

**Forest Service Handbook  
National Headquarters - Washington Office  
Washington, DC**

**Forest Service Handbook 5609.11 – Boundary Management Handbook  
Chapter 40 – Rights-of-Way Surveys**

**Amendment:** 5609.11-2020-1

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**Duration:** This amendment is effective until superseded or removed.

**Superseded Directive:**

**Approved by:** TINA TERRELL, Associate Deputy Chief, NFS

**Date approved:** August 17, 2020

**Responsible Staff:**

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

**40** - Establishes new chapter and sets forth codes, captions, and replaces direction for Right-of-Way Surveys previously included in FSM 7153.

## Table of Contents

40.1 – Authority .....	3
40.2 – Objective .....	3
40.3 – Policy .....	3
40.4 – Responsibility .....	4
40.41 – Regional Forester .....	4
40.42 – Regional Lands Director .....	4
40.5 Definitions .....	4
<b>41 – Administration .....</b>	<b>5</b>
41.1 – Survey and Plat Standards .....	5
41.12 – Temporary Right-of-Way and Existing Public Roads.....	6
<b>42 – Operations .....</b>	<b>6</b>

## **40.1 – Authority**

See FSM 5601 for authorities and legal aspects relating to boundary management.

## **40.2 – Objective**

To provide a recordable, locatable, and accurate land description that clearly delineates and documents the intent of the parties in a format suitable for the public record and meets the administrative needs of the Agency.

To survey or approve rights-of-way and easement plats and descriptions with the oversight of the Forest Service State-licensed land surveyor.

## **40.3 – Policy**

1. Acquired easements, easement reservations, and private and public road easements issued under the Federal Land Policy and Management Act (FLPMA) shall be surveyed under the direction of a State-licensed land surveyor, conform to State monumentation and documentation requirements, meet all applicable Federal and State standards, and be delineated on a plat of survey.
2. Forest Road and Trails Act (FRTA) public road easements issued to public agencies must be surveyed under the direction of a State-licensed land surveyor and delineated on a map or plat to a standard that meets or exceeds all administrative requirements.
3. A Forest Service State-licensed land surveyor shall determine the type of survey needed to generate an adequate description of the interest to be acquired or conveyed, and also shall determine the applicable standards for all land surveys pursuant to acquired easements, easement grants, and easement reservations. Surveyor reports are required that document the review and acceptance of all plats, maps, and descriptions used to acquire or convey an easement or easement grant.
4. Minimum survey accuracy standards must conform to chapter 20 of this Handbook. The easement survey shall be in sufficient detail to allow the preparation of an adequate written description and/or survey plat.
5. A land survey may not be required when the right-of-way is for short-term use, a title interest is not acquired, or condemnation is not required. The right-of-way document shall include a description, which is tied or projected to property controlling corners or boundaries, and/or contains a general centerline or other description of the land intended to be occupied. Each region shall develop local survey and documentation standards to fit temporary use conditions.
6. Each right-of-way description must include a plat or, at a minimum, a map delineating the road location with notations defining the right-of-way width and the points of beginning and ending. All maps are to be made to a standard dependent on the duration of the use and the rights or privileges being granted. A Forest Service land surveyor will

review for acceptability all maps or plats submitted for use in a conveyance. A geo-referenced digital centerline location file will be provided for each right-of-way acquired or granted for inclusion in the Land Status Record System. The data will be referenced to the National Spatial Reference System.

#### **40.4 – Responsibility**

##### **40.41 – Regional Forester**

The Regional Forester is responsible for:

1. Processing the easement description with the Office of the General Counsel.
2. Monitoring the technical adequacy of right-of-way surveys and right-of-way survey plats.
3. Establishing regional standards and requirements for local surveys and documentation for rights-of-way.

##### **40.42 – Regional Lands Director**

The Regional Lands Director is responsible for the following, unless delegated to Forest Supervisors within that region:

1. Ensuring that surveys are completed to a standard commensurate with land values, risks, ownership complexities, and availability of property controlling corners.
2. Ensuring that the appropriate level of expertise is available to conduct right-of-way surveys and prepare legal descriptions.
3. Signing the right-of-way survey plat indicating the survey was made at the request of a Forest Service Line Officer.

#### **40.5 Definitions**

Easement. A non-possessory partial interest held by one entity (dominate estate) in land of the fee owner (servient estate) whereby the dominant estate is accorded use of such land for a specific purpose. An easement restricts, but does not abridge, the rights of the fee owner to the use and enjoyment of the land.

License. Permission to cross land for specified purposes, often revocable at the will of the licensor, and not assignable. A license conveys no interest in land. It may be written or verbal. If it is written, it is considered a permit.

Permit. A written license or warrant issued by a person in authority, empowering the Grantee to do some act not forbidden by law, but not allowable without such authority.

Right-of-Way. A right to pass over the land of another for a road, trail, utility line, pipeline, irrigation canal or ditch, or other linear use. The right-of-way may be conveyed by an easement, permit, or other instrument.

## **41 – Administration**

A right-of-way may be created by easement deed, permit, license, deed reservation, or exception in a deed. It may be obtained for a definite time period or in perpetuity. Use the following guidelines when administering a right-of-way survey:

1. The deed for a right-of-way in fee title or as a partial interest (for example, an easement) must be executed with the same formalities as any other deed and must convey those rights intended by both parties. The deed must contain an adequate legal description and must clearly define the area and rights to be conveyed.
2. A Forest Service State-licensed land surveyor shall determine when a land survey may be required if the Forest Service plans to acquire or grant an easement for a right-of-way, permit, or license.
3. When it has been determined a land survey must be required, the acquiring party shall be responsible for obtaining the survey.
4. Right-of-way surveys require long-term planning and scheduling to provide sufficient lead time prior to construction or reconstruction activities. For further guidance, see EM-7150-3, Land Surveying Guide, Planning Prior to Right-of-Way Survey (p. 54). This technical manual is maintained on the Washington Office Regional Surveyor's SharePoint site.

### **41.1 – Survey and Plat Standards**

#### **41.11 – Acquired Easements, Condemnations, Easement Reservations, and Easement Grants**

The following standards apply to all acquired easements, easement condemnations, easement reservations, and easements grants for private and public roads issued under FRTA or FLPMA. Each activity may require a survey to be performed under the direction of a State-licensed land surveyor that meets or, when necessary, exceeds applicable State standards:

1. Survey plats must be prepared to State standards and local recording requirements. The plat must contain the following items:
  - a. Forest road name and number;
  - b. The landowner's name;
  - c. The tract number;

- d. A geo-referenced location and datum;
  - e. The acreage encumbered and total length shown in miles and/or U.S. Survey feet;
  - f. The County, State, Forest, and Ranger District in which the right-of-way is located; and
  - g. In the Public Land Survey System (PLSS) States, the Township, Range, Section, Aliquot or Lot part, as well as the controlling PLSS meridian.
- 2. A statement of authorization signed by a Line Officer must be placed on all survey plats delineating an easement interest being acquired by the Federal Government. Refer to chapter 21.1 of this Handbook.
  - 3. Easements acquired or granted shall be geo-referenced for entry into the corporate Geographic Information System Land Status Record System database. The positional accuracy of the geo-referenced data must be within five meters and collected by equipment allowing for statistical analysis. A statement of geo-positioning method used and precision obtained shall accompany the reporting of geo-referenced data.
  - 4. The survey plat with legal description must be recorded with the conveyance document, or recorded separately, and referenced in the deed of conveyance.

#### **41.12 – Temporary Right-of-Way and Existing Public Roads**

A survey meeting State standards is not required for temporary road special use permits. However, a Forest Service land surveyor shall review all descriptions for adequacy. Permits of three years or less in duration are not required to be geo-referenced.

Public road right-of-way encumbering existing roads may be surveyed or delineated on a map under the direction of a State-licensed land surveyor. Survey or map accuracy must be that which will identify the road to the exclusion of all other roads, and will delineate its location in relation to lands crossed and accessed. The road must be geo-referenced to a standard sufficient to accurately input the easement into the corporate Geographic Information System database. The positional accuracy of geo-referenced data must be within five meters and collected by equipment allowing for statistical analysis. A statement of the geo-positioning method used, and the precision obtained, must accompany the reporting of any geo-referenced data.

#### **42 – Operations**

For direction, see EM-7150-3, Land Surveying Guide.