

## Civil Justice Reform

This proposed rule has been reviewed under Executive Order 12988 on civil justice reform. If this proposed rule were adopted, (1) all State and local laws and regulations that are in conflict with this proposed rule or that would impede its full implementation would be preempted; (2) no retroactive effect would be given to this proposed rule; and (3) it would not require administrative proceedings before parties may file suit in court challenging its provisions.

## Federalism and Consultation and Coordination With Indian Tribal Governments

The agency has considered this proposed rule under the requirements of Executive Order 13132 on federalism, and has made an assessment that the proposed rule conforms with the federalism principles set out in this Executive order; would not impose any compliance costs on the States; and would not have substantial direct effects on the States, the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the agency has determined that no further assessment of federalism implications is necessary at this time.

Moreover, this proposed rule does not have tribal implications as defined by Executive Order 13175, Consultation and Coordination With Indian Tribal Governments, and therefore advance consultation with tribes is not required.

## Energy Effects

This proposed rule has been reviewed under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. It has been determined that this proposed rule does not constitute a significant energy action as defined in the Executive order.

## Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the agency has assessed the effects of this proposed rule on State, local, and tribal governments and the private sector. This proposed rule would not compel the expenditure of \$100 million or more by any State, local, or tribal government or anyone in the private sector. Therefore, a statement under section 202 of the act is not required.

## Controlling Paperwork Burdens on the Public

The forms for special use applications and authorizations have been approved for use by the Office of Management and Budget (OMB) and assigned OMB control number 0596–0082. Therefore, this proposed rule does not contain any record-keeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 that are not already required by law or not already approved for use. Moreover, the proposed rule will reduce the number of applicants for special use authorizations by clarifying those circumstances when special use authorizations are not required. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320 do not apply.

### List of Subjects

#### 36 CFR Part 251

Administrative practice and procedure, Electric power, National forests, Public lands-rights-of-way, Reporting and recordkeeping requirements, Water resources.

#### 36 CFR Part 261

Law Enforcement, National forests.

#### 36 CFR Part 295

National forests, Traffic regulations.

Therefore, for the reasons set out in the preamble, the Forest Service proposes to amend subpart B of part 251, subpart A of part 261, and part 295 of Title 36 of the Code of Federal Regulations as follows:

## PART 251—LAND USES

### Subpart B—Special Uses

1. The authority citation for subpart B continues to read as follows:

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

2. Revise § 251.50 to read as follows:

#### § 251.50 Scope.

(a) All uses of National Forest System lands, improvements, and resources, except those authorized by the regulations governing disposal of timber and special forest products, such as greens, mushrooms, and medicinal plants (part 223), minerals (part 228), and grazing of livestock (part 222), are designated “special uses.” Before conducting a special use, individuals or entities must submit a proposal to the authorized officer and must obtain a

special use authorization from the authorized officer, unless that requirement is waived by paragraphs (c) through (e) of this section.

(b) Nothing in this section prohibits the temporary occupancy of National Forest System lands without a special use authorization for the protection of life and property in emergencies, if a special use authorization for that occupancy is obtained at the earliest opportunity, unless waived pursuant to paragraphs (c) through (e) of this section. Those temporarily occupying National Forest System lands without a special use authorization assume liability and must indemnify the United States for all injury, loss, or damage arising in connection with the temporary occupancy.

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

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

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

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

(1) The travel is for the purpose of engaging in a noncommercial group use, outfitting or guiding, a recreation event, commercial filming, or still photography, as defined in § 251.51; or

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

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

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

(2) The proposed use is regulated by a State agency or another Federal agency in a manner that is adequate to protect