

## Forest Service, USDA

## § 251.50

provide adequate safeguards for the protection of the Petersburg municipal water supply.

[53 FR 26595, July 14, 1988]

### Subpart B—Special Uses

AUTHORITY: 16 U.S.C. 4601-6a, 4601-6d, 472, 497b, 497c, 551, 580d, 1134, 3210; 30 U.S.C. 185; 43 U.S.C. 1740, 1761-1771.

SOURCE: 45 FR 38327, June 6, 1980, unless otherwise noted.

#### § 251.50 Scope.

(a) All uses of National Forest System lands, improvements, and resources, except those authorized by the regulations governing sharing use of roads (§ 212.9); grazing and livestock use (part 222); the sale and disposal of timber and special forest products, such as greens, mushrooms, and medicinal plants (part 223); and minerals (part 228) are designated "special uses." Before conducting a special use, individuals or entities must submit a proposal to the authorized officer and must obtain a special use authorization from the authorized officer, unless that requirement is waived by paragraphs (c) through (e)(3) of this section.

(b) Nothing in this section prohibits the temporary occupancy of National Forest System lands without a special use authorization when necessary for the protection of life and property in emergencies, if a special use authorization is applied for and obtained at the earliest opportunity, unless waived pursuant to paragraphs (c) through (e)(3) of this section. The authorized officer may, pursuant to § 251.56 of this subpart, impose in that authorization such terms and conditions as are deemed necessary or appropriate and may require changes to the temporary occupancy to conform to those terms and conditions. Those temporarily occupying National Forest System lands without a special use authorization assume liability, and must indemnify the United States, for all injury, loss, or damage arising in connection with the temporary occupancy.

(c) A special use authorization is not required for noncommercial recreational activities, such as camping, picnicking, hiking, fishing, boating,

hunting, and horseback riding, or for noncommercial activities involving the expression of views, such as assemblies, meetings, demonstrations, and parades, unless:

(1) The proposed use is a noncommercial group use as defined in § 251.51 of this subpart;

(2) The proposed use is still photography as defined in § 251.51 of this subpart; or

(3) Authorization of that use is required by an order issued under § 261.50 or by a regulation issued under § 261.70 of this chapter.

(d) Travel on any National Forest System road shall comply with all Federal and State laws governing the road to be used and does not require a special use authorization, unless:

(1) The travel is for the purpose of engaging in a noncommercial group use, outfitting or guiding, a recreation event, commercial filming, or still photography, as defined in § 251.51 of this subpart, or for a landowner's ingress or egress across National Forest System lands that requires travel on a National Forest System road that is not authorized for general public use under § 251.110(d) of this part; or

(2) Authorization of that use is required by an order issued under § 261.50 or by a regulation issued under § 261.70 of this chapter.

(e) For proposed uses other than a noncommercial group use, a special use authorization is not required if, based upon review of a proposal, the authorized officer determines that the proposed use has one or more of the following characteristics:

(1) The proposed use will have such nominal effects on National Forest System lands, resources, or programs that it is not necessary to establish terms and conditions in a special use authorization to protect National Forest System lands and resources or to avoid conflict with National Forest System programs or operations;

(2) The proposed use is regulated by a State agency or another Federal agency in a manner that is adequate to protect National Forest System lands and resources and to avoid conflict with National Forest System programs or operations; or

(3) The proposed use is not situated in a congressionally designated wilderness area, and is a routine operation or maintenance activity within the scope of a statutory right-of-way for a highway pursuant to R.S. 2477 (43 U.S.C. 932, repealed Oct. 21, 1976) or for a ditch or canal pursuant to R.S. 2339 (43 U.S.C. 661, as amended), or the proposed use is a routine operation or maintenance activity within the express scope of a documented linear right-of-way.

[69 FR 41964, July 13, 2004]

**§251.51 Definitions.**

*Applicant*—any individual, partnership, corporation, association, or other business entity, and any Federal, State or governmental entity or agency which applies for a special use authorization.

*Authorized officer*—any employee of the Forest Service to whom has been delegated the authority to perform the duties described in this part.

*Chief*—the Chief of the Forest Service.

*Commercial filming*—use of motion picture, videotaping, sound recording, or any other moving image or audio recording equipment on National Forest System lands that involves the advertisement of a product or service, the creation of a product for sale, or the use of models, actors, sets, or props, but not including activities associated with broadcasting breaking news, as defined in FSH 2709.11, chapter 40.

*Commercial use or activity*—any use or activity on National Forest System lands (a) where an entry or participation fee is charged, or (b) where the primary purpose is the sale of a good or service, and in either case, regardless of whether the use or activity is intended to produce a profit.

*Easement*—a type of special use authorization (usually granted for linear rights-of-way) that is utilized in those situations where a conveyance of a limited and transferable interest in National Forest System land is necessary or desirable to serve or facilitate authorized long-term uses, and that may be compensable according to its terms.

*Forest road or trail*. A road or trail wholly or partly within or adjacent to and serving the National Forest Sys-

tem that the Forest Service determines is necessary for the protection, administration, and utilization of the National Forest System and the use and development of its resources.

*Group use*—an activity conducted on National Forest System lands that involves a group of 75 or more people, either as participants or spectators.

*Guiding*—providing services or assistance (such as supervision, protection, education, training, packing, touring, subsistence, transporting people, or interpretation) for pecuniary remuneration or other gain to individuals or groups on National Forest System lands.

*Holder*—any applicant who has received a special use authorization.

*Lease*—a type of special use authorization (usually granted for uses other than linear rights-of-way) that is used when substantial capital investment is required and when conveyance of a conditional and transferable interest in National Forest System lands is necessary or desirable to serve or facilitate authorized long-term uses, and that may be revocable and compensable according to its terms.

*Linear right-of-way*—a right-of-way for a linear facility, such as a road, trail, pipeline, electronic transmission line, fence, water transmission facility, or fiber optic cable.

*Major category*—A processing or monitoring category requiring more than 50 hours of agency time to process an application for a special use authorization (processing category 6 and, in certain situations, processing category 5) or more than 50 hours of agency time to monitor compliance with the terms and conditions of an authorization (monitoring category 6 and, in certain situations, monitoring category 5). Major categories usually require documentation of environmental and associated impacts in an environmental assessment and may require an environmental impact statement.

*Minor category*—A processing or monitoring category requiring 50 hours or less of agency time to process an application for a special use authorization (processing categories 1 through 4 and, in certain situations, processing category 5) or 50 hours or less of agency time to monitor compliance with the