

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. Add § 165.1312 to read as follows:

§ 165.1312 Security Zone; Portland, OR Rose Festival on Willamette River.

(a) *Location.* The following area is a security zone: All waters of the Willamette River, from surface to bottom, encompassed by the Hawthorne and Steel Bridges.

(b) *Regulations.* (1) In accordance with § 165.33, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port, Portland or his designated representatives. Section 165.33 also contains other general requirements.

(2) Persons desiring to transit the area of the security zone may contact the Captain of the Port on VHF channel 16 (156.8 MHz) or VHF channel 22A (157.1 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port or his or her designated representative.

(c) *Authority.* In addition to 33 U.S.C. 1231, the authority for this section includes 33 U.S.C. 1226.

(d) *Effective period.* This section will be effective generally from the first full Wednesday of June to the next Monday in June. A notice of implementation of regulation will be published in the **Federal Register** 30 days prior to the beginning of the event.

Dated: December 24, 2002.

P.D. Jewell,

Captain, Coast Guard, Captain of the Port, Portland.

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DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Parts 251, 261, and 295

RIN 0596–AB74

Land Uses; Special Uses Requiring Authorization

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Forest Service proposes to amend the regulations at part 251 that govern special uses of National Forest

System lands to address management issues related to the special uses program and to clarify categories of activities for which a special use authorization is required. The proposed rule would promote consistent treatment of special uses requiring an authorization; improve the agency's ability to resolve management issues by requiring permits; and reduce the agency's administrative cost by eliminating the need for issuing an order to require a special use permit and not requiring special use authorizations where they serve no management purpose. The proposed rule clarifies requirements regarding authorizations for special uses involving National Forest System roads and trails. The proposed rule also would add definitions to part 251, would revise definitions in part 261, and would revise a term in the heading of part 295, to ensure use of consistent terminology in these parts. Public comment is invited and will be considered in development of the final rule.

DATES: Comments must be received in writing by March 24, 2003.

ADDRESSES: Send written comments to Forest Service, USDA, Attn: Director, Recreation, Heritage and Wilderness Resources (RHWR) Staff, (2720), Mail Stop 1125, Washington, DC 20250–1125 or to rhwr_rule@fs.fed.us.

All comments, including names and addresses when provided, will be placed in the record and will be available for public inspection and copying. The public may inspect comments received on this proposed rule in the Office of the Director, RHWR Staff, 4th Floor Central, Sidney R. Yates Federal Building, 14th and Independence Avenue, SW., Washington, DC, on business days between the hours of 8:30 a.m. and 4:30 p.m. Those wishing to inspect comments are encouraged to call ahead at (202) 205–1706 or (202) 205–1399 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Carolyn Holbrook, Recreation, Heritage, and Wilderness Resources Staff, (202) 205–1399, or Randy Karstaedt, Lands Staff, (202) 205–1256.

SUPPLEMENTARY INFORMATION:

Background and Need for Rule

Forest Service regulations at 36 CFR part 251, subpart B, govern authorizations for occupancy and use of National Forest System lands. Section 251.50 of this subpart characterizes as “special uses” all uses of National Forest System lands, improvements, and resources, except those authorized by the regulations governing the disposal of

timber (part 223) and minerals (part 228) and the grazing of livestock (part 222). The regulation requires an authorization for all “special uses,” with certain exceptions.

Approximately 72,000 special use authorizations are in effect on National Forest System lands. These uses cover a variety of activities ranging from individual private uses to large-scale commercial facilities and public services. Examples of authorized land uses include road rights-of-way accessing private residences, apiaries, domestic water supplies and water conveyance systems, telephone and electric service rights-of-way, ski areas, resorts, marinas, outfitter and guide services, and public parks and campgrounds. About 6,000 special use proposals are submitted annually by various entities wanting to use and occupy National Forest System lands. This proposed rule would clarify which activities require a special use authorization. The rule also would revise the term “National Forest System road” (formerly, “forest development road”) to conform to changes in the road management rule at part 212.

In addition, the proposed rule would make the following technical amendments: (1) Revising the definitions for “National Forest System road” and “National Forest System trail” in section 261.2 to make them consistent with 23 U.S.C. 101; (2) in section 261.55, changing the term “forest development trail” to “National Forest System trail,” in conformance with the terminology used in part 212 and this proposed rule; and (3) changing the term “Forest Service Roads” to “National Forest System Roads” in the title of the heading for part 295.

Clarification of Special Uses Requiring an Authorization

Revision of sections 251.50 and 251.51 is needed to address management issues related to the special uses program and to special use authorizations involving National Forest System roads and trails.

The current regulation at 36 CFR 251.50(d) provides that a special use authorization is not required for use of National Forest System roads and trails, unless required by an order issued pursuant to section 261.50 or a regulation issued pursuant to section 261.70. Courts have construed this provision as not requiring an authorization for special uses that occur on National Forest System roads and trails and have invalidated orders issued pursuant to section 261.50 that required a permit for special uses occurring on National Forest System roads. These