

**Forest Service Handbook
National Headquarters - Washington Office
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**Forest Service Handbook 2709.12 – Road Rights-Of-Way Grants Handbook
Chapter 10 - Application Processing**

Amendment: 2709.12-1994-3

Effective date: September 07, 1994

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Approved by: Jack Thomas, Chief

Date approved:

Responsible Staff:

POSTING NOTICE. Amendments are numbered consecutively by

Handbook number and calendar year. Post by document name.

Remove entire document and replace with this amendment. Retain

this transmittal as the first page of this document. The last

amendment to this Handbook was Amendment 2709.12-94-2 to

2709.12,10 Contents.

Last Change: Amendment 2709.12-94-2 to 2709.12,10 Contents

Superseded Document(s): 10 thru 14

Digest: Following is an explanation of the changes throughout the directive by section.

11: Makes minor editorial changes to the text and replaces exhibit 01 in this section on Selecting Appropriate Granting Authority.

12: Makes minor editorial changes in this section on Preparation of Grants.

13: Makes minor changes to clarify the direction in this section on Applications and Environmental Assessments. Includes "scoping" in the environmental analysis process.

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11 - Selecting Appropriate Granting Authority

Several different types of grants authorize road construction and use across National Forest System lands. Use exhibit 01 to identify the proper applicant for a particular application and situation. Complete information on the authorization appears in the Forest Service Handbook and Manual references for each document.

11 - Exhibit 01

AUTHORIZATION SELECTION KEY

Note: Unless otherwise identified, references to chapter and section refer to this Handbook (FSH 2709.12).

A. ROUTE OF ACCESS DOES NOT ENTER A WILDERNESS AREA OR A CONSERVATION SYSTEM UNIT IN ALASKA

1. Applicant is a public road agency.

a. Application is for a Federal-aid highway or a Chapter 2 highway under 23 U.S.C. 200-219: FSM 2731 - Department of Transportation Easement; chapter 20.

b. The road is not a Federal-aid highway or a Chapter 2 road: FSM 2732 - FRTA Public Road Easement; section 34.

2. Applicant is the Bureau of Land Management: FSM 5465.1 - Bureau of Land Management.

3. Applicant is a Federal agency other than the Bureau of Land Management.

a. Application is for construction of a road that is not part of the forest development road (FDR) system: FSM 2733 - FLPMA Rights-of-Way; section 41.13.

b. Application is for the reconstruction or temporary or intermittent use of an existing road that is part of the FDR system: FSM 7730 - OPERATION AND MAINTENANCE; section 41.21 or FSM 2733 - FLPMA Rights-of-Way; section 41.25.

c. Application is for the construction and use of a road that will be a part of the FDR system: FSM 2733 - FLPMA Rights-of-Way; section 41.22.

4. Applicant is not one of the above.

a. Application is within a cost share area established by a Road Right-of-Way Construction and Use Agreement by a cooperator for a:

11 - Exhibit 01—Continued

(1) Permanent road: FSM 5467 Road Right-of-Way Construction and Use Agreement and FSM 2732 - FRTA Easements; sections 31, 32, or 33.

(2) Temporary road: FSM 5467 Road Right-of-Way Construction and Use Agreement; section 41.24.

b. Application is outside of a cost share area established by a Road Right-of-Way Construction and Use Agreement by a cooperator for:

(1) The use or construction and use of a road on the FDR system: FSM 2732 - FRTA Easements; section 35.2 - exhibit 01 or FSM 2733 - FLPMA Rights-of-Way; section 41.11.

(2) The construction and use of a permanent road that will not be part of the FDR system: FSM 2732 - FRTA Easements; section 35.2 - exhibit 02 or FSM 2733 - FLPMA Rights-of-Way; section 41.12.

(3) The construction and use of a temporary road on the general location of a FDR: FSM 2733- FLPMA Rights-of-Way; section 41.22.

(4) The construction and use of a temporary private road that is not on the general location of a FDR: FSM 2733 - FLPMA Rights-of-Way; section 41.23.

c. Application is by a private party or State agency that is not a public road agency and not a cost share cooperator for access to non-Federally owned land within the boundaries of a National Forest.

(1) Application is by a landowner having access rights for use of or construction and use of a road on the FDR system: FSM 2733 - FLPMA Rights-of-Way; section 41.11.

(2) Application is by a landowner having access rights for construction and use of a permanent road not on the FDR system: FSM 2733 - FLPMA Rights-of-Way; section 41.12.

(3) Application is for use of a road in a manner prohibited by 36 CFR 261.12 or by an order promulgated under 36 CFR 261.54, or application is for commercial hauling when a permit or easement requires the grantee or permittee to obtain a permit for commercial hauling: FSM 7730 - OPERATION AND MAINTENANCE.

(4) Application is for the construction of a road that will become part of the FDR system upon completion and acceptance, but applicant does not qualify for an easement: FSM 2733 - FLPMA Rights-of-Way; section 41.22.

d. Application is for access to mining claims, mineral leases, or other uses of Federal land, or for access to non-Federal land where an easement is not appropriate.

(1) Application is for use of a road that is part of the FDR system: FSM 7730 - OPERATION AND MAINTENANCE.

(2) Application is for construction and use of a road not part of the FDR system: FSM 2730 - ROAD AND TRAIL RIGHTS-OF-WAY GRANTS; section 41.23.

B. ROUTE OF ACCESS ENTERS A WILDERNESS AREA

1. Application is by a non-Federal landowner: FSM 2320 - WILDERNESS MANAGEMENT and FSM 2734 - Other Rights-of-Way; section 51.

2. Application is by party desiring rights-of-way through a wilderness for a transportation system: Not authorized, except in Alaska under provisions of section XI of the Alaska National Interest Land and Conservation Act (ANILCA).

C. ROUTE OF ACCESS CROSSES OR ENTERS A CONSERVATION SYSTEM UNIT IN ALASKA

Issue these rights-of-way in accordance with specific procedures and direction established by ANILCA. Region 10 issues appropriate Forest Service Manual supplements containing direction for these rights-of-way grants.

12 - Preparation of Grants

Standard formats and acceptable modifications for all forms of right-of-way grants except road use permits, are in other chapters of this Handbook. The standard format for a road use permit is in FSM 7730.

13 - Applications and Environmental Assessments

Normally, applications for right-of-way grants should be in writing on Form FS-2700-3, Special-Use Application and Report, as it facilitates the processing of the application. While there is no requirement for a formal application for rights-of-way issued to cooperators in a cost share agreement area or to public road agencies, they must provide enough information about the proposed road (location, standard, general specifications, estimated costs, amount and type of proposed use, and season of use) for evaluation of the proposed use.

The information required in the application and its detail depend on the factual situation. For major projects, the applicant may provide the details of the proposal in more than one stage. It may be unreasonable to require the applicant to perform an expensive survey and design before a tentative decision on the grant is made. Verbal discussions about the principal facts and the steps needed to perfect the application are desirable. Let the applicant know as soon as possible what information should be included and when it is required.

An adequate description or plat is necessary for all easement grants and should be included with the application. Generally, a simple plat or a line on a map with ties to property corners at the point of entry and exit and that identifies the right-of-way on the ground to the exclusion of all others is adequate for a permit or license. See FSM 7150 for additional information on surveys and plats.

Scoping is required on all proposed projects (FSH 1909.15, ch. 30). Scoping will indicate the extent of environmental analysis and documentation. When there is a requirement for public input, give Federal, State, and local government agencies and the public adequate notice and an opportunity to comment upon access proposals in accordance with Forest Service practices established under the National Environmental Policy Act (NEPA) (36 CFR 215; FSM 1950) and other pertinent direction. Documentation may vary from a categorical exclusion for use of existing roads to a full environmental impact statement (EIS) for major projects. Prepare necessary documentation far enough in advance of the proposed road construction to facilitate incorporation of recommendations into the road location, design, and specifications. Inform the applicant of the probable time frame for completion of the environmental assessment process.

Applications for access in Conservation Units in Alaska are subject to time limits and application format requirements established by section XI of the Alaska National Interest Land and Conservation Act (FSM 2701.1).

14 - Plans and Specifications

All plans, specifications, and special conditions that apply to the construction of a road must appear in construction stipulations agreed to by the applicant and the appropriate Forest Officer. The applicant must submit these documents for review and approval by the appropriate Forest Officer before beginning any ground disturbance. The plans and specifications must provide for prevention of soil erosion and stream damage during and after construction. They must define for the applicant and the Forest Service the facility to be built.

In determining the degree of detail for surveys, designs, plans, specifications, and construction staking, consider terrain, soil type, esthetic values, water quality, and other resource values in conjunction with road design criteria. For very minor roads and short logging spurs in easy terrain, form specifications prepared for use Region-wide or Forest-wide coupled with construction staking on the ground may be used. For more difficult terrain the plans and specifications shall be similar in form and detail to those used by the Forest Service for contracting road construction. A registered professional engineer shall prepare plans for major structures, such as bridges and retaining walls.