



June 20, 2023

USDA Forest Service
Director, Lands, Minerals, & Geology Staff
201 14th Street SW
Washington, DC 20250-1124

Regarding: Proposed Rule. Land Uses: Special Uses; Cost Recovery, Strict Liability Limit, and Insurance. Docket (FS-2023-0001-0073). Identified by RIN 0596-AD35.

USDA Forest Service,

California Four Wheel Drive Association (Cal4Wheel) is writing to provide feedback for the [Proposed Rule for Land Uses: Special Uses; Cost Recovery, Strict Liability Limit, and Insurance](#). Many of our members and supporters live near and/or recreate in USDA Forest Service (FS) managed public lands. This letter of comment shall not supplant the rights of other Cal4Wheel agents, representatives, clubs, or individual members from submitting their own comments; the FS should consider and appropriately respond to all comments received for the Proposed Rule.

Cal4Wheel is a non-profit organization that champions responsible off-highway vehicle (OHV) recreation and encourages a strong conservation ethic and individual stewardship. We champion responsible use of public lands for the benefit of all recreationists by educating and empowering our members to secure, protect, and expand shared outdoor recreation access and use by working collaboratively with public land managers and other recreationists. Our members use OHVs of all forms, as well as other motorized methods, to enjoy federally managed lands throughout California and the United States, including national forests. Our members and supporters live in California or travel across the country to visit California and use motorized vehicles to access FS managed lands throughout the state. Cal4Wheel members visit national forests for motorized recreation to participate in non-motorized and human-powered activity such as sightseeing, photography, hunting, fishing, wildlife and nature study, camping, observing cultural resources, and other similar pursuits on a frequent and regular basis throughout every season of the year. Additionally, our member clubs enjoy holding events in the 18 national forests in California. Cal4Wheel members and supporters have concrete, definite, and immediate plans to continue such activities on FS managed lands throughout the future.

General Comments

We recognize the positive health and social benefits that can be achieved through outdoor recreation. We also recognize that motorized recreation provides business owners in local communities with significant financial stimulus. Of great importance to the impetus for this comment letter: our members are directly affected by management decisions concerning public land use in national forests, including and especially, decisions specific to fees and process imposed for access and permits.

Our members subscribe to the tenets of:

- Public access to public lands now, and for all future generations



- Active stewardship to maintain conservation of public lands, and safety for those who enjoy them
- Sharing our natural heritage

Cal4Wheel members as well as the general public desire access to public lands now and in the infinite foreseeable future. Restricting access today deprives our children of the opportunity to enjoy the many natural wonders of public lands. Cal4Wheel members and the general public are deeply concerned about the condition of the environment and public safety. They desire safe means to access public lands to engage in conservation efforts as well as outdoor recreation. The public desires to share our natural heritage now and in the future. How can our children learn about and appreciate our natural heritage when access to public lands is eliminated or restricted due to FS management activity, when public land landscapes are allowed to deteriorate due to lack of proper maintenance, and when public lands are made exclusively available to a limited sector of the general public based on the imposition of steep fees and bureaucratic red tape?

Cal4Wheel supports the concept of managed recreation and believes it is prudent to identify areas where off-highway vehicle (OHV) use is appropriate. Recreation, especially [recreation off of paved or gravel roads, is the leading cause of growth in visitors to public lands](#)². This is a longstanding trend, and it is critical to note, [California has led the nation as the state with the highest percent of population and number of participants in OHV recreation since 2008](#)³. The US OHV market is worth more than \$9 billion, and California represents over 10% of that market share. It is clear that public interest in OHV recreation is a dominant value and preferred mode of outdoor recreation for residents of California. Reduction or elimination of fees and insurance requirements eases public access to national forests and thus bears the potential to prevent user conflicts and potential resource damage by providing sufficient recreation access to public lands for all forms of recreation, including OHV.

As currently written, the Proposed Rule would negatively impact Cal4Wheel members, as well as all members of the general public who enjoy outdoor recreation on FS managed lands, by significantly minimizing their ability to stage events in national forests in California. We support any additional comments that encourage the FS to abandon this Proposed Rule, to reduce fees assessed for public access, and to minimize the bureaucratic red tape required for members of the public to secure special use permits to hold events on FS managed lands. We strongly advocate against any creation of new fees, increase of existing fees, creation of new process or paperwork to secure general access and special use permits, or complication of existing process or paperwork.

Violation of Congressional Direction, Congressional Intent, and FS Operational Guidelines

The FS motto and mission statement is “Caring for the Land and Serving People.” [Within the FS published guidelines for operations, the FS states](#)⁴, “***As set forth in law, the mission is to achieve quality land management under the sustainable multiple-use management concept to meet the diverse needs of people. It includes:***

- *Listening to people and responding to their diverse needs in making decisions.*
- *Protecting and managing the National Forests and Grasslands so they best demonstrate the sustainable multiple-use management concept.*
- *Helping States and communities to wisely use the forests to promote rural economic development and a quality rural environment.*



- *The American people can count on the Forest Service to perform.*
- *We strive for quality and excellence in everything we do and are sensitive to the effects of our decisions on people and resources.*
- *We strive to meet the needs of our customers in fair, friendly, and open ways.*
- *We promote grassroots participation in our decisions and activities.*
- *We are responsible and accountable for what we do.*
- ***We follow laws, regulations, executive direction, and congressional intent.***

The FS motto and operational guidelines clearly state that the foundational framework for all FS action is to uphold and expand the multiple-use objective, manage forest lands for the benefit of the people (the public, the citizens of the USA), to maintain transparency and accountability in all decisions and actions, to actively seek out public input and grassroots involvement in all decisions and actions, to execute decisions in a way that is fair to the public, and most importantly – **to follow the law and congressional intent.**

There are multiple layers of issues in which the FS has operated in direct violation of these operational guidelines through the attempted implementation of this Proposed Rule. This includes:

- The FS did not provide public notice about the Proposed Rule, it was published covertly with zero outreach or announcement to impacted stakeholders and the general public.
- Members of the public who engage in organized outdoor recreation, including Cal4Wheel, are among the most immediately and significantly impacted by this proposed rule. In direct violation of the FS claim to promote grassroots participation in decisions and activities, the FS neglected to communicate, host public meetings, or otherwise coordinate any element of this proposed rule with organized outdoor recreation groups.
- Outdoor recreation is one of the primary, dominant uses of national forest lands within the scope of the multiple-use objective. This Proposed Rule significantly negatively impacts public access for outdoor recreation in FS managed lands.
- The Proposed Rule imposes additional, unnecessary red tape and bureaucratic hoops for the public to jump through, along with a significant increase in the cost of fees to secure special use permits, and thus excludes large segments of the population from the opportunity to continue enjoying access to public lands.
- The Proposed Rule is in full violation of congressional intent. [The management direction given to the FS by Congress is](#)⁵: “...*to broaden its management scope for additional multiple uses and benefits and for the sustained yield of renewable resources such as water, forage, wildlife, wood, and recreation.*”

Since its inception in 1959, Cal4Wheel has been an active, responsible partner of the FS, with members continually engaged in volunteer service to advance conservation, trail and landscape maintenance, public education, public safety, and cooperative public land management. Cal4Wheel clubs have a longstanding history, extending over the last 6 decades, of securing special use permits to hold organized outdoor recreation events within all 18 California national forests. Events like ours bring public land visitors to national forests in an orderly and controlled manner. This ensures conservation of the landscape and wildlife habitat, while preventing overcrowding and user conflict. Our events promote land use ethics, responsible camping, respect for natural resources, and public safety. The Proposed Rule will



increase the cost of special use permits such that our members (as well as other outdoor recreation enthusiast organizations) will be priced out of the opportunity to afford the cost of securing permits. The Proposed Rule thus reduces opportunities for the public to access and enjoy our national forests. It creates exclusive access to a fraction of the population who can afford the imposition of steep fees, as well as arduous new red tape and the burden of added time to process, to the requirements to secure special use permits.

Of special note, in any special use permit program, the FS should ensure that there is a clear distinction between the requirements and scope of access for special use permits intended for competitive events, versus casual group events. The level of impact from competitive versus casual events should be commensurate with the proposed fees and insurance requirements. For casual events, organizations that bring groups of people into national forests to view and appreciate historical and cultural resources should benefit from reduced fee costs, and, they should not be required to pay for agency supervisors to monitor event activities given that the risk of damages to natural resources is essentially non-existent, and certainly not equitable to the risks associated with competitive events. Likewise, the insurance requirements for competitive and casual events should be commensurate to the level of impact.

It is irresponsible for the FS to impose the additional burdens of increased fees and insurance requirements, as presented in this Proposed Rule, to organized outdoor recreation groups like ours, while keeping public lands open to general use. It is a blatant violation of FS management principles. Further, it is a blatant violation of Congressional direction and Congressional intent for the scope of limitations by which the FS is authorized to manage our national forests. It is critical for the FS to bear in mind that the FS does not own our national forests. National forests are a part of the public endowment, as all public lands are owned by the citizens of the USA (the public), and the FS is merely contracted to manage national forests within the defined scope of limited authority that is granted by Congress. With this Proposed Rule, the FS is overstepping Congressional direction and Congressional intent such that the best interests and needs of the public are being trampled by a heavy-handed and authoritarian attempt to exercise unjustified and illegal management authority.

We ask the FS to abandon this Proposed Rule immediately. If the FS will not abandon the Proposed Rule, we assert the moral and legal exigence that the FS must create an extension for the rule, and then:

- **Provide proper public notice to invite public input**
- **Outreach stakeholders among the general public who are directly, immediately impacted, including Cal4Wheel and similar outdoor recreation groups, to provide special notice and invite public input**
- **Host a series of in-person and virtual public meetings to provide details about the scope and impact of the Proposed Rule, and provide an opportunity for the public to ask questions and seek clarification prior to giving their public input**
- **Conduct an economic impact analysis for the Proposed Rule, with focal attention given to the fiscal and socioeconomic impact on the outdoor recreation sector**
- **Coordinate the economic impact analysis with local governments (counties, cities, and communities that are directly impacted by the Proposed Rule)**



Closing

We would like to close by once again calling your attention to the vested interest that Cal4Wheel, other members of the outdoor recreation sector, local governments, and the general public have in this issue. We encourage the FS to uphold their alignment with the FS mission and operating guidelines, their responsibilities to manage our national forests for the benefit of the public and to expand the multiple use objective, and their responsibility to operate within the scope of congressionally-granted boundaries as contracted land managers of our national forests - the citizenry's prized national heritage.

California Four Wheel Drive Association would like to be considered an interested public for this Proposed Rule. Information can be sent to the following address and email address:

Rose Winn
California Four Wheel Drive Association
8120 36th Avenue
Sacramento, CA 95824
rwinn@cal4nrc.com

Sincerely,

Rose Winn
Natural Resources Consultant
California Four Wheel Drive Association

References

1. USDA Forest Service. Proposed Rule - Land Uses: Special Uses; Cost Recovery, Strict Liability Limit, and Insurance. May 18, 2023. <https://www.regulations.gov/document/FS-2023-0001-0073>
2. U.S. Off-Road Vehicles Market Size by Vehicle (ATV, SSV/UTV, Off-Road Motorcycles, Snowmobiles), By Application (Utility, Sports, Recreation, Military), Industry Analysis Report, State Outlook, Growth Potential, Price Trends, Competitive Market Share & Forecast, 2018 – 2024. <https://www.gminsights.com/industry-analysis/us-off-road-vehicles-market>
3. US Forest Service. Off-Highway Vehicle Recreation in the United States and its Regions and States: An Update National Report from the National Survey on Recreation and the Environment (NSRE). RECSTATS Research Report in the IRIS Series. February 2008. <https://www.fs.fed.us/recreation/programs/ohv/IrisRec1rpt.pdf>
4. USDA Forest Service. What We Believe. 2023. <https://www.fs.usda.gov/about-agency/what-we-believe>
5. USDA Forest Service. Meet the Forest Service. 2023. <https://www.fs.usda.gov/about-agency/meet-forest-service#:~:text=When%20and%20why%20was%20the,timber%20for%20the%20nation's%20benefit>