

## Bureau of Land Management, Interior

## § 2812.5-2

such disposition thereof as appears equitable to them, taking into account, among other pertinent facts, the commitments of the permittee and the licensee with respect to the cutting and removal of the timber involved and the disposition of the products derived therefrom; the extent to which each of the parties may practicably satisfy any of the aforesaid commitments from other timber currently controlled by him; the past normal use of such road by the permittee; the extent to which federal timber has contributed to the amortization of the capital costs of such road; and the extent to which the United States or its licensees have enlarged the road capacity.

### § 2812.4-4 Arbitration procedure.

(a) Within 10 days after the delivery of a written request for arbitration under § 2812.4-1 or § 2812.4-3 of this subpart each of the parties to the disagreement shall appoint an arbitrator and the two arbitrators thus appointed shall select a third arbitrator. If either party fails to appoint an arbitrator as provided herein, the other party may apply to a court of record of the State of Oregon for the appointment of such an arbitrator, as provided by the laws of such State. If within ten days of the appointment of the second of them, the original two arbitrators are unable to agree upon a third arbitrator who will accept the appointment, either party may petition such a court of record of the State of Oregon for the appointment of a third arbitrator. Should any vacancy occur by reason of the resignation, death or inability of one or more of the arbitrators to serve, the vacancy shall be filled according to the procedures applicable to the appointment of the arbitrator whose death, disability, or other inability to serve, created the vacancy.

(b) By mutual agreement, the parties may submit to a single arbitration proceeding controversies arising under both §§ 2812.4-1 and 2812.4-3.

(c) The arbitrators shall hear and determine the controversy and make, file, and serve their award in accordance with the substantive standards prescribed in §§ 2812.4-1 and 2812.4-3, for the type of controversy involved and in accordance with the procedures estab-

lished by the laws of the State of Oregon pertaining to arbitration proceedings. A copy of the award shall also be served at the same time upon the authorized officer or the State Director, either personally or by registered mail.

(d) Costs of the arbitration proceedings shall be assessed by the arbitrators against either or both of the parties, as may appear equitable to the arbitrators, taking into account the original contentions of the parties, the ultimate decision of the arbitrators and such other matter as may appear relevant to the arbitrators.

[35 FR 9638, June 13, 1970, as amended at 41 FR 21642, May 27, 1976]

### § 2812.5 Payment to the United States, bond.

#### § 2812.5-1 Payment required for O. and C. timber.

An applicant will be required to pay to the Bureau of Land Management, in advance of the issuance of the permit, the full stumpage value as determined by the authorized officer of the estimated volume of all timber to be cut, removed, or destroyed, on O. and C. lands in the construction or operation of the road.

#### § 2812.5-2 Payment to the United States for road use.

(a) A permittee shall pay a basic fee of \$5 per year per mile or fraction thereof for the use of any existing road or of any road constructed by the permittee upon the right-of-way. If the term of the permit is for 5 years or less, the entire basic fee must be paid in advance of the issuance of the permit. If the term of the permit is longer than 5 years, the basic fee for each 5-year period or for the remainder of the last period, if less than 5 years, must be paid in advance at 5-year intervals: *Provided, however*, That in those cases where the permittee has executed under §§ 2812.3-1 to 2812.3-5 an agreement respecting the use of roads, rights-of-way or lands, no such basic fee shall be paid: *Provided further*, This paragraph shall not apply where payment for road use is required under § 2812.3-1(b).