



## SPECIAL USE PROPOSAL, APPLICATION, AND AUTHORIZATION PROCESS

### What are special use authorizations?

A special use authorization is a legal document such as a permit, lease, or easement, which allows occupancy, use, rights, and privileges on National Forest System (NFS) lands. The United States Code of Federal Regulations at 36 CFR 251 requires that all uses of NFS lands, improvements, and resources, except those authorized under range, timber, minerals, special forest products, or roads, are designated “special uses” and must be approved through issuance of an authorization granted for a specific use of the land for a specific period of time.

A special use authorization is not required for noncommercial, private recreational activities such as camping, picnicking, hiking, fishing, boating, hunting, horseback riding, etc.

### When do I need an authorization?

- If you occupy, use, or build on NFS lands for personal or business purposes, whether the duration is temporary or long term.
- If there is a fee charged for or if income is derived from the use.
- If a non-commercial activity on NFS land involves individuals or organizations with 75 or more participants or spectators.

Requests to occupy and/or use NFS lands or related waters that are initiated by entities other than the Forest Service are referred to as **unsolicited proposals**. The person or persons making a proposal are referred to as the **proponent**. The Forest Service is required to conduct an initial and a second-level screening process established in 36 CFR 251.54(e) before accepting a proposal as a formal **special use application**. A decision in favor of a proposed use generally results in a **special use authorization** being issued in the form of a permit, easement, or lease. Special use authorizations define the legal authority for allowing specific types of uses on federal lands, as well as the terms and conditions that permit holders must comply with regarding use of facilities or improvements and for services necessary for public health, welfare, safety, and convenience.

## **How do I apply?**

1. Contact a Forest Service office and request an application, or download an application posted here on this website.
2. Prior to submitting the proposal, arrange a pre-application meeting at the local Forest Service office where the use is being requested. A staff member will discuss your proposal, potential land use conflicts, application procedures, qualifications, probable time frames, fees, bonding requirements, additional coordination with other agencies, environmental reports, and field reviews.
3. Most commercial uses (where the proponent intends to make use of NFS land for business or financial gain) require additional information. You may need to submit business plans, operating plans, liability insurance, licenses/registrations, or other documents with the application.
4. Complete and submit the application, including supporting documents, to the local Forest Service office. An incomplete proposal could delay the processing.

## **How do I answer the questions on the permit application?**

**Name and Address** – Include the full name(s) to be used. If the application includes real property, the name(s) on the legal document must match the application.

**Applicant's Agent** – This person must be at least 21 years old and may or may not be the applicant. Documentation should be included to verify that this person may sign for the applicant.

**Project Description** – Include enough detail to enable the Forest Service to determine feasibility, environmental impacts, benefits to the public, the safety of the request, lands to be occupied or used, and compliance with applicable laws and regulations.

**Environmental Protection Plan** – Include proposed plans for environmental protections and rehabilitation during construction, maintenance, removal, and reclamation of the land.

**Map** – Provide a detailed map (U.S. Geological Survey quadrangle or equivalent or survey plat or equivalent) showing the requested use in relation to NFS land, identification of applicant's property (if applicable), scale, map legend, legal description, and a north arrow.

**Technical and Financial Capability** – Provide documentation to assure the Forest Service you are capable of constructing, operating, maintaining, removing the use and of reclaiming the NFS land after the authorization terminates.

**Alternatives** – Regulations require proof that the proposed use cannot be accommodated on private land (non-federal). You must first consider using non-federal land. Lower costs or fewer restrictions are not adequate reasons for use of NFS land. Provide alternative locations for the proposal in your application.

## **What does an authorization cost?**

**Cost Recovery Fees** – A proponent is required to reimburse the Forest Service for some of the costs incurred for processing special use applications or for monitoring construction or reconstruction activities authorized in a special use authorization; and can vary greatly depending on the complexity of the proposal. Cost recovery regulations stipulate that a proponent must pay a cost recovery fee as soon as the Forest Service accepts a proposal as an application. Cost recovery fees are non-refundable, and do not guarantee that a decision will be made to issue a special use authorization. Cost recovery fees are separate from any fees charged for use or occupancy of NFS land.

**Land Use Fees** – Almost all special use authorizations have an associated land use fee. Specific fee systems are set up dependent on the type of use being authorized. Authorizations for occupancy of NFS land usually require payment of an annual rental fee, while business activities or commercial uses may be required to pay a fee based on the amount of revenue generated while doing business on NFS land.

**Other Associated Costs** – You may be responsible for providing information and reports necessary to determine the feasibility and environmental impacts of your proposal; compliance with applicable laws and regulations; obtaining any required permits or licenses; or for complying with any terms and conditions to be included in the authorization.

## **Initial screening of a proposal.**

Proposals submitted orally or in writing are initially screened to determine if they qualify for further consideration according to the nine criteria listed below:

1. Proposed use is consistent with laws, regulations, orders, and policies establishing or governing NFS lands; other applicable Federal laws; and applicable state and local laws.
2. Proposed use is consistent with, 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 219.
3. Proposed use will not create a serious and substantial risk to public health or safety.
4. Proposed use will not create an exclusive or perpetual right of use or occupancy.
5. Proposed use 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 NFS lands.
6. Proposed use does not involve a proponent with an outstanding debt owed to the Forest Service under terms and conditions of a prior or existing authorization.
7. Proposed use does not involve gambling or sexually oriented commercial services.

8. Proposed use does not involve military or paramilitary training or exercises by private organizations or individuals.
9. Proposed use does not involve disposal of solid waste or disposal of radioactive or other hazardous substances.

If the proposal fails to meet any of the initial screening criteria, it will be rejected without further consideration.

If a proposed use passes initial screening, the Forest Service will provide the proponent with guidance on how 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. 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.

The proponent may be asked to submit additional information to allow the Forest Service to further consider the proposed use, such as identification of 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; identification of the resource affected, anticipated improvements, and method of operation when construction is complete; or construction phases and their estimated starting and completion dates.

### **Second-level screening**

A proponent must provide sufficient information about a project or activity to enable the authorized officer to determine its feasibility, location, public benefits, and other contributing information to determine if the proposal meets the following criteria:

1. Proposed use is consistent and compatible with the purposes for which lands are managed, or with other uses.
2. Proposed use is in the public interest.
3. Proponent is qualified.
4. Proponent has or can demonstrate the technical or economic feasibility, or financial or technical capability to undertake the use and comply with the terms and conditions of the authorization.
5. There is a person or entity to sign and/or willing to accept responsibility for the authorization.

## **Proposal is accepted or rejected.**

The Forest Service shall reject any proposal that fails to meet the second-level screening criteria and will return the proposal to the proponent with a written explanation of the rejection. The Forest Service may reconsider proposals when the deficiencies identified in the original screening process have been corrected to the satisfaction of the authorized officer.

Rejection of unsolicited proposals is not subject to administrative appeal under 36 CFR 214 or 251, and does not constitute a proposed action pursuant to 36 CFR 251.54(e)(6) and the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347).

If the second-level screening criteria are met, the Forest Service will notify the proponent that the agency is prepared to accept a written formal application for further evaluation. As appropriate, the Forest Service will provide the proponent with additional guidance and information at this time, including identification of the Agency's procedures for processing the application and estimated time requirements.

What happens when proposal is accepted as an application?

When an unsolicited proposal meets all screening criteria, it is accepted as a formal application and is considered a **proposed action** that must be analyzed for site-specific environmental and social effects in accordance with requirements of the National Environmental Policy Act of 1969 (NEPA), its implementing regulations, and agency NEPA procedures.

NEPA requires that each proposed action be reviewed internally by Forest Service resource specialists, externally by other affected agencies, and also requires public involvement. The level of NEPA varies depending on complexity of the proposed action, ground disturbance, unusual circumstances, environmental laws, cumulative effects, threatened and endangered species, social impacts, water quality, invasive species, and more. When the NEPA analysis is completed, the Forest will know whether or not to authorize the use and under what conditions it will be authorized.

Additional information can be found on the Forest Service's internet site at:  
<https://www.fs.usda.gov/detail/flathead/passes-permits/other/?cid=fseprd646036>

## Contact information

<b>Office/Location</b>	<b>Phone</b>
Forest Supervisor's Office, Kalispell	(406)-758-5204 or (406)-758-5200
Swan Lake District, Bigfork	(406)-837-7500
Spotted Bear District, Hungry Horse	(406)-758-5376 (summer) (406)-387-3800 (winter)
Hungry Horse/Glacier View District, Hungry Horse	(406)-387-3800
Tally Lake District, Kalispell	(406)-758-5200

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