

Appendix H: Law Enforcement Responsibilities

Law Enforcement at Concession Campgrounds

Background

This paper clarifies the law enforcement responsibilities and responsibilities of concessionaires, state and local law enforcement agencies, and the Forest Service (FS) at concession campgrounds. The paper is based on a December 15, 1993, memorandum issued by the Office of the General Counsel (OGC) and an April 26, 1996, letter issued by Region 5 on the same subject. This paper has been reviewed and approved by OGC.

Roles and Responsibilities

Concessionaires

In responding to violations of Federal, state, and local laws, ordinances, and regulations, concessionaires have the same authority as a private citizen. Concessionaires generally cannot enforce Federal, state, or local laws or regulations, including 36 CFR Part 261, Prohibitions on National Forest System (NFS) lands. Concessionaires should be knowledgeable of applicable Federal, state, and local laws and regulations, including 36 CFR Part 261, and should report violations of these laws and regulations to the appropriate law enforcement authorities.

Concessionaires may enhance public safety at concession campgrounds in a number of ways. For example, they may hire a private security firm, hire off-duty state or local law enforcement personnel, or enter into a cooperative agreement with the county for additional patrols.

Under the terms of the campground concession permit, the authorized officer may allow or re-quire a concessionaire to establish certain restrictions on conduct, or rules of use. For instance, the concessionaire may establish a rule of use that limits the number of vehicles per campground site, establishes a limit on the length of stay, or prohibits washing food at a water hydrant. The rules of use may be incorporated in the concessionaire's operations-and-maintenance plan, and be concessionaire may be held accountable for ensuing compliance under the terms of the special-use permit.

Conduct that violates rules of use may also violate Federal, state, or local laws. When such conduct occurs, the concessionaire should report those violations to the appropriate law enforcement authority. For example, violation of a rule of use may constitute a disturbance of the peace in violation of state law, or disorderly conduct in violation of FS regulations at 36 CFR 261.4

To minimize confusion between criminally enforceable Federal, state, and local laws and concessionaire-established rules of use, each should be posted separately within the campground.

State and Local Law Enforcement Agencies

Generally, state and local law enforcement agencies have authority to enforce applicable state and local laws, ordinances, and regulations on NFS lands. Under 16 U.S.C. 480, states retain their civil and criminal jurisdiction over persons on the National Forests. Thus crimes involving persons and their property are generally the primary responsibility of state and local law enforcement authorities.

Where a concessionaire has established rules of use, there is no authority for a state or local law enforcement agency to take enforcement action, unless the conduct giving rise to the violation of a rule of use also constitutes a violation of state or local law.

There is no authority for the FS to allow state and local law enforcement personnel to enforce Federal laws and regulations, including 36 CFR Part 261. Some conduct may be prosecuted under Federal or state law because the conduct violates both. State and local law enforcement officers may enforce only state and local law, however.

Forest Service

The FS retains all its authorities and responsibilities for enforcing Federal laws and regulations related to administration of NFS lands. The role and responsibilities of the FS do not change simply because the FS has issued a special-use permit to a concessionaire. FS personnel should continue to enforce all Federal laws and regulations related to the administration of NFS lands within concessionaire-operated campgrounds.

FS personnel should not assume, however, that all laws and regulations applicable to facilities operated by the FS are also applicable to sites operated by concessionaires. For example, as a matter of policy the FS does not interpret failure to pay a camping fee charged by a concessionaire to be a violation of 36 CFR 261.15 because the camping fee charged by the concessionaire is not an admission or recreation use fee for "a site, facility...or service furnished by the United States." The agency construes "furnished by the United States" to mean "owned and operated by the United States." Therefore the FS would not cite someone for failure to pay a camping fee at a concession campground, because the site is operated by a concessionaire, rather than the FS, and the concessionaire, rather than the FS, retains the campground fees.

The regulations at 36 CFR Part 261, Subpart A, apply at both FS and concessionaire-operated campgrounds. In contrast, orders issued under 36 CFR Part 251, Subpart B, may or may not apply at concession campgrounds. A Subpart B order must clearly state the area to which it applies 36 CFR 261.50(c)(1). If the order is Forestwide, it applies to all campgrounds, including concession campgrounds within that Forest. Operating Plns for concession campground permits should be consistent with any orders that apply. A concessionaire may not allow an activity prohibited by an order. A concessionaire's rule of use may be stricter than an order, however.

The Regional Forester or Forest Supervisor may exempt concession campgrounds from an order, and may want to exempt them to place more of the responsibility for the site on the concessionaire. Rules of use, rather than the order, would then govern. This approach is consistent with one of the purposes of the campground concession program, which is to reduce expenditure of limited FS resources on administering developed recreation sites. When issuing a Subpart B order, the Regional Forester or Forest Supervisor should consider whether the order should apply at concession campgrounds.

If concession campgrounds are exempted from a Subpart B order, the rules of use established by concessionaires may differ from the restrictions contained in the order that apply elsewhere. For example, the restriction established by an order on the number of vehicles allowed per campsite at an FS-operated campground may differ from the same type of restriction adopted as a rule of use at a concession campground. FS personnel should ensure that they enforce only those Subpart B orders that apply to concession campgrounds.

36 CFR Part 261, Subpart C regulations should be handled the same way as Subpart B orders. Subpart C regulations are issued by the Chief or Regional Forester to prohibit acts or omissions in all or any part of an area over which the Chief or Regional Forester has jurisdiction.

FS law enforcement personnel should cooperate with state and local agencies to the extent authorized by FS policy (FSM 5360) and state and Federal law, such as 16 U.S.C. 559g(c), which authorizes acceptance of a law enforcement designation from states, and 16 U.S.C. 553, which authorizes the FS to aid in the enforcement of state laws in certain respects.

Prospectuses and permits for concession campgrounds should clearly describe the respective responsibilities of FS law enforcement personnel, local law enforcement authorities, and concessionaires.

Summary

Crimes involving persons and property are generally violations of state law. State and local law enforcement agencies have jurisdiction to enforce state laws at concession campgrounds. FS personnel have the responsibility to enforce Federal laws and regulations related to the administration of NFS lands. Concessionaires may establish and enforce rules of use that are subordinate to Federal, state, and local laws and regulations. Rules of use are not enforceable by Federal, state, or local law enforcement authorities unless violations of rules of use constitute violations of Federal, state, or local laws.

Concessionaires should contact Federal, state, and local law enforcement authorities to address criminal violations under their respective jurisdictions. Concessionaires may also consider hiring a private security firm or contracting with off-duty state or local law enforcement personnel to address day-to-day public-safety concerns at concession campgrounds.

APPENDIX H - REGULATIONS AND COMPLIANCE STRATEGY

The regulations for occupancy and use of developed recreation sites are found on the next page. We suggest the following strategy for seeking compliance with these rules:

Inform and educate the user by using a "Good Host" approach. (Good Host training will be provided by the U.S. Forest Service. All permittee employees are required to attend.) The permittee should make at least two attempts to seek compliance. If the compliance is not reached, then the permittee can request assistance from local law enforcement agencies in the order listed below.

- Cooperative Law Enforcement entity, if available for your site or area.
- Nearest National Forest Ranger District Law Enforcement Officer.
- Missouri State Police (for violations of state law only.)

Experience has shown that the following rules require the most attention by the permittee:

- Non-payment of parking fees.
- Dogs not on leash.
- Parking or camping in non-designated areas.
- Excessive noise.
- Disposal of waste and sewage in places not designated.
- More than two vehicles per site.
- More than eight people per site.
- Non payment of fees.

Attached is a notice to recreation area visitors "Welcome to Your National Forests" that is posted in all Forest Service Operated fee areas. This notice helps explain the Mark Twain National Forest's camping and parking policy. This, or a similar listing of "House Rules", should be posted by the permittee.

APPENDIX H SUGGESTED HOUSE RULES

The Forest Service Law Enforcement Policy has two basic purposes: (1) to preserve and protect natural and man-made forest resources; and (2) to allow all forest visitors to have a safe and pleasant forest visit.

The following are prohibited:

Sanitation:

- Failing to dispose of all garbage including any paper, can, bottle, sewage waste water or material, or rubbish either by removal from the site or area or by depositing it into receptacles or at places provided for such purposes.
- Cleaning or washing any personal property, fish, animal, or food at a hydrant or at a water faucet not provided for that purpose.
- Placing in or near a stream, lake, or other water, any substance which does or may pollute a stream, lake, or other water.
- Depositing in any toilet, toilet vault, or plumbing fixture, any substance which could damage or interfere with the operation or maintenance of the fixture.
- Depositing any body waste except into receptacles provided for that purpose.
- Dumping any refuse, debris, trash or litter brought as such from private property.
- Possessing or leaving refuse, debris, or litter in an exposed or unsanitary condition.

Interfering with Forest Officer

- Threatening, resisting, intimidating, or interfering with any forest officer engaged in or on account of the performance of his official duties in the protection, improvement, or administration of the National Forest System.

Other Prohibited Acts

- Constructing, placing, or maintaining any kind of road, trail, structure, fence, enclosure, communication equipment, or other improvement without a permit.
- Occupying any portion of the site for other than recreation purposes.
- Use or occupancy of National Forest System land or facilities without special use authorization when authorization is required.

Abandoned Personal Property

- Abandoning any personal property.

Public Behavior

- Engaging in fighting.
- Making statements or other actions directed toward inciting or producing imminent action and likely to incite or produce such action.
- Causing public inconvenience by making unreasonable noise.
- Possession of alcoholic beverage within the Recreation Area.
- Camping within a developed recreation site for a period longer than 14 days except as otherwise posted.
- Entering or using a developed recreation site or portion thereof when posted closed.
- Entering or remaining in a recreation area between 10 pm and 6 am in violation of a posted sign, except for persons who are camping.
- Using a developed recreation site with unsightly or inappropriate structures or equipment.
- Using a developed recreation site by more than eight (8) users unless authorized by permit.

Pets and Animals

- Bringing in or possessing an animal other than a seeing eye dog unless it is crated, caged, or upon a leash not longer than six feet or otherwise under physical restrictive control.
- Bringing in or possessing a saddle, pack, or draft animal except as authorized by posted instructions.

Business Activities

- Selling or offering for sale any merchandise, conducting any kind of work activity or services unless authorized by Federal law, regulation, or permit.

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- Disseminating, posting, placing or erecting any paper, notice, advertising material, sign, or similar matter without a permit.

Audio Devices

- Operating or using in or near a campsite, developed recreation site, or over an adjacent body of water without a permit, any device which produces noise, such as a radio, television, musical instrument, motor or engine in such a manner and at such a time so as to unreasonably disturb any person.
- Operating or using a public address system whether fixed, portable, or vehicle mounted in or near a campsite, developed recreation site, or over an adjacent body of water without a permit.

Fireworks and Firearms

- Possessing, discharging or using any kind of fireworks or other pyrotechnic device.
- Hunting within the Recreation Area.
- Discharging a firearm or any other implement capable of taking human life, causing injury, or damaging property: (1) in or within 150 yards of a residence, building, campsite, developed recreation site or occupied area, or (2) across or on a forest development road or a body of water adjacent thereto whereby any person or property is exposed to injury or damage as a result of such discharge.

Operation of Vehicles

- Operating a motorboat, other than electric powered, on waters in violation of posted sign.
- Operating or parking a motor vehicle or trailer except in places developed for this purpose.
- Operating a bicycle, motorbike, or motorcycle on a trail unless designated for this use.
- Operating a motorbike, motorcycle, or other motor vehicle for any purpose other than entering or leaving the site.
- Placing a vehicle or other object in such a manner that it is an impediment or hazard to the safety or convenience of any person.
- Failing to stop a vehicle when directed to do so by a forest officer.
- Blocking, restricting, or otherwise interfering with the use of a road, trail, or gate.
- Possessing, parking, or leaving more than two vehicles, (except motorcycles) per camp unit.
- Parking or leaving a vehicle in violation of posted instructions.

Building Fires

- Building, attending, maintaining, or using a fire outside of a fire ring provided by the Forest Service for such purposes or outside of a stove, grill, or fireplace.
- Leaving a fire without completely extinguishing it.

Camping

- Occupying between 10 p.m. and 6 a.m. a place designated for day use only.
- Failing to remove all camping equipment or personal property when vacating the area or site.
- Placing, maintaining, or using camping equipment except in a place specifically designated or provided for such equipment.
- Without permission, failing to have at least one person occupy a camping area during the first night after camping equipment has been set up.
- Leaving camping equipment unattended for more than 24 hours without permission.

Destruction of Property

- Cutting, killing, destroying, girdling, chipping, chopping, boxing, injuring, or otherwise damaging or removing any timber, tree, or other forest product, except as authorized by permit, timber sale contract, Federal law or regulation.
- Mutilating, defacing, removing, disturbing, injuring, or destroying any natural feature or any property of the United States.
- Removing any natural feature or property of the United States.

APPENDIX H

WELCOME TO YOUR NATIONAL FORESTS

As a visitor to the National Forests, you must follow certain rules to protect the Forest and the natural environment, and to ensure your health and safety. So please, follow these reminders:



Sanitation

Throw all garbage and litter in containers provided for this purpose or take it with you.

Garbage containers, when provided, are reserved for visitors to the National Forest, not for visitors or owners of private lands or lands under permit.

Wash food and personal items away from drinking water supplies. Use water faucets for drinking water only.

Prevent pollution—keep garbage, litter, and foreign substances out of lakes, streams, and other water.

Use toilets properly. Do not throw garbage, litter, fish cleanings, or other foreign substances in toilets and plumbing fixtures.

Operation of Vehicles

Obey all traffic signs. State traffic laws apply to the National Forests unless otherwise specified.

When operating vehicles of any kind, do not damage the land or vegetation, or disturb wildlife. Avoid driving on unpaved wet roads or trails.

Within campgrounds and other recreation sites, use cars, motorcycles, motorcycles, or other motor vehicles only for entering or leaving, unless areas or trails are specifically marked for them. Park only in marked parking areas.

For the safety and convenience of others, please do not block, restrict, or interfere with the use of roads or trails.

Operate trail bikes and other off road vehicles to avoid damage to the Forest. Obey area and trail regulations on such use.

Campfires

Obey restrictions on fires. Fires may be limited or prohibited at certain times.

Within campgrounds and other recreation sites, build fires only in fire rings, stoves, grills, or fireplaces provided for that purpose.

Keep flammable materials away from campfires.

YOU ARE RESPONSIBLE FOR KEEPING FIRES UNDER CONTROL. Be sure your fire is completely extinguished before leaving.

Camping

Use picnic sites, swimming beaches, and other day use areas only between the hours of 6 a.m. and 10 p.m.

Campgrounds and other recreation sites can be used only for recreation purposes. Permanent use or use as a principal residence without authorization is not allowed.

In campgrounds, camp only in those places specifically marked or provided.

At least one person must occupy a camping area during the first night after camping equipment has been set up, unless permission has otherwise been granted by the Forest Ranger.

Camping equipment cannot be left unattended for more than 24 hours without permission by the Forest Ranger. The Federal Government is not responsible for any loss or damage to personal property.

Remove all personal property and trash when leaving.

Fee Areas

You must pay a fee to use certain developed sites and facilities. Such areas are clearly signed or posted as requiring a fee.

Where fees are required, they must be paid before using the site, facility, equipment, or service furnished.

Property

Do not carve, chop, cut, or damage any live trees.

Preserve and protect your National Forests. Leave natural areas the way you find them.

Buildings, structures, or enclosed areas in National Forests may be entered only when expressly opened to the public.

Indian sites, old cabins, and other structures, along with objects and artifacts associated with them, have historic or archeological value. Do not damage or remove any such historic or archeological resource.

Public Behavior

No fighting or boisterous behavior.

Please, keep noise at a reasonable level. Be courteous to your fellow visitor.

Pets and Animals

Pets must always be restrained or on a leash.

Pets are not allowed in swimming areas.

Saddle, pack, or draft animals are allowed only in authorized areas.

Business Activities

Permits are required for:

Selling any merchandise.

Posting or distributing any handbill, circular, paper, or notice.

Conducting or participating in a public meeting, assembly, or special event.

Audio Devices

Please, operate any audio device, such as a radio or musical instrument, so that it will not disturb other Forest visitors.

A permit is required to operate a public address system in or near a campsite, developed recreation site, or over a body of water.

Fireworks and Firearms

Use of fireworks or other explosives is prohibited within campgrounds and other recreation sites.

Firing a gun is not allowed:

In or within 150 yards of a residence, building, campsite, developed recreation site, or occupied area.

Across or on a road or body of water.

In any circumstance whereby any person may be injured or property damaged.

National Forest Wilderness

Motor vehicles or motorized equipment are not allowed in wilderness areas.

Preserve the wilderness—“Leave only footprints, take only pictures.”

General

BE CAREFUL!! Look out for natural hazards and dangers when you are in the forest. If you hike off trails or swim or dive in streams or lakes, you do so **AT YOUR OWN RISK.** You are primarily responsible for your own safety.

By following these reminders, your outdoor recreation experience should prove rewarding and other visitors will likewise enjoy their visit to the National Forest.

Regional Foresters and Forest Supervisors may issue orders which close or restrict the use of certain areas

when the need arises. These orders will be posted so as to reasonably bring them to the attention of National Forest visitors. Copies of such orders will also be available in Forest Supervisor and District Ranger Offices.

Information on all permit requirements is available from any Forest Service office.

If you have questions, or need help, please contact your nearest Forest Officer or visit the nearest Forest Service office.

OBEY FEDERAL LAWS

All visitors and users of the National Forests are subject to Federal Regulations. The points of conduct listed above are generally included in and emphasized through Federal Regulations. All of the regulations are published in Title 36 of the Code of Federal Regulations and are on file at all Forest Supervisor and District Ranger Offices. A calendar of orders and Regulations is subject to purchase by a fee or reproduction. Authority: 16 USC 531, 7 USC 1611(f)

