shall pay the cost of the procedure, unless it is finally determined that there was an underpayment of 10% or more, in which case the Designated Agent shall, in addition to paying the amount of any underpayment, bear the reasonable costs of the verification procedure.

§ 262.8 Unclaimed funds.

If a Designated Agent is unable to identify or locate a Copyright Owner or Performer who is entitled to receive a royalty payment under this part, the Designated Agent shall retain the required payment in a segregated trust account for a period of 3 years from the date of payment. No claim to such payment shall be valid after the expiration of the 3-year period. After the expiration of this period, the Designated Agent may apply the unclaimed funds to offset any costs deductible under 17 U.S.C. 114(g)(3). The foregoing shall apply notwithstanding the common law or statutes of any State.

PART 263—RATES AND TERMS FOR CERTAIN TRANSMISSIONS AND THE MAKING OF EPHEMERAL REPRODUCTIONS BY NONCOMMERCIAL LICENSEES

Sec.
263.1 General.
263.2 Definitions.
263.3 Royalty rates and terms.

Authority: 17 U.S.C. 112(e), 114, 801(b)(1).

§ 263.1 General.

This part 263 establishes rates and terms of royalty payments for the public performance of sound recordings in certain digital transmissions by certain Noncommercial Licensees in accordance with the provisions of 17 U.S.C. 114, and the making of ephemeral recordings by certain Noncommercial Licensees in accordance with the provisions of 17 U.S.C. 112(e), during the period 2003–2004.

§ 263.2 Definitions.

For purposes of this part, the following definition shall apply:

A *Noncommercial Licensee* is a person or entity that has obtained a compulsory license under 17 U.S.C. 114 and the implementing regulations therefor, or that has obtained a compulsory license under 17 U.S.C. 112(e) and the implementing regulations therefor to make ephemeral recordings for use in facilitating such transmissions, and—

(a) Is exempt from taxation under section 501 of the Internal Revenue Code of 1986 (26 U.S.C. 501);

(b) Has applied in good faith to the Internal Revenue Service for exemption from taxation under section 501 of the Internal Revenue Code and has a commercially reasonable expectation that such exemption shall be granted; or

(c) Is a State or possession or any governmental entity or subordinate thereof, or the United States or District of Columbia, making transmissions for exclusively public purposes.

§ 263.3 Royalty rates and terms.

A Noncommercial Licensee shall in every respect be treated as a "Licensee" under part 262 of this chapter, and all terms applicable to Licensees and their payments under part 262 of this chapter shall apply to Noncommercial Licensees and their payment, except that a Noncommercial Licensee shall pay royalties at the rates applicable to such a "Licensee," as currently provided in § 261.3(a), (c), (d) and (e) of this chapter, rather than at the rates set forth in § 262.3(a) through (d) of this chapter.

Dated: January 22, 2004.

Marybeth Peters,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 04–2535 Filed 2–5–04; 8:45 am]

BILLING CODE 1410–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2930

[WO–250–1220–PA–24 1A]

RIN 1004–AD45

Permits for Recreation on Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Land Management (BLM) is amending its regulations on Special Recreation Permits by changing the maximum term for these permits to 10 years instead of 5 years. The reason for this change is to add a reasonable expectation of continuity for outfitters, guides, and other small businesses that provide services to recreationists on public lands.

BLM is also amending its regulations on Recreation Use Permits for fee areas by adding a section on prohibited acts and penalties. This new provision is necessary to give BLM law enforcement personnel authority to cite persons who do not pay fees or otherwise do not follow the regulations on Recreation Use Permits.

EFFECTIVE DATE: April 6, 2004.

ADDRESSES: You may submit suggestions or inquiries to the following addresses: Mail: Director (250), Bureau of Land Management, Eastern States Office, 7450 Boston Blvd., Springfield, VA 22153. Personal or messenger delivery: Room 301, 1620 L Street, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Lee Larson at (202) 452–5168 as to the substance of the final rule, or Ted Hudson at (202) 452–5042 as to procedural matters. Persons who use a telecommunications device for the deaf (TDD) may contact either individual by calling the Federal Information Relay Service (FIRS) at (800) 877–8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

I. Background

BLM published a final rule on Permits for Recreation on Public Lands in the **Federal Register** on October 1, 2002 (67 FR 61732). That final rule included a new subpart containing regulations on recreation use permits. These permits are for use of BLM fee areas. Fee areas are sites that provide specialized facilities, equipment, or services related to outdoor recreation. These include areas that are developed by BLM, receive regular maintenance, may have on-site staffing, and are supported by Federal funding. Not all fee areas necessarily have all of these attributes. Examples of fee areas are campgrounds that include improvements such as picnic tables, toilet facilities, tent or trailer sites, and drinking water; and specialized sites such as swimming pools, boat launch facilities, places with guided tours, hunting blinds, and so forth.

The October 1, 2002, final rule did not include a section on prohibited acts for such fee areas. We later determined that such a provision was necessary to give BLM law enforcement personnel authority to cite persons who use these areas without proper authorization, without paying required fees, without properly displaying their authorizations, or with falsified documentation. The proposed rule published on October 1, 2002 (67 FR 61746), listed these acts as those that would be prohibited.

The October 1, 2002, final rule left substantially intact the existing

regulations on the length of terms for commercial Special Recreation Permits. Those regulations provide for a maximum term of 5 years, allowing applicants to request permit terms up to that length of time and authorizing BLM to issue them for no more than 5 years.

One comment on the May 16, 2000 (65 FR 31234), proposed rule from an association representing commercial outfitters and guides recommended that the maximum term for Special Recreation Permits should be 10 years, unless BLM finds that special circumstances require a shorter period. The comment stated that outfitters need a 10-year term because they must make substantial investments that are not economically viable with a 5-year permit.

We recognize that the 5-year maximum term for permits is a matter of concern for the outfitting and guiding community, and that a 10-year term may be more desirable from both a business and a land management perspective. For this reason, BLM published a proposed rule on October 1, 2002 (67 FR 61746), to allow our field managers to grant up to a 10-year term for Special Recreation Permits on a case-by-case basis.

II. Discussion of Public Comments

BLM received about 97 comments on the proposed rule. Of these, 4 opposed the provision in the rule that extended the maximum term for Special Recreation Permits to 10 years, and 88 supported it without reservation. The remainder expressed support for the change if BLM would base its determination of the permit term on the performance of the permittee.

Several comments expressed concern about the effect of a 10-year permit on competition and the availability of permits for new businesses. The proposed rule would have little impact in most cases on the ability of new outfitters to obtain a permit. Special Recreation Permits are not exclusive. The majority of public lands do not have use allocations limiting the number of commercial Special Recreation Permits issued. In areas where there is resource sensitivity or high demand for limited recreation resources, BLM may impose limits on recreation use allowed and the number of permits available. We determine such limitations through the land use planning process under 43 CFR subpart 1610, and not through the permit administration process.

Limited permit availability is therefore a function of resource allocation through a land use plan rather than the length of the term. Permit tenure has minimal affect on availability. An expiring permit has preference for renewal, so long as—

(1) The permit is in good standing,

(2) The permit is consistent with BLM plans, and

(3) The permittee has a satisfactory record of performance (*see* § 2932.51).

Where the number of permits is limited, a new business can—

(1) Apply for a new permit if and when BLM determines through a comprehensive study and evaluation of the site or locale that we can justify an increase in allowable use with negligible impact on the existing permittees and environment,

(2) Purchase a business that is already permitted in the area and apply for a transfer of that permit. The tenure or length of term of the permit has no effect on its transferability (see subpart 2932.54), or

(3) Participate in the planning process and advocate expanded opportunities.

This is true regardless of the length of the permit term. Since land use planning is a public process, businesses interested in operating in the area subject to a plan should become involved and may be able to present information to justify expanding permit opportunities in the area.

We received several comments which were supportive of the proposed rule if the 10 year maximum term for special recreation permits is discretionary rather than mandatory, and if BLM grants it only to permits whose holders have successfully complied with all permit terms and conditions on previous permits for the same activity. Generally, BLM issues a first-time permit for a one year term, treating that year as a probationary period. In subsequent years, we might issue longer-term permits up to the 10-year maximum based on the factors discussed in this rule.

The comments suggested that BLM automatically revoke multi-year permits and change them to an annual probationary authorization if the operator violates any permit term or condition. We have not adopted this comment in the final rule, although BLM policy provides for such an annual probationary authorization for permittees with substantial violations. BLM has the authority to pursue measures such as this on a case-by-case basis. We prefer to retain permit management flexibility in the regulations and to consider violations on a case-by-case basis. We would not generally impose such sanctions for minor infractions that the operator remedies during the operating season.

The comments also suggested that the onus of demonstrating compliance with the terms of the previous permit fall on the applicant rather than BLM. This is correct. Once BLM monitoring and annual evaluations determine that an operator is or has been in noncompliance, the burden is on the operator to prove that he or she has remedied the problem.

Most of the concerns raised in the comments have already been addressed in the proposed rule and the existing regulations in 43 CFR part 2930. The proposed rule stated that an applicant may request a permit for a period of up to 10 years, and specifically stated that BLM will determine the appropriate term on a case-by-case basis. The BLM Manual/Handbook for Special Recreation Permits gives field office managers guidance for determining the length of a permit. It directs them to consider—

(1) Performance and compliance with the terms and conditions of previous permits;

(2) Conformance to land use plans; and

(3) Evolving resource conditions and technologies.

Other sections of the existing regulations on recreation authorizations (*see* § 2932.56) provide for the amendment, suspension, or revocation of the permit if an operator violates permit stipulations. These provisions apply to all permits, regardless of term length.

Finally, one comment expressed concern about the penalty provision included in the section on prohibited acts in fee areas, stating it was too vague and might allow disproportionate fines for minor violations. The comment gave an example, stating it appeared that a person who failed to pay a $10 camping fee could be fined up to $5,000, depending on the class of violation involved.

We did not include specific penalties for violations. There are too many possible variations in citable offenses and degrees of culpability. To list all possible associated penalties is beyond the scope of this rule.

BLM relies on two authorities for the imposition of penalties for violation of these regulations. The first of these is section 303 of the Federal Land Policy and Management Act (FLPMA) of 1976 (43 U.S.C. 1733). Section 303 authorizes a maximum penalty of $1,000 or 12 months imprisonment, or both. Violation of some of the prohibited acts in this rule, those governing personal conduct, would trigger a penalty under section 303. Under the United States Criminal Code and the Sentencing Reform Act (18 U.S.C. 3571), the level of penalty in section 303 translates to a

Class A misdemeanor. Section 3571 raises the maximum fine to $100,000 for individuals and $200,000 for corporations.

The authority for imposing monetary penalties for infraction of permit requirements is the Land and Water Conservation Fund Act. This Act imposes a penalty of $500 for permit infractions. Under the Sentencing Reform Act, these infractions may be penalized up to $5,000 for an individual or $10,000 for a corporation.

In enacting the Sentencing Reform Act, Congress concluded that a $1,000 fine such as that provided for by FLPMA was an insufficient deterrent for some illegal activities. In some cases, such activities may be very profitable, as well as extremely harmful to society or the environment. Establishing the higher maximum punishment provides flexibility for the agencies and the courts to address the extremely wide variety of offenses covered under agency regulations. By establishing these maximum penalties, however, Congress clearly did not intend that persons convicted of minor offenses should be subject to maximum levels of punishment in every case.

Federal rules authorize each Federal Judicial District to establish a bail forfeiture schedule for all offenses. Agencies use the bail forfeiture schedule to issue citations. This allows local courts to establish appropriate fines for each offense in their area of jurisdiction. It is also the fine the officer or BLM ranger enters on a citation. The violator may mail it in with a check to dispose of the citation and avoid further judicial action. The fine, in effect, becomes the bail forfeiture amount.

If a defendant chooses to appear in court to challenge the citation, and is convicted, he or she may face a fine and/or imprisonment for a misdemeanor offense. In such a case, the Magistrate Judge carefully tailors the sentence to the offense and is guided by clear rules of Federal criminal procedure.

We amended the table in the penalties section of the regulations to make it clear what penalty provisions pertain to which violations. We decided to provide only the cross-references to the statutory provisions rather than dollar figures for the penalties.

At present, bails for nonpayment are estimated to range from $25-$100 with most being around $50. Barring extreme aggravating circumstances, there is no reasonable likelihood of a defaulting camper being subjected to such an extreme fine as the comment postulated.

III. Discussion of Final Rule

Section 2932.42 How Long Is My Special Recreation Permit Valid?

We did not make changes in this section in the final rule. We are amending this section solely by changing the maximum Special Recreation Permit term from 5 years in the previous regulations to 10 years. BLM will consider each application separately and may issue a permit for any period of time from the 10-year maximum term to a season or even a single day. We consider the purpose of the permit, the needs of the permittee, and the public interest in determining the appropriate term.

Permittees are subject to rigorous monitoring and may lose their permits for poor performance under other provisions of the regulations (*see* 43 CFR 2932.56). This final rule will have no impact on our ability to ensure that permittees are well-qualified and carry out their activities in a manner that protects the health of the public lands and serves the recreating public. It will, on the other hand, allow outfitters, guides, and river-running enterprises to avoid the expense and inconvenience of more frequent permit renewal, secure financing more easily (based on lenders knowing that permit terms are longer), and engage in long-term business planning.

This change should benefit existing permit holders. However, it may reduce the ability of outfitters who currently do not hold a permit to obtain one, but only in areas where resource sensitivity or high demand for a limited recreational resource requires BLM to impose limits on use allocations. BLM does not expect this rule to present a substantial departure from current commercial outfitter operations on BLM lands or diminish the ability of BLM staff to monitor and enforce permit compliance.

From the business perspective, the change will improve the ability of outfitters and guides to justify financing from lenders. Also, the business climate should improve for larger scale commercial permits and operations as a result of this change, in turn improving business stability within local economies.

In the proposed rule, we asked specific questions relating to the likely effects of the proposed increase of maximum permit terms. We also asked for anecdotal evidence of problems caused for small businesses by the 5-year maximum term. Most comments offered general support for the proposed change. A trade association for outfitters and other commercial recreation enterprises replied that a longer term for permits would make financing more readily obtainable and business planning more feasible. Without offering data or anecdotal history, the comment went on to quote outfitters saying that getting financing has been difficult with the 5-year maximum term. This commentary did nothing to negate our expectations as to the likely effects of this rule.

From the perspective of the land manager, extending the maximum permit term from 5 to 10 years allows BLM greater range and flexibility to set a term for the permit appropriate for the activity in light of, and commensurate with—

- The level of permittee investment;
- The geographic location and resource considerations;
- Anticipated changes or time frames in land use allocations or planning decisions;
- Our experience in managing and monitoring the type of permitted use; and
- The type, complexity, and extent of the proposed activity.

The rule does not automatically set the term of all permits at 10 years. Rather, it simply allows the field manager to select an appropriate term for up to 10 years.

Finally, the amendment should lead to a small reduction in administrative costs by reducing the analysis and paperwork required for more frequent permit renewal.

Subpart 2933—Recreation Use Permits for Fee Areas

We have amended this subpart on Recreation Use Permits by adding a new section on prohibited acts and penalties. Under this new section 2933.33, BLM will cite and penalize persons using campgrounds and other fee areas if they do not—

- Obtain a permit,
- Pay necessary fees, or
- Display proof of payment as BLM requires and posts at the site.

BLM may also cite and penalize them if they—

- Use forged permits, or
- Use another person's permit.

This new section also states that failure to display proof of payment on a vehicle parked in a fee area is evidence of non-payment. This is important. It strengthens BLM's enforcement capability and reduces costs by establishing an evidentiary threshold that the defendant must overcome or be found guilty. Once BLM establishes that the defendant did not display a permit, the defendant has the burden of overcoming the presumption of non-payment by proving that he or she paid the fee.

Finally, the new section lists the penalties that may be imposed upon conviction.

IV. Procedural Matters

The principal author of this final rule is Lee Larson of the Recreation Group, Washington Office, BLM, assisted by Ted Hudson of the Regulatory Affairs Group, Washington Office, BLM.

Regulatory Planning and Review (E.O. 12866)

The Office of Management and Budget has asked to review this rule as possibly a significant rule under Executive Order 12866. However, BLM has made the following determinations:

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. It will make BLM's regulatory approach to maximum special recreation permit terms identical to that of the National Park Service, whose regulations also allow a maximum permit term of 10 years.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal issues, but raises a novel policy issue by making a substantive change in the maximum term length for Special Recreation Permits, increasing it from 5 to 10 years. Four comments opposed this change, 88 supported it without reservation, and several others supported it conditionally, as discussed above in the Discussion of Comments.

The increase in the maximum term for Special Recreation Permits from 5 to 10 years should have no significant economic effect. It is not expected to have a significant effect on the number of firms operating on BLM lands. The operating costs of such firms may be slightly reduced as a result of this rule due to better financing terms. During fiscal year 2001, BLM issued about 34,500 Special Recreation Permits and collected about $4 million in fees. Special Recreation Permits are generally obtained by commercial outfitters and guides, including river-running companies (about 3,000), sponsors of competitive events (about 1,000), "snow bird" seasonal mobile home campers who use BLM's long term visitor areas (about 14,000), and private individuals and groups using certain special areas.

The increase of the maximum term for Special Recreation Permits will affect primarily the first of these categories: Commercial outfitters and guides, which include river-running companies. The rule does not change the fee structure at all, but benefits these businesses by giving them a more secure permit tenure. This will help them justify financing from lenders.

The second change in the rule affects Recreation Use Permits. During fiscal year 2001, BLM issued about 670,000 Recreation Use Permits for use of fee sites, with revenues totaling about $3.9 million. The cost of such a permit averaged a little under $6.00.

This final rule does not affect fees, and should have no effect on the number of Recreation Use Permits BLM will issue. It merely adds a section—

- Prohibiting the following acts: Failure to obtain a permit, failure to pay for one, and fraudulent use of permits or other documents to avoid paying a fee;
- Making failure to display a permit, where local rules require it, evidence of failure to pay; and
- Stating the standard statutory maximum penalties for violation that a magistrate could impose.

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). According to the president of the American Recreation Coalition, outdoor recreation is a $350 billion industry made up of small businesses. None of these small businesses will be affected more than incidentally by making failure to pay for or obtain a fee area Recreation Use Permit a prohibited act. There is no way to quantify how many of these permits BLM issues to small entities; it must be a minuscule share of the campground and similar permits BLM issues to the general recreating public.

Changing the maximum term for Special Recreation Permits from 5 to 10 years will benefit small businesses as explained in the previous section of this part of the Preamble. We cannot quantify the benefits accruing from increased permit tenure. The rule will benefit about 3,000 commercial outfitters and guides and river-running outfitters. All of them operate small businesses and some hold multiple Special Recreation Permits.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

- Does not have an annual effect on the economy of $100 million or more. See the discussion under Regulatory Planning and Review, above.
- Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The rule does not change fees. It merely provides a mechanism for enforcing their collection. See the discussion above under Regulatory Flexibility Act.
- Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. Recreationists are not likely to resort to foreign recreation markets because failure to pay a campground fee becomes a punishable offense.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. The rule has no effect on governmental or tribal entities. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (E.O. 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. The enforcement provision does not include any language requiring or authorizing forfeiture of personal property or any property rights. A takings implications assessment is not required.

Federalism (E.O. 13132)

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. The rule does not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of Government. The rule does not preempt State law.

Civil Justice Reform (E.O. 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Consultation and Coordination with Indian Tribal Governments (E.O. 13175)

In accordance with E.O. 13175, we find that this final rule does not include policies with tribal implications. The rule does not affect lands held for the benefit of Indians, Aleuts, and Eskimos. The rule applies only to BLM campgrounds and other fee areas on BLM lands, and to commercial outfitters and guides who may apply for longer term permits to use the public lands.

Paperwork Reduction Act

This rule does not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

This final rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required. We base this finding on an environmental assessment of the rule dated August 22, 2002, which you can find in the administrative record for the rule.

Clarity of This Regulation

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following:

(1) Are the requirements in the rule clearly stated?

(2) Does the rule contain technical language or jargon that interferes with its clarity?

(3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, *etc.*) aid or reduce its clarity?

(4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (A "section" appears in bold type and is preceded by the symbol "§" and a numbered heading; for example, *§ 2932.42 How long is my Special Recreation Permit valid?*)

(5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful in understanding the final rule? What else could we do to make the rule easier to understand?

If you have any comments that concern how we could make this rule easier to understand, in addition to sending the original to the address shown in **ADDRESSES**, above, please send a copy to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may also e-mail the comments to this address: *Execsec@ios.doi.gov.*

List of Subjects in 43 CFR Part 2930

Penalties; Public lands; Recreation and recreation areas; Reporting and recordkeeping requirements; Surety bonds.

For the reasons explained in the preamble, and under the authority of 43 U.S.C. 1740, part 2930, chapter II, subtitle B of title 43 of the Code of Federal Regulations is amended as follows:

Dated: October 6, 2003.

Rebecca W. Watson,

Assistant Secretary of the Interior.

PART 2930—PERMITS FOR RECREATION ON PUBLIC LANDS

1. The authority citation for part 2930 continues to read as follows:

Authority citation: 43 U.S.C. 1740; 16 U.S.C. 460l–6a.

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

2. Revise section 2932.42 to read as follows:

§ 2932.42 How long is my Special Recreation Permit valid?

You may request a permit for a day, season of use, or other time period, up to a maximum of 10 years. BLM will determine the appropriate term on a case-by-case basis.

Subpart 2933—Recreation Use Permits for Fee Areas

3. Add section 2933.33 to read as follows:

§ 2933.33 Prohibited acts and penalties.

(a) *Prohibited acts.* You must not—

(1) Fail to obtain a use permit or pay any fees that this subpart or the Land and Water Conservation Fund Act, as amended, requires (*see* paragraph (d)(3) of this section);

(2) Fail to pay any fees, after you first occupy a designated use facility, within the time set by the local BLM office (*see* paragraph (d)(3) of this section);

(3) Fail to display any required proof of payment of fees (*see* paragraph (d)(3) of this section);

(4) Willfully and knowingly possess, use, publish as true, or sell to another, any forged, counterfeited, or altered document or instrument used as proof of or exemption from fee payment (*see* paragraph (d)(1) of this section);

(5) Willfully and knowingly use any document or instrument used as proof of or exemption from fee payment, that BLM issued to or intended another to use (*see* paragraph (d)(1) of this section); or

(6) Falsely represent yourself to be a person to whom BLM has issued a document or instrument used as proof of or exemption from fee payment (*see* paragraph (d)(1) of this section).

(b) *Evidence of nonpayment.* BLM will consider failure to display proof of payment on your unattended vehicle parked within a fee area, where payment is required under paragraph (a)(2) of this section, to be *prima facie* evidence of nonpayment.

(c) *Responsibility for penalties.* If another driver incurs a penalty under this subpart when using a vehicle registered in your name, you and the driver are jointly responsible for the penalty, unless you show that the vehicle was used without your permission.

(d) *Types of penalties.* You may be subject to the following fines or penalties for violating the provisions of this subpart.

If you are convicted of . . .	then you may be subject to . . .	under . . .
(1) Any act prohibited by paragraph (a)(4), (5), or (6) of this section.	a fine under 18 U.S.C. 3571 or other penalties in accordance with 43 U.S.C. 1733(b)(5) for individuals or (c)(5) for organizations.	the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)).
(2) Violating any regulation in this subpart or any condition of a Recreation Use Permit.	a fine under 18 U.S.C. 3571 or other penalties in accordance with 43 U.S.C. 1733(b)(5) for individuals or (c)(5) for organizations.	the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)).

If you are convicted of . . .	then you may be subject to . . .	under . . .
(3) Failing to obtain any permit or to pay any fee required in this subpart.	a fine in accordance with 18 U.S.C. 3571(b)(7) for individuals or (c)(7) for organizations.	the Land and Water Conservation Fund Act, as amended, 16 U.S.C. 460l–6a(e).

[FR Doc. 04–2545 Filed 2–5–04; 8:45 am]
BILLING CODE 4310–84–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2, and 25

[IB Docket No. 99–67; RM No. 9165; FCC 03–283]

Equipment Authorization for Portable Earth-Station Transceivers and Out-of-Band Emission Limits for Mobile Earth Stations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has amended its rules to establish a prior authorization requirement for importation, sale, lease, offering for sale or lease, or shipment or distribution for sale or lease of portable earth-station transceivers. The Commission has also revised rule provisions pertaining to responsibility for operation of earth-station transceivers and limits on out-of-band emissions from mobile earth-station transceivers.

DATES: Effective March 8, 2004, except for § 25.129 and the changes in §§ 1.1307, 2.1033, 2.1204, and 25.132, which contain information collection requirements that have not been approved by the Office of Management and Budget. The FCC will publish a document in the **Federal Register** announcing the effective date for those rule changes. Written comments by the public on the information collection requirements must be submitted on or before April 6, 2004. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collection requirements on or before April 6, 2004.

Compliance Date: When it becomes effective, § 25.129 will require prior authorization to be obtained pursuant to application procedures specified in existing rule provisions in 47 CFR Part 2 for devices imported, sold, leased, or offered, shipped, or distributed for sale or lease after November 19, 2004.

ADDRESSES: Comments on the information collection requirements should be addressed to the Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the Secretary, a copy should be submitted to Judith B. Herman, Federal Communications Commission, Room 1–C804, 445 Twelfth Street, SW., Washington, DC 20554, or via Internet to *Judith-B.Herman@fcc.gov,* and to Kristy L. LaLonde, OMB Desk Officer, 10234 NEOB, 725 17th Street, NW., Washington, DC 20503 or via the Internet to *Kristy_L._LaLonde@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: William Bell, Satellite Division, International Bureau, at (202) 418–0741. For additional information concerning the information collection requirements, contact Judith B. Herman at 202–418–0214, or via the Internet at *Judith-B.Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the *Second Report and Order* in IB Docket No. 99–67, adopted on November 6, 2003, and released on November 18, 2003. The full text of the *Second Report and Order* is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

In the *Second Report and Order* the Commission adopted a rule that will require interested parties to obtain equipment authorization for portable earth-station transceivers pursuant to the previously-established certification procedure specified in part 2 of the Commission's rules. The certification procedure requires submission of an application and exhibits to the Commission, including test data showing that a representative sample unit meets the Commission's applicable technical requirements. Devices subject to this requirement may not be imported, sold or leased, offered for sale or lease, or shipped or distributed for sale or lease in the United States after November 19, 2004 unless a pertinent certification application has been granted and the devices are permanently marked with an FCC identification number. The prohibition against importation is modified, however, by an exception that permits travelers to carry up to three portable earth-station transceivers that have not been authorized by FCC certification into the United States as personal effects for purposes other than sale or lease. The purposes of the new certification requirement for portable GMPCS transceivers are to prevent interference, reduce radio-frequency radiation exposure risk, and make regulatory treatment of portable GMPCS transceivers consistent with treatment of similar terrestrial wireless devices, such as cellular phones. The *Second Report and Order* also revises several rule provisions to place appropriate legal responsibility for unauthorized transceiver operation on parties that control access to satellite networks and to eliminate redundant information-filing requirements.

In addition to adopting rules pertaining to equipment authorization and importation of portable earth-station transceivers, the *Second Report and Order* amended a rule section that prescribes limits on emissions from Mobile Satellite Service transceivers in the 1559–1610 MHz band. In light of comments filed in response to a Further Notice of Proposed Rulemaking released in 2002, the Commission prescribed several additional limits on such out-of-band emissions, specified measurement techniques, and set compliance deadlines for Inmarsat maritime transceivers. These rule changes improve interference protection for aeronautical radio-navigation.

The *Second Report and Order* imposes new information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It has been submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new information collection requirements.

Paperwork Reduction Act

The *Second Report and Order* imposes new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general