

## Bureau of Land Management, Interior

## § 2812.6-2

paragraph and if it is determined that the approval of the application will be in the public interest, the authorized officer may, in his discretion, issue an appropriate permit, upon a form prescribed by the Director.

(b) The authorized officer may waive the requirements of §§ 2812.1-2 (c) and (e) and 2812.5-3 in the case of a natural person who applies for a right-of-way for not to exceed a period of twelve weeks. Not more than one such waiver shall be allowed in each consecutive twelve calendar months on behalf of or for the benefit of the same person.

### § 2812.6-2 Terms and conditions of permit.

(a) As to all permits: Every permittee shall agree:

(1) To comply with the applicable regulations in effect as of the time when the permit is issued and, as to the permittee's roads as to which the United States has received rights under §§ 2812.3-1 to 2812.3-5 with such additional regulations as may be issued from time to time relating to the use of roads for the purpose of access by properly licensed hunters and fishermen and by other recreationalists to lands of the United States in the O. and C. area which are suitable for such recreational purposes, where such use will not unreasonably interfere with the use of the road by the permittee for the transportation of forest products or unduly enhance the risk of fire, collision, or other hazards on such road and on lands in the vicinity thereof. If, notwithstanding the request of the authorized officer that the permittee allow use of a road in conformity with such additional regulations the permittee shall unreasonably withhold his assent, the authorized officer shall refer the disagreement through the proper channels to the Director of the Bureau for his consideration, and, if the Director concurs in the conclusion of the authorized officer and if the matter is still in dispute, he shall refer the matter to the Secretary of the Interior for his consideration. In the event of the Secretary's concurrence in the conclusions of the authorized officer, and if the permittee nevertheless unreasonably withholds such assent, the United States may institute such judicial pro-

ceedings as may be appropriate to enforce said regulations.

(2) Not to cut, remove, or destroy any timber not previously purchased on the right-of-way without having first obtained specific authority from the authorized officer and making payment therefor.

(3) To take adequate precaution to prevent forest, brush, and grass fires; to endeavor with all available personnel to suppress any fire originating on or threatening the right-of-way on which a road is being used or constructed by the permittee or any fire caused by the permittee; to do no burning on or near the right-of-way without State permit during the seasons that permits are required and in no event to set fire on or near the right-of-way that will result in damage to any natural resource or improvement.

(4) To submit to arbitration proceedings and to be bound by the resulting arbitral awards, pursuant to §§ 2812.4-1, 2812.4-3, and 2812.4-4.

(5) In the event that the United States acquires by purchase or eminent domain the land or any interest therein, over which there passes a road which the United States has acquired the right to use under §§ 2812.3-1 to 2812.3-5 of this subpart to waive compensation for the value of the road, equivalent to the proportion that the amount the United States has contributed bears to the total actual cost of construction of the road. Such contribution shall include any investment in or amortization of the cost of such road, or both, as the case may be, made by the United States or a licensee either by way of direct expenditures upon such road, or by way of payment by the United States or a licensee to the permittee, or by way of allowance made by the United States to the permittee in any timber sales contract for such amortization or capital investment.

(6) To construct all roads and other improvements as described in the application for the permit, except as the authorized officer may authorize modification or abandonment of any such proposed construction.

(7) To use the permit and right-of-way afforded subject to all valid existing rights, to such additional rights-of-

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way as may be granted under this paragraph to a reservation of rights-of-way for ditches and canals constructed under authority of the United States.

(8) Not to discriminate against any employee or applicant for employment because of race, creed, color, or national origin, and to require an identical provision to be included in all subcontracts.

(9) Except as the authorized officer may otherwise permit or direct to clean up and remove from the road and right-of-way within six months after the expiration or other termination of the permit, all debris, refuse, and waste material which may have resulted from his operations and use of said road; to repair all damage to said road resulting directly or indirectly from his use thereof; and to remove therefrom all structures, timbers, and other objects that may have been installed or placed thereon by him in connection with said operations or use; *Provided, however*, That the road and all usable road improvements shall be left in place.

(10) Upon request of an authorized officer, to submit to the Bureau within 30 days with permission to publish, the detailed terms and conditions, including the fee which the permittee will ask as a condition of such licensee's use for the removal of forest products over any road or right-of-way which the United States and its licensees have acquired a right to use under §§ 2812.1-3 to 2812.1-5.

(11) To grant to the United States, upon request of an authorized officer in lieu of the rights-of-way across legal subdivisions granted pursuant to §§ 2812.1-3 to 2812.1-5, such permanent easements on specifically described locations as may be necessary to permit the Bureau to construct roads on such legal subdivisions with appropriated funds: *Provided*, That at the time of the grant of such permanent easements the Bureau shall release, except for necessary connecting spur roads, the rights-of-way across such legal subdivisions previously granted: *Provided further*, That if the United States builds a road on such permanent easements it shall pay for any timber of the permittee which is cut, removed, or destroyed in accordance with § 2812.4-2. The authorized officer shall waive the

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requirement under this paragraph, however, if the permittee makes a satisfactory showing to the authorized officer that he does not own a sufficient interest in the land to grant a permanent easement, and that he has negotiated therefor in good faith without success.

(b) As to permits for the use of an existing road: In addition, every permittee to whom a permit is issued for the use of an existing road is required to agree:

(1) To maintain such a road in an adequate and satisfactory condition or to arrange therefor with the other users of the road. In the absence of satisfactory performance, the authorized officer may have such maintenance work performed as may be necessary in his judgment, determine the proportionate share allocable to each user, and collect the cost thereof from the parties or the sureties on the bonds furnished by said parties.

(2) Upon the expiration or other termination of his right to its use, to leave said road and right-of-way in at least as good a condition as existed prior to the commencement of his use.

### § 2812.7 Assignment of permit.

Any proposed assignment of a permit must be submitted in duplicate, within 90 days after the date of its execution, to the authorized officer for approval, accompanied by the same showing and undertaking by the assignee as is required of an applicant by §§ 2812.1-2 and 2812.3-1 to 2812.3-5, and must be supported by a stipulation that the assignee agrees to comply with and be bound by the terms and conditions of the permit and the applicable regulations of the Department of the Interior in force as of the date of such approval of the assignment.

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

### § 2812.8 Cause for termination of permittee's rights.

#### § 2812.8-1 Notice of termination.

(a) The authorized officer in his discretion may elect upon 30 days' notice to terminate any permit or right-of-way issued under this paragraph if: