

enforce its requirements. (See section 307(b)(2).)

### List of Subjects

#### 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

#### 40 CFR Part 70

Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: February 9, 2007.

**John B. Askew,**  
Regional Administrator, Region 7.

■ Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

#### EPA-APPROVED MISSOURI REGULATIONS

| Missouri citation                                                                                                                                    | Title                | State effective date | EPA approval date                                           | Explanation                                                                          |
|------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|----------------------|-------------------------------------------------------------|--------------------------------------------------------------------------------------|
| <b>Missouri Department of Natural Resources</b>                                                                                                      |                      |                      |                                                             |                                                                                      |
| *                                                                                                                                                    | *                    | *                    | *                                                           | *                                                                                    |
| <b>Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri</b> |                      |                      |                                                             |                                                                                      |
| *                                                                                                                                                    | *                    | *                    | *                                                           | *                                                                                    |
| 10-6.065 .....                                                                                                                                       | Operating Permits .. | 09/30/05             | 02/21/07 [insert FR page number where the document begins]. | Section (4) Basic State Operating Permits, has not been approved as part of the SIP. |
| *                                                                                                                                                    | *                    | *                    | *                                                           | *                                                                                    |

\* \* \* \* \*

### PART 70—[AMENDED]

■ 1. The authority citation for part 70 continues to read as follows:

*Authority:* 42 U.S.C. 7401, *et seq.*

#### Appendix A—[Amended]

■ 2. Appendix A to part 70 is amended by adding paragraph (t) under Missouri to read as follows:

#### Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

\* \* \* \* \*

Missouri

\* \* \* \* \*

(t) The Missouri Department of Natural Resources submitted revisions to Missouri rule 10 CSR 10-6.065, "Operating Permits" on January 3, 2006. We are approving this rule except for Section (4) which relates to the State Basic Operating Permits. This approval is effective April 23, 2007.

\* \* \* \* \*

[FR Doc. E7-2808 Filed 2-20-07; 8:45 am]

BILLING CODE 6560-50-P

### DEPARTMENT OF THE INTERIOR

#### Bureau of Land Management

#### 43 CFR Part 2930

RIN 1004-AD68

[WO-250-1220-PA-24 1A]

#### Permits for Recreation on Public Lands

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Final rule.

**SUMMARY:** This final rule updates the regulations of the Bureau of Land Management (BLM) that explain how to obtain recreation permits for commercial recreational operations, competitive events and activities, organized group activities and events, and individual recreational use of special areas.

The final rule is needed to remove from the regulations inconsistencies with the Federal Lands Recreation Enhancement Act (REA), which authorizes the Secretaries of the Interior and Agriculture to establish, modify, charge, and collect recreation fees at Federal recreation lands and waters for the next 10 years.

**DATES:** Effective date: March 23, 2007.

### PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

*Authority:* 42 U.S.C. 7401 *et seq.*

#### Subpart AA—Missouri

■ 2. In § 52.1320(c) the table is amended under Chapter 6 by revising the entry for "10-6.065" to read as follows:

#### § 52.1320 Identification of plan.

\* \* \* \* \*  
(c) \* \* \*

**ADDRESSES:** You may submit inquiries or suggestions to Director (250), Bureau of Land Management, Room 301-LS, Eastern States Office, 7450 Boston Boulevard, Springfield, Virginia 22153.

#### FOR FURTHER INFORMATION CONTACT:

Anthony Bobo at (202) 452-0333 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
- II. Discussion of Public Comments
- III. Discussion of Final Rule
- IV. Procedural Matters

#### I. Background

The REA was passed as part of the 2005 Omnibus Appropriations bill, and signed into law on December 8, 2004. The Act provides authority for 10 years for the Secretaries of the Interior and Agriculture to establish, modify, charge, and collect recreation fees for use of certain Federal recreation lands and waters.

Section 13 of REA repealed certain admission and use fee authorities, including Section 4(a) through (i) of the

Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–6a *et seq.*), and Section 315 of the Department of the Interior and Related Agencies Appropriations Act, 1996 (as contained in section 101(c) of Public Law 104–134; 16 U.S.C. 4601–6a). The latter provision authorized the Recreational Fee Demonstration Program, which the BLM has used to fund many of its recreation sites. Because these authorities have been repealed, we need to amend the BLM's recreation permit regulations to remove references to them.

Under REA, the BLM will—

- Reinvest a majority of fees back to the site of collection to enhance visitor services and reduce the backlog of maintenance needs for recreation facilities (including trail maintenance, toilet facilities, boat ramps, hunting blinds, interpretive signs and programs);
- Participate in an interagency fee program that reduces the number of national passes from four to one, allowing visitors access to all Federal recreation lands and sites;
- Provide more opportunities for public involvement in the BLM's determination of recreation fee sites and fees; and

• Provide for cooperation with gateway communities through fee management agreements for visitor and recreation services, emergency medical services, and law enforcement services.

The BLM does not and will not charge a fee for many recreation activities and sites on public lands. The REA includes additional provisions that build on the BLM's past experiences in the recreation fee program and improve the fee program by clarifying the circumstances in which fees may be charged. Under the Act, the BLM will not charge standard or expanded amenity recreation fees for—

- General access to BLM areas;
- Horseback riding, walking through, driving through, or boating through public lands where no facilities or services are used;
- Access to overlooks or scenic pullouts;
- Undesignated parking areas where no facilities are provided; or
- Picnicking along roads or trails.

In addition, individuals under 16 will not be charged an entrance or standard amenity fee.

In compliance with REA, the BLM is utilizing its existing Resource Advisory Committees (RACs) and certain new Recreation Resource Advisory Committees (RRACs) to provide the public with additional opportunities to provide input on the establishment of a specific recreation fee site or other agency fee proposals. The BLM also will

provide other opportunities for notice and public participation before establishing a new fee, and will keep the public informed on how it is using fee revenues to improve visitor facilities and services.

The BLM published a proposed rule implementing REA on November 22, 2005 (70 FR 70570), allowing public comments until January 23, 2006. On January 18, 2006, we published a correction in the **Federal Register** (71 FR 2899), because we found one provision in the proposed rule misleading and subject to an interpretation inconsistent with REA. The REA, at Section 12(d), imposed a \$100 fine for failure to pay a permit fee. As published, the proposed rule could be interpreted to provide that this fine also applied to a failure to obtain a permit, which was not the intent of the proposed rule or REA. (Under 18 U.S.C. 3571, the maximum fine for failure to obtain a permit is \$100,000 for an individual and \$200,000 for an organization. Section 303 of the Federal Land Policy and Management Act (FLPMA) also provides for a penalty of up to 12 months in prison for such a violation (43 U.S.C. 1733.)) The correction notice extended the comment period so that the public had a full 60 days to comment on the corrected proposed rule, ending March 20, 2006.

## II. Discussion of Public Comments

The BLM received 6 comments on the proposed rule, 5 from individuals and one from a trade association.

One comment addressed the provision for civil penalties in section 2932.57(b)(3): “You may also be subject to civil action for unauthorized use of the public lands or related waters and their resources \* \* \*.” It stated that the reference should be to “navigable water” only, stating that applying the penalty to use of any other water would be illegal.

The BLM has jurisdiction over the entire shoreline of a lake or reservoir, and controls use and charges fees even if the bureau does not actually “own” the water; navigability is not an issue. There is also case law (*United States v. Lindsey*, 595 F.2d 5 (9th Cir. 1979)) that cites the property clause of the Constitution in affirming the government's right to require permits (and by extension, fees) for rivers in order to protect the public interest in protecting and managing the lands and resources on the river bank.

One comment suggested that the BLM impose a minimum fine of \$500.00 for violations of law on public lands. The comment also asked that the offenses that it characterized as “anonymous

other actions” be subject to higher fines and that they be specifically listed in the **Federal Register**.

Sec. 12(d) of REA limits penalties for failure to pay fees. “SEC. 12. ENFORCEMENT AND PROTECTION OF RECEIPTS. \* \* \* (d) Limitation on Penalties.— The failure to pay a recreation fee established under this Act shall be punishable as a Class A or Class B misdemeanor, except that in the case of a first offense of nonpayment, the fine imposed may not exceed \$100, notwithstanding section 3571(e) of title 18, United States Code.”

One comment challenged economic data that it said the BLM used to justify the proposed rule. We will discuss this issue in Section IV of the preamble, on Procedural Matters.

The same comment addressed the provision in the original proposed rule that set the fine for failure of organized groups or commercial activities to have a permit at \$100 for the first offense. This was the issue that prompted the January 23, 2006, correction notice and extension of the public comment period. The comment pre-dated the correction notice, and there is no need to discuss the issue further in this final rule.

One comment urged that permits for recreation on the public lands should be free of charge to United States citizens and have terms of at least 12 months. The comment stated that this benefit should be funded by charging fees for harvesting all available renewable natural resources and mining minerals on a rotating 10 percent of the public lands each 10 years, leaving the remaining 90 percent to recover for 10 to 90 years. Meanwhile, according to the comment, recreational users would benefit from road construction for resource development that would improve access to remote areas. The comment also advocated reducing costs by eliminating half of the management personnel, and by not paying the moving costs of transferring personnel from location to location, which would tend to keep relevant experience and expertise on site.

The comment includes suggestions that are beyond the scope of this rule, not authorized by law, or contrary to Office of Management and Budget (OMB) guidance on recovering costs from those who benefit from public lands and resources. (Cost recovery policies are explained in OMB Circular No. A–25 (Revised), entitled “User Charges.”) The comment also does not recognize that many BLM lands are uniquely valuable for specific resources or uses, notwithstanding the multiple uses outlined in FLPMA and other authorities. The rigid use-rotation plan

suggested in the comment would not be appropriate for such lands, and the plan does not take into account varying reclamation and recovery times from different uses of different kinds of public lands. The comment is not adopted in the final rule.

One comment asked what regulation changes were proposed or will be made with regard to pedestrian or bicycle access and to camping.

The comment raises questions that are beyond the scope of the rule.

One comment supported the idea of encouraging recreation on the public lands as a way of re-establishing human links to the natural world and showing that humans are part of that world.

The rule is required by law and OMB guidance on recovering costs. Nothing in the rule is intended to discourage recreational use of the public lands. The fees imposed by the rule are the minimum necessary to meet cost recovery requirements, and other burdens imposed on the recreational public are the minimum necessary to allow balanced management of the public lands.

### III. Discussion of Final Rule

The final rule makes changes in the existing regulations on permits for recreation on public lands in order to bring them into conformance with the law, including REA. This section of the preamble describes the changes made in each section of the regulations.

#### *Section 2931.3 What are the authorities for these regulations?*

The final rule amends this section to remove references to the repealed authority, portions of the Land and Water Conservation Fund Act, 16 U.S.C. 4601–6a, and add reference to REA. It explains that REA authorizes the BLM to collect fees for recreational use of certain kinds of areas, and to issue special recreation permits for group activities, such as commercial outings, and recreation events, such as races or traditional assemblies. The rule also clarifies the authority contained in Section 303 of the Federal Land Policy and Management Act (FLPMA), 43 U.S.C. 1733. It also restates the functions of 18 U.S.C. 3571 and 3581 *et seq.*, which establish penalties of fines and imprisonment for violation of regulations. Finally, in this section, the rule removes paragraph (b) discussing 36 CFR part 71, because the regulations there are outdated.

#### *Section 2932.57 Prohibited acts and penalties.*

In this section, which covers prohibited acts and penalties related to

special recreation permits, the final rule amends paragraph (b)(3) by removing reference to the Land and Water Conservation Fund Act and adding REA in its place.

Section 12(d) of REA establishes limits on penalties for failure to pay recreation fees established under the Act. It provides for such failures to be punishable as Class A or Class B misdemeanors, but limits fines for a first offense to \$100. (Under 18 U.S.C. 3571 and 3581, a Class A misdemeanor is subject to a penalty of not more than \$100,000 for an individual (\$200,000 for an organization) or one year in jail. A Class B misdemeanor is subject to a fine of not more than \$5,000 for an individual (\$10,000 for an organization) or six months in jail.) We have also revised paragraph (b) of section 2932.57 to reflect this provision of REA.

#### *Section 2933.33 Prohibited acts and penalties.*

The final rule amends this section, which states prohibitions and imposes penalties related to recreation use permits, by removing references to the Land and Water Conservation Fund Act, and substituting REA, where appropriate. To conform the prohibited acts in paragraph (a) of the section to the table of penalties in paragraph (d), we have added a provision to paragraph (a) requiring compliance with recreation use permit stipulations and conditions. The final rule also removes unnecessary internal cross-references in this section, and corrects inaccurate legal citations.

### IV. Procedural Matters

#### *Regulatory Planning and Review (E.O. 12866)*

This document is not a significant rule and was not subject to review by the Office of Management and Budget under Executive Order 12866.

(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. The rule implements a new statute that affects all land managing agencies. The other agencies are cooperating with the BLM in developing general guidelines for implementing the statute.

(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. It maintains current policies on user fees.

(4) This rule does not raise novel legal or policy issues. It cites new statutory authority that does not have substantially different effects on the program or the public.

During fiscal year 2004, the BLM issued just over 109,000 Special Recreation Permits of all kinds, with revenues totaling a little over \$8 million deposited into the Land and Water Conservation Fund (LWCF), the Fee Demonstration Project, and other miscellaneous accounts. These numbers are derived from the Public Land Statistics, and represent an increase of slightly more than fivefold since 1996. On the other hand, according to the American Recreation Coalition, Americans spent more than \$108 billion on wildlife-related recreation (fishing, hunting, birdwatching, and so forth) alone. We cite these numbers to illustrate that the fees charged under the BLM's recreation program are relatively small when compared with the revenues realized by a typical segment of the overall national recreation industry. Special Recreation Permits are generally obtained by commercial outfitters and guides, river running companies, sponsors of competitive events, "snow bird" seasonal mobile home campers who use the BLM's long-term visitor areas, and private individuals and groups using certain special areas. Under current regulations, use fees are established by the BLM Director, who may adjust them from time to time to reflect changes in costs and the market, and published periodically in the **Federal Register**. The BLM may charge actual costs, subject to certain limitations. During fiscal year 2004, the BLM issued just over 655,000 Recreation Use Permits for use of fee sites, with revenues totaling a little over \$5,200,000. We state these figures to give some idea of the scope of the BLM recreation program in economic terms, and to show that the revenues from the program do not approach \$100 million annually. The REA makes changes in the authorities for the BLM's recreation fees, but Section 3 of the Act does not change the policy for setting those fees: "The amount of the recreation fee shall be commensurate with the benefits and services provided to the visitor," and "[t]he Secretary shall consider comparable fees charged elsewhere and by other public agencies and by nearby private sector operators." As for the penalty aspect of the rule, in recent years fines assessed for violation of recreation permit provisions have not approached the threshold. Since 2000, we have issued on average 300 citations annually for violations of special

recreation permit and recreation use permit provisions, combined, imposing average fines of \$100.00 for each, for an approximate average annual total of \$30,000. Thus, it is clear that the changes in the final rule will not have economic effects exceeding \$100 million annually.

One comment challenged the BLM's reference to the American Recreation Coalition's statement that Americans spent \$108 billion on wildlife-related recreation alone, stating that the figure was unsubstantiated and does not even apply to recreation activities on the public lands, and that much of that recreation occurred on non-BLM lands. (The source for the American Recreation Coalition's statement is the 2001 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation, the tenth in a series of surveys conducted by the U.S. Fish and Wildlife Service and the U.S. Census Bureau. It states that Americans spent \$108 billion on wildlife-related recreation in 2000.)

The Executive Order requires us to determine not only that the rule "will not have an effect of \$100 million or more on the economy," which this rule clearly does not, as demonstrated above, but that 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." The BLM presented the American Recreation Coalition datum, relating to one segment of the national recreation economy, merely to compare the small economic effect of the penalties imposed by the rule, and the negligible effect of the administrative changes made to conform to the REA, to the total amount of money that is spent nationwide on a typical segment of the outdoor recreation economy, to show that the rule should not affect the national economy in a material way, not to justify the rule or to offer the figures as *bona fide*.

The penalties imposed on persons who violate regulations on special recreation permits and recreation use permits are not substantively changed except to reduce the penalty for not paying a fee. While public lands recreation is an important element of many local economies in the Western States, and substantial revenues are generated by the public lands recreation industry, it is clear that the effects of the changes in this rule 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." The data cited in the

proposed rule were actually not necessary to illustrate this point.

#### *Regulatory Flexibility Act*

The Department of the Interior certifies that this final 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.*). The BLM recognizes that most commercial recreation enterprises—outfitters, guides, river-running companies, local retail outlets—are small businesses, and that over 5,000 of them annually hold BLM commercial or competitive permits. Nevertheless, this final rule does not change permit fees, but rather updates the regulations to reflect changes in authorities for the fees and changes their allocation. Penalties for non-payment of fees do not affect outfitters, event organizers, and other commercial permittees, who must pay the fees before receiving 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 will have no effect on the 3 percent basic use fee that the BLM's fee schedule (set by the 1984 policy, not regulations) requires outfitters to pay.
- 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. The changes in the regulations required by enactment of REA will not lead to increases in user fees or any other cost factors that may impel recreationists to travel to comparable foreign recreation destinations.

#### *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 BLM finds that the rule does not have significant takings implications. The final rule does not provide for forfeiture or derogation of private property rights. It merely updates the regulations to reflect changes in statutory authorities for the BLM recreation program covered by the regulations. A takings implications assessment is not required.

#### *Federalism (E.O. 13132)*

In accordance with Executive Order 13132, the BLM finds that 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, we have 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. The rule merely updates the regulations to reflect changes in statutory authorities.

#### *E.O. 13175, Consultation and Coordination With Indian Tribal Governments*

In accordance with Executive Order 13175, the BLM has found that this final rule does not include policies that have Tribal implications. The rule has no effect on Tribal lands, and affect member of Tribes only to the extent that they use public lands and facilities for recreation. The rule merely updates the regulations to reflect changes in statutory authorities.

#### *E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

This rule is not a significant energy action. It will not have an adverse effect on energy supplies. The rule does not limit land use by energy companies. It applies only to permits for recreational use of public lands, how the BLM collects revenues and applies them to the program.

*E.O. 13352, Facilitation of Cooperative Conservation*

In accordance with Executive Order 13352, the BLM has determined that this final rule is administrative in nature and only reflects changes in statutory authorities. This rule does not impede facilitating cooperative conservation. It does not affect the interests of persons with ownership or other legally recognized interests in land or other natural resources, local participation in the Federal decision-making process, or relate to the protection of public health and safety.

*Paperwork Reduction Act*

These regulations do not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

*National Environmental Policy Act*

The BLM has determined that this final rule updating the recreation permit regulations to recognize and reflect changes in statutory authorities governing the payment and allocation of permit fees and the penalties for nonpayment is a regulation of an administrative, financial, legal, and procedural nature. Therefore, it is categorically excluded from environmental review under section 102(2)(C) of the National Environmental Policy Act, pursuant to 516 Departmental Manual (DM), *Chapter 2, Appendix 1*. In addition, the final rule does not meet any of the 10 criteria for exceptions to categorical exclusions listed in 516 DM, *Chapter 2, Appendix 2*. Pursuant to Council on Environmental Quality regulations (40 CFR 1508.4) and the environmental policies and procedures of the Department of the Interior, the term "categorical exclusions" means a category of actions which do not individually or cumulatively have a significant effect on the human environment and that have been found to have no such effect in procedures adopted by a Federal agency and for which neither an environmental assessment nor an environmental impact statement is required. Therefore, a detailed statement under the National Environmental Policy Act of 1969 is not required.

*Author*

The principal authors of this final rule are Lee Larson (retired), and Anthony Bobo of the Recreation and Visitor Services Division, Washington Office, BLM, assisted by Ted Hudson of the

Regulatory Affairs Group, Washington Office, BLM.

**List of Subjects in 43 CFR Part 2930**

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

Dated: January 31, 2007.

**C. Stephen Allred,**

*Assistant Secretary of the Interior, Land and Minerals Management.*

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

**PART 2930—PERMITS FOR RECREATION ON PUBLIC LANDS**

■ 1. The authority citation for part 2930 is revised to read as follows:

**Authority:** 43 U.S.C. 1740; 16 U.S.C. 6802.

**Subpart 2931—Permits for Recreation; General**

■ 2. Revise section 2931.3 to read as follows:

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

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 Federal Land Recreation Enhancement Act, 16 U.S.C. 6801 *et seq.*

(a) 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 authorizes the BLM to promulgate and enforce regulations, and establishes the penalties for violations of the regulations.

(b) The Federal Land Recreation Enhancement Act (REA) authorizes the BLM to collect fees for recreational use in areas meeting certain criteria (16 U.S.C. 6802(f) and (g)(2)), and to issue special recreation permits for group activities and recreation events (16 U.S.C. 6802(h)).

(c) 18 U.S.C. 3571 and 3581 *et seq.* establish sentences of fines and imprisonment for violation of regulations.

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

■ 3. Amend section 2932.57 by revising paragraph (b) to read as follows:

**§ 2932.57 Prohibited acts and penalties.**

\* \* \* \* \*

(b) *Penalties.* (1) If you are convicted of any act prohibited by paragraphs (a)(2) through (a)(7) of this section, or of failing to obtain a Special Recreation Permit under paragraph (a)(1) of this section, you may be subject to a sentence of a fine or imprisonment or both for a Class A misdemeanor in accordance with 18 U.S.C. 3571 and 3581 *et seq.* under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)).

(2) If you are convicted of failing to pay a fee required by paragraph (a)(1) of this section, you may be subject to a sentence of a fine not to exceed \$100 for the first offense, or a sentence of a fine and or imprisonment for a Class A or B misdemeanor in accordance with 18 U.S.C. 3571 and 3581 *et seq.* for all subsequent offenses.

(3) You may also be subject to civil action for unauthorized use of the public lands or related waters and their resources, for violations of permit terms, conditions, or stipulations, or for uses beyond those allowed by permit.

**Subpart 2933—Recreation Use Permits for Fee Areas**

■ 4. Amend § 2933.33 by revising paragraphs (a), (b), and (d) 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 required by this subpart;

(2) Violate the stipulations or conditions of a permit issued under this subpart;

(3) Fail to pay any fees within the time specified;

(4) Fail to display any required proof of payment of fees;

(5) 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;

(6) Willfully and knowingly use any document or instrument used as proof of or exemption from fee payment, that the BLM issued to or intended another to use; or

(7) Falsely represent yourself to be a person to whom the BLM has issued a

document or instrument used as proof of or exemption from fee payment.

(b) *Evidence of nonpayment.* The BLM will consider failure to display proof of payment on your unattended

vehicle parked within a fee area, where payment is required to be prima facie evidence of nonpayment.

\* \* \* \* \*

(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) Failing to obtain a permit under paragraph (a)(1) of this section, or any act prohibited by paragraph (a)(4), (5), or (6) of this section.          | A sentence of a fine and/or imprisonment for a Class A misdemeanor in accordance with 18 U.S.C. 3571 and 3581 <i>et seq.</i>                                                                                        | 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 sentence of a fine and/or imprisonment for a Class A misdemeanor in accordance with 18 U.S.C. 3571 and 3581 <i>et seq.</i>                                                                                        | The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)). |
| (3) Failing to pay a Recreation Use Permit fee required by paragraph (a)(1) of this section, or any act prohibited by paragraph (a)(3) of this section. | A fine not to exceed \$100 for the first offense, or a sentence of a fine and/or imprisonment for a Class A or B misdemeanor in accordance with 18 U.S.C. 3571 and 3581 <i>et seq.</i> for all subsequent offenses. | The Federal Lands Recreation Enhancement Act (16 U.S.C. 6811).          |

[FR Doc. E7-2876 Filed 2-20-07; 8:45 am]

BILLING CODE 4310-84-P