

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2920

[WO-350-1430-00-24 1A]

RIN: 1004-AB51

**Permits, Leases and Trespass;
Procedures for Action on Use,
Occupancy and Development;
Unauthorized Use; and Cost
Reimbursement for Processing and
Monitoring Permits and Leases for Use
of Public Lands**

AGENCY: Bureau of Land Management,
Interior.

ACTION: Further proposed rule.

SUMMARY: This further proposed rule on permits and leases for use of public lands administered by the Bureau of Land Management (BLM) amends the proposed rule published in the **Federal Register** on November 21, 1990 (55 FR 48810). The 1990 rule proposed to amend the regulations on leases, permits, easements, and trespass in 43 CFR parts 2920 and 9230, currently in effect. This further proposed rule would create two categories of permits for proposed uses of public lands: "minimum impact permits" and "full permits." "Minimum impact permits" would be issued for activities that are likely to have a minimal impact on the public lands and their resources. BLM decisions to issue minimum impact permits would become effective immediately upon signature by the BLM authorized officer and would not be subject to the general appeals process provided in 43 CFR 4.21(a). "Full permit" decisions, by contrast, would not become effective until after a minimum period of 30 days during which a person may file an appeal under 43 CFR part 4.

In this further proposed rule, BLM invites public comment on the new minimum impact permit provisions, as well as on several other provisions that did not appear in the original proposed rule or have been substantially revised since that rule was published in 1990. These provisions concern rental and fee schedules for commercial filming and photography, hazardous materials, outdoor advertising, criminal penalties, and conformity of applications to land use planning. Finally, BLM requests suggestions and comments from the public on 5 specific issues relating to permits and rental schedules.

DATES: Comments on this further proposed rule must be submitted by April 10, 1995. No comments

postmarked after this date will be considered in preparation of the final rule, nor will any additional comments be accepted on the original proposed rule published in 1990. The Department will consider all timely comments submitted on the further proposed rule, as well as the comments received in 1990-91 on the original proposed rule, in preparing the final rule.

ADDRESSES: Comments should be sent to: Director (140), Bureau of Land Management, Room 5555, Main Interior Bldg., 1849 C Street NW., Washington, DC 20240. Comments on the further proposed rule will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Jim Paugh, (307) 775-6306, or Ray Brady, (202) 452-7780.

SUPPLEMENTARY INFORMATION:**I. Introduction***A. The Existing Regulations*

The existing regulations in 43 CFR part 2920 establish the procedures for obtaining land use authorizations from the BLM in the form of permits, leases, and easements to use, occupy, and develop the public lands for activities not specifically covered by other authorizing regulations, such as grazing (43 CFR part 4100), recreation (43 CFR part 8300), and others. All land use authorizations in the existing regulations in part 2920 are now subject to the appeals process described in 43 CFR part 4, which includes a 30-day period in which a person adversely affected by BLM's decision may file a notice of appeal to the Interior Board of Land Appeals (IBLA). The land use authorization becomes effective at the end of the 30-day appeal period unless the appellant files a petition for a stay pending appeal. The IBLA has 45 days from the expiration of the 30-day appeal period to grant or deny the stay.

Under the existing regulations, the BLM may issue a type of permit called a "minimum impact permit" for activities that do not cause appreciable damage or disturbance to the public lands, their resources or improvements (43 CFR 2920.2-2). The BLM is not required to publish a Notice of Realty Action for minimum impact permits. Minimum impact permits are subject, however, to the 30-day appeal period before they can become effective. Examples of uses considered for minimum impact permits under the present regulations include apiary (bee hive) sites; temporary storage of hay,

ranching and farming equipment, and dismantled drilling rigs; limited commercial filming and photography activities; special events and gatherings; and soil core sampling. The only written criteria to assist the BLM authorized officer in determining whether a particular use constitutes minimum impact are outlined in a BLM instruction memorandum, and currently apply only to commercial filming and photography.

B. The 1990 Proposed Rule

The original proposed rule published in the **Federal Register** on November 21, 1990, would substantially revise the existing regulations. It would eliminate the current "easement" category of land use authorizations, improve procedures for protecting public lands and resources from unauthorized use, and revise the procedures for administering, assigning, and terminating permits and leases. The original proposed rule would also dramatically change the existing appeals process for permits by making all permit decisions effective immediately upon signature by the authorized officer. The 30-day waiting period under 43 CFR 4.21 would not apply. The sole administrative review of a permit decision is provided in § 2924.1-1 in the original proposed rule. It allows parties adversely affected by an authorized officer's permit decision to request an administrative review by the authorized officer's immediate supervisor. No further administrative review is allowed in that rule. The 1990 proposed rule would not include a minimum impact permit category.

C. The Further Proposed Rule

This further proposed rule attempts to strike a balance between the permit appeals process under the existing regulations and that proposed in the 1990 rule. Under the current regulations, permit decisions do not become effective until after a minimum 30-day period in which an adversely affected person may file an appeal under 43 CFR 4.21(a) and 43 CFR 4.411(a). By contrast, the 1990 proposed rule would make all BLM permit decisions effective immediately.

This further proposed rule would create 2 categories of permits: "minimum impact permits" and "full permits." Only minimum impact permit decisions would become effective immediately. The criteria for determining when BLM should issue a minimum impact permit or a full permit are outlined in the rule.

The structure of the original 1990 proposed rule has been somewhat reorganized, and that reorganization is

reflected in this further proposed rule. For example, § 2921.8 on appeals, in this rule, appeared with different wording as subpart 2924 in the 1990 proposed rule. Subpart 2923 of the original proposed rule, regarding the administration of permits and leases, has been redesignated as subpart 2924. Section 2924.1–2 would be added to that subpart in this further proposed rule to introduce the proposed rental fee schedule for commercial filming and photography. Because that section number (2924.1–2) was contained in the original proposed rule, the amendatory language in this further proposed rule states that the section is “revised,” but there is no connection between the original § 2924.1–2 on appeals and the new proposed § 2924.1–2 on fees, other than the section number itself. The reorganization of the original proposed rule does not affect any other section numbers in this further proposed rule. Other section number changes are only to accommodate the insertion of new sections.

Other subjects addressed in this further proposed rule are discussed in detail in the section-by-section analysis below. No provisions of 43 CFR part 9230 concerning trespass, which BLM proposed to amend in the original proposed rule, would be affected by this further proposed rule.

D. Commercial Filming on Public Lands

On September 13, 1993, the BLM met with representatives from the U.S. Forest Service, National Park Service, filming and photography industry, and environmental organizations to discuss filming on public lands. The film industry representatives urged BLM to adopt an expedited permit authorization process. Environmental group representatives favored written standards to ensure that an accelerated permit process would be carried out in a manner that would protect the public lands and their resources.

This further proposed rule establishes criteria for minimum impact permits intended to meet concerns of the film industry as well as environmental groups. These criteria would apply to all uses of public lands for which permits may be granted under part 2920, not just filming. The minutes of the September 1993 meeting are available for public review at each BLM State Office or may be obtained by contacting the Director (260), Bureau of Land Management, 1849 C Street, NW., Mail Stop 1000 LS, Washington, DC 20240.

II. Section-by-Section Analysis

Section 2920.0–5 Definitions

This further proposed rule would introduce some important definitions, including “full permit” and “minimum impact permit.” These two terms are essential to an understanding of this further proposed rule, and are explained fully in the discussion of § 2921.7, below. Also added are definitions of “location” and “staging area” as they pertain to the film industry, a definition of “wetlands” (the presence of wetlands is a threshold criterion for requiring a full permit), and a definition of “hazardous material.” Finally, the further proposed rule would revise the definition of “casual use” that appeared in the 1990 proposed rule. The new definition would emphasize the noncommercial and occasional nature of the activities that constitute casual use.

Section 2921.3 Prohibited Acts

This section of the 1990 proposed rule has been amended by adding a new paragraph (e) containing a list of prohibited acts in addition to the acts listed in other paragraphs of the section that constitute trespass. These new prohibited acts include failure to comply with terms and conditions imposed under the regulations, failure to comply with permit or lease stipulations required by the authorized officer, transfer of a lease to another party without approval by the authorized officer, use of a permit or lease after the expiration date or for purposes other than those specified in the permit, failure to comply with any BLM notice or temporary suspension order, failure to make any required payments, failure to comply with reclamation requirements, and subleasing. Also added are prohibited acts related to hazardous materials and the disposal of solid wastes. To accommodate this addition, the proposed paragraph (e) would be redesignated as (f), the original paragraph (f) becomes § 2921.4—Penalties, which would be revised as discussed below, and the original § 2921.4 becomes § 2921.5.

Section 2921.4 Penalties

This section would amend the original proposed rule to reflect amendments of the Sentencing Reform Act of 1984 that provide increased criminal penalties for violations of Federal law, including violations under section 303(a) of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. 1733(a). The Criminal Fine Improvements Act of 1987 (Pub.L. 100–185, section 6, 101

Stat. 1279, 1280 (1987)) amends Title 18 of the United States Code (18 U.S.C. 3571) by increasing maximum fines for Class A misdemeanors under 18 U.S.C. 3559 (such as violations under section 303(a) of FLPMA) to \$100,000 for individuals and \$200,000 for organizations. Thus, this further proposed rule would make it clear that criminal penalties for violation of the regulations in part 2920 are not limited to the amounts specified in FLPMA.

Section 2921.6 Activities Requiring a Permit

This section would require all commercial users of the public lands, and noncommercial users whose activities exceed casual use, to apply for a permit. Casual use activities would not require a permit.

Paragraph (b) of § 2921.6 would specifically address permit requirements for professional still photographers and videotapers. Most professional and amateur photographers would be allowed to make still photographs and videos on public lands without permits or the payment of fees. Tourists and recreational photographers also are not required to obtain permits for taking pictures or making videos on public lands. Professional photographers taking pictures of public land users (such as those engaged in recreational activities) for the express purpose of selling the pictures to the land users would be required to obtain permits. Permits would also be required for photography performed under a sales contract (for example, a contract for photographs for postcards, calendars, or books), or photography using the public lands as a location or background for advertising commercial products. Finally, permits would be required for photography, if it is reasonably likely that public lands or resources, such as archaeological or historic artifacts or features, could be adversely affected. Permits are necessary in such cases as vehicles for enforceable conditions that would protect these resources.

Section 2921.7 Minimum Impact Permits and Full Permits

A new § 2921.7 would establish criteria to assist BLM in determining whether issuance of a minimum impact permit or a full permit would be appropriate for a proposed use of public lands. Minimum impact permits could be issued if the activity fit the definition in § 2920.0–5 and did not involve any of the conditions listed in § 2921.7(b) or (c). The BLM proposes to adopt these criteria for all types of land uses that are

considered for minimum impact permits under the existing regulations.

A prospective applicant would have the opportunity to discuss these criteria with the authorized officer during the pre-application phase of the permitting process described in § 2922.1 of the 1990 proposed rule. During this discussion, the authorized officer would also inform prospective applicants of other possible resource management conflicts, legal approvals required, and other interested or affected public land users or interest groups. This would assist prospective applicants at the outset to assess the likelihood of obtaining a minimum impact permit, and would enable them to locate other available land quickly for the proposed activity, rather than seek a full permit with its attendant delays.

Section 2921.8 Appeals

Section 2921.8 in this further proposed rule supersedes subpart 2924, concerning appeals, in the 1990 proposed rule. The further proposed rule provides that all minimum impact permit decisions of an authorized officer would be effective immediately unless a person adversely affected appeals and demonstrates to the Interior Board of Land Appeals (IBLA) that the action should be stayed pending appeal. The general provisions of 43 CFR 4.21(a) would not apply to a decision or approval of the authorized officer for any minimum impact permit, except that parties eligible to maintain an appeal under 43 CFR 4.21(a) would also be able to file a request for a stay of decision with the IBLA. The IBLA could grant a stay if the petitioner demonstrated sufficient justification.

Section 2921.9 Outdoor Advertising

This new provision is a cross-reference to regulations of the Department of Transportation on outdoor advertising.

Section 2922.2-1 Applications Not Conforming to Land Use Plans

Section 2922.2-1 has been added to make clear that applications are required to conform to BLM land use plans, and that any applications that do not conform to BLM plans must be modified or they will be rejected. Applications so rejected due to nonconformance with BLM land use plans are subject to appeal pursuant to 43 CFR part 4.

Section 2922.2-3 Application Content

This provision was suggested in public comments on the original proposed rule. Provisions restricting the use, storage, or production of hazardous

materials on lands subject to permits or leases would be added as § 2922.2-4(m). Related amendments are proposed in §§ 2921.3 and 2922.2-3 to prohibit treatment and disposal of hazardous materials and certain solid wastes on public lands, and requiring applications for permit or lease to disclose whether hazardous materials would be involved in the activity.

Section 2924.1-2 Rental and Fee Schedules for Film and Photography Permits

Rental and fee schedules for commercial filming and photography would be added in a new § 2924.1-2. The schedules are intended to be reasonable and easy to implement, and have been developed in consultation with other land managing agencies of the Department of the Interior and with the Forest Service. The schedules do not include recovery of the costs of processing an application. Cost recovery provisions for permits and leases were included in the original proposed rule. The rental payments are intended to reflect fair market value of the use of public lands and their resources for a specified period. In developing the rental schedule, the BLM considered comments from industry and other Federal agencies, and interviews with private property owners who rent land to film production companies. Private property owners take into account the nature of the activities to be conducted on their land, the number of people, and the duration of the use.

III. Request for Comments

To assist the public in the development of comment on this further proposed rule, copies of the original November 21, 1990, proposed rule (55 FR 48810) may be obtained by request to the office identified in ADDRESSES, above. However, the substance of this further proposed rule may be understood without reference to the 1990 proposed rule.

In addition to inviting comments on this further proposed rule, the BLM specifically requests responses to the following questions related to leases and permits:

1. Under the existing regulations, all permits and leases are subject to a 30-day appeal period before they become effective. The 1990 proposed rule would make all leases and permits effective immediately upon issuance by the BLM authorized officer. Under the current proposal, only minimum impact permits would be effective immediately; leases and other permits would remain subject to the 30-day waiting period prescribed

in 43 CFR part 4. Which approach do you think is appropriate?

2. Should the BLM issue minimum impact permits for all types of activities authorized under 43 CFR part 2920 or only for filming or photography?

3. Are the standards set forth in § 2921.7 appropriate and sufficient for determining whether a proposed activity should require a full permit or a minimum impact permit?

4. Is the U.S. Department of Labor Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average an appropriate index for adjusting rental schedules in future years?

5. Should free-lance professional still photography be considered a casual use activity that is exempt from the permit requirements, except in those situations listed in § 2921.6(b) of the further proposed rule, or should free-lance professional still photographers be required to obtain a permit in all cases and pay appropriate fees?

The principal authors of this further proposed rule are Jim Paugh, Wyoming State Office, David Cavanaugh, Chief Appraiser, and Ray Brady, Chief, Division of Lands, assisted by the staff of the Division of Legislation and Regulatory Management, Bureau of Land Management, and the Office of the Solicitor, Department of the Interior.

We have determined that this further proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment. The BLM has prepared an environmental assessment of the impacts of the rule and has determined that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required. The rule would merely simplify and streamline procedures for permit issuance. Each application for a permit or lease is, and under this rule would remain, subject to environmental analysis and, if determined necessary, an environmental impact statement.

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

The Department has determined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that the rule will not have a significant economic impact on a substantial number of small entities. The rule favors no demographic group. The fee schedule imposed by the rule is graduated according to the size of the permittee, so that larger entities with more personnel and equipment using the public lands would pay larger fees. The costs would be minimized for those small entities that would cause less damage to the public lands being used

and less interference with other uses and users.

Because the rule will result in no taking of private property and no impairment of property rights, the Department certifies that this rule does not represent a governmental action capable of interference with constitutionally protected property rights, as required by Executive Order 12630.

The Department has certified to the Office of Management and Budget that these regulations meet the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order 12778.

The information collection requirement(s) contained in part 2920 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1004-0009.

List of Subjects for 43 CFR Part 2920

Public lands, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, and under the authority of 43 U.S.C. 1740, the proposed rule published at 55 FR 48810, November 21, 1990, which would amend part 2920, group 2900, subchapter B, chapter II, Subtitle B, Title 43 of the Code of Federal Regulations, is proposed to be amended as follows:

PART 2920—PERMITS AND LEASES, PRINCIPLES AND PROCEDURES

1. The authority citation for part 2920 is revised to read as follows:

Authority: 43 U.S.C. 1740.

2. Section 2920.0-5 in the proposed rule is further amended by adding in alphabetical order definitions to read as follows:

§ 2920.0-5 Definitions.

* * * * *

Full permit means an authorization for an activity that would result in more than minimal impacts on public lands, or their resources or improvements, as measured by the criteria set forth in § 2921.7, or for which reclamation or restoration requires more than minimal effort.

Hazardous material means any substance that is listed as hazardous, toxic, or dangerous, or defined as nuclear or byproduct material, under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601 *et seq.*, the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6901 *et seq.*, the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 *et seq.*, or the regulations issued under

those laws. The term does not include petroleum, including crude oil or any fraction thereof, unless the substance is specifically listed or designated as a hazardous substance under 42 U.S.C. 9601(14), nor does it include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).

Location means each place on public lands used for film production purposes.

Minimum impact permit means an authorization for an activity that would likely result in little or no damage to public lands, or their resources or improvements, as measured by the criteria set forth in § 2921.7, and which damaged resources can be easily reclaimed or restored.

Staging area means each place on public lands used for parking, catering, and off-set construction associated with film production.

Wetlands means areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support and which, under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions.

* * * * *

3. Section 2920.0-5 in the proposed rule is further amended by revising the definition of "casual use" to read as follows:

§ 2920.0-5 Definitions.

* * * * *

Casual use means noncommercial activities occurring on an occasional or irregular basis that ordinarily result in negligible disturbance of public lands, or their resources or improvements, and require no reclamation or restoration.

4. Section 2921.2 in the proposed rule is further amended by adding paragraph (c) to read as follows:

§ 2921.2 Terms and conditions.

* * * * *

(c)(1) The lessee or permittee must furnish to the authorized officer a copy of any report required or requested by any Federal, State, or local government agency regarding any release of hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601 *et seq.* (CERCLA) in excess of the reportable quantity established by 40 CFR part 117.

(2) The lessee or permittee must report any release of a hazardous substance as defined in CERCLA in excess of the reportable quantity

established by 40 CFR part 117, or any oil spill, as required under CERCLA and the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR part 300), and must send copies of such reports to the authorized officer within 5 days.

(3) The lessee or permittee must notify the authorized officer within 5 days if there is a significant variation from the authorized use with respect to hazardous materials and their use, generation, or storage.

5. Section 2921.4 of the proposed rule is redesignated as section 2921.5.

6. Section 2921.3 of the proposed rule is further amended by redesignating paragraph (f) as section 2921.4, redesignating paragraph (e) as paragraph (f), and adding paragraph (e) to read as follows:

§ 2921.3 Prohibited acts.

* * * * *

(e) Additional prohibited acts not related to trespass include but are not limited to:

(1) Failure to comply with any of the terms and conditions imposed under § 2921.2 of this part;

(2) Failure to comply with any permit or lease stipulations required by the authorized officer;

(3) Transfer of a lease to another party prior to written approval by the authorized officer;

(4) Use of a permit after the expiration date or for purposes other than those specified in the permit;

(5) Use of a lease after the expiration date or for purposes other than those specified in the lease without the written approval of the authorized officer;

(6) Failure to comply with any Bureau of Land Management notice or temporary suspension order;

(7) Failure to pay any required fee or payment;

(8) Failure to comply with requirements for restoration, revegetation, and curtailment of erosion of the land surface, or any other reclamation measure determined necessary by the authorized officer.

(9) Subleasing lands leased under this part.

(10) Treatment or disposal of hazardous materials on leased or permitted lands.

(11) Disposal of solid wastes as defined in the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6901 *et seq.*, and the regulations issued under that Act.

* * * * *

7. Section 2921.3(f) of the original proposed rule is redesignated as section 2921.4 and revised to read as follows:

§ 2921.4 Penalties.

(a) In addition to the civilly enforceable penalties listed in this part, any person who knowingly and willfully violates any regulation in § 2921.3 may be tried before a designated United States magistrate and fined in accordance with Title 18 of the United States Code, or imprisoned for no more than 12 months, as provided by Section 303(a) of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1733(a)), or both. Under the Sentencing Reform Act of 1984, as amended by the Criminal Fine Improvements Act of 1987, (18 U.S.C. 3571), an individual who has been found guilty of an offense under this part may be fined not more than \$100,000, and an organization that has been found guilty of an offense under this part may be fined not more than \$200,000.

(b) In addition to the criminal penalties for offenses under section 303(a) of the Federal Land Policy and Management Act, any person who willfully injures any property of the United States, or of any department or agency of the United States, may be punished in accordance with 18 U.S.C. 1361, as follows: If the property damage exceeds the sum of \$100, by a fine of not more than \$10,000 or imprisonment for not more than ten years, or both. Under 18 U.S.C. 3559(a)(4), an offense under 18 U.S.C. 1361 is classified as a Class D felony. An individual who has been found guilty of a Class D felony may be fined not more than \$250,000, and an organization may be fined not more than \$500,000, under the Criminal Fine Improvements Act of 1987 (18 U.S.C. 3571).

8. Section 2921.6 is added to the original proposed rule to read as follows:

§ 2921.6 Activities requiring a permit.

(a) *General.* All commercial activities require a permit, unless they require a lease under § 2921.1(b). Noncommercial activities may require a permit or lease if the authorized officer determines that they are likely to result in more than casual use. Casual use activities do not require a permit or lease.

(b) *Still photography, or camcorders and other videotaping.* A permit is required for professional still photography, or the professional use of camcorders or other videotaping equipment, on public lands only under the following circumstances:

(1) If photographs or videos of public land users will be made with the express purpose of selling the photographs or videos to those same users;

(2) If photographs or videos are made under an existing contract to sell them;

(3) If photographs or videos of commercial products are made on public lands for advertising purposes; or

(4) If the photography or videotaping is reasonably likely to affect adversely the public lands or their resources.

6. Section 2921.7 is added to the original proposed rule to read as follows:

§ 2921.7 Minimum impact permits and full permits.

(a) In response to a permit application, the authorized officer may issue a minimum impact permit or a full permit based on the criteria in paragraphs (b) and (c) of this section, or based on the criteria in a validly adopted decision document referred to in paragraph (d)(1) of this section. Any permit application for an activity as to which the authorized officer determines that the criteria in paragraphs (b) and (c) of this section do not apply will be considered for a minimum impact permit.

(b) The authorized officer will not issue a minimum impact permit, but will consider issuing a full permit, when any of the following conditions apply:

(1) Any crucial or critical wildlife habitat (recognizing seasonal variations), or sensitive, threatened, or endangered species, may be affected.

(2) There is a reasonable likelihood that a Native American sacred site would be affected.

(3) There is a major use of pyrotechnics.

(4) There is a reasonable likelihood of more than minimal impact on soil, air, or water.

(5) Explosives will be used.

(6) Heavy equipment will be used in a manner likely to cause environmental damage.

(7) There is danger of introduction of exotic species into the area.

(8) There may be disturbance of resource values, including, but not limited to, any of the following:

(i) Historical, cultural, or paleontological sites;

(ii) Sensitive soils;

(iii) Relict environments, those surviving from an earlier period in a particular area;

(iv) Wetlands or riparian areas; or

(v) Areas of Critical Environmental Concern designated under § 1610.7-2 of this title;

(c) The authorized officer will not issue a minimum impact permit, but will consider issuing a full permit, if the activity meets the conditions of both paragraphs (c)(1) and (c)(2) of this section, as follows:

(1) The activity is located in any of the following:

(i) BLM-designated Wilderness Study Areas.

(ii) Areas proposed for wilderness designation in legislation currently in Congress;

(iii) Wild and Scenic River corridors;

(iv) Areas or sites on the National Register of Historic Places;

(v) Other sensitive areas as determined by the authorized officer; and

(2) One or more of the following activities will occur in the permit area:

(i) Vehicles will be used, except on roads that are mechanically constructed;

(ii) Facilities or film sets will be constructed;

(iii) There will be significant restriction of public access;

(iv) There will be significant use of domestic livestock;

(v) Aircraft will be used;

(vi) Fifteen (15) or more vehicles will be used;

(vii) Seventy five (75) or more people will be present at any one time; or

(viii) The activity will continue for more than 10 days.

(d)(1) The provisions of paragraphs (b) and (c) of this section do not apply if:

(i) The Bureau of Land Management has established criteria for minimum impact permits in a validly adopted decision document covering the proposed activity and the specific public lands that are the subject of the permit application;

(ii) The decision document was signed before (30 days after publication of the final rule); and

(iii) The decision document's rationale and supporting environmental analysis are valid at the time the permit is issued.

(2) If all of the requirements listed in paragraph (d)(1) of this section are met, the authorized officer will apply the minimum impact permit criteria established in the decision document to determine whether a minimum impact permit or a full permit is appropriate for the proposed activity.

(3) If, after (30 days after publication of the final rule), the Bureau of Land Management prepares or amends a decision document covering the activities and public lands that are the subject of a permit application, the authorized officer will apply the criteria in paragraphs (b) and (c) of this section to determine whether a minimum impact permit or a full permit is appropriate.

9. Section 2921.8 is added to the original proposed rule to read as follows:

§ 2921.8 Appeals.

(a) *Minimum impact permits.* All minimum impact permit decisions of the authorized officer will be effective immediately upon signature by the authorized officer and will remain effective during the pendency of an appeal unless the Interior Board of Land Appeals (IBLA) or the authorized officer determines that the decision should be stayed as provided in this paragraph. The provisions of § 4.21(a) of this title do not apply to any decision or approval of the authorized officer on a minimum impact permit under this part, except that a party who may properly maintain an appeal under 43 CFR 4.21(a) of this title may file a petition for a stay together with a timely notice of appeal. A petition for a stay of a decision or approval of the authorized officer must be filed with IBLA showing sufficient justification under the standards set forth in § 4.21(b) of this title. Nothing in this paragraph diminishes the discretionary authority of the authorized officer to stay a decision subject to appeal upon a request by an adversely affected party or on the authorized officer's own initiative.

(b) *Full permits and leases.* All decisions of the authorized officer approving or denying a full permit and all decisions approving or denying a lease will be subject to the appeal provisions in part 4 of this title.

10. Section 2921.9 is added to the proposed rule to read as follows:

§ 2921.9 Outdoor advertising.

Permits or leases for the erection and maintenance of outdoor advertising signs, displays, and devices adjacent to Interstate Highways will be issued pursuant to the requirements of 23 U.S.C. 131 and the regulations at 23 CFR part 750.

10a. Section 2922.2-2 of the original proposed rule is redesignated as § 2922.2-3.

11. Section 2922.2-1 of the original proposed rule is redesignated as section 2922.2-2, and new section 2922.2-1 is added to the original proposed rule to read as follows:

§ 2922.2-1 Applications not conforming with land use plans.

An application for a permit or lease will be rejected if the proposed use does not conform with Bureau of Land Management land use plans, as provided in § 1610.5-3(a) of this title. If the proposed use does not conform with Bureau of Land Management land use plans, the authorized officer will reject the application and explain in writing why the proposal will not be approved.

Rejected applications are subject to appeal pursuant to part 4 of this title.

12. Newly redesignated section 2922.2-3 is amended by revising paragraph (a), redesignating paragraphs (b) through (e) as paragraphs (c) through (f), respectively, and adding paragraph (b), to read as follows:

§ 2922.2-3 Application content.

(a) *General.* Applications for a permit or lease must include sufficient detail to enable the authorized officer to evaluate the feasibility of the proposed land use and determine whether the proposed use is in accordance with Bureau of Land Management plans, programs, and policies for the affected public lands. Applicants must disclose whether hazardous materials are to be used, stored, transported, or generated on the subject lands.

(b) *Commercial filming/photography permits.* Persons wishing to obtain a permit for motion picture filming or commercial still or video photography on public lands must submit an application containing the name, address, and telephone number of the applicant, the name of the applicant's agent, if any, and the following information:

(1) *Type of use.* (i) The application must state whether the use of the public lands will be for a commercial production, a nonprofit production, a community service production, or an educational production.

(ii) The application must state whether the use of the public lands will be for a feature film, an advertisement, a documentary, a still photograph, a video, or for some other purpose.

(2) *Duration of use.* The application must state the number of days that filming and related activities will continue on the land that is the subject of the permit.

(3) *Number of people.* The application must state the number of personnel to be involved in the filming activity subject to the permit.

(4) *Number and type of vehicles.* The application must state the number and type of vehicles to be used in the filming activity subject to the permit.

(5) *Staging areas.* The application must state the number and location of staging areas on public lands subject to the permit.

(6) *Other activities.* The application must state whether other activities are involved, including but not limited to:

- (i) Temporary road closures;
- (ii) Special effects or pyrotechnics;
- (iii) Construction of sets;
- (iv) Use of animals;
- (v) Use of aircraft; or
- (vi) Catering.

* * * * *

13. Section 2922.3 in the proposed rule is redesignated as section 2922.2-4 and further amended by adding paragraph (m) to read as follows:

§ 2922.2-4 Application processing.

* * * * *

(m) The authorized officer may allow the use, storage, and generation of hazardous materials in connection with the lessee's or permittee's use or occupancy of the public lands pursuant to this part only if consistent with applicable Federal, State, and local laws and regulations.

13. Section 2924.1-2 of the proposed rule is revised to read as follows:

§ 2924.1-2 Rental and fee schedule for film and photography permits.

(a) *Motion picture and video filming.*

(1) Upon being issued either a minimum impact or full permit for commercial motion picture or video filming under § 2921.7, the permittee must pay a rental according to the following schedule:

MOTION PICTURE AND VIDEO FILMING RENTAL SCHEDULE

Number of people	Daily rate for each location	Daily rate for each staging area
1-10	\$150	\$75
11-30	250	125
31-60	450	225
61-100	600	300
101+	600 (or as determined by appraisal).	300 (or as determined by appraisal).

Note: The number of people includes actors, models, and filming and support crew. If the number of people exceeds 100, the authorized officer may order an appraisal to determine fair market value. Absent such an appraisal, the maximum daily rental is \$600 for each location and \$300 for each staging area for numbers of people exceeding 100.

(i) Total rent is calculated by adding the rate for each day authorized. The rent may vary from day to day depending on the number of people who are present and the number of locations and staging areas used. Permit applications must include a daily estimate of the number of people planned to be on location.

(ii) The permittee must pay rental for days in excess of 20 days at a rate of 85 percent of the daily rent per day, plus any additions required under paragraph (a)(2) of this section.

(2) In addition to the rental requirements of paragraph (a)(1) of this section, the permittee must pay daily fees, based on the type and amount of special treatment required, area used, or

activity undertaken, according to the following schedule:

RENTAL FEE ADDITIONS

Activity	Daily fee
Traffic control (road closures, detours, etc.)	\$150
Authorized use of Congressional or agency identified protected areas listed in § 2921.7(c)(1)	150
Authorized surface disturbances (grading, removal of rocks or vegetation, use of heavy earthmoving equipment or animals)	100
Special effects (crashes, large pyrotechnics, fire scenes, etc.)	100

(3) The proposed rental schedule will be updated annually based on the U.S. Department of Labor Consumer Price Index for All Urban Consumers (CPI-U),

U.S. City Average published in July of each year.

(b) *Commercial still photography.* (1) Upon being issued a commercial still photography permit under § 2921.6(b), the permittee must pay a rental according to the following schedule:

COMMERCIAL STILL PHOTOGRAPHY RENTAL SCHEDULE

Number of people	Daily rate
1-3	No charge.
4-10	\$100
11-30	150
31-49	250
50-100	300
101+	300 (or as determined by appraisal).

Note: The number of people includes actors, models, and photography and support crew. If the number of people exceeds 100, the authorized officer may order an appraisal

to determine fair market value. Absent such an appraisal, the maximum daily rental is \$300 for numbers of people exceeding 100.

(i) Total rent must be calculated by adding the rate for each day authorized. The rent may vary from day to day depending on the number of people who are present. Permit applications must include a daily estimate of the number of people planned to be on location.

(ii) Daily rent must be paid for each authorized location.

(2) The proposed rental schedule will be updated annually based on the U.S. Department of Labor Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average.

Dated: January 12, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

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