

move an inserted gene from a chromosome of a transformed plant to any other organism.

8. The field test site is small, approximately 1.6 acres.

The environmental assessment and finding of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4331 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA [40 CFR parts 1500-1509], (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381-50384, August 28, 1979, and 44 FR 51272-51274, August 31, 1979).

Done in Washington, DC, this 13th day of April 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-8998 Filed 4-17-90; 8:45 am]

BILLING CODE 3410-34-AI

[Docket No. 90-046]

Receipt of Permit Applications for Release Into the Environment of Genetically Engineered Organisms

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that four applications for permits to release genetically engineered organisms into the environment are being reviewed by the Animal and Plant Health Inspection Service. The applications have been submitted in accordance with 7 CFR part 340, which regulates the introduction of certain genetically engineered organisms and products.

FOR FURTHER INFORMATION CONTACT:

Mary Petrie, Program Analyst, Biotechnology, Biologics, and Environmental Protection, Biotechnology Permits, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 844,

Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7612.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which are Plant Pests or Which There Is Reason to Believe Are Plant Pests," require a person to obtain a permit before introducing (importing, moving interstate, or releasing into the environment) in the United States, certain genetically engineered organisms and products that are considered "regulated articles." The regulations set forth procedures for obtaining a permit for the release into the environment of a regulated article, and for obtaining a limited permit for the importation or interstate movement of a regulated article.

Pursuant to these regulations, the Animal and Plant Health Inspection Service has received and is reviewing the following applications for permits to release genetically engineered organisms into the environment:

Application number	Applicant	Date received	Organism	Field test location
90-059-01	New York State Agricultural Experiment Station, Geneva	02-28-90	Cucumber genetically engineered to express the coat protein gene from cucumber mosaic virus.	New York.
90-065-01	Canners Seed Corp.	03-06-90	Tomato genetically engineered to tolerate the herbicide glufosinate.	California.
90-065-06	University of Kentucky	03-06-90	Tobacco genetically engineered to resist tobacco vein mottling virus and tobacco etch virus.	Kentucky.
90-066-01	Calgene, Inc.	03-07-90	Tomato genetically engineered to express a gene that encodes RNA that is anti-sense to an endogenous pectolytic enzyme, and tomato genetically engineered to express a gene involved in the biosynthetic pathway for cytokinin, a plant growth hormone.	California.

Done in Washington, DC, this 13th day of April 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-8999 Filed 4-17-90; 8:45 am]

BILLING CODE 3410-34-M

Forest Service

Newspapers Used for Publication of Legal Notice of Appealable Decisions for Pacific Southwest Region, California; Correction

AGENCY: Forest Service, USDA.

ACTION: Correction to Notice.

SUMMARY: This amends the notice published in the Federal Register on March 27, 1990 (55 FR 11237) to change the Regional Forester's list of newspapers.

FOR FURTHER INFORMATION CONTACT: KJ

Silverman, Regional Appeals Coordinator, Pacific Southwest Region, 630 Sansome Street, San Francisco, CA 94111, phone: (415) 705-2553.

The newspaper to be used is as follows:

Pacific Southwest Regional Office

Pacific Southwest Regional Forester decisions:

Sacramento Bee, Sacramento, California.

Dated: April 11, 1990.

David M. Jay,

Deputy Regional Forester.

[FR Doc. 90-8978 Filed 4-17-90; 8:45 am]

BILLING CODE 3410-11-M

Stillwater Mining Co. Precious Metals Smelter, Custer National Forest, MT

ACTION: Environmental Impact Statement cancellation notice.

Stillwater Mining Company's (SMC) of Star Rt. #2, Box 365, Nye, MT, 59061 has withdrawn its proposal for development of a precious metals smelter within SMC's existing facilities.

The Notice of intent, published in the Federal Register of Friday, April 14, 1989 (Vol. 54; Pg. #71) is hereby rescinded.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra Olsen, Chief, Hard Rock Bureau, Montana Department of State Lands, or Curtis W. Bates, Forest Supervisor, Custer National Forest.

Dated: April 9, 1990.

Leroy White,

Acting Forest Supervisor.

[FR Doc. 90-8829 Filed 4-17-90; 8:45 am]

BILLING CODE 3410-11-M

Oil and Gas Leasing; Pike and San Isabel National Forests, Comanche and Cimarron National Grasslands; CO and KS

ACTION: Notice; extension of review period for draft environmental impact statement (DEIS).

SUMMARY: Due to the complexity of issues and because of a number of requests to extend the public comment period I have extended the review for the Oil and Gas leasing DEIS to June 1, 1990. (See 55 FR 9951, Mar. 16, 1990).

DATE: The Draft EIS comment period is extended to June 1, 1990.

ADDRESS: Submit written comments to Jack Weissling, Forest Supervisor, USDA Forest Service, 1920 Valley Drive, Pueblo, CO 81008. The public may inspect comments received on the DEIS in the Forest Supervisor's Office in Pueblo, Colorado, weekdays between the hours of 8 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Dan Bishop, Forest Engineer and Minerals Staff Officer, USDA Forest Service, 1920 Valley Drive, Pueblo, CO 81008 (719) 545-8737.

Jack Weissling,
Forest Supervisor.

[FR Doc. 90-8830 Filed 4-17-90; 8:45 am]

BILLING CODE 3410-11-M

Permit Policy for Outfitting and Guiding

AGENCY: Forest Service, USDA.

ACTION: Notice of interim direction; request for comments.

SUMMARY: The Forest Service is updating agency procedures for issuing permits and assessing fees for outfitting and guiding activities on National Forest System lands. The basic outfitting and guiding policy was originally issued in the form of Interim Directives to Forest Service Manual § 2721.53 which have expired. This policy is being reissued as an Interim Directive to the Forest Service Handbook on Special Uses Administration (FSH 2709.11) not to exceed 18 months in order to maintain program continuity. Once comments

have been received and considered, final outfitting and guide policy and procedures will be issued.

DATES: This interim direction is effective April 23, 1990. Comments on this policy must be received in writing by May 18, 1990.

ADDRESSES: Send written comments to F. Dale Robertson, Chief (2720), Forest Service USDA, P.O. Box 96090, Washington, DC 20090-6090. The public may inspect comments received on this interim policy in the office of the Director, Recreation Management Staff, room 4229 South Agriculture Building, 14th and Independence, SW., Washington, DC, between the hours of 8:30 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: John Shilling, Recreation Management Staff, (202) 382-9426.

SUPPLEMENTARY INFORMATION:

Background and Need

Policy and procedure for issuing and administering permits for outfitting and guiding services have been issued since 1985 as interim direction to Forest Service Manual chapter 2720. The current direction has expired, and there is a critical need to reissue the direction so that Forest Service employees have direction in place to guide them in administering outfitting and guiding services. Therefore the Forest Service is issuing Interim Directives to chapter 30—Fee Determination, and chapter 40—Special Uses Administration of FSH 2709.11, Special Uses Handbook. The direction is being reissued in the handbook because most of it is procedural direction rather than broad policy and because the interim directives have been issued the maximum number of times to the Manual.

Interim Direction

This interim direction will provide continued guidance to National Forest System personnel administering outfitting and guide operations while allowing public comment and eventual adoption of a final directive. The text of the directive has been revised and reorganized to improve clarity and emphasis and to conform to agency directive system policy. For example, the relocation of the direction to the handbook requires issuing portions of the direction in the chapter on fees and the remainder in the chapter on permit administration. Moreover, the directives have been reorganized to place all similar subject matter under the same headings, and definitions have been revised to remove procedural direction. Text that is directive but was

erroneously coded as a definition has been relocated to other sections. In general, no major changes have been made in the 1984 policy. Four minor substantive changes, however, have been made as follows:

1. The 1984 policy of reducing authorized use if the holder of a priority use assignment failed to utilize at least 85 percent of the assigned amount in any two of the previous three years, is being adjusted to 70 percent in any two of the previous three years, is being adjusted to 70 percent in any two of the previous five years. This change corrects current direction to reflect the original agreement made in 1983 with the outfitter/guide industry as brought to the agency's attention by representatives of the industry. Review of agency records indicates that the 85 percent figure of the previous policy was an error.

2. The 1984 direction of converting temporary use to priority use is being adjusted from three to two years. This change makes current direction of using two years as a decision point consistent throughout the Interim Directive for consideration of conversion of existing permits from a temporary status, conversion of temporary use to priority use, and assessment of priority use within existing permits.

3. Quality public service depends upon selecting qualified operators to receive permits to conduct outfitting and guiding services. The previous policy stated that when issuing a new permit to an applicant who has two years of acceptable performance, the days assigned are to be priority use days. It was not stated that the acceptable performance was to be in like activities. The agency is modifying the requirement by stating that the acceptable performance must be in activities similar to the proposed use. Thus, two years of acceptable performance operating a horse outfitting business does not qualify the holder for priority use days as a river runner; two years of acceptable performance as a river runner would be necessary.

4. Frequently an outfitted or guided trip involves travel or occupancy on land which is not part of the National Forest System. A system of discounting the fee to recognize off forest activity was provided in the 1984 direction. This method serves well and will be continued. There is, however, a situation where the discounting method has not achieved an equitable fee. The ferry system of tour ships to Alaska often stop so that passengers may spend some time ashore. Because of the relatively high price of the voyage and the

proportional time spent on National Forest System lands, inordinately high fees to the Forest Service have resulted. Similar situations may occur in other Regions, and a provision has been made that provides Regional Foresters with the authority to recognize these unusual cases and make additional discounts to achieve a fair fee. The use of this provision is expected to be infrequent.

In addition to the preceding changes, the direction has been substantially rewritten in several other areas to remove ambiguity and thus improve clarity. No significant change in direction or procedure is intended. These areas are: Calculation of a service day; fees for educational institutions; and definitions of guiding and outfitting; permittee terminology; and additional capacity.

1. Calculation of Service Day. The previous definition of a service day was:

A service day is a day or part of a day for each individual accompanied or provided services, by a packer, outfitter, guide, leader or instructor. Beginning and ending days of a trip or service period shall be considered as full days. Where supply or drop service alone is performed, the full or fractional days involved multiplied by the number of clients in the party equals service days. Any period of time when clients, individually or in groups, are under the direction, care, or tutelage of a guide/outfitter shall be counted as part of the total service days for fee calculation or management purposes.

This definition has been revised to remove instructions on calculating service days and the wording simplified to read as follows:

Service Day is a day or any part of a day for each individual or client accompanied or provided services, including transportation services, by an outfitter or guide.

Direction for calculating a service day has been moved from definitions to § 37.21—Specific Fee Factors. This removes direction from definitions with no substantive change in direction or procedure.

2. Fees for Educational Institutions. Instructions for calculating fees for educational institutions has been clarified to remove ambiguity about how to treat student payments to schools or outfitters for credit. The direction (sec. 37.21) now reads as follows:

(1) If the program being provided under the permit is recognized for credit toward graduation or a degree in a recognized school system, exclude tuition and other payments made by the clients which are unrelated to the use of National Forest lands and waters.

(2) If the program provided under the permit is not recognized for credit toward graduation or a degree, include all payments by the clients for the permitted service.

Again, there is no significant change in direction embodied in this revision.

3. Definitions of "Guiding" and "Outfitting". These definitions have been rewritten. The terms were formerly defined as follows:

Guiding. Includes the provision of assistance such as supervision, protection, education, training, transportation, interpretation, and guiding services. It includes such personal services as leading, teaching, cooking, packing, or otherwise assisting recreationists in their pursuit of a natural resource based outdoor recreation experience.

Outfitting. Includes the provision of equipment, supplies, livestock, and materials. It includes such services as rental of boats, skis, horses, tents, and other equipment or gear.

The new definitions result from a review of the Agency's enforcement of outfitting and guiding activities and clarify that the activity is for financial remuneration or other gain. This revision would make clear that groups such as a YMCA pack trip with a paid staff person, who may need a permit for a recreation event, do not need an additional outfitter/guiding permit to conduct such activities. The new definition would read as follows:

Guiding. Providing, for pecuniary remuneration or other gain, services or assistance such as supervision, protection, education, training, packing, transportation, subsistence, interpretation, or otherwise assisting individuals or groups in their pursuit of a natural resource based outdoor activity. The term "guide" includes the holders' employees and agents and instructors.

Outfitting. Providing, for pecuniary remuneration or other gain, except through retail sale in the ordinary course of business, any saddle or pack animal, vehicle or boat, tents or camp gear, or similar supplies or equipment. The term "outfitter" includes the holders' employees and agents and instructors.

4. Permittee Terminology. The term "permittee" is no longer used to describe someone who has a permit from the Forest Service. Therefore, in this interim direction, this term has been replaced with the term "holder" which is defined in 36 CFR 251.51. The definition of holder is clarified to read as follows:

(1) *Holder.* In the context of this section, any applicant who has received a special use authorization to conduct outfitting and guiding.

5. Additional Capacity. An area that is very important to the outfitting and guiding program is the process by which commercial operations may acquire additional capacity or service days. For clarity, it is now stated (§ 41.53c) that, if a current holder of a priority use permit wishes to expand operations, the correct procedure is for them to first apply to receive additional use on an annual

basis in the form of temporary use. This is not a change in procedure, and outfitter and guides should note that the procedures for conversion of temporary use to priority use remain unchanged.

The text of the Interim Directives as they are being issued to Forest Service personnel are set forth at the end of this notice. The interim directive will remain in effect for 18 months unless rescinded.

Public comment is invited. The Forest Service published the proposed policy to govern outfitter and guide permits on April 8, 1983, at 48 FR 15296 and gave notice of adoption of the final policy on February 15, 1984, at 49 FR 5779. Those interested in commenting may wish to review those documents to obtain a comprehensive explanation of the basis of the original policy and procedures which are continued in these Interim Directives.

Dated: April 12, 1990.

George M. Leonard,
Associate Chief,
FOREST SERVICE HANDBOOK
Washington, DC

FSH 2709.11—Special Uses Handbook

Interim Directive No.

Effective Date:

Expiration Date:

Chapter: 30—Fee Determination

Posting Notice:

This interim directive establishes procedures in FSH 2709.11—Special Uses Handbook for assessing fees for outfitting and guiding activities on National Forest System lands. This direction is essentially unchanged from that issued as Interim Directive 58 to FSM 2721.53 which expired July 16, 1988.

30 Outfitter and Guide Fees

37.05 Definitions

See 41.53c for additional definitions

1. *Gross Revenue* is the total amount received by the holder from clients or customers as payment for goods or services provided by the holder in connection with the outfitted and/or guided National Forest trip. Includes all revenue from clients or customers from the sale of goods or services provided by the holder, without regard to whether these goods or services are provided while on National Forest System lands or waters or on non-National Forest System lands and waters, and without regard to whether provided during or prior to arrival or after departure from the holder's headquarters or local community.

2. *Adjusted Gross Revenue* is the gross revenue reduced by either the amount of the holder's costs paid to others for pre- and post-trip transportation and pre- and post-subsistence (prior to arrival or after departure from the holder's headquarters or local community) or the reasonable value of

such services when provided by the holder. Transportation, subsistence, or any other payments made by the holder to others for services, goods, or accommodations provided during the outfitted or guided trip are not deducted.

3. *Service Day* is a day or any part of a day for each individual or client accompanied or provided services, including transportation services, by an outfitter or guide.

4. *Average Adjusted Service Day Client Charge* is the adjusted gross revenue divided by the number of service days actually used.

5. *Duration of the Outfitted/Guided Trip* is the period of time service is rendered, and begins when the client first comes under the care and supervision of the outfitter or guide, at the holder's headquarters or local community, and ends when the client is released from such care and custody. It is used for the purpose of determining the on- and off-set discount and the pre- and post-trip transportation and subsistence revenue adjustment.

37.1 Commercial Service Site

For outfitter/guide activities authorized in connection with a commercial public service site, such as a resort, determine fees for the total authorized use by the Graduated Rate Fee System (GRFS) (FSM 2715.14). Where applicable, require holders under GRFS to pay additionally for site reservation and transportation livestock grazing use.

37.2 Commercial Service, Non-Site

Outfitter/guide activities authorized as a distinct activity, and not as a part of a Forest Service authorized commercial public service business, require payment of fees as described in this section.

37.21 Specific Fee Factors

1. *Calculating Service Days.* Any full or fractional day the customer receives service shall be considered a full service day. When only supply or drop service to customers is provided, only the day on which the outfitter or guide provides service shall be counted.

2. *Discount For Off-Forest Use.* In calculating either the estimated or final fee, reduce the amount based on the percentage of time the customers occupy National Forest System lands and waters in relation to the total duration of the outfitted trip.

Percent of total time on National Forest Lands and Waters	Fee reduction
Less than 5 percent	.80
5-60 percent	.40
Over 60 percent	None

The holder must provide trip duration, itinerary, or such other information as may be specified by the authorized officer to support a request for fee reductions based on off-forest use. In unusual circumstances, Regional Foresters may provide for additional discounts when in the public interest, due to minimal use of NFS lands when the primary purpose of the trip is not directly for the use of NFS lands and waters.

3. *Fees For Nonprofit Organizations.* If the holder requires the "customer" or client to make a donation or grant as a condition of

receiving the service, include the amount of the donation or grant in the fee calculation. Do not consider donations or grants made voluntarily by customers to support the programs or activities of the holder.

4. Fees For Educational Institutions.

a. If the program being provided under the permit is recognized for credit toward graduation or a degree in a recognized school system, exclude tuition and other payments made by the students which are unrelated to the use of National Forest lands and waters.

b. If the program provided under the permit is not recognized for credit toward graduation or a degree, include all payments by the students for the permitted service.

5. *Fees for Additional (temporary) Use.* If, during the operating season, a holder proposes to conduct activities in addition to that initially authorized, the holder must request in advance an amendment to the annual itinerary or operating plan. If capacity is available, approve the request for temporary use and collect in advance any additional estimated fees.

6. *Fee for Non-Use.* In calculating the final fee, collect a fee for unapproved non-use (authorized priority or temporary use which was not properly requested of the authorized officer to be waived). A fee will be assessed unless use authorized by the permit, operating plan, or annual itinerary is waived sufficiently in advance of the planned use to allow reassignment to others and/or may have precluded another use to be assigned the use. This determination rests with the authorized officer. Under either fee option, calculate the amount due for unapproved non-use by dividing the final permit privilege/land use fee (based on actual use) by the number of service days actually used and multiplying the resulting quotient by the number of service days of unapproved non-use.

7. Fee for Site Reservation.

a. Require payment of fees for the occupancy of National Forest System sites reserved for use by the permit holder during the permitted period of occupancy. Examples may include, but are not limited to, base and drop camps, caches, corrals and loading facilities, boat launches, and helispots. The minimum annual fee of \$100 for each reserved site was established in 1984. This is in addition to other required fees, such as the minimum fee required for all outfitting and guiding. Beginning with fees due after March 1990, adjust the minimum annual reservation fee for each reserved site every 3 years based on the Implicit Price Deflator Index, using 1984 as a base year.

b. Do not prorate site reservation fees for use periods of less than one year.

c. Do not authorize refunds or credits for site reservation fees.

d. Regional Forester may establish higher fees, if necessary to obtain fair market value.

8. *Fee for Grazing Livestock.* Assess livestock grazing fees when holders' transportation animals are authorized to graze while on the National Forest. Assess no such fee when the animals travel on the National Forest but are not authorized to graze. Charge fees as prescribed within annual Interim Directives to FSM 2238. Do not make refunds or give credits for planned

and authorized, but unused transportation livestock grazing use.

9. *Minimum Fee* for outfitting/guiding on National Forest System lands is \$50 annually per permit, which was established in 1984. Beginning with fees due after March, 1990, adjust the minimum fee every 3 years based on the Implicit Price Deflator Index, using 1984 as a base year.

37.22 Estimated Fee

Prior to the season, calculate the total estimated annual fee (including site reservation, non-use, and transportation livestock grazing) on a fee determination statement (FSM 2715). Consult with the applicant/holder to estimate the anticipated adjusted gross revenues. Use financial and related documents furnished by the applicant including records of previous years' business activity, planned customer rate schedules, and amount of use to be authorized. Calculate the fee based on three percent (3 percent) of that amount. Retain documents use for fee calculations in the case folder. Bill the total estimated fee as a single amount, to be deposited to recreation use (FSM 6530).

Establish due dates for all payments prior to the start of the season. Require payment of the estimated fee in advance of the use either in full before the start of the season or periodically during the season of operation as follows:

1. When the total annual estimated fee exceeds \$500, but is less than \$2500, collect one half of the amount in advance and the remainder by mid-season.
2. When the estimated annual fee exceeds \$2500, collect one third in advance and the remainder in two equal payments during the season.

37.23 Final Fee

After the operating season, at a date to be established by the authorized officer, the holder shall submit financial and actual use records on which the final permit fee will be based. This calculation is a reconciliation between the previously paid estimated fee and a final amount due based on actual use and revenue. The holder must select, at the time of the initial permit application, one of the following options to be used in calculating the final fee during the full period of the permit:

a. Option A—based on average adjusted service day client charge using the schedule of rates.

SCHEDULE OF RATES

(Option A)

Outfitter's average adjusted service-day client charge	Service day fee due FS
Less than \$8.00	\$.25
8.01 to 20.00	.40
20.01 to 35.00	.80
35.01 to 50.00	1.30
50.01 to 75.00	1.90
75.01 to 100.00	2.60
100.01 to 125.00	3.40
125.01 to 150.00	4.10
150.01 to 175.00	4.80
175.01 to 200.00	5.60
200.01 to 250.00	6.75

SCHEDULE OF RATES—Continued

(Option A)

Outfitter's average adjusted service-day client charge	Service day fee due FS
250.01 to 300.00	8.25
300.01 to 400.00	10.00
Over 400.00	(¹)

¹ 3 percent of the average adjusted service day client charge.

b. Option B—based on three (3) percent of the annual adjusted gross revenue.

37.24 Billing and Refunds

Calculate the final fee using the selected option in section 37.23 and applying the discount for off-Forest use, if applicable. If the amount which was paid as the estimated fee differs from the final fee, credit excess amounts to future fees or bill the holder for underpayment as appropriate. Refunds may be made to holders who have operated under a temporary use permit and are not expected to apply for or receive a permit in the subsequent year or season. Normally make no refunds to priority use permit holders but credit the overpayment to next year's fee.

FOREST SERVICE HANDBOOK

Washington, DC

FSH 2709.11—Special Uses Handbook

Interim Directive No.

Effective Date:

Expiration Date:

Chapter: 40—Special Use Administration

Posting Notice:

This interim directive establishes procedures in FSH 2709.11—Special Uses Handbook for assessing fees for outfitting and guiding activities on National Forest System lands. This direction is essentially unchanged from that issued as Interim Directive 58 to FSH 2721.53 which expired July 16, 1988.

41.53. Outfitters and Guides

Administer permits for outfitters and guides operating on National Forest System lands in accordance with the direction in §§ 41.53a through 41.531. Examples of outfitting/guiding services which require a special use authorization include packing, hunting, float trips, canoe or horse liveries, ski touring, helicopter skiing, jeep tours, boat tours, and fishing.

41.53a Objectives

Issue and administer permits for outfitter and guide activities to:

1. Meet general public recreation service needs identified through forest land and resource management planning.
2. Encourage skilled and experienced individuals, organizations, and companies to conduct outfitting and guiding activities in a manner that assures that National Forest visitors receive services of high quality.

41.53b Policy

Provide quality outfitting and guiding opportunities and experiences. Recognize that outfitters and guides are an important link between the Forest Service and National Forest recreationists.

1. Work with State and local authorities, outfitters, and outfitter/guide organizations to identify and halt "pirate" outfitter operations—that is those operating without permits. Follow procedures in FSM 5300 in investigating and managing unauthorized outfitter cases.

2. Except for temporary structures or permanent improvements with limited value, such as corrals, tent frames, shelter and so forth, permit no development or permanent improvements on National Forest System lands for outfitter and guide services.

41.53c Definitions

See 3705. for additional definitions.

1. *Guiding*. Providing, for pecuniary remuneration or other gain, services or assistance such as supervision, protection, education, training, packing, transportation, subsistence, interpretation or otherwise assisting individuals or groups in their pursuit of a natural resource based outdoor activity. The term "guide" includes the holders' employees and agents and instructors.

2. *Holder*. In the context of this section, any applicant who has received a special use authorization to conduct outfitting and guiding.

3. *Outfitting*. Providing, for pecuniary remuneration or other gain, except through retail sale in the ordinary course of business, any saddle or pack animal, vehicle or boat, tents or camp gear, or similar supplies or equipment. The term "outfitter" includes the holders' employees and agents and instructors.

4. *Priority Use*. A Forest Service commitment to the holder of a permit for outfitting and guiding to give priority consideration to granting the holder a specific amount of available future use.

5. *Service Day*. A day or any part of a day in which one or more individuals are accompanied or provided services, including transportation services, by an outfitter or guide.

6. *Temporary Use*. An amount of use assigned under an outfitter or guide permit for a duration of one season or less.

7. *Transportation Livestock*. Pack and saddle animals authorized in connection with an outfitter/guide permit and expressed on the permit in animal months (AM's) of livestock occupancy, and by class of animal (horse, mule, burro) (FSM 2233.11).

41.53d When Permits Are Required

1. Individuals or organizations conducting outfitting and guiding activities on National Forest System lands must have a Forest Service permit unless the authorized officer issues a permit waiver for incidental use (§ 41.53e).

2. Unless waived under § 41.53e, permits are required regardless of trip duration.

3. Outfitters based off National Forest System land who rent equipment or livestock to the public for use on National Forest System land must obtain a permit if they,

their employees, or agents occupy or use National Forest System land or waters in connection with their rental programs. For example, a permit is required if a boat livery operator provides service, including delivery or pickup of boats, at National Forest sites. No permit is necessary if the operator's customers transport the boats to and from the National Forest locations.

4. Instead of permits, use cooperative, volunteer, or other agreements as described in FSM 1580 and 1830 for sponsored, organized, and supervised trips approved in advance by the Forest Service for performing work beneficial to the United States in administration and protection of the National Forests.

41.53e Permit Waiver for Incidental Use

Upon receipt and after review of a permit application involving proposed annual use of 50 service days or less, the authorized officer may waive the permit requirement when it is determined that the proposed use is expected to have little or not effect on public liability, health, safety, the environment, fees to the Government, or other authorized National Forest uses and activities. Do not grant waivers for activities involving white-water travel, guns, horses, or all terrain vehicles. Document the waiver and reasons for granting it in a letter to the applicant and retain a copy in the file with the application.

41.53f Assignment and Management of Priority Use

1. *Eligible Applicants*. Those whose services are marketed and available to all members of the public on a recurring basis during the season of demand and who have performed acceptably for the previous two-year period under permit are eligible to apply for priority use.

Organizations or individuals whose purpose is to provide service only to a select or restricted clientele are not eligible to receive priority use assignments but may be eligible to receive temporary use permits (§ 41.531).

2. *Assigning Priority Use*.

a. For outfitters and guides operating under the 1985 policy of yearly permits, assign the initial amount of priority use based on the average of the highest two years of actual annual use that was authorized under permit during the previous five years.

b. Establish the amount of priority use in terms of service days, the season, months, weeks, days, people-at-one-time (PAOT), or like time factors which may apply, the nature of the permitted service or activity (elk hunting, white water rafting, sheep hunting, fish pack trips, etc.), the resource area (wilderness, wild river, management unit, and so forth) within which the service or activity is to be authorized, the various modes of transportation to be used, and such other special factors necessary to define the quality and scope of the activity.

c. Where recreation use levels are planned and managed in terms of launches and people per launch, camps and people per camp, or trips and people per trip, establish priority use in terms of service days, but also specify numbers of launches, campsites, and/or trips authorized with those service days.

d. When expired permits are renewed or reissued, the amount of priority use in the new permit is assigned at the direction of the authorized officer. That officer shall assign an amount consistent with the level of priority use the holder was actually able to effectively use under the former permit and, if capacity is available, assign as priority use the amount of additional use that had been authorized as temporary use during that period. Normally, base the amount of priority use in the new permit on the two highest years of annual use as described in preceding paragraph (a). Also consider general market and other economic fluctuations, availability of State hunting licenses, and natural phenomena such as weather which may have adversely affected the ability of the holder to make full use of that amount. Reduce use if the holder has used less than 70 percent of the assigned amount in at least 2 of the past 5 years. Make no reductions in priority use if use under the permit was withheld by the Forest Service in accordance with paragraph 3a. of this section.

3. *Deviations from Assigned Amounts of Priority Use.* The authorized officer must approve a holder's annual proposed itinerary or a request for amendments to operating plans. The authorized officer also must authorize any deviations from assigned amount of priority use, referred to as "authorized non-use." Authorized officers must document the basis for withholding or waiving property use and provide a copy to the holder.

Authorize annual priority use in the amounts shown on the permit except as follows:

a. Withhold authorization for all or part of the assigned amount of priority use for reasons of protection of the resource, public health or safety, or significant conflicts with other authorized National Forest uses or activities.

b. When requested by a permit holder, an authorized officer may waive a holder's obligation to exercise all or part of the priority use amount, when such request is made sufficiently in advance of the use to allow the officer to reassign the waived use to other holders or users.

41.53g *Assignment and Management of Temporary Use*

1. *Assigning Temporary Use.* If capacity is available, temporary use of the nature and in the amounts indicated in applicable forest land and resource management plans may be authorized annually. If plans do not address the subject, assignments shall be at the discretion of the authorized officer. A temporary use assignment does not commit the Forest Service to authorizing that amount of use in the future.

3. *Eligible Applicants.* All qualified applicants including institutional and semi-public entities and holders of priority use permits are eligible to receive temporary use assignments. If a current holder of a priority use permit wishes to expand operations the correct procedure is for them to first apply to receive additional use on an annual basis in the form of temporary use.

3. *Conversion to Priority Use.* Subject to applicable forest plans and to the holder

otherwise being eligible, temporary use permitted for at least two years may be converted to priority use. The amount of temporary use that may be assigned as priority use shall be based on the previous two-year average temporary permitted amount that was actually used. See also the limitation on conversion in paragraph 2c of § 41.53h.

41.53h *Applications and Award of Permits*

1. *Applications.* Provide applicants with form FS 2700-3, Special Use Application, to describe the services to be performed, the number of service days, lands to be occupied, modes of transportation, season of use, scheduling, and so forth. Application procedures established in 35 CFR 251.54 are fully applicable to outfitter/guide applications. The procedures/requirements of FSM 2712 regarding special use applications are also applicable.

2. *Change of Ownership.*

a. If a change of ownership is being considered, the holder must arrange for the prospective new owner to meet with the authorized officer to discuss the past operation and future use prior to concluding the sale or applying for a new permit. Inform both parties a seller is not allowed to retain the permit or "secure" the sale with the permit by using it as collateral. Inform both parties that the purchaser must demonstrate to the satisfaction of the authorized officer, an ability to conduct satisfactory outfitting and guiding operation.

b. The relinquishment submitted by the seller and the applicant submitted by the buyer must be submitted simultaneously (Form FS 2700-3a) and accompanied by properly executed documents showing a bona fide conveyance of a substantial proportion of equipment or other assets previously used in the business and, if the business is based on private land, showing a bona fide conveyance of a substantial proportion of the private land. Normally, reissue permits to purchasers of currently permitted businesses with assigned priority use. No part of an outfitter's or guide's assigned priority use days may be sold alone. Should the sale of the assets previously used in the business fall through or otherwise revert to the original owner, the authorized officer shall normally reissue the permit with priority use associated with the sale to the seller, upon presentation of properly executed relinquishment/application or court order. Do not place the Forest Service in the position of adjudicating disputes between private parties.

c. Temporary use may not be assigned to the buyer as priority use in the new permit.

d. Purchasers of currently permitted businesses with assigned temporary use receive no special consideration for available permits.

3. *New Permits.* As a result of the following situation, opportunities for providing new or additional outfitting/guiding services may occur:

a. Increased allocation, capacity or public need identified through forest planning.

b. An existing permit is terminated or not reissued.

c. There is a reduction of priority use resulting from failure of a holder or holders to use their permitted priority use.

d. Competitive interest in an area, unit, or activity arises where no previous authorized use exists.

e. There is an interest in providing outfitter and guide services in an area, unit, or activity where no previous outfitter/guide use was authorized, but competitive interest is lacking at this time.

Conduct an environmental analysis on any application for a permit in accordance with procedures in FSH 1090.15.

For situations fitting paragraphs (a) through (d) of this section, normally invite applications from all parties with an expressed interest.

When determining the best qualified applicants to receive new permits, consider past experience in and knowledge of the general area, financial capability, economic viability of existing holders, past performance record, return to the Government, and other appropriate factors. In issuing the new permit, classify the use as priority use if the selected applicant has a two-year record of acceptable performance that is similar to the proposed use. Except in the case of acquisition of an existing operation and its assigned priority use days, treat holders of existing operations who wish to expand, as applicants for temporary use under § 41.53g. For a selected applicant with no previous record, classify the use as temporary and if appropriate, convert to priority use after two consecutive years of acceptable performance under the permit.

For situation (e), document the determination of no competitive interest then issue a permit to the first qualified applicant. In issuing the permit, classify authorized use as temporary until the holder has performed acceptably for two consecutive years.

41.53i *Reductions*

1. *Priority Use.* Amendments for revisions of Forest plans may direct a level of outfitting/guiding use below present priority use levels. In such cases, the authorized officer has three options available after consultation with outfitters, State and local agencies, and other interested parties:

(a) To request voluntary reductions.

(b) To make proportionate reductions for all holders.

(c) To invite applications for the purpose of selecting the most qualified applicant(s) to provide reduced numbers of service days. Limit applications to current priority use holders.

2. *Number of Outfitters/Guides.* A forest plan may conclude that there are too many outfitters/guides. In this event, the authorized officer shall select the best qualified from all current priority use permit holders based on past experience. When determining the best qualified applicants to receive permits, consider past experience in and knowledge of the general area, financial capability, economic viability of existing holders, past performance record, return to the Government, and other appropriate factors.

41.53j Permit Preparation and Conditions of Use

1. Use the appropriate standard permit clauses in FSH 2709.11.
2. Issue priority use permits for periods of up to 5 years and, to the extent possible, to coincide with dates following scheduled revisions of the forest plan. Issue temporary use permits for periods not to exceed one year.
3. Issue permits for temporary or priority use under the authority of the Organic Administration Act of June 4, 1897, only on form FS 2700-4, Special Use Permit.
4. Require an operating plan for the period of the permit and approval of an annual itinerary as a provision of permits.
5. In the permit, enter the total number of service days in each use category. Specify in permits, operating plans, and annual itineraries all of the various modes of transportation authorized. Show amounts and class of use (priority or temporary). If applicable, enter the number of launches, and people per launch, or camps and people per camp, or trips and people per trip associated with the priority or temporary use in addition to the service day amounts.
6. For applicants who have no or limited record of past performance, temporary use permits may be issued annually for two consecutive years to provide a performance evaluation period. Renew the permit for a second year unless under the first year the holder evidences wither a basic or a willful failure to comply with terms and conditions of the permit.
7. Indicate in the permit the amount of transportation livestock use authorized in connection with the outfitting/guiding activity and specify if the livestock may graze. Do not issue a separate transportation livestock use permit. Require the holder to record and report the amount of transportation livestock grazing use which actually occurred under the outfitting/guiding permit. Report use in the annual grazing statistical report (FS 2200-j); however, do not report occupancy by animals which were not authorized to graze.
8. Show planned use of specific campsites or other occupancy sites in permits, operating plans or annual itineraries. When campsite use is not specified, camp use may be shown as undesignated and unreserved.
9. Establish fees based on FSH 2709.11, Chapter 30—Fees for Outfitters and Guides.
10. Require holders to provide reasonably accurate information through an actual use report within 30 days of the close of the operating season.
11. Require holders to maintain accounting records satisfactory to the Forest Service, to retain these records for a minimum of five years, and to have them available for Forest Service review and audit.

41.53k Permit Administration

During the course of the season of use, periodically monitor permitted operations to verify compliance with permit provisions.

1. **Performance Evaluation.** Permit holders with assigned priority use must have annual performance evaluations as defined in this section. Authorized officer must ensure that temporary permit holders comply with terms

and conditions of the permit but do not have to follow the evaluation procedures of this section.

a. Recognize three different performance levels: Acceptable, Probationary, and Unacceptable.

b. Forest Supervisors shall develop performance review standards for inclusion in each permit and/or operating plan in consultation with District Rangers, permit holders, outfitter/guide licensing agencies, advisory councils, and other State and other Federal land managing agencies. Important considerations in the evaluations are the degree of compliance with conditions of the permit, operating plans, and itineraries, customer satisfaction, and the care and protection of the resource. Complete the review and rating at the end of each operating season and advise the permit holder of the findings. Ratings are confidential between the Forest Service and the holder, to the extent allowed by law and regulation.

c. A holder given a probationary performance rating qualifies for a permit period not to exceed one year. Permits with remaining periods of more than one year remaining shall be so amended. If a holder given a probationary rating operates at the probationary or unacceptable level during the following year, the authorized officer shall terminate the permit and deny any future permit.

d. An unacceptable performance rating shall result in immediate permit suspension or revocation as appropriate to the circumstances.

2. **Subletting of Use.** Do not approve requests to assign all or part of authorized use to others (subletting). If a holder is unable to unwilling to provide the permitted services, terminate or reduce the authorization, and if appropriate, assign the amount of use to others in accordance with procedures in § 41.53h.

41.53l Permits for Institutional and Semi-Public Outfitting and Guiding

Permits are issued to institutional and semi-private outfitting and guiding applicants on a walk-in basis rather than as a means of implementing forest plan decisions and objectives. Schedules and services may fluctuate from season to year as may fit the program needs of the applicant. Applicants include a variety of membership or limited constituency institutions such as religious, conservation, youth, fraternal, service club, and social groups; educational institutions such as schools, colleges and universities; and similar common interest organizations and associations. This category also includes applicants who operate commercially on a limited, intermittent, or irregular basis in providing service to selected customer clientele rather than to the public at large.

1. Issue temporary use permits when the use can be accommodated without causing unacceptable conflict or resource impacts and is in the public interest. The permitted activities must be consistent and compatible with applicable laws, regulations, and forest plans.

2. Authorize outfitting and guiding activities conducted by institutional or semi-

public groups without regard to whether a fee, charge, or other consideration is collected from the individual participants. Fees, charges, or donations are factors in establishing permit fees, not in determining whether or not to authorize the use.

3. Applicants must demonstrate financial and technical capability to fulfill the terms of the permit.

4. A temporary use permit may be issued for either (a) one trip or (b) a duration of one year or less when the use involves several trips.

5. Do not assign priority use to institutional or semi-public holders.

6. Require an operation plan for full season temporary use permits issued for continuing intermittent use. A plan may also be necessary for single-trip permits if in the judgment of the authorizing officer the nature, scope, and complexity of the trip merits an operating plan to ensure public safety and resource protection.

7. Documented performance evaluation as described in § 41.53k is optional.

8. Establish fees based on FSH 2709.11 Chapter 30—Fees for Outfitter and Guides, [FR Doc. 90-8975 Filed 4-17-90; 8:45 am]

BILLING CODE 3410-11-M

CIVIL RIGHTS COMMISSION**Connecticut Advisory Committee; Public Meeting**

Notice is hereby given, pursuant to the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Connecticut Advisory Committee to the Commission will be convened at 1:30 p.m. on Thursday, May 10, 1990, in the second floor "Function Room" of Hartford City Hall, 550 Main Street, Hartford. The purpose of the meeting is to orient new members, report on the Committee's involvement in an April 6-7, 1990 Yale Law School international symposium on the crises facing refugees in the 1990s, and plan a new project for 1990.

Persons desiring additional information or wishing to address the Committee during the meeting should contact Committee Chairperson Ivor J. Echols (203/232-7274) or John I. Binkley, Director of the Eastern Regional Division (202/523-5264; TDD 202/376-8117). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Eastern Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the Rules and Regulations of the Commission.