

§ 2812.5-3

during his use of the road. The authorized officer shall base his determination upon the amortization of the replacement costs for a road of the type involved, together with a reasonable interest allowance on such costs plus costs of maintenance if furnished by the United States and any extraordinary costs peculiar to the construction or acquisition of the particular road. In the case of federally acquired or constructed access roads, an allowance representing a reasonable allocation for recreational or other authorized uses shall be deducted from the replacement costs of the road before the amortization item is computed. A similar allowance and deduction shall be made in cases involving roads constructed as a part of a timber sale contract when, and if, subsequent to completion of such contract any such road becomes subject to recreational or other authorized uses. In arriving at the amortization item, the authorized officer shall take into account the probable period of time, past and present, during which such road may be in existence, and the volume of timber which has been moved, and the volume of timber currently merchantable which probably will be moved from all sources over such road: *Provided, however,* That this subdivision shall not apply where the permittee transports forest products purchased from the United States through the Bureau of Land Management, or where payment for such road use to another permittee is required under this subpart 2812: *Provided further,* That where the United States is entitled to charge a fee for the use of a road, the authorized officer may waive such fee if the permittee grants to the United States and its licensees the right to use, without charge, permittee's roads of approximately equal value as determined under the methods provided in this subdivision and § 2812.4-1(b), as may be applicable.

(c) If an application is filed to use a road built on O. and C. lands by the applicant or his predecessor in interest under a permit which has expired, the authorized officer may issue a new permit which provides that as to such road the applicant's road use payments shall be determined in accordance with

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paragraph (b) of this section except that he shall be required to pay a road use fee which is adequate to amortize only his proportionate share of any capital improvements which have been or may be placed on the road by the United States or its licensees together with a reasonable interest allowance thereon plus cost of maintenance if furnished by the United States: *Provided, however,* That if the application is for use of a road which has been built by a predecessor in interest the permit shall provide that the applicant may use the road only for the purpose of reaching the lands of the predecessor in interest that were served by the road. As a condition for the granting of such a permit, the applicant must comply with §§ 2812.3-1 to 2812.3-5 to the extent that rights-of-way and road use rights are needed to manage lands of the United States or to remove timber therefrom.

§ 2812.5-3 Bonds in connection with existing roads.

An applicant for permit or a permittee desiring to use an existing road owned or controlled by the United States, shall prior to such use post a bond on a form prescribed by the Director. The amount of the bond shall be determined by the authorized officer but in no event less than five hundred dollars (\$500) per mile or fraction thereof. The bond shall be executed by an approved corporate surety, or the permittee may deposit an equivalent amount in cash or negotiable securities of the United States and the bond shall be conditioned upon compliance with subpart 2812 and the terms and conditions of the permit.

§ 2812.6 Approval and terms of permit.

§ 2812.6-1 Approval.

(a) Upon the applicant's compliance with the appropriate provisions of this 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 proceedings 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-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.