNING ON BEHALF OF
HOLDER/GRANTEE]

Date

[HOLDER/GRANTEE NAME]

[NAME AND TITLE OF AUTHORIZED OFFICER]

Date

(END SAMPLE APPENDIX D)