

### § 2931.3

#### § 2931.3 What are the authorities for these regulations?

(a) The statutory authorities underlying the regulations in this part are the Federal Land Policy and Management Act, 43 U.S.C. 1701 *et seq.*, and the Land and Water Conservation Fund Act, as amended, 16 U.S.C. 4601–6a.

(1) The Federal Land Policy and Management Act (FLPMA) contains the Bureau of Land Management's (BLM's) general land use management authority over the public lands, and establishes outdoor recreation as one of the principal uses of those lands (43 U.S.C. 1701(a)(8)). Section 302(b) of FLPMA directs the Secretary of the Interior to regulate through permits or other instruments the use of the public lands, which includes commercial recreation use. Section 303 of FLPMA contains BLM's authority to enforce the regulations and impose penalties.

(2) The Land and Water Conservation Fund (LWCF) Act, as amended, authorizes BLM to collect fees for recreational use (16 U.S.C. 4601–6a(a), (c)), and to issue special recreation permits for group activities and recreation events, and limits the services for which we may collect fees (16 U.S.C. 4601–6a(a), (b), (g)).

(3) The Sentencing Reform Act (18 U.S.C. 3571) is the authority for the possible penalties for violations of these regulations.

(b) The regulations at 36 CFR part 71 require all Department of the Interior bureaus to use the criteria in that part to set recreation fees. These criteria are based on the LWCF Act and stated in §§ 71.9 and 71.10 of that part.

#### § 2931.8 Appeals.

(a) If you are adversely affected by a decision under this part, you may appeal the decision under parts 4 and 1840 of this title.

(b) All decisions BLM makes under this part will go into effect immediately and will remain in effect while appeals are pending unless a stay is granted under § 4.21(b) of this title.

#### § 2931.9 Information collection.

The information collection requirements in this part have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and as-

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signed clearance number 1004–0119. BLM will use the information to determine whether we should grant permits to applicants for Special Recreation Permits on public lands. You must respond to requests for information to obtain a benefit.

#### Subpart 2932—Special Recreation Permits for Commercial Use, Competitive Events, Organized Groups, and Recreation Use in Special Areas

##### § 2932.5 Definitions.

*Actual expenses* means money spent directly on the permitted activity. These may include costs of such items as food, rentals of group equipment, transportation, and permit or use fees. Actual expenses do not include the rental or purchase of personal equipment, amortization of equipment, salaries or other payments to participants, bonding costs, or profit.

*Commercial use* means recreational use of the public lands and related waters for business or financial gain.

(1) The activity, service, or use is commercial if—

(i) Any person, group, or organization makes or attempts to make a profit, receive money, amortize equipment, or obtain goods or services, as compensation from participants in recreational activities occurring on public lands led, sponsored, or organized by that person, group, or organization;

(ii) Anyone collects a fee or receives other compensation that is not strictly a sharing of actual expenses, or exceeds actual expenses, incurred for the purposes of the activity, service, or use;

(iii) There is paid public advertising to seek participants; or

(iv) Participants pay for a duty of care or an expectation of safety.

(2) Profit-making organizations and organizations seeking to make a profit are automatically classified as commercial, even if that part of their activity covered by the permit is not profit-making or the business as a whole is not profitable.

(3) Use of the public lands by scientific, educational, and therapeutic institutions or non-profit organizations is commercial and subject to a permit

requirement when it meets any of the threshold criteria in paragraphs (1) and (2) of this definition. The non-profit status of any group or organization does not alone determine that an event or activity arranged by such a group or organization is noncommercial.

*Competitive use means—*

(1) Any organized, sanctioned, or structured use, event, or activity on public land in which 2 or more contestants compete and either or both of the following elements apply:

(i) Participants register, enter, or complete an application for the event;

(ii) A predetermined course or area is designated; or

(2) One or more individuals contesting an established record such as for speed or endurance.

*Organized group activity* means a structured, ordered, consolidated, or scheduled event on, or occupation of, public lands for the purpose of recreational use that is not commercial or competitive.

*Special area means:*

(1) An area officially designated by statute, or by Presidential or Secretarial order;

(2) An area for which BLM determines that the resources require special management and control measures for their protection; or

(3) An area covered by joint agreement between BLM and a State under Title II of the Sikes Act (16 U.S.C. 670a *et seq.*)

*Vending* means the sale of goods or services, not from a permanent structure, associated with recreation on the public lands or related waters, such as food, beverages, clothing, firewood, souvenirs, photographs or film (video or still), or equipment repairs.

**§ 2932.10 When you need Special Recreation Permits.**

**§ 2932.11 When do I need a Special Recreation Permit?**

(a) Except as provided in § 2932.12, you must obtain a Special Recreation Permit for:

(1) Commercial use, including vending associated with recreational use; or

(2) Competitive use.

(b) If BLM determines that it is necessary, based on planning decisions, resource concerns, potential user con-

flicts, or public health and safety, we may require you to obtain a Special Recreation Permit for—

(1) Recreational use of special areas;

(2) Noncommercial, noncompetitive, organized group activities or events; or

(3) Academic, educational, scientific, or research uses that involve:

(i) Means of access or activities normally associated with recreation;

(ii) Use of areas where recreation use is allocated; or

(iii) Use of special areas.

**§ 2932.12 When may BLM waive the requirement to obtain a permit?**

We may waive the requirement to obtain a permit if:

(a) The use or event begins and ends on non-public lands or related waters, traverses less than 1 mile of public lands or 1 shoreline mile, and poses no threat of appreciable damage to public land or water resource values;

(b) BLM sponsors or co-sponsors the use. This includes any activity or event that BLM is involved in organizing and hosting, or sharing responsibility for, arranged through authorizing letters or written agreements; or

(c) The use is a competitive event that—

(1) Is not commercial;

(2) Does not award cash prizes;

(3) Is not publicly advertised;

(4) Poses no appreciable risk for damage to public land or related water resource values; and

(5) Requires no specific management or monitoring.

(d) The use is an organized group activity or event that—

(1) Is not commercial;

(2) Is not publicly advertised;

(3) Poses no appreciable risk for damage to public land or related water resource values; and

(4) Requires no specific management or monitoring.

**§ 2932.13 How will I know if individual use of a special area requires a Special Recreation Permit?**

BLM will publish notification of the requirement to obtain a Special Recreation Permit to enter a special area in the FEDERAL REGISTER and local and regional news media. We will post permit requirements at major access