

Section 41.53f—Applications and Issuance of Permits.—The agency has added this section to clarify the application process and the process for issuance of permits under applicable Federal regulations (36 CFR 251.54) and Forest Service policy. Paragraph 3 has been added which addresses renewal of terminating permits. The final policy states that direction in FSM 2712.2 on issuance of prospectuses applies to new outfitting and guiding opportunities.

The final policy directs the authorized officer to collect fees for outfitting and guiding under the authority of the LWCF Act of 1965. (Further discussion of this policy appears earlier in this notice under section 37.24.)

The agency also has revised this section to include direction in paragraph 4 on change of ownership or control of the business entity. The agency has added the term “business entity” to distinguish this change in ownership from change in ownership of personal or real property. The agency also has expanded and edited this section to conform with direction in FSM 2716, Change of Ownership.

Section 41.53q—Assignment and Management of Temporary Use. The agency has edited this section to conform with Forest Service directive format and style.

Section 41.53h—Assignment and Management of Priority Use. To ensure consistency in administration and compliance with standards and guidelines in forest land and resource management plans, the agency has added that assignment of priority use and the amount of priority use shall be at the discretion of the authorized officer and shall be consistent with direction in forest land and resource management plans.

To ensure consistency in administration, the agency has revised direction on reduction in the amount of priority use. The final policy (para. 3b) requires reduction in the amount of priority use if the holder has utilized less than 70 percent of the assigned amount for three consecutive years. The 1990 interim directive required reduction in the amount of priority use if the holder had used less than 70 percent of the assigned amount in at least two of the past five years. This direction has been subject to broad interpretation and misapplication. The agency believes that a period of three consecutive years of under-utilization is easier to quantify and demonstrates a trend of lack of business due to a decrease in customer demand for services.

Section 41.53i—Reduction of Use or Service Days. The agency has added

direction that prior to reassigning use that may be available after a reduction, the authorized officer must solicit applications from current holders assigned priority use and base assignment of use on services proposed and performance.

Section 41.53j—Permit Terms and Conditions. The agency has edited this section of the final policy to conform with Forest Service directive format and style and with standard terms and conditions in special use permits.

Section 41.53k—Permit Administration. For clarity, the agency has put direction on performance standards and performance ratings of holders in separate paragraphs and provided more detailed direction, such as mid-season review and evaluation for all holders. This procedural direction is needed to meet due process requirements under Federal law for giving holders notice and the opportunity to comply. In addition, the section in the 1990 interim directive entitled “Subletting of Use” has been retitled “Assignment of Use” as paragraph 2 in this section of the final policy.

Section 41.521—Permits for Institutional and Semi-Public Outfitting and Guiding. This section now states that permits must be consistent with forest land and resource management plan direction.

Regulatory Impact

This final policy has been reviewed under USDA procedures and Executive Order 12866 on Regulatory Planning and Review. It has been determined that this is not a significant policy. The final policy does not have an effect of \$100 million or more on the economy; substantially increase prices or costs for consumers, industry, or State or local governments; or adversely affect competition, employment, investment, productivity, innovation, or the ability of domestic companies to compete in foreign markets. The final policy consists primarily of technical and administrative changes for authorization of occupancy and use of National Forest System lands.

Moreover, this final policy has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). It has been determined that this final policy will not have a significant economic impact on a substantial number of small entities because it will not impose recordkeeping requirements on them; it will not affect their competitive position in relation to large entities; and it will not affect their cash flow, liquidity, or ability to remain in the market. As stated previously, this

final policy consists primarily of technical and administrative changes concerning authorization of occupancy and use of National Forest System lands.

No Takings Implication

This policy has been reviewed for its impact on private property rights under Executive Order 12630 of March 15, 1988, as implemented by the United States Attorney General's Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings. Executive Order 12630 does not apply to this final policy because it consists primarily of technical and administrative changes governing authorization of occupancy and use of National Forest System lands. Forest Service special use authorizations for outfitting and guiding do not grant any right, title, or interest in or to lands or resources held by the United States.

Civil Justice Reform Act

This policy has been reviewed under Executive Order 12778, Civil Justice Reform. After adoption of this final policy, (1) All State and local laws and regulations that conflict with this policy or that impede its full implementation will be preempted; (2) no retroactive effect will be given to this final policy; and (3) it will not require administrative proceedings before parties may file suit in court challenging its provisions.

Controlling Paperwork Burden on the Public

This final policy contains information collection requirements as defined in 5 CFR 1220 that have been approved by the Office of Management and Budget and assigned control number 0596-0082. The agency estimates that the reporting burden for the collection of information in the policy is 5 to 10 hours per response.

Environmental Impact

This final policy consists primarily of technical and administrative changes related to the authorization of occupancy and use of National Forest System lands. Section 31.1b of Forest Service Handbook 1909.15 (57 FR 43180 Sept. 18, 1992), categorically excludes from documentation in an environmental assessment (EA) or environmental impact statement (EIS) “rules, regulations, or policies to establish Service-wide administrative procedures, program processes or instructions.” Based on the nature and scope of this final policy, the agency has determined that it falls within this category of actions and that no extraordinary circumstances exist which