

Forest Service, USDA

made or to appropriations for similar purposes currently available at the time of deposit.

[25 FR 6360, July 7, 1960. Redesignated at 62 FR 58654, Oct. 30, 1997]

§ 212.4 Construction and maintenance.

(a) Construction and maintenance work on forest transportation facilities with appropriated funds shall be directed to what is necessary and economically justified for protection, administration, development, and multiple-use management of the federally owned lands and resources served.

(b) Preliminary engineering and the construction and maintenance of forest transportation facilities shall be performed by force account or let to contract, unless otherwise approved by the Chief. The contract method shall be employed for roads and trails in accordance with section 205(c) of the Act of August 27, 1958 (72 Stat. 907); 23 U.S.C. 205, and for all other facilities when it is advantageous and in the interest of the Government.

(c) No construction work shall be started by force account or let to contract until all necessary rights of way have been secured, and approved by the Attorney General, if required, and cooperative agreements, if any, approved and executed.

[24 FR 10256, Dec. 18, 1959, as amended at 25 FR 6360, July 7, 1960. Redesignated at 62 FR 58654, Oct. 30, 1997; 66 FR 3216, Jan. 12, 2001]

§ 212.5 Road system management.

(a) *Traffic rules.* Rules set forth under 36 CFR part 261 and this section shall apply to all National Forest System roads under the jurisdiction of the Forest Service except when in conflict with written agreement.

(1) *General.* Traffic on roads is subject to State traffic laws where applicable except when in conflict with the rules established under 36 CFR part 261.

(2) *Specific.* The following specific traffic rules shall apply unless different rules are established in 36 CFR part 261.

(i) The load, weight, length, height, and width limitations of vehicles shall be in accordance with the laws of the States wherein the road is located. Greater or lesser limits may be im-

§ 212.5

posed and these greater or lesser limits shall be established as provided in 36 CFR part 261.

(ii) Roads, or segments thereof, may be restricted to use by certain classes of vehicles or types of traffic as provided in 36 CFR part 261. Classes of vehicles are defined to include, but not be limited to, distinguishable groupings such as passenger cars, buses, trucks, motorcycles, automobiles, 4-wheel drive vehicles and trailers. Types of traffic are defined to include, but not be limited to, groupings such as commercial hauling, recreation and administrative.

(iii) Roads, or segments thereof, may be closed to all vehicle use as provided in 36 CFR part 261.

(iv) Additional rules may be imposed as provided in 36 CFR part 261.

(b) *Road system—(1) Identification of road system.* For each national forest, national grassland, experimental forest, and any other units of the National Forest System (§212.1), the responsible official must identify the minimum road system needed for safe and efficient travel and for administration, utilization, and protection of National Forest System lands. In determining the minimum road system, the responsible official must incorporate a science-based roads analysis at the appropriate scale and, to the degree practicable, involve a broad spectrum of interested and affected citizens, other state and federal agencies, and tribal governments. The minimum system is the road system determined to be needed to meet resource and other management objectives adopted in the relevant land and resource management plan (36 CFR part 219), to meet applicable statutory and regulatory requirements, to reflect long-term funding expectations, to ensure that the identified system minimizes adverse environmental impacts associated with road construction, reconstruction, decommissioning, and maintenance.

(2) *Identification of unneeded roads.* Responsible officials must review the road system on each National Forest and Grassland and identify the roads on lands under Forest Service jurisdiction that are no longer needed to meet forest resource management objectives

§212.6

36 CFR Ch. II (7–1–05 Edition)

and that, therefore, should be decommissioned or considered for other uses, such as for trails. Decommissioning roads involves restoring roads to a more natural state. Activities used to decommission a road include, but are not limited to, the following: reestablishing former drainage patterns, stabilizing slopes, restoring vegetation, blocking the entrance to the road, installing water bars, removing culverts, reestablishing drainage-ways, removing unstable fills, pulling back road shoulders, scattering slash on the roadbed, completely eliminating the roadbed by restoring natural contours and slopes, or other methods designed to meet the specific conditions associated with the unneeded road. Forest officials should give priority to decommissioning those unneeded roads that pose the greatest risk to public safety or to environmental degradation.

(c) *Cost recovery on forest service roads.* The Chief may determine that a share of the cost of acquisition, construction, reconstruction, improvement, or maintenance of a road, or segment thereof, used or to be used for commercial hauling of non-Federal forests products and other non-Federal products, commodities and materials, should be borne by the owners or haulers thereof. The Chief may condition the permission to use a road, or segment thereof, upon payment to the United States of the proportionate share of the cost and bearing proportionate maintenance as determined to be attributable to the owner's or hauler's use in accordance with §212.9. This condition to use roads would apply where the owners or haulers:

(1) Have not shared in the cost of acquisition, construction, reconstruction, or improvements, and

(2) Have not made contributions to pay their proportionate share of the costs.

(d) *Maintenance and reconstruction of forest service roads by users—(1) Maintenance.* The Chief may require, but not in conflict with an existing permit, easement, contract, or other agreement, the user or users of a road, including purchasers of Government timber and other products, to maintain the roads in a satisfactory condition commensurate with the particular use

requirements of each. The maintenance to be borne by each user shall be proportionate to total use and no individual user shall be required to perform or bear the costs of maintenance other than that commensurate with his use.

(2) *Reconstruction.* The Chief may require, but not in conflict with an existing permit, easement, contract, or other agreement, the user or users of a road to reconstruct it when, at the time the use is requested, reconstruction is determined to be necessary to accommodate his use.

(3) *Deposits in lieu of performance.* If the maintenance or reconstruction cannot be so provided or if the Chief determines that maintenance or reconstruction by a user would not be practical, the Chief may require that sufficient funds be deposited by the user to provide his portion of the total maintenance or reconstruction costs. Deposits made to cover maintenance or reconstruction of roads shall be used for the purposes deposited, except that:

(i) Deposits received for work on adjacent and overlapping areas may be combined when it is the most practicable and efficient manner of performing the work, and cost thereof may be determined by estimates, and

(ii) Unexpended balances upon accomplishment of the purposes for which deposited shall be transferred to miscellaneous receipts or refunded.

(e) *Deposits for making delayed payments to cooperator.* Any fees or other collections received by the Chief under the terms of an agreement or other document providing for delayed payments to the Government's cooperator for use of a road shall be placed in a fund available for making these payments.

[39 FR 27649, July 31, 1974, as amended at 42 FR 2957, Jan. 14, 1977; 43 FR 20007, May 10, 1978; 62 FR 58654, Oct. 30, 1997. Redesignated and amended at 62 FR 58654, Oct. 30, 1997; 66 FR 3217, Jan. 12, 2001]

§212.6 Ingress and egress.

(a) *Policy in acquiring and granting access.* To assure effective protection, management, and utilization of lands administered by the Forest Service and intermingled and adjacent private and public lands, and for the use and development of the resources upon which