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# PART 21—OCCUPANCY OF CABIN SITES ON PUBLIC CONSERVATION AND RECREATION AREAS

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SOURCE: 32 FR 8361, June 10, 1967, unless otherwise noted.

## §21.1 Purpose.

This part establishes (a) when, and by what standards, use of conservation and recreation areas under private cabin permits must be modified or discontinued so as to allow the public use of such areas and (b) the procedures for renewing, extending, phasing out, or terminating private cabin permits. No current permits or any valid existing rights, are, per se, canceled by the provisions of this part. However, permits may be canceled for cause, or pursuant to termination provisions within the permit itself.

## §21.2 Scope of regulations.

The provisions of this part apply to all recreation or conservation areas administered by the Department of the Interior, including recreation or conservation areas leased or transferred for administration to other Federal and non-Federal public agencies, wherever the Department of the Interior retains jurisdiction over the issuance of cabin site permits by such other agencies. The provisions of this part do not modify or cancel any existing arrangement whereby the Department of the Interior or bureau or office thereof has leased, or turned over for administration, a public recreation or conservation area to another Federal or non-Federal public agency. The provisions of this part will also provide policy guidelines for the Departmental handling of assignments, amendments, or modifications of existing permits or agreements, but do not apply to areas transferred by deed where the United States retains a reversionary interest, nor to areas of the National Park System other than those where private cabin sites are located.

(a) The policies set out in this part shall not affect occupancy by private persons who have private rights, or rights of occupancy adjudicated or confirmed by court action, statute, or pursuant to a contract by which they conveyed to the Government the land on which a cabin or other substantial improvement is located.

(b) The policies set out in this part shall not apply to any concession contract or to any other permit or occupancy primarily granted to serve public rather than private or individual purposes—such as, permits granted to groups who assist in maintaining historic trails, or permits for youth and church group camp facilities, etc.

(c) The regulations in this part shall not supersede or substantially contravene the implementation of the Lower Colorado River Land Use Plan.

## §21.3 Definitions.

(a) *Public recreation area* or *recreation area* means any land, title to which is in the United States and under the administration or jurisdiction of the Department of the Interior that is suitable for recreational purposes, including all such areas of the National Park System not excepted by §21.2, Bureau of Reclamation Reservoir areas, and any other areas dedicated to or administered by the Department for public recreational use.

(b) *Conservation area* means any land, title to which is in the United States and under the administration or jurisdiction of the Department of the Interior that is designated for fish, wildlife,

or other conservation purposes, including all such areas of the National Wildlife Refuge Systems, National Fish Hatchery Systems, and any other such areas administered by the U.S. Fish and Wildlife Service; also, land administered by the Bureau of Land Management and suitable for conservation or protection of fish or wildlife.

(c) *Permit* means any lease, license, or other contract whereby a public recreation or conservation area is made available, in whole or part, to an individual or group for recreational purposes for a stipulated period of time, but does not include leases or transfers to other Federal or non-Federal public agencies.

(d) *Cabin site* means any area within a public recreation or conservation area whose occupancy and use is granted to an individual or group for a period of time by permit.

(e) *Substantial improvement* means any building, structure, or other relatively permanent facility or improvement affixed to a cabin site, utilized for human occupancy or related purposes, and costing or worth $1,000 or more. It does not include trailers or similar removable facilities.

(f) *Investment* in a substantial improvement refers to the basic expenditure of moneys or property in kind in connection with a particular improvement. Thus, for example, where property is conveyed by testamentary or inter vivos gift, the donee will be seen only as occupying the position of the donor with respect to the time and amount of the investment since it was the donor who made the investment.

(g) *Amortization* is the process whereby the investor in a substantial improvement derives sufficient use and/or economic benefit from the improvement over a period of time as to reasonably compensate for his investment.

(h) *Trespasser* means any person who is occupying land in a public recreation or conservation area without a valid permit.

(i) *Authorized Officer* means any person or persons designated by the head of any bureau or office of the Department with administrative jurisdiction over a particular conservation or recreation area, to make determinations and take other actions, consistent with the regulations in this part with respect to such area.

### § 21.4 Occupancy under permit of privately owned cabins on recreation areas and conservation areas.

(a) In any areas where the Authorized Officer determines that the recreational requirements of the general public are limited, and is an area where private cabin site use has heretofore been permitted, he may extend or renew permits. Each such existing permit and any extension or renewal thereof will be:

(1) Reviewed at least once in every 5-year period to determine that the continued use of the individual cabin site is not inconsistent with the needs of the general public for use of the area. In periodically reviewing whether the existence of private cabin sites conflicts with the best public use of an area, consideration shall be given to (i) existing and projected public need for the area, (ii) compatibility between public uses and private cabin sites, (iii) development potential and plans for the area, and (iv) other relevant factors.

(2) Whenever the Authorized Officer determines that the public need for use of a recreation or conservation area has grown to a point where continued private cabin site use is no longer in the public interest, the procedures set forth in paragraph (b) of this section will be invoked to phase out existing permits by reducing and eliminating renewals, or extensions, consistent with protection of legitimate investment in improvements. These determinations and the reasons therefor shall be published in the FEDERAL REGISTER, together with such other forms of public notice as may be appropriate and necessary as determined by the Authorized Officer.

(3) Except as otherwise provided in an existing permit, no substantial improvement may hereafter be placed on any cabin site under permit without the prior approval of the Authorized Officer, and on such terms as the Authorized Officer may provide, consistent with public need. All renewed or extended permits shall contain this provision. Any such provision shall expressly state that the permission to

place a substantial improvement on the site is a limited license subject to public need for the area and does not give the owner of the improvement any interest in the land or any special rights or equities, other than the right to remove the improvement at any time, subject to the land being left in reasonably unimpaired condition. This provision shall expressly stipulate that the owner shall have as a time period within which to amortize his investment in a substantial improvement placed on the site after the date of the regulations in this part, only the period of his existing permit, together with such extensions of his permit as may be granted consistent with the regulations in this part.

(b) Whenever the Authorized Officer determines, pursuant to paragraph (a)(2) of this section that the needs of the general public for a particular public recreation or conservation area are sufficient to be inconsistent with further use of that area for private cabin sites, no further extension, or renewals of permits for any individual site shall, except as otherwise required by law, be granted for any period extending more than 5 years after the effective date of that determination: *Provided, however,* That, except as otherwise required by law, if an investment was made in a substantial improvement upon a site before the effective date of this part, the extension or renewal of the permit for such site shall be made for a period sufficient to permit 20 years amortization of the investment from the date of the investment in the improvement upon the site, unless the Authorized Officer finds that the needs of the general public for that site require that the extension or renewal be for a lesser period. Thus, for example, if a permit for the site is purchased before the effective date of the regulations in this part with the substantial improvement then in place, for a consideration of $1,000 or more, such amortization period runs from the purchase date, and is not affected, in any event, by the date of the determination under paragraph (a) of this section. The amortization period for any investment in a substantial improvement on or after the effective date of the regulations in this part is covered by paragraph (a)(3) of this section, this paragraph (b), and paragraph (b)(5) of this section.

(1) Any permit, in an area required for general public recreation or conservation use, that expires prior to 5 years after the determination described in this paragraph (b), may, if otherwise authorized by law, be extended to the end of such 5 years if the Authorized Officer determines that such extension is necessary to the fair and efficient administration of this part.

(2) Any renewal or extension of a permit pursuant to this part shall be subject to the condition that the occupant maintain the site and the improvements thereon in a good and serviceable condition, ordinary wear and tear excluded.

(3) Any renewal or extension of a permit shall expressly state its termination date and that there will be no extension or renewal thereafter, except as provided by this part. Permits shall expressly state that they grant no vested property right but afford only a limited license to occupy the land, pending a greater public use.

(4) Upon termination of occupancy under a permit, its renewal or extension, the permittee shall remove his improvements from the site within 90 days from the date of termination, and the land shall be left in reasonably unimpaired condition and as near to its original undisturbed condition as possible. Any property not so removed shall become the property of the United States or may be moved off the site, at the cost of the permittee. Any renewal, or extension, of a permit shall state these requirements.

(5) Voluntary and involuntary transfers of cabin site permits, including by sale, devise, inheritance, or otherwise, may be permitted, subject to approval by the Authorized Officer, subject to the terms, conditions, and restrictions in the permit. No such transfer shall operate to extend the terms of a permit. A transfer after the effective date of the regulations in this part shall give the transferee no rights in addition to those which the transferor had. Where any transfer of a cabin site permit is approved, the approval shall state in writing the requirements of

this paragraph, and include the statement that the amortization period for any substantial improvement located on the site shall be limited to the period to which the transferor would have been entitled under the regulations in this part.

(6) Nonuse of a site for a period of more than 2 consecutive calendar years shall terminate the permit without right of renewal (subject to the specific terms of the permit): *Provided, however,* That where the nonuse is the result of the death, illness, or military service of the permittee the Authorized Officer may waive such nonuse. In such case, sale or transfer of the improvement may be made for the unexpired portion of the permit and subject to the provisions for amortization set forth in this section. The Authorized Officer may make exceptions to this termination provision in any case where he determines that the needs of the general public so require (see introductory text of this paragraph (b)). All permits renewed, or extended after the effective date of this part shall state the requirements of this paragraph.

### § 21.5 Occupancy under permit of Government-owned cabins on public recreation and conservation areas.

(a) Those permittees who occupy Government-owned cabins, including those whose permits currently have expired, but previously have been renewed on a year-to-year basis, may have their permits renewed up to July 1, 1969. After that date, the permits shall not be renewed and shall be terminated finally except upon a determination by the Authorized Officer that a renewal or extension is fully consistent with the public use of the area.

(b) The provisions for amortization of substantial improvements do not apply to this type of occupancy.

### § 21.6 Cabin site occupancy where a recreation or conservation area has been leased to, or turned over to, another Federal or non-Federal public agency for administration.

(a) After the effective date of this part, any agreement whereby a recreation or conservation area is leased or turned over to another Federal or non-Federal public agency for administration, shall include the requirement that any permits to individuals, groups or others issued or extended by another Federal or non-Federal public agency to whom an area has been leased or transferred for administration, shall comply with, and set forth on the face of the permit, the requirements stated in this part. Similar requirements shall be applied in situations where an existing agreement reserves such authority to this Department.

(b) All such arrangements between another public agency and a permittee (see § 21.2) shall be reviewed by the Authorized Officer to assure full compliance with those provisions of the permit which are designed to assure performance in the best interests of the general public.

(c) Renewals, extensions, or new leases or transfers to other Federal, State, or local agencies for administration of public recreation areas, shall be granted only pursuant to the policies set forth in this part, and only upon an affirmative finding by the Authorized Officer that they are fully consistent with present and future public uses. All applicable safeguards set forth in this part, including the protection of future public uses, shall be expressly incorporated into such leases or transfers.

### § 21.7 Occupancy by trespassers.

Occupants of cabin sites who do not hold a valid permit for the occupancy or use of the site, shall be required to surrender occupancy, failing which legal action shall be taken. Nothing herein shall grant any rights to a trespasser.

### § 21.8 Appeals.

Any determination made pursuant to any of the provisions of this part may be appealed to the Director, Office of Hearings and Appeals, in accordance with the general rules set forth in subpart B of part 4 of this title and the special procedural rules in subpart G of part 4 of this title, applicable to proceedings in appeals cases which do not lie within the appellate jurisdiction of an established Appeals Board of the Office of Hearings and Appeals.

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