

**Forest Service Handbook  
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Washington, DC**

**Forest Service Handbook 2709.12 – Road Rights-of-Way Grants  
Chapter 40 – Federal Land Policy and Management Act Authorizations**

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

**Chapter 40:** Removes obsolete direction, updates, and replaces codes and captions, revises chapter in its entirety, and adds zero code.

**Section 41:** Renames section from “Types of Special-Use Authorizations” to “Types of Special-Use Authorizations Issued for Roads Under Federal Land Policy and Management Act (FLPMA),” and sets forth direction. Removes section 41.24 and 41.25.

**Section 42:** Renames section from “Applications” to “Applications for FLPMA Road Rights-of-Way” and sets forth direction.

**Section 43:** Renames section from “Term of Authorization” to “Term of FLPMA Road Rights-of-Way Authorizations” and sets forth direction.

**Section 44:** Renames section from “Construction Stipulations” to “Plans and Specifications for Road Construction and Reconstruction” and sets forth direction.

**Section 45:** Renames section from “Determination of Fees” to “Land Use Fees for FLPMA Road Rights-of-Way” and sets forth direction. Removes section 45.4.



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**Section 46:** Renames section from “Administration of Rights-of-Way” to “Administration of FLPMA Road Right-of-Way Authorizations”; removes sections: 46.11, 46.21, 46.22, 46.23; adds sections 46.33, 46.4, and 46.5 and sets forth direction.



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A special use authorization issued for use of a road under Title V of the Federal Land Policy and Management Act (FLPMA) may be in the form of an easement or a permit. This chapter discusses FLPMA easements and special use permits for use of roads on National Forest System lands or interests in lands (Forest Service-acquired easements) and when to issue each type of authorization.

#### **40.1 – Authority**

**Title V of Federal Land Policy and Management Act (FLPMA) Title 43, United States Code, section 1761-1772 (43 U.S.C. 1761-1772).** This statute authorizes the Forest Service to issue right-of-way authorizations for a variety of uses, including for use of roads on National Forest System lands.

#### **40.5 – Definitions**

**Easement.** For purposes only of this chapter, a type of special use authorization (usually granted for a linear right-of-way) that is utilized in those situations where a conveyance of a limited and transferable interest in National Forest System lands is necessary or desirable to serve or facilitate authorized long-term uses and that may be compensable according to its terms Title 36, Code of Federal Regulations, section 251.51 (36 CFR 251.51).

**Special Use Permit.** A special use authorization which provides permission, without conveying an interest in land, to occupy and use National Forest System lands or facilities for specified purposes and which is both revocable and terminable (36 CFR 251.51).

#### **41 – Types of Special Use Authorizations Issued for Roads Under Federal Land Policy and Management Act (FLPMA)**

FLPMA road easements and permits authorize use of a road on National Forest System lands or within a road right-of-way granted to the United States and specify operation and maintenance requirements for the road.

Limit all road special use authorizations issued under FLPMA to a reasonable term based on the needs of the expected uses of the non-federal property to be accessed by the road, as provided in the holder's application, and the anticipated need of the Forest Service for periodic revision of the terms of the authorization. The instructions in each FLPMA road special use authorization form specify the maximum term allowed. Terms may be less than the maximum, but by default should be issued for the longest term recommended in FSH 2709.11, chapter 10, section 19, exhibit 02.

##### **41.1 – FLPMA Road Easements**

A FLPMA road easement is a long-term authorization to use a National Forest System road or a private road to access private property owned by the applicant. In issuing a FLPMA road



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easement, follow applicable procedures in Title 36, Code of Federal Regulations, Part 251—Land Uses, Subpart B Special Uses and Subpart D—Access to Non-Federal Lands (36 CFR Part 251, Subparts B and D), and this Handbook, and use form FS-2700-9i, Forest Road Easement, or form FS-2700-9j, Private Road Easement.

An easement conveys an interest in real property. In determining whether to issue a special use permit or an easement, the Authorized Officer should consider whether a special use permit will provide reasonable access, as issuance of a special use permit rather than an easement minimizes encumbrance of the federal estate. In most cases, a special use permit will provide reasonable, adequate legal access (36 CFR 251.110(c)). Easements should be reserved for situations where a non-federal landowner provides a valuable benefit to the general public or to the programs of the Secretary, such as where the landowner grants a reciprocal easement to the United States for a road or trail Title 36, Code of Federal Regulations, section 212.8—Permission to Cross Lands and Easements Owned by the United States and Administered by the Forest Service and Title 36, Code of Federal Regulations, section 251.63—Reciprocity (36 CFR 212.8 and 251.63).

A FLPMA easement may be used to grant a reciprocal right-of-way when the applicant is not a cooperator, as defined in the Zero Code, section 05, of this Handbook or to grant a long-term recordable interest where such an interest is appropriate. Do not issue a FLPMA road easement inside a cost share agreement area to a cooperator (see FSH 5409.17, ch. 60). Issue a permit, not an easement, when the applicant refuses to grant a needed easement to the United States.

Do not issue a FLPMA road easement to another Federal agency or a public road authority. See section 41.21 of this chapter for direction on issuance of a FLPMA road use permit to another Federal agency. See chapter 30, section 34, of this Handbook for direction on issuance of a public road easement under the National Forest Roads and Trails Act to a public road authority for a state or county highway.

A FLPMA road easement may authorize road construction required in conjunction with long-term uses on National Forest System lands, such as construction and operation of a dam for a reclamation project or a Federal Energy Regulatory Commission license. The term of FLPMA road easements granted for access to another authorized special use should be coextensive with the term of the authorization for that special use.

If an applicant needs access to land planned for subdivision, issue a FLPMA road easement only to a county or township, an authorized road district, or a legally recognized organization

(for example, a homeowners' association or a road users' association) of all the lot owners served by the road. In some situations, ownership of the affected land may be fragmented or subdivided. In those cases, the Authorized Officer should require all individuals and entities with an ownership interest to form a road users' association and all individuals and entities that acquire an ownership interest in the future to become a member of the association so that a



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single authorization may be issued to the association. Creation of an association decreases Forest Service administrative costs by reducing the number of authorizations to issue and administer and by avoiding termination and reissuance of authorizations when ownership changes. Prior to issuance of an authorization to a road users' association, the association must be incorporated under state law and must be represented by a single individual to facilitate communication and administration of the authorization (36 CFR 251.114(d); FSM 2711.6, para. 4, 2732.3, and 7732.25). See FSM 2730.3 for additional direction on issuance of authorizations for subdivision access roads.

#### **41.11 – FLPMA Forest Road Easements**

Issue a FLPMA forest road easement (form FS-2700-9i) for use of a National Forest System road to access non-federal property when the applicant is not a public road authority. A FLPMA forest road easement may also be issued when the proponent qualifies for a National Forest Roads and Trails Act easement but wants to pay its proportionate share of the road construction costs for commercial hauling or commercial use on an as-hauled basis, instead of in a lump-sum payment (FSH 2709.12, ch. 30).

#### **41.12 – FLPMA Private Road Easements**

Issue a FLPMA private road easement (form FS-2700-9j), for a long-term right-of-way for a private road on National Forest System lands. The standard of the road constructed under the easement is entirely at the discretion of the grantee, except that the road must include all design elements and features needed to protect the National Forest lands within and adjacent to the right-of-way.

A permanent private road easement (form FS-2700-9h) may be issued, in limited circumstances, under the National Forest Roads and Trails Act for use of a private road to access private property when the Forest Service is receiving a reciprocal easement as consideration and the two easements are determined to be substantially similar in value (FSH 2709.12, ch. 40, sec. 45.32).

#### **41.2 – FLPMA Road Special Use Permits**

A FLPMA road special use permit is a shorter-term authorization for use of a National Forest System road, National Forest System lands, or a non-National Forest System road to access non-federal property or lands managed by another Federal agency. In contrast to a FLPMA road easement, a FLPMA road special use permit does not convey an interest in real property. Use form FS-2700-4b, Forest Road Special Use Permit, or form FS-2700-4c, Private Road Special Use Permit, when access to non-federal lands is needed and is the primary need described in an application for such access (36 CFR Part 251, Subpart D).

In contrast to road special use permits, which are issued under FLPMA, road use permits for commercial hauling; for use of roads, trails, or areas or for activities restricted by regulation or



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order; or for access to a conservation easement are issued under the National Forest Roads and Trails Act, Title 16, United States Code, sections 532-538 (16 U.S.C. 532-538). See FSM 7731.17 and FSH 7709.59, ch. 20, sec. 24, and ch. 60, sec. 63.24, for direction on issuance of road use permits under FRTA.

#### **41.21 – FLPMA Forest Road Special Use Permits**

Use a Forest Road Special Use Permit (form FS-2700-4b) to authorize:

1. Construction and use of a road that is on the general routing of a planned National Forest System road or that will substitute for a planned National Forest System road.
2. Use of a National Forest System road for access to non-Federal lands (for example, subdivisions) or lands managed by another Federal agency when such use is prohibited by an order or when the proponent's need for use, maintenance, construction, or reconstruction of the road exceeds the Forest Service's need.
3. Use of a National Forest System road when the proponent wants to bear the share of road construction costs on an as-hauled basis, instead of in a lump-sum payment.

#### **41.22 – FLPMA Private Road Special Use Permits**

Issue a Private Road Special Use Permit (form FS-2700-4c) for use of a road that is not in the forest transportation system to access non-federal property or lands administrated by another Federal agency. A road authorized under this type of permit is constructed and maintained by the holder for the holder's use and is not intended to be used by the general public. The Forest Service may use the road but will need to make arrangements with the holder to maintain and repair the road commensurate with the Forest Service's use. The Forest Service may authorize others to use the road but must require the other users to pay their share of the road construction and maintenance costs to the holder.

#### **41.23 – FLPMA Temporary Road Special Use Permits Issued to Cooperators in Cost Share Agreement Areas**

Use the Cost Share Agreement Temporary Road Permit, form FS-2700-4d, for non-cost share roads in agreement areas (FSH 2709.12, ch. 30, sec. 30.2) when the applicant meets the first three criteria, but not the fourth, in FSH 2709.12, chapter 30, section 32.1 (see also FSM 5467 and FSH 5409.17, ch. 60, sec 63.5), for issuance of a non-cost share easement under the National Forest Roads and Trails Act.

Do not issue the Cost Share Agreement Temporary Road Permit when the Forest Service has a need to use the road, but the proponent and the Forest Service have not agreed upon the costs to be shared. If there is no agreement on the costs to be shared, issue a Forest Road Special Use Permit, form FS-2700-4b (sec. 41.21). Authorize a non-federal entity to conduct



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commercial hauling on an existing National Forest System road in an agreement area using form FS-7700-41, Commercial Hauling Permit for Non-Federal Entities (FSH 5409.17, ch. 60, sec. 63.5, and 7709.59, ch. 20, sec. 24).

## **42 – Applications for FLPMA Road Rights-of-Way**

FLPMA road right-of-way authorizations are used to grant access to a landowner who is not a cooperator under a road right-of-way construction and use agreement or to another Federal agency. Applications for FLPMA road rights-of-way from these landowners and from other federal agencies are subject to the requirements in 36 CFR Part 251, Subparts B and D, and this chapter. Authorizations issued to cost share cooperators and other parties under the National Forest Roads and Trails Act are subject to direction in FSH 2709.12, chapter 30, and FSH 5409.17, chapter 60.

A plat or written description of the right-of-way must be included in a FLPMA road permit or easement. When a written description is used, it must be accompanied by a map at a sufficient scale to show the location of the use adequately. When a plat is used, at a minimum it must show the location of the right-of-way and specify its width; identify the ownership of the underlying land; and specify the subdivisions or tracts in which the right-of-way is situated. For existing roads, an adequately annotated and identified portion of a map showing the road or an aerial photograph or satellite image may serve as the plat. For new roads, a digitized location on a map with a scale of 2 inches = 1 mile is sufficient if the location is marked on the ground clearly and referenced adequately. The map must identify the right-of-way width and lands crossed. Label ties and locations that are not surveyed as approximate. A centerline survey may be required when the right-of-way is close to property lines and there is any possibility of encroachment on land owned by third parties.

## **43 – Term of FLPMA Road Right-of-Way Authorizations**

Each road right-of-way authorization issued under FLPMA must be limited to a reasonable term, taking into account all the circumstances concerning the use and occupancy to be authorized. Establish the term consistent with the user notes in the applicable authorization form and based on such considerations as the cost of the authorized road, its useful life, and the expected uses of associated lands as described in the application for the authorization.

A FLPMA forest road easement (form FS-2700-9i) and a FLPMA private road easement (form FS-2700-9j) may be issued for a term of up to 50 years.

A FLPMA forest road permit (form FS-2700-4b) and a FLPMA private road permit (form FS-2700-4c) may be issued for a term of up to 20 years.



#### **44 – Plans and Specifications for Road Construction and Reconstruction**

Ensure that applicants for road construction and reconstruction submit plans and specifications for the proposed work. Plans and specifications for road construction and reconstruction must be approved by the Forest Service before commencement of work. In approving plans and specifications, ensure they provide for prevention of soil erosion and stream damage during and after construction or reconstruction. Plans and specifications should be in the same form and level of detail that would be needed for a similar road built under a federal contract or by a timber sale purchaser. Standardized road design specifications without detailed plans are not acceptable, except as provided in section 44, paragraph 1. Include plans and specifications approved by the Forest Service in the authorization file.

1. In determining the degree of detail for surveys, designs, plans, specifications, and construction staking, consider terrain, soil type, anticipated traffic use, esthetic values, water quality, and other resource values in conjunction with road design criteria. For very minor roads, short logging spurs, and skid trails in easy terrain, the Regional Forester may authorize in writing the use of standard specifications coupled with construction staking on the ground on a regional or forest basis.
2. Specifications must include all provisions necessary to provide adequate control of construction and reconstruction, including provisions governing timber and brush disposal, drainage installation, fire tool requirements, safety and security, and any other provisions deemed necessary by the environmental analysis or the Authorized Officer. The content of specifications may vary to meet the needs of each project.
3. A performance bond may be required where necessary, but may not be substituted for adequate plans, specifications, and inspections of work in progress.
4. Ensure that the applicant prepare the requisite plans and specifications. Sensitive areas may require a survey and site-specific design criteria. A professional engineer must prepare design plans for structures such as bridges, retaining walls, and major culverts. Often it is desirable for the Forest Service to participate in siting a road, especially when siting is a critical factor, and the applicant is not experienced in that work.
5. Avoid problems in interpretation of requirements and performance of work by ensuring the specifications are clearly enumerated and by inspecting the work while in progress. Inspection is especially important during the early stages of construction and reconstruction.



## **45 – Land Use Fees for FLPMA Road Rights-of-Way**

FLPMA road easements and permits require the grantee or holder to pay the fair market value of the authorized use and occupancy of National Forest System lands in accordance with the terms of the applicable easement or permit (36 CFR 251.57(a)(1)).

### **45.1 – Determination of Land Use Fees**

Calculate the land use fee for FLPMA road rights-of-way using the linear right-of-way land use fee schedule in FSH 2709.11, chapter 30, section 36.41, exhibits 01 and 02.

### **45.2 – Investment Sharing and Maintenance Costs for Forest Roads**

FLPMA forest road easements and permits require the grantee or holder to pay the grantee's or holder's investment share for commercial use of the authorized National Forest System road. See FSM 7730.5 and FSH 7709.59, chapter 20, sec 24.11, and chapter 30, for direction on calculation of investment sharing for commercial hauling on National Forest System roads.

FLPMA forest road easements and permits also require the grantee or holder to pay the grantee's or holder's share of maintenance costs for the authorized National Forest System road and/or perform the grantee's or holder's share of maintenance of the road commensurate with the grantee's or holder's use of the road, or a combination of both methods as determined by the Forest Service. Any road maintenance performed by the grantee or holder must be conducted in accordance with a maintenance plan approved in writing by the Authorized Officer. Maintenance, construction, or reconstruction of the authorized National Forest System road to accommodate the grantee's or holder's needs must have prior written approval from the Authorized Officer and must be performed at the grantee's or holder's expense. See FSM 7732 and FSH 7709.59, chapter 60, section 63.

### **45.3 – Land Use Fees**

#### **45.31 – Land Use Fee Exemption for Federal Entities**

Federal entities are exempt under Forest Service regulations from payment of a land use fee.

#### **45.32 – Waiver of Land Use Fees**

The Authorized Officer may waive all or part of the land use fee for a FLPMA forest road easement or permit if one of the following conditions is met:

1. The applicant provides a valuable benefit to the public of substantially equal or greater value than the road being authorized;
2. The applicant grants to the United States a reciprocal road right-of-way of substantially similar value; or



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3. The authorization is being issued for a National Forest System road that the applicant is constructing at its sole expense.

When the road will be constructed for the United States as part of the forest transportation system, waive the land use fee in its entirety.

When the value of a reciprocal road right-of-way granted to the United States is substantially similar to the value of the reciprocal road right-of-way granted to the applicant, waive the land use fee in its entirety. If the difference in the value of the reciprocal road rights-of-way is nominal, consider the value of the reciprocal road rights-of-way to be substantially similar, and waive the land use fee in its entirety. See section 45.33 for direction on calculation of a partial waiver of a land use fee when the applicant grants to the United States a reciprocal road right-of-way with a value that is less than the value of the reciprocal road right-of-way granted to the applicant. Do not include timber value in determining the value of a road right-of-way because timber remains the property of the landowner. See FSH 2709.11, chapter 30, section 31, and FSH 5409.12 for direction on determination of the value of a road right-of-way for purposes of waiver of the land use fee.

If the land use fee calculated when the reciprocal road rights-of-way are granted does not exceed the current minimum land use fee, waive the land use fee in its entirety.

See FSH 2709.11, chapter 30, for additional direction on land use fees for special use authorizations.

#### **45.33 – Partial Land Use Fee Waiver**

Land use fees may be partially waived when the applicant grants to the United States a reciprocal road right-of-way with a value that is less than the value of the reciprocal road right-of-way granted to the applicant. In these cases, reduce the land use fee for the road right-of-way easement or permit in proportion to the value of the road right-of-way conveyed to the United States. For example, if the value of the road right-of-way granted to the United States is \$500 and the value of the road right-of-way granted to the applicant is \$750, the reduction in the land use fee for the applicant's road right-of-way authorization is calculated as follows:

1.  $\$750 - \$500 = \$250$  and
2.  $\$250$  is 0.333 or 33.3% of  $\$750$

The annual land use fee is thus reduced by 33.3 percent or 0.333. If the annual land use fee is \$120, the annual land use fee charged is  $\$120 \times 0.333$  or \$40, rounded to the nearest dollar.

Adjust all future land use fee calculations by the percentage established when the reciprocal road rights-of-way are granted.



#### **45.4 – Additional Consideration for Reciprocal Road Rights-of-Way Granted to the United States**

If the value of the reciprocal road right-of-way granted to the United States substantially exceeds the value of the reciprocal road right-of-way granted to the applicant, the United States must pay the difference as consideration for the road right-of-way granted to the United States. The easement granted to the United States must include as consideration the amount paid in addition to the grant of the reciprocal road right-of-way.

#### **46 – Administration of FLPMA Road Right-of-Way**

FLPMA road easements and permits provide for administration of the authorizations in accordance with their terms.

##### **46.1 – Authorization Holder’s Share of Road Maintenance**

FLPMA road easements and permits require the grantee or holder to pay the Forest Service for the grantee’s or holder’s share of maintenance costs for the road or perform the grantee’s or holder’s share of maintenance of the road proportionate to the grantee’s or holder’s total use of the road, as determined by the Forest Service (sec. 45.2). Any road maintenance performed by the grantee or holder must be authorized by and must be conducted in accordance with a maintenance plan approved in writing by the Authorized Officer. Maintenance, construction, or reconstruction of the road to accommodate the grantee’s or holder’s needs must have prior written approval from the Authorized Officer and must be performed at the grantee’s or holder’s expense.

##### **46.2 – Use of a Private Road by a Party Other Than the Authorization Holder**

The Forest Service has the right to use or cross upon, over, or under a private road authorized by a FLPMA easement or permit and to authorize others to use or cross upon, over, or under the private road in any way that is not inconsistent with the grantee’s or holder’s rights and privileges under the authorization, after consultation with all parties involved.

When the Forest Service uses a private road for commercial hauling, other than removal of timber cut during construction or maintenance of the private road or other occasional incidental use, the Forest Service must pay or perform its pro-rata share of maintenance and construction costs of the private road.

The Authorized Officer must require users to pay the grantee or holder or perform work equivalent in value to their pro-rata share of the current replacement cost of the private road, less depreciation, to reconstruct the private road as necessary to accommodate their use and to perform maintenance of the private road commensurate with their use.



## **46.3 – Revocation and Suspension of FLPMA Road Right-of-Way Authorizations**

FLPMA road easements and permits may be revoked and suspended in accordance with FLPMA, applicable regulations, the terms of the applicable authorization, and section 46.3 of this chapter. After all applicable procedural requirements are met, notice of revocation or suspension should be sent to the grantee or holder by certified mail, return receipt requested. The notice must include the effective date of the revocation or suspension and the grounds for the revocation or suspension.

### **46.31 – Revocation and Suspension of FLPMA Road Easements**

1. **Grounds for Revocation and Suspension.** The Authorized Officer may revoke or suspend a FLPMA road easement for:
  - a. Noncompliance with applicable Federal, State, or local laws and regulations;
  - b. Noncompliance with the terms of the easement; or
  - c. Abandonment of the easement. Failure of the grantee to use the easement area for a continuous 5-year period constitutes a rebuttable presumption of abandonment of the easement. Abandonment of an easement must be supported by a well-documented administrative record.
2. **Prerequisites for Revocation and Suspension.** Except for immediate suspension under section 46.31, paragraph 3, the Authorized Officer may not revoke or suspend a FLPMA road easement unless:
  - a. The Authorized Officer has given the grantee written notice of the grounds for revocation or suspension and, in the case of revocation or suspension for noncompliance with applicable laws, regulations, or the terms of the easement, a reasonable period, not to exceed 90 days, to cure any noncompliance; and
  - b. After an administrative appeal conducted pursuant to USDA regulations at Title 7, Code of Federal Regulations, Part 1—Administrative Regulations, Subpart H—Rules of Practice Governing Formal Adjudicatory Proceedings (7 CFR Part 1, Subpart H), as amended, the Authorized Officer makes a finding that grounds for revocation or suspension exist and that revocation or suspension is justified.
3. **Immediate Suspension.** The Authorized Officer may immediately suspend a FLPMA road easement in whole or in part when necessary to protect public health or safety or the environment. The suspension decision must be in writing. The grantee may request an onsite review with the Authorized Officer's superior of the adverse conditions prompting the suspension. The Authorized Officer's superior must grant this request



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within 48 hours. Following the onsite review, the Authorized Officer's superior must promptly affirm, modify, or cancel the suspension.

4. **Recording of a Revocation.** Record a notice of revocation at the expense of the United States in each county in which the easement was recorded.

**46.32 – Revocation and Suspension of FLPMA Road Permits Issued to a Non-Federal Entity**

1. **Grounds for Revocation and Suspension.** The Authorized Officer may revoke or suspend a FLPMA road permit issued to a non-federal entity:
  - a. For noncompliance with Federal, State, or local law;
  - b. For noncompliance with the terms of the permit;
  - c. For abandonment or other failure of the holder to exercise the privileges granted; or
  - d. At the discretion of the Authorized Officer, for specific and compelling reasons in the public interest.
2. **Prerequisites for Revocation and Suspension.** Prior to revocation or suspension, other than immediate suspension under section 46.32, paragraph 3, the Authorized Officer must give the holder written notice of the grounds for revocation or suspension and a reasonable period, typically not to exceed 90 days, to cure any noncompliance.
3. **Immediate Suspension.** A FLPMA road permit may be immediately suspended on the same grounds and subject to the same procedures as a FLPMA road easement (sec. 46.31, para. 3).

**46.33 – Revocation and Suspension of FLPMA Road Permits Issued to a Federal Entity**

A FLPMA road permit issued to a federal entity may be revoked or suspended only with the consent of the head of the Agency that holds the permit.

**46.4 – Termination of FLPMA Road Easements and Permits**

A FLPMA road easement or permit terminates when by its terms a fixed or agreed upon condition, event, or time occurs without any action by the Authorized Officer. Termination of a FLPMA road easement or permit does not require notice, a decision document, or any environmental analysis or other documentation; is not subject to administrative appeal; and does not give rise to any claim for damages by the grantee or the holder against the Forest Service. Written notice of termination other than by expiration must be sent to the grantee or holder. The notice must include the reason for termination of the easement or permit.



#### **46.41 – Termination of a FLPMA Road Easement**

A FLPMA road easement terminates:

1. If the grantee does not record the easement within 90 days of the date it is granted;
2. Upon expiration;
3. Prior to expiration, at such time when the authorized road is no longer needed for access to the grantee's land;
4. Upon the written agreement of the grantor and the grantee;
5. If the grantee fails to make timely payments, pay interest charges, or any other charges when due;
6. If a subsequent easement is granted by the United States to a public road authority for operation of the authorized road as a public highway. If an existing FLPMA road permit does not provide for termination under these circumstances, forward the case to the Regional Forester with a recommendation to revoke the permit for specific and compelling reasons in the public interest; or
7. If the grantor assumes jurisdiction over the private road, in which case the grantor must issue a forest road easement to the grantee for the road using the appropriate standard Forest Service form, provided the grantee is in compliance with all the terms of the easement and the private road is still needed for access to the grantee's lands.

#### **46.42 – Termination of a FLPMA Road Permit**

A FLPMA road permit terminates:

1. Upon expiration;
2. Prior to expiration, at such time when the authorized road is no longer needed for access to the holder's land;
3. If the holder fails to make timely payments, pay interest charges, or any other charges when due;
4. If a subsequent easement is granted by the United States to a public road authority for operation of the authorized road as a public highway. If an existing FLPMA road permit does not provide for termination under these circumstances, forward the case to the



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Regional Forester with a recommendation to revoke the permit for specific and compelling reasons in the public interest; or

5. Upon transfer of title to the private property accessed by the authorized road. The party who acquires title to the private property must submit an application for a permit. The Forest Service is not obligated to issue a new permit to the party who acquires title to the private property accessed by the authorized road. The Authorized Officer must determine that the applicant for a new permit meets requirements under applicable federal regulations.

**46.5 – Land Exchanges Involving a FLPMA Road Permit**

If the holder of a FLPMA road permit involved in a land exchange is not the proponent in the exchange or does not consent to revocation of the permit, have the exchange proponent execute an easement for the road and place it in escrow pending completion of the exchange and issuance of a patent for the affected lands. See FSM 5430.3 and FSH 5409.13, chapter 30, for additional direction on handling FLPMA road permits in the context of a land.