

**Forest Service Handbook
National Headquarters (Washington Office)
Washington, DC**

**Forest Service Handbook 2709.11 – Special Uses Handbook
Chapter 30 – Land Use Fee Determination**

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Responsible Staff: Lands, Minerals and Geology

Digest: Following is an explanation of the changes throughout the directive by section.

Chapter 30: Throughout the chapter, changes code and captions, recodes and updates in its entirety.

Section 30.1: Adds citation to Cabin Fee Act, 16 U.S.C. 6214.

Section 31: Changes section title from “Establishing Fees” to “Establishing Land Use Fees” and sets forth direction.

Section 32: Changes section title from “Fee Administration” to “Land Use Fee Administration” and sets forth direction.

Section 33: Changes section title from “Recreation Residence Lot Fees” to “Recreation Residence Land Use and Transfer Fees” and sets forth direction.

Section 33.05: Adds terms “annual fee” and “transfer fee” from the Cabin Fee Act of 2014. Deleted terms “market value” and “typical lot,” which are terms of art used in the Cabin User Fee Fairness Act of 2000, which was repealed by the Cabin Fee Act of 2014.

Sections 33.1 through 33.83: Removes direction, which refer to the appraisal processes for determining base land use fees and annual land use fee adjustments for recreation residence permits under the Cabin User Fee Fairness Act of 2000, which was repealed by the Cabin Fee Act of 2014.

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Section 34: Changes section title from “Facilities Financed by Rural Electrification Administration” to “Facilities Eligible for Financing Under the REA” and sets forth direction.

Section 35: Establishes code, caption, and sets forth direction on “Land Use Fee Systems and Schedules” and sets forth direction.

Section 36: Changes section title from “Fee Systems and Schedules” to “Outfitting and Guiding” and sets forth direction.

Section 37: Changes section title from “Outfitter and Guide Fees” to “Ski Areas” and sets forth direction.

Section 38: Removes direction on “Ski Area Permit Fees” to section 37.

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This chapter provides direction for establishing, collecting, and administering land use fees for special use authorizations.

30.1 - Authority

See FSM 2701 for other general statutory authorities, regulations, and direction governing establishment and collection of land use fees for special use authorizations.

1. Ski Area Permit Fee Act; Title 16, United States Code, section 497c (16 U.S.C. 497c). This act requires the Forest Service to charge land use fees for ski area term special use permits in accordance with the act.
2. Act of May 26, 2000; Title 16, United States Code, section 406l-6d (16 U.S.C. 460l-6d). This act authorizes the Forest Service to establish, collect, retain, and spend without further appropriation land use fees for commercial filming and still photography special use authorizations.
3. National Forest Organizational Camp Fee Improvement Act of 2003; Title 16, United States Code, section 6231 et seq. (16 U.S.C. 6231 et seq.). This act authorizes the Forest Service to establish, collect, retain, and spend without further appropriation land use fees for organizational camps.
4. Cabin Fee Act of 2014; Title 16, United States Code, section 6214 (16 U.S.C. 6214). This act requires the Forest Service to charge transfer and land use fees for term special use permits for recreation residences in accordance with the act.
5. Title 36, Code of Federal Regulations, section 251.57(a)—Rental Fees (36 CFR 251.57(a)). This regulation requires the Forest Service to charge and collect in advance an annual land use fee for special use authorizations, except as provided by statute or regulation or when specifically authorized by the Secretary of Agriculture. This regulation further provides that the land use fee must be based on the fair market value of the authorized use and occupancy as determined by appraisal or other sound business management principles.

30.5 - Definitions

For definitions pertaining to special use administration on National Forest System (NFS) lands, see Title 36, Code of Federal Regulations, section 251.51—Applicant (36 CFR 251.51) and FSM 2705.

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31 – Establishing Land Use Fees

31.03 - Policy

Review land use fees periodically and adjust them when appropriate, in accordance with the terms of the authorization or as established in the applicable land use fee schedule or system.

31.1 - Methods for Determining Fair Market Value

1. Appraisal. Appraisal is a common method for determining fair market value for land use fees. Follow the process in FSH 5409.12, chapter 50, for conducting appraisals and the process in FSH 5409.12, chapter 70, for reviewing appraisals for technical sufficiency.
 - a. Rental Comparison. Use comparable rentals from the private sector to determine land use fees where there is a clearly established rental market for similar uses (FSH 5409.12).
 - b. Direct Sales Comparison. Use the comparable sales method to determine land use fees if market rental data are unavailable, insufficient, or inadequate. In the direct sales method, the appraiser investigates and analyzes applicable land sales data for uses that are similar to the authorized use. Land use fees based on this method are determined by using a percentage of the appraised value. This percentage rate must be at least 5 percent unless a different rate is clearly supported by current market data. This method results in a fixed land use fee, which remains in effect until reevaluated as provided for by the authorization.
2. Land Use Fees Based on Income from the Authorized Use. Determine land use fees by applying a selected rate from an established percentage or schedule of graduated rates to the holder's annual gross revenue (FSM 2715.11).
3. Land Use Fee System and Schedule (sec. 35). Use the appropriate land use fee schedule or system to establish land use fees for the following uses of NFS lands. In some situations, appraisal, a competitive process, or a negotiated land use fee (may more accurately reflect fair market value than established land use fee schedules and should be used to establish land use fees. Refer to the following sections of this chapter and sections of the FSM for direction on land use fees for the following uses:
 - a. Recreation Residences Land Use and Transfer Fees, section 33.
 - b. Resorts/Marinas (Graduated Rate Fee System), FSM 2715.11.
 - c. Federally Owned Facilities, Granger-Thye, FSM 2715.13.
 - d. Linear Rights-of-Way, section 35.4.

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- e. Geological and Geophysical Exploration Land Use Fees, section 35.6, and FSM 2725.61.
 - f. Outfitting and Guiding, section 36.
 - g. Communications Site Management, chapter 90.
 - h. Ski Areas, section 37.
 - i. Organizational Camps, section 35.5.
 - j. Commercial Filming and Still Photography Land Use Fees, section 35.7.
4. Competition. If competitive interest exists, establish a land use fee through competitive procedures. See FSM 2712.2 for direction on preparing and issuing a prospectus.
5. Negotiated Land Use Fees. A negotiated land use fee is appropriate only for a permit with a land use fee calculated under GRFS, either issued competitively (FSM 2712.1 and 2715.11a, para. 2) or non-competitively (FSM 2715.11a, para. 2, and 2715b, para. 5).

31.12 - Land Use Fee Review

The Washington Office Lands, Minerals and Geology staff or Recreation, Heritage, and Volunteer Resources Management staff, as appropriate, shall update land use fee systems and schedules every five years to reflect fair market value, unless land use fees are indexed or adjusted under the system or schedule.

31.2 - Land Use Fee Exemptions and Waivers

Pursuant to 36 CFR 251.57(b), an applicant or a holder may submit a written request, including supporting documentation, to the Authorized Officer for a land use fee waiver or exemption.

The Authorized Officer shall determine eligibility of the applicant or holder for a land use fee waiver or exemption based on the supporting documentation submitted by the applicant or holder.

31.21 - Land Use Fee Exemptions

Land use fee exemptions are granted by statute or regulation and are not subject to the discretion of the Authorized Officer. The following uses are exempt from land use fees:

- 1. Federal Agencies. Federal agencies are exempt from paying land use fees for their use and occupancy of NFS lands (36 CFR 251.57(c)). However, federal agencies are not exempt from paying land use fees for non-federal occupants in or on their communications facilities on NFS lands.

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2. Electric and Communications Facilities Eligible for Financing Under the Rural Electrification Act (REA). Section 504(g) of the Federal Land Policy and Management Act (FLPMA) Title 43, United States Code, section 1764(g) (43 U.S.C. 1764(g)) exempts electric and communications facilities that are eligible for financing under the REA from land use fees. Land use fee exemptions for electric and communications facilities should be periodically reevaluated during the term of the authorization and upon reauthorization of the use. If the basis for the exemption no longer applies, the land use fee should be charged for the remainder of the term of the authorization or for the new authorization.
3. Agricultural Irrigation and Livestock Watering System Easements Issued Under Section 501(c) of FLPMA Title 43, United States Code, section 176(c) (43 U.S.C. 1761(c)). Easements for agricultural irrigation and livestock watering systems issued under 43 U.S.C. 1761(c), known as “Ditch Bill easements,” are exempt from land use fees.
4. Noncommercial Group Uses. Permits for noncommercial activities conducted on NFS lands that involve a group of 75 or more people, either as participants or spectators, are exempt from land use fees (36 CFR 251.51 and 251.57(d)).

31.22 - Land Use Fee Waivers

A land use fee waiver is a discretionary reduction of all or part of a land use fee, as provided in 36 CFR 251.57(b). The Authorized Officer is responsible for determining and documenting an applicant’s or holder’s eligibility for a land use fee waiver. The Authorized Officer may grant a land use fee waiver only based on the criteria enumerated in this section and shall document the basis for each land use fee waiver granted.

When a land use fee waiver is granted, the land use fee must still be calculated and documented, and the standard land use fee clauses must be retained in the authorization. The land use fee waiver should be periodically reevaluated during the term of the authorization and upon reauthorization of the use. If the basis for a land use fee waiver no longer applies, the land use fee should be charged for the remainder of the term of the authorization or for the new authorization.

Determine the holder’s or applicant’s eligibility for a land use fee waiver according to the criteria in sections 31.22a and 31.22b. Section 31.22a contains initial criteria for the determination. Apply the criteria in section 31.22b only if the holder or applicant has not been disqualified from a land use fee waiver under section 31.22a.

1. For all holders and applicants requesting a land use fee waiver based on their nonprofit status, and for all holders and applicants requesting a land use fee waiver based on the nonprofit status of any occupants in or on their communications facility, the Authorized Officer shall require initial and subsequent annual verification of the holders’ and

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applicants' or occupants' nonprofit status under Section 501(c)(3) of the Internal Revenue Code.

2. In addition to requiring documentation of their nonprofit status, the Authorized Officer shall require communications facility owners requesting a land use fee waiver (sec. 31.22b, para. 1) for themselves or for a broadcast occupant in or on their communications facility to provide annual documentation from the Federal Communications Commission (FCC) of their classification or their occupant's classification by the FCC as a noncommercial, educational radio or television station.

31.22a - Ineligibility for a Land Use Fee Waiver

Do not grant a land use fee waiver if any of the following conditions apply:

1. The holder is a for-profit entity, and the principal purpose of the authorized use and occupancy is to generate income.
2. The holder is a municipal utility or cooperative whose principal source of revenue from the authorized use is customer charges, including a municipal utility or cooperative that holds a communications use authorization and whose principal source of revenue is customer charges associated with a service that is directly supported by the communications use (36 CFR 251.57(b)(1)).
3. The holder is a nonprofit entity but is using funds derived from the authorized use and occupancy to increase the value of the authorized improvements or to support other activities of the holder.
4. The holder is a nonprofit entity that derives revenue from occupants in or on a communications facility.
5. The use is authorized under a term permit, including a term permit issued under the Public Works Act of September 3, 1954, Title 43, United States Code, section 931c through 931d.
6. The use is authorized under an easement, except when the grantee has granted a reciprocal easement of substantially similar value to the United States (36 CFR 251.57(5)).
7. The holder is a state or local governmental entity that is conducting a commercial use or that would charge the Forest Service for a similar authorization (sec. 31.22b, para. 3).

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31.22b - Eligibility for a Land Use Fee Waiver

A full land use fee waiver waives the entire land use fee for the authorized use. If the holder or applicant is not disqualified from a land use fee waiver under the criteria in section 31.22a, grant a full land use waiver if one of the following conditions is met:

1. The applicant or holder is licensed by the FCC as a noncommercial, educational broadcaster and has nonprofit status under section 501(c)(3) of the Internal Revenue Code. Do not grant a land use fee waiver for an easement (sec. 31.22a, para. 6).
2. The authorized use and occupancy are associated with a Forest Service contract, grant, or cooperative agreement to accomplish a public service project for NFS lands or Forest Service programs.
3. The holder or applicant is a state or local governmental entity, unless the authorized or requested use and occupancy are commercial or the state or local governmental entity would charge the Forest Service for a similar authorization.
4. The holder or applicant is a nonprofit entity under Section 501(c)(3) of the Internal Revenue Code and the authorized use and occupancy further the safety, health, or welfare of a broad segment of the public or the programs of the Secretary of Agriculture (36 CFR 251.57). Do not waive the land use fee for a nonprofit organization that exists for the principal benefit of its members, such as a rod and gun club, hiking club, or horseback riding club.
5. The holder or applicant is a for-profit entity, and the sole purpose of the authorized use is to provide for the safety, health, and welfare of a broad segment of the public with no customer charges.
6. The land use fee is included in land use fees for an authorized use for which the United States is already receiving compensation.
7. The authorized use and occupancy involve a cost share road.
8. The use and occupancy are authorized under a reciprocal easement of substantially similar value to an easement granted to the Forest Service Title 36, Code of Federal Regulations, section 212.8(a)(2)—Permission to Cross Lands and Easements Owned by the United States and Administered by the Forest Service.
9. The deed for land acquired by the Forest Service reserves rights for the transferor that may be exercised without paying a land use fee.
10. The authorized use and occupancy are ancillary to a primary use for which the United States is already receiving a land use fee.

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31.22c — Partial Land Use Fee Waiver

A partial land use fee waiver may be granted only when the Forest Service is granting a reciprocal authorization of substantially lower value than the authorization being granted to the Forest Service.

31.23 - Temporary Land Use Fee Adjustments

1. **Non-Use.** The Authorized Officer may place a use authorization in a non-use status when necessary to protect the interests of the United States or when circumstances beyond the holder's control prevent the holder from conducting the authorized use. Placing an authorization in non-use status discharges the holder of land use fees for the specific period of non-use. Do not allow the holder to use the authorization area during the period of non-use. Ensure that the holder maintains the authorized improvements and authorization area in a satisfactory condition during the period of non-use.
2. **Land Use Fee During Construction.** Require land use fees during construction. Base land use fees during construction on the value of the authorized use and occupancy or other appropriate method (sec. 31.1). Land use fees during construction shall remain in effect until construction is complete, at which point land use fees for the full authorized use and occupancy would apply.

31.3 - Documentation of Land Use Fee Determinations and Reviews

Document land use fee determinations and reviews, including the method of land use fee determination and any land use fee waiver or exemption, if applicable, in the file for each use authorization. At a minimum, documentation of land use fees must include:

1. The calculations and basis for the land use fee, with references to supporting documents such as appraisals, audits, investment records, and the prospectus, as applicable.
2. Any pertinent supporting facts.
3. The name and title of the official who determined the land use fee.
4. If a full or partial land use fee waiver has been granted, the application for the waiver and the Authorized Officer's reason for granting the waiver.
5. The basis for any exemption.

31.4 - Land Use Fees Established by Regions and Administrative Units

1. **Requirements for Use of National Land Use Fee Rates, Systems, and Schedules.** Regions and administrative units are required to use the Agency's national land use fee rates,

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systems, and schedules when determining land use fees for special uses. However, field units may establish, or supplement land use fee rates, schedules, or systems as provided in section 31.4, paragraph 2.

2. Limited Authorization for Establishment of Land Use Fee Rates, Schedules, and Systems by Regions and Administrative Units. Regions and Administrative Units are authorized to establish land use fee rates, schedules, and systems for their Region or Unit in the following circumstances:
 - a. Forest Service regulations or directives require regions or administrative units to establish or supplement land use fee rates, schedules, or systems, such as a regional minimum land use fee.
 - b. A national land use fee schedule or system does not provide a land use fee for a particular type of use, such as a certain communication use not covered by the national rental fee schedule for communications uses.
 - c. A national land use fee rate, schedule, or system has not been established for a particular type of use, such as an apiary, worm harvesting, or mariculture.

When available, use existing or reserved codes and captions in this chapter to issue directive supplements that establish a regional or administrative unit land use fee rate, schedule, or system or supplement a national land use fee rate, schedule, or system. For example, a region or administrative unit may issue land use fee direction for a type of linear right-of-way in a directive supplement to section 35.4 or for a type of commercial filming in a directive supplement to section 35.7 of this chapter.

When appropriate codes have not been established in the Service-wide Directive System, coordinate with the regional or administrative unit Directive Manager to request the Service-wide Directive Manager to establish the necessary codes and captions.

31.5 - Land Use Fees Established by Regions

31.51 - Regional Minimum Land Use Fees

Regional Foresters are responsible for establishing and maintaining a regional minimum land use fee for special uses (FSM 2715.04b).

31.52 - Land Use Fees Established by Administrative Units

Land Use fees established by an administrative unit must be approved by the Regional Forester.

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32 – Land Use Fee Administration

32.1 - Payment of Land Use Fees

Special use authorizations shall specify the method and due dates for receipt of land use fee payments. The Authorized Officer may allow semiannual, quarterly, or monthly payments, as appropriate. Assign the authorization identification number established in the Special Uses Data System (SUDS) for billing and tracking purposes.

32.11 - Consolidated Land Use Fee Payments

Consolidated land use fee payments covering multiple years may be collected as follows (36 CFR 251.57(a)(2)):

1. The authorized officer may require either an annual land use fee payment or a land use fee payment covering more than one year for up to 10 years for campground concessions, and for up to 5 years for all other types of uses, provided a holder that is a private individual (rather than a commercial or other entity) and that has an annual land use fee of more than \$100 may elect to make either an annual land use fee payment or a land use fee payment covering more than one year for up to 5 years.

32.12 - Initial Payment

If part of the billing cycle or use season has already elapsed, prorate billing for the remainder of the billing cycle or use season. Prorate land use fees for a partial season of use. Do not prorate payments below the minimum annual land use fee.

32.13 - Payment for Trespass

Trespass occurs if an individual or entity uses or occupies NFS lands without a special use authorization (36 CFR 261.10(k)). Issuance of a special use authorization does not authorize the use and occupancy prior to issuance of the authorization and thus does not vitiate the trespass. Bill the holder for the period of trespass (FSM 6570; FSH 6509.11h, Ch. 20). Bill the holder under the authorization only for the period covered by the authorization.

32.2 - Billing Procedures

Authorized Officers must take aggressive action to collect land use fees due the United States for the use and occupancy of NFS lands, including referral to the United States Department of Treasury (Treasury) if payment has not been received within 90 days of the due date and notification consistent with due process requirements has been provided to the holder Title 31, United States Code, section 3711.(a)(1); Title 31, Code of Federal Regulations, section 285.5—Debt Collection Authorities Under the Debt Collection Improvement Act of 1996 and Title 36, Code of Federal Regulation, section 285.12—Transfer of Debts to Treasury for Collection; and

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Title 7, Code of Federal Regulations, Part 3, Subpart C—Referral of Depts to Treasury; FSM 6570; FSH 6509.11h, ch. 20). The land use fee for new special use authorizations must be paid before the Authorized Officer signs the authorization. Holders must be billed at least 30 days before payment is due (FSM 6530; FSH 6509.11h, ch. 20), unless otherwise provided by the terms of the authorization.

32.21 - Bills for Collection

For direction on bills for collection, see FSH 6509.11h, chapter 20.

32.22 - Due Dates

Due dates shall normally be January 1, unless otherwise specified in the authorization. For land use fees based on revenues, the due date shall coincide with the holder's fiscal year. Whenever possible, show due dates as the first day of the month. Authorizations issued to the same holder should specify the same due date to facilitate consolidated billing, whenever practical. Holders are responsible for timely payment of land use fees.

32.23 - Late Payments

For direction on late payments, see the authorization language itself and FSH 6509.11h, chapter 20.

32.3 - Termination and Revocation for Nonpayment

A special use authorization may terminate in accordance with its terms for nonpayment of land use fees.

A special use authorization is revocable in accordance with its terms for nonpayment of land use fees.

32.31 - Termination for Nonpayment

Most special use authorization forms provide that nonpayment of land use fees within the period specified by the authorization form shall result in termination of the authorization in accordance with its terms. Termination of a special use authorization for nonpayment of land use fees is not appealable under Title 36, Code of Federal Regulations, Part 214—Post Decisional Administrative Review Process for Occupancy or Use of National Forest Systems Lands and Resources (36 CFR Part 214).

32.32 - Revocation for Nonpayment

Special use authorizations that do not provide for termination for nonpayment are subject to revocation for nonpayment of land use fees, after the holder is given notice and a reasonable

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opportunity to pay the fees. Inform the holder that the revocation decision is appealable under 36 CFR Part 214.4(c).

32.33 - Notice of Termination or Revocation for Non-Payment of Land Use Fees, Removal of Improvements, and Referral to Treasury

If payment has not been received within 90 days of the original due date and the notification procedures outlined in FSH 6509.11h, chapter 20, and this chapter, have been followed:

1. Send the holder a bill for collection via certified mail documenting termination or revocation of the authorization for nonpayment, as applicable (sec. 32.31 and 32.32). Coordinate with the Albuquerque Service Center and the local Office of the General Counsel regarding referral of unpaid land use fees to Treasury for collection.
2. Upon termination or revocation, privately owned improvements must be removed from NFS lands by a specified date, in accordance with the terms of the authorization. In determining the removal period, consider the type of structures to be removed and the time of year.
3. Interest, penalties, and administrative costs are due and payable per the terms of the authorization and Title 31, United State Code, section 3717(b), Title 31, Code of Federal Regulations, section 901.9—Interest, Penalties, and Administrative Cost, and Title 7, Code of Federal Regulations, section 3.17—Interest, Penalties, and Administrative Cost.

32.4 - Administrative Appeal of Land Use Fee Determinations and Audits

The following are not appealable:

1. Revision or replacement of a land use fee system or schedule that is implemented through public notice and comment.
2. Annual land use fee adjustments based on an inflation factor that are calculated under an established land use fee system or schedule in accordance with the terms of the authorization.

Disputed land use fees, other than land use fees recalculated pursuant to an audit, must be paid in full, regardless of appeal status. Adjustments will be made if dictated by an administrative appeal decision, a court decision, or settlement terms.

Land use fee redeterminations because of an audit are appealable under 36 CFR 214.4(c)(3).

33 – Recreation Residence Land Use and Transfer Fees

Recreation residence land use and transfer fees shall be assessed and paid annually in accordance with this section.

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33.05 - Definitions

Cabin. A privately built and owned recreation residence that is authorized to use and occupy NFS lands.

Annual Land Use Fee for a Recreation Residence. The annual land use established by the Cabin Fee Act of 2014 (16 U.S.C. 6214) based on a recreation residence's land use fee tier assignment.

Majority. More than 50 percent.

Natural, Native State. The condition of a lot or site, free of any improvements, at the time at which the lot or site was first authorized for recreation residence use by the Forest Service.

Recreation Residence. A privately owned, noncommercial residence located on NFS lands and authorized by a recreation residence term special use permit, which is maintained by the holder of the permit for personal, family, and guest use and enjoyment and which may not serve as a permanent residence.

Recreation Residence Lot. See 36 CFR 251.51.

Related Improvements.

1. For the purpose of defining a recreation residence lot (36 CFR 251.51), "related improvements" include not only the examples of facilities and uses owned and maintained by the holder identified at 36 CFR 251.51, but may also include, but are not limited to, the following holder-owned facilities or uses of NFS lands being actively operated and maintained by the holder in conjunction with the recreation residence use:
 - a. Outbuildings.
 - b. Wood piles.
 - c. Retaining walls.
 - d. Picnic tables.
 - e. Driveways and parking areas.
 - f. Trails and boardwalks.
 - g. Campfire rings, seats, and benches.
 - h. Lawns, gardens, flower beds, and landscaped terraces.

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- i. Manipulated native vegetation, except as provided for in paragraph b(1).
 - j. Septic systems.
2. Related improvements do not include:
- a. Native vegetation that is manipulated for the primary purpose of protecting property and mitigating safety concerns, such as the removal of hazard trees, and the treatment/management of vegetation, approved by the Authorized Officer, to reduce fuel loading and to create defensible space for wildfire suppression purposes.
 - b. Tract association- or community-owned improvements or uses, such as boat docks, swimming areas, and water or sewer systems that are under a separate authorization issued in the name of a tract association or other entity representing the owners of the recreation residences.
 - c. Term Special Use Permit. See 36 CFR 251.51 and FSM 2705.
 - d. Tract. An established location on NFS lands containing one or more recreation residences.
 - e. Transfer Fee. The fee assessed for issuance of a new recreation residence term special use permit for a recreation residence due to a change in ownership of the recreation residence.
 - f. Urban. A mature neighborhood with a concentration of population typically found within city limits or a neighborhood commonly identified with a city (The Dictionary of Real Estate Appraisal, 4th Ed.).

33.1 - Annual Land Use Fees for Recreation Residences

33.11 - Annual Land Use Fee Determination

- 1. Annual Land Use Fee. Per the Cabin Fee Act, 16 U.S.C. 6214(e) and (f)(1), the annual land use fee for a recreation residence permit is assigned based on the tier that includes the adjusted, most-recent appraised value of the recreation residence lot and the percentage of that appraised value proportionate to the total number of all recreation residences, as shown in the following table.

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**33.1 - Exhibit 01
Land Use Fee Tiers**

Land Use Fee Tier	Approximate Percentage of Permits Nationally	Recreation Residence Land use Fee CY 2015
Tier 1	6 percent	\$650
Tier 2	16 percent	\$1,150
Tier 3	26 percent	\$1,650
Tier 4	22 percent	\$2,150
Tier 5	10 percent	\$2,650
Tier 6	5 percent	\$3,150
Tier 7	5 percent	\$3,650
Tier 8	3 percent	\$4,150
Tier 9	3 percent	\$4,650
Tier 10	3 percent	\$5,150
Tier 11	1 percent	\$5,650

33.12 - Inflation Adjustment

The Forest Service shall increase or decrease the annual land use fees for the 11 tiers, 33.1 – exhibit 1 to reflect changes in the Implicit Price Deflator for the Gross Domestic Product published by the Bureau of Economic Analysis of the Department of Commerce, applied on a 5-year rolling average. Annual updates to the land use fees for the 11 tiers. 33.1-exhibit 1 are posted on the Forest Service’s website at https://www.fs.usda.gov/specialuses/special_fees.shtml.

33.13 - Periodic Review

Beginning on December 19, 2024, the Forest Service shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report that:

Analyzes the annual land use fees in section 33.11, paragraph 4, to ensure that the land use fees reflect the market value of use and occupancy of NFS lands for recreation residences, taking into account all use limitations and restrictions (including any limitations and restrictions imposed by the Forest Service); and

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Includes any Forest Service recommendations with respect to modifying the land use fee system. The use of appraisals shall not be required for any modifications to the land use fee system based on the Forest Service's recommendations.

33.2 - Transfer Fees

1. The Forest Service shall establish a transfer fee of \$1,200 for the issuance of a new recreation residence term special use permit due to a change in ownership of the recreation residence.
2. The Forest Service shall annually increase or decrease the transfer fee to reflect changes in the Implicit Price Deflator for the Gross Domestic Product published by the Bureau of Economic Analysis of the Department of Commerce, applied on a 5-year rolling average. Annual updates to the transfer fee are posted on the Forest Service's website at https://www.fs.usda.gov/specialuses/special_fees.shtml.

33.3 - Recreation Residences in the State of Alaska

The Forest Service shall not establish or impose a land use or transfer fee or other condition under section 33 for recreation residences in the State of Alaska that is inconsistent with section 1303(d) of the Alaska National Interest Lands Conservation Act (ANILCA) Title 16, United States Code, section 3193(d)), governing cabins authorized on NFS lands in the State of Alaska as of enactment of ANILCA on December 2, 1980. See Directive Supplement 2709.11-2021-01 to FSH 2709.11, chapter 40, section 41.2, paragraph 4, for direction on these cabins.

33.4 - Retention and Expenditure of Land Use and Transfer Fees for Recreation Residences

Beginning December 19, 2024, the Forest Service may retain and expend without further appropriation land use and transfer fees for recreation residences to administer the Agency's recreation residence program and other recreation programs conducted on NFS lands.

34 – Facilities Eligible for Financing Under the REA

Section 504(g) of FLPMA (43 U.S.C. 1764(g)) exempts electric and communications facilities that are eligible for financing under the REA from land use fees. Exemptions from land use fees based on eligibility for financing under the REA are determined by the Rural Utilities Service (RUS) upon request submitted to the Authorized Officer by applicants for and holders of authorizations for electric or communications facilities. RUS may require applicants and holders requesting a land use fee exemption to submit documentation necessary to determine their eligibility for financing under the REA.

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35 – Land Use Fee Systems and Schedules

35.04 - Responsibility

35.04a - Regional Foresters

Regional Foresters are responsible for adjusting the regional minimum annual land use fee to reflect the average annual regional cost to administer an organizational camp special use permit in regions where the administrative costs exceed \$300 (sec. 35.51c).

35.1 - Land Use Fee Based on Sales

See FSM 2715.11 for direction on the GRFS, which is used to determine land use fees for resorts and marinas.

35.2 - Communications Uses

Direction for determining rental fees for communications uses is found in chapter 90 of this handbook.

35.3 - Federally Owned Facilities

For direction on land use fees for federally owned facilities authorized under section 7 of the Granger-Thye Act, see FSM 2715.13.

35.4 - Linear Rights-of-Way

This section provides direction for use of the land use fee schedule for linear rights-of-way. This schedule, established by the Bureau of Land Management (BLM), was adopted by the Forest Service as required by the section 367(a)(2) of the Energy Policy Act of 2005 Title 42, United States Code, 15925(a)(2)).

35.41 - Determination of Land Use Fees for Linear Rights-of-Way

Calculate the annual land use fee for linear rights-of-way using the linear right-of-way land use fee schedule, which establishes land use fee rates by state, county, and type of linear right-of-way (sec. 35.41, ex. 01). The annual land use fee is the land use fee rate times the number of acres. Round the acres to the nearest hundredth and round the total land use fee to the nearest dollar. For example, the 1991 land use fee for a municipal water canal located on 21.392 acres of NFS lands in Hood River County, Oregon, is calculated as follows: \$23.55 per acre per year x 21.39 acres = \$558.84 (rounded to \$559).

1. **Annual Adjustments.** The per-acre land use fees in the schedule are adjusted annually by multiplying the current year per-acre land use fee by the annual change (second quarter to second quarter) in the implicit price deflator-gross national product (IPD-

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GNP) index, as published in the Survey of Current Business of the U.S. Department of Commerce, Bureau of Economic Analysis. The Washington Office Director of Lands, Minerals and Geology is responsible for making annual updates to the IPD-GNP index and linear right-of-way land use fee schedule (sec. 35.41, ex. 02).

2. **Minimum Annual Land Use Fee.** Charge the regional or administrative unit minimum annual land use fee when the calculated annual land use fee from the schedule is less than the minimum annual land use fee established by the region or administrative unit. For example, when the regional annual minimum land use fee is \$50, charge the minimum annual \$50 land use fee, rather than the \$20 annual land use fee calculated from the linear right-of-way land use fee schedule.
3. **Consolidated Land Use Fee Payment.** To determine a consolidated land use fee payment, calculate the annual land use fee from the schedule and multiply the product by the number of years for which land use fees are to be consolidated (sec. 32.21). For example, the 1991 annual land use fee for a water pipeline is \$60, and the special use authorization provides for consolidated land use fee payments covering 5 years. The consolidated land use fee payment is \$300 ($\$60 \times 5 \text{ years} = \300). The land use fee would be paid again in 1996 and would be calculated by using the adjusted values in 1996 for the next 5-year period.

35.41 - Exhibit 01
Linear Right-of-Way Land Use Fee Schedule

Annual updates are posted at https://www.fs.usda.gov/specialuses/special_fees.shtml.

35.41 - Exhibit 02
Cumulative Implicit Price Deflator-Gross National Product (IPD-GNP) for the
Linear Right-of-Way Land Use Fee Schedule

Annual updates are posted at https://www.fs.usda.gov/specialuses/special_fees.shtml.

35.42 - Exceptions to Use of the Linear Right-of-Way Land Use Fee Schedule

Do not use the linear right-of-way land use fee schedule when:

1. The right-of-way use is minor and is not the primary use authorized. For example, the well is the primary use for a special use authorization that authorizes a water well, pump, 500 feet of electrical lines to the pump and storage tank, a 5,000-gallon water storage tank, and 300 feet of 1-1/2-inch buried water line. Do not use the linear right-of-way land use fee schedule for the water line or the electrical line.
2. The rights-of-way are constructed and maintained for a primary use that is subject to a different land use fee system, such as GRFS or a per-unit land use fee system.

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3. The land use fee is for a dam or reservoir special use authorization.
4. The rights-of-way are water transmission facilities for hydroelectric projects.
5. The land use fee determined by an appraisal is 10 or more times the land use fee from the schedule. For example, the land use fee schedule should not be used when the land use fee determined by appraisal is \$1,000 and the land use fee from the schedule is \$100. When the appraisal is based on the value of the NFS lands occupied by the right-of-way, apply the differential adjustment for the type of right-of-way and amortization rate (sec. 35.45) to the appraised value to arrive at the current calendar year land use fee per acre. For example, the 1991 land use fee per acre from the linear right-of-way land use fee schedule (sec. 35.45) for a private land access road in Glacier County, Montana, is \$5.88 per acre. The road crosses highly valued land used for recreational purposes. An appraisal values the land at \$1,500 per acre. The calculated land use fee per acre is $\$1,500 \times 80\% \times 6.41\% = \76.92 per acre.
6. The calculated annual land use fee is less than the minimum annual land use fee established by the region or administrative unit.

35.43 - Land Use Fee Clauses in New Special Use Authorizations

The land use fee clause in current special use authorization forms for authorizing linear rights-of-way (FS-2700-4, FS-2700-4j, and FS-2700-31) provide for calculation of the land use fee using the linear right-of-way land use fee schedule. The land use fee clause in these authorization forms also provides for modifying the land use fee when the fee system used to calculate the land use fee is modified or replaced.

1. The land use fee clause in form FS-2700-4 includes an optional paragraph providing for consolidated land use fee payments. If consolidated land use fee payments are desired when other special use authorization forms are used, clause A-14 may be added to the authorization (FSH 2709.11, ch. 50, sec. 52.1).

35.44 - Linear Right-of-Way Land Use Fee Schedule

1. Land Use Fee Formula. The annual land use fee per acre (is calculated by multiplying the right-of-way zone value (ZV) times the differential adjustment (DA) times the amortization rate (AR):
2. Land use fee/acre = $ZV \times DA \times AR$.
3. Right-of-Way Zone Value. The right-of-way zones are based on typical raw land values for the types of land on which the Forest Service and BLM have authorized linear rights-of-way. The zones in the linear right-of-way land use fee schedule are established by state and county. The values for right-of-way zones are not based on the values for

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urban or suburban residential areas, industrial parks, farms or orchards, recreational properties, or other similar types of land. Specific sites within a zone may have actual values higher or lower than the value assigned to the zone.

4. Differential Adjustment. The differential adjustment is a component of the land use fee formula which adjusts the zone value downward to reflect the differences between right-of-way authorizations issued by private landowners and those issued by the federal government. The differential adjustment is applied as follows:
 - a. Land values for energy pipelines, ditches, canals, and road rights-of-way are adjusted to 80 percent of the zone right-of-way value; and
 - b. Land values for powerline facilities, telephone lines, and other types of linear rights-of-way not included in paragraph 3a of this section are adjusted to 70 percent of the zone right-of-way value.
5. Amortization Rate. The amortization rate is 6.41 percent, based on the one-year Treasury securities constant maturity rate as of June 30, 1986. This rate shall remain fixed until adjusted per paragraph 5 of this section.
6. Updating the Land Use Fee Formula. When one of the following three conditions occurs, the Washington Office Director of Lands, Minerals and Geology is responsible for undertaking a review of all the elements of the land use fee formula:
 - a. A cumulative change in the IPD-GNP index of plus or minus 30 percent. The 1986 second quarter index used was 96.5. The trigger points for the IDP-GNP index are 67.55 on the minus side and 125.45 on the plus side.
 - b. The 3-year average of the one-year fixed Treasury security rate, as measured for the second quarter of each year, exceeds a cumulative change of plus or minus 50 percent of the June 30, 1986, rate of 6.41 percent. The triggers are 3.20 percent on the minus side and 9.61 percent on the plus side.
 - c. When the BLM proposes a change to the linear right-of-way fee schedule.
7. If the review indicates an adjustment to the land use fee formula is needed, the Forest Service shall request public input by notice in the Federal Register and follow the public involvement procedures in 36 CFR Part 216.

35.5 - Organizational Camps

The authority to establish land use fees for organizational camps is found in the National Forest Organizational Camp Fee Improvement Act of 2003 (16 U.S.C. 6231 et seq.).

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35.51 - Fees for Organizational Camps

35.51a - Initial Land Use Fee Computation

Establish the initial land use fee by assessing a rate based on 5 percent of the total value of NFS lands authorized. The total value is determined by multiplying the number of acres authorized by the per-acre market value of land and buildings in the county where the camp is located, as reported in the most recent Census of Agriculture conducted by the National Agricultural Statistics Service. The Census of Agriculture may be accessed at <http://www.agcensus.usda.gov/>.

35.51b - Annual Adjustments

Annually adjust the initial land use fee and subsequent annual adjustments by the annual compounded rate of change between the two most recent Censuses of Agriculture. The annual compounded rate of change between the two most recent Censuses of Agriculture is calculated within the electronic annual fee worksheet (sec. 35.56, ex. 01) in the Special Uses Data System. Exhibit 3 in section 35.56 provides direction for computing the annual compounded rate of change between the two most recent Censuses of Agriculture.

35.51c - Minimum Annual Land Use Fee

The minimum annual land use fee for an organizational camp is \$300, unless the average annual regional cost to administer organizational camp special use permits exceeds that amount.

35.51d - Reduction and Offset of Annual Land Use Fees

The reductions provided for in this section may not reduce the annual land use fee below the minimum annual land use fee (sec. 35.51c). Do not consider sponsorships or scholarships that assist persons to attend the organizational camp when determining land use fee reductions provided for in paragraphs 1 and 2.

1. Reduction for Priority 1 Programs. For a description of priority 1 programs, see FSH 2709.14, chapter 10, section 13.4. Reduce the annual land use fee proportionate to the number of individuals annually who attend the organizational camp and participate in a priority 1 program. For example, if 50 percent of those attending have a disability or are children at risk, reduce the land use fee by 50 percent.
2. Reduction for Priority 2 Programs. For a description of priority 2 programs, chapter 40, section 41.13d. After making the reduction for priority 1 programs, reduce the remaining land use fee amount by up to 60 percent, proportionate to the number of individuals annually who attend the organizational camp and participate in a priority 2 program.

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3. Work-in-Lieu Program. Pursuant to section 3 of the Federal Timber Contract Payment Modification Act, Title 16, United States Code, section 539f (16 U.S.C. 539f), land use fees may be offset by the value of work performed by the holder of an organizational camp special use authorization for the benefit of the Government. The holder and Authorized Officer shall agree in writing and in advance to the type and value of any work to be used to offset the land use fee.

35.52 - Facility Use Fee

When an organizational camp special use authorization provides for the use of a federally owned facility (section 7 of the Granger-Thye Act, Title 16, United States Code, section 508(d) (16 U.S.C. 580(d))), charge the holder a facility use fee in addition to the land use fee.

35.52a - Facility Use Fee Formula

The facility use fee is 5 percent of the value of the authorized federally owned facilities, based on their functional replacement cost as determined through appraisal or other sound business management principles.

35.52b - Lack of Authority to Reduce or Waive Facility Use Fees

Pursuant to the National Forest Organizational Camp Fee Improvement Act of 2003, the facility use fee is not subject to a reduction or waiver, including offset pursuant to the Federal Timber Contract Payment Modification Act.

35.52c - Granger-Thye Fee Offset

The facility use fee is eligible for offset in accordance with section 7 of the Granger-Thye Act of 1950 (16 U.S.C. 580(d)). Document offset of a facility use fee on form FS-2700-4h, Appendix B.

35.53 - Fee Based on Other Revenues

A fee based on other revenues may be charged when the holder of an organizational camp special use authorization produces revenue from the use of NFS lands or federally owned facilities for purposes other than to introduce young people or individuals with a disability to activities that they may not otherwise experience and to educate them on natural resource issues. Examples of these types of activities include weddings, conferences, and special events. Charge the holder a fee of 5 percent of the gross revenue generated from these activities. Land use fees based on other revenues may be offset in accordance with section 3 of the Federal Timber Contract Payment Modification Act. The holder and Authorized Officer shall agree in writing and in advance to the type and value of any work to be used to offset land use fees based on other revenues.

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35.54 - Phase-In of Land or Facility Use Fee Increases

Implementation of the National Forest Organizational Camp Fee Improvement Act may result in a significant increase in a land or facility use fee. When a significant increase occurs, the Authorized Officer shall consider phasing in the fee increase based on:

1. The difference between the market value of land calculated under the previous fee system and the market value established under the new fee system;
2. The value of work that is subject to but does not qualify for offset of the use fee under section 7 of the Granger-Thye Act (sec. 35.52), but which was offset previously under the Federal Timber Contract Payment Modification Act; and
3. The holder's cash flow.

Do not phase in increases in land or facility use fees that result from an increase in authorized acres or a change in reductions to the land use fee (sec. 35.51d) from the previous year. The length of the phase-in may not exceed 5 years.

35.55 - Deposit and Expenditure of Fees

35.55a - Land Use Fees and Fees Based on Other Revenues

1. Accounting and Availability of Fees. Fees for Organizational Camps(sec. 35.51) and fees based on other revenues (sec. 35.53) must be deposited into a special account and remain available for expenditure without further appropriation on the administrative unit where the fees were collected. Special use administrators responsible for assessing and collecting land use fees and fees based on other revenues shall contact their respective Fiscal Management staff for guidance on appropriate accounting procedures for tracking and expending these fees.
2. Expenditure of Fees. Land use fees and fees based on other revenues must be expended in the following priority order:
 - a. Monitoring organizational camp special use authorizations.
 - b. Environmental analyses that are the Forest Service's responsibility and related to the organizational camp special uses program.
 - c. Government maintenance, reconditioning, renovation, or improvement of federally owned facilities covered by organizational camp special use authorizations.
 - d. Environmental restoration.

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- e. General administration of the administrative unit's special uses program.
- f. Interpretive programs.
- g. Other programs and projects deemed appropriate by the Authorized Officer.

35.55b - Facility Use Fees

Facility use fees shall be deposited and expended as provided for by sections 5 and 7 of the Granger-Thye Act of 1950. See FSM 1584.12 for additional direction on administering funds collected under the Granger-Thye Act.

35.56 - Computing Fees for Organizational Camps

Use the annual fee worksheet (ex. 01) and the 5-year summary of fees (ex. 02) to calculate fees for organizational camp special use authorization. The worksheet and 5-year summary of fees are accessed through the Organizational Camp Rent Sheet in SUDS.

Exhibit 03 contains instructions for determining the annual compounded rate of change between the two most recent Censuses of Agriculture. Exhibit 04 gives an example of a fee calculation.

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**35.56 - Exhibit 01
Annual Fee Worksheet Example**

Permit Data					
Permit ID:					
Holder ID:					
Holder name:					
State:					
County:					
Land Use Fee					
1	Per-Acre Value*:	\$1,000	<div style="border: 1px dashed red; padding: 2px; text-align: center;"> CLICK HERE FOR * Census of Agriculture web link. </div>		
2	Permitted Acres:	50			
3	Subtotal Value:	\$50,000			
4	Annual Inflation Adjustment:	4 a) 1997 per-acre value	\$1,000	4 b) 1992 per-acre value	\$500
	4 c) Annual Adjustment Factor	1.1487	Most Recent Census	Previous Census	
	4 d) Number of Years Between Date of Most Recent Census and Date of Fee Calculation	6			
5	Total Value:	\$114,871			
6	Base Land Use Fee (5% of Total Value)	\$5,744			
7	Reductions		Amount		
	% Priority 1	10%	\$574		
	% Priority 2	60%	\$3,102		
8	Adjusted Land Use Fee	\$2,068			
Fee Based on Other Revenues					
9 a)	Revenue Amount	\$500			
9 b)	Fee (5% of Revenue)	\$25			
10	Work In Lieu Offset Value	\$2,000			
11	Total Land Use Fee and Fee Based on Other Revenues:	\$300	LAND USE FEE CANNOT BE LESS THEN \$300		
11 a)	Minimum Fee	\$300			
Facility Use Fee:					
12 a)	Valuation of Facilities:	\$200,000			
12 b)	Use Fee (5% of Facility Value)	\$10,000			
12 c)	Value of Fee Offset Work	\$0			
12 d)	Adjusted Facility Use Fee	\$10,000			
13	Final Fee	\$10,300			
Worksheet Prepared by		Date	Approved by		Date

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35.56 - Exhibit 01--Continued

Instructions

1. Per-Acre Value. Click on the Census of Agriculture World Wide Web link. Click on state desired in the State and County Geographic Area Series (Accessible by Tables). Click on View Chapter 2 Table of Contents: County-Level Data, just under the heading. Click on Table 6, Value of Land and Buildings. Find the county desired. Under-Estimated market value of land and buildings, find the Average per acre in dollars for the two most recent Censuses of Agriculture. Enter the most recent value and note the previous value. If there is no value for a county, use the state average. Click on View Chapter 1 Table of Contents: State-Level Data, just under the County heading on the previous screen.
2. Permitted Acres. Enter permitted acres.
3. Subtotal Value. Represents the land value upon which all billing calculations are based.
4. Annual Inflation Adjustment. Represents an annual inflation factor.
 - a. Applicable per-acre value from most recent census, from entry on line 1.
 - b. Enter applicable per-acre value from previous census.
 - c. Enter annual adjustment factor.
 - d. Enter number of years between date of most recent census and date of fee calculation.
5. Total Value. Represents total land value for this billing cycle.
6. Base Land Use Fee. Represents base land use fee to which any adjustments will be made.
7. Reductions (ch. 40, sec. 41.13d). Enter prorated percentage of clients served. Calculated dollar values represent reductions from base land use fee.
8. Adjusted Land Use Fee. Amount to be billed if no other adjustments are applicable.
9. Fee Based on Other Revenues (sec. 35.53).
 - a. Enter amount of revenue.
 - b. Amount of fee based on other revenues.

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10. Work In Lieu (sec. 35.51(d)(3)). Enter dollar value of qualifying work performed by the holder.
11. Total Land Use Fee. Must be equal to or greater than minimum annual land use fee. Enter minimum annual land use fee.
12. Facility Use Fee (FSM 2715.13 and FSH 2709.11, ch. 30, sec. 35.52). Represents fee for use of Government-owned facilities.
 - a. Enter facility value.
 - b. Fee for use of facility.
 - c. Enter value of fee offset work.
 - d. Adjusted facility use fee.
13. Final Fee. Final reconciled fee.

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35.56 - Exhibit 02

5-Year Summary of Fees

(Use to document fees between two most recent Censuses of Agriculture)

Permit Data

Permit ID: _____
 Holder ID: _____
 Holder name: _____
 State: _____
 County: _____

	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
1) Per-Acre Value*	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000
2) Permitted Acres	50	0	0	0	0
3) Subtotal Value	\$50,000	\$0	\$0	\$0	\$0
4) Annual Inflation Adjustment					
4a) Annual Adjustment Factor	1.14870	1.14870	1.14870	1.14870	1.14870
4b) Years between adjustment	6	1	1	1	1
5) Total Value:	\$114,871	\$0	\$0	\$0	\$0
6) Base Land Use Fee (5% of Total Value)	\$5,744	\$0	\$0	\$0	\$0
7) Reductions	<u>Amount</u>	<u>%</u>	<u>Amount</u>	<u>%</u>	<u>Amount</u>
% Priority 1	10% \$574	0%	\$0	0%	\$0
% Priority 2	60% \$3,102	0%	\$0	0%	\$0
8) Adjusted Land Use Fee	\$2,068	\$0	\$0	\$0	\$0
9) Fee Based on Other Revenues					
9a) Revenue Amount	\$500	\$0	\$0	\$0	\$0
9b) Fee (5% of Revenue)	\$25	\$0	\$0	\$0	\$0
10) Work-In-Lieu Value	\$2,000	\$0	\$0	\$0	\$0
Total Land Use Fee and Fee					
11) Based on Other Revenue	\$300	\$300	\$300	\$300	\$300
11a) Minimum Fee	\$300	\$300	\$300	\$300	\$300
12) Facility Use Fee					
12a) Value of Facilities	\$200,000	\$0	\$0	\$0	\$0
12b) Use Fee (5% of Facility Value)	\$10,000	\$0	\$0	\$0	\$0
12c) Fee Offset Work Value	\$0	\$0	\$0	\$0	\$0
12d) Adjusted Facility Use Fee	\$10,000	\$0	\$0	\$0	\$0
13) Final Fee	\$10,300	\$300	\$300	\$300	\$300

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35.56 - Exhibit 02--Continued

Instructions

1. Per-Acre Value. Click on the Census of Agriculture World Wide Web link. Click on state desired in the State and County Geographic Area Series (Accessible by Tables). Click on View Chapter 2 Table of Contents: County-Level Data, just under the heading. Click on Table 6, Value of Land and Buildings. Find the county desired. Under-Estimated market value of land and buildings, find the Average per acre in dollars for the two most recent Censuses of Agriculture. Enter the most recent value and note the previous value. If there is no value for a county, use the state average. Click on View Chapter 1 Table of Contents: State-Level Data, just under the County heading on the previous screen.
2. Permitted Acres. Enter permitted acres.
3. Subtotal Value. Represents the land value upon which all billing calculations are based.
4. Annual Inflation Adjustment. Represents an annual inflation factor.
 - a. Applicable per-acre value from most recent census, from entry on line 1.
 - b. Enter applicable per-acre value from previous census.
 - c. Enter annual adjustment factor.
 - d. Enter number of years between date of most recent census and date of fee calculation.
5. Total Value. Represents total land value for this billing cycle.
6. Base Land Use Fee. Represents base land use fee to which any adjustments will be made.
7. Reductions (ch. 40, sec. 41.13d). Enter prorated percentage of clients served. Calculated dollar values represent reductions from base land use fee.
8. Adjusted Land Use Fee. Amount to be billed if no other adjustments are applicable.
9. Fee Based on Other Revenues (sec. 35.53).
 - a. Enter amount of revenue.
 - b. Amount of fee based on other revenues.
10. Work In Lieu (sec. 35.51(d)(4)). Enter dollar value of qualifying work performed by the holder.

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11. Total Land Use Fee. Must be equal to or greater than minimum fee.
 - a. Enter minimum annual land use fee.
12. Facility Use Fee (FSM 2715.13 and sec. 35.52). Represents fee for use of federally owned facilities.
 - a. Enter facility value.
 - b. Fee for use of facility.
 - c. Enter value of fee offset work.
 - d. Adjusted facility use fee.
13. Final Fee. Final reconciled fee.

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35.56 — Exhibit 03
Annual Rate Adjustment Computation

The annual adjustment to the fee is made by using the interest rate determined by the annual compounded rate of change in the two most recent Censuses of Agriculture.

The classic example is a savings account paying 5 percent, compounded annually. What this means is that the interest earned for a specific period, such as a year, is added to the principal amount, and this new total amount earns interest in the next period, and so on for each period until the end of the set time period. The total amount at that point is the future value.

This is the typical Present Value/Future Value calculation PV/FV,

- where the future value, FV, is known (the amount at the most recent Census of Agriculture); and
- where the present value, PV, is known (the Census of Agriculture is published every 5 years).

The equation for the interest rate from the PV/FV equation is:

$$FV = PV (1 + i)^n$$

$$FV / PV = (1 + i)^n$$

$$\sqrt[n]{FV / PV} = (1 + i)$$

$$\sqrt[n]{FV / PV} - 1 = i$$

$$i = \sqrt[n]{FV / PV} - 1$$

$$i = \left(FV / PV \right)^{1/n} - 1$$

$$i = \left(FV / PV \right)^{1/n}$$

Written as a cell formula, it is "(PV/FV).2", where .2 = 1/5, where 5 = the number of years between Censuses of Agriculture.

In the organizational camp fee formula example, we are determining the interest rate assuming that the rate of change between the two most recent Censuses of Agriculture includes yearly compounding.

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For 2003, the two most recent Censuses were in 1992 and 1997, a 5-year difference. If the 1992 value is 500 and the 1997 value is 1,000, the FV is 1,000 and the PV is 500. By applying the equation in Excel, we find that the compounded interest rate for this period was 1.148698. This can be verified in the following equation that compounds the 14% over 5 years, starting with the \$500.

$$(500)(1.148698)^5 = (500)[(1.48698)(1.48698)(1.48698)(1.48698)(1.48698)] =$$

$$(500)[1.99999] = 1,000$$

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**35.56 - Exhibit 04
Example of Organizational Camp Fee Calculation**

Fee = Land Use Fee + Fee Based on Other Revenues + Facility Use Fee, where:

Land Use Fee = 0.05 (Acres x Value Per Acre x Annual Adjustment Factor) -

Reductions for Priority 1 and Priority 2 Use.

Assume 5 years between census reports, with year 0 being \$500, and year 5 being \$1000, resulting in a \$500 total change or a \$100 annual change. By dividing the annual change (\$100) by the cumulative change (\$500), we get a 20 percent nominal rate. The number of compounding periods is 5. For this example, the formula would be $(1000/500)^{.2} = 1.1487$ Annual Adjustment Factor.

Assuming there are 50 acres and 6 years between the date of the most recent census and the date of the fee calculation:

Land Use Fee = 0.05(50 ac. x \$1,000/ac. x 1.14876) – Reductions

Land Use Fee = \$5,744 - Reductions

Reductions

Assume 1000 camp attendees, of whom 100 participate in a Priority 1 program, and 650 participate in a Priority 2 program.

Priority 1 = 100/1000 = 0.10 or 10%

Priority 2 = 600/1000 = 0.60 or 60% (maximum allowed is 60%)

Land Use Fee = \$5,744 – (\$5,744 x 10% for priority 1) = \$5,744 - \$574 = \$5,170

Land Use Fee = \$5,170 – (\$5,170 x 60% for priority 2) = \$5,170 – \$3,102 = \$2,068

Fee Based on other Revenues = 0.05 x \$500 = \$25

Assume the holder collected \$500 from other activities pursuant to section 36.53.

Work in Lieu = \$2,000

Assume the holder completed \$2,000 in work that benefited the government. The land use fee and fee based on other revenues may be offset pursuant to section 3 of the Federal Timber Contract Payment Modification Act (16 U.S.C. 539f). This offset work and its value shall be documented and agreed to in advance.

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Total Annual Land Use Fee and Fee Based on Other Revenues = \$2,068 + \$25 - \$2,000 = \$300*

*The annual land use fee may not be reduced below the minimum annual land use fee. The minimum annual land use fee is \$300, unless adjusted by the region where the organizational camp is located, per FSM 2715.04b, paragraph 1. The minimum annual land use fee is due in advance of use and is not refundable.

Facility Use Fee = (0.05 x value of federally owned facilities) – offset work

The facility use fee is subject to the Granger-Thye fee offset requirements. The facility use fee is not subject to reduction or waiver, including offset pursuant to section 3 of the Federal Timber Contract Payment Modification Act (16 U.S.C. 539f).

Assume the value of the authorized federally owned facilities is \$200,000 and the holder conducted \$0 worth of offset work.

$$\text{Facility Use Fee} = (0.05 \times \$200,000) - \$0 = \$10,000$$

$$\text{Final Fee} = \text{Total Land Use Fee and Fee Based on Other Revenues} + \text{Facility Use Fee}$$

$$\text{Final Fee} = \$300 + \$10,000 = \$10,300$$

35.6 - Geological and Geophysical Exploration Land Use Fees

The land use fee for seismic exploration is \$200 per mile or fraction of a mile. Charge this fee for any permit issued to authorize seismic exploration for oil and gas on NFS lands. This fee is in addition to any costs associated with reclamation, restoration, or compliance with applicable laws for which the holder may be responsible as a condition of the permit.

Do not charge a land use fee to a leaseholder for seismic exploration of an area within a valid leasehold (FSM 2860).

35.7 - Commercial Filming and Still Photography Land Use Fees

For direction pertaining to the permitting and administration of commercial filming and still photography, see FSM 2725.5 and FSH 2709.11, chapter 40, sections 45.5 through 45.52c.

35.71 - Determining Commercial Filming and Still Photography Land Use Fees

Calculate land use fees for commercial filming and still photography using the Regional and Forest or Grassland fee schedules established for these uses.

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35.72 - Accounting of Commercial Photography and Still Photography Land Use Fees

Special use administrators responsible for assessing and collecting land use fees for commercial filming and still photography shall contact their respective Fiscal Management Staff for guidance on the appropriate collection and accounting procedures for tracking and expending fee receipts received from commercial filming and still photography activities.

35.73 - Expenditure of Commercial Filming and Still Photography Land Use Fees

The Act of May 26, 2000 Title 16, United States Code, section 406I-6d(e), requires the Forest Service to use land use fees collected from commercial filming and still photography in the same manner as fees collected for the Recreational Fee Demonstration Program (Pub. L. No. 104-134, sec. 315). The Act of May 26, 2000, also requires the Forest Service to spend these fees in a manner that improves customer service for commercial filming and still photography activities (sec. 35.7).

The following paragraphs 1 through 3 provide direction for the distribution of land use fees to improve customer service in the permitting and administration of commercial filming and still photography activities on NFS lands. The distribution of these receipts may be adjusted to improve the delivery of programs directly associated with the permitting and administration of commercial filming and still photography when approved in advance by the Washington Office Director of Lands, Minerals and Geology.

1. Land Use Fees Retained by Administrative Units.

- a. **Program Support.** Each administrative unit shall retain 80 percent of all land use fees collected on that Forest from commercial filming and still photography. These funds shall be used to support and enhance the Forest's ability to respond to commercial filming and still photography requests, such as:
 - (1) A programmatic environmental analysis at popular commercial filming and still photography sites;
 - (2) A Forest on-line library of photography and other information pertaining to commercial filming and still photography, including a listing of sites where these activities may occur and applicable use restrictions;
 - (3) Personnel training to promote understanding of and familiarity with the film and photography industry; and
 - (4) On-line commercial filming and still photography permit issuing services.

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- b. **Program Administration.** Each administrative unit shall retain an additional 10 percent of all land use fees collected on that Forest from commercial filming and still photography. These funds shall be used to cover the Forest’s administrative costs directly related to collecting, tracking, and expending the fees collected.
- (1) **Appropriate Use of Land Use Fees for Program Administration.** The following paragraphs (a) through (e) provide examples of costs of personnel and infrastructure directly related to collecting, tracking, and expending the fees collected; this list is not all-inclusive but covers typical examples of appropriate uses of fee receipts from commercial filming and still photography activities to cover administrative costs:
- (a) Purchase of supplies necessary to track and collect land use fees.
 - (b) Payment of utilities, communications services, computer software, and related costs needed for operation and maintenance of the fee system for commercial filming and still photography.
 - (c) Salaries, benefits, vehicle use, travel, training, uniforms, and related costs of collection officers, compliance monitoring, and other activities involved in fee collection for commercial filming and still photography, such as preparing and processing bills for collection and auditing fee calculations.
 - (d) Physical security, safekeeping facilities, bank contracts, or other costs related to protection and handling of the land use fees.
 - (e) Audit of collection officers’ activities, program expenditures, and follow-up.
- (2) **Inappropriate Use of Land Use Fees for Program Administration.** The following are examples of costs of personnel and infrastructure not directly related to administrative costs of collecting, tracking, and expending the land use fees for commercial filming and still photography, and therefore constitute inappropriate uses of those land use fees:
- (a) General administration and program management, planning, and supervision.

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(b) Printing and distribution of permits and brochures.

2. **Land Use Fees Retained by the Regional Office.** The Regional Office shall retain 5 percent of all land use fees collected within the Region for commercial filming and still photography. These receipts shall be used to develop and implement activities supporting agency policies for commercial filming and still photography. Examples of these activities include:
 - a. Establishing a regional on-line library of photography and other information pertaining to commercial filming and still photography, including a listing of sites where these activities may occur and applicable use restrictions.
 - b. Developing regional commercial filming and still photography guidelines.
 - c. Establishing national forest or regional film board liaisons.
 - d. Creating national forest or zone commercial filming and still photography permit specialists.
3. **Land Use Fees Retained by the Washington Office.** The Washington Office Lands, Minerals and Geology staff shall retain 5 percent of all land use fees collected by units throughout the agency for commercial filming and still photography. These receipts shall be used to develop and implement interagency direction on commercial filming and still photography, including the development of similar fees, permit forms, and policies for Federal agencies that authorize and administer commercial filming and still photography activities on lands they manage.

36 – Outfitting and Guiding

For related direction on special uses administration, see chapter 40 section 41.53.

36.01 - Authority

For related authorities, see section 30.1 of this handbook and FSM 2701.1.

36.03 - Policy

For related policy, see section 31; FSH 2709.14, section 53; and FSM 2323.13g, 2343.8, 2715.03, and 2721.53.

36.31a - Land Use Fees for Outfitting and Guiding Associated with a Commercial Public Service Site

Use GRFS (FSM 2715.11) to determine land use fees for outfitting and guiding (such as cross-country skiing or horseback riding) established by the Forest Service in connection with an

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authorized commercial public service site on NFS lands (such as a resort or lodge). Where applicable, require holders subject to GRFS to pay additional fee for assigned sites (sec. 36.21h) and livestock grazing Fee (sec. 36.21i).

36.31b - Land Use Fees for Outfitting and Guiding Not Associated with a Commercial Public Service Site

Require payment of land use fees in accordance with sections 36.21 through 36.24 of this handbook for outfitting and guiding authorized as a distinct activity that is not associated with a commercial public service site.

36.04 - Responsibility

See FSM 2704.13. The Washington Office Director of Recreation, Heritage, and Volunteer Resources is responsible for adjusting the minimum annual land use fee and the assigned site fee every 3 years with 1993 as the base year, based on the Gross Domestic Product-Implicit Price Deflator Index.

36.05 - Definitions

See chapter 40, section 41.53d, for definitions for “allocation of use,” “ancillary service,” “assigned site,” “commercial use or activity,” “concessioner,” “controlling interest,” “guiding,” “holder,” “needs assessment,” “open season,” “outfitting,” “permitted access route,” “priority use,” “priority use pool,” “quota,” “renewal,” “resource capacity,” “service day,” “temporary use,” “temporary use pool,” “transitional priority use,” “transportation livestock,” and “use area.”

Adjusted Gross Revenue. Gross revenue and revenue additions less applicable exclusions.

Adjustment for Use off NFS Lands. The reduction in the fee for commercial use to account for the portion of the outfitted or guided trip that occurs off NFS lands (sec. 36.21e).

Average Client-Day Charge. Adjusted gross revenue divided by the total number of client days for the duration of the outfitted or guided trip.

Client Charge. The outfitter's or guide's charge per client for an outfitted or guided trip. Client Days.

1. **NFS Client Days.** The number of service days (that is, days on NFS lands) for the duration of the outfitted or guided trip multiplied by the number of clients on the trip. See section 37.21c for related direction.

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2. **Total Client Days.** Where there is use both on and off NFS lands, the total number of days for the duration of the outfitted or guided trip multiplied by the number of clients on the trip. See section 37.21c for related direction.

Duration of Outfitted or Guided Trip. The period that begins when the client first comes under the care and supervision of the outfitter or guide, including arrival at the holder's headquarters or local community, and ends when the client is released from the outfitter's or guide's care and supervision. Duration of the outfitted or guided trip is used to calculate client days, which in turn are used to determine the average client-day charge and the adjustment for use off the NFS lands. See section 37.21c for related direction.

Gross Revenue. The total amount of receipts from the sale of goods or services provided by the holder in connection with the outfitted or guided trip. These receipts include:

1. Revenue received by the holder from clients for goods or services provided during the outfitted or guided trip (the client charge per trip multiplied by the total number of clients on each trip);
2. Revenue received by the holder or the holder's employees or agents for scheduling or booking the outfitted or guided trip; and
3. Revenue from goods or services provided off NFS lands, such as lodging and meals, unless specifically excluded.

Revenue Additions. The market value of the following items which are added to gross revenue:

1. The value of goods and services that are donated or the value of goods and services that are bartered in exchange for goods and services received that are directly related to the outfitted or guided trip; and
2. The value of gratuities, which are goods, services, or privileges that are not available to the public and that are donated or provided without charge to organizations; individuals; the holder's employees, owners, or officers; or immediate family members of the holder's employees, owners, or officers.

Revenue Exclusions. The following items which are excluded from gross revenue:

1. Revenue derived from goods or services sold on private land that are not related to outfitting and guiding operations conducted on NFS lands, such as souvenirs, telephone toll charges, and accident insurance sales;

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2. Amounts paid or payable to a state government licensing authority or recreation administering agency from sales of hunting or fishing licenses and recreation fee tickets; and
3. Revenue from the sale of operating equipment, rental equipment, capitalized assets, or other assets used in outfitting and guiding operations. Examples are horses, tack, watercraft, and rental skis and boots, which are sold periodically and replaced.

Short-Stop Fee. Fees for trips that use NFS lands incidental to the purpose of the trip, such as a bus tour that takes clients on a sightseeing trip. The rate is established by the regional forester for trips with two service days per client or less spent on NFS lands.

36.1 - Commercial Services Associated with a Commercial Public Service Site

Use GRFS to determine outfitting and guiding land use fees associated with a commercial public service site (sec. 36.03a and FSM 2715.11).

36.2 - Commercial Services Not Associated with a Public Service Site

36.21 - Land Use Fees

Land use fees are assessed against adjusted gross revenue. Land use fees are also assessed against all unauthorized use.

36.21a - Minimum Annual Land Use Fee

The minimum annual land use fee for outfitting and guiding on NFS lands is \$70 per permit for 1993-1995. Using 1993 as a base year, the Washington Office Director of Recreation, Heritage, and Volunteer Resources shall adjust the minimum annual land use fee every 3 years based on the Gross Domestic Product-Implicit Price Deflator Index.

36.21b - Flat Annual Land Use Fee for Temporary Use Permits

1. Charge a flat annual land use fee for temporary use permits based on the amount of use allocated in service days as follows:

Number of Service Days	Flat Fee	Maximum Gross Revenue for Each Bracket of Service Days
1 to 50	\$150	\$10,000
51 to 100	\$300	\$20,000
101 to 150	\$450	\$30,000
151 to 200	\$600	\$40,000

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2. If allocations are based on quotas rather than service days, determine the number of service days equivalent to the quotas allocated.
3. Column 3 in the table above shows the maximum amount of gross revenue for each bracket of service days that qualifies for a flat fee. If gross revenue exceeds the amount in the applicable bracket, determine the land use fee pursuant to section 37.21c.
4. In the Alaska Region, fees for temporary use will be determined under the Alaska Region’s Flat Fee System.

36.21c - Fee for Commercial Use

Calculate and collect a fee for commercial outfitting and guiding occurring on NFS lands. Charge for any commercial use of NFS lands for outfitting or guiding, even if unauthorized.

Upon the Authorized Officer’s approval of the prospective holder’s application for a special use permit, advise the applicant to select option A or B (para. 1 and 2) to be used in calculating the fee. Include the selected method as a condition of the permit issued to the holder and use that method to calculate the fee for the period authorized.

1. **Option A.** The fee for commercial use is based on an average client-day charge using the following schedule of rates:

Average Client-Day Charge (for Client Days on and off NFS Lands)		Client-Day Fee
Less than \$	8.00	\$ 0.25
8.01 -	20.00	0.40
20.01 -	35.00	0.80
35.01 -	50.00	1.30
50.01 -	75.00	1.90
75.01 -	100.00	2.60

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100.01 -	125.00	3.40
125.01 -	150.00	4.10
150.01 -	175.00	4.90
175.01 -	200.00	5.60
200.01 -	250.00	6.75
250.01 -	300.00	8.25
300.01 -	400.00	10.00
Over	400.00	3 percent of the average client-day charge

Calculate the fee as follows:

1. **Client Days (NFS and Total).** To determine the number of NFS client days, multiply the number of service days for the duration of the outfitted or guided trip by the number of clients on each trip. To determine the number of total client days, multiply the total number of days for the duration of the outfitted or guided trip by the number of clients on each trip. See example A-2 in this section for additional direction on determining total client days.
2. **Adjusted Gross Revenue.** Multiply the client charge per trip by the total number of clients on each trip, add any other gross revenue and applicable revenue additions, and subtract any applicable revenue exclusions (sec. 36.05). This figure represents adjusted gross revenue for the duration of the outfitted or guided trip.
3. **Average Client-Day Charge.** Divide the adjusted gross revenue by the number of client days (NFS or total) for the duration of the outfitted or guided trip. This figure is the average client-day charge.
4. **Client-Day Fee.** Refer to the preceding Schedule of Rates and use the average client-day charge to determine the client-day fee.

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5. **Interim Calculation for Fee for Commercial Use.** Where use is strictly on NFS lands, multiply the number of NFS client days by the client-day fee to determine the fee for commercial use. Where use is both on and off NFS lands, multiply the number of total client days by the client-day fee to determine the interim calculation for commercial use, and adjust for use off NFS lands under the following paragraph f.
6. **Adjustment for Use off NFS Lands.** Adjust for use off NFS lands, if applicable, by dividing the number of National Forest Client days (or hours, miles, and so forth) by the number of total client days (or hours, miles, and so forth) to determine the amount of time spent on NFS lands. Use the schedule in section 37.21e to determine the appropriate percentage of fee reduction. See section 37.21e for the use of other equitable units of measure to determine adjustment for use off NFS lands.

Example A-1: In one operating season, the holder is authorized to provide two trips, both of which are solely on NFS lands:

July 27-29 for 3 clients @ \$450/client

August 18-21 for 7 clients @ \$500/client

a. Client Days (all NFS):

3 service days x 3 clients = 9 NFS client days

4 service days x 7 clients = 28 NFS client days

37 NFS client days

b. Adjusted Gross Revenue:

\$450 x 3 clients = \$1,350

\$500 x 7 clients = \$3,500 = \$4,850 gross revenue, plus \$0 revenue additions and minus \$0 revenue exclusions

c. Average Client-Day Charge (all NFS client days in this example):

\$4,850 adjusted gross revenue = \$131

37 NFS client days

d. Client-day Fee (all NFS client days in this example):

\$131 average client-day charge from step c corresponds to a \$4.10 client-day fee.

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e Fee for Commercial Use:

37 NFS client days x \$4.10 client-day fee = \$151.70 fee

Example A-2: In one operating season, the holder is authorized to provide two trips. Both trips include time on and off NFS lands.

July 4-13 for 8 clients @ \$2,000/client

August 10-23 for 7 clients @ \$3,000/client

During each trip, 3 of the 10 days are on NFS lands.

a. Client Days (Total):

10 total days x 8 clients = 80 total client days

10 total days x 7 clients = 70 total client days = 150 total client days

b. Adjusted Gross Revenue:

\$2,000 x 8 clients = \$16,000

\$3,000 x 7 clients = \$21,000 = \$37,000 gross revenue, plus \$0 revenue additions and minus \$0 revenue exclusions

c. Average Client-Day Charge:

\$37,000 adjusted gross revenue = \$246.67

150 total client days

d. Client-Day Fee:

\$246.67 average client-day charge corresponds to a \$6.75 client-day fee

e. Interim Calculation for Fee for Commercial Use:

150 total client days x \$6.75 client-day fee = \$1,012

f. Adjustment for use off NFS lands:

NFS client days:

3 service days x 8 clients = 24 NFS client days

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3 service days x 7 clients = 21 NFS client days = 45 NFS client days

45 NFS client days = 30%

150 total client days, which corresponds to a 40% fee reduction
(sec. 36.21e): $\$1,012 \times 40\% = \404.80

$\$1,012 - 404.80 = \607.20 fee for commercial use, which can be rounded to
\$607

- 2. Option B.** The fee for commercial use is 3 percent of the annual adjusted gross revenue, minus any applicable adjustment for use off NFS lands. Determine the gross revenue, add any applicable revenue additions, and subtract any applicable revenue exclusions to determine the adjusted gross revenue. Multiply the adjusted gross revenue by 3 percent; then adjust, if applicable, for use off NFS lands to determine the fee for commercial use (sec. 36.05; 36.21c, para. 1b, and 36.21e).

Example B-1: For 1 year, the holder had an annual adjusted gross revenue of \$4,850 and used all 100 authorized use days.

$\$4,850 \times 0.03 = \145.50 fee for actual commercial use.

Example B-2: An off-road tour outfitter has an adjusted gross revenue of \$250,000. The travel routes used are across NFS lands and private lands. The time spent on NFS lands is 50 percent of the duration of the outfitted or guided trips.

$\$250,000 \times 0.03 = \$7,500$

50 percent duration on NFS lands corresponds to a 40 percent fee reduction
(sec. 36.21e):

$\$7,500 \times 40\% = \$3,000$

$\$7,500 - \$3,000 = \$4,500$ fee for commercial use

- 3. Short-Stop Fee.** Fees are calculated from rates established by the regional forester for situations in which commercial tours and trips involve only very short stops or visits on NFS lands of two service days or less.

Example 1: A float plane company markets fishing trips to the National Forest, flies anglers to high mountain lakes, drops them off, and picks them up. The company has 175 passenger trips. In this example, the Regional Forester has established a short-stop rate of \$2 per client for this service.

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175 passenger trips x \$2 = \$350 fee for commercial use

Example 2: A bus company markets fall foliage tours and sends out 50 buses trips per season with 35 paying passengers. They stop at a National Forest Visitor Center for an average of 40 minutes. The regional forester has established a short-stop rate of \$2 per client.

35 people x 50 buses x \$2 = \$3,500 fee for commercial use

36.21d - Determining Service Days

Count any full or fractional part of a day the client receives goods or services as a full-service day.

1. When livery, rental, supply, or drop-off service to customers is provided, count only the day on which the outfitter or guide provides services or goods.
2. When the outfitter or guide provides drop-off and pick-up service on two separate days, count one service day for drop-off and one service day for pick-up.
3. When the outfitter or guide provides drop-off and pick-up service and the clients occupy an outfitter's assigned site and/or the outfitter or guide furnishes equipment and supplies, count one service day for drop-off, one service day for pick-up, and one service day for each day in between.

36.21e - Adjustment for Use off NFS Lands

Reduce the fee or estimated fee if the outfitter or guide's clients occupy NFS lands for 60 percent or less of the duration of the outfitted or guided trip according to the schedule in paragraph 1. When days are the unit of measure, at least one entire day must be off NFS lands to qualify for the adjustment. Other units of measure besides days may be used where equitable to calculate the percentage on and off NFS lands. For example, trail distance may be used at Nordic centers.

1. Apply the following schedule in calculating adjustments for use off NFS lands:

Percentage on NFS Lands	Fee Reduction
Less than 5 percent	80 percent
5 to 60 percent	40 percent

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Over 60 percent	None
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Request the holder to provide documentation of the duration of trips, such as the itineraries for outfitted or guided trips, to support a request for a fee reduction based on use off NFS lands.

2. When use off NFS lands occurs on lands administered by another federal agency and the holder is authorized by that agency, coordinate the fee calculations so that overcharges do not occur.

Example: An outfitter conducts a 10-day trip with 8 clients; 5 days are spent on NFS lands and 5 on BLM lands. Assume the fee for the trip would be \$100 if all 10 days were on either NFS or BLM lands. Coordinate with the BLM to charge the outfitter \$100 and split the fee equitably between the two agencies. Do not adjust for use off NFS lands which would result in a higher fee of \$120 (\$60 for the Forest Service and \$60 for the BLM).

36.21f - Fee for Additional Use

If the holder requests advance approval of additional use and if capacity is available, the Authorized Officer may approve the request and collect any additional estimated fees. When option A (sec. 36.21c, para. 1) is used to calculate the fee for commercial use, use the schedule of rates to calculate the additional fee. When option B (sec. 36.21c, para. 2) is used to calculate the fee for commercial use, estimate the additional adjusted gross revenue associated with the approved additional use, and include it in the calculation of the estimated and final fees (sec. 36.22 and 36.23). See sections 37.21b, chapter 40, sections 41.53m, and 41.53n for additional direction.

36.21g - Payment [Reserved]

36.21h - Fee for Assigned Sites

1. The minimum annual fee for each assigned site is \$140.
2. Using 1993 as a base year, the Washington Office Director of Recreation, Heritage, and Volunteer Resources adjusts the minimum annual land use fee (in para. 1) that applies to each assigned site every three years based on the Gross Domestic Product-Implicit Price Deflator Index (sec. 33.12). The assigned site fee is in addition to the minimum annual land use fee and other mandatory fees for outfitting and guiding (sec. 36.21c).
3. The regional forester may establish higher fees if necessary to obtain fair market value.
4. Authorized Officers may not prorate assigned site fees. Apply the full annual fee for each assigned site.

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5. Authorized Officers may not authorize refunds or credits for assigned site fees.

36.21i - Livestock Grazing Fee

Assess a livestock grazing fee when the Forest Service authorizes the holder to graze animals used for transport on NFS lands. Do not assess a livestock grazing fee when the animals travel on NFS lands, but the holder is not authorized to graze them. Charge livestock grazing fees in accordance with FSM 2238. Do not authorize refunds or credits for authorized but unused livestock grazing use.

36.21j - Fee for Commercial Use for Nonprofit Organizations

The fee for commercial use for nonprofit organizations is 3 percent of annual adjusted gross revenue (option B, sec. 36.21c, para. 2). Include the amount of donations and grants as gross revenue if the holder requires the customer or client to make a donation or grant as a condition of receiving the service. Do not consider donations or grants made voluntarily by customers to support the programs or activities of the holder.

36.21k - Fee for Commercial Use for Educational Institutions

The fee for commercial use for educational institutions is 3 percent of annual adjusted gross revenue (option B, sec. 36.21c, para. 2).

1. Credited Programs. Exclude tuition and other payments made by students which are unrelated to the use of NFS lands authorized for outfitting and guiding purposes if the program provided under the permit is recognized for credit toward graduation or a degree in a recognized school system or accredited educational institution.
2. Non-Credited Programs. Include all payments made by students for authorized outfitting and guiding services if the program provided under the permit is not recognized for credit toward graduation or a degree in a recognized school system or accredited educational institution.

36.22 - Total Annual Estimated Fee

1. Consult with the applicant or holder to estimate the anticipated number of service days and adjusted gross revenue. Use financial and related documents furnished by the applicant or holder, including records of the previous year's business activity, planned customer rate schedules, and itineraries. Retain documents used for fee calculations in the case folder.
2. Based on authorized use, calculate the total estimated annual fee, including the fee for commercial use, assigned site fee, and livestock grazing fee, on a fee determination statement (sec. 36.21i) prior to the operating season.

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3. Establish payment due dates prior to the start of the operating season for all payments.
4. Calculate the total annual estimated fee as a single amount, and collect the fee from the holder as follows:
 - a. Collect the total annual estimated fee in advance when it is less than \$500.
 - b. Collect half of the total annual estimated fee in advance and the remainder by mid-season when the total is equal to or greater than \$500, but less than \$2,500.
 - c. Collect one-third of the total annual estimated fee in advance and the remainder in two equal payments by mid-season when the total is \$2,500 or more.
 - d. Deposit fees collected to the Land and Water Conservation Fund (FSM 6530).

36.23 - Submission of Records Needed to Calculate Fee for Commercial Use

Record in the holder's operating plan the date established by the Authorized Officer and the holder by which the holder must submit financial records and records of use required to calculate the fee for commercial use.

In calculating the fee for commercial use, follow the procedure described in section 36.21, paragraph 1. Use financial records and records of use appropriate for the fee option selected (sec. 36.21c).

36.24 - Billing and Refunds

Calculate the fee for commercial use and adjust for use off NFS lands, if applicable. Charge the holder for any unauthorized use.

1. When the final fee exceeds the paid estimated fee, bill the holder for the balance due.
2. When the final fee is less than the paid estimated fee and more than the minimum fee, refund the difference to the holder. If the holder is authorized to operate with a priority use assignment, at the holder's request credit the overpayment toward the next year's fee. If the holder is authorized to operate with a priority use assignment and the authorization is due to expire that year, refund the difference to the holder.

Follow billing and refund procedures found in FSH 6509.11k. Deposit land use fees for outfitting and guiding in accordance with the Federal Lands Recreation Enhancement Act Title 16, United States Code, sections 6801 through 6814; FSH 2309.13, ch. 30).

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37 – Ski Areas

37.01 - Authority

For related direction, see FSM 2701.1 and FSM 2343.1.

37.02 - Objectives

The objectives of the land use fee system for ski areas operating on NFS lands are:

1. To ensure that the land use fee remains equitable for the United States and holders.
2. To ensure that the land use fee system is economical and simple to administer for holders and the Forest Service.

37.03 - Policy

37.03a - Ski Area Permits Subject to Land Use Fee System Established by 16 U.S.C. 497c

Use the land use fee system established by 16 U.S.C. 497c to calculate land use fees for ski areas authorized by the National Forest Ski Area Permit Act of 1986 and for those ski areas authorized by the Organic Administration Act of 1897 and the Term Permit Act of 1915 that have elected the land use fee system established by 16 U.S.C. 497c. For ski areas authorized by the National Forest Ski Area Permit Act, follow the direction in section 37.43a and section 37.43b of this chapter to convert permits to the land use fee system in 16 U.S.C. 497c. For ski areas authorized by other authorities, follow the direction in section 37.43c of this chapter to convert permits to the land use fee system established by 16 U.S.C. 497c.

37.03b - Ski Area Permits Subject to GRFS or Alternate Land Use Fee System

Until a new permit is issued under the National Forest Ski Area Permit Act, continue to administer under their current land use fee system those ski areas whose permits were issued under authorities other than the National Forest Ski Area Permit Act, and which have not elected the land use fee system established by 16 U.S.C. 497c (FSM 2715.1).

37.04 - Responsibility

37.04a - Washington Office Director of Recreation, Heritage and Volunteer Resources

The Washington Office Director of Recreation, Heritage, and Volunteer Resources is responsible for adjusting annually the gross revenue figures for each revenue bracket by the Consumer Price Index for the preceding calendar year (sec. 37.12, ex. 01) and to analyze every five years, beginning in 1999, whether land use fees paid under 16 U.S.C. 497c are returning fair market value for the use of NFS lands under ski area permits.

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37.04b - Washington Office Director of Financial and Accounting Operations

The Washington Office Director of Financial and Accounting Operations is responsible for compiling national land use fee information annually and providing overall management and oversight on audits of the land use fee system (FSH 1409.15) to be used in administration of the land use fee system established by 16 U.S.C. 497c.

37.04c - Regional Directors of Financial Management

Regional Directors of Financial Management or equivalent officials are responsible for annually submitting regionally compiled land use fee information to the Washington Office.

37.04d - Authorized Officers

Authorized Officers are responsible for (36 CFR 251.51):

1. Notifying the holder of the ski area land use fee system and related requirements established by 16 U.S.C. 497c and, as applicable, of the holder's option to elect the land use fee system established by 16 U.S.C. 497c.
2. Modifying ski area term special use permits issued under the National Forest Ski Area Permit Act to incorporate provisions of the ski area land use fee system established by 16 U.S.C. 497c and providing land use fee information on Form FS-2700-19a, USDA Forest Service Fee Calculation for Ski Area Permits, to the holder.
3. Notifying holders of annual adjustments to the gross revenue figures for each revenue bracket by the Consumer Price Index for the preceding calendar year (sec. 37.12).
4. Requiring the holder, through provisions in the ski area term special use permit, to calculate and make estimated land use fee payments and ensuring that the holder calculate and pay land use fees in accordance with the terms of the permit.
5. Ensuring that the holder submit financial documents, including annually completed land use fee information on Form FS-2700-19a, that support land use fee calculations in accordance with the terms of the permit.
6. Annually submitting land use fee information to the regional director responsible for financial management.

37.05 - Definitions

The following terms and acronyms are used in the land use fee calculations set out in section 38.12.

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Adjusted Gross Revenue. (AGR). Revenue used in the land use fee calculation, which includes revenue from sales of year-round alpine and Nordic ski area passes and tickets and revenue from alpine and Nordic ski school operations associated with the use of NFS lands; gross year-round revenue from ancillary facilities located on NFS lands; the value of bartered goods; and the value of complimentary lift tickets.

Bartered Goods and Complimentary Lift Tickets. Goods, services, or privileges that are not available to the general public (except for employee gratuities, employee lift tickets, and discounts, and except for ski area tickets and passes provided for a public safety or public service purpose) and that are donated or provided without charge in exchange for something of value to organizations or individuals (for example, ski area product discounts, service discounts, or lift tickets that are provided free of charge in exchange for advertising).

Discriminatory Pricing. Rates based solely on race, color, religion, sex, national origin, age, disability, or place of residence.

Gross Revenue from Ancillary Facilities. (GRAF). Gross revenue from year-round sales derived from temporary and permanent ancillary facilities located on NFS lands, including all holder and sub-holder lodging, food service, rental shops, and other ancillary operations.

Lift Tickets and Passes (LT). Revenue from sales of alpine and Nordic lift tickets and passes purchased for the purpose of using a ski area during any time of the year.

Market Price. The price generally available to an informed public, excluding special promotions.

Ski Area Permit Fee (SAPF). Ski area land use fee for use of NFS lands.

Ski School Operations (SS). Revenue from lessons provided to teach alpine or Nordic skiing or other winter sports activities, such as racing, snowboarding, or snowshoeing.

Slope Transport Feet Method. The method used to prorate revenue from the sale of alpine ski area passes and lift tickets and revenue from alpine ski school operations between NFS lands and private lands within the development boundary of a ski area.

Slope Transport Feet Percentage (STFP). The weighted capacity of lifts to accommodate skiers as determined by the Slope Transport Feet Method.

37.1 - Permits Subject to the Ski Area Land Use Fee System

Under the ski area land use fee system established by 16 U.S.C. 497c, calculate the land use fee based on adjusted gross revenue associated with the ski area under permit.

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37.11 - Land Use Fee Proration for Mixed Land Ownership

Under no circumstances shall holder or sub-holder revenue (except those revenues from sales of lift tickets and passes and from ski school operations) obtained from operations located on private land be included in the land use fee calculation.

1. Prorate revenue derived from the ski area according to the percentage of use between NFS lands and private land in the ski area (for example, use the STFP for alpine revenue or the Nordic trail length percentage for Nordic revenue; sec. 37.12, para. 5).
2. Prorate revenue from ancillary facilities before it is included in the land use fee calculation, since GRAF is gross revenue from ancillary facilities located on NFS lands.
3. Include in the land use fee calculation and prorate accordingly all revenue from the sale of alpine and Nordic ski area tickets and passes and all revenue from alpine and Nordic ski school operations, even such revenue that is generated on private land (such as from tickets sold on private land).

37.12 - Land Use Fee Calculation

See sec. 37.05 of this chapter for definitions of acronyms and terms used in this section. Use the following formula to calculate the ski area land use fee in accordance with 16 U.S.C. 497c:

$$\text{SAPF} = (0.015 \times \text{AGR in bracket 1}) + (0.025 \times \text{AGR in bracket 2}) + \\ (0.0275 \times \text{AGR in bracket 3}) + (0.04 \times \text{AGR in bracket 4})$$

Where:

$$\text{AGR} = (\text{LT} + \text{SS}) \times (\text{proration \%}) + \text{GRAF}$$

1. **SAPF** is the ski area land use fee established by 16 U.S.C. 497c for use of NFS lands.
 - a. Calculate SAPF by summing the results of multiplying the indicated percentage rates by the amount of the holder's adjusted gross revenue (AGR), which falls into each of the four brackets.
 - b. Follow direction in the following paragraph 2 to determine AGR.
 - c. Calculate the land use fee based on the holder's fiscal year, unless otherwise mutually agreed by the holder and the Authorized Officer.
 - d. Use the revenue brackets as indexed for the previous calendar year. The Washington Office Director of Recreation, Heritage, and Volunteer Resources annually adjusts the four revenue brackets by the Consumer Price Index (CPI).

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The Washington Office Director of Lands and Realty Management issues the updated CPI annually per sec. 37.21 of this chapter. Regardless of when the holder's fiscal year begins or ends, do not split the holder's AGR for any fiscal year into more than one set of indexed brackets. For example, apply the brackets as adjusted by the calendar year 1996 CPI to the holder's fiscal year 1997 land use fee calculation. Only the levels of AGR defined in each bracket are updated annually. The percentage rates do not change.

- e. To calculate land use fees for fiscal years 1996 through 1999, and for 2000 and beyond, use the revenue brackets and percentages posted at https://www.fs.usda.gov/specialuses/special_fees.shtml and as shown in the preceding formulas in this section.
2. **AGR** is the adjusted gross revenue used in the land use fee calculation.
- a. **Include in revenue:** income from sales of alpine and Nordic tickets and ski area passes; alpine and Nordic ski school operations; gross revenue from ancillary facilities; the value of bartered goods and complimentary lift tickets (such as lift tickets provided free of charge to the holder's friends or relatives); and special event revenue. Discriminatory pricing is not allowed, but if it occurs, include the amount that would have been received had the discriminatory pricing transaction been made at the market price.
 - b. **Exclude from revenue:** income from sales of operating equipment; refunds; rent paid to the holder by sub-holders; sponsor contributions to special events; any amount attributable to employee gratuities or employee lift tickets; discounts; ski area tickets or passes provided for a public safety or public service purpose (such as for National Ski Patrol or for volunteers to assist on the slope in the Special Olympics); and other goods or services (except for bartered goods and complimentary lift tickets) for which the holder does not receive money.
 - c. **Calculate AGR** by summing the revenue from lift tickets and ski school operations prorated for use of NFS lands and from ancillary facility operations conducted on NFS lands.
 - d. **Include the following in AGR:**
 - (1) Revenue from sales of year-round alpine and Nordic ski area passes and tickets and revenue from alpine and Nordic ski school operations prorated according to the percentage of use between NFS lands and private land in the ski area;
 - (2) Gross year-round revenue from ancillary facilities located on NFS lands;

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- (3) The value of bartered goods and complimentary lift tickets. Include the market price value of bartered goods and complimentary lift tickets (except for employee gratuities, employee lift tickets, and discounts, and except for ski area tickets and passes provided for a public safety or public service purpose) in the AGR formula as revenue under LT, SS, or GRAF, depending on the type of goods, services, or privileges donated or bartered; and
 - (4) Special event revenue from events such as food festivals, foot races, and concerts. Include special event revenue in the AGR formula as revenue under LT, SS, or GRAF, as applicable. Prorate revenue according to the percentage of use between NFS lands and private land as described in section 37.11.
- 3. **LT** is the revenue from sales of alpine and Nordic lift tickets and passes purchased for the purpose of using a ski area during any time of the year.
 - 4. **SS** is the revenue from lessons provided to teach alpine or Nordic skiing or other winter sports activities, such as racing, snowboarding, or snowshoeing.
 - 5. **Proration Percentage** is the method used to prorate revenue from the sale of ski area passes and lift tickets and revenue from ski school operations between NFS lands and private land in the ski area. Separately prorate alpine and Nordic revenue with an appropriate proration factor. Add prorated revenues together; then sum them with GRAF to arrive at AGR.

Use one or both of the following methods, as appropriate:

- a. **Slope Transport Feet Method** is the method used to prorate alpine revenue. Follow the direction on the Slope Transport Feet Method contained in FSM 2715.11c, paragraph 6b(2)(c), to calculate the STFP.
 - b. **Nordic trail length** is the method used to prorate Nordic revenue. Use the percentage of trail length on NFS lands to total trail length. To calculate the percentage, divide the length of Nordic trails on NFS lands by the total length of ski area Nordic trails.
- 6. **GRAF** is the revenue from ancillary facilities, including all the holder's or sub-holder's lodging, food service, rental shops, parking, and other ancillary operations located on NFS lands. For facilities that are partially located on NFS lands, calculate the ratio of the facility square footage located on NFS lands to the total facility square footage. Prorate special event revenue allocatable to GRAF pursuant to paragraphs 2d (2) through 2d (4) of this section by the ratio of the use on NFS lands to the total use.

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37.12 — Exhibit 1

AGR Brackets and Associated Percentage Rates for Determining the SAPF

Annual updates are posted at https://www.fs.usda.gov/specialuses/special_fees.shtml.

37.13 - Land Use Fee If There is No AGR

1. In cases when a ski area permit holder has no AGR for a given fiscal year, charge the holder a land use fee of \$2 per acre for NFS lands under permit or a percentage of the appraised value of NFS lands under permit (sec. 31.1), at the discretion of the Authorized Officer.
2. When there is minimal use of NFS lands under permit, especially when prorated revenues from alpine and Nordic uses are zero, Authorized Officers should consider whether to issue such ski area permits under an authority other than the Ski Area Permit Act.

37.2 - Payments

1. In accordance with the terms of the permit, holders are required to:
 - a. Calculate and submit advance, interim, and final payments;
 - b. Submit financial documents that support fee calculations; and
 - c. Submit land use fee information on form FS-2700-19a annually to the Authorized Officer.
2. When the land use fee is expected to exceed \$10,000 per year, the permit shall require monthly payments. If the land use fee is expected to be \$10,000 or less, quarterly payments are required during months of operation.
3. Holders submit payments without billing by the Forest Service. Holders that fail to make payments in accordance with the terms of the permit are in noncompliance with the permit and the Authorized Officer shall so notify them. Assess late payment charges, including interest, penalties, and administrative costs, in accordance with the Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982, Title 31, United States Code, section 3701 through 3719 when the required payment is not made on time (FSH 6509.11h, ch. 20).

37.21 - Advance Payments

Holders are required to make advance payments due by the beginning of the holder's fiscal year or by another payment cycle in accordance with the permit. Credit the advance payment

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toward the total ski area land use fee due at the end of the payment cycle, in accordance with the permit.

1. Base the advance payment on 20 percent of the holder's average fee for three previous operating years when applicable.
2. Base the advance payment for new holders of an existing ski area permit on 20 percent of the prior holder's average land use fee.
3. For new ski areas:
 - a. Establish the advance payment for new ski areas as 20 percent of the land use fee, based on projected AGR; or
 - b. For ski areas not expected to generate AGR for a given fiscal year, require advance payment of the land use fee as calculated according to the procedures in section 38.13 (\$2 per acre or a percentage of the appraised value of the NFS lands under permit). If the ski area reports AGR for that fiscal year, credit the land use fee paid under provisions of section 38.13 toward the land use fee calculated according to the ski area land use fee formula in section 38.12.

37.22 - Interim Payments

To keep land use fees current with use, require interim payments. Credit interim payments toward the total ski area land use fee due at the end of the payment cycle, in accordance with the permit. Base interim payments on a tentative percentage rate and monthly or quarterly sales. Interim payments are due 30 days after the end of each month, if payments are made monthly; or 30 days after the end of each holder's fiscal year quarter if payments are made quarterly.

37.23 - Final Payments

Reconcile payments made in the current payment cycle against the total ski area land use fee due at the end of the payment cycle, in accordance with the permit. The final payment is due 90 days after the close of the holder's fiscal year, or under another payment cycle in accordance with the permit. The holder is required to submit final payments with supporting financial documents, including land use fee information on form FS-2700-19a, as provided in the permit.

37.3 - Permits Subject to Land Use Fee Systems Other than the System Established by 16 U.S.C. 497c

For ski areas authorized by the Organic Administration Act of 1897 and Term Permit Act of 1915 that do not elect the ski area land use fee system established by 16 U.S.C. 497c, continue to

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assess land use fees in the manner prescribed in the existing permit. When a new permit is issued under the National Forest Ski Area Permit Act or if the holder elects the land use fee established by 16 U.S.C. 497c, calculate the land use fee as set forth in section 38.12 or 38.13.

37.4 - Transition from Prior Land Use Fee Systems

The ski area land use fee system established by 16 U.S.C. 497c is effective as of June 1, 1996, and covers receipts retroactively to June 1, 1995. The Authorized Officer shall determine revenues attributable to GRFS for the holder's fiscal year 1996 that began prior to June 1, 1995. Any land use fees prepaid under GRFS for any holder's fiscal year in which the ski area land use fee system established by 16 U.S.C. 497c is in effect shall be reconciled by the Authorized Officer against the land use fee calculated under the latter system. For purposes of implementing 16 U.S.C. 497c, do not require a change in the holder's fiscal year or payment schedule.

37.41 - Land Use Fee Floor

The purpose of the land use fee floor is to ensure increasing land use fees to the United States during the transition from GRFS to the ski area land use fee system established by 16 U.S.C. 497c.

1. The land use fees due for the holder's fiscal years 1996, 1997, and 1998 are, respectively:
 - a. Either the land use fee paid in the base year (fiscal year 1995) or the land use fee calculated under sections 38.12 or 38.13, and 38.42, whichever is higher for the holder's fiscal year 1996;
 - b. Either the land use fee paid for the base year (fiscal year 1995) or the land use fee calculated under sections 38.12 or 38.13, and 38.42, whichever is higher for the holder's fiscal year 1997; or
 - c. Either the land use fee paid for the base year (fiscal year 1995) or the land use fee calculated under sections 38.12 or 38.13, and 38.42, whichever is higher for the holder's fiscal year 1998;
2. Except that if a holder's AGR for fiscal years 1996, 1997, or 1998 falls more than 10 percent below the AGR for the base year (fiscal year 1995), the land use fee paid shall be the land use fee calculated under section 37.12 or 37.13. Compare the holder's AGR for the base year, as computed under section 37.12 or 37.13, against the holder's AGR for the transition years.

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37.42 - Land Use Fee Phase-In

The land use fee system established by 16 U.S.C. 497c provides for a phase-in of land use fees during the first five years the system is in effect when the land use fee calculated according to direction in section 37.12 or 37.13 for the holder's fiscal year 1996 results in an increase in the land use fee greater than 0.5 of one percent of the holder's AGR. In these cases, the increase in land use fees above the base year is phased in over a 5-year period. By the holder's fiscal year 2001, calculate all land use fees under section 37.12 or 37.13. For fiscal years 1996 through 2000, phase in that portion of the land use fee that exceeds the base land use fee (the land use fee paid in fiscal year 1995), beginning with the holder's fiscal year 1996. If the phase-in applies, calculate the land use fee according to the land use fee schedule in exhibit 1.

1. The FY 1995 fee is the land use fee paid in the holder's fiscal year 1995, usually under GRFS.
2. The FY 1996 fee is the land use fee calculated under section 37.12 or 37.13 that would be due if phase-in were not applicable, and so on for the FY 1997-2000 land use fees.
3. During fiscal years 1997 and 1998, if there is no increase in the land use fee calculated under the land use fee formula in section 37.12 or 37.13 over the base land use fee (fiscal year 1995), establish the land use fee paid as the land use fee paid for fiscal year 1995. However, if a holder's AGR for fiscal years 1997 or 1998 falls more than 10 percent below the AGR for the base year (fiscal year 1995), the land use fee paid shall be the land use fee calculated under section 37.12 or 37.13. Compare the holder's AGR for the base year, as computed under section 37.12 or 37.13, against the holder's AGR for the transition years.
4. During fiscal years 1999 and 2000, if there is no increase in the land use fee calculated under the land use fee formula in section 37.12 or 37.13 over the base land use fee (fiscal year 1995), establish the land use fee paid as the land use fee calculated under section 37.12 or 37.13.

37.42 — Exhibit 01

5-Year Phase-In of SAPF Under 16 U.S.C. 497c

1. 1996 SAPF = FY 1995 fee + 0.2 x (FY 1996 fee - FY 1995 fee)
2. 1997 SAPF = FY 1995 fee + 0.4 x (FY 1997 fee - FY 1995 fee)
3. 1998 SAPF = FY 1995 fee + 0.6 x (FY 1998 fee - FY 1995 fee)
4. 1999 SAPF = FY 1995 fee + 0.8 x (FY 1999 fee - FY 1995 fee)
5. 2000 SAPF = FY 1995 fee + 1.0 x (FY 2000 fee - FY 1995 fee)

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37.43 - Applicability of Ski Area Land Use Fee System Provisions Established by 16 U.S.C. 497c during Transition from Previous Land Use Fee Systems to Land Use Fee System Established by 16 U.S.C. 497c

Follow direction set out in sections 37.43a through 37.43c when applying transition provisions (sec. 37.4 through 37.42) of the ski area land use fee system established by 16 U.S.C. 497c.

37.43a - Permits Issued Under National Forest Ski Area Permit Act of 1986 on or Before June 1, 1996

Ski areas authorized under the National Forest Ski Area Permit Act of 1986 on or before June 1, 1996, are subject to the land use fee system established by 16 U.S.C. 497c. Amend the holder's permit by replacing the land use fee provisions in the land use fee clause of the permit with the clause that implements the land use fee system in section 37.12. See FSH 2709.11, chapter 50, for the appropriate clause. Apply the transition provisions (sec. 37.4 through 37.42) of 16 U.S.C. 497c.

37.43b - Permits Issued Under National Forest Ski Area Permit Act of 1986 after June 1, 1996

Ski areas authorized under the National Forest Ski Area Permit Act of 1986 after June 1, 1996, are subject to the land use fee system established by 16 U.S.C. 497c. Amend the holder's permit by replacing the land use fee provisions in the land use fee clause of the permit with the clause that implements the land use fee system in section 37.12. See , chapter 50, for the appropriate clause.

1. When a permit is issued to the existing holder upon expiration of the current permit, or to the existing holder of a permit converted from a permit issued under the Organic Administration Act of 1897 or the Term Permit Act of 1915, the following direction applies:
 - a. Holders of permits may elect the transition provisions on or before May 27, 1999 (90 days following the effective date of the ski area land use fee system directive issued in Amendment 2709.11-99-2). The land use fee system established by 16 U.S.C. 497c would apply retroactively to these permits. Apply the transition provisions (sec. 37.4 through 37.42).
 - b. For holders that do not elect the transition provisions on or before May 27, 1999 (90 days following the effective date of the ski area land use fee system directive issued in Amendment 2709.11-99-2), the land use fee system established by 16 U.S.C. 497c would apply from the date the permit is issued. The phase-in or other transition provisions are not available to these holders. The land use fee system (sec. 37.12) is effective on the date of permit issuance. Do not apply the transition provisions (sec. 37.4 through 37.42).

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- c. Permits that are issued after May 27, 1999 (90 days following the effective date of the ski area land use fee system directive issued in Amendment 2709.11-99-2), are not subject to the transition provisions for the land use fee system. The phase-in or other transition provisions are not available to these holders. The land use fee system (sec. 37.12) is effective on the date of permit issuance. Do not apply the transition provisions (sec. 37.4 through 37.42).
2. When a permit is issued to a new owner of improvements at an existing ski area or to an owner of improvements at a new ski area, the phase-in or other transition provisions are not available to these holders. The land use fee system (sec. 37.12) is effective on the date of permit issuance. Do not apply the transition provisions (sec. 37.4 through 37.42).

37.43c - Permits Issued Under Organic Administration Act of 1897 and Term Permit Act of 1915

Ski areas authorized under the Organic Administration Act of 1897, or the Term Permit Act of 1915 may elect the land use fee system established by 16 U.S.C. 497c. Amend these permits by replacing the land use fee provisions in the land use fee clause of the permit with the clause that implements the land use fee system in section 37.12. See FSH 2709.11, chapter 50, for the appropriate clause.

1. Holders of permits that elect the land use fee system established by 16 U.S.C. 497c on or before May 27, 1999 (90 days following the effective date of the ski area land use fee system directive issued in Amendment 2709.11-99-2), are subject to the transition provisions for the land use fee system (sec. 37.4 through 37.42).
2. Holders that elect the land use fee system established by 16 U.S.C. 497c after May 27, 1999 (90 days following the effective date of the ski area land use fee system directive issued in Amendment 2709.11-99-2), are subject to the land use fee system established by 16 U.S.C. 497c in the holder's fiscal year following amendment of the permit to reflect coverage under this land use fee system (sec. 37.12). The phase-in or other transition provisions are not available to these holders.