

FC  
664

Title	Title 36
Author	W. C. Anger
Publisher	
Pub. Place	
Requested by	

codified  
supplement  
Federal Register  
Federal Register

36

GL03815

**Parks, Forests, and  
Public Property**  
Revised as of July 1, 1975



CONTAINING  
A CODIFICATION OF DOCUMENTS  
OF GENERAL APPLICABILITY  
AND FUTURE EFFECT  
AS OF JULY 1, 1975

*With Ancillaries*

Published by  
the Office of the Federal Register  
National Archives and Records Service  
General Services Administration  
as a Special Edition of  
the Federal Register

UNIVERSITY OF UTAH  
RESEARCH INSTITUTE  
EARTH SCIENCE LAB.

Chief of the Forest Service with the period of measurement has been practicable that could not reasonably be foreseen or by other special causes beyond the control of the grantee.

#### Annual charges.

The grantee shall pay annually, in addition to any reasonable charges as may be determined by the Chief or Acting Chief of the Forest Service. Deposit of the full year shall be made at the beginning of the term of the easement.

#### Transfer of easement.

The easement to any citizen, individual or corporation of the United States shall be conditioned upon the consent of the Chief or Acting Chief of the Forest Service.

The transferor and the transferee shall file with the Regional Forester in quadruplicate on Form E-103 and be jointly by the transferor and the transferee, and certified instrument of conveyance, a copy of the contract of sale whereby the property is conveyed;

and the transferee shall file with the Chief or Acting Chief of the Forest Service a copy of the evidence of approval of the Chief or Acting Chief of the Forest Service.

Such sales made thereunder shall be exempt from the provisions of this section.

(16 U.S.C. 522, as amended at 16 U.S.C. 522)

actions during construction of the transmission line shown in the location shown in the map shall not be made except with the approval of the Chief or Acting Chief of the Forest Service and shall not be allowed until after the occupancy of the transmission line, permits, easements, and other matters administered by the Chief or Acting Chief of the Forest Service. If after the completion of the transmission line there are any deviations from the location shown upon the map, the grantee shall file with the Chief or Acting Chief of the Forest Service an approved amendment to the map prepared by the grantee for original use, which shall be filed with the Chief or Acting Chief of the Forest Service within 6 months of

completion of construction. Application for approval of any material deviation during construction and other changes in the location shown upon the application maps shall be filed with the Regional Forester in quadruplicate on Form E-103 and in accordance with the specific conditions in the easement.

#### 251.60 Forfeiture or annulment of easement.

The Chief or Acting Chief of the Forest Service may declare an easement forfeited or annulled for nonuse for a period of 2 years or for abandonment. Such action shall not be taken until the grantee has been given not less than 30 days' written notice of the contemplated action.

#### 251.61 Abandonment with approval of the Chief or Acting Chief of the Forest Service.

An easement may be abandoned or surrendered with the approval of the Chief or Acting Chief of the Forest Service upon fulfillment by the grantee of such obligations under the easement as the Chief or Acting Chief of the Forest Service may prescribe, and if the transmission line authorized by the easement has been constructed in whole or in part, then upon such conditions with respect to the disposition of the transmission line as may be prescribed by the Chief or Acting Chief of the Forest Service.

#### 251.62 Remedies upon breach by grantee.

Upon breach by the grantee of any of the terms or conditions set forth in this section or in the easement, the United States may enforce appropriate remedy therefor by injunction, action for damages or otherwise. If any such breach shall be continued or repeated after 30 days' written notice thereof, given in behalf of the United States to the grantee, the easement granted, together with all moneys thereunder and all charges and other moneys paid thereon, may be forfeited to the United States by a suit for that purpose in any court of competent jurisdiction.

#### 251.63 Removal of transmission line upon forfeiture, annulment or abandonment.

The transmission line shall be removed from the easement or otherwise disposed of as prescribed by the Chief or Acting Chief of the Forest Service

within 12 months after the declaration by the Chief or Acting Chief of the Forest Service of the forfeiture or annulment of the easement or the approval by the Chief or Acting Chief of the Forest Service of the abandonment or surrender thereof. If the transmission line is not so removed or disposed of it and every part thereof shall be and become the property of the United States.

#### § 251.64 Modification of easement.

An application for modification of an easement shall be filed with the Regional Forester in quadruplicate on Form E-103 and the grantee shall furnish such data and information as may be requested by the Regional Forester. Approval of a modification shall be conditioned upon the acceptance in writing by the grantee of all the terms and conditions thereof.

#### § 251.65 Permits for rights-of-way.

The provisions of paragraphs (b), (c), and (d) of § 251.52 shall apply to applications for electric power transmission line permits under the act of June 4, 1897, 30 Stat. 35, as amended, 16 U.S.C. 551, and the act of February 15, 1901, 31 Stat. 790, 16 U.S.C. 522. Where the term "easement" is used in said subsections it shall, for purposes of this section, be construed to mean "permit."

(31 Stat. 790; 16 U.S.C. 522) [28 FR. 2904, Mar. 23, 1963]

## PART 252—MINERALS

Sec.	
252.1	Purpose.
252.2	Scope.
252.3	Definitions.
252.4	Plan of operations—notice of intent—requirements.
252.5	Plan of operations—approval.
252.6	Availability of information to the public.
252.7	Inspection, noncompliance.
252.8	Requirements for environmental protection.
252.9	Maintenance during operations, public safety.
252.10	Cessation of operations, removal of structures and equipment.
252.11	Prevention and control of fire.
252.12	Access.
252.13	Bonds.
252.14	Appeals.
252.15	Operations within National Forest Wilderness.

Authority: 39 Stat. 35 and 36, as amended (16 U.S.C. 478, 551), unless otherwise noted.

Source: 39 FR 31317, Aug. 28, 1974, unless otherwise noted.

§ 252.1 Purpose.

It is the purpose of these regulations to set forth rules and procedures through which use of the surface of National Forest System lands in connection with operations authorized by the United States mining laws (30 U.S.C. 21-54), which confer a statutory right to enter upon the public lands to search for minerals, shall be conducted so as to minimize adverse environmental impacts on National Forest System surface resources. It is not the purpose of these regulations to provide for the management of mineral resources; the responsibility for managing such resources is in the Secretary of the Interior.

§ 252.2 Scope.

These regulations apply to operations hereafter conducted under the United States mining laws of May 10, 1872, as amended (30 U.S.C. 22 et seq.), as they affect surface resources on all National Forest System lands under the jurisdiction of the Secretary of Agriculture to which such laws are applicable: *Provided, however,* That any area of National Forest lands covered by a special Act of Congress (16 U.S.C. 482a-482q) is subject to the provisions of this part and the provisions of the special act, and in the case of conflict the provisions of the special act shall apply.

§ 252.3 Definitions.

For the purposes of this part the following terms, respectively, shall mean:

(a) *Operations.* All functions, work, and activities in connection with prospecting, exploration, development, mining or processing of mineral resources and all uses reasonably incident thereto, including roads and other means of access on lands subject to the regulations in this part, regardless of whether said operations take place on or off mining claims.

(b) *Operator.* A person conducting or proposing to conduct operations.

(c) *Person.* Any individual, partnership, corporation, association, or other legal entity.

(d) *Mining claim.* Any unpatented mining claim or unpatented millsite authorized by the United States mining laws of May 10, 1872, as amended (30 U.S.C. 22 et seq.).

(e) *Authorized officer.* The Forest Service officer to whom authority to review and approve operating plans has been delegated.

§ 252.4 Plan of operations—notice of intent—requirements.

(a) Except as provided in paragraph (2) of this section, a notice of intention to operate is required from any person proposing to conduct operations which might cause disturbance of surface resources. Such notice of intention shall be submitted to the District Ranger having jurisdiction over the area in which the operations will be conducted. If the District Ranger determines that such operations will likely cause significant disturbance of surface resources, the operator shall submit a proposed plan of operations to the District Ranger.

(1) The requirements to submit a plan of operations shall not apply (i) to operations which will be limited to the use of vehicles on existing public roads or roads used and maintained for National Forest purposes, (ii) to individuals desiring to search for and occasionally remove small mineral samples or specimens, (iii) to prospecting and sampling which will not cause significant surface resource disturbance and will not involve removal of more than a reasonable amount of mineral deposit for analysis and study, (iv) to marking and monumenting a mining claim and (v) to subsurface operations which will not cause significant surface resource disturbance.

(2) A notice of intent need not be filed (i) where a plan of operations is submitted for approval in lieu thereof, (ii) for operations excepted in paragraph (1) of this section from the requirement to file a plan of operations, (iii) for operations which will not involve the use of mechanized earthmoving equipment such as bulldozers or backhoes and will not involve the cutting of trees. Each notice of intent to operate shall provide information sufficient to identify the area involved, the nature of the proposed operations, the route of access to the area of operations and the method of transport. If a notice of intent is filed the District Ranger will, within 15 days of receipt thereof, notify the operator whether a plan of operations is required.

(b) Any person conducting operations on the effective date of these regulations, who would have been required to submit a plan of operations under § 252.4(a), may continue operations but shall within 120 days thereafter submit a plan of operations to the District Ranger having jurisdiction over the area within which operations are being conducted. *Provided, however,* That upon a showing

of good cause the authorized officer may grant an extension of time for submission of a plan of operations, not to exceed an additional 6 months. Operations may continue according to the conditions during its review, unless the authorized officer determines that the operations are unnecessarily or unreasonably causing irreparable damage to surface resources and advises the operator of those measures needed to avoid such damage. Upon approval of a plan of operations, operations shall be conducted in accordance with the approved plan. The requirement to submit a plan of operations shall not apply (1) to operations excepted in § 252.4(a) or (2) to operations concluded prior to the effective date of the regulations in this part. (c) The plan of operations shall include:

(1) The name and legal mailing address of the operators (and claimants if they are not the operators) and assignees, assigns, or designees.

(2) A map or sketch showing information sufficient to locate the proposed operations on the ground, or on a map and/or proposed roads or access routes to be used in connection with the operations as set forth in § 252.12 and to show approximate location and size of the surface resources which will be disturbed.

(3) Information sufficient to describe and identify the type of operations to be used and how they would be conducted, the type and standard of existing proposed roads or access routes, the means of transportation used or proposed as set forth in § 252.12, the timing which the proposed activities will take place, and measures to be taken to meet the requirements for environmental protection in § 252.8.

(4) The plan of operations shall meet the requirements set forth in paragraph (3) of this section, as foreseen in the plan of activity for the full extent of the proposed operation for the full extent of activity: *Provided, however,* That if the development of a plan of activity for the proposed operation is not possible at the time of preparation of a plan, the operator shall file an initial plan setting forth the proposed operation to the degree reasonably foreseeable at that time and shall thereafter file a supplemental plan whenever it is proposed to undertake any significant surface resource disturbance not covered by the initial plan. (e) At any time during operations under an approved plan of operations



of good cause the authorized officer will grant an extension of time for submission of a plan of operations, not to exceed an additional 6 months. Operations may continue according to the submitted plan during its review, unless the authorized officer determines that the operations are unnecessarily or unreasonably causing irreparable damage to surface resources and advises the operator of those measures needed to avoid such damage. Upon approval of a plan of operations, operations shall be conducted in accordance with the approved plan. The requirement to submit a plan of operations shall not apply (1) to operations excepted in § 252.4(a) or (2) to operations concluded prior to the effective date of the regulations in this part.

(c) The plan of operations shall include:

(1) The name and legal mailing address of the operators (and claimants if they are not the operators) and their lessees, assigns, or designees.

(2) A map or sketch showing information sufficient to locate the proposed area of operations on the ground, existing and/or proposed roads or access routes to be used in connection with the operations as set forth in § 252.12 and the approximate location and size of areas where surface resources will be disturbed.

(3) Information sufficient to describe and identify the type of operations proposed and how they would be conducted, the type and standard of existing and proposed roads or access routes, the means of transportation used or to be used as set forth in § 252.12, the period during which the proposed activity will take place, and measures to be taken to meet the requirements for environmental protection in § 252.8.

(d) The plan of operations shall cover the requirements set forth in paragraph (c) of this section, as foreseen for the entire operation for the full estimated period of activity: *Provided, however,* that if the development of a plan for an entire operation is not possible at the time of preparation of a plan, the operator shall file an initial plan setting forth the proposed operation to the degree reasonably foreseeable at that time, and shall thereafter file a supplemental plan of operations whenever it is proposed to undertake any significant surface disturbance not covered by the initial plan.

(e) At any time during operations under an approved plan of operations,

the authorized officer may ask the operator to furnish a proposed modification of the plan detailing the means of minimizing unforeseen significant disturbance of surface resources. If the operator does not furnish a proposed modification within a time deemed reasonable by the authorized officer, the authorized officer may recommend to his immediate superior that the operator be required to submit a proposed modification of the plan. The recommendation of the authorized officer shall be accompanied by a statement setting forth in detail the supporting facts and reasons for his recommendations. In acting upon such recommendation, the immediate superior of the authorized officer shall determine (1) whether all reasonable measures were taken by the authorized officer to predict the environmental impacts of the proposed operations prior to approving the operating plan, (2) whether the disturbance is or probably will become of such significance as to require modification of the operating plan in order to meet the requirements for environmental protection specified in § 252.8 and (3) whether the disturbance can be minimized using reasonable means. Lacking such determination that unforeseen significant disturbance of surface resources is occurring or probable and that the disturbance can be minimized using reasonable means, no operator shall be required to submit a proposed modification of an approved plan of operations. Operations may continue in accordance with the approved plan until a modified plan is approved, unless the immediate superior of the authorized officer determines that the operations are unnecessarily or unreasonably causing irreparable injury, loss or damage to surface resources and advises the operator of those measures needed to avoid such damage.

(f) Upon completion of an environmental analysis in connection with each proposed operating plan, the authorized officer will determine whether an environmental statement is required. Not every plan of operations, supplemental plan or modification will involve the preparation of an environmental statement. Environmental impacts will vary substantially depending on whether the nature of operations is prospecting, exploration, development, or processing, and on the scope of operations (such as size of operations, construction required, length of operations and equipment re-

quired), resulting in varying degrees of disturbance to vegetative resources, soil, water, air, or wildlife. The Forest Service will prepare any environmental statements that may be required.

§ 252.5 Plan of operations—approval.

(a) Operations shall be conducted in accordance with an approved plan of operations, except as provided in paragraph (b) of this section and in § 252.4 (a), (b), and (e). A proposed plan of operation shall be submitted to the District Ranger, who shall promptly acknowledge receipt thereof to the operator. The authorized officer shall, within thirty (30) days of such receipt, analyze the proposal, considering the economics of the operation along with the other factors in determining the reasonableness of the requirements for surface resource protection, and;

(1) Notify the operator that he has approved the plan of operations, or

(2) Notify the operator that the proposed operations are such as not to require an operating plan; or

(3) Notify the operator of any changes in, or additions to, the plan of operations deemed necessary to meet the purpose of the regulations in this part; or

(4) Notify the operator that the plan is being reviewed, but that more time, not to exceed an additional sixty (60) days, is necessary to complete such review, setting forth the reasons why additional time is needed: *Provided, however,* That days during which the area of operations is inaccessible for inspection shall not be included when computing the sixty (60) day period; or

(5) Notify the operator that the plan cannot be approved until a final environmental statement has been prepared and filed with the Council on Environmental Quality as provided in § 252.4(f).

(b) Pending final approval of the plan of operations, the authorized officer will approve such operations as may be necessary for timely compliance with the requirements of Federal and State laws, so long as such operations are conducted so as to minimize environmental impacts as prescribed by the authorized officer in accordance with the standards contained in § 252.8.

(c) A supplemental plan or plans of operations provided for in § 252.4(d) and a modification of an approved operating plan as provided for in § 252.4(e) shall be subject to approval by the authorized officer in the same manner as the initial

plan of operations: *Provided, however,* That a modification of an approved plan of operations under § 252.4(e) shall be subject to approval by the immediate superior of the authorized officer in cases where it has been determined that a modification is required.

(d) In the provisions for review of operating plans, the Forest Service will arrange for consultation with appropriate agencies of the Department of the Interior with respect to significant technical questions concerning the character of unique geologic conditions and special exploration and development systems, techniques, and equipment, and with respect to mineral values, mineral resources, and mineral reserves. Further, the operator may request the Forest Service to arrange for similar consultations with appropriate agencies of the U.S. Department of the Interior for a review of operating plans.

§ 252.6 Availability of information to the public.

Except as provided herein, all information and data submitted by an operator pursuant to the regulations in this part shall be available for examination by the public at the Office of the District Ranger in accordance with the provisions of 7 CFR 1.1-1.6 and 36 CFR 200.5-200.10. Specifically identified information and data submitted by the operator as confidential concerning trade secrets or privileged commercial or financial information will not be available for public examination. Information and data to be withheld from public examination may include, but is not limited to, known or estimated outline of the mineral deposits and their location, attitude, extent, outcrops, and content, and the known or planned location of exploration pits, drill holes, excavations pertaining to location and entry pursuant to the United States mining laws, and other commercial information which relates to competitive rights of the operator.

§ 252.7 Inspection, noncompliance.

(a) Forest Officers shall periodically inspect operations to determine if the operator is complying with the regulations in this part and an approved plan of operations.

(b) If an operator fails to comply with the regulations or his approved plan of operations and the noncompliance is unnecessarily or unreasonably causing

any loss or damage to surface resources the authorized officer shall give notice of noncompliance upon the operator or his agent in person or by registered mail. Such notice shall demand noncompliance and shall specify the time to comply and the time within which such action is to be completed, generally not to exceed thirty (30) days. *Provided, however,* That days during which the area of operations is inaccessible shall not be included when computing the number of days allowed for compliance.

252.8 Requirements for environmental protection.

All operations shall be conducted, where feasible, to minimize adverse environmental impacts on National Forest surface resources, including the following requirements:

(a) *Air Quality.* Operator shall comply with applicable Federal and State air quality standards, including the requirements of the Clean Air Act, as amended (2 U.S.C. 1857 et seq.).

(b) *Water Quality.* Operator shall comply with applicable Federal and State water quality standards, including regulations issued pursuant to the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151 et seq.).

(c) *Solid Wastes.* Operator shall comply with applicable Federal and State standards for the disposal and treatment of solid wastes. All garbage, refuse, or waste, shall either be removed from National Forest lands or disposed or treated so as to minimize, so far as is practicable, its impact on the environment and the forest surface resources. All tailings, dumpage, deleterious materials or substances and other waste produced by operations shall be properly stored, arranged, disposed of or treated so as to minimize adverse impact on the environment and forest surface resources.

(d) *Scenic Values.* Operator shall, to the extent practicable, harmonize operations with scenic values through such measures as the design and location of operating facilities, including roads and other means of access, vegetative screening of operations, and construction of structures and improvements which blend with the landscape.

(e) *Fisheries and Wildlife Habitat.* In addition to compliance with water quality and solid waste disposal standards prescribed by this section, operator shall

operations: *Provided, however,* modification of an approved plan under § 252.4(e) shall be by approval by the immediate supervisor of the authorized officer in cases where it has been determined that a modification is required.

In the provisions for review of approved plans, the Forest Service will consult with appropriate agencies of the Department of the Interior with respect to significant technical questions concerning the character of geologic conditions and special features and development systems, mineral values, mineral reserves, and with respect to mineral values, mineral reserves. Further, the operator may request the Forest Service to arrange for similar consultation with appropriate agencies of the Department of the Interior for a review of operating plans.

Availability of information to the public.

As provided herein, all information and data submitted by an operator pursuant to the regulations in this part shall be available for examination to the public at the Office of the District Ranger in accordance with the provisions of 36 CFR 1.1-1.6 and 36 CFR 200.5-1. Specifically identified information and data submitted by the operator which is confidential concerning trade secrets, privileged commercial or financial information will not be available for examination. Information and data to be withheld from public examination may include, but is not limited to: (1) an estimated outline of the mine deposits and their location, attitude, and content, and the planned location of exploration drill holes, excavations, shaft locations and entry pursuant to United States mining laws, and commercial information which relates to competitive rights of the operator.

Inspection, noncompliance.

Forest Officers shall periodically inspect operations to determine if the operator is complying with the regulations in this part and an approved plan.

If an operator fails to comply with the regulations or his approved plan, the Forest Officer and the noncompliance shall be reported to the authorized officer immediately or unreasonably causing

injury, loss or damage to surface resources the authorized officer shall serve a notice of noncompliance upon the operator or his agent in person or by certified mail. Such notice shall describe the noncompliance and shall specify the action to comply and the time within which such action is to be completed, generally not to exceed thirty (30) days: *Provided, however,* That days during which the area of operations is inaccessible shall not be included when computing the number of days allowed for compliance.

#### § 252.8 Requirements for environmental protection.

All operations shall be conducted so as, where feasible, to minimize adverse environmental impacts on National Forest surface resources, including the following requirements:

(a) *Air Quality.* Operator shall comply with applicable Federal and State air quality standards, including the requirements of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.).

(b) *Water Quality.* Operator shall comply with applicable Federal and State water quality standards, including regulations issued pursuant to the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151 et seq.).

(c) *Solid Wastes.* Operator shall comply with applicable Federal and State standards for the disposal and treatment of solid wastes. All garbage, refuse, or waste, shall either be removed from National Forest lands or disposed of or treated so as to minimize, so far as is practicable, its impact on the environment and the forest surface resources. All tailings, dumpage, deleterious materials or substances and other waste produced by operations shall be collected, arranged, disposed of or treated so as to minimize adverse impact on the environment and forest surface resources.

(d) *Scenic Values.* Operator shall, to the extent practicable, harmonize operations with scenic values through such measures as the design and location of mining facilities, including roads and other means of access, vegetative screening of operations, and construction of structures and improvements which blend with the landscape.

(e) *Fisheries and Wildlife Habitat.* In addition to compliance with water quality and solid waste disposal standards prescribed by this section, operator shall

take all practicable measures to maintain and protect fisheries and wildlife habitat which may be affected by the operations.

(f) *Roads.* Operator shall construct and maintain all roads so as to assure adequate drainage and to minimize or, where practicable, eliminate damage to soil, water, and other resource values. Unless otherwise approved by the authorized officer, roads no longer needed for operations (1) shall be closed to normal vehicular traffic, (2) bridges and culverts shall be removed, (3) cross drains, dips, or water bars shall be constructed, and (4) the road surface shall be shaped to as near a natural contour as practicable and be stabilized.

(g) *Reclamation.* Upon exhaustion of the mineral deposit or at the earliest practicable time during operations, or within 1 year of the conclusion of operations, unless a longer time is allowed by the authorized officer, operator shall, where practicable, reclaim the surface disturbed in operations by taking such measures as will prevent or control on-site and off-site damage to the environment and forest surface resources including:

- (1) Control of erosion and landslides;
- (2) Control of water runoff;
- (3) Isolation, removal or control of toxic materials;
- (4) Reshaping and revegetation of disturbed areas, where reasonably practicable; and
- (5) Rehabilitation of fisheries and wildlife habitat.

(h) Certification or other approval issued by State agencies or other Federal agencies of compliance with laws and regulations relating to mining operations will be accepted as compliance with similar or parallel requirements of these regulations.

#### § 252.9 Maintenance during operations, public safety.

During all operations operator shall maintain his structures, equipment, and other facilities in a safe, neat and workmanlike manner. Hazardous sites or conditions resulting from operations shall be marked by signs, fenced or otherwise identified to protect the public in accordance with Federal and State laws and regulations.

#### § 252.10 Cessation of operations, removal of structures and equipment.

Unless otherwise agreed to by the authorized officer, operator shall remove

within a reasonable time following cessation of operations all structures, equipment and other facilities and clean up the site of operations. Other than seasonally, where operations have ceased temporarily, an operator shall file a statement with the District Ranger which includes (a) verification of intent to maintain the structures, equipment and other facilities, (b) the expected reopening date, and (c) an estimate of extended duration of operations. A statement shall be filed every year in the event operations are not reactivated. Operator shall maintain the operating site, structures, equipment and other facilities in a neat and safe condition during nonoperating periods.

§ 252.11 Prevention and control of fire.

Operator shall comply with all applicable Federal and State fire laws and regulations and shall take all reasonable measures to prevent and suppress fires on the area of operations and shall require his employees, contractors and subcontractors to do likewise.

§ 252.12 Access.

An operator is entitled to access in connection with operations, but no road, trail, bridge, landing area for aircraft, or the like, shall be constructed or improved, nor shall any other means of access, including but not limited to off-road vehicles, be used until the operator has received approval of an operating plan in writing from the authorized officer when required by § 252.4(a). Proposals for construction, improvement or use of such access as part of a plan of operations shall include a description of the type and standard of the proposed means of access, a map showing the proposed route of access, and a description of the means of transportation to be used. Approval of the means of such access as part of a plan of operations shall specify the location of the access route, design standards, means of transportation, and other conditions reasonably necessary to protect the environment and forest surface resources, including measures to protect scenic values and to insure against erosion and water or air pollution.

§ 252.13 Bonds.

(a) Any operator required to file a plan of operations shall, when required by the authorized officer, furnish a bond conditioned upon compliance with § 252.8(g), prior to approval of such plan of

operations. In lieu of a bond, the operator may deposit into a Federal depository, as directed by the Forest Service and maintain therein, cash in an amount equal to the required dollar amount of the bond or negotiable securities of the United States having market value at the time of deposit of not less than the required dollar amount of the bond. A blanket bond covering nationwide or statewide operations may be furnished if the terms and conditions thereof are sufficient to comply with the regulations in this part.

(b) In determining the amount of the bond, consideration will be given to the estimated cost of stabilizing, rehabilitating, and reclaiming the area of operations.

(c) In the event that an approved plan of operations is modified in accordance with § 252.4(d) and (e), the authorized officer will review the initial bond for adequacy and, if necessary, will adjust the bond to conform to the operations plan as modified.

(d) When reclamation has been completed in accordance with § 252.8(g), the authorized officer will notify the operator that performance under the bond has been completed: *Provided, however,* that when the Forest Service has accepted, completed any portion of the reclamation, the authorized officer shall notify the operator of such acceptance and reduce proportionally the amount of bond thereafter to be required with respect to the remaining reclamation.

[39 FR 31317, Aug. 28, 1974; 39 FR 32000, Sept. 4, 1974]

§ 252.14 Appeals.

(a) Any operator aggrieved by a decision of the authorized officer in connection with the regulations in this part may file with the authorized officer a written statement setting forth in detail the respects in which the decision complained of is contrary to, or in conflict with, the facts, the law, or the regulations of the Secretary, or is otherwise in error. No such appeal will be considered unless it is filed with the authorized officer within thirty (30) days after the date of notification to the operator of the action or decision complained of. Upon receipt of appellant's statement the authorized officer shall promptly prepare his own statement explaining the decision and the reasons therefor and forward the statements and records to his immediate superior for review

decision. The Forest Service shall appeal decision.

(b) If the operator requests a written statement, the authorized officer shall grant and afford opportunity to present and review the statement.

(c) If the authorized officer considers the statement to support a decision, the authorized officer shall provide for a review of the statement and additional evidence to be appropriate with appropriate action.

(d) The authorized officer shall receive testimony and the parties on the record in the authorized officer shall maintain separate copies of the record based at the time of the immediate appeal. The Forest Service shall make the record available to the operator.

(e) On or before forty-five (45) days after the record is received, the authorized officer shall notify the operator of the reasons for his decision. The reasons shall specify the reasons for the decision of review. (1) a statement and (3) reasons. The reasons are based.

(f) A decision from which an appeal is taken shall be automatically stayed. A statement of appeal may accompany the appeal or may be directed to the authorized officer. The authorized officer shall promptly rule on the appeal. The authorized officer shall promptly rule on the appeal. The authorized officer shall promptly rule on the appeal. The authorized officer shall promptly rule on the appeal.

§ 252.15 Operator's statement.

(a) The United States Forest Service shall extend the Wilderness for the Wilderness Act. The authorized officer shall promptly rule on the appeal. The authorized officer shall promptly rule on the appeal. The authorized officer shall promptly rule on the appeal.

UNIVERSITY OF UTAH LIBRARIES



decision. The decision of the Regional Forester shall be the final administrative appeal decision.

(b) At the time appellant files his written statement of appeal he may request and shall be afforded an opportunity to present his views orally to the reviewing Forest Service officer.

(c) If the reviewing Forest Service officer considers the record inadequate to support a decision on the appeal, he may provide for the production of such additional evidence or information as may be appropriate or may remand the case with appropriate instructions for further action.

(d) The official files of the Forest Service relating to these appeals and any testimony and documents submitted by the parties on which the decision of the authorized officer was based constitute the record in the appeal. The authorized officer shall maintain the record under separate cover and shall certify that it is the record on which his decision was based at the time it is forwarded to his immediate superior for review. The Forest Service shall make the record available to the appellant upon request.

(e) On or before the expiration of forty-five (45) days after his receipt of the record the reviewing officer shall make his decision: *Provided, however,* that if more than forty-five (45) days are required for a decision after the record is received, the reviewing officer shall notify the parties to the appeal and specify the reason for delay. The decisions of reviewing officers shall include (1) a statement of facts, (2) conclusions, and (3) reasons upon which the conclusions are based.

(f) A decision of the authorized officer from which an appeal is taken shall not be automatically stayed by the filing of a statement of appeal. A request for a stay may accompany the statement of appeal and may be directed to the reviewing officer. The reviewing officer shall promptly rule on requests for stays. The decision of the Regional Forester on requests for stays shall constitute the final administrative appeal decision.

#### 252.15 Operations within national forest wilderness.

(a) The United States mining laws shall extend to each National Forest Wilderness for the period specified in the Wilderness Act and subsequent establishing legislation to the same extent as were applicable prior to the date

the Wilderness was designated by Congress as a part of the National Wilderness Preservation System. Subject to valid existing rights, no person shall have any right or interest in or to any mineral deposits which may be discovered through prospecting or other information-gathering activity after the legal date on which the United States mining laws cease to apply to the specific Wilderness.

(b) Holders of unpatented mining claims validly established on any National Forest Wilderness prior to inclusion of such unit in the National Wilderness Preservation System shall be accorded the rights provided by the United States mining laws as then applicable to the National Forest land involved. Persons locating mining claims in any National Forest Wilderness on or after the date on which said Wilderness was included in the National Wilderness Preservation System shall be accorded the rights provided by the United States mining laws as applicable to the National Forest land involved and subject to provisions specified in the establishing legislation. Persons conducting operations as defined in § 252.3 in National Forest Wilderness shall comply with the regulations in this part. Operations shall be conducted so as to protect National Forest surface resources in accordance with the general purposes of maintaining the National Wilderness Preservation System unimpaired for future use and enjoyment as wilderness and to preserve its wilderness character, consistent with the use of the land for mineral location, exploration, development, drilling, and production and for transmission lines, water lines, telephone lines, and processing operations, including, where essential, the use of mechanized transport, aircraft or motorized equipment.

(c) Persons with valid mining claims wholly within National Forest Wilderness shall be permitted access to such surrounded claims by means consistent with the preservation of National Forest Wilderness which have been or are being customarily used with respect to other such claims surrounded by National Forest Wilderness. No operator shall construct roads across National Forest Wilderness unless authorized in writing by the Forest Supervisor in accordance with § 252.12.

(d) On all mining claims validly established on lands within the National Wilderness Preservation System, the op-



erator shall take all reasonable measures to remove any structures, equipment and other facilities no longer needed for mining purposes in accordance with the provisions in § 252.16 and restore the surface in accordance with the requirements in § 252.8(g).

(e) The title to timber on patented claims validly established after the land was included within the National Wilderness Preservation System remains in the United States, subject to a right to cut and use timber for mining purposes. So much of the mature timber may be cut and used as is needed in the extraction, removal, and beneficiation of the mineral deposits, if needed timber is not otherwise reasonably available. The cutting shall comply with the requirements for sound principles of forest management as defined by the National Forest rules and regulations and set forth in stipulations to be included in the plan of operations, which as a minimum incorporate the following basic principles of forest management:

(1) Harvesting operations shall be so conducted as to minimize soil movement and damage from water runoff; and

(2) Slash shall be disposed of and other precautions shall be taken to minimize damage from forest insects, disease, and fire.

(f) The Chief, Forest Service, shall allow any activity, including prospecting, for the purpose of gathering information about minerals in National Forest Wilderness except that any such activity for gathering information shall be carried on in a manner compatible with the preservation of the wilderness environment as specified in the plan of operations.

**PART 261—TRESPASS**

- Sec.
- 261.1 Interfering with forest officers prohibited.
- 261.2 Fire uses restricted.
- 261.3 Rewards in connection with fire prosecutions.
- 261.4 Protection of property.
- 261.5 Rewards in connection with property prosecutions.
- 261.6 Timber uses restricted.
- 261.7 Livestock trespass.
- 261.8 Hunting, trapping, and fishing.
- 261.9 Restrictions on hunting, trapping, or fishing within the boundaries of a national refuge.
- 261.10 [Reserved].
- 261.11 Occupancy trespasses.
- 261.13 Impoundment and disposal of unauthorized livestock.

Sec.

- 261.15 Impounding of dogs.
- 261.16 Impounding of personal property.
- 261.17 Use of pesticides.

**AUTHORITY:** The provisions of this Part 261 issued under 30 Stat. 33, as amended, sec. 3, 33 Stat. 623; 16 U.S.C. 551, 572, unless otherwise noted.

**§ 261.1 Interfering with forest officers prohibited.**

Interfering on lands of the United States within a national forest, by intimidation, threats, assault, or otherwise, with any person engaged in the protection, improvement, or administration of the national forests is hereby prohibited. [1 F.R. 1269, Aug. 15, 1936]

**§ 261.2 Fire uses restricted.**

The following acts are prohibited on lands of the United States within national forests:

(a) Setting on fire or causing to be set on fire any timber, brush, or grass, except as authorized by a forest officer.

(b) Building a camp fire in leaves, rotten wood, or other places where it is likely to spread, or against large or hollow logs or stumps, where it is difficult to extinguish it completely.

(c) Building a camp fire in a dangerous place, or during windy weather, without confining it to holes or cleared spaces from which all vegetable matter has been removed.

(d) Leaving a camp fire without completely extinguishing it.

(e) Building a camp fire on those portions of any national forest which have, with the approval of the regional forester, been designated by the respective supervisors thereof without first obtaining a permit from a forest officer.

(f) Using steam engines, steam locomotives or internal combustion engines or motors in operations on national forest lands under any timber-sale contract or under any permit, unless they are equipped with such spark arresters as shall be approved by the forest supervisor.

(g) [Reserved]

(h) Smoking during periods of fire danger publicly announced by the regional forester upon such areas as may be designated by him, which may include roads and trails and improved camping grounds but shall not include improved places of habitation.

(i) Going or being upon those portions of the national forest which may

UNIVERSITY OF UTAH LIBRARY

be designated  
areas  
issued by  
permit  
settler  
(j) Using  
tor, or other  
internal  
with  
efficient  
United  
of the United  
ests, or on  
tained  
for the  
the national  
been  
ture as  
(k) Carry  
thorized  
any portion  
nated by  
fire or other  
(l) The  
ing cigarette  
cracker, or  
place where  
discharge of  
any portion  
by order of  
discharging  
(m) Going  
tions of the  
be designated  
areas of fire  
previously to  
at points des  
officer, but  
required of  
or from him  
(n) Going  
of a national  
regional fore  
ard without  
fighting tools  
similar imple  
ber prescribe  
when means  
automobile  
for carrying  
camping par  
be held res  
hereof.  
(o) Havin  
causing to  
tracer char  
[1 F.R. 1269,  
1 F.R. 2161,  
1936]