

of personnel for enlistment will be based upon their ability to meet all requirements, including procurement of prescribed waivers.

(2) Applicants applying for moral or medical waivers will document their waiver requests, as prescribed by AR 601-210 or AR 40-501.

(3) The approval authorities for various types of waiver requests are set forth in AR 601-210. Commanders at levels below the approval authority may disapprove waivers for applicants who do not meet prescribed standards and who do not substantiate a meritorious case.

(4) Unless otherwise stated in AR 601-210, waivers are valid for 6 months.

(b) Nonwaiver medical, moral, and administrative disqualifications are defined in AR 601-210.

#### **§ 571.4 Periods of enlistment.**

Enlistments are authorized for periods of 2, 3, 4, 5, 6, 7, or 8 years.

#### **§ 571.5 Enlistment options.**

Personnel who enlist in the Regular Army for 2 or more years may select certain initial assignments or classifications, provided they meet the criteria set forth in AR 601-210 and valid Army requirements exist for the assignments and skills.

#### **Subpart B—[Reserved]**

[FR Doc. E7-8793 Filed 5-9-07; 8:45 am]

BILLING CODE 3710-08-P

## **DEPARTMENT OF AGRICULTURE**

### **Forest Service**

#### **36 CFR Part 261**

**RIN 0596-AC38**

#### **Amend Certain Paragraphs in 36 CFR 261.2 and 261.10 To Clarify Issuing a Criminal Citation for Unauthorized Occupancy and Use of National Forest System Lands and Facilities by Mineral Operators**

**AGENCY:** Forest Service, USDA.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** This proposed rule would allow, if necessary, a criminal citation to be issued for unauthorized mineral operations on National Forest System lands. The Forest Service invites written comments on this proposed rule.

**DATES:** Comments on this proposed rule must be received in writing by July 9, 2007.

**ADDRESSES:** Send written comments to Forest Service, USDA, Attn: Director,

Minerals and Geology Management (MGM) Staff, (2810), at Mail Stop 1126, Washington, DC 20250-1126; by electronic mail to [36cfr228a@fs.fed.us](mailto:36cfr228a@fs.fed.us); or by fax to (703) 605-1575; or by the electronic process available at Federal e-Rulemaking portal at <http://www.regulations.gov>. If comments are sent by electronic mail or by fax, the public is requested not to send duplicate written comments via regular mail. Please confine written comments to issues pertinent to the proposed rule; explain the reasons for any recommended changes; and, where possible, reference the specific wording being addressed. 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, MGM Staff, 5th Floor, Rosslyn Plaza Central, 1601 North Kent Street, Arlington, Virginia 22209, Monday through Friday (except for Federal holidays) between the hours of 8:30 a.m. and 4 p.m. Those wishing to inspect comments are encouraged to call ahead at (703) 605-4545 to facilitate entry into the building.

#### **FOR FURTHER INFORMATION CONTACT:**

Janine Clayton, Minerals and Geology Management Staff, (703) 605-4788, or electronic mail to [jclayton01@fs.fed.us](mailto:jclayton01@fs.fed.us).

#### **SUPPLEMENTARY INFORMATION:**

#### **Public Notification and Request for Comments**

The Department is making every effort to ensure that all interested parties, including mineral operators, minerals-related organizations and associations, are informed of the availability of the proposed rule. To ensure the widest distribution, the proposed rule will be distributed by paper copy mailings, e-mail notices, posting on the Forest Service Minerals and Geology Management Staff internet web site, as well as published notices in local newspapers. Copies of the proposed rule also will be provided to the appropriate Congressional committee members.

#### **Background and Need for Proposed Rule**

The Forest Service uses two enforcement options, civil and criminal, to enforce its mining regulations at 36 CFR part 228, subpart A. Criminal enforcement (36 CFR part 261) is often used in situations that are factually uncomplicated and where immediate action is needed, or other resolutions have failed.

In 1984, a Federal district judge ruled that the prohibitions at 36 CFR 261.10

did not apply to mineral operations. As a result, the Forest Service amended §§ 261.10(a) and 261.10(l) to directly tie the wording to locatable mineral operations by adding “or approved operating plan” to both of these paragraphs. Unfortunately, the wording was not added to §§ 261.10(b) and 261.10(k), and that omission makes these paragraphs less clearly applicable to mineral operations.

Two recent court decisions have prompted the Forest Service to amend the prohibitions at 36 CFR 261.10. In California, the Forest Service cited a suction dredge operator under the criminal regulations at 36 CFR 261.10(k) for use or occupancy without a special use permit authorization. The magistrate court judge dismissed the charge in *U.S. v. McClure*, 364 F. Supp. 2d 1183 (E.D.Cal., 2005), and cited in support of the ruling another recent California Eastern District Court decision, *U.S. v. Lex*, 300 F. Supp. 2d 951 (E.D.Cal., 2003). In summary, these decisions found that special-use authorizations and the application of 36 CFR 261.10(b) and 261.10(k) do not apply to mineral operations.

As a result of the *McClure* and *Lex* court decisions, it is advisable to again amend certain paragraphs in 36 CFR 261.10 to clearly tie them to locatable mineral operations and other mineral operations. The Regions dealing with suction dredge operators are particularly concerned about the effects of the two adverse ruling on their use of provisions in 261.

#### **Clarification for Issuing a Criminal Citation for Unauthorized Occupancy and Use of National Forest System Lands and Facilities by Mineral Operators**

The technical amendments to 36 CFR part 261 clarify that a criminal citation can be issued for unauthorized occupancy and use of National Forest System lands and facilities by mineral operators when such authorization is required. The technical amendments to 36 CFR part 261 also clarify what constitutes residential occupancy as well as show there is a clear distinction between a special-use authorization and an operating plan.

#### **Exemption From Notice and Comment**

Comments received on this proposed rule will be considered in adoption of a final rule, notice of which will be published in the **Federal Register**. The final rule will include a response to comments received and identify any revisions made to the rule as a result of the comments.

### Regulatory Impact

This proposed rule has been reviewed under USDA procedures and Executive Order 12866 on Regulatory Planning and Review. It has been determined that this proposed rule is not significant. It will not have an annual effect of \$100 million or more on the economy, nor adversely affect productivity, competition, jobs, the environment, public health or safety, nor State or local governments. This proposed rule would not interfere with an action taken or planned by another agency, nor raise new legal or policy issues. Finally, this action will not alter the budgetary impact of entitlements, grants, user fees, loan programs, nor the rights and obligations of recipients of such programs.

Moreover, this proposed rule has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and it has been determined that this action will not have a significant economic impact on a substantial number of small entities as defined by that Act. Therefore, a regulatory flexibility analysis is not required.

### Environmental Impacts

This proposed rule more clearly establishes when mineral operators can be issued a criminal citation for unauthorized occupancy and use of National Forest System lands and facilities when such authorization is required. Section 31.1(b) of Forest Service Handbook 1909.15 (57 FR 43168; September 18, 1992) excludes from documentation in an environmental assessment or environmental impact statement "rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instruction." This proposed rule falls within this category of actions and no extraordinary circumstances exist which would require preparation of an environmental assessment or an environmental impact statement.

### Energy Effects

This proposed rule has been reviewed under the Executive Order 13211 of May 18, 2001, "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.

### Controlling Paperwork Burdens on the Public

This proposed rule does not contain any new recordkeeping 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. 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.

### Federalism

The agency has considered this proposed rule under the requirements of Executive Order 13132—Federalism, and Executive Order 12875—Government Partnerships. The agency has made a preliminary assessment that the proposed rule conforms with the federalism principles set out in these Executive orders; would not impose any compliance costs on the States; and would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Based on comments received on this proposed rule, the agency will consider if any additional consultations will be needed with the State and local governments prior to adopting a final rule.

### Consultation and Coordination With Indian Tribal Governments

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

### No Takings Implications

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12630—Government Actions and Interference with Civil Constitutionally Protected Property Rights. It has been determined that the proposed rule does not pose the risk of a taking of private property.

### Civil Justice Reform

This proposed rule has been reviewed under Executive Order 12988—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 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 to challenge its provisions.

### 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 Forest Service 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 would not be required.

### List of Subjects in 36 CFR Part 261

Law enforcement, Mines, National Forests.

Therefore, for the reasons set forth in the preamble, amend subpart A of part 261 of Title 36 of the Code of Federal Regulations as follows:

### PART 261—PROHIBITIONS

#### Subpart A—General Prohibitions

1. The authority citation for part 261 continues to read as follows:

**Authority:** 7 U.S.C. 1011(f); 16 U.S.C. 472, 551, 620(f), 1133(c), (d)(1), 1246(i).

2. Amend § 261.2 Definitions, by revising the definitions for motorized equipment and operating plan, and adding a definition for residence to read as follows:

#### § 261.2 Definitions.

\* \* \* \* \*

*Motorized equipment* means any machine activated by a nonliving power source except small battery-powered handcarried devices such as flashlights, shavers, Geiger counters, magnetometers, seismographs, and cameras.

\* \* \* \* \*

*Operating plan* means the following documents, providing that the document has been issued or approved by the Forest Service: A plan of operations as provided for in 36 CFR part 228, subparts A and D, and 36 CFR part 292, subparts C and G; a supplemental plan of operations as provided for in 36 CFR part 228, subpart A, and 36 CFR part 292, subpart G; an operating plan as provided for in 36 CFR part 228, subpart C, and 36 CFR part 292, subpart G; an amended operating plan and a reclamation plan as provided for in 36 CFR part 292, subpart G; a surface use plan of operations as provided for in 36 CFR part 228, subpart E; a supplemental surface use plan of operations as provided for in 36 CFR part 228, subpart E; a permit as provided for in 36 CFR

251.15; and an operating plan and a letter of authorization as provided for in 36 CFR part 292, subpart D.

\* \* \* \* \*

*Residence* means any temporary or permanent, natural or fabricated structure or object including but are not limited to, boats, buildings, buses, cabins, houses, lean-tos, mills, motor homes, pole barns, recreational vehicles, sheds, shops, tents, trailers, caves, cliff ledges, and tunnels which is being used as, or designed to be used as, living or sleeping quarters, in whole or in part, by any person, including a watchman, except structures or objects used for camping.

\* \* \* \* \*

3. Amend § 261.10 Occupancy and use, by revising paragraphs (a) and (b) and adding (p) to read as follows:

**§ 261.10 Occupancy and use.**

\* \* \* \* \*

(a) Constructing, placing, or maintaining any kind of road, trail, structure, fence, enclosure, communications equipment, significant surface disturbance, or other improvement on National Forest System land or facilities without a special-use authorization, contract, or approved operating plan when such authorization is required.

(b) Constructing, reconstructing, improving, maintaining, occupying, or using a residence on National Forest System land unless authorized by a special use authorization or approved operating plan when such authorization is required.

\* \* \* \* \*

(p) Use or occupancy of National Forest System land or facilities without an approved operating plan when such authorization is required.

Dated: March 26, 2007.

**Abigail R. Kimbell,**

*Chief, Forest Service.*

[FR Doc. E7-8706 Filed 5-9-07; 8:45 am]

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**ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD**

**36 CFR Parts 1193 and 1194**

**Telecommunications Act Accessibility Guidelines; Electronic and Information Technology Accessibility Standards**

**AGENCY:** Architectural and Transportation Barriers Compliance Board.

**ACTION:** Notice of meeting.

**SUMMARY:** The Architectural and Transportation Barriers Compliance Board (Access Board) has established a Telecommunications and Electronic and Information Technology Advisory Committee (Committee) to assist it in revising and updating accessibility guidelines for telecommunications products and accessibility standards for electronic and information technology. This notice announces the dates, time, and location of the next committee meeting, which will be open to the public.

**DATES:** The meeting is scheduled for May 22-24, 2007 (beginning at 9 a.m. and ending at 5 p.m. on May 22 and 23; and beginning at 9 a.m. and ending at 3 p.m. on May 24). Notices of future meetings will be published in the **Federal Register**.

**ADDRESSES:** The meeting will be held at the National Science Foundation, 4201 Wilson Boulevard, Room II-555, Arlington, VA 22230.

**FOR FURTHER INFORMATION CONTACT:** Timothy Creagan, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004-1111. Telephone number: 202-272-0016 (Voice); 202-272-0082 (TTY). Electronic mail address: *creagan@access-board.gov*.

**SUPPLEMENTARY INFORMATION:** The Architectural and Transportation Barriers Compliance Board (Access Board) established the Telecommunications and Electronic and Information Technology Advisory Committee (Committee) to assist it in revising and updating accessibility guidelines for telecommunications products and accessibility standards for electronic and information technology. The next meeting of the Committee will take place on May 22-24, 2007. A summary of the meeting agenda is provided below. The full agenda is available at the Access Board's Web site at: <http://www.access-board.gov/sec508/refresh/agenda.htm>.

**Topics To Be Discussed on Tuesday, May 22**

Report and discussion on recommendations contained in the reports of the following subcommittees:

- Software, Web, and Content
- General Interface Requirements and Functional Performance Criteria
- Desktops, Portables, Peripherals, and Other Computer Hardware
- Subpart A
- Documentation and Technical Support

Presentation and directed discussion on proposals of the editorial working group.

**Topics To Be Discussed on Wednesday, May 23**

Report and discussion on recommendations contained in the reports of the following subcommittees:

- Telecommunications
- Audio/Visual
- Self Contained, Closed Products

After the reports and discussion on recommendations from the subcommittees, the following subcommittees will meet:

- Telecommunications
- Audio/Visual
- Self Contained, Closed Products
- Software, Web, and Content
- General Interface Requirements and Functional Performance Criteria

**Topics To Be Discussed on Thursday, May 24**

Discussion and resolution of proposals of the editorial working group followed by these subcommittees meetings:

- Subpart A
- Desktops, Portables, Peripherals, and Other Computer Hardware
- Documentation and Technical Support

Information about the Committee, including future meeting dates is available on the Access Board's Web site (<http://www.access-board.gov/sec508/update-index.htm>) or at a special Web site created for the Committee's work (<http://teitac.org>). The site includes a calendar for subcommittee meetings, e-mail distribution lists, and a "Wiki" ([http://teitac.org/wiki/TEITAC\\_Wiki](http://teitac.org/wiki/TEITAC_Wiki)) which provides interactive online work space.

Committee meetings are open to the public and interested persons can attend the meetings and communicate their views. Members of the public will have opportunities to address the Committee on issues of interest to them and the Committee during public comment periods scheduled on each day of the meeting. Members of groups or individuals who are not members of the Committee are invited to participate on subcommittees; participation of this kind is very valuable to the advisory committee process.

The meeting site is accessible to individuals with disabilities. Sign language interpreters, an assistive listening system, and real-time captioning will be provided. For the comfort of other participants, persons attending Committee meetings are requested to refrain from using perfume, cologne, and other fragrances. Due to