# **DEPARTMENT OF THE INTERIOR**

# **Bureau of Land Management**

43 CFR Part 2920

[WO-350-1430-00-24 1A]

RIN: 1004-AB51

Permits, Leases and Trespass; Procedures for Action on Use, Occupancy and Development; Unauthorized Use; and Cost Reimbursement for Processing and Monitoring Permits and Leases for Use of Public Lands

**AGENCY:** Bureau of Land Management,

Interior.

**ACTION:** Further proposed rule.

**SUMMARY:** This further proposed rule on permits and leases for use of public lands administered by the Bureau of Land Management (BLM) amends the proposed rule published in the Federal Register on November 21, 1990 (55 FR 48810). The 1990 rule proposed to amend the regulations on leases, permits, easements, and trespass in 43 CFR parts 2920 and 9230, currently in effect. This further proposed rule would create two categories of permits for proposed uses of public lands: "minimum impact permits" and "full permits." "Minimum impact permits" would be issued for activities that are likely to have a minimal impact on the public lands and their resources. BLM decisions to issue minimum impact permits would become effective immediately upon signature by the BLM authorized officer and would not be subject to the general appeals process provided in 43 CFR 4.21(a). "Full permit" decisions, by contrast, would not become effective until after a minimum period of 30 days during which a person may file an appeal under 43 CFR part 4.

In this further proposed rule, BLM invites public comment on the new minimum impact permit provisions, as well as on several other provisions that did not appear in the original proposed rule or have been substantially revised since that rule was published in 1990. These provisions concern rental and fee schedules for commercial filming and photography, hazardous materials, outdoor advertising, criminal penalties, and conformity of applications to land use planning. Finally, BLM requests suggestions and comments from the public on 5 specific issues relating to permits and rental schedules.

**DATES:** Comments on this further proposed rule must be submitted by April 10, 1995. No comments

postmarked after this date will be considered in preparation of the final rule, nor will any additional comments be accepted on the original proposed rule published in 1990. The Department will consider all timely comments submitted on the further proposed rule, as well as the comments received in 1990–91 on the original proposed rule, in preparing the final rule.

ADDRESSES: Comments should be sent to: Director (140), Bureau of Land Management, Room 5555, Main Interior Bldg., 1849 C Street NW., Washington, DC 20240. Comments on the further proposed rule will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Jim Paugh, (307) 775–6306, or Ray Brady, (202) 452–7780.

### SUPPLEMENTARY INFORMATION:

#### I. Introduction

# A. The Existing Regulations

The existing regulations in 43 CFR part 2920 establish the procedures for obtaining land use authorizations from the BLM in the form of permits, leases, and easements to use, occupy, and develop the public lands for activities not specifically covered by other authorizing regulations, such as grazing (43 CFR part 4100), recreation (43 CFR part 8300), and others. All land use authorizations in the existing regulations in part 2920 are now subject to the appeals process described in 43 CFR part 4, which includes a 30-day period in which a person adversely affected by BLM's decision may file a notice of appeal to the Interior Board of Land Appeals (IBLA). The land use authorization becomes effective at the end of the 30-day appeal period unless the appellant files a petition for a stay pending appeal. The IBLA has 45 days from the expiration of the 30-day appeal period to grant or deny the stay.

Under the existing regulations, the BLM may issue a type of permit called a "minimum impact permit" for activities that do not cause appreciable damage or disturbance to the public lands, their resources or improvements (43 CFR 2920.2–2). The BLM is not required to publish a Notice of Realty Action for minimum impact permits. Minimum impact permits are subject, however, to the 30-day appeal period before they can become effective. Examples of uses considered for minimum impact permits under the present regulations include apiary (bee hive) sites; temporary storage of hay,

ranching and farming equipment, and dismantled drilling rigs; limited commercial filming and photography activities; special events and gatherings; and soil core sampling. The only written criteria to assist the BLM authorized officer in determining whether a particular use constitutes minimum impact are outlined in a BLM instruction memorandum, and currently apply only to commercial filming and photography.

# B. The 1990 Proposed Rule

The original proposed rule published in the **Federal Register** on November 21, 1990, would substantially revise the existing regulations. It would eliminate the current "easement" category of land use authorizations, improve procedures for protecting public lands and resources from unauthorized use, and revise the procedures for administering, assigning, and terminating permits and leases. The original proposed rule would also dramatically change the existing appeals process for permits by making all permit decisions effective immediately upon signature by the authorized officer. The 30-day waiting period under 43 CFR 4.21 would not apply. The sole administrative review of a permit decision is provided in § 2924.1–1 in the original proposed rule. It allows parties adversely affected by an authorized officer's permit decision to request an administrative review by the authorized officer's immediate supervisor. No further administrative review is allowed in that rule. The 1990 proposed rule would not include a minimum impact permit category.

# C. The Further Proposed Rule

This further proposed rule attempts to strike a balance between the permit appeals process under the existing regulations and that proposed in the 1990 rule. Under the current regulations, permit decisions do not become effective until after a minimum 30-day period in which an adversely affected person may file an appeal under 43 CFR 4.21(a) and 43 CFR 4.411(a). By contrast, the 1990 proposed rule would make all BLM permit decisions effective immediately.

This further proposed rule would create 2 categories of permits: "minimum impact permits" and "full permits." Only minimum impact permit decisions would become effective immediately. The criteria for determining when BLM should issue a minimum impact permit or a full permit are outlined in the rule.

The structure of the original 1990 proposed rule has been somewhat reorganized, and that reorganization is