



## **DEPARTMENT OF AGRICULTURE**

### **Forest Service**

### **36 CFR Part 251**

### **RIN 0596-AD72**

### **Conversion of Ski Area Authorizations**

**AGENCY:** Forest Service, Agriculture (USDA).

**ACTION:** Final rule.

**SUMMARY:** The United States Department of Agriculture, Forest Service (Forest Service or Agency) is making purely technical, clarifying revisions to its existing regulations relating to the conversion of ski area authorizations on National Forest System lands (NFS) pursuant to the National Forest Ski Area Permit Act of 1986. The revisions remove the requirements for conversion of ski area authorizations because all ski area authorizations on NFS have been converted or issued under the National Forest Ski Area Permit Act, rendering this provision obsolete.

**DATES:** This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** Information on this final rule may be obtained via written request addressed to the Director, Public Benefits, USDA Forest Service, 201 14th Street, NW, Washington, DC 20250-1124 or by email to [sean-sarek.wetterberg@usda.gov](mailto:sean-sarek.wetterberg@usda.gov).

**FOR FURTHER INFORMATION CONTACT:** Sean Wetterberg, National Winter Sports Program Manager at 801-975-3793 or by mail at 125 S State Street Suite 7105 Salt Lake City, UT 84138. Individuals who use telecommunications devices for the hearing impaired may call 711 to reach the Telecommunications Relay Service, 24 hours a day, every day of the year, including holidays.

**SUPPLEMENTARY INFORMATION:** This final rule makes purely technical, clarifying revisions to the Agency's existing regulations at 36 CFR 251.56(g) relating to the conversion of ski area authorizations on NFS pursuant to the National Forest Ski Area Permit Act of 1986 (16 USC 497b). The regulations at 36 CFR 251.56(g) provide for all existing ski area permit holders to convert existing land use authorizations for ski areas to a new authorization issued pursuant to the National Forest Ski Area Permit Act. The regulations also allow holders to decline a new authorization and to continue to operate under their existing authorizations until a major modification to that authorization is required. Upon reviewing these regulations, USDA has determined that they should be rescinded. These regulations are no longer needed because all permit holders who had previously declined a new authorization now have permits issued under the National Forest Ski Area Permit Act, and all future authorizations will be issued under the National Forest Ski Area Permit Act. Therefore, the requirements of the paragraph at 36 CFR 251.56(g) have been completed in their entirety, and these regulations have been rendered obsolete. This technical, clarifying revision does not formulate standards, criteria, or guidelines applicable to Forest Service programs and therefore does not require public notice and opportunity to comment under section 14(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1612(a)).

### **Regulatory Certifications**

#### *Regulatory Planning and Review*

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will determine whether a regulatory action is significant as defined by E.O. 12866 and will review significant regulatory actions. OIRA has determined that this final rule is not significant as defined by E.O. 12866. E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The Department has developed the final

rule consistent with E.O. 13563.

#### *Congressional Review Act*

Pursuant to Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (known as the Congressional Review Act) (5 U.S.C. 801 *et seq.*), OIRA has designated this final rule as not a major rule as defined by 5 U.S.C. 804(2).

#### *National Environmental Policy Act*

The final rule will remove the requirements for conversion of ski area authorizations pursuant to the National Forest Ski Area Permit Act of 1986, because all ski area authorizations on NFS have been converted, rendering this provision obsolete. Forest Service regulations at 36 CFR 220.6(d)(2) exclude from documentation in an environmental assessment or environmental impact statement “rules, regulations, or policies to establish servicewide administrative procedures, program processes, or instructions.” The Department’s assessment is that this final rule falls within this category of actions and that no extraordinary circumstances exist which will require preparation of an environmental assessment or environmental impact statement.

#### *Regulatory Flexibility Act*

The Department has considered this final rule under the Regulatory Flexibility Act (5 U.S.C. 602 *et. seq.*). This final rule will not have any direct effect on small entities as defined by the Regulatory Flexibility Act. This final rule will not impose recordkeeping requirements on small entities; will not affect their competitive position in relation to large entities; and will not affect their cash flow, liquidity, or ability to remain in the market. Therefore, the Department has determined that this final rule will not have a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act.

#### *Federalism*

The Department has considered this final rule under the requirements of E.O. 13132, *Federalism*. The Department has determined that the final rule conforms with the federalism principles set out in this E.O.; will not impose any compliance costs on the States; and will not

have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the Department has concluded that this final rule will not have federalism implications.

#### *Consultation and Coordination with Indian Tribal Governments*

E.O. 13175, *Consultation and Coordination with Indian Tribal Governments*, requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. This final rule will remove the requirements for conversion of ski area authorizations pursuant to the National Forest Ski Area Permit Act of 1986, because all ski area authorizations on NFS have been converted, rendering this provision obsolete. The Department has reviewed this final rule in accordance with the requirements of E.O. 13175 and has determined that this final rule will not have substantial direct effects on Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. Therefore, consultation and coordination with Indian Tribal governments is not required for this rule.

#### *Family Policymaking Assessment*

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105-277), requires Federal agencies to issue a Family Policymaking Assessment for a rule that may affect family well-being. The final rule will have no impact on the autonomy or integrity of the family as an institution. Accordingly, the Department has concluded that it is not necessary to prepare a Family Policymaking Assessment for the final rule.

### *Takings Implications*

The Department has analyzed the final rule in accordance with the principles and criteria in E.O. 12630, *Governmental Actions and Interference with Constitutionally Protect Property Rights*. The Department has determined that the final rule will not pose the risk of a taking of private property.

### *Energy Effects*

The Department has reviewed the final rule under E.O. 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*. The Department has determined that the final rule will not constitute a significant energy action as defined in E.O. 13211.

### *Civil Justice Reform*

The Department has analyzed the final rule in accordance with the principles and criteria in E.O. 12988, *Civil Justice Reform*. Upon publication of the final rule, (1) all State and local laws and regulations that conflict with the final rule or that impede its full implementation will be preempted; (2) no retroactive effect will be given to this final rule; and (3) it will not require administrative proceedings before parties may file suit in court challenging its provisions.

### *Unfunded Mandates*

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538), the Department has assessed the effects of the final rule on State, local, and Tribal governments and the private sector. The final rule will not compel the expenditure of \$100 million or more, adjusted annually for inflation, in any 1 year by State, local, and Tribal governments in the aggregate or by the private sector. Therefore, a statement under section 202 of the Act is not required.

### *Paperwork Reduction Act*

The final rule does not contain any recordkeeping or reporting requirements, or other information collection requirements as defined in 5 CFR part 1320 that are not already required

by law or not already approved for use. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320 do not apply.

### **List of Subjects in 36 CFR Part 251**

Administrative practice and procedure, National forests, Public lands-rights-of-way, Recreation and recreation areas, Reporting and recordkeeping requirements.

Therefore, for the reasons stated in the preamble, and under the authority of 16 U.S.C. 497b, the Department is amending 36 CFR part 251 as follows:

### **PART 251—LAND USES**

#### **Subpart B—Special Uses**

1. The authority citation for part 251, subpart B, continues to read:

**Authority:** 16 U.S.C. 460l-6a, 460l-6d, 472, 497b, 497c, 551, 580d, 1134, 3210; 30 U.S.C. 185; 43 U.S.C. 1740, 1761-1772.

#### **§ 251.56 [Amended]**

2. Amend § 251.56 by removing and reserving paragraph (g).

**Kristin Sleeper,**  
*Deputy Under Secretary*  
*Natural Resources and Environment.*

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