

Bureau of Land Management, Interior

§ 2812.3-1

Wagon Road Grant Lands (O&C) lands (as is defined in 43 CFR 2812.0-5(e)), for tramroads without an authorization pursuant to this subpart, or which is beyond the scope and specific limitations of such an authorization, or that cause unnecessary or undue degradation, is prohibited and shall constitute a trespass as defined in §2808.10 of this chapter. Anyone determined by the authorized officer to be in violation of this section shall be notified of such trespass in writing and shall be liable to the United States for all costs and payments determined in the same manner as set forth in subpart 2808 of this chapter.

[70 FR 21078, Apr. 22, 2005]

§ 2812.2 Nature of permit.

§ 2812.2-1 Nonexclusive license.

Permits for rights-of-way for tramroads, do not constitute easements, and do not confer any rights on the permittee to any material for construction or other purposes except, in accordance with the provisions of §§2812.6-2 and 2812.8-3, such materials as may have been placed on such lands by a permittee. The permits are merely nonexclusive licenses to transport forest products owned by the permittee. Such permits may be canceled pursuant to §2812.8.

§ 2812.2-2 Right of permittee to authorize use by third parties.

A permittee may not authorize other persons to use the right-of-way for the transportation of forest products which are not owned by the permittee. Any person, other than the permittee or a licensee of the United States who desires to use the right-of-way for such purposes, is required to make application therefor and to comply with all the provisions of these regulations relating to applications and applicants: *Provided, however,* That upon the request of a permittee the authorized officer may, with respect to an independent contractor who desires to use such right-of-way for the transportation of forest products owned by such independent contractor and derived from timber or logs acquired by him from such permittee, waive the requirements of this sentence. Where the

right-of-way involved has been substantially improved by the holder of an outstanding permit, any subsequent permit issued for the same right-of-way will be conditioned upon the subsequent permittee's agreement while the prior permit is outstanding, to be bound by the road rules of and to pay fair compensation to, the prior permittee, such rules and compensation to be agreed upon by the prior and subsequent permittee in accordance with the procedures and standards established by the regulations in §§2812.4-1, 2812.4-3, and 2812.4-4 of this subpart.

§ 2812.2-3 Construction in advance of permit.

The authorized officer may grant an applicant authority to construct improvements on a proposed right-of-way prior to a determination whether the permit should issue. Such advance authority shall not be construed as any representation or commitment that a permit will issue. Upon demand by the authorized officer, the applicant will fully and promptly comply with all the requirements imposed under and by this paragraph. Advance construction will not be authorized unless and until applicant has complied with §§2812.1-1, 2812.1-2, 2812.3-1 and 2812.5-1.

§ 2812.3 Right-of-way and road use agreement.

§ 2812.3-1 Rights over lands controlled by applicant.

Where, in the judgment of the authorized officer, it appears necessary in order to carry out the policy set forth in §2812.0-6, he may require the applicant, as a condition precedent to the issuance of the permit:

(a) To grant to the United States, for use by it and its licensees and permittees, rights-of-way across lands in the O. and C. area directly controlled by the applicant; and as to lands in such area which are indirectly controlled by him, either to obtain such rights for the United States or to make a showing satisfactory to the authorized officer that he has negotiated therefor in good faith and to waive as to the United States, its licensees and permittees any exclusive or restricted right he may have to such lands as are indirectly controlled by him.