



**FOREST SERVICE HANDBOOK
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FSH 2709.11 - SPECIAL USES HANDBOOK

CHAPTER 10 - APPLICATION AND AUTHORIZATION PROCESSING

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Digest:

10.1 - 19 - This amendment establishes a new chapter providing detailed direction for the special uses proposal, application, and authorization process for occupancy and use of National Forest System lands. This direction reflects the changes to the special uses streamlining rule at Title 36, Code of Federal Regulations, Part 251, Subpart B - Special Uses (36 CFR part 251, subpart B), published in the Federal Register on November 30, 1998 (63 FR 65949). This chapter also provides detailed implementing direction for the final rule at 36 CFR parts 251 and 261 concerning noncommercial group uses, published in the Federal Register on August 30, 1995 (60 FR 45257).

19 - In section 19, exhibit 01 sets out a flow chart summarizing the steps in the special uses proposal, application, and authorization process; exhibit 02 sets out the full text of 36 CFR part 251, subpart B; and exhibit 03 summarizes the authority, authorization type and form, inspection frequencies, and maximum term for each type of special use activity.

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10.1 - Authority

Title 36, Code of Federal Regulations, Part 251, Subpart B (36 CFR part 251, subpart B), is the principal authority for screening special use proposals, filing and processing special use applications, and preparing authorizations. This chapter provides detailed procedural direction for implementing these regulations. The full text of subpart B is set out in exhibit 02 in section 19 of this chapter. See FSM 2701 and 2710.1 for further direction on statutory authorities, regulations, and requirements governing special use authorizations. Exhibit 03 in section 19 is a guide to special use authorizations that summarizes the legal authorities, authorization documents, and terms for authorizing them.

10.2 - Objectives

(See FSM 2702 for further direction on objectives for the special use application and authorization process.)

The objectives of the special uses application and authorization process are to;

1. Provide timely responses to proponents and applicants requesting use of National Forest System lands.
2. Provide a consistent decisionmaking process for special use applications.
3. Ensure that authorizations to use and occupy National Forest System lands are in the public interest (36 CFR part 251, subpart B).
4. Ensure that authorizations to use and occupy National Forest System lands comply with Forest land and resource management plans.

10.3 - Policy

(See FSM 2703 for further direction).

1. Within 60 days of receipt of a proposal to use National Forest System lands notify proponents of the suitability of the proposal and whether the agency will give further consideration of the project (sec. 12).
2. Provide information and advice to proponents in preparing their applications to focus the range of alternatives during the environmental analysis process.

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10.4 - Responsibility

(See FSM 2704 for further direction on positions with responsibilities in the special use application and authorization process.)

10.41 - Authorized Officer

(See FSM 2705 for the definition of “Authorized Officer.”)

It is the responsibility of the authorized officer to:

1. Meet with the proponent to discuss proposals to use National Forest System lands or direct a fully qualified representative to make the contact (sec. 10.42, para. 3).
2. Approve applications for the use of National Forest System lands when appropriate (FSM 2703.3).
3. Deny proposals and applications to use National Forest System lands that are not consistent with the management of the National Forests (FSM 2703.2).

10.42 - Case Manager

(See sec. 10.5 for the definition of “Case Manager.”)

For routine proposals, a case manager must meet the competency requirements for a special uses administrator and must have the knowledge and experience commensurate with the type and complexity of the proposed use; for unusual and complex uses, such as those typically issued on term permits, leases, or easements, the case manager must meet the competency requirements for a special use specialist or must work directly under a specialist’s guidance.

It is the responsibility of the case manager to:

1. Provide information and guidance to proponents and applicants as needed.
2. Process a proposal or application in compliance with 36 CFR 251.54 and the provisions of this chapter from the initial contact to the denial or authorization of the use.
3. Represent the authorized officer (sec. 10.41, para. 1), when directed, during the review and permitting process.
4. Provide technical assistance and input during the environmental analysis process.

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5. Make recommendations to the authorized officer on the suitability of the proposed use or application.
6. Prepare a special use authorization for the authorized officer's signature.

10.5 - Definitions

(See FSM 2705 and 36 CFR 251.51 for additional definitions.)

Application. A request to use National Forest System lands that has passed initial and second-level screening (sec. 12.2 and 12.3) and that has been accepted formally by the agency for further consideration.

Authorized Officer. (FSM 2705).

Case Manager. A special uses administrator qualified to process a special use proposal and application from initial contact with the proponent to denial or authorization of the use.

Planning Permit. A permit issued to a proponent authorizing minor disturbance of a site named in a special use proposal to gather information and data needed to develop the proposal. Planning permits usually are granted in connection with major development proposals and are categorically excluded from environmental analysis under the National Environmental Policy Act (NEPA; FSH 1909.15, ch. 30).

Proponent. A person or entity that submits a proposal to use or occupy National Forest System lands.

Proposal. A request to use National Forest System lands that has not passed the initial or second-level screening and that has not been accepted by the Forest Service as a formal application (sec. 12).

Solicited Proposal. A proposed use of National Forest System lands that is initiated by the Forest Service.

Unsolicited Proposal. A proposed use of National Forest System lands that is not initiated by the Forest Service.

11 - OVERVIEW OF SPECIAL USES PROPOSAL, APPLICATION, AND AUTHORIZATION PROCESS

Authorizations to occupy and use National Forest System lands and related waters are initiated either by unsolicited proposals (sec. 12) or through Forest Service solicitation (FSM 2710).

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In addition to new proposals, proposals to amend a current authorization, if the proposal involves new construction, reconstruction, or boundary adjustments, require initial and second-level screening before consideration as an accepted application. A change in ownership of authorized improvements may require review under some of the criteria in a second-level screening, such as technical and economic capability of the new owner of the improvements.

In section 19, exhibit 01 summarizes the sequence of steps in the special uses proposal, application, and authorization process. Exhibit 02 contains the full text of Title 36, Code of Federal Regulations, Part 251, Subpart B - Special Uses (36 CFR part 251, subpart B). Exhibit 03 summarizes the appropriate authority, authorization type and form, inspection frequency, and recommended maximum term for each type of special use activity.

11.1 - Oversight and Jurisdictional Responsibilities of Other Agencies

Special application procedures may apply to proposals regulated by other agencies, such as hydropower projects licensed by the Federal Energy Regulatory Commission (sec. 11.13; FSM 2770; FSH 2709.15); proposals for electric power transmission lines with a capacity of 66 kilovolts (KV) or higher requiring consultation with the Secretary of Energy (sec. 11.11); highway rights-of-ways granted to public road agencies by the Federal Highway Administration; and oil and gas pipelines 24 inches or larger in diameter, which require Congressional notification (sec. 11.12); and so forth.

11.11 - Electric Power Transmission Lines with Capacity of 66 Kilovolts or Higher

The Forest Service is required to consult with the U.S. Department of Energy for electric power transmission lines with a capacity of 66 kilovolts (KV) or higher (36 CFR 251.54(f)(2)). When a proposal for an electric power transmission line with a capacity of 66 KV or higher is accepted as a formal application, the Regional Office, Director of Lands or equivalent official, shall forward to the Secretary of Energy (Attention: Assistant General Counsel, 1000 Independence Avenue, SW, Washington, DC 20585) a copy of the application and other related documents that describe the nature of the request. Send a copy of the application and cover letter to the Director of Lands, Washington Office.

11.12 - Oil and Gas Pipelines 24 Inches or Larger in Diameter

(For related requirements, see 36 CFR 251.54(f)(1) set out in sec. 19, ex. 02.)

Section 28(w)(2) of the Mineral Leasing Act of 1920 (30 U.S.C. 185(w)(2)) requires the Forest Service to notify the Senate Energy and Natural Resources Committee and the House of Representatives Resources Committee when a request has been made to use National Forest System lands for oil or gas pipelines 24 inches or larger in diameter. When a proposal for an oil or gas pipeline 24 inches or larger in diameter is accepted as a formal application, the Regional Office, Director of Lands or equivalent official, shall forward to the Washington Office, Director

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of Lands, a copy of the application to forward to the appropriate committee chairperson. If a decision is made to approve the project, the Regional Office, Director of Lands or equivalent official, shall forward to the Washington Office, Director of Lands, a copy of the decision notice and proposed special use authorization to forward to the appropriate committee chairperson. The authorized officer must wait 60 days before issuing the authorization, unless the waiting period is waived by the committee.

11.13 - Federal Energy Regulatory Commission Hydropower Projects

The Forest Service has the authority under the Federal Power Act of 1924 (16 U.S.C. 791 et seq.) to require stipulations to hydropower licenses issued by the Federal Energy Regulatory Commission (FERC). Authorities, responsibilities, and other direction related to FERC-regulated hydropower projects are contained in FSM 2770.

11.14 - Who May Hold Special Use Authorizations

Unless specifically excepted, individuals, business entities, corporations, partnerships, associations, municipalities, or agencies of local, State, or Federal governments may hold a special use authorization.

1. Nondiscrimination. Do not discriminate against a proponent because of race, color, religion, sex, age, disability, marital status, or national origin (FSM 1780).
2. Prohibited Authorizations. Do not issue a special use authorization to individuals and other entities when the following criteria apply:
 - a. Citizens of countries other than the United States may hold authorizations, except for oil and gas pipelines, and except where the laws, customs, or regulations of the other country deny similar privileges to citizens or corporations of the United States (36 CFR 251.54(f)(1)(i)).
 - b. Federal law prohibits members of Congress and resident commissioners from holding certain types of authorizations (18 U.S.C. 431-433).
 - c. Forest Service employees should first obtain guidance from the appropriate agency official prior to considering a request to obtain a special use authorization (FSM 6174).

11.2 - Initial and Second-Level Screening

1. Initial and second-level screening (as established in 36 CFR 251.58(3)) applies to all requests to use National Forest System lands, except for:

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- a. Proposals involving noncommercial group use. These requests are governed by separate procedures in section 17.4 of this Handbook and 36 CFR 251.51 and 261.
 - b. Solicited proposals. These proposals are governed by separate procedures in FSM 2700.
 - c. Proposals involving existing rather than proposed uses (36 CFR 251.64).
 - (1) Proposals to replace an authorization that has terminated because the term of the authorization has ended, and continued use does not involve new construction or expanded use or occupancy of National Forest System lands beyond what was previously authorized.
 - (2) Proposals involving change of ownership of authorized improvements or change of ownership or control of the business entity.
2. Proposals involving existing uses do not have to be submitted as proposals first and then accepted as applications. Rather, proposals involving existing uses are immediately accepted as applications upon submission. In reviewing an application involving an existing use, the authorized officer shall consider:
- a. Whether the proposed use would conform to the applicable Forest land and resource management plan;
 - b. Whether the area requested is still being used for the purposes for which it is or was authorized; and
 - c. Whether the holder is in compliance with the terms and conditions of the authorization.

If significant new information or circumstances have arisen, additional environmental analysis may be required before the use can be reauthorized

11.21 - Initial Screening of Proposal

(For related requirements, see sec. 12.2 and 36 CFR 251.54(e)(1)-(4) in sec. 19, ex. 02.)

The authorized officer should meet with a proponent to discuss the nature of the proponent's request and provide the proponent with the guidelines the agency uses to evaluate proposals. At this stage, however, it may not be necessary for the proponent to supply the authorized officer with detailed information and studies, or even a written proposal. Conceptual proposals may be sufficient for the authorized officer to determine if the proposed use is consistent with existing laws, regulations, the applicable Forest land and resource management plan, and any other requirements (36 CFR 251.54(e)(1)).

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11.22 - Return to Proponent or Further Screening of Proposal

1. As provided in 36 CFR 251.54(e)(2), the authorized officer shall return to the proponent without further consideration any proposal that does not meet the initial screening criteria.

a. If the proposal is presented orally, the authorized officer may respond with an oral explanation of why the proposal did not meet the initial screening criteria and is being returned to the proponent.

b. If the proposal is made in writing, the authorized officer shall return the proposal and provide the proponent with a written explanation of why proposal did not meet the initial screening criteria.

2. Proposals that pass the initial screening process are further evaluated in the second-level screening process (sec. 12.3; 36 CFR 251.54(e)(5)).

11.23 - Second-Level Screening of Proposal

The special uses rules (36 CFR 251.54(5)) provide that after a proposal passes the initial screening, the authorized officer must determine if the proposal meets the second-level screening criteria set out in sections 12.32a through 12.32c.

11.24 - Denial of Proposal or Acceptance of Proposal as Application

(For the related regulatory requirements, see 36 CFR 251.54(g)(1) in sec. 19, ex. 02.)

The authorized officer shall deny any proposal that fails to meet the second-level screening criteria and shall return the proposal to the proponent with a written explanation of the denial (sec. 12.4). If the second-level screening criteria are met, the authorized officer shall notify the proponent that the agency is prepared to accept a written formal application for further evaluation (sec. 12.5).

11.25 - Evaluation of Proposed Action in Application

(For related regulatory requirements, see 36 CFR 251.54(g)(2) in sec. 19, ex 02.)

No environmental analysis is conducted of the proposed use until it passes initial and second-level screening (36 CFR 251.54(e)(6)). Once the proposed use passes initial and second-level screening, the authorized officer shall conduct the appropriate level of environmental analysis of the proposed action and may request additional information from the applicant to evaluate fully the proposed use and its effects on National Forest System lands and resources. The proposed action is the use requested, not the issuance of the authorization.

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11.26 - Decision To Approve or Deny Application and Proposed Use

(For related requirements, see sec. 12.6-12.62 and 36 CFR 251.54(g)(4) in sec. 19, ex. 02.)

After evaluating the application, the authorized officer shall make one of the following decisions:

1. Approve the proposed use as submitted,
2. Approve the proposed use with modification(s), or
3. Deny the proposed use.

11.3 - Forms for Requesting Use of National Forest System Lands

1. Proposals/Applications. Encourage proponents and applicants to submit proposals and applications on the appropriate standard forms. These forms include:

- a. SF-299, Application for Transportation and Utility Systems and Facilities on Federal Lands.
- b. FS-2700-3b, Special Use Application for Noncommercial Group Uses.
- c. FS-2700-3c, Special Use Application for Recreation Events.

The authorized officer may accept requests to use National Forest System lands in other formats if they describe the proposed use in sufficient detail for the authorized officer to make a decision on the request in accordance with regulatory requirements.

2. Transfers/Changes in Ownership. Except for situations that allow for the transfer of leases and easements (36 CFR 251.59), encourage the current owner(s) and new owner(s) to use Form FS-2700-3a, Holder Initiated Revocation of Existing Authorization; Request for a Special-use or Term Special-use Permit, when there is a change in ownership of the authorized improvements or a change in ownership or control of the business entity and when there is no proposed change in the scope or nature of the current use.

12 - RESPONDING TO PROPOSALS SUBJECT TO INITIAL AND SECOND-LEVEL SCREENING

Where the agency has advance notice of likely proposals, employees should advise the proponent to contact the Forest Service administrative office responsible for managing the affected land as early as possible for pre-application discussions before submitting a proposal (36 CFR 251.54(a)). Early contacts help the authorized officer gain a preliminary understanding of the proposal and establish a basis for further communication with the proponent. A discussion during this period may provide the proponent the opportunity to reconsider or revise the proposal or relocate the proposed use.

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12.1 - Pre-Application Meeting

In a pre-application meeting, explain to the proponent the information required in proposals (sec. 11) and the terms and conditions that would be required if an authorization is issued for the requested use. Emphasize that the terms and conditions are not negotiable. If the proponent would be unwilling to accept all the terms and conditions of the authorization, inform the proponent that it may be advisable to consider other options, such as non-National Forest System lands.

At a minimum, advise the proponent of and discuss the following points in the pre-application meeting:

1. The proposal must pass the nine criteria in the initial screening process to be considered for further screening (sec. 12.2).
2. Preference in processing applications and issuing authorizations is given to uses that offer public services and benefits over private uses.
3. Special application procedures may apply to a particular land use or administrative unit.
4. A proposal for a commercial use may involve a competitive interest determination (sec. 13.1) and Forest Service solicitation (sec. 13.11).
5. A planning permit issued on Form FS-2700-4 may be required for complex or sensitive proposals. A planning permit may be issued for up to 10 years. Issuance of planning permits may be categorically excluded from environmental documentation pursuant to FSH 1909.15 (36 CFR 251.54(g)(2)(v)). However, requests for a planning permit still must clear initial and second-level screening (sec. 12.2 and 12.3). Upon completion of the on-the-ground investigations and master development plan, the proponent may then submit a request for a decision to approve the application and to issue the appropriate authorization.

When requested by the proponent, the authorized officer and other Forest Service officials shall keep confidential, to the extent reasonable and authorized by law, any project and program information revealed during the pre-application process (36 CFR 251.54(e)(4)).

12.11 - Content of Proposals

The special use regulations require that any proponent for a special use authorization must provide the name and mailing address of the proponent or, if the proponent is not an individual, the name and address of the proponent's agent who is authorized to receive notice of actions pertaining to the proposal (36 CFR 251.54(d)(1)). The rule distinguishes information required

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for proposals for noncommercial group uses from that required for all other special uses. Information required for proposals for special uses other than noncommercial group use is set out in sections 12.11a and 12.11b. Information required for proposals for noncommercial group use is set out in section 17.41.

12.11a - Proposals for All Special Uses Other Than Noncommercial Group Use

1. Proposals for special uses, other than noncommercial group use, must contain at a minimum (36 CFR 251.54(d)(2)(ii)):
 - a. Sufficient evidence that the proponent has or will have, prior to commencement of construction, the technical and financial capability to construct, operate, maintain, and terminate the proposed use (36 CFR 251.54(d)(3)).
 - b. Except for requests for a planning permit for a major development, a description of the project, including maps and appropriate resource information, in sufficient detail to enable the authorized officer to determine the feasibility of the proposed use or activity; any benefits to be provided to the public; safety issues associated with the proposal; the lands to be occupied or used; the terms and conditions to be included in the authorization; and the proposal's compliance with applicable laws, regulations, and orders (36 CFR 251.54(d)(4)).
 - c. Any other information and data requested in writing by the authorized officer that are needed to determine the feasibility of the proposed use; the proposal's compliance with applicable laws, regulations, and orders; the proposal's compliance with requirements for clearances, certificates, permits, or licenses; and suitable terms and conditions to be included in the authorization (36 CFR 251.54(d)(5)).
2. In addition, if requested by the authorized officer, proponents in one of the following categories must furnish the information specified for that category (36 CFR 251.54(d)(2)(ii)(A)-(E)):
 - a. State or Local Government Agency. A copy of the authorization under which the proposal is made.
 - b. Public Corporation. The statute or other authority under which it was organized.
 - c. Federal Government Agency. The title of the agency official delegated the authority to submit the proposal.
 - d. Private Corporation.

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- (1) Evidence of incorporation and current good standing;
 - (2) If reasonably obtainable by the proponent, the name and address of each share holder owning three percent or more of the proponent's shares, and the number of the proponent's shares and percentage of any class of the proponent's voting stock of the shareholder is authorized to vote;
 - (3) The name and address of each of the proponent's affiliates;
 - (4) In the case of an affiliate controlled by the proponent, the number of the affiliate's shares and the percentage of any class of the proponent's voting stock owned by the proponent, either directly or indirectly; or
 - (5) In the case of an affiliate that controls the proponent, the number of the proponent's shares and the percentage of any class of the proponent's voting stock owned by the proponent, either directly or indirectly.
- e. Partnership, Association, or Other Unincorporated Entity. A certified copy of the partnership agreement or other similar document, such as a charter or by-laws, establishing the entity, or a certificate of good standing under the laws of the State where the entity was established.

12.12 - Time Frame for Reviewing Proposal

The authorized officer shall, within 60 calendar days of receipt of a proposal, review the proposal and advise the proponent as to whether the Forest Service will accept the proposal as a formal application (sec. 12.6) or deny the proposal based on initial or second-level screening criteria (sec. 12.2 and 12.3). The 60-day period does not include periods in which the authorized officer is waiting for additional information from the proponent or another governmental entity needed to complete the pre-application process. The 60-day period may be extended in rare situations involving complex proposals.

12.2 - Initial Screening of Proposals

12.21 - Criteria for Initial Screening

Screen proposals submitted orally or in writing to determine if they qualify for further consideration according to the criteria set out at 36 CFR 251.54(e)(1)(i)-(ix) (sec. 19, ex. 02). Return to the proponent without further consideration any proposal that fails one or more of the minimum requirements in the nine initial screening criteria.

To receive further consideration at the second-level screening, proposals must meet all nine initial screening criteria requirements that the proposed use:

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1. Is consistent with the laws, regulations, orders, and policies establishing or governing National Forest System lands (including policy in FSM 2703.1 and 2703.2); other applicable Federal laws; and applicable State and local laws.

2. Is consistent or can be made consistent with standards and guidelines in the applicable Forest land and resource management plan prepared under the National Forest Management Act and 36 CFR part 219. If a proposal is inconsistent with the Forest land and resource management plan, discuss with the proponent ways the proposal could be altered to make it consistent with the plan, such as conducting the activity at a different time or in a different location.

3. Will not create a serious and substantial risk to public health or safety. State and local officials can provide input with respect to public health and safety concerns affecting the proponent's operations and other forest resources and activities. Examples of uses that might create a serious risk to public health and safety include:

- a. Winter sport activities adjacent to an avalanche area.
- b. Facilities in a flood plain.
- c. Activities or public uses in proximity to a target range.
- d. Mixing of motorized and pedestrian activities; for example, snowmobiling and cross-country skiing on the same trails.

4. Will not create an exclusive or perpetual right of use or occupancy; that is, the proposed use would not in effect grant title to Federal land to an authorization holder or would not create the appearance of granting such a right. Examples of such uses that could in effect grant title, or give the appearance of granting such a right include:

- a. Cemeteries, monuments, or other memorials; and
- b. In some cases, major capital improvements by municipal entities.

5. Will not unreasonably conflict or interfere with administrative uses of the Forest Service or with other scheduled or authorized existing uses on or adjacent to National Forest System lands.

6. Does not involve a proponent with an outstanding debt owed to the Forest Service under terms and conditions of a prior or existing authorization, unless such debt results from a decision on an administrative appeal or from a fee review and the proponent is current with the payment schedule.

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7. Does not involve gambling or sexually oriented commercial services, even if permitted under State law.
8. Does not involve military or paramilitary training or exercises by private organizations or individuals, unless such training or exercises are Federally funded.
9. Does not involve disposal of solid waste or disposal of radioactive or other hazardous substances.

12.22 - Decisions To Return or To Evaluate Proposals Further at Second-Level Screening

1. Return any proposal that fails one or more of the initial screening criteria in the preceding section 12.21 to the proponent with notification that the proposal does not meet the minimum requirements.
 - a. If the proposal was submitted orally, the authorized officer may respond orally.
 - b. If the proposal was made in writing, the authorized officer shall return the proposal and provide the proponent with a written explanation of the denial.
 - c. A proposal returned to the proponent in the initial screening process is not subject to environmental analysis and documentation.
 - d. Findings that a proposal fails to meet the initial screening criteria are not subject to administrative appeal.
2. As outlined in section 12.3, notify the proponent and consider further in second-level screening those proposals that meet the initial screening criteria in the preceding section 12.21.

12.3 - Second-Level Screening of Proposals

(For related requirements, see 36 CFR 251.54(e)(5)(i)-(v) in sec. 19, ex. 02.)

1. A proposal that passes the initial screening outlined in section 12.2 proceeds to second-level screening, unless the proposal is for a commercial activity for which there may be a competitive interest. Such proposals are processed in accordance with procedures for solicited proposals set out in FSM 2710.
2. The authorized officer shall notify the proponent whose proposal passes initial screening that the proposal is subject to second-level screening. The authorized officer shall:

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- a. Provide the proponent clear guidance and the information necessary to proceed with the approval process, including information concerning potential land use conflicts, processing timeframes, environmental and management concerns, administrative fees, anticipated land use rental, and approvals that must be obtained from other Federal, State, or local agencies.
- b. Identify whether on-the-ground investigations that may require a temporary use permit are necessary to consider the proposal.
- c. Discuss the kind of authorization (temporary permit, permit, term permit, lease, or easement) and the general terms and conditions (such as tenure, insurance requirements, bonding, and so forth) that may be applicable to the proposed use.
- d. State that the proponent is responsible for providing studies or other documentation needed by the authorized officer to complete the environmental analysis process and is also responsible for costs incurred in obtaining that information.
- e. Notify the proponent for a road easement that if the application is approved, a recordable survey plat or exhibit of the right-of-way will be required.

12.31 - Content of Proposals

A proposal must provide sufficient information about a project or activity to enable the authorized officer to determine its feasibility, location, public benefits, and other factors against the criteria set out at 36 CFR 251.54(e)(5)(i)-(v) and sections 12.32 a through 12.32c of this Handbook and displayed in section 19, exhibit 02. The following criteria in sections 12.31a to 12.31d must be met before a proposal can be accepted as an application for further evaluation.

12.31a - Proponent Identification

(For related requirements see 36 CFR 251.54(d)(2)(ii)(A)-(E) in sec. 19, ex. 02.)

If the proponent has not already provided the information enumerated in section 12.11a during initial screening, the authorized officer may require the proponent at second level screening to provide as much information as necessary to identify the individual or entity that is requesting the use of National Forest System lands and that is responsible for adhering to the terms and conditions of the authorization.

12.31b - Project Description

(For related requirements, see 36 CFR 251.54(d)(4) in sec. 19, ex. 02.)

The proposal must describe the proposed use in sufficient detail to identify:

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1. The location and scope of the proposed use, the resources affected, anticipated improvements, and method of operation when construction is complete;
2. Construction phases and their estimated starting and completion dates;
3. Any technical requirements for development or operation of the project; and
4. Other Federal, State, and private lands affected by the proposed use and any other agencies that have licensing or regulatory authority over the proposed use.

12.32 - Criteria for Second-Level Screening of Proposals

The following criteria in sections 12.32a through 12.32c must be met before a proposal can be accepted as an application. Deny proposals that do not meet all these criteria.

12.32a - Appropriate Use of National Forest System Lands

(For related requirements, see 36 CFR 251.54(e)(5)(i) and (ii) in sec. 19, ex. 02.)

The proposed use must be consistent and compatible with the purposes for which the lands are managed and with other uses. In addition, the proposed use must be in the public interest. The proponent must explain the selection of the location of the proposed use and, in particular, why use of National Forest System lands is necessary and why lands under other ownership cannot be used. Deny proposals for use of National Forest System lands when the request is based solely on affording the proponent with a lower cost or less restrictive location than can be obtained on non-Federal lands.

12.32b - Financial and Technical Capability

(For related requirements, see 36 CFR 251.54(e)(5)(iii) and (iv) in sec. 19, ex. 02.)

The proponent must be qualified. In addition, the proponent must demonstrate the financial and technical capability to undertake the proposed use and to comply fully with the terms and conditions of the special use authorization. The proponent must also demonstrate the technical and economic feasibility of the proposed use.

1. Financial Capability. In making a financial capability determination, ascertain whether the proponent has sufficient available funds or a firm commitment of funds to develop the proposed use to its operational phase; to operate the proposed use economically; and to maintain the proposed use according to the terms of the authorization. Verification of financial qualifications may require extensive evaluation of a financial statement prepared by an accountant that includes sources of funds to be used for development and operation of the proposed use, credit references, and financial integrity.

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For proposed uses involving construction, the authorized officer shall ensure that the proponent has or can obtain:

- a. Cash or readily convertible assets that represent at least 25 percent of the estimated development cost of the entire proposed use; or
 - b. If the project is to be constructed in phases, cash or readily convertible assets that represent at least 25 percent of the estimated cost of the first phase of development and sufficient resources to operate the proposed use during the initial operating period.
2. Technical Capability. Determine if the proponent has the technical expertise necessary to evaluate, construct, maintain, operate, and remove the proposed use. This would include the ability to provide engineering designs and meet applicable codes and standards.
3. Viability of Proposed Use. Determine if the proposed use is economically feasible. Require applicants to furnish a business plan, including an income and expense worksheet, demonstrating the viability of the proposed use.

12.32c - Signature and Acceptance of Responsibility

(For related requirements, see 36 CFR 251.54(e)(5)(v) in sec. 19, ex. 02.)

A person or entity must be authorized to sign a special use authorization and willing to accept responsibility for adherence to the terms and conditions of the authorization.

12.4 - Denial of Proposals

(For related requirements, see 36 CFR 251.54(g)(1) in sec. 19, ex. 02.)

The authorized officer shall return to proponents those proposals that fail to meet the second-level screening criteria in sections 12.32a through 12.32c and shall provide a written explanation for not accepting the proposal as an application. The authorized officer may reconsider proposals denied after second-level screening when the deficiencies identified in the screening process have been corrected to the satisfaction of the authorized officer.

Denial of unsolicited proposals is not subject to administrative appeal under 36 CFR part 217 or part 251, subpart C, and does not constitute a proposed action pursuant to 36 CFR 251.54(e)(6) and the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321-4347).

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12.5 - Acceptance of Written Applications for Proposals That Meet Initial and Second-Level Screening Criteria

(For related requirements, see 36 CFR 251.54(g)(1) in sec. 19, ex. 02.)

If a proposal meets all of the initial (sec. 12.12-12.21) and second-level screening criteria (sec. 12.3-12.32c), the authorized officer shall notify the proponent that the agency is prepared to accept a written formal application for further evaluation. As appropriate, the authorized officer shall provide the proponent with additional guidance and information as described in section 12.3, including identification of the agency's procedures for processing the application and estimated time requirements.

A proposal is considered a proposed action for purposes of NEPA when it is accepted as a formal written application. Proposed actions must be evaluated pursuant to NEPA, its implementing regulations, and agency NEPA procedures (FSM 1950, FSH 1909.15).

12.51 - Evaluation of Proposed Action

The authorized officer may require additional information, such as archaeological surveys and rare and endangered species surveys, and so forth (36 CFR 251.54(g)(2)), to complete the environmental analysis required under NEPA. The applicant is responsible for providing this information. The authorized officer's requests for additional information from the applicant and the applicant's response must be in writing.

12.52 - Environmental Analysis

1. An environmental analysis shall be conducted pursuant to NEPA to determine the effect the proposed use may have on the natural and human environment (36 CFR 251.54(g)(2)). Direction for conducting an environmental analysis is contained in FSM 1950 and FSH 1909.15. At a minimum, a "no action" and "proposed action" alternative should be analyzed.

2. The authorized officer may require the applicant to provide all the information needed (with respect to evaluation of the effects of the proposed use) to make a decision concerning the application. Requests for information in addition to that included in the application must be made in writing and may include such topics as cultural resource surveys and biological surveys of threatened, endangered, or sensitive plant and animal species and their habitats, and so forth. The applicant is responsible for the costs of collecting all information directly related to evaluation of the effects of the proposed use and occupancy that the authorized officer needs to make a decision concerning the application.

3. Costs of surveys and data collection requested by the Forest Service that are directly related to the application shall be borne by the Forest Service.

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12.6 - Decision on Application

12.61 - Decision To Approve

Notify the applicant in writing of the decision to approve the proposed use in accordance with NEPA procedures. Provide the anticipated schedule for issuance of the authorization, such as public notification requirements, appeal timeframes, and so forth. Meet with the applicant to discuss the terms and administration of the authorization.

12.62 - Decision To Deny

Return the application with a written decision documenting the reason(s) the application is denied. Specify any appeal rights the applicant may have under Title 36, Code of Federal Regulations, Part 215 or Part 251, Subpart C, if the application was solicited by the Forest Service (FSM 2710).

13 - FOREST SERVICE SOLICITED PROPOSALS

(See FSM 2710 for related direction.)

14 - PREPARING AND ISSUING AUTHORIZATIONS

Do not issue an authorization until all prerequisites have been met and the administrative appeal period has expired without an appeal being filed or, if an appeal has been filed, it has been resolved through all levels. It is not appropriate to use a "Letter of Authorization," a "Memorandum of Understanding," or other similar methods to authorize the use and occupancy of National Forest System lands. Authorize the use and occupancy of National Forest System lands in the appropriate format using an approved Forest Service authorization form as listed in exhibit 03 of section 19 and in exhibit 01 of section 53 in this Handbook. Make no changes to a form unless such changes are specifically authorized in the form instructions or user notes. See chapter 50 of this Handbook for additional direction on appropriate use of standard special use authorization forms and clauses.

Refer to section 19, exhibit 03, Special Use Authorization Guide, for the appropriate authority, authorization form, and recommended or required maximum term for each type of special use activity.

14.1 - Minimum Requirements for Authorizations

1. Ensure that all special use authorizations:
 - a. Accurately identify the holder(s).
 - b. Cite the statutory authority for granting the authorization.

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- c. Specify a term that does not exceed the term limit for the type of authorization enumerated in section 19, exhibit 03.
 - d. Accurately describe the area of use and the activity authorized. Require applicants to furnish recordable survey plats or exhibits for road easements.
 - e. Clearly state the use and privileges authorized, including improvements that may be installed or used.
2. Issue authorizations to the owner of the authorized improvements, unless the improvements are government-owned, in which case the authorization should be issued to the entity that will be operating and maintaining the authorized improvements. Identify the holder of the authorization by the name of the individual, business entity, partnership, corporation, association, municipality, or agency of the Federal, State, or local government. Do not issue an authorization identifying more than one individual or entity as the holder.
3. Obtain the applicant's signature before the authorized officer signs the authorization. The authorized officer shall inform the applicant that the authorization must be signed and returned to the authorized officer within 60 days of receipt of the authorization. The holder's signature makes all terms and conditions of the authorization binding. Failure to sign the authorization within the 60-day period terminates the application and constitutes denial of the requested use and occupancy (36 CFR 251.62).

14.2 - Title VI Civil Rights Compliance

Title VI of the Civil Rights Act (42 U.S.C. 2000D-2000D-6) applies to special use authorizations when the holder provides services or facilities to the public, and the public is therefore the ultimate beneficiary of the authorization. Title VI generally applies to commercial special use authorizations because they authorize services to the public.

Title VI does not apply to special use authorizations when the holder does not provide services or facilities to the public, such as when the holder is the ultimate beneficiary of the authorization. Title VI generally does not apply to noncommercial special use authorizations because the holder is the ultimate beneficiary of the authorization. Title VI does not apply to noncommercial group use permits because the holder is always the ultimate beneficiary of the permit.

See FSM 1770 and 1780 and FSH 1709.11, chapters 70 and 80, for additional direction on Title VI compliance. If Title VI applies, the Forest Service is responsible for reviewing the holder's compliance with its provisions. When Title VI applies to a proposed or existing use, require the applicant or holder to submit a completed Title VI compliance statement, Form FS-1700-1. Include applicable clauses from FSH 2709.11, chapter 50, in the authorization.

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14.3 - Liability and Insurance Coverage

(For related requirements, see 36 CFR 251.56(d) set out in sec. 19, ex. 02, and FSM 2713.32 through FSM 2713.34.)

15 - AUTHORIZATIONS TO OTHER AGENCIES

Do not use memorandums of understanding (FSM 1580 and FSH 1509.11, ch. 90), interagency agreements, challenge cost share agreements, or any other types of agreements in authorizing other governmental entities to use and occupy National Forest System lands. Instead, use the appropriate special use authorization. Memorandums of understanding and the other types of agreements are appropriate for establishing areas of cooperation and mutual understanding between the Forest Service and other parties, rather than for authorizing use and occupancy of Federal land. See FSH 1509.11, chapter 90, for direction on the appropriate use of memoranda of understanding and other types of agreements cited previously.

15.1 - Federal Agencies

1. Federal agencies are units of one legal entity, the U.S. Government. The U.S. Government is self-insuring; therefore, do not require Federal agencies to provide liability insurance or bonding. In addition, do not require Federal agencies to indemnify the Forest Service. Because the Federal Tort Claims Act (28 U.S.C. 2764) binds the United States as a whole, Federal agencies may neither impose tort liability upon one another or release one another from tort liability. However, the Forest Service cannot accept liability or costs associated with damages or possible public hazards created by another Federal agency's use of National Forest System lands. Identify potential hazards before issuance of the authorization. Resolve them by modifications of plans or written commitment by the other Federal agency to do restoration or abatement work. Withhold the authorization if the other Federal agency is unable to provide such a commitment.

2. The Forest Service cannot unilaterally suspend or revoke right-of-way authorizations issued to Federal agencies (36 CFR 251.60(c)-(d)). However, conditions providing for termination (such as specific dates, grounds for noncompliance with the authorization, and so forth) may be included in the right-of-way authorizations issued to Federal agencies and become binding on the holder.

Always include an expiration date in a special use authorization issued to Federal agencies.

3. Federal agencies are exempt from payment of rental fees for use of National Forest System lands and Government-owned improvements (36 CFR 251.57(c)). However, Federal agencies are not exempt from paying rental fees for the use of privately owned facilities and may be required to pay administrative fees for processing of special use applications and monitoring special use authorizations on National Forest System lands (sec. 31). Special use authorizations,

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including those issued to Federal agencies, involving Government owned improvements that require the Forest Service to provide caretakers' services or special services, such as water, electricity, and clean-up, may require the payment of a separate fee to cover the cost of these services (36 CFR 251.57(f)).

15.2 - States and Local Governmental Entities

When the holder is a State or local governmental entity that has statutory or constitutional authorities limiting its liability or obligation to indemnify, the authorized officer shall prepare a risk assessment to determine the potential for loss to the United States from personal injury, death, or property damage caused by the holder's use and occupancy. If the authorized officer determines, based on the risk assessment, that the potential damages exceed the liability or indemnification limitation of the State or a local governmental entity, the holder shall procure insurance in the amount determined in the risk assessment. Where established by Forest Service Regional Foresters, minimum insurance coverage's for various special uses may be substituted for the risk assessment.

Waive rental fees for authorizations issued to a State or local governmental entity for noncommercial uses. Do not waive a rental fee to a State or local governmental entity if one or more of the criteria in section 31.22a are met.

16 - AUTHORIZATIONS FOR GOVERNMENT-OWNED IMPROVEMENTS [RESERVED]

17 - OTHER PROCESSES AND PROCEDURES RELATED TO SPECIAL USE PROPOSALS, APPLICATIONS, AND AUTHORIZATIONS

17.1 - Applicant Loans [Reserved]

17.2 - Authorizations to Associations

(For related direction, see FSM 2711.6.)

17.3 - Oil and Gas Applications [Reserved]

17.4 - Noncommercial Group Use Applications

A permit (Form FS-2700-3b) is required for noncommercial group use. A noncommercial group use is any activity on National Forest System lands:

1. That involves 75 or more people, either as participants or spectators;
2. Where an entry or participation fee is not charged; and
3. Where the primary purpose is not the sale of a good or service (36 CFR 251.51).

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17.41 - Requirements for Content of Applications

Proposals for noncommercial group use must include (36 CFR 251.54(d)(2)(i)):

1. A description of the proposed activity;
2. The location and a description of the National Forest System lands and facilities the proponent would like to use;
3. The estimated number of participants and spectators;
4. The starting and ending time and date of the proposed activity; and
5. The name of the person or persons 21 years of age or older who will sign a special use authorization on behalf of the proponent.

17.42 - Processing of Applications

Applications for noncommercial group use must be received at least 72 hours in advance of the proposed activity. Applications for noncommercial group use shall be processed in order of receipt, and the use of a particular area shall be allocated in order of receipt of fully executed applications. All noncommercial group use applications shall be deemed granted and a permit shall be issued for those uses unless the applications are denied within 48 hours of receipt. The authorized officer shall grant an application for a noncommercial group use if all the following eight criteria are met (36 CFR 251.54(g)(3)(ii)(A)-(H)):

1. Authorization of the proposed activity is not prohibited by 36 CFR part 261, subpart A; by an order issued under 36 CFR part 261, subpart B; or by Federal, State, or local law unrelated to the content of expressive activity.
2. Authorization of the proposed activity is consistent or can be made consistent with standards and guidelines in the applicable Forest land and resource management plan required under the National Forest Management Act and 36 CFR part 219.
3. The proposed activity does not materially impact the characteristics or functions of the environmentally sensitive resources or lands identified in Forest Service Handbook 1909.15, chapter 30.
4. The proposed activity will not delay, halt, or prevent administrative use of an area by the Forest Service or other scheduled or existing uses or activities on National Forest System lands.

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5. The proposed activity does not violate State and local public health laws and regulations as applied to the proposed site. Issues addressed by State and local public health laws and regulations as applied to the proposed site include:

- a. The sufficiency of sanitation facilities;
- b. The sufficiency of waste disposal facilities;
- c. The availability of sufficient potable drinking water;
- d. The risk of disease from the physical characteristics of the proposed site or natural conditions associated with the proposed site; and
- e. The risk of contamination of the water supply.

6. The proposed activity will not pose a substantial danger to public safety. Considerations of public safety must not include concerns about possible reaction to the users' identity or beliefs from nonmembers of the group applying for a permit and shall be limited to:

- a. The potential for physical injury to other forest users from the proposed activity;
- b. The potential for physical injury to users from the physical characteristics of the proposed site or natural conditions associated with the proposed site;
- c. The potential for physical injury to users from scheduled or existing uses or activities on National Forest System lands; and
- d. The adequacy of ingress and egress in case of an emergency.

7. The proposed activity does not involve military or paramilitary training or exercises by private organizations or individuals, unless such training or exercises are Federally funded.

8. A person or persons 21 years of age or older have been designated to sign and do sign a permit on behalf of the applicant.

17.43 - Denial of Applications

(For the related regulatory requirements, see 36 CFR 251.54(g)(3)(iii) in sec. 19, ex. 02.)

1. If the authorized officer denies a noncommercial group use application because it does not meet all eight evaluation criteria in section 17.42 (36 CFR 251.54(g)(3)(ii)(A)-(H)), the authorized officer shall notify the applicant in writing of the reasons for the denial. If an alternative time, place, or manner would allow the applicant to meet the eight criteria, the authorized officer shall offer that alternative.

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2. If an application is denied solely under section 17.42, paragraph 3 (36 CFR 251.54(g)(3)(ii)(C)), and all suggested alternatives are unacceptable to the applicant, the authorized officer shall offer to complete the requisite environmental and other analyses for the requested site (sec. 17.44).

3. A denial of a noncommercial group use application constitutes final agency action and is immediately subject to judicial review.

17.44 - National Environmental Policy Act Requirements

In the absence of extraordinary circumstances, permits for noncommercial group uses are categorically excluded from documentation in an environmental assessment or an environmental impact statement (FSH 1909.15, sec. 31.1b, para. 8). Because constitutional due process requires a short, specific time frame for processing such applications, the authorized officer has the flexibility to tailor the NEPA scoping to meet the 48-hour response period for noncommercial group use applications (FSH 1909.15, sec. 10.3, para. 2a). A decision to grant or deny the application for which an environmental assessment or an environmental impact statement is prepared is subject to the notice and appeal procedures at 36 CFR part 215 and shall be made within 48 hours after the decision becomes final under that appeal process.

17.45 - Land Use Rental, Administrative Fees, Bonding, and Insurance

No land use rental or administrative fees shall be charged, nor shall bonding or insurance be required, for noncommercial group use permits.

19 - EXHIBITS

Exhibit 01. Exhibit 01 shows the steps in the special uses proposal, application, and authorization process.

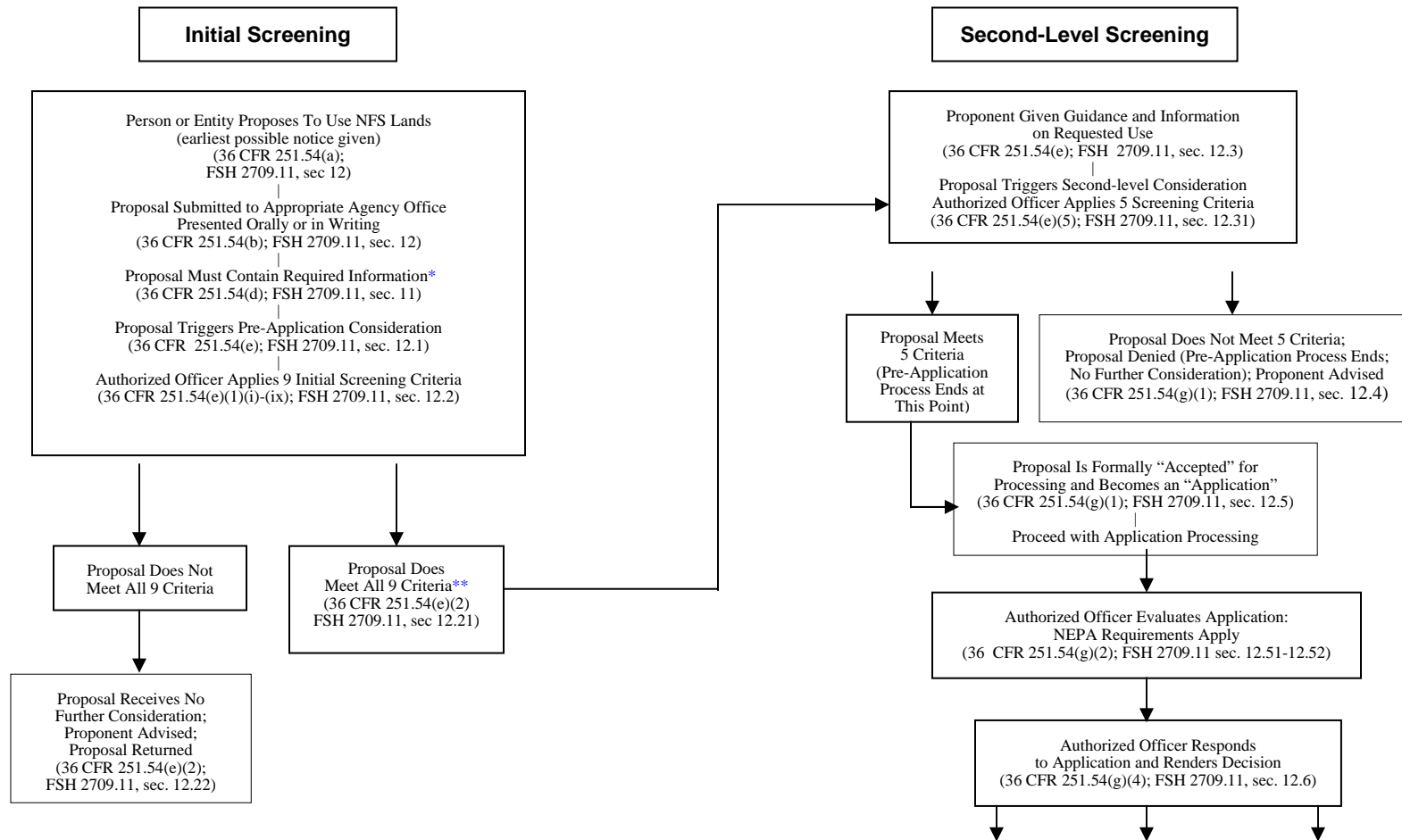
Exhibit 02. Exhibit 02 contains the text of Title 36, Code of Federal Regulations, Part 251, Subpart B -- Special Uses (36 CFR part 251, subpart B).

Exhibit 03. Exhibit 03 summarizes the appropriate use code authority, authorization type and form, inspection frequency, and recommended or required maximum term for each type of special use activity.

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19 – Exhibit 01

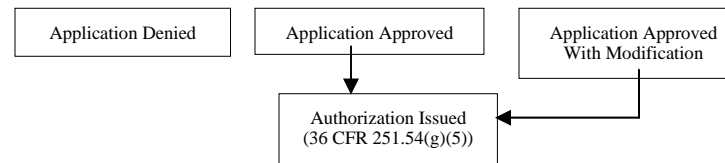
**Steps in Special Uses Proposals, Application, and Authorization Process,
Including Initial and Second-Level Screening for Proposals**



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*See 36 CFR 251.54(d)(2) and (g)(3) and section 17.4 of this Handbook for requirements related to noncommercial group uses.

**See section 13 of this Handbook for direction on competitive interest.



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19 -Exhibit 02

Title 36, Code of Federal Regulations, Part 251, Subpart B, Special Uses

The text of 36 CFR part 251, subpart B, is set out in this exhibit. Note that format enhancements have been added in this exhibit for ease of following the CFR text (including use of boldface, italics, underlining, and indentions, and extra spacing between paragraphs). The CFR may be accessed electronically on the World Wide Web/Internet at:

www.access.gpo.gov/nara/cfr/index.html.

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19 - Exhibit 02--Continued

TITLE 36--PARKS, FORESTS, AND PUBLIC PROPERTY

PART 251--LAND USES

Subpart B--Special Uses

Authority: 16 U.S.C. 472, 497b, 551, 1134, 3210; 30 U.S.C. 185; 43 U.S.C. 1740, 1761-1771.

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

Section 251.50 Scope.

(a) All uses of National Forest System lands, improvements, and resources, except those provided for in the regulations governing the disposal of timber (part 223) and minerals (part 228) and the grazing of livestock (part 222), are designated "special uses." Before engaging in a special use, persons or entities must submit an application to an authorized officer and must obtain a special use authorization from the authorized officer unless that requirement is waived by paragraph (c) of this section.

(b) Nothing in this section prohibits the temporary occupancy of National Forest System land for the protection of life or property in emergencies, if a special use authorization for such use is obtained at the earliest opportunity.

(c) A special use authorization is not required for noncommercial recreational activities such as camping, picnicking, hiking, fishing, hunting, horseback riding, and boating, as well as noncommercial activities involving the expression of views such as assemblies, meetings, demonstrations, and parades, except for:

(1) Authorization of such use is required by an order issued pursuant to 36 CFR 261.50;

(2) Authorization of such use is required by a regulation issued pursuant to 36 CFR 261.70;

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19 - Exhibit 02--Continued

Title 36, Code of Federal Regulations, Part 251, Subpart B

Section 251.50(c) -- continued

(3) Noncommercial group uses as defined in Sec. 251.51 of this subpart.

(d) Unless otherwise required by order issued under Sec. 261.50 or by regulation issued under Sec. 261.70 of this chapter, the use of existing forest development roads and trails does not require a special-use authorization; however, any such use is subject to compliance with all Federal and State laws governing the roads or trails to be used.

[45 FR 38327, June 6, 1980, as amended at 49 FR 25449, June 21, 1984; 53 FR 16549, May 10, 1988; 60 FR 45293, Aug. 30, 1995]

Sec. 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 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.

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19 - Exhibit 02--Continued

Title 36, Code of Federal Regulations, Part 251, Subpart B

Section 251.51 – continued

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

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.

National Forest System land--all lands, waters, or interests therein administered by the Forest Service.

NEPA procedures--the rules, policies, and procedures governing agency compliance with the National Environmental Policy Act set forth in 50 CFR parts 1500-1508, 7 CFR part 1b, Forest Service Manual Chapter 1950, and Forest Service Handbook 1909.15.

Noncommercial use or activity--any use or activity that does not involve a commercial use or activity as defined in this section.

Permit--a special use authorization which provides permission, without conveying an interest in land, to occupy and use National Forest System land or facilities for specified purposes, and which is both revocable and terminable.

Revocation--the cessation of a special use authorization by action of an authorized officer before the end of the specified period of occupancy or use for reasons set forth in Sec. 251.60(a)(1)(i), (a)(2)(i), (g), and (h) of this subpart.

Right-of-way--land authorized to be used or occupied for the construction, operation, maintenance and termination of a project or facility passing over, upon, under or through such land.

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19 - Exhibit 02--Continued

Title 36, Code of Federal Regulations, Part 251, Subpart B

Section 251.51 – continued

Secretary--the Secretary of Agriculture.

Ski area--a site and attendant facilities expressly developed to accommodate alpine or nordic skiing and from which the preponderance of revenue is generated by the sale of lift tickets and fees for ski rentals, for skiing instruction and trail passes for the use of permittee-maintained ski trails. A ski area may also include ancillary facilities directly related to the operation and support of skiing activities.

Sound business management principles--a phrase that refers to accepted industry practices or methods of establishing fees and charges that are used or applied by the Forest Service to help establish the appropriate charge for a special use. Examples of such practices and methods include, but are not limited to, appraisals, fee schedules, competitive bidding, negotiation of fees, and application of other economic factors, such as cost efficiency, supply and demand, and administrative costs.

Special use authorization--a permit, term permit, lease, or easement which allows occupancy, use, rights, or privileges of National Forest System land.

Suspension--a temporary revocation of a special use authorization.

Termination--the cessation of a special use authorization by operation of law or by operation of a fixed or agreed-upon condition, event, or time as specified in an authorization without the necessity for any decision or action by the authorized officer; for example, expiration of the authorized term or transfer of the authorized improvement to another party.

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19 - Exhibit 02--Continued

Title 36, Code of Federal Regulations, Part 251, Subpart B

Section 251.51 – continued

Term permit--a special use authorization to occupy and use National Forest System land, other than rights-of-way under Sec. 251.53(l) of this part, for a specified period which is both revocable and compensable according to its terms.

[45 FR 38327, June 6, 1980, as amended at 49 FR 25449, June 21, 1984; 53 FR 16550, May 10, 1988; 54 FR 22593, May 25, 1989; 60 FR 45293, Aug. 30, 1995; 60 FR 54409, Oct. 23, 1995; 63 FR 65964, Nov. 30, 1998]

Section 251.52 Delegation of authority.

Special use authorizations shall be issued, granted, amended, renewed, suspended, terminated, or revoked by the Chief, or through delegation, by the Regional Forester, Forest Supervisor, District Ranger or other forest officer, and shall be in such form and contain such terms, stipulations, conditions, and agreements as may be required by the regulations of the Secretary and the instructions of the Chief (7 CFR 2.60; 36 CFR part 200, subpart B).

Section 251.53 Authorities.

Subject to any limitations contained in applicable statutes, the Chief of the Forest Service, or other Agency official to whom such authority is delegated, may issue special use authorizations for National Forest System land under the authorities cited and for the types of use specified in this section as follows:

(a) Permits governing occupancy and use, including group events and distribution of noncommercial printed materials, under the act of June 4, 1897, 30 Stat. 35 (16 U.S.C. 551);

(b) Leases under the Act of February 28, 1899, 30 Stat. 908 (16 U.S.C. 495) for public sanitariums or hotels near or adjacent to mineral springs;

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(c) Permits under the Act of June 8, 1906, 34 Stat. 225 (16 U.S.C. 431, et seq.), for the examination of ruins, the excavation of archaeological sites, and the gathering of objects of antiquity in conformity with the rules and regulations prescribed by the Secretaries of the Interior, Agriculture, and War, December 28, 1906 (43 CFR part 3);

(d) Term permits under the Act of March 4, 1915, 38 Stat. 1101, as amended, 70 Stat. 708 (16 U.S.C. 497) for periods not over 30 years and (1) for not over 80 acres for (i) hotels, resorts, and other structures and facilities for recreation, public convenience, or safety; (ii) industrial or commercial purposes, and (iii) education or public activities; and (2) for not over 5 acres for summer homes and stores;

(e) Easements for rights-of-way for pipeline purposes for the transportation of oil and gas and products thereof where no Federal land other than National Forest System land is required, and permits for the temporary use of additional National Forest System land necessary for construction, operation, maintenance or termination of a pipeline or to protect the natural environment or the public safety under section 28 of the Mineral Leasing Act of 1920, 41 Stat. 449, as amended, (30 U.S.C. 185);

(f) Permits, term permits, and easements in the National Grasslands and other lands acquired or administered under title III, Act of July 22, 1937, 50 Stat. 525, as amended, (7 U.S.C. 1011(d));

(g) Permits under section 7 of the Act of April 24, 1950, 64 Stat. 84 (16 U.S.C. 580d) for periods not over 30 years for the use of structures or improvements under the administrative control of the Forest Service and land used in connection therewith;

(h) Permits, term permits, leases, or easements as authorized by the Act of September 3, 1954, 68 Stat. 1146 (43 U.S.C. 931c, 931d), to States, counties, cities, towns, townships, municipal corporations, or other public agencies for periods not over 30 years, at prices

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representing the fair market value, fixed by the Chief, through appraisal for the purpose of constructing and maintaining on such lands public buildings or other public works;

(i) Permits under the Wilderness Act of September 3, 1964, 78 Stat. 890 (16 U.S.C. 1131-1136) for temporary structures and commercial services and for access to valid mining claims or other valid occupancies and to surrounded State or private land within designated wilderness (see part 293 of this chapter);

(j) Temporary or permanent easements under the Act of October 13, 1964, 78 Stat. 1089 (16 U.S.C. 532-538) for road rights-of-way over lands and interests in land administered by the Forest Service (see Sec. 212.10 of this chapter);

(k) Permits under the Land and Water Conservation Fund Act of September 3, 1964, 78 Stat. 897, as amended (16 U.S.C. 4601-6a(c)), for recreation events and other specialized recreation uses;

(l) Permits, leases and easements under the Federal Land Policy and Management Act of 1976, 90 Stat. 2776 (43 U.S.C. 1761-1771) for rights-of-way for:

(1) Reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other facilities and systems for the impoundment, storage, transportation, or distribution of water;

(2) Pipelines and other systems for the transportation or distribution of liquids and gases, other than water and other than oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom, and for storage and terminal facilities in connection therewith;

(3) Pipelines, slurry and emulsion systems, and conveyor belts for transportation and distribution of solid materials, and facilities for the storage of such materials in connection therewith;

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(4) Systems and related facilities for generation, transmission, and distribution of electric energy, except that the applicant, in addition to obtaining a Forest Service special use authorization, shall also comply with all applicable requirements of the Federal Energy Regulatory Commission under the Federal Power Act of 1935, as amended, 49 Stat. 838 (16 U.S.C. 791a, et seq.);

(5) Systems for transmission or reception of radio, television, telephone, telegraph, and other electronic signals and other means of communication;

(6) Roads, trails, highways, railroads, canals, tunnels, tramways, airways, livestock driveways, or other means of transportation except where such facilities are constructed and maintained in connection with commercial recreation facilities;

(7) Such other necessary transportation or other systems or facilities which are in the public interest and which require rights-of-way over, upon, under, or through National Forest System lands; and

(8) Any Federal department or agency for pipeline purposes for the transportation of oil, natural gas, synthetic liquid or gaseous fuels, or any product produced therefrom;

(m) Permits under the Archaeological Resources Protection Act of 1979, 93 Stat. 721 (16 U.S.C. 470aa).

(n) Operation of nordic and alpine ski areas and facilities for up to 40 years and encompassing such acreage as the Forest Officer determines sufficient and appropriate as authorized by the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b).

[45 FR 38327, June 6, 1980; 45 FR 43167, June 26, 1980, as amended at 49 FR 25449, June 21, 1984; 53 FR 16550, May 10, 1988; 54 FR 22594, May 25, 1989]

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Section 251.54 Proposal and application requirements and procedures.

(a) ***Early notice.*** When an individual or entity proposes to occupy and use National Forest System lands, the proponent is required to contact the Forest Service office(s) responsible for the management of the affected land as early as possible in advance of the proposed use.

(b) ***Filing proposals.*** Proposals for special uses must be filed in writing with or presented orally to the District Ranger or Forest Supervisor having jurisdiction over the affected land (Sec. 200.2 of this chapter), except as follows:

(1) Proposals for projects on lands under the jurisdiction of two or more administrative units of the Forest Service may be filed at the most convenient Forest Service office having jurisdiction over part of the project, and the proponent will be notified where to direct subsequent communications;

(2) Proposals for cost-share and other road easements to be issued under Sec. 251.53(j) must be filed in accordance with regulations in Sec. 212.10(c) and (d) of this chapter; and

(3) Proposals for oil and gas pipeline rights-of-way crossing Federal lands under the jurisdiction of two or more Federal agencies must be filed with the State Office, Bureau of Land Management, pursuant to regulations at 43 CFR part 2882.

(c) ***Rights of proponents.*** A proposal to obtain a special use authorization does not grant any right or privilege to use National Forest System lands. Rights or privileges to occupy and use National Forest System lands under this subpart are conveyed only through issuance of a special use authorization.

(d) Proposal content--

(1) ***Proponent identification.*** Any proponent for a special use authorization must provide the proponent's name and mailing address, and, if the proponent is not an individual, the name

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and address of the proponent's agent who is authorized to receive notice of actions pertaining to the proposal.

(2) *Required information--*

(i) ***Noncommercial group uses.*** Paragraphs (d)(3) through (d)(5) of this section do not apply to proposals for noncommercial group uses. A proponent for noncommercial group uses shall provide the following:

- (A) A description of the proposed activity;
 - (B) The location and a description of the National Forest System lands and facilities the proponent would like to use;
 - (C) The estimated number of participants and spectators;
 - (D) The starting and ending time and date of the proposed activity;
- and
- (E) The name of the person or persons 21 years of age or older who will sign a special use authorization on behalf of the proponent.

(ii) ***All other special uses.*** At a minimum, proposals for special uses other than noncommercial group uses must include the information contained in paragraphs (d)(3) through (d)(5) of this section. In addition, if requested by an authorized officer, a proponent in one of the following categories must furnish the information specified for that category:

- (A) If the proponent is a State or local government agency: a copy of the authorization under which the proposal is made;
- (B) If the proponent is a public corporation: the statute or other authority under which it was organized;
- (C) If the proponent is a Federal Government agency: the title of the agency official delegated the authority to file the proposal;
- (D) If the proponent is a private corporation:
 - (1) Evidence of incorporation and its current good standing;

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(2) If reasonably obtainable by the proponent, the name and address of each shareholder owning three percent or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote;

(3) The name and address of each affiliate of the entity;

(4) In the case of an affiliate which is controlled by the entity, the number of shares and the percentage of any class of voting stock of the affiliate that the entity owns either directly or indirectly; or

(5) In the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock of that entity owned, either directly or indirectly by the affiliate; or

(E) If the proponent is a partnership, association, or other unincorporated entity: a certified copy of the partnership agreement or other similar document, if any, creating the entity, or a certificate of good standing under the laws of the State.

(3) ***Technical and financial capability.*** The proponent is required to provide sufficient evidence to satisfy the authorized officer that the proponent has, or prior to commencement of construction will have, the technical and financial capability to construct, operate, maintain, and terminate the project for which an authorization is requested, and the proponent is otherwise acceptable.

(4) ***Project description.*** Except for requests for planning permits for a major development, a proponent must provide a project description, including maps and appropriate resource information, in sufficient detail to enable the authorized officer to determine the feasibility of a proposed project or activity, any benefits to be provided to the public, the safety of the proposal, the lands to be occupied or used, the terms and conditions to be included, and the proposal's compliance with applicable laws, regulations, and orders.

(5) ***Additional information.*** The authorized officer may require any other information and data necessary to determine feasibility of a project or activity proposed; compliance with applicable laws, regulations, and orders; compliance with requirements for associated

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clearances, certificates, permits, or licenses; and suitable terms and conditions to be included in the authorization. The authorized officer shall make requests for any additional information in writing.

(e) Pre-application actions.

(1) ***Initial screening.*** Upon receipt of a request for any proposed use other than for noncommercial group use, the authorized officer shall screen the proposal to ensure that the use meets the following minimum requirements applicable to all special uses:

(i) The proposed use is consistent with the laws, regulations, orders, and policies establishing or governing National Forest System lands, with other applicable Federal law, and with applicable State and local health and sanitation laws.

(ii) The proposed use is consistent or can be made consistent with standards and guidelines in the applicable forest land and resource management plan prepared under the National Forest Management Act and 36 CFR part 219.

(iii) The proposed use will not pose a serious or substantial risk to public health or safety.

(iv) The proposed use will not create an exclusive or perpetual right of use or occupancy.

(v) The proposed use will not unreasonably conflict or interfere with administrative use by the Forest Service, other scheduled or authorized existing uses of the National Forest System, or use of adjacent non-National Forest System lands.

(vi) The proponent does not have any delinquent debt owed to the Forest Service under terms and conditions of a prior or existing authorization, unless such debt results from a decision on an administrative appeal or from a fee review and the proponent is current with the payment schedule.

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(vii) The proposed use does not involve gambling or providing of sexually oriented commercial services, even if permitted under State law.

(viii) The proposed use does not involve military or paramilitary training or exercises by private organizations or individuals, unless such training or exercises are federally funded.

(ix) The proposed use does not involve disposal of solid waste or disposal of radioactive or other hazardous substances.

(2) ***Results of initial screening.*** Any proposed use other than a noncommercial group use that does not meet all of the minimum requirements of paragraphs (e)(1)(i)-(ix) of this section shall not receive further evaluation and processing. In such event, the authorized officer shall advise the proponent that the use does not meet the minimum requirements. If the proposal was submitted orally, the authorized officer may respond orally. If the proposal was made in writing, the authorized officer shall notify the proponent in writing that the proposed use does not meet the minimum requirements and shall simultaneously return the request.

(3) ***Guidance and information to proponents.*** For proposals for noncommercial group use as well as for those proposals that meet the minimum requirements of paragraphs (e)(1)(i)-(ix), the authorized officer, to the extent practicable, shall provide the proponent guidance and information on the following:

(i) Possible land use conflicts as identified by review of forest land and resource management plans, landownership records, and other readily available sources;

(ii) Proposal and application procedures and probable time requirements;

(iii) Proponent qualifications;

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(iv) Applicable fees, charges, bonding, and/or security requirements;

(v) Necessary associated clearances, permits, and licenses;

(vi) Environmental and management considerations;

(vii) Special conditions; and

(viii) Identification of on-the-ground investigations which will require temporary use permits.

(4) ***Confidentiality.*** If requested by the proponent, the authorized officer, or other Forest Service official, to the extent reasonable and authorized by law, shall hold confidential any project and program information revealed during pre-application contacts.

(5) ***Second-level screening of proposed uses.*** A proposal which passes the initial screening set forth in paragraph (e)(1) and for which the proponent has submitted information as required in paragraph (d)(2)(ii) of this section, proceeds to second-level screening and consideration. In order to complete this screening and consideration, the authorized officer may request such additional information as necessary to obtain a full description of the proposed use and its effects. An authorized officer shall reject any proposal, including a proposal for commercial group uses, if, upon further consideration, the officer determines that:

(i) The proposed use would be inconsistent or incompatible with the purposes for which the lands are managed, or with other uses; or

(ii) The proposed use would not be in the public interest; or

(iii) The proponent is not qualified; or

(iv) The proponent does not or cannot demonstrate technical or economic feasibility of the proposed use or the financial or technical

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capability to undertake the use and to fully comply with the terms and conditions of the authorization; or

(v) There is no person or entity authorized to sign a special use authorization and/or there is no person or entity willing to accept responsibility for adherence to the terms and conditions of the authorization.

(6) NEPA compliance for second-level screening process.

A request for a special use authorization that does not meet the criteria established in paragraphs (e)(5)(i) through (e)(5)(v) of this section does not constitute an agency proposal as defined in 40 CFR 1508.23 and, therefore, does not require environmental analysis and documentation.

(f) Special requirements for certain proposals.

(1) ***Oil and gas pipeline rights-of-way.*** These proposals must include the citizenship of the proponent(s) and disclose the identity of its participants as follows:

(i) Citizens of another country, the laws, customs, or regulations of which deny similar or like privileges to citizens or corporations of the United States, shall not own an appreciable interest in any oil and gas pipeline right-of-way or associated permit; and

(ii) The authorized officer shall notify the House Committee on Resources and the Senate Committee on Energy and Natural Resources promptly upon receipt of a proposal for a right-of-way for a pipeline twenty-four (24) inches or more in diameter, and no right-of-way for such a pipeline shall be granted until sixty (60) days (not counting days on which the House of Representatives or the Senate has adjourned for more than three (3) days) after a notice of intention to grant the right-of-way, together with the authorized officer's detailed findings as to terms and conditions the officer proposes to impose, has been submitted to such committees, unless each committee by resolution waives the waiting period.

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(2) *Electric power transmission lines 66 KV or over.* Any proposal for authority to construct and maintain a facility for the generation of electric power and energy or for the transmission or distribution of electric power and energy of 66 kilovolts or higher under this section must be referred to the Secretary of Energy for consultation.

(3) *Major development.* Proponents of a major development may submit a request for a planning permit of up to 10 years in duration. Requests for a planning permit must include the information contained in paragraphs (d)(1) through (d)(3) of this section. Upon completion of a master development plan developed under a planning permit, proponents may then submit a request for a long-term authorization to construct and operate the development. At a minimum, a request for a long-term permit for a major development must include the information contained in paragraphs (d)(1) and (d)(2)(ii) through (d)(5) of this section. Issuance of a planning permit does not prejudice approval or denial of a subsequent request for a special use permit for the development.

(g) Application processing and response.

(1) *Acceptance of applications.* Except for proposals for noncommercial group uses, if a request does not meet the criteria of both screening processes or is subsequently denied, the proponent must be notified with a written explanation of the rejection or denial and any written proposal returned to the proponent. If a request for a proposed use meets the criteria of both the initial and second-level screening processes as described in paragraph (e) of this section, the authorized officer shall notify the proponent that the agency is prepared to accept a written formal application for a special use authorization and shall, as appropriate or necessary, provide the proponent guidance and information of the type described in paragraphs (e)(3)(i) through (e)(3)(viii) of this section.

(2) Processing applications.

(i) Upon acceptance of an application for a special use authorization other than a planning permit, the authorized officer shall evaluate the proposed use for the requested site,

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including effects on the environment. The authorized officer may request such additional information as necessary to obtain a full description of the proposed use and its effects.

(ii) Federal, State, and local government agencies and the public shall receive adequate notice and an opportunity to comment upon a special use proposal accepted as a formal application in accordance with Forest Service NEPA procedures.

(iii) The authorized officer shall give due deference to the findings of another agency such as a Public Utility Commission, the Federal Regulatory Energy Commission, or the Interstate Commerce Commission in lieu of another detailed finding. If this information is already on file with the Forest Service, it need not be refiled, if reference is made to the previous filing date, place, and case number.

(iv) Applications for noncommercial group uses must be received at least 72 hours in advance of the proposed activity. Applications for noncommercial group uses shall be processed in order of receipt, and the use of a particular area shall be allocated in order of receipt of fully executed applications, subject to any relevant limitations set forth in this section.

(v) For applications for planning permits, including those issued for a major development as described in paragraph (f)(3) of this section, the authorized officer shall assess only the applicant's financial and technical qualifications and determine compliance with other applicable laws, regulations, and orders. Planning permits may be categorically excluded from documentation in an environmental assessment or environmental impact statement pursuant to Forest Service Handbook 1909.15 (36 CFR 200.4).

(3) Response to applications for noncommercial group uses.

(i) All applications for noncommercial group uses shall be deemed granted and an authorization shall be issued for those uses pursuant to the determination as set forth below, unless applications are denied within

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48 hours of receipt. Where an application for a noncommercial group use has been granted or is deemed to have been granted and an authorization has been issued under this paragraph, an authorized officer may revoke that authorization only as provided under Sec. 251.60(a)(1)(i).

(ii) An authorized officer shall grant an application for a special use authorization for a noncommercial group use upon a determination that:

(A) Authorization of the proposed activity is not prohibited by the rules at 36 CFR part 261, subpart B, or by Federal, State, or local law unrelated to the content of expressive activity;

(B) Authorization of the proposed activity is consistent or can be made consistent with the standards and guidelines in the applicable forest land and resource management plan required under the National Forest Management Act and 36 CFR part 219;

(C) The proposed activity does not materially impact the characteristics or functions of the environmentally sensitive resources or lands identified in Forest Service Handbook 1909.15, chapter 30;

(D) The proposed activity will not delay, halt, or prevent administrative use of an area by the Forest Service or other scheduled or existing uses or activities on National Forest System lands, including but not limited to uses and activities authorized under parts 222, 223, 228, and 251 of this chapter;

(E) The proposed activity does not violate State and local public health laws and regulations as applied to the proposed site. Issues addressed by State and local public health laws and regulations as applied to the proposed site include but are not limited to:

- (1) The sufficiency of sanitation facilities;
 - (2) The sufficiency of waste-disposal facilities;
 - (3) The availability of sufficient potable drinking water;
 - (4) The risk of disease from the physical characteristics of the proposed site or natural conditions associated with the proposed site;
- and
- (5) The risk of contamination of the water supply;

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(F) The proposed activity will not pose a substantial danger to public safety. Considerations of public safety must not include concerns about possible reaction to the users' identity or beliefs from non-members of the group that is seeking an authorization and shall be limited to the following:

(1) The potential for physical injury to other forest users from the proposed activity;

(2) The potential for physical injury to users from the physical characteristics of the proposed site or natural conditions associated with the proposed site;

(3) The potential for physical injury to users from scheduled or existing uses or activities on National Forest System lands; and

(4) The adequacy of ingress and egress in case of an emergency;

(G) The proposed activity does not involve military or paramilitary training or exercises by private organizations or individuals, unless such training or exercises are federally funded; and

(H) A person or persons 21 years of age or older have been designated to sign and do sign a special use authorization on behalf of the applicant.

(iii) If an authorized officer denies an application because it does not meet the criteria in paragraphs (g)(3)(ii)(A) through (g)(3)(ii)(H) of this section, the authorized officer shall notify the applicant in writing of the reasons for the denial. If an alternative time, place, or manner will allow the applicant to meet the eight evaluation criteria, an authorized officer shall offer that alternative. If an application is denied solely under paragraph (g)(3)(ii)(C) of this section and all alternatives suggested are unacceptable to the applicant, the authorized officer shall offer to have completed the requisite environmental and other analyses for the requested site. A decision to grant or deny the application for which an environmental assessment or an environmental impact statement is prepared is subject to the notice and appeal procedures at 36 CFR part 215 and shall be made within 48 hours after the decision becomes final under that appeal process. A denial of an application under paragraphs (g)(3)(ii)(A) through (g)(3)(ii)(H) of this

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section constitutes final agency action and is immediately subject to judicial review.

(4) *Response to all other applications.* Based on evaluation of the information provided by the applicant and other relevant information such as environmental findings, the authorized officer shall decide whether to approve the proposed use, approve the proposed use with modifications, or deny the proposed use. A group of applications for similar uses having minor environmental impacts may be evaluated with one analysis and approved in one decision.

(5) *Authorization of a special use.* Upon a decision to approve a special use or a group of similar special uses, the authorized officer may issue one or more special use authorizations as defined in Sec. 251.51 of this subpart.

[63 FR 65964, Nov. 30, 1998]

Section 251.55 Nature of interest.

(a) A holder is authorized only to occupy such land and structures and conduct such activities as is specified in the special use authorization. The holder may sublet the use and occupancy of the premises and improvements authorized only with the prior written approval of the authorized officer, but the holder shall continue to be responsible for compliance with all conditions of the special use authorization.

(b) All rights not expressly granted are retained by the United States, including but not limited to

(1) continuing rights of access to all National Forest System land (including the subsurface and air space);

(2) a continuing right of physical entry to any part of the authorized facilities for inspection, monitoring, or for any other

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purposes or reason consistent with any right or obligation of the United States under any law or regulation; and

(3) the right to require common use of the land or to authorize the use by others in any way not inconsistent with a holder's existing rights and privileges after consultation with all parties and agencies involved. When costs can be feasibly allocated and have not been amortized, a new holder may be required to compensate existing holders for an equitable proportion of the original costs or other expense associated with the common use.

(c) Special use authorizations are subject to all outstanding valid rights.

(d) Each special use authorization will specify the lands to be used or occupied which shall be limited to that which the authorized officer determines:

(1) Will be occupied by the facilities authorized;

(2) to be necessary for the construction, operation, maintenance, and full utilization of the authorized facilities or the conduct of authorized activities; and,

(3) to be necessary to protect the public health and safety and the environment.

(e) The holder will secure permission under applicable law, and pay in advance, the value as determined by the authorized officer for any mineral and vegetative materials (including timber) to be cut, removed, used, or destroyed by the holder from the authorized use area or other National Forest System land. The authorized officer may, in lieu of requiring an advance payment, require the holder to stockpile or stack the material at designated locations for later disposal by the United States.

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Section 251.56 Terms and conditions.

(a) *General.*

(1) Each special use authorization must contain:

(i) Terms and conditions which will:

(A) Carry out the purposes of applicable statutes and rules and regulations issued there under;

(B) Minimize damage to scenic and esthetic values and fish and wildlife habitat and otherwise protect the environment;

(C) Require compliance with applicable air and water quality standards established by or pursuant to applicable Federal or State law; and

(D) Require compliance with State standards for public health and safety, environmental protection, and siting, construction, operation, and maintenance if those standards are more stringent than applicable Federal standards.

(ii) Such terms and conditions as the authorized officer deems necessary to:

(A) Protect Federal property and economic interests;

(B) Manage efficiently the lands subject to the use and adjacent thereto;

(C) Protect other lawful users of the lands adjacent to or occupied by such use;

(D) Protect lives and property;

(E) Protect the interests of individuals living in the general area of the use who rely on the fish, wildlife, and other biotic resources of the area for subsistence purposes;

(F) Require siting to cause the least damage to the environment, taking into consideration feasibility and other relevant factors; and

(G) Otherwise protect the public interest.

(2) Authorizations for use of National Forest System lands may be conditioned to require State, county, or other Federal agency licenses, permits, certificates, or other approval documents, such as a Federal Communication Commission license, a Federal Energy Regulatory Commission license, a State water right, or a county building permit.

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Title 36, Code of Federal Regulations, Part 251, Subpart B

Section 251.56 – continued

(b) Duration and renewability--

(1) ***Requirements.*** If appropriate, each special use authorization will specify its duration and renewability. The duration shall be no longer than the authorized officer determines to be necessary to accomplish the purpose of the authorization and to be reasonable in light of all circumstances concerning the use, including

(i) resource management direction contained in land management and other plans;

(ii) public benefits provided;

(iii) cost and life expectancy of the authorized facilities;

(iv) financial arrangements for the project; and

(v) the life expectancy of associated facilities, licenses, etc. Except for special use authorizations issued under the National Forest Ski Area Permit Act of 1986, authorizations exceeding 30 years shall provide for revision of terms and conditions at specified intervals to reflect changing times and conditions.

(2) Ski area permits.

(i) For authorizations issued under the National Forest Ski Area Permit Act of 1986, the authorized officer normally shall issue a ski area authorization for 40 years, if, upon consideration of information submitted by the applicant, the authorized officer finds that the ski area development meets the following standards:

(A) In the case of an existing permit holder, existing on-site investment is of sufficient magnitude to justify authorization for 40 years;

(B) In the case of an existing permit holder, existing investment of capital is in ski-related facilities;

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Section 251.56(b)(2)(i) – continued

(C) Planned investment capital is directly related to development of ski area facilities and is not for financing regular, ongoing operation and maintenance costs;

(D) Ski facilities requiring long-term investment are, or will be, located predominately on land authorized under a permit;

(E) The number and magnitude of planned facilities, as detailed in a Master Development Plan, clearly require long-term financing and/or operation;

(F) The United States is not the owner of the principal facilities within the authorized ski area.

(ii) A term of less than 40 years shall be authorized for a ski area when the applicant requests a shorter term or when, in the authorized officer's discretion:

(A) Analysis of the information submitted by the applicant indicates that a shorter term is sufficient for financing of the ski area;

(B) The ski area development, whether existing or proposed, does not meet the standards of paragraph (2)(i)(A) through (F) of this section; or

(C) A 40-year authorization would be inconsistent with the approved forest land and resource management plan governing the area (36 CFR part 219).

(c) *Preconstruction approvals.* Forest Service approval of location, design and plans (or standards, if appropriate) of all developments within the authorized area will be required prior to construction.

(d) *Liability.* Holders shall pay the United States for all injury, loss, or damage, including fire suppression costs, in accordance with existing Federal and State laws.

(1) Holders shall also indemnify the United States for any and all injury, loss, or damage, including fire suppression costs, the United States may suffer as a result of claims, demands, losses, or judgments caused by the holder's use or occupancy.

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Section 251.56(d) – continued

(2) Holders of special use authorizations for high risk use and occupancy, such as, but not limited to, powerlines and oil and gas pipelines, shall be held liable for all injury, loss, or damage, including fire suppression costs, caused by the holder's use or occupancy, without regard to the holder's negligence, provided that maximum liability shall be specified in the special use authorization as determined by a risk assessment, prepared in accordance with established agency procedures, but shall not exceed \$1,000,000 for any one occurrence. Liability for injury, loss, or damage, including fire suppression costs, in excess of the specified maximum shall be determined by the laws governing ordinary negligence of the jurisdiction in which the damage or injury occurred.

(e) ***Bonding.*** An authorized officer may require the holder of a special use authorization for other than a noncommercial group use to furnish a bond or other security to secure all or any of the obligations imposed by the terms of the authorization or by any applicable law, regulation or order.

(f) ***Special terms and conditions--***

(1) ***Public service enterprises.*** Special use permits authorizing the operation of public service enterprises shall require that the permittee charge reasonable rates and furnish such services as may be necessary in the public interest, except where such rates and services are regulated by Federal, State or municipal agencies having jurisdiction.

(2) ***Common carriers.*** Oil and gas pipelines and related facilities authorized under section 28 of the Mineral Leasing Act of 1920, 41 Stat. 449, as amended (30 U.S.C. 185), shall be constructed, operated and maintained as common carriers. The owners or operators of pipelines shall accept, convey, transport, or purchase without discrimination all oil or gas delivered to the pipeline without regard to whether such oil or gas was produced on Federal or nonfederal lands. In the case of oil or gas produced from Federal lands or from the resources on the Federal lands in the vicinity of the pipeline, the Secretary may, after a full

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hearing with due notice thereof to interested parties and a proper finding of facts, determine the proportionate amounts to be accepted, conveyed, transported, or purchased. The common carrier provisions of this section shall not apply to any natural gas pipeline operated

(i) by any person subject to regulation under the Natural Gas Act, 52 Stat. 821, as amended, (15 U.S.C. 717) or

(ii) by any public utility subject to regulation by a State or municipal regulatory agency having jurisdiction to regulate the rates and charges for the sale of natural gas to consumers within the State or municipality. Where natural gas not subject to State regulatory or conservation laws governing its purchase by pipeline companies is offered for sale, each pipeline company shall purchase, without discrimination, any such natural gas produced in the vicinity of the pipeline.

(g) Conversion of Ski Area Authorizations.

(1) The Forest Service shall request that all existing permit holders convert existing authorizations for ski areas to a new authorization issued pursuant to the National Forest Ski Area Permit Act.

(2) Any current holder of a ski area permit who wishes to convert an existing permit to one issued pursuant to the National Forest Ski Area Permit Act must submit a written request for the new authorization to the authorized officer.

(3) With the consent of the holder, the authorized officer shall convert the authorization if:

(i) The holder is in compliance with the existing authorization;

(ii) All fees currently due under the existing authorization are paid in full; and

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Section 251.56(g)(3) – continued

(iii) Any proposed modifications of terms and conditions of the existing authorization included in a request for conversion meet the standards of paragraphs (2)(i) (A) through (F) of this section and the relevant requirements of this subpart.

(4) A holder retains the right to decline a new authorization offered pursuant to this paragraph and to continue to operate under the terms of the existing permit. However, pursuant to the rules at Sec. 251.61 of this subpart, major modifications of existing permits shall require conversion to a permit issued under the authority of the National Forest Ski Area Permit Act, unless the holder provides compelling justification for retaining the existing permit.

[45 FR 38327, June 6, 1980, as amended at 49 FR 46895, Nov. 29, 1984; 54 FR 22594, May 25, 1989; 60 FR 45294, Aug. 30, 1995; 63 FR 65967, Nov. 30, 1998]

Section 251.57 Rental fees.

(a) Except as otherwise provided in this part or when specifically authorized by the Secretary of Agriculture, special use authorizations shall require the payment in advance of an annual rental fee as determined by the authorized officer.

(1) The fee shall be based on the fair market value of the rights and privileges authorized, as determined by appraisal or other sound business management principles.

(2) Where annual fees of one hundred dollars (\$100) or less are assessed, the authorized officer may require either annual payment or a payment covering more than one year at a time. If the annual fee is greater than one hundred dollars (\$100), holders who are private individuals (that is, acting in an individual capacity), as opposed to those who are commercial, other corporate, or business or government entities, may, at their option, elect to make either annual payments or payments covering more than one year.

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(b) All or part of the fee may be waived by the authorized officer, when equitable and in the public interest, for the use and occupancy of National Forest System land in the following circumstances:

(1) The holder is a State or local government or any agency or instrumentality thereof, excluding municipal utilities and cooperatives whose principal source of revenue from the authorized use is customer charges; or

(2) The holder is a nonprofit association or nonprofit corporation, which is not controlled or owned by profit-making corporations or business enterprises, and which is engaged in public or semi-public activity to further public health, safety, or welfare, except that free use will not be authorized when funds derived by the holder through the authorization are used to increase the value of the authorized improvements owned by the holder, or are used to support other activities of the holder; or

(3) The holder provides without charge, or at reduced charge, a valuable benefit to the public or to the programs of the Secretary; or

(4) When the rental fee is included in the fees for an authorized use or occupancy for which the United States is already receiving compensation; or

(5) When a right-of-way is authorized in reciprocation for a right-of-way conveyed to the United States; or

(6) For rights-of-way involving cost-share roads or reciprocal right-of-way agreements.

(c) No rental fee will be charged when the holder is the Federal government.

(d) No fee shall be charged when the authorization is for a noncommercial group use as defined in Sec. 251.51 of this subpart.

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(e) Special use authorizations issued under Sec. 251.53(g) of this part may require as all or a part of the consideration the reconditioning and maintenance of the government-owned or controlled structures, improvements, and land to a satisfactory standard. The total consideration will be based upon the fair market value of the rights and privileges authorized.

(f) Special use authorizations involving government-owned or controlled buildings, structures, or other improvements which require caretakers' services, or the furnishing of special services such as water, electric lights, and clean-up, may require the payment of an additional fee or charge to cover the cost of such services.

(g) Except where specified otherwise by terms of a special use authorization, rental fees may be initiated or adjusted whenever necessary:

(1) As a result of fee review, reappraisal; or

(2) upon a change in the holder's qualifications under paragraph (b) of this section; and

(3) notice is given prior to initiating or adjusting rental fees.

(h) Each ski area authorization issued under the authority of the National Forest Ski Area Permit Act shall include a clause that provides that the Forest Service may adjust and calculate future rental fees to reflect Agency revisions to the existing system for determining fees based on fair market value or to comply with any new fee system for determining fees based on fair market value that may be adopted after issuance of the authorization.

[45 FR 38327, June 6, 1980, as amended at 51 FR 16683, May 6, 1986; 54 FR 22594, May 25, 1989; 60 FR 45294, Aug. 30, 1995; 63 FR 65967, Nov. 30, 1998]

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Section 251.58 Cost reimbursement. [Reserved]

Section 251.59 Transfer of authorized improvements.

If the holder, through death, voluntary sale, transfer, or through enforcement of a valid legal proceeding or operation of law, ceases to be the owner of the authorized improvements, the authorization terminates upon change of ownership. Except for easements issued under authorities other than Sec. 251.53(e) and leases and easements under Sec. 251.53(l) of this subpart, the new owner of the authorized improvements must apply for and receive a new special use authorization. The new owner must meet requirements under applicable regulations of this subpart and agree to comply with the terms and conditions of the authorization and any new terms and conditions warranted by existing or prospective circumstances.

[63 FR 65967, Nov. 30, 1998]

Section 251.60 Termination, revocation, and suspension.

(a) Grounds for termination, revocation, and suspension.

(1) Noncommercial group uses.

(i) Revocation or suspension. An authorized officer may revoke or suspend a special use authorization for a noncommercial group use only under one of the following circumstances:

- (A)*** Under the criteria for which an application for a special use authorization may be denied under Sec. 251.54(h)(1);
- (B)*** For noncompliance with applicable statutes or regulations or the terms and conditions of the authorization;
- (C)*** For failure of the holder to exercise the rights or privileges granted; or
- (D)*** With the consent of the holder.

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Section 251.60(a)(1) – continued

(ii) ***Administrative or judicial review.*** Revocation or suspension of a special use authorization under this paragraph constitutes final agency action and is immediately subject to judicial review.

(iii) ***Termination.*** A special use authorization for a noncommercial group use terminates when it expires by its own terms. Termination of a special use authorization under this paragraph does not involve agency action and is not subject to administrative or judicial review.

(2) All other special uses.

(i) ***Revocation or suspension.*** An authorized officer may revoke or suspend a special use authorization for all other special uses, except an easement issued pursuant to Sec. 251.53 (e) and (l):

(A) For noncompliance with applicable statutes, regulations, or the terms and conditions of the authorization;

(B) For failure of the holder to exercise the rights or privileges granted;

(C) With the consent of the holder; or

(D) At the discretion of the authorized officer for specific and compelling reasons in the public interest.

(ii) ***Administrative review.*** Except for revocation or suspension of an easement issued pursuant to Sec. 251.53 (e) and (l) of this subpart, a suspension or revocation of a special use authorization under this paragraph is subject to administrative appeal and review in accordance with 36 CFR part 251, subpart C, of this chapter.

(iii) ***Termination.*** For all special uses except noncommercial group uses, a special use authorization terminates when, by its terms, a fixed or agreed-upon condition, event, or time occurs. Termination of a special use authorization under this paragraph does not involve agency action and is not subject to administrative or judicial review.

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(b) For purposes of this section, the authorized officer is that person who issues the authorization or that officer's successor.

(c) A right-of-way authorization granted to another Federal agency will be limited, suspended, revoked, or terminated only with that agency's concurrence.

(d) A right-of-way authorization serving another Federal agency will be limited, suspended, revoked, or terminated only after advance notice to, and consultation with, that agency.

(e) Except when immediate suspension pursuant to paragraph (f) of this section is indicated, the authorized officer shall give the holder written notice of the grounds for suspension or revocation under paragraph (a) of this section and reasonable time to cure any noncompliance, prior to suspension or revocation pursuant to paragraph (a) of this section.

(f) Immediate suspension of a special use authorization, in whole or in part, may be required when the authorized officer deems it necessary to protect the public health or safety or the environment. In any such case, within 48 hours of a request of the holder, the superior of the authorized officer shall arrange for an on-site review of the adverse conditions with the holder. Following this review, the superior officer shall take prompt action to affirm, modify, or cancel the suspension.

(g) The authorized officer may suspend or revoke easements issued pursuant to Sec. 251.53 (e) and (l) of this subpart under the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings instituted by the Secretary under 7 CFR 1.130 through 1.151. No administrative proceeding shall be required if the easement, by its terms, provides that it terminates on the occurrence of a fixed or agreed-upon condition, event, or time.

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(h)

(1) The Chief may revoke any easement granted under the provisions of the Act of October 13, 1964, 78 Stat. 1089, 16 U.S.C. 534:

(i) By consent of the owner of the easement;

(ii) By condemnation; or

(iii) Upon abandonment after a 5-year period of nonuse by the owner of the easement.

(2) Before any such easement is revoked for nonuse or abandonment, the owner of the easement shall be given notice and, upon the owner's request made within 60 days after receipt of the notice, an opportunity to present relevant information in accordance with the provisions of 36 CFR part 251, subpart C, of this chapter.

(i) Upon revocation or termination of a special use authorization, the holder must remove within a reasonable time the structures and improvements and shall restore the site to a condition satisfactory to the authorized officer, unless the requirement to remove structures or improvements is otherwise waived in writing or in the authorization. If the holder fails to remove the structures or improvements within a reasonable period, as determined by the authorized officer, they shall become the property of the United States, but holder shall remain liable for the costs of removal and site restoration.

[45 FR 38327, June 6, 1980; 45 FR 43167, June 26, 1980, as amended at 48 FR 28639, June 23, 1983; 60 FR 45295, Aug. 30, 1995; 63 FR 65968, Nov. 30, 1998]

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Section 251.61 Modifications.

(a) A holder shall file a new or amended application for a special use authorization to cover new, changed, or additional use(s) or area.

(1) In approving or denying changes or modifications, the authorized officer shall consider among other things, the findings or recommendations of other involved agencies and whether the terms and conditions of the existing authorization may be continued or revised, or a new authorization issued.

(2) Changes during construction, or at any other time, from the approved plans or the location shown in the application or authorization shall be allowed only with the prior approval of the authorized officer.

(b) A holder may be required to furnish as-built plans, map(s), or survey(s) upon completion of construction.

(c) A holder shall obtain prior approval from the authorized officer for modifications to approved uses that involve any activity impacting the environment, other users, or the public.

[45 FR 38327, June 6, 1980, as amended at 63 FR 65968, Nov. 30, 1998]

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Section 251.62 Acceptance.

Except for an easement, a special use authorization shall become effective when signed by both the applicant and the authorized officer. The authorization must be signed by the applicant and returned to the authorized officer within 60 days of its receipt by the applicant, unless extended by the authorized officer. Refusal of an applicant to sign and accept a special use authorization within the time allowed, and before its final approval and signature by an authorized officer, shall terminate an application and constitute denial of the requested use and occupancy.

[53 FR 16550, May 10, 1988]

Section 251.63 Reciprocity.

If it is determined that a right-of-way shall be needed by the United States across nonfederal lands directly or indirectly owned or controlled by an applicant for a right-of-way across Federal lands, the authorized officer may condition a special use authorization to require the holder to grant the United States the needed right-of-way.

Section 251.64 Renewals.

(a) When a special use authorization provides for renewal, the authorized officer shall renew it where such renewal is authorized by law, if the project or facility is still being used for the purpose(s) previously authorized and is being operated and maintained in accordance with all the provisions of the authorization. In making such renewal, the authorized officer may modify the terms, conditions, and special stipulations to reflect any new requirements imposed by current Federal and State land use plans, laws, regulations or other management decisions. Special uses may be reauthorized upon expiration so long as such use remains consistent with the decision that approved the expiring special use or group of uses. If significant new information or circumstances have developed, appropriate environmental analysis must accompany the decision to reauthorize the special use.

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(b) When a special use authorization does not provide for renewal, it is discretionary with the authorized officer, upon request from the holder and prior to its expiration, whether or not the authorization shall be renewed. A renewal pursuant to this section shall comply with the same provisions contained in paragraph (a) of this section.

[45 FR 38327, June 6, 1980, as amended at 63 FR 65968, Nov. 30, 1998]

Section 251.65 Information collection requirements.

The rules of this subpart governing special use applications (Sec. 251.54 and Sec. 251.59), terms and conditions (Sec. 251.54), rental fees (Sec. 251.57), and modifications (Sec. 251.61) specify the information that proponents or applicants for special use authorizations or holders of existing authorizations must provide in order for an authorized officer to act on a request or administer the authorization. As such, these rules contain information requirements as defined in 5 CFR part 1320. These information requirements are assigned OMB Control Number 0596-0082.

[63 FR 65968, Nov. 30, 1998]

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Use	Use Code	Authority	Authorization	Form	Inspection Frequency	Recommended Maximum Term
RECREATIONAL SPECIAL USE - GROUP USE						
Boat dock and wharf	111	Organic Act of 1897	permit	FS-2700-4	Annual	20 years
Club	112	Organic Act of 1897	permit	FS-2700-4 FS-2700-5	Annual	Phase out
Organization Camp	113	Organic Act of 1897 or Act of March 4, 1915	permit term permit	FS-2700-4 FS-2700-5	Annual	20 years
Shelter	114	Organic Act of 1897	permit temporary permit	FS-2700-4 FS-2700-25	Every 3 years	10 years
Private camp	115	Organic Act of 1897 or Act of March 4, 1915	permit term permit	FS-2700-4 FS-2700-5	Annual	20 years
INDIVIDUAL USE						
Isolated cabin	121	Organic Act of 1897	permit	FS-2700-4	Annual	Phase out
Houseboat	122	Organic Act of 1897	permit	FS-2700-4	Annual	20 years
Recreation residence	123	Act of March 4, 1915	term permit	FS-2700-5a	Annual	20 years
Caretaker residence (Authorize in recreation residence tracts only)	124	Organic Act of 1897	permit temporary permit	FS-2700-4 FS-2700-25	Annual	5 years
Black bear baiting	126	Organic Act of 1897	temporary permit	FS-2700-25		One year or less
Private lodging	131	Act of March 4, 1915	term permit	FS-2700-5	Annual	20 years
Hotel, motel	132	Act of March 4, 1915	term permit	FS-2700-5	Annual	20 years
Resort	133	Act of March 4, 1915	term permit	FS-2700-5c	Annual	20 years
Recreation lodging, use of Government-owned buildings	134	Granger-Thye Act of April 24, 1950	permit temporary permit	FS-2700-4 FS-2700-25	Annual	One year or less

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Use	Use Code	Authority	Authorization	Form	Inspection Frequency	Recommended Maximum Term
FACILITY RELATED ACTIVITIES						
Campground, picnic ground - non-Government-owned - Government-owned	141	Act of March 4, 1915 Granger-Thye Act of April 24, 1950	term permit	FS-2700-5	Annual	20 years
			permit	FS-2700-4h	Annual	5 + 5 years
Cave, cavern	142	Organic Act of 1897	permit	FS-2700-4	Annual	20 years
Golf course	143	Act of March 4, 1915 or Organic Act of 1897	permit term permit	FS-2700-4 FS-2700-5	Every 2 years	20 years
Park, playground	144	Organic Act	permit	FS-2700-4	Annual	20 years
Racetrack	145	Act of March 4, 1915 or Organic Act of 1897	permit term permit	FS-2700-4 FS-2700-5	Every 3 years	Deny new uses Phase-out existing uses
Target range	146	Act of March 4, 1915 or Organic Act of 1897	permit term permit	FS-2700-4 FS-2700-5	Annual	20 years
Trailer court	147	Act of March 4, 1915	term permit	FS-2700-5	Annual	20 years
Tramway	148	Act of March 4, 1915	term permit	FS-2700-5	Annual	20 years
Recreation event	149	LWCF Act of 1965	temporary permit permit	FS-2700-25 FS-2700-4 FS-2700-3c	As needed	As needed
FACILITY RELATED SERVICES						
Bathhouse, beach	151	Act of March 4, 1915 or Organic Act of 1897	permit term permit	FS-2700-4 FS-2700-5	Annual	20 years
Marina	152	Act of March 4, 1915	term permit	FS-2700-5c	Annual	20 years
Outfitter and guide service	153	LWCF Act of 1965	temporary permit permit	FS-2700-25 FS-2700-4	Annual	5 years
Rental services	154	Organic Act of 1897	temporary permit permit	FS-2700-25 FS-2700-4	Annual	5 years

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Use	Use Code	Authority	Authorization	Form	Inspection Frequency	Recommended Maximum Term
Restaurant (Generally associated with resorts, ski areas, or marinas)	155	Act of March 4, 1915 or Organic Act of 1897	permit term permit	FS-2700-4 FS-2700-5	Annual	20 years
Service station (Generally associated with resorts, ski areas, or marinas)	156	Act of March 4, 1915 or Organic Act of 1897	permit term permit	FS-2700-4 FS-2700-5	Annual	20 years
Store, shop, office (Generally associated with resorts, ski areas, or marinas)	157	Act of March 4, 1915 or Organic Act of 1897	permit term permit	FS-2700-4 FS-2700-5	Annual	20 years
Vendor, peddler	158	Organic Act of 1897	temporary permit permit	FS-2700-25 FS-2700-4	Annual	5 years
WINTER RECREATION						
Winter recreation resort	161	Ski Area Permit Act of 1986	term permit	FS-2700-5b	Annual	40 years
Ski lift, tow	162	Ski Area Permit Act of 1986 or Act of March 4, 1915	term permit	FS-2700-5b	Annual	40 years
			term permit	FS-2700-5	Annual	30 years
Ski slope, ski trail	163	Organic Act of 1897 or Act of March 4, 1915	permit	FS-2700-4	Annual	20 years
			term permit	FS-2700-5	Annual	30 years
Ski activity	164	Organic Act of 1897	permit	FS-2700-4	Annual	5 years
Snow play	165	Organic Act of 1897 or Act of March 4, 1915	permit	FS-2700-4	Annual	5 years
			term permit	FS-2700-5	Annual	20 years
AGRICULTURE, CROPS						
Cultivation	211	Organic Act of 1897	temporary permit permit	FS-2700-25 FS-2700-4	Annual	10 years
Nursery	212	Organic Act of 1897	temporary permit permit	FS-2700-25 FS-2700-4	Annual	10 years
Orchard	213	Organic Act of 1897	permit	FS-2700-4	Every 2 years	10 years

WO AMENDMENT 2709.11-2002-1

EFFECTIVE DATE: 02/13/2002

DURATION: This amendment is effective until superseded or removed.

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Use	Use Code	Authority	Authorization	Form	Inspection Frequency	Recommended Maximum Term
Apiary	214	Organic Act of 1897	temporary permit permit	FS-2700-25 FS-2700-4	Annual	10 years
Livestock area	215	Organic Act of 1897	temporary permit permit	FS-2700-25 FS-2700-4	Annual	10 years
Fish hatchery	216	Organic Act of 1897	permit	FS-2700-4	Every 2 years	30 years
Fur and game farm	217	Organic Act of 1897	permit	FS-2700-4	Every 2 years	10 years
Worm harvesting	218	Organic Act of 1897	temporary permit permit	FS-2700-25 FS-2700-4	Every 2 years	10 years
Mariculture	219	Organic Act of 1897	permit	FS-2700-4	Every 2 years	10 years
AGRICULTURAL IMPROVEMENTS						
Barn, shed	221	Organic Act of 1897	permit	FS-2700-4	Every 3 years	10 years
Fence	222	Organic Act of 1897	permit	FS-2700-4	Every 3 years	20 years
Agriculture residence	223	Organic Act of 1897	permit	FS-2700-4	Annual	20 years
RANGE FACILITIES						
Building	231	Organic Act of 1897	permit	FS-2700-4	Annual	20 years
Corral, pen & livestock area	232	Organic Act of 1897	temporary permit permit	FS-2700-25 FS-2700-4	Annual	10 years
Dipping vat	233	Organic Act of 1897	temporary permit permit	FS-2700-25 FS-2700-4	Annual	10 years
ENCLOSURES						
Convenience enclosure	241	Organic Act of 1897	temporary permit permit	FS-2700-25 FS-2700-4	Every 3 years	10 years

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Use	Use Code	Authority	Authorization	Form	Inspection Frequency	Recommended Maximum Term
COMMUNITY AND PUBLIC INFORMATION MEETINGS						
Noncommercial group use	311	Organic Act of 1897	permit	FS-2700-3b	As needed	As needed
Native American traditional religious activity	312	American Indian Religious Freedom Act	temporary permit permit	FS-2700-25 FS-2700-4	Semi-annual	10 years
Other religious meetings	313	Organic Act of 1897	temporary permit	FS-2700-25	Semi-annual	One year or less
RELIGIOUS FACILITIES						
Cemetery	321	Organic Act of 1897	permit	FS-2700-4	Every 3 years	Deny new uses
Church	322	Organic Act of 1897	permit	FS-2700-4	Every 3 years	30 years Pursue land exchange for new uses
PUBLIC INFORMATION						
Marker	331	Organic Act of 1897	permit	FS-2700-4	Every 3 years	10 years
Monument	332	Organic Act of 1897	permit	FS-2700-4	Every 3 years	10 years
Sign	333	Organic Act of 1897	permit	FS-2700-4	Every 3 years	10 years
SANITARY SYSTEMS						
Solid waste disposal site	341	Organic Act of 1897 or the Act of September 3, 1954	permit	FS-2700-4	Annual	Deny use Phase-out existing uses
Liquid waste disposal area	342	Organic Act of 1897 or the Act of September 3, 1954	permit	FS-2700-4	Annual	Deny use Phase-out existing uses
Sewage transmission lines	343	FLPMA	permit easement	FS-2700-4 easement	Annual	40 years Provide for revision of terms & conditions at specified intervals to reflect changing times and conditions
Hazardous and toxic waste disposal site	344	Organic Act of 1897 or the Act of September 3, 1954	permit	FS-2700-4	Annual	Deny use Phase-out existing uses

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Transfer station	345	Organic Act of 1897 or the Act of September 3, 1954	permit	FS-2700-4	Annual	10 years
Debris disposal area	345	Organic Act of 1897 or the Act of September 3, 1954	permit	FS-2700-4	Annual	Deny use Phase-out existing uses
COMMUNITY RESIDENCES						
Residence, privately owned building	351	Organic Act of 1897	permit	FS-2700-4 FS-2700-25	Annual	10 years Pursue land exchange
Residence, Government- owned building, G-T	352	Granger-Thye Act of April 24, 1950	permit	FS-2700-4	Annual	10 years
Residence, Alaska Term Permit Act	353	Alaska Term Permit Act of March 30, 1948	permit	FS-2700-4	Annual	30 years Pursue land exchange
SERVICE USES						
School	361	Act of September 3, 1954	term permit	FS-2700-5	Every 2 years	30 years Pursue land exchange
Service building	362	Act of September 3, 1954	term permit	FS-2700-5	Every 2 years	30 years Pursue land exchange
Hospital or sanitarium	363	Act of March 3, 1915 or Act of September 3, 1954	term permit	FS-2700-5	Every 2 years	30 years Pursue land exchange
Shelter	364	Act of March 4, 1915 or Organic Act of 1897	temporary permit permit	FS-2700-25 FS-2700-4	Every 2 years	5 years
Mailbox	365	Organic Act of 1897	permit	FS-2700-4	Every 3 years	Life tenure
Parking lot	366	Organic Act of 1897 or Act of March 4, 1915	permit	FS-2700-4	Every 3 years	30 years
Visitor center, museum	367	Act of March 4, 1915	term permit	FS-2700-5	Annual	30 years
ENCROACHMENTS						
Cabin (invalid mining claim)	371	Organic Act of 1897	permit	FS-2700-4	Annual	Annual
Residence	372	Organic Act of 1897	permit	FS-2700-4	Annual	5 years
Other improvement	373	Organic Act of 1897	permit	FS-2700-4	Annual	5 years
Cabin predating ANILCA	374	Organic Act of 1897	permit	FS-2700-4	Annual	5 years

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FEASIBILITY, RESEARCH, TRAINING, CULTURAL RESOURCES, AND HISTORICAL FEASIBILITY						
Site survey and testing	411	Organic Act of 1897	temporary permit permit	FS-2700-25 FS-2700-4	2 times each year	5 years
Resource survey	412	Organic Act of 1897	temporary permit permit	FS-2700-25 FS-2700-4	2 times each year	5 years
Hydroelectric investigation	413	FLPMA	permit	FS-2700-4	2 times each year	5 years
RESEARCH						
Experimental & demonstration	421	Organic Act of 1897	temporary permit permit	FS-2700-25 FS-2700-4	Annual	5 years
Research study	422	Organic Act of 1897	temporary permit permit	FS-2700-25 FS-2700-4	Annual	5 years
Weather station	423	Organic Act of 1897	permit	FS-2700-4	Annual	30 years
Weather modification device	424	Organic Act of 1897	permit	FS-2700-4	Annual	30 years
Observatory	425	Organic Act of 1897	permit	FS-2700-4	Every 3 years	30 years
TRAINING						
Military training area	431	Organic Act of 1897	permit	FS-2700-4	Annual	20 years
Education center	432	Act of March 4, 1915	term permit	FS-2700-5	Annual	30 years
CULTURAL RESOURCES & TREASURE TROVE USES						
1906 Act Permit	441	American Antiquities Act	temporary permit permit	FS-2700-25 FS-2700-4	Annual	May vary
Nondisturbing use	442	Organic Act of 1897	temporary permit permit	FS-2700-25 FS-2700-4	Annual	May vary
Disturbing use, 1979 Act	443	Archeological Resource Protection Act	permit	FS-2700-4	Annual	May vary
Treasure hunting	444	Organic Act of 1897	temporary permit permit	FS-2700-25 FS-2700-4	Annual	May vary
HISTORIC						
Historic building and improvements	451	American Antiquities Act	temporary permit permit	FS-2700-25 FS-2700-4	Annual	May vary
Historic site	452	American Antiquities Act	permit	FS-2700-4	Annual	May vary

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INDUSTRY CAMPS						
Construction camp and residence	511	Organic Act of 1897	permit	FS-2700-4	Annual	5 years
STORAGE						
Warehouse and storage yard	521	Organic Act of 1897	permit	FS-2700-4	Every 2 years	20 years
Stockpile site	522	Organic Act of 1897	permit	FS-2700-4	Annual	20 years
MANUFACTURING						
Processing plant	531	Organic Act of 1897	permit	FS-2700-4	Annual	20 years
Truck & equipment depot	532	Organic Act of 1897	permit	FS-2700-4	Annual	20 years
Batch and mixing plant	533	Organic Act of 1897	permit	FS-2700-4	Annual	20 years
MEASUREMENT						
Weighing or scaling station	541	Organic Act of 1897	permit	FS-2700-4	Annual	20 years
ARTS						
Commercial still photography	551	Organic Act of 1897	temporary permit permit	FS-2700-25 FS-2700-4		5 years
Motion picture and television location	552	Organic Act of 1897	temporary permit permit	FS-2700-25 FS-2700-4	Annual	3 years
MINERAL EXPLORATION						
Geological and geophysical exploration	561	Organic Act of 1897	temporary permit permit	FS-2700-25 FS-2700-4	Annual	3 years
Mineral material site	562	Mineral Materials Act of 1947	temporary permit permit	FS-2700-25 FS-2700-4	Annual	Consult RO for direction
MINERAL DEVELOPMENT						
Occupancy permit, reserved mineral right	571	By Deed or State law				Consult RO for direction
Occupancy permit, outstanding mineral right	572	By Deed or State law				Consult RO for direction

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TIMBER						
Tailhold	591	Organic Act of 1897	temporary permit permit	FS-2700-25 FS-2700-4	Annual	3 years
Spar	592	Organic Act of 1897	temporary permit permit	FS-2700-25 FS-2700-4	Annual	3 years
Log landing	593	Organic Act of 1897	temporary permit permit	FS-2700-25 FS-2700-4	Annual	3 years
Yarding corridor	594	Organic Act of 1897	temporary permit permit	FS-2700-25 FS-2700-4	Annual	3 years
Flume, log chute	595	Organic Act of 1897	temporary permit permit	FS-2700-25 FS-2700-4	Annual	3 years
ENERGY GENERATION AND TRANSMISSION POWERPLANTS UNDER AUTHORITY OF THE FEDERAL ENERGY REGULATORY COMMISSION						
Hydroelectric project, FERC licensed	611	FLPMA	permit	FS-2700-4	Annual	50 years (term of permit should run concurrent with term of FERC license)
Hydroelectric project, FERC exempted	612	FLPMA	permit	FS-2700-4	Annual	30 years
OTHER POWERPLANTS						
Wind power facility	621	FLPMA	permit	FS-2700-4	Every 3 years	30 years
Fossil fuel powerplant	622	FLPMA	permit	FS-2700-4	Every 3 years	30 years
OIL AND GAS DEVELOPMENT						
Oil and gas pipeline	631	Mineral Leasing Act	permit easement	FS-2700-4 easement	Annual	50 years
Oil and gas pipeline related facility	632	Mineral Leasing Act	permit	FS-2700-4	Annual	50 years
Oil and gas production and storage area	633	Organic Act of 1897	permit	FS-2700-4	Annual	50 years Provide for revision of terms & conditions at specified intervals to reflect changing times and conditions

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Natural gas pipeline (FERC)	634	Mineral Leasing Act	permit easement	FS-2700-4 easement	Annual	50 years Provide for revision of terms & conditions at specified intervals to reflect changing times and conditions
ELECTRIC TRANSMISSION & DISTRIBUTION						
Powerline, REA financed	641	FLPMA	permit	FS-2700-4	Annual	50 years Provide for revision of terms & conditions at specified intervals to reflect changing times and conditions
Other utility improvement REA financed	642	FLPMA	permit	FS-2700-4	Annual	50 years Provide for revision of terms & conditions at specified intervals to reflect changing times and conditions
Powerline	643	FLPMA	permit easement	FS-2700-4 easement	Annual	50 years Provide for revision of terms & conditions at specified intervals to reflect changing times and conditions
Other utility improvement	644	FLPMA	permit easement	FS-2700-4 easement	Annual	50 years Provide for revision of terms & conditions at specified intervals to reflect changing times and conditions

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TRANSPORTATION, AIRCRAFT FACILITIES						
Airport, heliport	711	FLPMA	permit	FS-2700-4	Every 3 years	30 years
Hanger and service facility	712	FLPMA	permit	FS-2700-5	Every 3 years	30 years
Airport concession	713	FLPMA	permit	FS-2700-4	Every 3 years	30 years
Airport or airway beacon	714	FLPMA	permit	FS-2700-4	Every 3 years	30 years
Helicopter landing site	715	FLPMA	permit	FS-2700-4	Every 3 years	30 years
MARINE						
Mooring point	721	Organic Act of 1897	permit	FS-2700-4	Every 3 years	30 years
Boat dock, wharf, pier	722	Organic Act of 1897	permit	FS-2700-4	Annual	30 years
Canal	723	FLPMA	permit	FS-2700-4	Annual	30 years
Navigation aid, lighthouse	724	FLPMA	permit	FS-2700-4	Every 3 years	30 years
Navigation aid (beacon, buoy, marker, & other)	725	FLPMA	permit	FS-2700-4	Every 3 years	30 years
RAILROADS						
Railroad right-of-way	731	FLPMA	permit	FS-2700-4	Annual	50 years Provide for revision of terms & conditions at specified intervals to reflect changing times and conditions
Railroad signal device	732	FLPMA	permit	FS-2700-4	Annual	50 years Provide for revision of terms & conditions at specified intervals to reflect changing times and conditions
FEDERAL AID HIGHWAY RIGHT-OF-WAY						
Department of Transportation Easement	741		Issued by FHWA			

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ROAD OR TRAIL AUTHORIZATION						
Forest Road and Trail Act easement	751	October 15, 1964	easement	easement	Every 3 years	30 years (Easements issued to public road agencies have no designated expiration date)
Federal Land Policy and Management Act easement	752	FLPMA	easement	easement	Every 3 years	30 years (Alternative language can be used allowing the use to continue as long as needed for the purpose authorized at the time of issuance)
Federal Land Policy and Management Act permit	753	FLPMA	permit	permit	Every 3 years	20 years
Wilderness Act authorization for roads and trails	754	Wilderness Act of 1964	permit	FS-2700-4 FS-2700-25	Every 3 years	10 years
PIPELINE NON-ENERGY RELATED						
Slurry pipeline	761	FLPMA	permit	FS-2700-4	Annual	30 years
CABLEWAY AND CONVEYOR						
Tramway or conveyor	771	FLPMA	permit	FS-2700-4	Annual	30 years
COMMUNICATIONS, COMMUNICATION USE						
BROADCAST						
Broadcast translator/Low power TV & FM	808	FLPMA	permit lease	FS-2700-4 FS-2700-4a	Annual	30 years
Cable television	809	FLPMA	permit lease	FS-2700-4 FS-2700-4a	Annual	30 years
AM & FM radio broadcast	816	FLPMA	permit lease	FS-2700-4 FS-2700-4a	Annual	30 years
Television broadcast	817	FLPMA	permit lease	FS-2700-4 FS-2700-4a	Annual	30 years

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NON-BROADCAST						
Microwave common carrier	803	FLPMA	permit lease	FS-2700-4 FS-2700-4a	Annual	30 years
Microwave industrial	804	FLPMA	permit lease	FS-2700-4 FS-2700-4a	Annual	30 years
Local exchange network	805	FLPMA	permit lease	FS-2700-4 FS-2700-4a	Annual	30 years
Private mobile radio service	806	FLPMA	permit lease	FS-2700-4 FS-2700-4a	Annual	30 years
Passive reflector	807	FLPMA	permit lease	FS-2700-4 FS-2700-4a	Annual	30 years
Cellular/PCS	810	FLPMA	permit lease	FS-2700-4 FS-2700-4a	Annual	30 years
Commercial mobile radio service	815	FLPMA	permit lease	FS-2700-4 FS-2700-4a	Annual	30 years
Facility manager	818	FLPMA	permit lease	FS-2700-4 FS-2700-4a	Annual	30 years
OTHER COMMUNICATION USES						
Amateur radio	801	FLPMA	permit lease	FS-2700-4 FS-2700-4a	Annual	30 years
Personal/private receive only	802	FLPMA	permit lease	FS-2700-4 FS-2700-4a	Annual	30 years
Natural resource and environmental monitoring	814	FLPMA	permit lease	FS-2700-4 FS-2700-4a	Annual	30 years
Other communication improvement	831	FLPMA	permit	FS-2700-4	Annual	30 years
Other communication improvement - REA	832	FLPMA	permit	FS-2700-4	Annual	30 years

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TELEPHONE & TELEGRAPH						
Telephone & telegraph line Non-REA	821	FLPMA	permit easement	FS-2700-4 easement	Annual	30 years
Telephone line, REA financed	822	FLPMA	permit	FS-2700-4	Annual	30 years
Fiber optic cable	823	FLPMA	permit	FS-2700-4	Annual	20 years
WATER (NON-POWER GENERATING) WATER TRANSMISSION						
Irrigation water ditch	911	FLPMA	permit easement	FS-2700-4 easement	Annual	30 years
Irrigation water transmission pipeline, 12" diameter or more	912	FLPMA	permit easement	FS-2700-4 easement	Annual	30 years
Irrigation water transmission, pipeline, less than 12" diameter	913	FLPMA	permit easement	FS-2700-4 easement	Annual	30 years
Water transmission pipeline, 12" diameter or more	914	FLPMA	permit easement	FS-2700-4 easement	Annual	30 years
Water transmission pipeline, less than 12" diameter	915	FLPMA	permit easement	FS-2700-4 easement	Annual	30 years
Water conveyance system easement, Act of October 27, 1986 (Pub. L. 99- 545)	916	FLPMA	easement	FS-2700-9a	Annual	Permanent
IMPOUNDMENT						
Debris and siltation impoundment	921	FLPMA	permit	FS-2700-4	Annual	30 years
Dam, reservoir	922	FLPMA	permit easement	FS-2700-4 easement	Annual	30 years
Water diversion, weir	923	FLPMA	permit	FS-2700-4	Annual	20 years
Reservoir	924	FLPMA	permit easement	FS-2700-4 easement	Every 2 years	30 years
Dam, reservoir, Act of October 27, 1986 (Pub. L. 99-545)	925	FLPMA	easement	FS-2700-9a	Annual	Permanent
Reservoir, Act of October 27, 1986 (P.L. 99-545)	926	FLPMA	easement	FS-2700-9a	Annual	Permanent

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Use	Use Code	Authority	Authorization	Form	Inspection Frequency	Recommended Maximum Term
DEVELOPMENT						
Well, spring, windmill	931	Organic Act of 1897	permit	FS-2700-4	Every 2 years	20 years
Stock water	932	Organic Act of 1897	permit	FS-2700-4	Every 2 years	20 years
Wildlife water supply	933	Organic Act of 1897	permit	FS-2700-4	Every 2 years	20 years
Fish ladder	934	Organic Act of 1897	permit	FS-2700-4	Every 2 years	30 years
Water storage tank	935	Organic Act of 1897	permit	FS-2700-4	Annual	30 years
MEASUREMENT						
Stream gauging station	941	Organic Act of 1897	permit	FS-2700-4	Every 3 years	20 years
Water quality monitoring station	942	Organic Act of 1897	permit	FS-2700-4	Every 3 years	20 years
WATER TREATMENT						
Water treatment plant	951	Act of March 3, 1915 or Act of September 3, 1954	permit term permit	FS-2700-4 FS-2700-5	Annual	30 years