



**FOREST SERVICE HANDBOOK
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FSH 2709.11 – SPECIAL USES HANDBOOK

CHAPTER 40 – SPECIAL USES ADMINISTRATION

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Approved: CHARLES MYERS
Associate Deputy Chief, NFS

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Posting Instructions: Amendments are numbered consecutively by handbook number and calendar year. Post by document; remove the entire document and replace it with this amendment. Retain this transmittal as the first page(s) of this document. The last amendment to this handbook was 2709.11-2008-1 to chapter 30.

New Document	2709.11_40	63 Pages
Superseded Document(s) by Issuance Number and Effective Date	2709.11_40 (Amendment 2709.11-2007-1, 08/16/2007)	53 Pages

Digest:

41.53 - All sections of FSH 2709.11 section 41.53 are being revised. A Federal Register notice describing proposed changes was published for public notice and comment on October 19, 2007 (72 FR 59246) and a final notice was published on September 17, 2008 (73 FR 53823).

41.53a - Changes caption from “Objectives” to “Authorities” and sets forth new direction on authorities.

41.53b - Changes caption from “Policy” to “Objectives,” revises objective 1 for clarity, and adds a new objective 2 to facilitate participation of entities that work with youth and educational groups.

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Digest--Continued:

41.53c - Changes caption from “Definitions” to “Policy” and recodes direction previously found at 41.53b. Revises paragraph 1, to reference the screening criteria. Revises paragraph 5 to provide that outfitting and guiding authorized under a term permit be addressed in a supplement to the term permit rather than in the operating plan. Adds new paragraph 6, and sets forth direction that clarifies who can hold an outfitting and guiding permit. Adds new paragraph 7 and sets forth direction that provides for consideration of ANILCA in issuing and administering outfitting and guiding permits in the Alaska Region.

41.53d - Changes caption from “When Permits Are Required” to “Definitions” and recodes direction previously found at 41.53c. Adds new definitions for the following terms: Allocation of Use, Ancillary Services, Assigned Site, Commercial Use or Activity, Concessionaire, Controlling Interest, Needs Assessment, Open Season, Permitted Access Route, Priority Use Pool, Quota, Resource Capacity, Service Day, Temporary Use Pool, Transitional Priority Use, and Use Area.

Definitions for the following terms have been revised: Guiding, Holder, Outfitting, Priority Use, Renewal, and Temporary Use. Removes the definition for Incidental Use.

41.53e - Changes caption from “Incidental use” to “Needs Assessment, Resource Capacity Analysis, and Allocation of Use,” removes direction on incidental use, and sets forth new direction that addresses needs assessments, resource capacity analysis, and allocation of use for outfitting and guiding consistent with agency policy for land use management generally and land management planning.

41.53f - Changes caption from “Application and Issuance of Permits” to “When Permits Are Required,” and recodes direction previously found at 41.53d. Clarifies forms required for different circumstances.

41.53g - Changes caption from “Assignment and Management of Temporary Use” to “Issuance of New Outfitting and Guiding Permits,” recodes, and revises direction previously found at 41.53f, paragraph 2. Paragraph 1 cites the Federal Lands Recreation Enhancement Act, rather than Section 4 of the Land and Water Conservation Fund Act, as the authority for outfitting and guiding permits. Paragraph 1 also cites the Term Permit Act of 1915 because in some circumstances outfitting and guiding may be authorized under that statute.

41.53h - Changes caption from “Assignment and Management of Priority Use” to “Applications for Outfitting and Guiding Permits,” recodes and revises direction previously found at 41.53f, paragraph 1. This section provides direction on which forms to use for applications and identifies the information that a proponent or applicant must submit.

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Digest--Continued:

41.53i - Changes caption from “Reduction of Use or Service Days” to “Requirements for Temporary and Priority Use Permits,” recodes and revises direction previously found at 41.53j. Sets forth new direction in paragraph 5 requires the holder or the holder’s employees to conduct the day-to-day activities authorized by the permit, subject to specific exceptions enumerated in paragraphs 5a through 5c. To ensure that services and equipment contracted by the holder are covered by the holder’s insurance policy, paragraph 5 also requires the holder’s insurance policy to include an endorsement covering contracted equipment and services or requires the contractor to provide the contractor’s own insurance policy naming the United States as an additional insured. Paragraph 5a allows certain ancillary services to be provided by a party other than the holder or the holder’s employees (other than unanticipated, intermittent ancillary services authorized by paragraph 5c), but only with prior written approval from the authorized officer and provided that certain conditions are met. Paragraph 5b allows a holder authorized to provide solely outfitting services to contract with a guide, but only with the prior written approval of the authorized officer.

41.53j - Changes caption from “Permit Terms and Conditions” to “Issuance of Temporary Use Permits” and sets forth new direction on temporary use permits. Provides that temporary use permits are issued for minor, non-recurring outfitting and guiding activities in amounts of up to 200 service days in a 180-day period and are not be subject to renewal.

41.53k - Changes caption from “Permit Administration” to “Management of Temporary Use Pools” and sets forth new direction on establishing and operating temporary use pools.

41.53l - Changes caption from “Permits for Institutional and Semi-Public Outfitting and Guiding,” to “Issuance of Priority Use Permits,” removes direction on Institutional and Semi-Public Outfitting and Guiding, recodes and revises direction previously found at 41.53f paragraphs 3 and 4 and 41.53g paragraph 3. Paragraphs 2 and 3 establish a probationary 2-year permit term for new priority use permit holders that may be extended for up to 8 years based upon satisfactory performance. Additionally, this section authorizes priority use permits to be issued to institutional and semi-public groups, such as youth, educational, and religious groups.

41.53m - Adds new code and caption “Allocation of Use for Priority Use Permits” and replaces previous direction at 41.53h paragraphs 3b and 4. This section provides for review of actual use after 5 years and adjustment of the allocation of use to match the highest amount of actual use in 1 calendar year during that period, plus 25 percent of that amount for holders with 1,000 service days or less or 15 percent of that amount for holders with more than 1,000 service days, provided that the total may not exceed the allocation when the permit was issued

41.53n - Adds new code and caption “Management of Priority use Pools” and sets forth direction on establishing and operating priority use pools.

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Digest--Continued:

41.53o - Adds new code and caption “Reduction of Use Based on New or Changed Decisions” and sets forth direction on reduction of holder’s use which was previously found at section 41.53i.

41.53p - Adds new code and caption “Transitional Priority Use” and sets forth direction on reclassification of temporary use as transitional priority use and priority use.

41.53q - Adds new code and caption “Administration of Outfitting and Guiding Permits.” Sets forth direction regarding the grounds for revocation and suspension of an outfitting and guiding permit.

41.53r - Adds new code and caption “Administration of Priority Use Permits.” Replaces and revises direction previously at 41.53k paragraph 1. Paragraphs 3 and 4 clarify requirements for performance standards for priority use permits developed by the Forest Service and require development of a scoring system or other means for correlating the standards to performance ratings. Paragraph 5 clarifies the consequences (e.g., letter of probation, suspension, or revocation) of adverse performance ratings. Paragraph 6 clarifies notice requirements for suspension or revocation of a priority use permit, the requirement for a reasonable opportunity to take corrective action prescribed by the authorized officer, and the availability of appeal of adverse annual performance ratings and a decision to take adverse action based on those ratings. Paragraphs 7 and 8 clarify that the findings from inspections which are used as a basis for performance ratings are not subject to administrative appeal.

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41 - RECREATION SPECIAL USES

41.1 - Group Use [Reserved]

41.11 - Boat Dock and Wharf [Reserved]

41.12 - Club [Reserved]

41.13 - Organizational Camp

This use of National Forest System lands involves camps, generally operated by nonprofit organizations, institutions, or governmental agencies, that promote the physical, mental, and spiritual health of young people, individuals with a disability, and their families through activities conducted in a natural environment.

41.13a - Objectives

1. Facilitate the use of National Forest System lands for organizational camp purposes when the establishment of an organizational camp cannot be reasonably accommodated on non-National Forest System lands.
2. Administer organizational camps to ensure compliance with forest land and resource management plans; applicable Federal, State and local laws, regulations, and ordinances; and the terms and conditions of the applicable special use permit and operating plan.
3. Establish an organizational camp fee that provides an equitable return to the Federal government for the use of National Forest System lands for organizational camp purposes. For direction on determining fees for organizational camps, see chapter 30 of this handbook.

41.13b - Policy

1. Encourage organizations proposing the development of organizational camp facilities to build on private land when it is readily available for that purpose.
2. Encourage the holder to construct facilities and develop programs that promote environmental education, hiking, fishing, and similar forest-related activities, rather than organized games or other urban activities.
3. Limit the area authorized to the minimum necessary to exercise the authorized use. Do not extend boundaries to provide buffer zones around authorized facilities.

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4. Locate organizational camps so that they do not restrict public access along the shoreline of lakes, rivers, and streams. Allow only water-oriented improvements, such as beaches, docks, floats, and enclosed swimming areas, to intrude into a shoreline. Locate non-water-related improvements away from public view so that they will not give the impression that the National Forest System (NFS) lands on which they are located are private property.
5. Do not use public funds to construct a new facility, unless the facility is associated with other Government-owned improvements.
6. Ensure that all organizational camp operations comply with applicable state and local sanitation, food-handling, and other laws pertaining to public health and safety by requiring holders to have their organizational camp inspected by appropriate state or local governmental officials or others who are certified or otherwise qualified to conduct public health and safety inspections.
7. Ensure that all organizational camp structures meet building and fire codes and provide for fire protection of NFS lands.
8. Revoke authorizations for non-use or sporadic use, unless the holder makes the authorized site available to other groups.

41.13c - Definitions

Children at Risk. Children who are raised in poverty or in single-parent homes or are subject to such circumstances as parental drug abuse, homelessness, or child abuse.

Individual With a Disability. In general, a person that has a physical or mental impairment which substantially limits one or more of that person's major life activities, as further defined in section 7(20) of the Rehabilitation Act of 1973 (29 U.S.C. 705(20)).

Ministerial Issuance or Amendment. Situations in which issuance or amendment of a special use authorization would not change the physical environment or the activities, facilities, or program of the operations governed by the authorization, and in which at least one of the following applies:

- a. The authorization is being issued upon a change in control of the holder of an existing authorization.
- b. The holder, upon expiration of an authorization, is being issued a new authorization.
- c. The authorization is being amended to:

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- (1) Effectuate administrative changes, such as modification of the use fee or conversion to a new special use authorization form; or
- (2) Include nondiscretionary environmental standards or to conform with current law.

Organizational Camp. A public or semipublic camp that:

- a. Is developed on National Forest System lands by a nonprofit organization or governmental entity;
- b. Provides a valuable service to the public by using National Forest System lands as a setting to introduce young people or individuals with a disability to activities that they may not otherwise experience and to educate them on natural resource issues; and
- c. Does not have as a primary purpose the raising of revenues through commercial activities.

41.13d - Priority for Competing Uses

When several organizations are competing for a limited number of sites, use the following priority system to determine which organization is best qualified to be issued a special use authorization. If an organization provides both types of programs, classify it by the type that is predominant in its program delivery.

1. Priority 1 Programs. Priority 1 programs include activities involving people with disabilities or children at risk that are offered either free of charge or for a nominal fee. Participants should not have to be members of the sponsoring organization to attend or to receive a free or reduced fee rate. Examples of these types of programs include those sponsored by the Salvation Army, Boys Clubs of America, and civic clubs for the physically or mentally challenged where the objective is to provide rehabilitation, training, or an outdoor experience that would not otherwise be available to the participant. Give a higher weight to priority 1 programs.
2. Priority 2 Programs. Priority 2 programs offer organized and supervised social, citizenship, character-building, or faith-based activities oriented to outdoor recreation experiences. Membership in the sponsoring organization is normally a requirement. Program sponsors include regional or sub-regional units of such organized youth groups as the Boy Scouts, Girl Scouts, Campfire Girls, YMCA, 4-H Clubs, and religious groups. Give a lower weight to priority 2 programs.

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41.13e - Administration of Authorizations

1. Ministerial Issuance or Amendment of a Special Use Authorization. Ministerial issuance or amendment of an organizational camp special use authorization is not subject to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).
2. Operating Plans. The authorized officer shall require the holder to prepare and annually update an operating plan that, at a minimum, addresses procedures for responding to emergencies such as fire, hazardous material spills, floods, and bodily injury. The operating plan also must contain a provision that the holder provide full-time custodial service at the authorized facilities during the entire operating season.
3. Reporting. The authorized officer shall require the holder to annually submit a report specifying the total number of use days by type of priority (sec. 41.13d). The report is due within 90 days of the end of the holder's operating season, or by September 30 for year-round operations.

41.13f - Service in Lieu of Fees

For direction on service in lieu of fees for organizational camps, see chapter 30 of this handbook.

41.13g - Continuation of Authorized Uses

The public benefit provided by an organizational camp and conformance to the applicable forest land and resource management plan shall be considered when determining whether to:

1. Issue a new special use authorization for that camp when the current authorization terminates, or
2. Revoke an existing authorization for specific and compelling reasons that are in the public interest.

Thoroughly explore and document all reasonable alternative measures before discontinuing authorized use or revoking an authorization for specific and compelling reasons that are in the public interest.

41.2 - Individual Use

41.23 - Recreation Residence Use

41.23a - Continuance of Recreation Residence Use

When a land management plan is amended or revised and recreation residence use remains consistent with management direction in the plan, issue a new permit to affected recreation residence permit holders in accordance with the following:

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1. Since recreation residences have been in place for many years, and experience in administering this use has shown that continuing the use does not cause significant environmental impacts, issuance of a new permit can be made without further environmental documentation (FSM 2721.23e), except when the following situations are present:
 - a. If the use has been analyzed sufficiently as part of an environmental assessment (EA) or environmental impact statement (EIS) completed within 5 years of permit expiration, but not specifically addressed in a decision document, confirm the consistency of the use with the management direction in the forest plan by issuing a record of decision or a decision notice and finding of no significant impact.
 - b. If the use has not been analyzed sufficiently as part of an EA or EIS completed within 5 years of permit expiration, complete the appropriate environmental analysis and documentation (FSH 1909.15).
 - c. If an EA or EIS indicating the use is consistent with the forest plan was completed more than 5 years prior to permit expiration, additional environmental documentation may be necessary (FSH 1909.15).
 - d. If there are changes in the use and the changed use has been analyzed sufficiently as part of an EA or EIS completed within 5 years of permit expiration and approved in the appropriate decision document no further action is required. If the changed use has not been analyzed sufficiently as part of a completed EA or EIS and approved in the appropriate decision document, environmental documentation may be necessary. Such documentation may be accomplished by categorical exclusion (FSH 1909.15).
2. Initiate the analysis and action to issue a new permit 2 years prior to expiration of the current recreation residence permit and notify the holder of the outcome of the action.
3. Ensure the current use is in full compliance with the terms of the permit before issuing a new permit.
4. Ensure that the new permit contains those clauses necessary to comply with all current Forest Service regulations and all Federal, state, and county laws, regulations, and ordinances applicable to the permit area.

41.23b - Environmental Analysis

When a land management plan is amended or revised and consistency of the existing recreation residence use with the amended or revised plan is uncertain, conduct a site-specific environmental analysis to determine whether the use is consistent with the plan (FSM 2721.23e).

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Inconsistency with the plan does not dictate discontinuation of the use. Recreation residence use may continue through modification of the permit to impose specific conditions on occupancy or through amendment of the plan to accommodate the use.

1. Public Involvement. During the environmental analysis, solicit information and comments from holders, other interested parties, and the public. Follow Forest Service public involvement procedures (FSM 1620; FSH 1909.12 and 1909.15). Facilitate holder involvement by timing public involvement as closely as possible to the recreation residence use season.
2. Documentation. The analysis and decision document must contain objective, detailed information regarding recreation residence use and other applicable resource conditions. The documentation must include a full range of alternatives that includes consideration of retention of some or all of the existing recreation residence use.
3. Factors to Consider.
 - a. Lot use. Evaluate compatibility of the existing recreation residence use with the proposed alternative public use of the lot. Describe any current or anticipated conflicts between the recreation residence use and the proposed use. Evaluate the feasibility of other sites for the proposed use or whether the proposed use could be accommodated by modifying the recreation residence use or by modifying the proposed use.

In developing a range of alternatives:

- (1) If possible, evaluate ways to accommodate the proposed use without significant conflict with existing recreation residence use and whether potential conflicts can or cannot be mitigated.
- (2) Examine the feasibility of common, shared, or multiple uses that include recreation residences. Also examine the feasibility of adjusting lot and tract sizes, configurations, and boundaries or relocating lot improvements to better accommodate continuation of recreation residence use concurrently with the proposed use.
- (3) Examine the feasibility of alternative sites for recreation residence use and the proposed use.
- (4) Compare the advantages and disadvantages of the proposed use with the advantages and disadvantages of continued recreation residence use, including economic considerations, such as the cost of removing the recreation residences.
- (5) Examine the feasibility of using land exchanges to accommodate recreation residence use or the proposed use.

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- b. Other Resource Impacts. Evaluate whether recreation residence use is compatible or in conflict with other National Forest System resources. Consider the applicability of Section 106 of the National Historic Preservation Act and other Federal and state laws that may affect these resources.
- c. Environmental Impacts. Compare the environmental impacts of continued recreation residence use and any improvements necessary for continued recreation residence use with the environmental impacts of the proposed use. Examine the environmental, economic, and social impacts of continued recreation residence use, the proposed use, and alternative public uses, particularly any necessary construction.
4. Decision Documentation.
- a. If the environmental analysis results in a finding that continued recreation residence use will not conflict with the proposed alternative public use, issue a decision to amend the applicable land management plan, and modify recreation residence permits as appropriate. Issue new recreation residence permits upon expiration of affected permits. The decision document must summarize the conclusions regarding recreation residence use and provide a basis for issuance of new recreation residence permits.
- b. If the environmental analysis results in a finding that (1) the recreation residence use is inconsistent with the plan but that continued use does not conflict with the proposed alternative public use or (2) that the proposed use can accommodate some or all of the recreation residence use, issue a decision to amend the plan, and modify existing recreation residence permits as appropriate. Issue new recreation residence permits upon expiration of affected permits. The decision document must summarize the conclusions regarding continued recreation residence use and delineate, as appropriate, the recreation residence uses that will not be continued and those that will.
- c. If the environmental analysis results in a finding that recreation residence use is inconsistent with the plan and that continued recreation residence use conflicts with the proposed alternative public use or that the proposed use cannot accommodate any of the recreation residence use, issue a decision that the recreation residences be removed and that the lots be converted to the proposed use.
- d. In addition to other requirements specified in FSH 1909.15, the decision document must include the following:
- (1) The estimated time of conversion.
- (2) The reasons the recreation residence use is or is not compatible with the proposed use.

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- (3) The reasons why the proposed use was chosen over others.
 - (4) A summary of alternatives to the conversion, including the possibility of combining or sharing use with recreation residence use; adjusting lots or locations of improvements to better accommodate common or shared uses; and alternatives suggested by affected holders, other interested parties, and the public.
 - (5) The reasons any conflicts between the recreation residence use and the proposed use cannot be resolved.
 - (6) The cost-effectiveness of conversion to the proposed use.
5. Decision Notification.
- a. As soon as practicable, notify holders and any interested parties of the decision and provide them with copies of the environmental analysis and documentation and any plan amendment, along with notice of appeal rights under 36 CFR part 215 or 251, subpart C.
 - b. When lots will be converted to the proposed use and new permits will not be issued upon expiration of existing permits, provide the following additional notice:
 - (1) Of the alternative public use to which the lot is being converted;
 - (2) Of the period of continued use (10 years, unless the use conflicts with applicable law), from the date of the decision (FSM 2721.23a). Generally, use the same conversion date for all affected holders in a particular tract or group of tracts.
 - (3) That the holder should refrain from making costly repairs, improvements, or expenditures except those that are necessary to protect holder and public health or safety.
 - (4) Of whether an in-lieu lot will be made available, although the location of the in-lieu lot may not be known until permit expiration approaches.
 - (5) That cabin user fees will be adjusted in accordance with FSH 2709.11, section 33.2.
6. Review of Decisions. Two years prior to permit expiration (usually the 18th year of the permit term), forest supervisors shall review decisions that are more than 5 years old that affect recreation residence permits to determine if there have been any changes in resource conditions that require reconsideration of the decisions.

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- a. Review of these decisions shall be objective, comprehensive, and in writing. New information, changed resource conditions, and new or changed land allocations made through the planning process shall be reviewed to determine if additional environmental analysis is needed.
- b. When initiating the review, notify affected holders and interested parties in writing and provide opportunity for public involvement in accordance with Forest Service procedures.
- c. If the review indicates that conditions have not changed, implement the decision.
- d. If the review indicates that conditions have changed, initiate a new environmental analysis to determine future use of the lots.
- e. Notify affected holders and interested parties in writing of review findings, including notice that the result of the review is not appealable (36 CFR 251.83(o)).

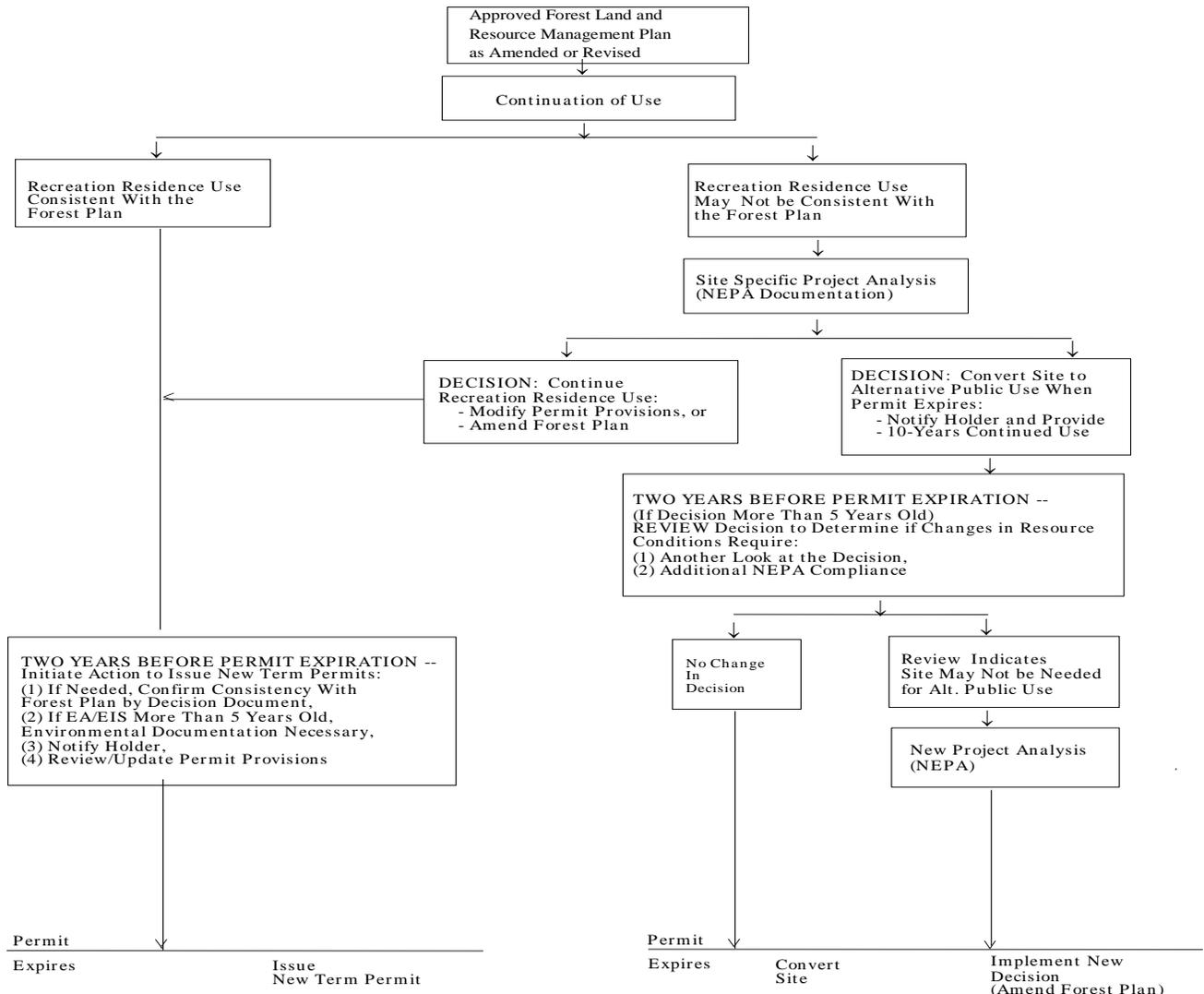
41.23c - Determining Whether Recreation Residence Use Should Be Continued

Exhibit 01 displays the procedure to be followed in determining whether recreation residence use should be continued.

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41.23c - Exhibit 01

Determining Whether Recreation Residence Use Should Be Continued



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41.23d - In-Lieu Lots

An in-lieu lot may be offered to holders who have received notice that their recreation residence permit is being revoked for specific and compelling reasons in the public interest or that a new permit will not be issued following expiration of their permit because their lot is needed for an alternative public use. Do not offer an in-lieu lot to holders whose permits are revoked for noncompliance, for failure to exercise the rights and privileges authorized, or with the consent of the holder. Offer in-lieu lots in accordance with FSM 2347.1, paragraph 6, and 2721.23f, and the following procedures:

1. When available, offer an in-lieu lot to holders at the time that notice is given that their permit is being revoked for specific and compelling reasons in the public interest or that their lot will be converted to an alternative public use and that a new permit will not be issued. If an in-lieu lot is not available at that time, offer one when it becomes available.
2. If feasible, offer an in-lieu lot located in the same tract as the existing lot, or in an expansion of that tract.
3. Arrange an inspection of the in-lieu lot with the holder. Allow the holder 90 days from the date of the inspection or 90 days from the final disposition of all appeals of the decision to convert the lot to an alternative public use, whichever is later, to accept or reject the in-lieu lot. Access to the lot must be provided during the 90-day period.
4. When a holder accepts an in-lieu lot, issue a new recreation residence permit for and reserve the lot. Do not charge a cabin user fee for the lot until the holder begins construction of improvements on the lot. A partial waiver of cabin user fees for the in-lieu lot may be appropriate until the improvements are usable. The lot reservation will expire upon the holder's failure to begin construction on the in-lieu lot on a mutually-agreed-upon schedule.
5. Allow holders who have accepted an in-lieu lot to continue to use their current lot until their permit expires or is revoked with the consent of the holder once the improvements on the in-lieu lot are usable. Inform the holders that they should be prepared to move to the in-lieu lot during the 24 months prior to permit expiration, provided that any required review of the decision to convert the current lot to an alternative public use has been completed (FSH 2709.11, sec. 41.23b, para. 6). Discuss revocation of the permit with the consent of the holder once the improvements on the in-lieu lot are usable.
6. When a holder who has accepted an in-lieu lot sells the recreation residence on the holder's current lot, extend the lot reservation for the in-lieu lot to the new owner, if eligible.

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41.3 - Lodging [Reserved]

41.31 - Private Lodging [Reserved]

41.32 - Hotel, Motel [Reserved]

41.33 - Resort [Reserved]

41.34 - Recreation Lodging Use of Government-owned Building [Reserved]

41.4 - Facility-Related Activities [Reserved]

41.41 - Campground and Picnic Ground [Reserved]

41.42 - Cave, Cavern

41.43 - Golf Course

41.44 - Park, Playground

41.45 - Racetrack

41.46 - Target Ranges

1. Sections 41.46 through 41.46j provide direction on proposed and authorized target ranges, including pistol, rifle, shotgun, trap, skeet, sporting clay, and archery ranges, on National Forest System lands. For further direction, see FSM 2335.4, 2340.3, 2343.9, and 2721.46.
2. If the proposal involves a military range, consult with the Office of the General Counsel (OGC), including OGC's Pollution Control Team, before issuing the authorization to ensure that issues associated with Department of Defense rules and policies regarding the cleanup of ranges, including future land use issues, are adequately addressed in the proposed permit language.

41.46a - Authority

Processing of proposals and applications for target ranges and issuance, administration, and monitoring of special use permits for target ranges on National Forest System lands are subject to the Forest Service special use regulations at 36 CFR part 251, subpart B, and related agency direction in FSM 2330, 2340, 2700, and 2720, FSH 1909.15, and other chapters of this handbook.

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41.46b - Policy

Allow target ranges on National Forest System lands where they would be consistent with the standards and guidelines in the applicable land management plan and would enhance forest management by improving public safety, providing recreational opportunities, providing firearms or archery safety and hunter educational training for the community, or consolidating dispersed target shooting. When state and local governments submit proposals for target ranges, consider a land exchange to enhance long-term management of the activity (see also FSM 2335.4, 2340.3, 2343.9, 2721.46).

41.46c - Scope

Sections 41.46 through 41.46j apply to proposals, applications, and authorizations for:

1. A new target range;
2. An existing target range when the permit is terminating and the holder wants a new permit; and
3. An existing target range when the permit is to be amended to address a change in the authorized use or improvements.

41.46d - Application Requirements

1. A proposal that meets the second-level screening criteria (36 CFR 251.54) and is accepted as an application is subject to the agency's National Environmental Policy Act (NEPA) procedures (FSH 1909.15).
2. Once a proposal is accepted as an application, require the applicant to submit a safety plan (SP) and (unless the application is for an archery range) an environmental stewardship plan (ESP), provided that if the application involves selection of a site, an ESP and SP do not have to be submitted until a site is selected.

41.46e - References

Consult the following references for guidance in reviewing the design and operation of target ranges and in reviewing environmental stewardship plans (ESPs) and safety plans (SPs) for target ranges. In addition, advise target range applicants and holders to consult the following references for guidance in designing and operating target ranges and in developing ESPs and SPs required for target ranges. Copies of the following documents are available for inspection at each Forest Supervisor's Office that administers permits for target ranges.

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1. Interstate Technology and Regulatory Council. *Environmental Management at Operating Outdoor Small Arms Firing Ranges (SMART-2)*. 2005. 125 p. Available online at <http://www.itrcweb.org>.
2. U.S. Environmental Protection Agency, Region 2. *Best Management Practices for Lead at Outdoor Shooting Ranges*. EPA-902-B-01-001. June 2005 or Latest Edition. 82 p. Available on the internet at www.epa.gov/region2/
3. "Do You Use Best Management Practices for Lead at Your Outdoor Shooting Range?" EPA-902-F-00-001, Fact Sheet. Available online at www.epa.gov/region2/
4. National Rifle Association of America. *Range Technical Team Program*. Fairfax, VA.
5. National Rifle Association of America. *NRA Range Source Book*. Fairfax, VA. 1999 or latest edition. 525 p. Available on the internet at www.nrahq.org/shootingrange/
6. National Shooting Sports Foundation. *Environmental Aspects of Construction and Management of Outdoor Shooting Ranges*. Newtown, CT. 1997. 139 p. Available online at www.rangeinfo.org
7. National Shooting Sports Foundation. *Environmental Stewardship Plan Development Program*. Newtown, CT. 2005. CD-ROM.
8. International Association of Fish and Wildlife Agencies, Wildlife Management Institute, and U.S. Fish and Wildlife Service, U.S. Department of the Interior (sponsors). *Proceedings of the Third National Shooting Range Symposium* or latest edition. Wildlife Management Institute, Washington, D.C. 1996. 509 p.
9. Sporting Arms and Ammunition Manufacturers Institute. *Lead Mobility at Shooting Ranges*. Newtown, CT. 1995. 118 p.
10. U.S. Department of the Army. *Military Handbook - Range Facilities and Miscellaneous Training Facilities Other Than Buildings*. 1992. 130 p. (applicable to military ranges only).

The following references provide information on archery ranges:

11. Davison, Paul H. *NFAA and IFAA Archery and Bowhunter Range Guidelines*. 2000. 21 p. Available online at www.texasarchery.org
12. Federation Internationale de Tir a l'Arc. *FITA Constitution and Rules Book 2: Outdoor Target Archery*. 2004. See pp. 1 and 37. Available online at www.archery.org.

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41.46f - Siting Decisions

When establishing a new site for or adding facilities to a target range, consult reference materials related to siting decisions early, preferably during the screening process, to determine whether the areas proposed are suitable. Consult chapter 3, section 3.5, of the National Shooting Sports Foundation's *Environmental Aspects of Construction and Management of Outdoor Shooting Ranges* (listed in sec. 41.46e), which provides information on range siting and orientation and includes a site checklist, a summary of ecological criteria for range siting, and recommendations about the type of sites to avoid when locating target ranges. Also consult the U.S. Environmental Protection Agency (EPA)'s *Best Management Practices (BMP) Manual* and section 1, chapter 3, article 2, of the *NRA Range Source Book* (listed in sec. 41.46e) for further information about making siting decisions.

41.46g - Environmental Stewardship

1. Baseline Site Condition Assessment. A site condition assessment must be completed to establish a baseline condition prior to issuance of a special use permit for a target range other than for archery (see EM-2160-2, *Forest Service Guide to Land Transactions*, pp. 25-29 and worksheet 5, for guidance in conducting a site inspection). It may be advisable to conduct the inspection earlier in the process to identify any factors that might result in reconsideration of the site by the proponent.
2. Environmental Stewardship Plan (ESP). Except as provided in section 41.46d, authorized officers shall advise all proponents that they must submit an ESP before their application can be processed for target ranges (other than archery ranges), including a new target range, a new authorization for an existing target range, and modification of an authorization for an existing target range. A Forest Service regional environmental engineer shall review the ESP prior to acceptance by the agency. Alternatively, the applicant may submit an EPA certificate of recognition indicating that the proposed ESP is consistent with EPA's *Best Management Practices for Lead at Outdoor Shooting Ranges*, and either certify that there are no changes or identify any changes made in response to EPA's review. Information about obtaining the certificate of recognition is available by calling (212) 637-4133 or online at www.epa.gov/region2/waste/. When the Forest Service reviews an ESP, the following provisions shall apply:
 - a. Recommend that the proponent read chapter 6 of the National Shooting Sports Foundation's publication, *Environmental Aspects of Construction and Management of Outdoor Shooting Ranges* (listed in sec. 41.46e), which provides information on development and implementation of an ESP. In addition, recommend that the proponent follow the format on pages 6-11 of that publication in developing an ESP. Appendix C of the document has sample ESPs for shotgun, rifle, and pistol ranges that may be helpful in developing site-specific plans.

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b. Instruct the proponent to utilize and follow *Best Management Practices for Lead at Outdoor Shooting Ranges* (listed in sec. 41.46e), and to include all of the following in the ESP:

- (1) Discussion of the physical characteristics of the proposed range, including range size, soil pH, existence of wetlands, evidence of and potential for erosion in the area of proposed lead deposition and other site specific factors that will affect design.
- (2) Operational characteristics, including expected use of the range, volume of lead accumulation, size of bullets to be used, shooting directions and patterns, and life expectancy of the range.
- (3) Design features and siting decisions aimed at preventing or minimizing the release of hazardous substances, pollutants, or contaminants into the environment.
- (4) Planned bullet and shot containment techniques.
- (5) Design or operating procedures to keep lead in the planned area of deposition and in its metallic form.
- (6) Planned, periodic recovery, reclamation, and recycling of spent ammunition and other substances, including availability of resources and cost to implement the proposal.
- (7) Noise control measures, such as siting, vegetative management, and engineering technology, and, where applicable, provisions for compliance with State and local law regarding noise control.

Ensure that the applicant corrects any deficiencies in the ESP identified by the Forest Service or EPA. Utilize *Environmental Aspects of Construction and Management of Outdoor Shooting Ranges* and the EPA's *Best Management Practices for Lead at Outdoor Shooting Ranges* (listed in sec. 41.46e) as guides. Ensure that the applicant attests in the ESP that the applicant will maintain or improve the condition of the site as identified in the baseline site condition assessment.

3. Operating Plan. Ensure that the operating plan for a target range contains the following:

- a. Litter control measures.
- b. A requirement for periodic monitoring by the Forest Service to ensure effectiveness of the ESP. The monitoring shall be reviewed by a Forest Service regional environmental engineer or by a contractor with comparable experience. Base the frequency and scope of the monitoring on site-specific conditions, but at a

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minimum, monitoring shall be conducted every 5 years. Include monitoring of soil at the site and monitoring of any surface water at the site. Monitoring is subject to cost recovery as provided by 36 CFR 251.58(d)(1) through (d)(4) and (g)(4). Consult the applicable land management plan or project implementation decision, associated NEPA documentation, and *Environmental Management at Operating Outdoor Small Arms Firing Ranges (SMART-2)* (listed in sec. 41.46e) in determining the frequency and scope of monitoring appropriate for the type of range and site conditions. The monitoring shall take place prior to termination or reissuance of the permit so as to inform the end-of-term site condition assessment (sec. 41.46g, para. 4).

c. A requirement for preparation of a monitoring report by the Forest Service.

d. A statement signed by the holder's authorized agent attesting to compliance with the monitoring requirements in sec. 41.46g, paragraph 3b. At a minimum, this statement must include the following:

Pursuant to Forest Service Handbook 2709.11, section 41.46g, paragraph 3, and the special use permit for [name] Target Range, the Forest Service has monitored the permit area to determine the compliance of [name] Target Range with all applicable environmental laws and with generally accepted standards of environmental stewardship, including but not limited to the U.S. Environmental Protection Agency's *Best Management Practices for Lead at Outdoor Shooting Ranges* and the standards in the National Shooting Sports Foundation's *Environmental Aspects of Construction and Management of Outdoor Shooting Ranges* and has prepared a monitoring report. We have received the results of that report and have made and documented corrections of all deficiencies noted by the monitor. [Name] Target Range is ready for public use as of [date].

e. A provision stating that the Forest Service reserves the right to approve the selection of the monitor. The Forest Service shall notify the holder of the reasons for rejecting a monitor.

4. End-of-Term Site Condition Assessment.

a. The special use permit shall contain a provision that requires an on-site inspection by the authorized officer, the regional environmental engineer, and the holder at least 180 days prior to termination. The inspection is considered routine administration and consists of a site walk-through and evaluation of results from monitoring to identify site conditions that must be addressed either in a final restoration and response plan (if the use will not be reauthorized) or prior to issuance of a new permit. Compare the condition of the site at the end of the permit term to the baseline condition to determine appropriate restoration and response measures that are the responsibility of the holder.

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b. The response plan should provide for investigation, engineering evaluation, cost analysis, an action plan, and removal and remedial action. The response plan shall include measures to prevent release into the environment of hazardous substances, pollutants, or contaminants following expiration of the authorization. If the use will not be reauthorized, the response plan shall provide for restoration of the site upon termination of the permit.

41.46h - Safety Measures

1. Safety Plan (SP).

a. Except as provided in section 41.46d, authorized officers shall advise all proponents for target ranges that they must submit an SP before their application can be processed. The SP must address safety in the context of design and operation of the proposed target range. The SP must identify design and operational specifications, such as range rules, the number of safety officers, and projectile containment within the intended area. In establishing the permit area for a target range, utilize natural features, such as hills or high rocks, to enclose the site.

b. Require the applicant to have an on-site review of the proposed design conducted by a disinterested range technical advisor. Additionally, require documentation of the on-site review that identifies any deficiencies. Before authorizing commencement of operations, require that the deficiencies be corrected and that the disinterested range technical advisor attest that the design and proposed operation of the target range meet generally accepted guidelines of safety, including the guidelines in the National Rifle Association's *The Range Source Book*, and is ready for public use.

2. Operating Plan. The operating plan for a target range shall include provisions governing safety evaluations, including:

a. A provision requiring that a safety evaluation of the target range be conducted at the holder's expense at least every 5 years by a disinterested range technical adviser to verify that design and maintenance work as planned. This provision also must require that the range technical adviser prepare an evaluation report and submit it to the authorized officer. The Forest Service reserves the right to approve the selection of the range technical adviser. However, the agency shall provide a rationale for its rejection.

b. A provision requiring that after each safety evaluation of the target range, the holder submit a statement, signed by an authorized agent of the holder, of compliance with the safety evaluation requirements in section 41.46h, paragraph 2a. At a minimum, this statement shall include the following:

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Pursuant to Forest Service Handbook 2709.11, section 41.46h, paragraph 2a, and the special use permit for [name] Target Range, we have had an evaluation to determine the compliance of [name] Target Range with generally accepted standards of safety, including the guidance in the National Rifle Association's *NRA Range Source Book*. We have received the results of that evaluation and have made and documented corrections of all deficiencies noted by the range technical adviser. [Name] Target Range is ready for public use as of [date].

- c. A provision requiring that an annual self-evaluation of operations be conducted by a safety officer with the requisite education or training and experience. This provision also must require that the safety officer prepare an evaluation report and submit it to the authorized officer.
- d. A provision requiring the holder to report to the authorized officer all accidents at the target range caused by discharge of a firearm or release of an arrow that result in property damage, personal injury, or death as soon as reasonably possible, but no later than 24 hours after the accident occurs. This provision also must require the holder to complete a written report of the accident and submit it to the authorized officer.

41.46i - Administration

1. Authorized officers shall follow procedures found in FSM 2716 for administering target range authorizations.
2. The authorized officer shall make every effort to resolve any noncompliance with the terms and conditions of a target range permit with respect to hazardous materials. Pursuant to FSM 2160.41, prior to any revocation, non-emergency suspension, or non-emergency hazardous substance cleanup activities that may result in Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) authority being invoked, the authorized officer shall consult with the Directors of Recreation and Heritage Resources and Engineering in the Washington Office and the Office of the General Counsel (OGC) Pollution Control Team through the Washington Office for concurrence that remedial management options have been explored.
3. Encourage holders of target range permits to develop an Environmental Stewardship Plans (ESP) and submit it to the Forest Service for review (or submit an EPA certificate of recognition) prior to expiration of their permit (see sec. 41.46g) if reauthorization of the use is sought.

41.46j - Agreements Pertaining to Specific Target Ranges

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Forest Service units may enter into agreements with other entities, including state or local governments or private organizations, related to specific target ranges to address technical assistance, siting, design, safety, administrative oversight, financing, maintenance, operations, and other issues concerning target ranges (FSM 1580; FSH 1509.11). These agreements should be reviewed by OGC, including OGC's Pollution Control Team, before they are executed.

41.47 - Trailer Court or Camp [Reserved]

41.48 - Tramway [Reserved]

41.49 - Recreation Event [Reserved]

41.5 - Services

41.51 - Bathhouse, Beach [Reserved]

41.52 - Marina

41.53 - Outfitting and Guiding

For related authorities, policies, responsibilities, and definitions, see 36 CFR 251.50 and FSM 2320, 2340, and 2701 through 2705. Direction on fees for outfitting and guiding is in section 37 of this handbook.

Administer permits for outfitting and guiding conducted on National Forest System lands in accordance with sections 41.53a through 41.53r. Outfitting and guiding include but are not limited to packing, hunts, education, float trips, canoe or horse liveries, shuttle services, ski touring, helicopter skiing, jeep tours, boat tours, and fishing trips and may be conducted by, among others, educational, rehabilitation, and interpretive ventures and outdoor institutional organizations, including both for-profit and non-profit entities.

41.53a - Authorities

1. Federal Lands Recreation Enhancement Act (16 U.S.C. 6802(h)), which authorizes issuance of special recreation permits.
2. Term Permit Act of 1915 (16 U.S.C. 497), which authorizes term permits for structures or facilities on NFS lands.

41.53b - Objectives

1. Provide for outfitting and guiding services that address concerns of public health and safety and that foster successful small businesses consistent with the applicable land management plan.

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2. Facilitate greater participation in the outfitting and guiding program by organizations and businesses that work with youth and educational groups.
3. Encourage skilled and experienced individuals and entities to conduct outfitting and guiding activities in a manner that protects environmental resources and ensures that national forest visitors receive high-quality services.

41.53c - Policy

For related direction, see FSM 2340.3 and 2703.

1. Authorize only those outfitting and guiding activities that are consistent with the applicable land management plan and that meet the screening criteria in 36 CFR 251.54(e) and FSH 2709.11, chapter 10.
2. Do not authorize any development or permanent improvements in non-wilderness in the National Forest System for outfitting and guiding services, except when there is a demonstrated public need and the structures, improvements, or installations have negligible value and minimal impact on national forest resources, as with hitching posts, corrals, tent frames, permitted access routes, and shelters.
3. Do not authorize any development, improvements, or installations in wilderness areas for the purpose of convenience to the holder or the holder's clients. Do not authorize any caches in wilderness areas. Do not authorize permanent structures, improvements, or installations in wilderness areas unless they are necessary to meet minimum requirements for administration of the area for the purposes of the Wilderness Act (16 U.S.C. 1133c).
4. Work with other Federal agencies, State and local authorities, outfitters and guides, outfitting and guiding organizations, and other interested parties to ensure that outfitting and guiding activities are consistent with applicable laws and regulations and to identify unauthorized outfitting and guiding activities. Follow procedures in FSM 5300 in investigating and preventing the occurrence of unauthorized outfitting and guiding activities.
5. Do not issue a separate permit for outfitting or guiding activities (such as cross-country skiing or horseback riding) to a holder of a permit or term permit for a commercial public service site (such as a pack station or resort) when the outfitting or guiding activities are part of commercial public service site operations and the commercial public service site would not exist without the outfitting and guiding activities. Include the outfitting and guiding activities in a supplement to the term special use permit.

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6. Do not authorize use when an applicant owns no tangible assets, lacks the prerequisites to conduct outfitting and guiding (such as a state license, liability insurance, and equipment), and would serve only as an intermediary for others providing those services on National Forest System lands.
7. Take into account applicable provisions of the Alaska National Interest Lands Conservation Act, 16 U.S.C. 3101-3126, in issuing and administering outfitting and guiding permits in the Alaska Region.

41.53d - Definitions

See FSH 2709.11, section 37.05, for definitions relating to land use fees for outfitting and guiding.

Allocation of Use. An amount of use allocated to a holder that is measured in service days or quotas and that is enumerated in a programmatic or project decision that is consistent with the applicable land management plan.

Ancillary Service. A service that supports use authorized by an outfitting and guiding permits and that is provided by a party other than the holder or the holder's employees or agent.

Assigned Site. A location that is authorized for use and occupancy by an outfitting and guiding permit and for which a fee is paid.

Commercial Use or Activity. Any use or activity on National Forest System lands (a) where an entry or participation fee is charged or (b) where the primary purpose is the sale of a good or service and, in either case, regardless of whether the use or activity is intended to produce a profit (36 CFR 251.51).

Concessionaire. An individual, organization, company, corporation, or cooperating State or local agency holding a valid special use permit authorizing the provision of commercial recreation services, facilities, or activities on National Forest System lands.

Controlling Interest. In the case of a corporation, an interest, beneficial or otherwise, of sufficient outstanding voting securities or capital of the business so as to permit the exercise of managerial authority over the actions and operations of the corporation or election of a majority of the board of directors of the corporation. In the case of a partnership, limited partnership, joint venture, or individual entrepreneurship, a beneficial

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ownership of or interest in the entity or its capital so as to permit the exercise of managerial authority over the actions and operations of the entity. In other circumstances, any arrangement under which a third party has the ability to exercise management authority over the actions or operations of the business.

Guiding. Providing services or assistance (such as supervision, protection, education, training, packing, touring, subsistence, transporting people, or interpretation) for pecuniary remuneration or other gain to individuals or groups on National Forest System lands. The term "guide" includes the holder's employees and agents.

Holder. An individual or entity that holds a special use permit authorizing outfitting or guiding activities on National Forest System lands.

Needs Assessment. An assessment of public or agency need for authorized outfitting or guiding activities.

Open Season. A period specified by the authorized officer during which eligible applicants may apply for service days from a temporary or priority use pool.

Outfitting. Renting on or delivering to National Forest System lands for pecuniary remuneration or other gain any saddle or pack animal, vehicle, boat, camping gear, or similar supplies or equipment. The term "outfitter" includes the holder's employees and agents.

Permitted Access Route. Any road or trail that a holder is authorized to use under an outfitting and guiding permit or operating plan for purposes of pedestrian, stock, or vehicular access.

Priority Use. Authorization of use for up to 10 years, based on the holder's past use and performance and applicable programmatic or project decisions to allocate use. Except as provided in 36 CFR Part 251, Subpart E, authorizations providing for priority use are subject to renewal (FSH 2709.11, sec. 41.531).

Priority Use Pool. A pool of service days or quotas in a use area that may be:

- (a) Distributed seasonally to priority use permit holders in that use area and returned to the pool for redistribution during the next open season; or
- (b) Distributed for the term of a permit to increase use allocated under priority use permits or to establish use for new priority use permits.

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Quota. An allocation of use that is measured as the number of stock per trip, people at one time, trips per hour or per day, the number of launches per day, or other unit of measure other than a service day; that is consistent with applicable land management plan guidance, and that is established in a programmatic or project decision.

Renewal. The issuance of a new priority use permit for the same use to the same holder upon expiration of the holder's current priority use permit.

Resource Capacity. Amount of overall use an area can sustain without detrimental social or physical resource impacts.

Service Day. An allocation of use constituting a day or any part of a day on National Forest System lands for which an outfitter or guide provides services to a client. The total number of service days is calculated by multiplying each service day by the number of clients on the trip.

Temporary Use. Short-term, non-renewable outfitting and guiding use that is authorized in increments of 50 service days, up to a maximum of 200 service days in a 180-day period.

Temporary Use Pool. A pool of service days or quotas in a use area that are reserved for short-term, non-recurring, seasonal distribution during an open season to qualified applicants who do not hold a priority use permit in that use area, and thereafter may be distributed to all qualified applicants on a first-come, first-served basis.

Transitional Priority Use. Interim re-designation of temporary use as classified under the Forest Service's June 12, 1995, outfitting and guiding policy (60 FR 30830), for holders who meet all the requirements in section 41.53p.

Transportation Livestock. Pack and saddle animals authorized in connection with an outfitting and guiding permit and expressed in animal months and by class of animal (see FSM 2234.11).

Use Area. Any geographical configuration, such as a Ranger District, wilderness area, Wild and Scenic River, or National Forest, that allows for efficient management of temporary and priority use pools.

41.53e - Needs Assessment, Resource Capacity Analysis, and Allocation of Use

Allocate outfitting and guiding use in a project decision pursuant to 36 CFR Part 215 or in a programmatic decision pursuant to a wilderness plan, wild and scenic river plan, or plan for another type of congressionally designated area. Follow the direction in section 41.53e,

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paragraphs 1, 2, and 3, as applicable. These procedures also may be used to allocate outfitting and guiding use when competitive interest exists for the same resources or type of use or when considering significant changes to current use or demand. Allocate use in service days or quotas for both temporary and priority use (sec. 41.53j and 41.53m).

1. Conduct a needs assessment to determine the public or agency need for authorized outfitting and guiding activities. A needs assessment may be conducted as part of public scoping during a NEPA analysis. Consider accessibility, size of the area, difficulty of the terrain, current levels of outfitting and guiding, and demographics of visitors to the area.
 - a. When conducting a needs assessment for outfitting and guiding activities in a wilderness area, assess whether these activities are necessary for realizing the recreational or other wilderness purposes of the area and the extent to which the activities may be authorized consistent with maintaining the wilderness character of the area.
 - b. Review previous needs assessments when reauthorizing use to ensure that they remain relevant to current and projected use trends, and update them if necessary.
2. When monitoring demonstrates that impacts associated with use may exceed desired conditions, conduct a resource capacity analysis to assess the amount of use and types of activities that may be conducted without detrimental environmental and associated impacts. The resource capacity analysis may be conducted at a programmatic level or at a project level to address specific activities or geographical areas. In analyzing resource capacity, consider:
 - a. The applicable land management plan and other applicable programmatic and project decisions.
 - b. Inventoried conditions.
 - c. Current visitor use and visitor use trends (amount, type, length of stay, and group size).
 - d. Correlation of visitor use to plan guidance and inventoried conditions.
 - e. The results of management actions, such as vegetation treatments, watershed rehabilitation, and findings from monitoring.
3. Determine the allocation of use between outfitted and guided and non-outfitted and guided visitors. Further determine the allocation of outfitting and guiding use between priority and temporary use. Distribute the allocation for temporary use pursuant to section 41.53k, paragraph 2d. In allocating between priority and temporary use, consider:

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- a. Visitor needs for outfitting and guiding services, based on visitor preference surveys, use records, and trends.
- b. Type, location, and amount of outfitting and guiding services that would help meet agency objectives.
- c. Current levels of outfitting and guiding use and projected growth.

41.53f - When Permits Are Required

1. Individuals or entities conducting outfitting or guiding activities on National Forest System lands must be authorized under a special use permit, either form, Temporary Special Use Permit for Outfitting and Guiding for temporary use, form FS-2700-4i for priority use, or a supplement to form FS-2700-5 or FS-2700-5c when outfitting and guiding are authorized in connection with a commercial public service site.
2. Outfitters based off National Forest System lands who rent and deliver equipment or livestock to the public on National Forest System lands must obtain a permit if they, their employees, or agents occupy or use National Forest System lands or related waters in connection with their rental programs.
 - a. 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.
 - b. No permit is necessary if an operator's customers transport rented equipment to and from National Forest System lands or if services are provided to Forest Service employees, Forest Service contractors, or other federal officials in the course of their official duties.

41.53g - Issuance of New Outfitting and Guiding Permits

1. Generally, authorize outfitting and guiding under the Federal Lands Recreation Enhancement Act (16 U.S.C. 6802(h)). Authorize outfitting and guiding under the Term Permit Act of 1915 (16 U.S.C. 497) when the outfitting or guiding activities are part of commercial public service site operations and the commercial public service site would not exist without the outfitting and guiding activities.
2. New outfitting and guiding permits may be issued when one or more of the following occurs:
 - a. An allocation of use is increased, a resource capacity analysis demonstrates that capacity exists, or a needs assessment supports a public need.
 - b. A permit is revoked or terminates and a new permit is not issued to the holder.

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- c. Service days or quotas allocated to a holder are reduced.
 - d. Competitive interest in an area or activity arises where no outfitting and guiding permits have been issued for that area or activity and where the proposed use is consistent with the applicable programmatic or project decision.
 - e. An application has been submitted to provide outfitting and guiding services for an area or activity that has not previously been authorized and for which there is no competitive interest.
3. Determine whether there is competitive interest in the opportunities described in paragraphs 2a through 2c. For opportunities in which competitive interest exists, including the opportunity described in paragraph 2d, solicit applications through issuance of a prospectus (FSM 2712.2).
- Notwithstanding FSM 2712.2, paragraph 3, when evaluating applications submitted in response to a prospectus, consider the applicants' experience, knowledge of the area to be authorized, financial capability, performance record as an outfitter or guide, and other pertinent factors. Use form FS-2700-4i or a supplement to form FS-2700-5 or FS-2700-5c, as applicable, when issuing outfitting and guiding permits through a competitive process.
4. For opportunities described in paragraphs 2a through 2c in which no competitive interest exists and for an application meeting the criteria in paragraph 2e, document the determination of no competitive interest, and issue a permit if the applicant meets applicable requirements (36 CFR 251.54; FSM 2712).

41.53h - Applications for Outfitting and Guiding Permits

1. Proposals and applications to use and occupy National Forest System lands for outfitting and guiding shall be evaluated pursuant to 36 CFR 251.54 and FSM 2712.
2. Encourage proponents and applicants to submit proposals and applications using form SF-299 for priority use permits or form, Temporary Special Use Permit for Outfitting and Guiding for temporary use permits (FSH 2709.11, sec. 11.3). Require proponents and applicants to identify the services to be performed, proposed number of service days or quotas, National Forest System lands to be occupied, modes of transportation to be used, proposed season of use and itinerary, and other matters relating to the proponents' and applicants' operations in sufficient detail for the authorized officer to make a decision on the request in accordance with regulatory requirements. Require proponents and applicants to describe their technical and financial qualifications to provide the proposed services.

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3. Conduct environmental analysis for outfitting and guiding applications in accordance with 36 CFR Part 220.

41.53i - Requirements for Temporary and Priority Use Permits

1. Record the following on temporary and priority use permits:
 - a. The type of authorized service or activity (such as big game hunting, white water rafting, or fishing trips).
 - b. The resource area (such as a wilderness area, a river, or an administrative unit) in which the activity is to be conducted.
 - c. The allocation of use in terms of service days or quotas, including the unit of measure for the quotas.
 - d. The modes of transportation to be used and other factors necessary to reflect the nature and scope of the activity.
2. Require an approved operating plan for the term of the permit and, if appropriate, an annual itinerary. Specify authorized use of assigned sites in the operating plan and annual itinerary.
3. Specify in the permit the amount of livestock to be used for transportation of people and equipment, and specify if grazing is permitted. Do not issue a separate livestock use permit. Include a clause that requires the holder to record and report the amount of authorized grazing that occurs.
4. Require holders to submit a report of actual use within 30 days of the close of their operating season.
5. Require the holder or the holder's employees to conduct the day-to-day activities authorized by the permit, except as provided in paragraphs 5a through 5c. To ensure that services and equipment contracted under paragraphs 5a through 5c are covered by the contracting holder's insurance policy, require the insurance policy obtained by the holder to include an endorsement covering contracted services and equipment. Use the endorsement in FSM 2713.1, exhibit 02, for this purpose. Alternatively, require the holder's contractors to procure a separate insurance policy that covers their services and equipment and that names the United States as an additional insured.
 - a. Ancillary services that support the use authorized by the permit may be provided by a party other than the holder or the holder's employees, but (other than unanticipated, intermittent services authorized by paragraph 5c) only with prior written approval from the authorized officer.

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Require applicants and holders who would like to contract for ancillary services to submit the contract for these services with their application or at the beginning of each operating season, as appropriate. When the holder contracts for ancillary services, the holder is responsible for compliance with all terms and conditions of the permit in connection with provision of the ancillary services. Ensure that the ancillary services are covered under the holder's operating plan and that the contract for ancillary services states that the holder remains responsible for compliance with all the terms and conditions of the permit, including the operating plan.

Examples of ancillary services covered by this subparagraph include provision of:

- (1) Special equipment or livestock.
- (2) Food and shuttle services.
- (3) For a limited number of trips, a specialized guide for people with disabilities or for highly technical trips.

b. A holder authorized to provide solely outfitting services may contract with a guide, but only with the prior written approval of the authorized officer, based upon a finding that the following conditions are met:

- (1) The services of the contracted guide are covered under the contracting holder's operating plan.
- (2) The contracted guide has all required state licenses.
- (3) The contract for the guiding services states that the contracting holder remains responsible for compliance with all the terms and conditions of the permit, including the operating plan.
- (4) The contracting holder will exercise management authority over all the day-to-day field operations of the business, including the guiding services covered by the contract.

c. Require applicants and holders who would like to contract for guiding services to submit the contract for these services and additional documentation establishing that all the foregoing requirements are met. Require applicants and holders to submit this documentation with their application or at the beginning of each operating season, as appropriate. A holder contracting for guiding services is responsible for compliance with all the terms and conditions of the permit in connection with provision of those services.

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- d. When on a particular day a holder lacks sufficient equipment or guides to accommodate the holder's customers, allow the holder, without prior written approval from the authorized officer, to contract for additional equipment or guides from another holder. When a holder contracts for additional equipment or guides from another holder under this subparagraph, the contracting holder is responsible for compliance with all the terms and conditions of the permit in connection with provision of the contracted equipment and services.
6. Do not approve requests to transfer all or part of the authorized use to others. If a holder is unable or unwilling to provide the services authorized by the permit, revoke the permit or reduce the allocation of use. If appropriate, assign all or part of the holder's use to others in accordance with section 41.53k, paragraph 2, or section 41.53m, paragraph 4.

41.53j - Issuance of Temporary Use Permits

1. Authorize all temporary use on form Temporary Special Use Permit for Outfitting and Guiding, for 1 season or less. Allocate use in increments of 50 service days, up to a maximum of 200 service days or the equivalent in quotas for temporary use permits.
2. Only 1 temporary use permit may be issued per 180 days, per holder, per use area.
3. Do not issue temporary use permits through a competitive process. Rather, issue temporary use permits to qualified applicants on a first-come, first-served basis, based on a seasonal deadline, or through a lottery.
4. Issuance of a temporary use permit does not commit the Forest Service to authorize outfitting and guiding use in the future. Temporary use permits are not subject to renewal.
5. Add national or regional clauses to a temporary use permit as necessary to address site-specific circumstances.
6. Require holders to address public health and safety, emergency procedures, and resource protection in their operating plan.
7. Do not conduct performance evaluations for holders of temporary use permits.
8. Violations of law, customer complaints, and adverse outfitting and guiding performance ratings will be considered in evaluating applicants' technical qualifications.
9. Notwithstanding paragraph 1, during fiscal year 2009, authorized officers may continue to authorize temporary use in amounts greater than 200 service days or the equivalent in quotas to provide for establishment of temporary use pools.

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41.53k - Management of Temporary Use Pools

1. The authorized officer may establish and manage a temporary use pool, including development of application and operating procedures for the temporary use pool.
2. The authorized officer may establish 1 or more open seasons to facilitate administration and equitable distribution of service days from a temporary use pool, such as for distribution of service days through a lottery.
 - a. During an open season for a temporary use pool, qualified applicants, other than holders of a priority use permit in the use area, may apply for service days from the temporary use pool.
 - b. Once an open season for a temporary use pool ends, distribute any remaining service days on a first-come, first-served basis to all qualified applicants, including holders of a priority use permit in the use area, provided that if a priority use pool has been established for the same use area, applications for any remaining service days may be restricted to qualified applicants who do not hold a priority use permit.
 - c. Upon termination of a temporary use permit, return all service days or quotas allocated to the holder of that permit to the temporary use pool in that use area for redistribution during the next open season.
 - d. Allocate service days or quotas to a temporary use pool based on:
 - (1) A resource capacity analysis demonstrating that additional capacity exists;
 - (2) A determination that service days or quotas have been insufficiently used during the first 5 years of a priority use permit; or
 - (3) A determination that service days or quotas may be reallocated when a priority use permit is revoked or is not renewed.
 - e. The authorized officer may shift service days and quotas between temporary and priority use pools based on their utilization.

41.53l - Issuance of Priority Use Permits

1. Authorize priority use for up to 10 years. Generally, use form FS-2700-4i, Special Use Permit for Outfitting and Guiding, to authorize priority use. Do not authorize temporary use under a priority use permit.

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When outfitting or guiding activities are part of commercial public service site operations and the commercial public service site would not exist without the outfitting and guiding activities, use the supplement to form FS-2700-5, Term Permit, or form FS-2700-5c, Resort/Marina Term Permit, to authorize priority use.

When authorizing priority use outfitting and guiding with a term permit, the use may be authorized for the entire term of the permit, provided that the environmental analysis evaluated the use for that term and the decision based on that analysis approved that term. Do not authorize temporary use under a term permit.

2. When a proponent or applicant for a priority use permit has no previous record of providing outfitting and guiding services that are equivalent or similar to the services to be authorized under the permit, issue a priority use permit for 2 years, with an option to extend the term for up to 8 years.
3. If the holder of a 2-year priority use permit performs acceptably for the first 2 years, and if the holder's use is consistent with the applicable land management plan or project implementation decision, extend the permit for up to 8 years. If the holder receives an unacceptable performance rating at the end of the 2-year period, allow the permit to expire.
4. When a priority use permit terminates, except as provided in 36 CFR 251.124(b) or section 41.53l, paragraph 3, the permit is subject to renewal without competition, provided that the use authorized by the permit is consistent with the applicable land management plan, applicable laws and regulations, and the terms of the permit and the holder has performed satisfactorily as demonstrated by acceptable annual performance ratings. These determinations are at the sole discretion of the authorized officer and shall be made in accordance with 36 CFR 251.54 (proposal and application requirements and procedures); 36 CFR 251.58 (cost recovery); 36 CFR 251.64 (renewal); and FSH 2709.11, section 11.2, paragraph 2 (proposals involving existing uses).
5. In renewing a priority use permit, the authorized officer may prescribe new terms and conditions. Make any changes to use allocations in accordance with section 41.53m, paragraph 3.
6. When a priority use permit for activities other than sport hunting and fishing in a Conservation System Unit in Alaska expires, the permit shall not be reissued if there is a need to limit use and there is competitive interest by preferred operators in providing visitor services (16 U.S.C. 3197; 36 CFR 251.124(b)).
7. When notified by a holder that a change in ownership of or a controlling interest in the holder's business entity is being considered, inform the holder that:

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- a. A priority use permit is a privilege acquired by demonstrated acceptable performance and is not transferable, either upon the sale of the business entity or the sale of a controlling interest in the business entity;
 - b. The permit is not real property, does not convey any interest in real property, and may not be used as collateral;
 - c. Upon consummation of a change of ownership of or controlling interest in the business entity, the holder's permit terminates; and
 - d. 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.
8. Instruct the holder to submit form FS-2700-3a, Request for Termination of an Application for Special-Use Permit, for relinquishment of the permit.
9. Instruct the party who acquires ownership of or a controlling interest in the business entity to submit:
- a. An application for a permit on form SF-299 or the equivalent.
 - b. Documentation of the change in ownership, including properly executed documents showing a transfer of ownership of the equipment or other assets used by the business, and for businesses based on private land, properly executed documents showing a transfer of ownership of the real and personal property used by the business; or
 - c. Documentation of a change in a controlling interest, including properly executed documents showing a transfer of a controlling interest in the business entity.
10. If the change of ownership or control is not consummated and the original holder has relinquished the permit, the permit may be reissued to the original holder. Prior to reissuing the permit, require the original holder to submit documentation establishing ownership of or a controlling interest in the business entity.

41.53m - Allocation of Use for Priority Use Permits

1. When issuing a priority use permit, allocate use in accordance with the applicable land management plan, the applicable project implementation decision, or other appropriate analysis.
2. During the 5th year of a priority use permit, review actual use, and adjust the allocation of use to match the highest amount of actual use in 1 calendar year during that period.

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Provided however, to ensure that 5 years of use are available for review as a basis for making the allocation adjustment, the authorized officer may consider extraordinary circumstances that prevent a season of operation and adjust the review period to include a previous or an additional year of use. For example, when an administrative closure order prevents public access for the majority of an operating season, the authorized officer may review 5 years of use that excludes use during the year of the extraordinary circumstance.

- a. For holders with 1,000 service days or less or the equivalent in quotas, add an additional 25 percent of that amount and for holders with more than 1,000 service days or the equivalent in quotas, add an additional 15 percent of that amount in consideration of market fluctuations, availability of state hunting licenses, and natural phenomena that may have adversely affected the holder's ability to utilize the authorized use fully, provided that the combination of the highest amount of actual use in 1 calendar year and the additional 25 or 15 percent of use not exceed the amount of use allocated when the permit was issued.
 - b. Amend the permit to reflect the adjusted allocation of use.
3. When renewing priority use permits, the allocation of use may be maintained, increased, or decreased, provided that the allocation is consistent with section 41.53m, paragraph 1.
- a. When a priority use permit is about to terminate and the holder has applied for renewal of the permit, review actual use during the last 5 years of the permit, and adjust the allocation of use to match the highest amount of actual use in 1 calendar year during that period.
 - b. For holders with 1,000 service days or less or the equivalent in quotas, add an additional 25 percent of that amount and for holders with more than 1,000 service days or the equivalent in quotas add an additional 15 percent of that amount in consideration of market fluctuations, availability of state hunting licenses, and natural phenomena that may have adversely affected the holder's ability to utilize the authorized use fully, provided that the combination of the highest amount of actual use in 1 calendar year and the additional 25 or 15 percent of use not exceed the amount of use allocated when the permit was issued.
4. When use remains after allocation pursuant to section 41.53m, paragraph 2 or 3:
- a. Distribute the use to a temporary or priority use pool;
 - b. Allocate the use through a competitive process; or
 - c. Reserve the use pending completion of a resource capacity analysis.

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41.53n - Management of Priority Use Pools

1. The authorized officer may establish and manage a priority use pool, including development of application and operating procedures for the pool, to allow priority use permit holders in a use area to apply for a short-term allocation of use to meet a seasonal need. Upon completion of each open season, all service days or quotas allocated seasonally to priority use permit holders must be returned to the priority use pool for redistribution during the next open season. Authorize short-term use for priority use permit holders using the form, Temporary Special Use Permit for Outfitting and Guiding.
2. After short-term allocation requests have been met from a priority use pool during an open season:
 - a. Priority use permit holders may apply for allocation of any remaining use from the priority use pool to increase their allocation for the remaining term of their permit; and
 - b. If supported by a needs assessment, resource capacity analysis, or other pertinent analysis, remaining use may be allocated from the priority use pool to new priority use permits. See section 41.53g for direction on issuance of new outfitting and guiding permits to qualified applicants.
3. Allocate service days to a priority use pool based on:
 - a. A resource capacity analysis demonstrating that additional capacity exists;
 - b. A determination that service days or quotas have not been used during the first 5 years of a priority use permit; or
 - c. A determination that service days or quotas may be reallocated when a priority use permit is revoked or is not renewed.
4. The authorized officer may shift service days and quotas between temporary and priority use pools based on their utilization.

41.53o - Reduction of Use Based on New or Changed Decisions

New or changed decisions may establish a level of outfitting and guiding that results in a permanent reduction of a holder's allocation of use. When considering renewal of priority use permits in this situation:

1. Request holders to reduce use voluntarily;
2. Proportionally reduce use for affected holders; or

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3. Reallocate the amount of available use through issuance of a prospectus, and limit the solicitation to holders of a priority use permit in the use area.

Base allocation of available use on the applicants' proposed services, experience, knowledge of the area to be authorized, financial capability, performance record as an outfitter or guide, and other appropriate factors.

41.53p - Transitional Priority Use

1. Holders of temporary use as classified under the Forest Service's June 12, 1995, outfitting and guiding policy (60 FR 30830) are eligible for reclassification of their use as transitional priority use when:

- a. Their use is active and recurring;
- b. Their performance has been satisfactory;
- c. They request reclassification of their use as transitional priority use by **[insert date 1 year from the date of publication of the final directives]**; and
- d. They agree to meet the application requirements for reclassification of their use as priority use within 5 years of the date of that request.

2. Reclassification of temporary use as transitional priority use does not guarantee reclassification of transitional priority use as priority use.

3. Authorize transitional priority use for 1 year using form FS-2700-4i.

- a. If, at the time of expiration of the permit, the transitional priority use is still consistent with applicable law and the applicable land management plan and if the holder's performance is satisfactory, extend the permit for 1 year, and, subject to the same conditions, extend the permit each year thereafter for 1 year until the holder's application for reclassification from transitional priority use to priority use is granted or denied.
- b. If, at the time of expiration of the permit, the transitional priority use is no longer consistent with applicable law or the applicable land management plan or if the holder's performance is unsatisfactory, allow the permit to expire.

4. Conduct performance evaluations for holders of a transitional priority use permit.

5. Establish a transitional priority use allocation based on the highest amount of actual use in 1 calendar year during the last 5 years, plus 25 percent of that amount for holders with 1,000 service days or less or 15 percent of that amount for holders with more than 1,000 service days, not to exceed the highest amount of use allocated during that period.

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6. When there is a change in the ownership of or a controlling interest in the business entity of the holder of a transitional priority use permit, treat the purchaser as a proponent, rather than an applicant, for a transitional priority use permit. Issuance of a transitional priority use permit to the purchaser does not guarantee reclassification of the transitional priority use as priority use.
7. If supported by a needs assessment, resource capacity analysis, or other pertinent analysis, reclassify transitional priority use as priority use within 5 years of the date of the reclassification request.
8. If a needs assessment or capacity analysis needs to be conducted to determine whether reclassification of transitional priority use as priority use is appropriate, treat the costs to perform that analysis as programmatic, and do not subject them to processing fees.
9. For any work associated with reclassification from transitional priority use to priority use (including NEPA analysis), that is subject to cost recovery fees, utilize a master or major cost recovery agreement covering more than 1 year, and spread the fees over the term of the agreement. Holders in the same use area may be grouped under a master agreement to achieve cost efficiency.
10. When holders of temporary use as classified under the Forest Service's June 12, 1995, outfitting and guiding policy (60 FR 30830) are ineligible for reclassification to transitional priority use under section 41.53p, paragraph 1, or priority use under section 41.53p, paragraph 7:
 - a. Reallocate any available use to a temporary or priority use pool at the end of the permit term.
 - b. Reallocate the use through a competitive process; or
 - c. Reserve the use pending completion of a resource capacity analysis.

41.53q - Administration of Outfitting and Guiding Permits

1. Ensure that the terms and conditions of outfitting and guiding permits, including operating plans, are met and that the authorized use is consistent with applicable federal, state, and local law.
2. A temporary or priority use permit may be revoked or suspended:
 - a. For noncompliance with Federal, State, or local laws and regulations;

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- b. For noncompliance with the terms of the permit;
 - c. For failure of the holder to exercise the rights and privileges granted by the permit;
 - d. With the consent of the holder; or
 - e. At the discretion of the authorized officer, for specific and compelling reasons in the public interest (36 CFR 251.60(a)(2)(i)).
3. Give the holder notice before revoking or suspending a permit pursuant to section 41.53q, paragraph 2. Give the holder a reasonable opportunity to correct noncompliance or to exercise the rights and privileges granted before revocation or suspension of a permit pursuant to section 41.53q, paragraphs 2a, 2b, or 2c (36 CFR 251.60(e)).
 4. An immediate suspension of all or part of a permit may be imposed when deemed necessary to protect public health or safety or the environment in accordance with 36 CFR 251.60(f). Notice and an opportunity to correct deficiencies are not required before imposing an immediate suspension (36 CFR 251.60(e)).
 5. Monitor outfitting and guiding operations by conducting inspections (FSM 2716.5). Notify the holder in writing of the results of the inspection. Include in the notice:
 - a. Any noncompliance;
 - b. A time frame for correcting the noncompliance; and
 - c. The consequence for failing to correct the noncompliance within the stated time frame.
 6. Take immediate action, including imposing a temporary suspension, if there is an immediate threat to public health or safety.
 7. Findings from inspections are not subject to administrative appeal.
 8. Use inspections and other documentation as a basis for annual performance ratings (sec. 41.53r, para. 4).

41.53r - Administration of Priority Use Permits

1. Priority Use Authorized Under a Term Permit. Treat outfitting and guiding authorized under a term special use permit as priority use. Do not authorize temporary use under a term permit.

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2. Monitoring. Monitor operations authorized under priority use permits to verify compliance with permit terms and conditions during the season of use. Extension of a 2-year priority use permit depends on documentation of satisfactory performance.
3. Performance Standards. In consultation with District Rangers and other federal land management agencies, Forest and Grassland Supervisors shall develop:
 - a. Specific, objective performance standards for inclusion in each outfitting and guiding permit or operating plan.
 - b. Specific standards for compliance with the terms of the permit, the operating plan, and the itinerary; public service; and protection of natural resources.
 - c. A scoring system or other means for correlating the standards to the performance ratings in section 41.53r, paragraph 4.
4. Ratings. Evaluate the holder's overall performance using 3 performance ratings: acceptable, probationary, and unacceptable. Base these ratings on the specific performance standards included in the holder's permit or operating plan.
5. Rating System. Rate the holder at the end of the holder's operating season.
 - a. Probationary Rating. If the holder receives an annual rating of probationary, issue a letter of probation, and consider in the letter of probation suspending all or part of the permit as a result of the probation. If the holder receives a rating of probationary in the last year of the permit term, consider reissuing a priority use permit for 2 years, with an option to extend the permit term for up to 8 years.
 - b. Consecutive Probationary or Unacceptable Rating. If the holder's next annual rating is probationary or unacceptable, revoke the permit or outfitting and guiding supplement to a term permit in the notice to the holder of the rating, unless the permit is about to expire. If the permit will expire in the current calendar year, notify the holder in writing that the permit will not be reissued, and allow it to expire.
 - c. Consecutive Acceptable Rating. If the holder's next annual rating is acceptable, the holder returns to good standing. Notify the holder in writing that the probation has ended.
 - d. Unacceptable Rating. If the holder's annual rating is unacceptable, revoke the permit or outfitting and guiding supplement to a term permit in the notice to the holder of the rating, unless the permit will expire in the current calendar year. If the permit is about to expire, notify the holder in writing that the permit will not be reissued, and allow it to expire.

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- e. Notice. Provide notice to the holder of the annual rating. Include in the notice a statement of the holder's right to appeal the annual rating, along with suspension or revocation of the permit based on the annual rating pursuant to section 41.53r, paragraph 5a, 5b, or 5d.
6. Before suspending or revoking a priority use permit or outfitting and guiding supplement to a term permit under section 41.53r, paragraph 5a, 5b, or 5d:
- a. Notice.
- (1) Give written notice to the holder after a mid-season evaluation (or end-of-season evaluation, for a short operating season where a mid-season evaluation is not feasible) that failure to correct identified noncompliance will result in an annual rating of probationary or unacceptable, as applicable.
- (2) For a potential annual rating of probationary, include in the notice that a first annual rating of probationary may result in suspension of the permit and that a second consecutive annual rating of probationary will result in revocation of the permit or outfitting and guiding supplement to a term permit.
- (3) For a potential annual rating of unacceptable, include in the notice that a single unacceptable rating will result in revocation of the permit or outfitting and guiding supplement to a term permit.
- b. Opportunity to Correct Deficiencies. Give the holder a reasonable opportunity to take corrective action prescribed by the authorized officer. The period between the evaluation and the annual rating constitutes adequate opportunity to take corrective action for purposes of suspension or revocation of a permit or outfitting and guiding supplement to a term permit.
7. Administrative Appeal. Holders may appeal annual ratings of probationary and unacceptable, along with suspension or revocation based on those ratings pursuant to section 41.53r, paragraph 5a, 5b, or 5d, under applicable federal regulations. As provided by 36 CFR 251.60(a)(2)(iii), termination of a permit is not subject to appeal.

41.58 - Vendor, Peddler [Reserved]

41.6 - Winter Recreation

41.61 - Winter Recreation Resort

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41.61a - Ski Area Permit

Comply with the following direction for administration of permits authorized under the National Forest Ski Area Permit Act of 1986:

1. Initiate conversion of existing ski areas to the new permit by writing to current permit holders, providing them with a blank copy of Form FS-2700-5b, Ski Area Term Special Use Permit, and inviting them to meet individually with the authorized officer or authorized officer's representative to discuss the terms and conditions. The principal areas to be agreed upon are the permit boundary and the length of the term.
2. In deciding where to put the permit boundary, the following applies:
 - a. Retain in the new permit land within the current permit boundary that is needed for expansion in the foreseeable future.
 - b. Exclude lands which might affect the base for exchange and other long-term resource management activities, and exclude lands not currently meeting the criteria in the following paragraphs b(1) to b(3). The provisions of 36 CFR 251.55(d) continue to apply; that is, the land under permit shall be limited to that which the authorized officer determines:
 - (1) Will be occupied by the facilities authorized;
 - (2) Are necessary for the construction, operation, maintenance, and full utilization of the authorized facilities or the conduct of authorized activities; and
 - (3) Are necessary to protect the public health and safety and the environment.
3. Require a Master Development plan or provide for the preparation of such a plan in permit clause I.D.1 (sec. 52.4 of this handbook). For an area with no foreseeable expansion, documentation of existing facilities may meet this requirement.
4. Ensure that, notwithstanding issues under formal appeal, the permit holder is in good standing, which includes a history of timely payments with no back fees currently owed to the United States. Normally, fees are advance payments (prepaid rent, not an account payable) until the end of the permittee's business cycle. If there is an outstanding bill for collection for fees due and payable, which are debts owed to the United States, payment must be received before the authorized officer issues a new permit.
 - a. Ensure that there is no pending bankruptcy or foreclosure against the permit holder. There may be some exceptions. Consult with the Regional Office of General Counsel.

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- b. Do not convert to the new permit if a sale is in progress. Issue a permit later to the new owner if the new owner qualifies.
 - c. Conclude those issues where resolution depends on issuing a new permit or permit amendment. These include implementing audit findings involving disputes over items in gross fixed assets, settling appeals, and otherwise taking care of administrative details and processes related to the permit.
5. In determining tenure for ski area permits issued under the National Forest Ski Area Permit Act of 1986, comply with regulations at 36 CFR 251.56(b)(2). It is expected that the majority of alpine ski areas would qualify for a 40-year term. Holders that consent to conversion do not automatically qualify for a 40-year term, however; they must meet the criteria in the regulations. Following are examples of conditions, which could justify shorter tenure:
- a. The permit holder has not made improvements in the area in the last 10 years and no capital improvements are planned in the next 10 years; or the facilities are in need of renovation.
 - b. Planned facilities specified in the Master Development Plan do not clearly require 40-year financing.
 - c. The applicable forest land and resource management plan indicates that there is no longer a need for the ski area.
 - d. Total fixed assets for the ski area are less than \$1 million.
 - e. Ownership of the ski area is in transition, such as when the ski area is in trust, in receivership, or listed for sale.
 - f. Public service specified in the existing permit is not being provided.
6. Modify permits by adding or deleting, as appropriate, permit fee clauses in permits existing prior to conversion to the ski area permit fee system established by 16 U.S.C. 497c. Refer to chapter 50 for appropriate clauses.

41.61b - Environmental Analysis and Documentation

The direction in this section regarding compliance with the National Environmental Policy Act (NEPA) applies to existing ski areas that are under permit. See FSH 1909.15 for further direction. For new ski areas that are not under permit, refer to FSM 2721.61f.

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1. Under the Omnibus Parks and Public Lands Management Act of 1996, section 701(i) (16 U.S.C. 497c(i)), issuance of a ski area permit which is purely administrative in nature does not constitute a major Federal action for the purposes of the National Environmental Policy Act (NEPA) and therefore does not require preparation of an environmental impact statement (EIS). Section 497c(i) applies to issuance of a ski area permit that involves only administrative actions, such as issuance of a permit when no changes to the Master Development Plan and no new facilities or activities are authorized to:
 - a. A new owner of the ski area improvements;
 - b. The existing owner upon expiration of the current permit; or
 - c. A holder of a permit issued under the Organic Act of 1897 or the Term Permit Act of 1915 converting to a permit under the National Forest Ski Area Permit Act of 1986.
2. Under most circumstances, ski area permit issuances for strictly ministerial changes covered by 16 U.S.C. 497c(i) may be categorically excluded from documentation in an environmental assessment (EA) or an EIS. Follow direction in FSH 1909.15, chapter 30.
3. If, under rare circumstances, a determination is made that the categorical exclusions in FSH 1909.15, chapter 30, do not apply to a proposed ski area permit issuance with strictly ministerial changes covered by 16 U.S.C. 497c(i), prepare an EA. Do not prepare either a finding of no significant impact (FONSI) or an EIS.
4. For issuance of a ski area permit that involves more than ministerial changes (such as authorizing a change in activities or ski area facilities) and is therefore not covered by the provisions of 16 U.S.C. 497c(i), follow the procedures in FSH 1909.15 for NEPA compliance.

41.61c - Operating Plan

It is the responsibility of the authorized officer to ensure that the holder of a winter recreation resort permit, in consultation with the authorized officer, prepare and annually revise an operating plan that covers all operations authorized by the permit (FSM 2343.13). The authorized officer must approve the operating plan and annual revisions before they are implemented. Once approved by the authorized officer, incorporate the operating plan and annual revisions as an appendix to the permit.

The operating plan for a winter recreation resort shall, at a minimum, address the following operations:

1. Ski patrol and first aid.

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2. Communications.
3. Signs.
4. General safety and sanitation.
5. Erosion control.
6. Accident reporting.
7. Avalanche control.
8. Search and rescue.
9. Boundary management.
10. Vegetation management.
11. Designation of representatives.
12. Trail routes for Nordic skiing.
13. Explosive Magazine Security (where applicable).

41.61d - Explosives Magazine Security

The purchase, storage, and handling of explosives by ski areas are regulated by the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) and some states. The Forest Service's role is to provide oversight in assisting the ATF and state agencies in maintaining security for magazine facilities located on National Forest System (NFS) lands. To fulfill the Forest Service's role, the authorized officer shall ensure that the holders include the following provisions in the avalanche control section of the operating plan (sec. 41.61c):

1. Policy. To the extent possible, consolidate and/or remove explosives magazine storage facilities associated with winter recreation resorts on National Forest System lands.
2. Responsibility. Additional responsibilities and direction related to blasting and explosives are in section 62 of FSH 6709.11 and FSM 6745.

It is the responsibility of the authorized officer to:

- a. Ensure that the regional blaster coordinator and the unit's lead blaster are kept informed of all aspects of the winter recreation resort's explosives program (FSM 6745).

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- b. Ensure that qualified agency personnel annually inspect winter recreation resort explosives magazines located on National Forest System (NFS) lands to verify that the condition of the magazine and its contents comply with the requirements in the current edition of the Guide for Using, Storing and Transporting Explosives and Blasting Materials, available from the Missoula Equipment Development Center or unit's lead blaster. The Forest Service's inspection may be waived if the holder notifies the authorized officer that an authorized state agency or the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) explosives inspection has taken place within that calendar year.
 - c. Facilitate, to the extent possible, the removal and/or consolidation of explosive magazine storage facilities on NFS lands.
3. Identification of Explosives Magazines. For each authorized explosives magazine located on NFS lands, list the following:
- a. Name and location.
 - b. Type (1-5).
 - c. Name and day and evening telephone numbers of an emergency contact.
 - d. Name and day and evening telephone numbers of a custodian.
 - e. Quantity and type of explosives generally stored.
 - f. Type of military weapon (where applicable).
 - g. Quantity and type of munitions generally stored (where applicable).
 - h. Special security features, such as alarm systems (where applicable).

Do not disclose information relating to the previous paragraphs a through h to the public through a Freedom of Information Act (FOIA) request or any other type of request. Refer any requests for such information to the Washington Office, Office of Regulatory and Management Services, National FOIA Coordinator. Maintain this information in a secure location that is separate from the permit file, both in the office administering the winter recreation resort permit and at the office of the Regional Blaster Coordinator. In addition, the authorized officer shall mail the information required by paragraphs a through h, and any updates, on a compact disc to the National Winter Sports Coordinator for inclusion in the national database containing information on the storage of explosive materials on NFS lands. The national database shall be housed in the Washington Office Law Enforcement and Investigations office. It is the responsibility of the National Winter Sports Coordinator to keep this national database current.

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4. Inspections. The operating plan shall contain a provision requiring the holder to inspect, at least every 7 days, magazines used to store explosives (27 CFR 55.204). This inspection need not be an inventory, but must be sufficient to determine whether there has been unauthorized entry or attempted entry into the magazine or unauthorized removal of the contents of the magazine. Surveillance devices, if approved by the ATF, may be used to meet this requirement. The operating plan must also specify that any loss or theft of explosive material be reported to the ATF, local authorities, and the Forest Service within 24 hours of discovery.
5. Inventories. The operating plan shall contain provisions that ensure prompt detection of discrepancies between the physical inventory and the record inventory by requiring the holder to:
 - a. Annually inventory explosives stored within the permit area (27 CFR 55.125).
 - b. Keep a daily summary of magazine transactions for each magazine used to store explosive materials (27 CFR 55.127).
 - c. Record, no later than the close of the next business day, the total quantity of explosives placed in and removed from each magazine during a 24-hour period and the total amount of explosives remaining at the end of that period.
6. Magazine Key Control and Security. The operating plan shall contain a provision requiring the holder to develop a policy for magazine key control and security. At a minimum, the policy should contain provisions governing distribution and control of keys issued to personnel authorized to enter magazines, such as provisions stating that:
 - a. A key inventory shall be kept listing all those who have been issued magazine keys.
 - b. Magazine keys shall be issued only to ski area personnel authorized to possess explosive materials.
 - c. Locks on magazines shall be changed immediately if damaged or if keys are unaccounted for or stolen.
 - d. Unregistered locks on magazines shall be changed every year.
7. Background Investigations. The operating plan shall contain a provision requiring the holder to request the ATF to conduct background checks on all employees authorized to possess explosives, as required by the Safe Explosives Act of 2002 and by the ATF permits issued under the act. Authorized employees may possess explosives until ATF informs the holder otherwise.

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8. Disposal of Expired or Deteriorated Explosives. The operating plan shall contain a provision requiring the holder to remove explosives from the magazine that have deteriorated to the extent that they are unstable or dangerous and to destroy them in accordance with the manufacturer's instructions (29 CFR 1910.109(c)(5)(v)).
9. Housekeeping. The operating plan shall contain a provision requiring the holder to:
 - a. Keep magazines clean, dry, and free of grit, paper, rubbish, and empty packages and containers.
 - b. Clear within 25 feet of the magazine all rubbish, brush, dry grass, and trees, except live trees more than 10 feet tall and living foliage that is used to stabilize the earthen covering of a magazine. This provision supersedes the permit clause prohibiting removal of vegetation without approval of the authorized officer.
 - c. Clear within 50 feet of the magazine all volatile materials, such as, paints, solvents, and so forth (27 CFR 55.215).
10. Signs. The operating plan shall require the holder to post on the outside of a building in which Class I or Class II magazines are located a sign reading, "Explosives - Keep Off" (29 CFR 1910.109(c)(2)(iii)).

42 - AGRICULTURE [RESERVED]

42.1 - Crops [Reserved]

42.15 - Livestock Area [Reserved]

42.15a - Rental Fees [Reserved]

43 - COMMUNITY AND PUBLIC INFORMATION [RESERVED]

43.2 - Religious Facilities [Reserved]

43.21 - Cemetery [Reserved]

43.4 - Sanitary Systems [Reserved]

43.42 - Liquid Waste Disposal [Reserved]

**44 - FEASIBILITY, RESEARCH, TRAINING, CULTURAL RESOURCES, AND
HISTORICAL [RESERVED]**

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44.4 - Cultural Resources and Treasure Trove Uses [Reserved]

45 - INDUSTRY

45.5 - Arts

1. Authority

a. Statutory Authority. Cite the Act of May 26, 2000 (16 U.S.C. 460l-6d) for all authorizations issued for still photography or commercial filming uses.

b. Regulatory Authority. The processing of proposals and applications and the authorization, administration, and monitoring of still photography and commercial filming activities on National Forest System lands are subject to the Forest Service special use regulations at 36 CFR part 251, Subpart B.

2. Definitions. The following terms are used to describe components of still photography and commercial filming activities:

a. Actor. An individual who either:

(1) Portrays a character or himself/herself in the reenactment of an event or incident, or

(2) Narrates a storyline for commercial filming purposes. News broadcasters and correspondents, as well as witnesses, victims, or other parties interviewed by a news broadcaster or correspondent, who appear before a camera in the reporting of breaking news, are not considered actors for purposes of this definition.

b. Breaking News. An event or incident that arises suddenly, evolves quickly, and rapidly ceases to be newsworthy.

c. Commercial Filming. Use of motion picture, videotaping, sound-recording, or any other type of moving image or audio recording equipment on National Forest System lands that involves the advertisement of a product or service, the creation of a product for sale, or the use of actors, models, sets, or props, but not including activities associated with broadcasting breaking news. For purposes of this definition, creation of a product for sale includes a film, videotape, television broadcast, or documentary of historic events, wildlife, natural events, features, subjects or participants in a sporting or recreation event, and so forth, when created for the purpose of generating income.

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- d. Model. An individual who poses for the commercial filming or still photography of a product or service for the purpose of promoting its sale or use. A model may also include inanimate objects, such as vehicles, boats, off-highway vehicles, articles of clothing, food and beverage products, and so forth, placed on National Forest System lands so that they may be filmed, photographed, or recorded to promote their sale or use.
- e. Sets and Props. Items constructed or placed on National Forest System lands to accommodate commercial filming or still photography, such as backdrops, generators, microphones, stages, lighting banks, camera tracks, vehicles specifically designed to accommodate camera or recording equipment, rope and pulley systems, rigging for climbers, and structures. Sets and props also include trained animals and inanimate objects, such as camping equipment, campfires, wagons, and so forth, when used to stage a specific scene. A set or prop does not include any of the preceding items when they are used to report breaking news, nor does a prop include a hand-held camera or a camera mounted on a tripod.
- f. Still Photography. The use of photographic equipment to capture still images on film, digital format, and other similar technologies on National Forest System lands that:
- (1) Takes place at a location where members of the public are generally not allowed or where additional administrative costs are likely, or
 - (2) Uses models, sets, or props that are not a part of the site's natural or cultural resources or administrative facilities.
3. Insurance and Bonding. Where appropriate, the Authorized Officer shall require liability insurance and/or performance bonds necessary to protect the public interest.

45.51 - Still Photography

45.51a - Permit Requirements

A special use permit is not required for still photography when that activity involves breaking news (sec. 45.5). A special use permit:

1. Is required for all still photography (sec. 45.5) activities on National Forest System (NFS) lands that involve the use of models, sets, or props that are not a part of the natural or cultural resources or administrative facilities of the site where the activity is taking place.

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2. May be required for still photography activities not involving models, sets, or props when the Forest Service incurs additional administrative costs as a direct result of the still photography activity or when the still photography activity takes place at a location where members of the public generally are not allowed.

When a special use permit is required for a still photography activity and the request is an acceptable use of NFS lands (sec. 45.52), issue a special use permit for still photography activities on Form FS-2700-25, Temporary Special Use Permit, or on Form FS-2700-4, Special Use Permit.

45.51b - Evaluation of Proposals

A special use permit may be issued (when required by sec. 45.51a) to authorize the use of NFS lands for still photography when the proposed activity:

1. Meets the screening criteria in Title 36, Code of Federal Regulations, section 251.54 (36 CFR 251.54).
2. Would not cause unacceptable resource damage;
3. Would not unreasonably disrupt the public's use and enjoyment of the site where the activity would occur.
4. Does not pose a public health and safety risk; and
5. If it is to occur in a Congressionally designated wilderness area, and the activity contributes to the purposes for which the wilderness area was established.

45.51c - Land Use Fees

Charge a land use fee for all still photography activities authorized under permit, unless the holder or the activity qualifies for a fee waiver as provided in FSH 2709.11, chapter 30.

Direction on fee administration, calculation, accounting, and expenditure of funds for still photography activities is found in FSH 2709.11, chapter 30.

45.52 - Commercial Filming

45.52a - Permit Requirements

1. A special use permit is required for all commercial filming (sec. 45.5) activities on National Forest System lands (NFS). A special use permit is not required for broadcasting breaking news (sec. 45.5).

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2. Authorize the use of NFS lands for commercial filming activities on Form FS-2700-25, Temporary Special Use Permit, or on Form FS-2700-4, Special Use Permit, when the commercial filming activity is an acceptable use of NFS lands (sec. 45.52b).

45.52b - Evaluation of Proposals

Use the criteria found in section 45.51b for evaluating proposals to use NFS lands for commercial filming activities.

45.52c - Land Use Fees

Charge a land use fee for all commercial filming activities, unless the holder or the activity qualifies for a fee waiver as provided in FSH 2709.11, chapter 30.

Direction on land use fee administration, calculation, accounting, and expenditure of funds for commercial filming activities is found in FSH 2709.11, chapter 30.

45.6 - Mineral Exploration

For related direction see FSM 2725.6.

This category includes authorizations for the sole purpose of either locating or qualitatively and quantitatively analyzing leasable or saleable minerals or mineral material. It does not include locatable minerals under the 1872 Mining Act (30 U.S.C. 21-54; FSM 2801). No special-use authorization is necessary for locatable mineral prospecting. However, prospectors must file notices of intent to operate in most cases. See FSM 2810 for specific policy on mining claims.

45.61 - Geological and Geophysical Exploration

The authority for seismic exploration permits on National Forest System lands is the Organic Administration Act of June 4, 1897 (16 U.S.C. 551; FSM 2701.1). Issue permits in accordance with the special uses regulations at Title 36, Code of Federal Regulations, Part 251, Subpart B, and the direction in FSM 2860.

Authorize exploration for oil and gas and other leasable or saleable minerals under this designation. See FSM 2820 for direction on leasable mineral management. Seismic activity requires a temporary special-use permit, Form FS-2700-25. The applicant may make application by sending a letter to the authorized officer with sufficient detail to evaluate the proposed action. Permits are not necessary for operation by mineral leaseholders operating within their leased areas. For direction on fees, see chapter 30.

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45.62 - Mineral Material Sale [Reserved]

46 - ENERGY GENERATION AND TRANSMISSION

46.1 - Facilities Financed by Rural Electrification Administration

This direction covers type site codes 641, 642, 822, and 832 (listed in ch. 50). Rural electric and rural telephone cooperatives are organized primarily to provide electrical or telephone service to rural areas, but some of these cooperatives now serve urbanized areas and obtain Rural Electrification Administration (REA) loans to serve these areas. Some cooperatives, have facilities that are not financed by REA and, therefore, do not qualify for a fee exemption, except when the facility is an extension of an REA-financed facility.

For consideration under Public Law 98-300 (43 U.S.C. 1764(g); FSM 2701.1), which amended the Rural Electrification Act, public power districts and other public bodies and private companies or investor-owned utilities are treated as cooperatives. The REA has provided some of these organizations with REA financing for facilities, which supply electric power or telephone service to qualified rural areas. Eligibility for a fee exemption under 43 U.S.C. 1764(g) is the same as for a cooperative when the applicant/holder is a municipal entity or a private company. Eligibility for the fee exemption does not depend on the size and cost of the facility. The facility does not need to be exclusively REA financed to qualify for a fee exemption (ch. 30).

47 - TRANSPORTATION [RESERVED]

48 - COMMUNICATIONS

48.2 - Telephone and Telegraph

48.21 - Telephone and Telegraph Line

(See FSM 2728.21 for further direction.)

48.22 - Telephone Line, Rural Electrification Administration Financed

(See FSM 2728.22 for further direction.)

48.23 - Fiber Optic Cable

(See FSM 2728.23 for further direction.)

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48.23a - Use Code

The components of fiber optic cable systems include fiber optic cables, conduits, and individual fibers. Identify all new fiber optic cable uses on National Forest System lands by special use code 823 in the Infra-Special Uses Data System (SUDS) databases at the national and field level. Any fiber optic cable uses previously coded in SUDS to 821 (telephone and telegraph line) must be recoded to 823.

48.23b - Definitions

The following terms are used to describe the components of a fiber optic cable system and the various commercial and noncommercial entities that may own or lease fiber optic cables, conduits, or individual fibers.

Conduit. Term used interchangeably with innerduct to describe housing for a buried fiber optic cable. (See also the definition for “Innerducts.”)

Customer. An individual, company, or governmental entity leasing or owning fiber optic cables, conduits, or fibers for internal use only and not reselling or providing communications services to others for profit. Customers typically do not have their own regeneration equipment.

Dark Fiber. Excess individual fiber not currently being used to transmit an optical signal.

Excess Capacity. Empty innerducts available to house additional fiber optic cables for future use, or dark fiber that is excess to an owner’s current needs. An owner may lease or sell empty innerducts or dark fiber to telecommunications service providers or customers.

Fiber. Individual glass strands that carry optical signals.

Fiber Optic Cable. Cable consisting of a central core or filler surrounded by optical fibers and covered with a protective polyethylene jacket. A cable placed in a 1.25-inch innerduct typically contains 144 fibers and measures 0.875 inch in diameter. A cable may also be used as a static line replacement or ground wire for overhead electric transmission lines.

Innerducts. High-density polyethylene tubes, generally 1.25 inches in diameter, which house the fiber optic cable when fiber optic systems are buried in the ground. Empty innerducts can be authorized to the owner and are available for future expansion by the holder or a telecommunications service provider. (See also the definition for “Conduit.”)

Lit Fiber. Individual fibers currently in use carrying optical signals.

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Owner. An individual, company, or governmental entity that is the primary owner of all the fiber optic infrastructure (cable, conduits, regeneration equipment facilities, and so forth) and holds a special use authorization for the right-of-way on which the fiber optic infrastructure is located. The owner may lease or sell excess capacity to telecommunications service providers and customers.

Regeneration Facility. A building that houses equipment to boost the strength of the optical signal within a fiber optic cable. Regeneration facilities are usually spaced between 50 and 300 miles along the fiber optic right-of-way.

Telecommunications Service Providers. An individual, company, or governmental entity that leases or buys conduit, cable, or dark fiber from the owner of the fiber optic infrastructure and provides telecommunications services to others for profit. Telecommunications service providers usually, but not always, own their own regeneration equipment and the facilities that house them.

48.23c - Processing of Applications and Administration of Authorizations for Fiber Optic Cable Uses

Fiber optic cable project proponents often find it economically beneficial to design and construct a fiber optic cable project with excess capacity (fiber, cables, conduits, or other equipment) beyond their needs, which can be sold or leased to other telecommunications service providers. Thus, a single fiber optic cable project can have a variety of owners and separate telecommunications service providers. Each additional telecommunications service provider must have its own authorization from the Forest Service or be accommodated in a single authorization through that authorization's subleasing provisions.

The owner of the authorized fiber optic cable(s) or the telecommunications service providers that lease excess cable capacity from the owner may sublease to a customer for that customer's own internal communications needs. A customer does not sell or provide communications service to others and, therefore, would not need a separate authorization, nor would that customer's use be specifically provided for in the authorization.

1. Issuing Authorizations Involving Capacity Excess to Applicant's Needs. Issue a single authorization on Form FS-2700-4. Do not issue separate authorizations to additional telecommunications service providers, except as provided in the paragraph g. Determine a single rental fee for all users, based on the current linear right-of-way schedule (sec. 36.4 of this handbook). Each authorization shall contain the following provisions:

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- a. A provision allowing subleasing and a requirement that the holder is liable and responsible for compliance with all the terms and conditions of the authorization, including compliance with the terms and conditions by any additional users (sec. 52.1, clause A-19, of this handbook).
 - b. A requirement that the holder notify the Forest Service of any change in the ownership status of the fiber optic cable project and in the subleasing of excess capacity (sec. 52.1, clause A-19).
 - c. A right-of-way width that adequately accommodates the project, but not less than 10 feet in width.
 - d. A maximum term of 10 years.
 - e. A provision informing the authorization holder that the Forest Service would provide the holder appropriate advance notification if the agency adjusts the rental fees and/or changes regulations or administrative policies applicable to fiber optic cable uses (sec. 52.1, clause A-19).
 - f. A provision requiring annual data submission to the authorized officer (sec. 52.1, clause A-19, of this handbook).
 - g. When requested by a proponent or holder, the Forest Service may issue separate authorizations to each individual owner or telecommunications service provider involved in the project to accommodate the needs of that specific business arrangement. When 1 project has 2 or more authorizations associated with it, assess rent to each authorization holder based on the current linear right-of-way schedule (sec. 36.4 of this handbook).
2. Issuing Authorizations Not Involving Excess Capacity. Issue a single authorization on Form FS-2700-4 without subleasing provisions. Determine the rental fee based on the current linear right-of-way schedule (sec. 36.4). Each authorization shall contain the following provisions:
- a. A right-of-way width that adequately accommodates the project, but not less than 10 feet in width.
 - b. A maximum term of 10 years.
 - c. A provision informing the authorization holder that the Forest Service holder would provide the holder appropriate advance notification if the agency adjusts the rental fees and/or changes regulations and administrative policies applicable to fiber optic cable uses (sec 52.1, clause A-19).

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3. Installation Within an Existing Transportation or Utility Right-of-Way. A new authorization is required when a fiber optic use is proposed for installation within an existing transportation or utility right-of-way, or within an existing authorized facility where the primary purpose is something other than fiber optic telecommunications. A new authorization is not needed if the existing authorization provides for fiber optic cable use or if all the fiber optic cables installed are used solely to support the operations of the current authorized use. New fiber optic authorizations issued within an existing transportation or utility right-of-way, or on existing authorized facilities, shall be issued in accordance with the provisions outlined in the preceding paragraphs 1 (new authorizations involving excess capacity) and 2 (new authorizations not involving excess capacity), including minimum width and maximum term of the authorization and only after a determination is made that the fiber optic facility will not be inconsistent with the rights and privileges granted to the holder of the authorization for the existing use and occupancy.

49 - WATER (NON-POWER GENERATING) [RESERVED]

49.2 - Impoundment [Reserved]

49.22 - Dam, Reservoir [Reserved]