

Federal timber by competitive bidding, prospective bidders must have an opportunity to reach the timber to be sold. Likewise, where other timber is committed by cooperative agreement to coordinated administration with timber of the United States, there must be access to both.

(d) Accordingly, to the extent that in the judgment of the authorized officer it appears necessary to accomplish these purposes, when the United States, acting through the Bureau of Land Management, grants a right-of-way across O. and C. lands to a private operator, the private operator will be required to grant to the United States for use by it and its licensees:

(1) Rights-of-way across lands controlled directly or indirectly by him;

(2) The right to use, to the extent indicated in §§ 2812.3-5 and 2812.3-6, any portions of the road system or rights-of-way controlled directly or indirectly by the private operator which is adequate or can economically be made adequate to accommodate the probable normal requirements of both the operator and of the United States and its licensees, and which form an integral part of or may be added to the road system with which the requested right-of-way will connect;

(3) The right to extend such road system across the operator's lands to reach federal roads or timber; and

(4) In addition, in the limited circumstances set forth in § 2812.3-2 of this subpart the right to use certain other roads and rights-of-way. The permit will describe by legal subdivisions the lands of the operator as to which the United States receives rights. In addition, the extent and duration of the rights received by the United States will be specifically stated in the permit and ordinarily will embrace only those portions of such road system, rights-of-way and lands as may be actually needed for the management and removal of federal timber, or other timber committed by a cooperative agreement to coordinated administration with timber of the United States.

(e) When the United States or a licensee of the United States uses any portion of a permittee's road system for the removal of forest products, the permittee will be entitled to receive

just compensation, including a fair share of the maintenance and amortization charges attributable to such road, and to prescribe reasonable road operating rules, in accordance with §§ 2812.3-7 to 2812.4-4.

(f) As some examples of how this policy would be applied in particular instances, the United States may issue a permit under subpart 2812 without requesting any rights with respect to roads, rights-of-way or lands which the authorized officer finds will not be required for management of or access to Federal timber, or timber included in a cooperative agreement. Where, however, the authorized officer finds that there is a road controlled directly or indirectly by the applicant, which will be needed for such purposes and which he finds either has capacity to accommodate the probable normal requirements both of the applicant and of the Government and its licensees, or such additional capacity can be most economically provided by an investment in such road system by the Government rather than by the construction of a duplicate road, he may require, for the period of time during which the United States and its licensees will have need for the road, the rights to use the road for the marketing and management of its timber and of timber included in a cooperative agreement in return for the granting of rights-of-way across O. and C. lands, and an agreement that the road builder will be paid a fair share of the cost of the road and its maintenance. Where it appears to the authorized officer that such a road will not be adequate or cannot economically be enlarged to handle the probable normal requirements both of the private operator and of the United States and its licensees, or even where the authorized officer has reasonable doubt as to such capacity, he will not request rights over such a road. Instead, the Bureau will make provision for its own road system either by providing in its timber sale contracts that in return for the road cost allowance made in fixing the appraised value of the timber, timber purchasers will construct or extend a different road system, or by expending for such construction or by extension monies appropriated for such purposes

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by the Congress, or, where feasible, by using an existing duplicating road over which the Government has obtained road rights. In such circumstances, however, road cost and maintenance allowances made in the stumpage price of O. and C. timber will be required to be applied to the road which the Bureau has the right to use, and thereafter will not in any circumstances be available for amortization or maintenance costs of the applicant's road.

(g) When a right-of-way permit is issued for a road or road system over which the United States obtains rights of use for itself and its licensees, the authorized officer will seek to agree with the applicant respecting such matters as the time, route, and specifications for the future development of the road system involved; the portion of the capital and maintenance costs of the road system to be borne by the timber to be transported over the road system by the United States and its licensees; a formula for determining the proportion of the capacity of the road system which is to be available to the United States and its licensees for the transportation of forest products; and other similar matters respecting the use of the road by the United States and its licensees and the compensation payable therefor. To the extent that any such matter is not embraced in such an agreement, it will be settled by negotiation between the permittee and the individual licensees of the United States who use the road, and, in the event of their disagreement, by private arbitration between them in accordance with the laws of the State of Oregon.

(h) The authorized officer may in his discretion, issue short term right-of-way permits for periods not exceeding three years, subject to one-year extensions in his discretion. Such permits shall specify the volume of timber which may be carried over the right-of-way and the area from which such timber may be logged. The permits shall be revocable by the authorized officer, the State Director, or the Secretary for violation of their terms and conditions or of these regulations or if hazardous conditions result from the construction, maintenance or use of the rights-of-way by the permittees or those act-

ing under their authority. As a condition for the granting of such permits, the applicant must comply with §§ 2812.3-1 and 2812.3-3 of this subpart to the extent that rights-of-way and road use rights are needed to remove government timber offered for sale in the same general area during the period for which the short term right-of-way is granted.

(i) The authorized officer may, in his discretion, issue to private operators rights-of-way across O. and C. lands, needed for the conduct of salvage operations, for a period not to exceed five years. A salvage operation as used in this paragraph means the removal of trees injured or killed by windstorms, insect infestation, disease, or fire, together with any adjacent green timber needed to make an economic logging show. As a condition of the granting of such rights-of-way, the operator will be required, when the authorized officer deems it necessary, to grant to the United States and its licensees for the conduct of salvage operations on O. and C. lands for a period not to exceed five years, rights-of-way across lands controlled directly or indirectly by him and to grant the right to use to the extent indicated in §§ 2812.3-5 and 2812.3-6 any portions of the road system controlled directly or indirectly by the private operator which is adequate or can economically be made adequate to accommodate the requirements of both the operator and of the United States and its licensees.

[35 FR 9637, June 13, 1970, as amended at 41 FR 21642, May 27, 1976]

§ 2812.0-7 Cross reference.

For disposal of timber or material to a trespasser, see § 9239.0-9 of this chapter.

§ 2812.0-9 Information collection.

The information collection requirements contained in part 2810 of Group 2800 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1004-0102 and 1004-0107. The information is being collected to permit the authorized officer to determine if use of the public lands should be granted for rights-of-way grants or temporary use permits. The information