DEPARTMENT OF AGRICULTURE

Forest Service

Categorical Exclusion for Certain Ski Area Permit Actions

AGENCY: Forest Service, USDA.

ACTION: Notice of proposed interim directive; request for public comment.

SUMMARY: The Forest Service proposes to issue an interim directive to guide its employees in complying with the National Environmental Policy Act when issuance of a ski area permit is a purely ministerial action and no changes are proposed in permitted activities or facilities. The intended effect is to implement a provision of the Omnibus Parks and Public Lands Act of 1996, which states that reissuance of a ski area permit for activities similar in nature and amount to the activities authorized under the previous permit shall not constitute a major Federal action. Public comment is invited and will be considered in adopting an interim directive.

DATES: Comments must be received in writing by December 26, 1997.

ADDRESSES: Send written comments to Director, Recreation, Heritage, and Wilderness Resources Staff (Mail Stop 1125), Forest Service, USDA, P.O. Box 96090, Washington, D.C. 20090–6090. Those who submit comments should be aware that all comments, including names and addresses when provided, are placed in the record and are available for public inspection. To facilitate entrance into the building, visitors are encouraged to call ahead (202–205–1706).

FOR FURTHER INFORMATION CONTACT: Alice Carlton, Recreation, Heritage, and Wilderness Resources Staff, 202–205–1399.

SUPPLEMENTARY INFORMATION: To reduce administrative costs, section 701(i) of the Omnibus Parks and Public Lands Management Act of 1996 (16 U.S.C. 497c) states that the reissuance of a ski area permit for activities similar in nature and amount to the activities provided under the previous permit shall not constitute a major Federal action for the purposes of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4331 *et seq.*).

Agency direction regarding this provision is needed to guide Forest Service employees in complying with NEPA and the Omnibus Parks and Public Lands Management Act of 1996 when ski area permits are issued.

Section 701(i) of the 1996 act applies to issuance of permits for up to the maximum tenure allowable under the National Forest Ski Area Permit Act of 1986 (the Ski Area Permit Act) (16 U.S.C. 497b) for existing ski areas when permit issuance involves only administrative changes, such as issuance of a permit when no changes to the Master Development Plan and no new facilities or activities are authorized, to the following: (1) To a new owner of the ski area improvements; (2) to the existing owner upon expiration of the current permit; or (3) to a holder of a permit issued under the Term Permit and Organic Acts converting to a permit under the Ski Area Permit Act. The effect of section 701(i) is that an environmental impact statement is not required for issuance of permits under these circumstances.

The Forest Service currently authorizes ski areas on National Forest System lands through permit issuance under the Ski Area Permit Act. The permit provides the legal framework for the use and occupancy of National Forest System lands, including terms for renewal; conditions for issuance of a new permit in the event of sale of the ski area improvements to another owner; permit tenure; fee schedules and payment methods; accountability and reporting requirements; liability and bonding requirements; and any other customized terms and conditions needed to ensure consistency with applicable forest land and resource management plans or to meet the requirements of other applicable laws.

The Ski Area Permit Act, its implementing regulations at 36 CFR 251.56, and existing policy in Forest Service Manual (FSM) section 2721.56, and existing policy in Forest Service Manual (FSM) section 2721.61e provide that under ordinary circumstances ski area permits will be issued for a duration of 40 years unless specific situations, such as financial aspects of the transaction or the adequacy of the Master Development Plan, suggest a shorter duration.

The National Forest Management Act (NFMA) (16 U.S.C. 1600, 1604) requires that ''resource plans and permits, contracts, and other instruments for the use and occupancy of National Forest System lands shall be consistent with the land management plans.'' Ski area permits are subject to this requirement.

The forest planning process provides for public involvement in land allocation decisions, including those affecting ski areas. Where appropriate, forest land and resource management plans and associated environmental impact statements (EIS's) consider long-term consequences of allocating public lands for a ski resort and may establish standards and guidelines for lands allocated for ski area development. NFMA also requires revision of forest plans at least every 15 years.

To ensure that forest plans remain current, implementing regulations at 36 CFR 219.10(g) require (1) review of the conditions on the land covered by a forest plan every 5 years to determine whether conditions or public demands have changed significantly and (2) revision of the forest plans ordinarily every 10 years, and at least every 15 years.

A ski area Master Development Plan is required for all ski areas authorized under the Ski Area Permit Act. The Master Development Plan determines the boundaries of the ski area and appropriate development of the area, including facilities and activities, over time. All Master Development Plans require NEPA analysis, usually documented in an EIS, which includes consideration of the relatively permanent nature of ski areas and estimates of the reasonably foreseeable cumulative effects. Due to the long-term nature of Master Development Plans, much of the initial NEPA analysis is programmatic. Subsequent site-specific NEPA analysis is required for Master Development Plans for most ski areas prior to authorizing activities or changes to facilities or ski area operations. Master Development Plans must be reviewed periodically, approximately every 5 years, as required by the permit issued under the authority of the Ski Area Permit Act, to determine whether NEPA analysis is current or whether changing resource conditions or changes in management standards and guidelines may necessitate subsequent NEPA analysis and appropriate changes to ski area operations.

Operating Plans also are required by the Ski Area Permit Act for ski area permits. These plans, which govern ski area operations and maintenance, are updated annually. Operating Plans may identify proposed activities, such as significant hazard removal and erosion control, which may require additional NEPA analysis.

Requirements related to forest land and resource management plans, Master Development Plans, and activities proposed under Operating Plans that may have resource effects already provide for full NEPA analysis and periodic reviews for ski areas. Therefore, in reviewing the language and intent of the Omnibus Parks and Public Lands Act, which provides in section 701(i) that issuance of permits authorizing activities similar in nature and amount to activities authorized under the previous permit shall not

constitute a major Federal action for NEPA purposes, the agency has concluded that such strictly ministerial actions should be categorically excluded from documentation in either an EIS or an environmental assessment (EA) and should be added to the existing categorical exclusions already set out in Forest Service policy. Pursuant to Council on Environmental Quality regulations at 40 CFR parts 1500–1508, the Forest Service must give notice and opportunity to comment before adopting NEPA implementation procedures.

Accordingly, the agency is proposing to issue an interim directive to chapter 30 of the Environmental Policy and Procedures Handbook (FSH 1909.15) which addresses categorical exclusions. The handbook contains direction for Forest Service employees in meeting agency NEPA compliance obligations. Section 31.1b contains categorical exclusions established by the Chief. This section currently contains eight categories for routine administrative, maintenance, and other actions that normally do not individually or cumulatively have a significant effect on the quality of the human environment and, therefore, may be categorically excluded from documentation in an EIS or an EA unless scoping indicates extraordinary circumstances exist.

The agency is proposing to add the following category to section 31.1b for categorical exclusion:

9. Issuance of a new permit for up to the maximum tenure allowable under the National Forest Ski Area Permit Act of 1986 for an existing ski area in response to purely ministerial actions, such as a change in ownership of ski area improvements, expiration of the current permit, or a change in the statutory authority applicable to the current permit. Examples of actions in this category include, but are not limited to:

a. Issuing a permit to a new owner of ski area improvements within an existing ski area with no changes to the Master Development Plan, including no changes to the facilities or activities for that ski area.

b. Upon expiration of a ski area permit, issuing a new permit to the holder of the previous permit where the holder is not requesting any changes to the Master Development Plan, including changes to the facilities or activities.

c. Issuing a new permit under the National Forest Ski Area Permit Act of 1986 to the holder of a permit issued under the Term Permit and Organic Acts, where there are no changes in the type or scope of activities authorized and no other changes in the Master Development Plan.

Because the agency plans to propose additional revisions to this handbook within the next year, the agency has concluded that this new ski area permit categorical exclusion should be issued as an interim directive. Upon completion of other revisions to this handbook, this interim directive will be incorporated into an amendment at that time.

The proposed categorical exclusion would help expedite issuance of permits associated with sales of ski areas to new owners, which account for some 50 to 75 percent of all ski area permit issuances annually. Nationally, 15 to 30 permit issuances under the authority of the Ski Area Permit Act are completed each year. That number is expected to continue rising based on corporate restructuring and the continuing trend toward consolidation in the ski industry.

The proposed categorical exclusion also would facilitate conversion from permits that were issued under prior authorities to permits under the Ski Area Permit Act. It was the intent of the Ski Area Permit Act to convert permits issued under prior authority to the Ski Area Permit Act as rapidly as possible. The Ski Area Permit Act permit provides better environmental protection than previous authorities by requiring NEPA to be conducted, reviewed, and revised frequently as resource conditions and proposed changes to ski area operations warrant. The Ski Area Permit Act allows the Forest Service greater discretion to ensure that updates to operations occur under terms that require periodic review and NEPA analysis. By the end of 1997, the Forest Service anticipates that 75 to 80 percent of the 137 ski areas located on National Forest System lands will have permits issued under the Ski Area Permit Act. It is in the public interest to encourage the remaining 20 to 25 percent to convert as soon as possible to permits issued under the authority of the Ski Area Permit Act.

Environmental Impact

This proposed interim directive would establish a categorical exclusion for permit issuance under the authority of the Ski Area Permit Act that is a purely ministerial action. Programmatic and site-specific decisions and disclosure of environmental effects concerning ski area allocations, facilities, and activities are made in forest land and resource management plans, in ski area Master Development Plans, and in connection with activities proposed under Operating Plans that may have resource effects, with full public involvement and in compliance with NEPA procedures.

Section 31.1b of Forest Service Handbook 1909.15 (57 FR 43180; September 18, 1992) excludes from documentation in an environmental assessment or impact statement ''rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions.'' The agency's assessment is that this proposed interim directive would fall within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement. Reviewers may submit comments on this determination along with comments on the proposed interim directive for consideration in the adoption of the proposed interim directive.

Controlling Paperwork Burdens on the Public

This proposed interim directive does not contain any recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR 1320 and, therefore, would impose no paperwork burden on the public. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and implementing regulations at 5 CFR part 1320 would not apply.

Regulatory Impact

This proposed interim directive has been reviewed under USDA procedures and Executive Order 12866 on Regulatory Planning and Review. It has been determined that this is not a significant action subject to Office of Management and Budget (OMB) review. This action would not have an annual effect of $100 million or more on the economy nor adversely affect productivity, competition, jobs, the environment, public health or safety, nor State or local governments. This action would not interfere with an action taken or planned by another agency nor raise new legal or policy issues. Finally, this action would not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. Accordingly, this proposed interim directive is not subject to OMB review under Executive Order 12866.

Moreover, this proposed interim directive has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and it has been determined that this action would not have a significant economic impact on a substantial number of small entities as defined by that act.

Unfunded Mandates Reform

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995, which the President signed into law on March 22, 1995, the Department has assessed

the effects of this proposed interim directive on State, local, and tribal governments and the private sector. This proposed interim directive would not compel the expenditure of $100 million or more by any State, local, or tribal governments or anyone in the private sector. Therefore, a statement under section 202 of the act is not required.

No Takings Implications

This proposed interim directive has been analyzed in accordance with the principles and criteria contained in Executive Order 12630, and it has been determined that the proposed interim directive would not pose the risk of a taking of Constitutionally protected private property. Executive Order 12630 would not apply to this proposed interim directive because it consists primarily of technical and administrative changes governing authorization of occupancy and use of National Forest System lands. Forest Service special use authorizations for ski areas do not grant any right, title, or interest in or to lands or resources held by the United States.

Civil Justice Reform Act

This proposed interim directive has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed interim directive were adopted, (1) all State and local laws and regulations that are in conflict with this proposed interim directive or which would impede its full implementation would be preempted; (2) no retroactive effect would be given to this proposed interim directive; and (3) it would not require administrative proceedings before parties may file suit in court challenging its provisions.

Dated: October 1, 1997.

Robert Lewis, Jr.,

Acting Associate Chief.

[FR Doc. 97–28386 Filed 10–24–97; 8:45 am]

BILLING CODE 3410–11–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) will hold a town meeting on Thursday, November 13, 1997 in Louisville, Kentucky. The purpose of the meeting is to gather information from the public on general access and recreation access issues.

SCHEDULE: The schedule of events is as follows:

Thursday, November 13, 1997

9:30 AM—10:30 AM Opening Session
10:30 AM—10:45 AM Break
10:45 AM—12:30 PM Concurrent Sessions
- General Accessibility Issues
- Recreation Facilities

12:30 PM—1:45 PM Lunch (On your own)
1:45 PM—3:15 PM Concurrent Sessions
- General Accessibility Issues
- Recreation Facilities

3:15 PM—3:30 PM Break
3:30 PM—4:30 PM Wrap-up Session and Public Comment

ADDRESSES: The meetings will be held at: Hyatt Regency Hotel, 320 West Jefferson Street, Louisville, Kentucky.

FOR FURTHER INFORMATION CONTACT: For further information regarding the meetings, please contact Lawrence W. Roffee, Executive Director, (202) 272–5434 ext. 14 (voice) and (202) 272–5449 (TTY).

SUPPLEMENTARY INFORMATION: The town meeting is open to the public.

All Access Board meetings are accessible to persons with disabilities. Sign language interpreters and an assistive listening system are available.

Lawrence W. Roffee,

Executive Director.

[FR Doc. 97–28367 Filed 10–24–97; 8:45 am]

BILLING CODE 8150–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 927]

Grant of Authority for Subzone Status; Hewlett-Packard Company (Computer and Related Electronic Products) Sacramento, California, Area

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Sacramento-Yolo Port District, grantee of Foreign-Trade Zone 143, for authority to establish special-purpose subzone status at the computer and electronic products manufacturing facilities of the Hewlett-Packard Company, located at sites in the Sacramento, California, area, was filed by the Board on March 10, 1997, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 14–97, 62 FR 12792, 3–18–97; amended, 8–25–97); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application, as amended, is in the public interest;

Now, therefore, the Board hereby grants authority for subzone status at the computer and related electronic products manufacturing facilities of the Hewlett-Packard Company, located in the Sacramento, California, area (Subzone 143B), at the locations described in the application, and subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 16th day of October 1997.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. DaPonte, Jr.,

Executive Secretary.

[FR Doc. 97–28312 Filed 10–24–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 928]

Expansion of Foreign-Trade Zone 182 Fort Wayne, Indiana, Area

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, an application from the City of Fort Wayne, Indiana, grantee of Foreign-Trade Zone 182, for authority to