

System lands or related waters in connection with their rental programs. For example, a permit is required if a boat livery operator provides service, including delivery or pickup of boats, at sites on National Forest System lands. No permit is necessary nor is a fee charged if an operator's customers transport rented equipment to and from the National Forest System lands or if an operation serves Forest Service employees, Forest Service contractors, or other Federal officials in the course of their official duties.

41.53e—Incidental Use. When the proposed annual use is 50 service days or less and is expected to have little or no impact on public health and safety, the environment, or other authorized uses and activities on National Forest System lands, the use may be authorized by a temporary permit, Form FS-2700-25, Temporary Special-Use Permit. The following activities and uses shall not be authorized by a temporary permit and shall be authorized only by Form FS-2700-4, Special Use Permit: white water travel, use of firearms, livestock, or aircraft, or all-terrain and off-highway vehicle travel.

41.53f—Applications and Issuance of Permits.

1. *Applications.* Provide outfitter and guide applicants with Form FS-2700-3, Special Use Application and Report, to specify the services to be performed, the number of service days, the lands to be occupied, modes of transportation, season of use, scheduling, and other matters relating to the applicant's operation. Application and authorization procedures established in 36 CFR 251.54 and FSM 2712 are fully applicable to outfitter and guide applications. See FSM 2712.2 for direction regarding prospectuses for new opportunities as described in paragraphs 2a through 2d of this section.

Conduct environmental analyses for outfitter and guide applications in accordance with procedures in FSH 1909.15, National Environmental Policy Act Handbook.

2. *Issuance.* Outfitting and guiding permits may be issued when one or more of the following occurs:

- a. An increased allocation, capacity, or public need is identified through the forest planning process;
- b. An existing permit is revoked;
- c. A reduction of service days by an existing holder or holders makes additional service days available;
- d. Competitive interest in an area, unit, or activity arises where no previously authorized use exists and where the proposed use is compatible

with objectives in forest land and resource management plans;

e. An application has been submitted to provide outfitter and guide services for an area or activity that has not previously been authorized and for which there is no competitive interest; or

f. An existing permit terminates.

For situations fitting the criteria in the preceding paragraphs 2a through 2d, solicit applicants by issuing a prospectus and contacting all parties who have expressed an interest. See FSM 2712.2 for additional direction on issuing a prospectus.

For an application fitting the criteria in the preceding paragraph 2e, document the determination of no competitive interest and then issue a permit to the qualified applicant. In issuing the permit, classify authorized use as temporary use until the holder has performed acceptably for at least two consecutive years.

When determining the most qualified applicants, consider past experience and knowledge of the area, financial capability, economic viability of existing holders, performance record, return to the Government, and other factors. The authorized officer may classify the use as priority if the selected applicant has a two-year record of acceptable performance as a holder of a permit for an outfitting and guiding operation similar to the proposed use. Process requests to expand a current holder's operations as an application for temporary use under section 41.53g. For a selected applicant with no previous record, classify the use as temporary.

Issue temporary permits and permits under the authority of the Land and Water Conservation Fund Act of September 3, 1964 (16 U.S.C. 460l-6a(c)), on Form FS-2700-25, Temporary Special-Use Permit, and on Form FS-2700-4, Special-Use Permit, respectively.

3. *Renewal without Competition.*

When a permit of a holder assigned priority use terminates (preceding para. 2f) the permit is subject to renewal without competition, provided the current holder has performed satisfactorily as demonstrated by acceptable annual performance inspections. Renewal shall be at the sole discretion of the authorized officer and shall be in accordance with 36 CFR 251.64. In renewing the permit, the authorized officer may modify the terms and conditions of the permit.

4. *Change of Ownership or Control of Business Entity.*

a. Upon notification by the holder that a change in ownership of or a controlling interest in the business

entity is being considered, the authorized officer shall inform the holder of the following:

(1) The permit is a privilege and is not transferable, either upon the sale of the business entity or the sale of a controlling interest in the business entity;

(2) Priority use is a privilege acquired by demonstrated acceptable performance and is not transferable;

(3) The permit is not real property, does not convey any interest in real property, and may not be used as collateral;

(4) Upon consummation of a change of ownership of or controlling interest in the business entity, the holder's permit terminates; and

(5) The party who acquires ownership of or a controlling interest in the business entity may be issued a permit if the authorized officer determines that the prospective holder meets Forest Service requirements, including financial and technical capability.

b. The authorized officer shall inform the holder to submit Form FS-2700-3a, Request for Termination of an Application for Special-Use Permit, for relinquishment of the permit.

c. The authorized officer shall inform the party who acquires ownership of or a controlling interest in the business entity to submit:

(1) An application for a permit on Form FS-2700-3, Special Use Application and Report; and

(2) Documentation of change of ownership, including properly executed documents showing a bona fide conveyance of the equipment or other assets previously used by the business, and for businesses based on private land, properly executed documents showing a bona fide conveyance of the real and personal property used by the business; or

(3) Documentation of a change of control, including properly executed documents showing a bona fide change of a controlling interest in the business entity.

d. If the change of ownership or control is not consummated and the original holder has relinquished the permit, the authorized officer may reissue the permit to the original holder. Prior to reissuance, the authorized officer must request the original holder to submit documentation establishing ownership or control of the business entity.

41.53g—Assignment and Management of Temporary Use.

1. *Eligibility.* All qualified applicants, including institutional and semi-public entities and holders of permits assigned priority use, are eligible to receive