



**FOREST SERVICE HANDBOOK
NATIONAL HEADQUARTERS (WO)
WASHINGTON, DC**

FSH 2709.11 - SPECIAL USES HANDBOOK

CHAPTER 30 - FEE DETERMINATION

Amendment No.: 2709.11-2008-1

Effective Date: September 17, 2008

Duration: This amendment is effective until superseded or removed.

Approved: CHARLES MYERS
Associate Deputy Chief, NFS

Date Approved: 08/28/2008

Posting Instructions: Amendments are numbered consecutively by handbook number and calendar year. Post by document; remove the entire document and replace it with this amendment. Retain this transmittal as the first page(s) of this document. The last amendment to this handbook was 2709.11-2007-1 to chapter 40.

New Document	2709.11_30	91 Pages
Superseded Document(s) by Issuance Number and Effective Date	2709.11_30 (Amendment 2709.11-2006-2, 12/06/2006)	92 Pages

Digest:

37.05 - Revises the reference for additional outfitting and guiding definitions to 41.53d, updates the list of definitions in 41.53d, and removes the definitions for “assigned site,” “non-use,” “service day,” and “unapproved non-use” for consistency with 41.53.

37.21b - Revises caption from “Fee for Temporary Use Permits for Incidental Use” to “Flat Fee for Temporary Use Permits” and sets forth policy on charging flat fees for temporary permits; to be consistent with changes in FSH 2709.11, section 41.53.

37.21g - Removes direction for Unapproved Non-Use and reserves code.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

Digest--Continued:

Notice of issuance of this amendment was published in the Federal Register on September 17, 2008 (73 FR 53823).

This amendment revises section 37.21b regarding flat fee for temporary use permits only. Some minor editorial and format changes have been made no other changes to text of this chapter have been made.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

Table of Contents

30.1 - Authority.....	7
30.5 - Definitions	7
31 - ESTABLISHING FEES	7
31.03 - Policy	7
31.1 - Methods for Determining Fair Market Value.....	7
31.12 - Fee Review	9
31.2 - Fee Waivers and Exemptions	9
31.21 - Exemptions	9
31.22 - Fee Waiver.....	10
31.22a - No Waiver.....	10
31.22b - Full Waiver	11
31.22c - Partial Waiver	12
31.23 - Temporary Fee Adjustments.....	12
31.3 - Administrative Fees.....	12
31.31 - Cost Recovery.....	12
31.4 - Documentation	12
31.5 - Fees Established by Field Units	13
31.51 - Fees Established by Regions	13
31.51a - Regional Minimum Fees.....	13
31.52 - Fees Established by Forests and Grasslands.....	13
32 - FEE ADMINISTRATION	14
32.1 - Fees for Multiple Authorizations.....	14
32.2 - Payment of Fees	14
32.21 - Consolidated Payment	14
32.22 - Initial Payment.....	14
32.23 - Payment for Trespass.....	14
32.3 - Billing Procedure.....	15
32.31 - Bill for Collection.....	15
32.32 - Due Dates	15
32.33 - Late Payments.....	15
32.4 - Termination or Revocation for Nonpayment	15
32.41 - Termination	15
32.42 - Revocation	15
32.43 - Termination or Revocation Action	16
32.5 - Appeals	16
32.51 - Appeal of Fee Determinations and Audits.....	16
32.52 - Appeal of Termination for Nonpayment of Fees.....	16
32.53 - Appeal of Revocation Action for Nonpayment of Fees	16
33 - RECREATION RESIDENCE LOT FEES	17
33.05 - Definitions	17
33.1 - Base Fees and Annual Adjustments	19

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

33.11 - Establishing New Base Fee	19
33.12 - Phase-In of Base Fee	19
33.13 - Annual Adjustment of Recreation Residence Fee	21
33.2 - Fees When Determination is Made to Place Recreation Residence on Tenure	23
33.3 - Fee When Recreation Residence Use is Terminated or Revoked as Result of Acts of God or Other Catastrophic Events	25
33.4 - Establishing the Market Value of Recreation Residence Lot.....	25
33.41 - Selection and Appraisal of Typical Lot.....	27
33.42 - Inventorying Utilities, Access, and Facilities.....	28
33.42a - Types of Utilities, Access, and Facilities to Include in Inventories	28
33.42b - Criteria to Be Considered in Determining Who Paid for Capital Costs of Inventoried Utilities, Access, and Facilities.....	28
33.5 - Appraisal Specifications	30
33.6 - Review and Acceptance of Appraisal Report.....	30
33.7 - Holder Notification of Accepted Appraisal Report and the Right of Second Appraisal	30
33.71 - Standards for Second Appraisal	31
33.71a - Appraiser Qualifications	31
33.71b - Appraisal Guidelines	31
33.72 - Reconsideration of Recreation Residence Base Fees	32
33.8 - Establishing Recreation Residence Lot Value During Transition Period of Cabin User Fee Fairness Act.....	33
33.81 - Use of Appraisal Completed After September 30, 1995	33
33.82 - Request for New Appraisal Conducted Under Regulations, Policies, and Appraisal Guidelines Established Pursuant to CUFFA.....	34
33.83 - Request for Peer Review Conducted Under Regulations, Policies, and Appraisal Guidelines Established Pursuant to CUFFA.....	36
34 - FACILITIES FINANCED BY RURAL ELECTRIFICATION ADMINISTRATION....	40
34.1 - Determination of Exemption	40
34.11 - Eligibility for Rent-Free Rights-of-Way	40
34.12 - Facility Extensions	41
34.13 - Former Borrowers.....	41
34.14 - Joint Ventures	41
34.15 - Exclusions.....	41
34.16 - Authorizations Not Under Federal Land Policy and Management Act.....	41
34.17 - Fee Clause.....	42
36 - FEE SYSTEMS AND SCHEDULES	42
36.04 - Responsibility	42
36.04a - Regional Foresters	42
36.1 - Fee Based on Sales (Graduated Rate Fee System).....	42
36.2 - Communications Site Fee Schedule	42
36.3 - Government Owned Facilities Fee (Granger-Thye).....	42
36.4 - Linear Right-of-Way Fee Schedule.....	42
36.41 - Determination of Fee	42

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

36.42 - Exceptions to Fee Schedule	46
36.43 - Amending Existing Special-Use Authorizations	46
36.44 - Preparing New Authorizations	47
36.45 - Fee Schedule	47
36.5 - Organizational Camp	48
36.51 - Land Use Fee	48
36.51a - Initial Fee Computation	48
36.51b - Annual Adjustments	49
36.51c - Minimum Fee	49
36.51d - Reduction and Offset of Land Use Fees	49
36.52 - Facility Use Fee	49
36.52a - Fee Formula	50
36.52b - Reductions and Waivers	50
36.52c - Granger-Thye Fee Offset	50
36.53 - Fee Based on Other Revenues	50
36.54 - Phase-In of Use Fee Increases	50
36.55 - Deposit and Expenditure of Fees	51
36.55a - Land Use Fees and Fees Based on Other Revenues	51
36.55b - Facility Use Fees	51
36.56 - Computing Fees for Organizational Camps	52
36.6 - Geological and Geophysical Exploration Fee	62
36.7 - Commercial Filming and Still Photography Fees	62
36.71 - Determining Commercial Filming and Still Photography Fees	62
36.72 - Accounting of Commercial Photography and Still Photography Fees	62
36.73 - Expenditure of Commercial Filming and Still Photography Fees	62
37 - OUTFITTER AND GUIDE FEES	64
37.01 - Authority	64
37.03 - Policy	65
37.03a - Fees for Activities Associated With Commercial Public Service Site	65
37.03b - Fees for Activities Not Associated With Commercial Public Service Site	65
37.04 - Responsibility	65
37.05 - Definitions	65
37.1 - Commercial Services Associated With Commercial Public Service Site	67
37.2 - Commercial Services Not Associated With Public Service Site	67
37.21 - Fees	67
37.21a - Minimum Fee	67
37.21b - Flat Fee for Temporary Use Permits	68
37.21c - Fee for Commercial Use	68
37.21d - Determining Service Days	73
37.21e - Adjustment for Use off National Forest System Lands	74
37.21f - Fee for Additional Use	75
37.21g - Payment [Reserved]	75
37.21h - Fee for Assigned Sites	75

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

37.21i - Fee for Grazing Livestock	75
37.21j - Fee for Nonprofit Organizations	75
37.21k - Fee for Educational Institutions.....	76
37.22 - Estimated Fee	76
37.23 - Fee for Commercial Use.....	77
37.24 - Billing and Refunds	77
38 - SKI AREA PERMIT FEES	77
38.01 - Authority.....	77
38.02 - Objectives	77
38.03 - Policy	78
38.03a - Ski Area Permits Subject to Fee System Established by 16 U.S.C. 497c	78
38.03b - Ski Area Permits Subject to Graduated Rate Fee System or Alternate Fee System.....	78
38.04 - Responsibility	78
38.04a - Director of Recreation and Heritage Resources, Washington Office	78
38.04b - Director of Financial and Accounting Operations, Washington Office	78
38.04c - Directors of Financial Management, Regional Offices	78
38.04d - Authorized Officer.....	79
38.05 - Definitions	79
38.1 - Permits Subject to Ski Area Permit Fee System	80
38.11 - Fee Proration for Mixed Land Ownership.....	80
38.12 - Fee Calculation	81
38.13 - Permit Fee if There is No Adjusted Gross Revenue.....	86
38.2 - Payments.....	86
38.21 - Advance Payments	86
38.22 - Interim Payments	87
38.23 - Final Payments	87
38.3 - Permits Subject to Fee Systems Other Than System Established by 16 U.S.C. 497c....	87
38.4 - Transition From Prior Permit Fee Systems	87
38.41 - Permit Fee Floor	88
38.42 - Permit Fee Phase-In.....	88
38.43 - Applicability of Ski Area Permit Fee System Provisions Established by 16 U.S.C. 497c During Transition From Previous Permit Fee Systems to Permit Fee System Established by 16 U.S.C. 497c.....	90
38.43a - Permits Issued Under National Forest Ski Area Permit Act of 1986 on or Before June 1, 1996	90
38.43b - Permits Issued Under National Forest Ski Area Permit Act of 1986 After June 1, 1996.....	90
38.43c - Permits Issued Under Organic Act of 1897 and Term Permit Act of 1915.....	91

FSH 2709.11 - SPECIAL USES HANDBOOK CHAPTER 30 - FEE DETERMINATION

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

30.1 - Authority

See FSM 2701 for other general statutory authorities, regulations, and provisions which govern the establishment and collection of fees for special use authorizations.

1. National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497c). See FSM 2701.1 and section 38.03a.
2. Act of May 26, 2000 (16 U.S.C. 460l-6d). This act authorizes the Secretary of Agriculture to establish, collect, and spend fees received from commercial filming and still photography activities on National Forest System lands without further appropriations.
3. National Forest Organizational Camp Fee Improvement Act of 2003 (16 U.S.C. 6231 et seq.). This act authorizes the Secretary of Agriculture to establish, collect, and spend fees received for organizational camps located on National Forest System lands without further appropriation.
4. Title 36, Code of Federal Regulations, Section 251.57(a). This regulation directs the authorized officer to determine and collect in advance an annual rental fee for special-use authorizations, except as provided for by statute or regulation or when specifically authorized by the Secretary of Agriculture. Section 251.57(a) further provides that the fee is to be based on the value of the authorized use by appraisal or other sound business management principles to reflect fair market value for that use.

30.5 - Definitions

For definitions which pertain to special-use administration on National Forest System lands, see FSM 2705.

31 - ESTABLISHING FEES

31.03 - Policy

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

31.1 - Methods for Determining Fair Market Value

1. Appraisal. Appraisal is a common method to determine fair market value for use fees. Follow the appraisal process in FSH 5409.12, chapter 50 to prepare appraisals and chapter 70 to review for technical adequacy.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

- a. Rental Comparison. Use comparable rentals from the private marketplace to determine special-use fees where there is a clearly established rental market for similar uses (FSH 5409.12).
 - b. Direct Sales Comparison. Use the comparable sales approach to determine fees if market rental data is unavailable, insufficient, or inadequate. In the direct sales approach, the appraiser investigates and analyzes applicable land sales data for uses similar to the authorized use. Fees based on this method are determined by using a percentage of the appraised value. This percentage rate shall be not less than 5 percent unless a different rate is clearly supported by current market data. This method results in a fixed fee which remains in effect until reevaluated as provided for in the terms of the authorization.
2. Fees Based on Income From the Authorized Use. Determine fees by applying a selected rate from an established percentage or schedule of graduated rates to the holder's gross sales (FSM 2715.11).
 3. Fee System and Schedule. (Sec. 36). Use the appropriate fee schedule or fee system to establish fees for the following uses of National Forest System lands. In some situations, appraisal, competitive bid, or negotiated fee may more accurately reflect fair market value than established fee schedules and should be used to establish fees. Refer to each specific schedule or system for further direction as follows:
 - a. Recreation Residence - section 33.
 - b. Concessionaire/Ski Areas (GRFS) - FSM 2715.11.
 - c. Government-Owned Facilities (Granger-Thye) - FSM 2715.13.
 - d. Linear Rights-of-Way - section 36.4.
 - e. Seismic Exploration - section 36.6 and FSM 2725.
 - f. Outfitter and Guide - section 37.
 - g. Communications Site Fee Schedule - chapter 90.
 - h. Ski Area - section 38.
 - i. Organizational Camp - section 36.5.
 - j. Commercial Filming and Still Photography Fees - section 36.7.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

4. Competitive Bid. If competition exists, establish a use fee through bid procedures. Detailed procedures for preparing and offering a bid prospectus are in FSM 2712.2.

5. Negotiated Fees. Fees based on negotiation may be appropriate when other methods do not result in a use fee reflecting fair market value.

31.12 - Fee Review

Update fees and fee schedules at 5-year intervals to reflect fair market value, unless fees are indexed or adjusted under provisions of a schedule or system, or are a one time consolidated payment. It is the responsibility of the authorized Forest Service officer to provide timely notice of fee reviews to the holder.

31.2 - Fee Waivers and Exemptions

Pursuant to 36 CFR 251.57(b), the holder or applicant may submit a written request (including supporting documentation) to the authorized officer for either an exemption or waiver of fees. The authorized officer shall determine eligibility of the applicant or holder for a waiver or exemption. The authorized officer shall review fee waiver and exemptions every 5 years and at renewal of the authorization.

31.21 - Exemptions

Fee exemptions are granted by statute and are not subject to discretion by the authorized officer. The following are exempt from use fees:

1. Activities of Federal Agencies. Under 36 CFR 251.57(c), Federal agencies are exempt from paying fees for use or occupancy of National Forest System lands. However, Federal agencies are not exempt from paying fair market rental fees to third parties, such as renting space in a facility manager's communications building located on National Forest System lands.
2. Rural Electrification Administration Financed Facilities. (43 U.S.C. 1764(g)). A holder or use financed in whole or part by either a direct loan from the Rural Electrification Administration (REA), or a loan from a private source for which repayment is guaranteed by the REA. Telephone facilities qualify when a loan is obtained from the REA.
3. Agriculture Irrigation and Livestock Watering System Easements. Water conveyance systems that qualify under provisions of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761), as amended by Public Law 99-545, October 27, 1986.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

31.22 - Fee Waiver

Waivers are discounts or reductions from payment of the use fee as provided for in Title 36, Code of Federal Regulations, section 251.57 (36 CFR 251.57). It is the responsibility of the authorized Forest Service officer to determine and document the applicant's or holder's eligibility for a fee waiver. The authorized officer may allow fee waivers only in limited situations after careful scrutiny and shall define the public benefit or the benefit to programs of the Secretary of Agriculture provided for each waiver granted.

If not otherwise specifically designated, determine the holder's or applicant's eligibility for a waiver according to criteria in the following sections 31.22a and 31.22b. Section 31.22a contains criteria for the initial screening process. Proceed to the criteria in section 31.22b only if the holder has not been disqualified in section 31.22a.

1. The authorized Forest Service officer shall require annual verification from holders of their nonprofit status as defined in the Internal Revenue Code (sec. 501(c)(3)).
 - a. For all holders that are requesting a fee waiver and,
 - b. In the case of communications sites, for occupants in communications site facilities for whom the facility owner or facility manager is requesting a fee waiver.
2. In addition to requiring documentation of their nonprofit status, the authorized officer shall require communications site facility owners and facility managers requesting a fee waiver (sec. 31.22b, para. 1) for themselves, or for a broadcast tenant in their facility, to provide annual documentation from the Federal Communications Commission (FCC) for themselves, or for the broadcast tenant in their facility, of their classification or their tenant's classification by the FCC as a noncommercial, educational radio or television station.

31.22a - No Waiver

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

1. The holder is a profit-making entity and the principal purpose of the authorization 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 (36 CFR 251.57(b)(1)).
3. The holder, except public telecommunication systems operators, is a nonprofit entity but is using funds derived from the use to increase the value of authorized improvements or to support other activities of the holder.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

4. The holder is a nonprofit entity and, as a building owner or facility manager, derives revenue from tenants in a communications facility.
5. Authorizations are issued under a term permit, including term permits issued under the Public Works Act of September 3, 1954 (43 U.S.C. 931c-931d).
6. An easement has been granted.

31.22b - Full Waiver

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

1. The applicant or holder is licensed by the Federal Communications Commission (FCC) as a noncommercial, educational broadcaster and has nonprofit status under section 501(c)(3) of the Internal Revenue Code. Do not grant a fee waiver if an easement is issued (sec. 31.22a, para. 6).
2. The specific use is in partnership with the Forest Service through contract, grant, or cooperative agreement to accomplish a public service project for National Forest System lands or Forest Service programs.
3. The holder or applicant is a State or local government entity. Do not grant a fee waiver to a State or local governmental entity when the use requested or authorized is commercial in nature or is intended to generate a profit.
4. The holder or applicant is a nonprofit entity as defined in section 501(c)(3) of the Internal Revenue Code and the use authorized furthers 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 a fee for a nonprofit organization that exists for the principal benefit of its members, such as rod and gun clubs, hiking clubs, and horseback riding clubs.
5. The holder or applicant is a profit-making 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 use fee is included in fees for an authorized use for which the United States is already receiving compensation.
7. The use involves a cost share road.
8. Reciprocal agreements of equal value are conveyed.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

9. The rights reserved are on acquired land where the deed specifies fees must not be charged for a specific use of National Forest System lands.

31.22c - Partial Waiver

A partial waiver is a reduction of the use fee for the authorized use, and shall be granted only when reciprocal agreements are of unequal value.

31.23 - Temporary Fee Adjustments

1. Non-Use. The authorized Forest Service officer may place a use authorization in a non-use status when such action is necessary for the protection of the interest of the United States, or when circumstances beyond the holder's control deny the holder the use of the authorization. Placing an authorization in non-use status fully waives fees for that period. The holder may not use the area for the use authorized during the non-use period; however, the holder must maintain the premises and improvements in a satisfactory condition.

2. Construction Fee. Require construction fees during the construction period for uses whose fee is determined by the graduated rate fee system (GRFS; FSM 2715.11). Base construction fees on land value or other method appropriate to the situation (sec. 31.1). Construction fees shall remain in effect until they reach the fee level established in the special-use authorization, at which point the fees in the special use authorization would apply.

31.3 - Administrative Fees

31.31 - Cost Recovery

31.4 - Documentation

Written statements are required to document fee determinations and reviews. Document the method of fee determination and waiver or exemption, if applicable, in the case folder for each use authorization. As a minimum, fee determination statements must include:

1. The calculations and basis for the fee, with references to supporting documents such as appraisals, audits, investment records, bid prospectus, and so forth.
2. Any pertinent supporting facts considered.
3. The name of the person who determined the fee.
4. If a full or partial fee waiver has been granted, the application for waiver and the authorized Forest Service officer's reason for the granting the waiver.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

31.5 - Fees Established by Field Units

1. Requirements for Use of National Fee Rates, Systems, and Schedules. Field units are required to use the agency's national rates, systems, or schedules when determining fees for special uses. However, field units may establish or supplement fee rates, schedules, or systems as provided in the following paragraph 2.
2. Limited Authorization for Establishment of Fees by Field Units. Regions, Forests, and Grasslands are authorized to establish unit fee rates, schedules, or systems in the following circumstances:
 - a. Forest Service directives or regulations require field units to establish or supplement fee rates, schedules, or systems, such as a Regional minimum fee.
 - b. A national rental fee schedule or system does not provide a fee for a particular type of use, such as certain communications uses not covered on the national communications site rental schedule.
 - c. A national rate, system, or schedule has not been established for a particular special use, such as, apiaries, worm harvesting, mariculture, and so forth.

When available, use existing or reserved codes and captions in this chapter to issue field unit supplements that establish a unit fee rate, schedule, or system or that supplements a national fee rate, schedule, or system. For example, a Region, Forest, or Grassland may issue rental fee direction for a linear right-of-way use in a supplement to section 36.4 or for a filming use in a supplement to section 36.7.

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

31.51 - Fees Established by Regions

31.51a - Regional Minimum Fees

It is the responsibility of the Regional Forester to establish and maintain a Regional minimum fee for special uses (FSM 2715.04b).

31.52 - Fees Established by Forests and Grasslands

Fees established by a Forest or Grassland must be approved by the Regional Forester.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

32 - FEE ADMINISTRATION

32.1 - Fees for Multiple Authorizations

Write provisions regarding fees and adjustments into the term permit when the holder has both (1) a term permit and (2) a permit covering portions of the same enterprise. The permit must cross-reference the term permit and indicate that collection of the use fee for the entire operation is in accord with conditions of the term permit.

32.2 - Payment of Fees

Use authorizations shall specify the method and due dates for receipt of payments. The authorized officer may allow semiannual, quarterly, or monthly payments to avoid personal hardship to holders with documented justification. Assign the authorization identification number established in the Special Uses Database System (SUDS) for billing and tracking purposes.

32.21 - Consolidated Payment

Advance payments for multiple years may be collected under the following situations:

1. The authorized officer may require a single consolidated payment, up to 5 years, if the annual rental fee is \$100 or less (36 CFR 251.57).
2. The holder requests a consolidated payment regardless of the annual use fee.

32.22 - Initial Payment

If part of the billing cycle or use season has already elapsed, prorate billings for the remainder of the billing cycle or use season. Prorate fees for less than a full season's use against the recognized season of use. Do not prorate payments to a level below the minimum fee.

32.23 - Payment for Trespass

Trespass occurs if the holder uses the land without authorization. The issuance of an authorization does not authorize use prior to the authorization date and thus does not cancel or settle prior occupancy in trespass. Bill the holder fair market value for the period of trespass (FSM 5390, 6570; FSH 6509.11h, ch. 20). Bill the holder under the use authorization only for the period covered by the authorization.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

32.3 - Billing Procedure

Authorized officers must take aggressive action to collect fees due the United States for the use and occupancy of its lands (4 CFR 102.1; FSM 6570; FSH 6509.11h, ch. 20). The fee for new 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 permit terms direct otherwise.

32.31 - Bill for Collection

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

32.32 - Due Dates

Due dates shall normally be January 1, unless otherwise specified in the authorization. For 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 to the same holder should specify the same due date to facilitate consolidated billing, when practical. Holders are responsible for timely payment of fees.

32.33 - Late Payments

For direction on late payments, see FSH 6509.11h, chapter 20.

32.4 - Termination or Revocation for Nonpayment

Provisions of the authorization determine whether a use authorization is terminated or is revoked for nonpayment.

32.41 - Termination

Use authorizations may be terminated for nonpayment when terms and conditions in the authorization specify that nonpayment of fees terminates the authorization.

32.42 - Revocation

When there is no specific reference to termination for nonpayment in the authorization, the holder is in noncompliance with the terms and conditions of the authorization for nonpayment of fees. In this situation, the authorization may be revoked for nonpayment of fees. The authorized officer, recognizing that an appeal action may result, shall document revocations for nonpayment.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

32.43 - Termination or Revocation Action

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, have been followed, send the holder a bill for collection and a certified letter stating:

1. Attempts to collect the use fee and associated charges have been unsuccessful and the special-use authorization is thereby terminated or revoked (sec. 32.4), depending on the provisions of the authorization.
2. Improvements must be removed by a specified date. (In determining the time to allow for removal of improvements, consider the structure(s) to be removed and time of year.)
3. Administrative charges, interest, and penalty charges are still due and payable. Do not bill for the use fee.
4. If the authorization is revoked, inform the holder of the appeal rights.

32.5 - Appeals

32.51 - Appeal of Fee Determinations and Audits

The following are not appealable:

1. Initial fee determinations for new authorizations.
2. Fee adjustments calculated within the guidelines of an established fee system or schedule, and within the provisions of the authorization.

Disputed fees must be paid in full, regardless of appeal status. If appropriate, fee adjustments will be made after the appeal decision.

Fee redeterminations requiring an amendment to the authorization are appealable under Title 36, Code of Federal Regulations, sections 251.80 through 251.102.

32.52 - Appeal of Termination for Nonpayment of Fees

Termination of a use authorization for nonpayment is not appealable if the authorization specifies that nonpayment of fees terminates the authorization (sec. 32.4).

32.53 - Appeal of Revocation Action for Nonpayment of Fees

Revocation of a use authorization for nonpayment of fees may be appealable (sec. 32.4).

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

33 - RECREATION RESIDENCE LOT FEES

Recreation residence lot fees shall be assessed and paid annually.

33.05 - Definitions

Cabin. A privately built and owned recreation residence that is authorized to use and occupy National Forest System land.

Majority. More than 50 percent.

Market Value. The amount in cash, or on terms reasonably equivalent to cash, for which, in all probability, the property would have sold on the effective date of the appraisal, after a reasonable exposure time on the open competitive market, from a willing and reasonably knowledgeable seller to a willing and reasonably knowledgeable buyer, with neither acting under any compulsion to buy or sell, giving due consideration to all available economic uses of the property at the time of the appraisal.

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 upon National Forest System lands and authorized by a recreation residence term special use permit. A recreation residence is maintained by the permit holder for personal, family, and guest use and enjoyment. A recreation residence shall not serve as a permanent residence.

Recreation residence lot. (For this definition, see 36 CFR 251.51.)

Related Improvements.

a. 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 National Forest System lands being actively operated and maintained by the holder in conjunction with the recreation residence use:

- (1) Outbuildings;
- (2) Wood piles;
- (3) Retaining walls;

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

- (4) Picnic tables;
- (5) Driveways and parking areas;
- (6) Trails and boardwalks;
- (7) Campfire rings, seats, and benches.
- (8) Lawns, gardens, flower beds, and landscaped terraces;
- (9) Manipulated native vegetation, except as provided for in paragraph b(1).

b. Related improvements do not include:

(1) 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.

(2) 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.

Term Permit. (For this definition, see 36 CFR 251.51 and FSM 2705.)

Tract. An established location within a National Forest containing one or more cabins authorized in accordance with the recreation residence program.

Typical Lot. A recreation residence lot in a tract that is selected for appraisal purposes as being representative of value characteristics similar to other recreation residence lots within the tract. All recreation residence lots represented by a typical lot shall be characterized as a group for appraisal purposes. A tract may have one or more groups of lots, with each group represented by a typical lot. A typical lot may be the only recreation residence lot in a group, and may be appraised to represent only itself, when it has unique value characteristics unlike any other recreation residence lot in a tract.

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, Fourth Edition).

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

33.1 - Base Fees and Annual Adjustments

33.11 - Establishing New Base Fee

1. Base Fee. The base fee for a recreation residence special use permit shall be equal to 5 percent of the market value of the recreation residence lot as determined by appraisal. The base fee shall be recalculated at least once every 10 years.
2. Notification of New Base Fee. The authorized officer shall notify the holder in writing at least one (1) year in advance of implementation that a new base fee has been determined by appraisal conducted in accordance with procedures contained in section 33.4 of this handbook. If a second appraisal, secured by the holder (sec. 33.7) and approved by the agency, prompts the authorized officer to reconsider the new base fee amount, the revision to the base fee may be implemented at any time after the end of the one-year period following the initial notification.
3. Effective Date of New Base Fee. The date of a billing for payment of a new base fee, or the date of a billing for the first payment of a phase-in amount (sec. 33.12) of a new base fee, shall constitute the date of implementation of the new base fee.

33.12 - Phase-In of Base Fee

Require the holder to pay the full amount of a new base fee if that new base fee results in an increase of 100 percent or less from the amount of the most recent annual fee assessed the holder.

When the new base fee is greater than a 100 percent increase from the amount of the most recent annual fee assessed the holder, implement the new base fee increase in three (3) equal increments over a 3-year period. Annual adjustments (sec. 33.13) shall be included in the calculation of fees that are incrementally phased-in over the 3-year period. Exhibit 01 illustrates the manner in which a new base fee would be phased-in when the new base fee results in an increase of more than 100 percent from the most recent annual fee assessed the holder.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

33.12 - Exhibit 01

**Phase-In When New Base Fee Results in an Increase of More Than 100 Percent
From the Most Recent Annual Fee Assessed the Holder**

<i>2007</i>	<i>2008</i>	
<i>Fee</i>	<i>New</i>	
<u><i>Amount</i></u>	<u><i>Base Fee</i></u>	<u><i>Increase</i></u>
\$700	\$1,600	\$900 (>100% increase)

2008 Phase-in Fee: \$700 (2007 fee)
+ \$300 (1/3 of fee increase>100%) = **\$1,000**

2009 Phase-in Fee: \$1,000 (2008 fee)
+ \$300 (1/3 of fee increase>100%) x 1.03*
(annual IPD-GDP increase of 3%) = **\$1,339**

2010 Phase-in Fee: \$1,339 (2009 fee)
+ \$300 (1/3 of fee increase>100%) x 1.03*
(annual IPD-GDP increase of 3%) = **\$1,688**

2011 Phase-in Fee: \$1,688 (2010 fee) x 1.03*
(annual IPD-GDP increase of 3%) = **\$1,739**

*(*3% annual IPD-GDP adjustment is used for illustrative purposes only. The actual annual IPD-GDP rate would be used for each of the phase-in amounts in years 2009 through 2011)*

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

33.13 - Annual Adjustment of Recreation Residence Fee

Adjust recreation residence fees annually using the 2nd quarter to 2nd quarter change in the Implicit Price Deflator, Gross Domestic Product (IPD-GDP).

An annual adjustment to the base fee must be no more than 5 percent in any single year. When the annual change to the IPD-GDP results in an annual adjustment of more than 5 percent, apply the amount of the adjustment in excess of 5 percent to the annual fee payment for the next year in which the change in the index factor is less than 5 percent. Exhibit 01 provides two examples on how annual fees are adjusted in years during which the annual change in the IPD-GDP index exceeds 5 percent.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

33.13 - Exhibit 01

Phase-in of Fees When Increase Exceeds 5 Percent in a Single Year

EXAMPLE 1 – Only 1 year in which the IPD-GDP adjustment exceeds 5%.

2007 Fee = \$700

*2008 IPD-GDP adjustment = 7%**

(\$700 x .07 = \$49)

Maximum adjustment/year = 5% (\$35)

2008 carryover adjustment = 2% (\$14)

2008 Fee = \$700 (2007 fee) x .05 (max. adj./yr.) = \$735

*2009 IPD-GDP adjustment = 3%**

Carryover adjustment from 2008 = \$14

2009 Fee = \$735 (2008 fee) + \$14 (2008 carryover) x 1.03 = \$771

EXAMPLE 2 – Multiple-year IPD-GDP adjustments exceeding 5%.

2007 Fee = \$700

*2008 IPD-GDP adjustment = 7%**

(\$700 x .07 = \$49)

Maximum adjustment/year = 5% (\$35)

2008 carryover adjustment = 2% (\$14)

2008 Fee = \$700 (2007 fee) x 1.05 (max. adj./yr.) = \$735

*2009 IPD-GDP adjustment = 7%**

(\$735 x .07 = \$51)

Maximum adjustment /year = 5% (\$37)

2009 carryover adjustment = 2% (\$14)

Total carryover (2008 & 2009) = \$28

2009 Fee = \$735 (2008 fee) x 1.05 (max. adj./yr.) = \$772

2010 IPD-GDP adjustment = 3% (<max. adj./yr.)*

Total 2008 & 2009 carryover = \$28

2010 Fee = \$772 (2009 fee) + \$28 (2008 & 2009 carryover) x 1.03 = \$824

*(*Annual IPD-GDP adjustments used are for illustrative purposes only)*

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

33.2 - Fees When Determination is Made to Place Recreation Residence on Tenure

A recreation residence use is placed on “tenure” when the authorized officer notifies the holder of the officer’s decision to discontinue the use of the lot for recreation residence purposes and to convert the use of the recreation residence lot to some alternative public purpose. When a decision is made to discontinue the recreation use, the authorized officer shall provide the holder a minimum of 10 years notice prior to the date of converting the use and occupancy to an alternative public purpose. If the holder’s 20-year term special use permit expires during that 10-year period, a new annual special use permit shall be issued with an expiration date that coincides with the specified date for converting the recreation residence lot to an alternative public purpose.

When a recreation residence use has been put on tenure, the fee for the tenth year prior to the date of converting the recreation residence use to an alternative public use becomes the base fee for the remaining life of the use. The fee for each year during the last 10 years of the authorization shall be one-tenth of the base fee multiplied by the number of years remaining prior to the date of conversion. For example, charge a holder with 9 years remaining, 90 percent of the base fee; with 8 years, 80 percent; and so forth. Do not apply annual adjustments to fees when a recreation residence has been put on tenure notice. Exhibit 01 provides a schedule to calculate the holder's fee during the 10-year period.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

33.2 - Exhibit 01

**Phase-In of Fees When Determination Is Made
To Place Recreation Residence on Tenure**

Years Remaining

<u>Prior to Date of Conversion</u>	<u>Percent of Base Fee To Charge</u>
10	100
9	90
8	80
7	70
6	60
5	50
4	40
3	30
2	20
<u>1</u>	10

Use one of the following fee determination procedures when a review of a decision to convert the recreation residence lot to an alternative public use shows that changed conditions warrant continuation of the recreation residence use beyond the determined date of conversion:

1. If a new 20-year term permit is issued, recover the amount of fees forgone while the previous permit was under notice that the recreation residence lot would be converted to an alternative public purpose. Collect this amount evenly over a 10-year period in addition to the annual fee due under the new permit. The obligation runs with the recreation residence lot and shall be charged to any subsequent purchaser of the recreation residence. The annual fee under the newly issued 20-year permit shall be the annually-indexed fee computed as though no limit on tenure had existed, plus the amount as specified in this paragraph until paid in full.
2. Do not recover past fees when a 20-year term permit is not issued and the occupancy of the recreation residence lot will be authorized for less than 10 years past the originally identified date of conversion. Determine the fee for a new permit in these situations by computing the fee as if notice that a new permit would not be issued had not been given, reduced by the appropriate percentage for the number of years of the extension. For example, a new permit with a 6-year tenure period results in a fee equal to 60 percent of the base fee.
3. When a 20-year term permit is not issued, and the occupancy of the subject recreation residence lot will be allowed to continue for more than 10 years, but less than 20 years, recover fees as outlined in the preceding paragraph 1, computed for the most recent 10-year period in which the term of the permit was limited.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

33.3 - Fee When Recreation Residence Use is Terminated or Revoked as Result of Acts of God or Other Catastrophic Events

When the authorized officer determines that the recreation residence lot cannot be safely occupied because of an act of God or other catastrophic event, the fee obligation of the recreation residence owner shall terminate effective on the date of the occurrence of the act or event.

A prorated portion of the annual fee, reflecting the remainder of the current billing period from the date of the occurrence of the act or event, shall be refunded to the holder. In the event that the holder is authorized to occupy an in-lieu the refund amount may instead be credited to the annual fee identified in a new permit for the in-lieu lot.

33.4 - Establishing the Market Value of Recreation Residence Lot

The market value of a recreation residence lot shall be established by appraisal (FSH 5409.12, ch. 60).

1. Appraisals shall be conducted and prepared by a private contract appraiser who is licensed to practice in the State within which the recreation residence lot or lots to be appraised are located. Select private contract appraisers who have adequate training through professional appraisal organizations and who have satisfactorily completed the basic courses necessary to demonstrate competence for the appraisal assignment. Require appraisers to sign an Assignment Agreement (FSH 5409.12, sec. 66, ex. 04). The appraisal must evaluate the market value of the fee simple estate of the National Forest System land underlying the typical lot or lots in a natural native state. However, access, utilities, and facilities which service a typical lot and which have been determined by the authorized officer to have been paid for or provided by the Forest Service or a third party, shall be included as features of the typical lot to be appraised (sec. 33.42).

Do not appraise individual recreation residence lots within a grouping or tract. Appraise the typical lot or lots that have been selected from within a group of recreation residence lots that all have essentially the same or similar value characteristics, pursuant to the direction in section 33.41. The authorized officer may make adjustments for measurable value differences among recreation residence lots within a grouping based upon the advice of the assigned Forest Service review appraiser.

2. The appraiser shall conduct and prepare the appraisal in compliance with:
 - a. The edition of the Uniform Standards of Professional Appraisal Practice (USPAP) in effect on the date of the appraisal;
 - b. The edition of the “Uniform Appraisal Standards for Federal Land Acquisitions” in effect on the date of the appraisal;

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

- c. The appraisal sections for recreation residence lots found in the FSH 5409.12, section 66, exhibit 03; and
 - d. Any other case-specific appraisal guidelines provided to the appraiser by the Forest Service.
3. The appraiser shall ensure that appraised values are based on comparable market sales of sufficient quality and quantity. The appraiser shall recognize that the typical lot will not usually be equivalent to a legally subdivided lot.

The appraiser shall not select sales of land within developed urban areas, and in most circumstances, should not select a sale of comparable land that includes land that is encumbered by a conservation easement or recreational easement held by a government or institution. Sales of land encumbered by an easement may be used in situations in which the comparable sale is a single home site and is sufficiently comparable to the recreation residence lot or lots being appraised.

The appraiser shall also consider, and adjust as appropriate, the prices of comparable sales for typical value influences, which include, but are not limited to:

- a. Differences in the locations of the parcels;
 - b. Accessibility, including limitations on access attributable to weather, the condition of roads and trails, restrictions imposed by the agency, and so forth;
 - c. The presence of marketable timber;
 - d. Limitations on, or the absence of services, such as law enforcement, fire control, road maintenance, or snow plowing;
 - e. The condition and regulatory compliance of any lot improvements, and
 - f. Any other typical value influences described in standard appraisal literature.
4. When an appraisal of the market value of a recreation residence lot in a tract is scheduled to occur, the authorized officer, or the authorized representative, and the appraiser shall, with a minimum 30-day written advance notice, arrange a meeting with the affected permit holders and provide them with information concerning the pending appraisal. At the meeting, holders shall be advised of the appraisal process, the method of appraisal, and selection of typical lots. Permit holders shall be afforded the opportunity to meet the appraiser individually, or as a group, concerning the selection of a typical lot or lots.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

5. The appraiser shall provide the recreation residence permit holders with a minimum 30-day advance written notice (certified mail, return receipt requested) of the date and approximate time of the recreation residence lot visit. Documentation of the notification shall be included in the addenda of the appraisal report. At the recreation residence lot meeting, permit holders shall be given the opportunity to provide the appraiser with factual or market information pertinent to the valuation of the typical lot or lots. This information must be submitted in writing and shall be accounted for in the appraisal report.

33.41 - Selection and Appraisal of Typical Lot

The appraiser shall appraise only the typical lot or lots selected within a tract. Before an appraisal is initiated, the authorized officer must make every effort to obtain the concurrence of the permit holders concerning the composition of the group or groupings of lots, which are essentially the same or which have similar economic value characteristics, and the selection of a typical lot or lots. A representative typical lot shall be identified as economically typical of the recreation residence lots in each group. Exercise care in identifying and selecting a typical lot that is economically competitive with all of the recreation residence lots within the group it represents. The selection process shall be documented in a permanent case file for the tract.

With the advice of the appraiser, the authorized officer shall determine the composition of the group or groupings of recreation residence lots and the selection of a typical lot or lots when concurrence with the holders cannot be achieved. The inability to obtain concurrence with the holders on selection of the group or grouping of recreation residence lots and the selection of a typical lot or lots shall be documented and included in the permanent case file for the tract.

When the inventory of facilities, utilities, and access servicing a tract (sec. 33.42) suggest that all lots within a grouping are not comparable to the typical lots representing that group with respect to the facilities, utilities, and access servicing the typical lot, the authorized officer may consider one of the following actions:

1. Establish a new grouping of lots having clearly different attributes of access, utilities, and facilities servicing those lots from those which have been inventoried and are servicing the typical lot, and (a) identify with the holders a new typical lot to represent that new grouping, (b) prepare a new permanent inventory of utilities, access and facilities servicing that typical lot (sec. 33.42), and (c) conduct a new appraisal of that typical lot pursuant to the provisions of CUFFA. The Forest Service and the holder(s) shall pay equally for the cost of the new appraisal.
2. Where feasible, assign lots having clearly different attributes to another typical lot established in the tract which has attributes of access, utilities, and facilities that are comparable to those lots.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

3. Make adjustments to the base cabin user fee for those lots having utilities, access, and facilities that are so different from the attributes of the typical lot that it creates a measurable difference in value.

33.42 - Inventorying Utilities, Access, and Facilities

The authorized officer is responsible for identifying, documenting, and inventorying all utilities, access, and facilities that service each of the typical lots within a recreation residence tract and providing that information to the appraiser as part of the appraisal assignment.

The inventory must include the authorized officer's determination of who paid for the capital costs of those utilities, access, or facilities. In doing so, the authorized officer shall presume that the permit holder, or the holder's predecessor, paid for the capital costs of the utility, access, or facility serving the typical lot, unless the authorized officer can document that either the Forest Service or a third party paid for those capital costs.

33.42a - Types of Utilities, Access, and Facilities to Include in Inventories

The types of utilities, access, and facilities that should be inventoried for each typical lot include, but are not limited to:

1. Potable water systems;
2. Roads, trails, air strips, boat docks, and water routes used to access the recreation residence lot or tract;
3. Waste disposal facilities; and
4. Utility lines, such as telephone lines, fiber optic cable, electrical lines, and cable TV.

33.42b - Criteria to Be Considered in Determining Who Paid for Capital Costs of Inventoried Utilities, Access, and Facilities

It is the responsibility of the authorized officer to collect all available evidence to be considered in determining whether each inventoried utility, access, or utility was paid for by the cabin owner (or a predecessor of the cabin owner), a third party, or the Forest Service. In evaluating and considering the evidence, the authorized officer shall be guided by the following criteria and principles:

1. Consider the capital costs of an inventoried utility, access, or facility as having been paid by the cabin owner, or their predecessor, when:
 - a. There is evidence of direct payment of the costs of materials and installation by the cabin owner, or their predecessor;

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

- b. There is evidence that the cabin owner or their predecessor was assessed and paid a lump sum fee by the road agency, or utility or service provider, for construction/ installation of the inventoried facility;
 - c. There is evidence that the cabin owner or their predecessor was assessed and paid a temporary utility or tax surcharge, in addition to other taxes, or the base rates and usage fees assessed to all of the customers in the utility provider's rate base, as a means of paying the capital costs of the inventoried utility, access, or facility;
 - d. There is evidence that some or all of a hook-up or tap fee assessed to and paid by the cabin owner, or their predecessor, as a new customer of the utility or service provider, was established to include the recovery of capital costs to the utility or service provider for installation of the inventoried utility or facility;
 - e. There is insufficient evidence to support any of the circumstances described in the criteria identified under the following paragraphs 2 through 4.
2. Consider the capital costs of an inventoried utility, access, or facility as having been paid by a third party when there is evidence to conclude:
- a. An entity, such as for-profit utility company (electric company, telephone company, cable television provider, etc.), a not-for-profit cooperative, a water or sewer district, a municipality, and so forth, installed a utility service or facility; that the corresponding service to the subject lot was provided without any lump sum or surcharge to base rates or usage fees assessed to the cabin owner or their predecessor; and that any hook-up fees or tap fees that may have been assessed to the cabin owner, or their predecessor, were not established with the intent to recover the utility company or provider's capital costs in the inventoried utility, access, or facility.
 - b. Roads providing access were built by a State, county or local road agency, and were paid for from the general tax base or tax revenues used by that agency for road construction, without a specific lump sum charge or tax rate surcharge having been assessed to the cabin owners or their predecessors.
 - c. An inventoried road or trail providing access was built by a cooperator, pursuant to road or transportation cost-share agreement with the Forest Service.
3. Consider the capital costs of an inventoried utility, access, or facility as having been paid by the Forest Service when there is evidence to conclude:
- a. Forest Service appropriations were expended to construct the inventoried utility, access, or facility road, trail, or facility that provides access and/or service to the recreation residence lot.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

- b. An inventoried road was indirectly paid by the Forest Service in the form of “purchaser (road) credits” pursuant to a timber sale contract.
4. Consider the capital costs of an inventoried utility, access, or facility as having been paid by either the Forest Service or a third party when there is evidence that it existed prior to the time when the recreation residence lot or lots within the tract was (were) first authorized for recreation residence use by the Forest Service.

33.5 - Appraisal Specifications

Direction pertaining to appraisal specifications is found in FSH 5409.12, section 65.3, Recreation Residence Lots, and section 66, exhibits 03 and 04.

33.6 - Review and Acceptance of Appraisal Report

The assigned Forest Service review appraiser shall review the appraisal report to ensure that it conforms to the Uniform Standards of Professional Appraisal Practice, the Uniform Appraisal Standards for Federal Land Acquisition, and appraisal guidelines found in the FSH 5409.12, chapter 60.

If the appraisal report meets the standards as described in this section, and as documented in an appraisal review report prepared by the assigned Forest Service review appraiser, the authorized officer may accept the estimated market value of the typical lot or lots in the appraisal report for establishing a new base fee for that recreation residence lot or lots.

33.7 - Holder Notification of Accepted Appraisal Report and the Right of Second Appraisal

The authorized officer shall notify the affected holder or holders that the Forest Service has accepted the appraisal report (sec. 33.6) and has determined a new base fee based on that appraisal report. Upon written request, the authorized officer shall:

1. Provide the holder with a copy of the appraisal report and supporting documentation associated with the typical lot upon which the holder’s fee is based.
2. Advise the holder that the holder has 60 days after receipt of this notification to notify the authorized officer in writing of the holder’s intent to obtain a second appraisal report.
3. Inform the holder that if a request for a second appraisal report is submitted, the holder has one year following receipt of the notice to prepare, at the holder’s expense, a second appraisal report, for Forest Service review, of the typical lot on which the initial appraisal was conducted, using the same date of value as the original appraisal report.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

33.71 - Standards for Second Appraisal

33.71a - Appraiser Qualifications

The appraiser selected by the holder or holders to conduct a second appraisal must:

1. Meet the same general State certification requirements as the original appraiser;
2. Have experience in appraising vacant, recreational use lands;
3. Have the same or similar professional qualifications as the appraiser who prepared the first appraisal; and
4. Be approved in advance by the assigned Forest Service review appraiser.

33.71b - Appraisal Guidelines

1. Second Appraisal Assignment. The second appraisal report shall use the appraisal guidelines used in the initial appraisal (FSH 5409.12, sec. 65.3, ex. 03), as prescribed in a pre-work meeting among the holder's appraiser, the Forest Service review appraiser, and the holder or holders, or their authorized representative. Prior to starting the second appraisal report, the appraiser shall sign an Assignment Agreement as provided in FSH 5409.12, section 65.3, exhibit 04. The appraiser shall submit the second appraisal report to the client. If the holder chooses to have the second appraisal report reviewed by the Forest Service, the holder must submit the appraisal report to the authorized officer requesting review by the assigned Forest Service review appraiser.

2. Reporting of Material Differences. Section 610(b)(4) of CUFFA requires the appraiser selected to conduct the second appraisal to ". . . notify the Secretary of any material differences in fact or opinion between the initial appraisal conducted by the agency and the second appraisal." However, CUFFA does not require or mention any analysis, opinion, or recommendation concerning material differences of fact or opinion between the initial and second appraisal reports. The absence of analysis, opinion, or recommendation differentiates this document from an appraisal review report, or appraisal consulting report, as defined in the Uniform Standard of Professional Appraisal Practice (USPAP).

The assigned Forest Service review appraiser shall provide a copy of the initial appraisal report to the approved second appraiser with a request to notify the review appraiser of any material differences in fact or opinion between the initial appraisal report and the second appraisal report. After completion of the second appraisal report, and in a separate document, the appraiser shall submit in writing to the assigned Forest Service

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

review appraiser his or her report of material differences of fact or opinion between the initial appraisal conducted for or by the agency and the second appraisal. The report shall be a brief statement or listing of any material differences of fact or opinion found in comparing the initial and second appraisal reports.

If the second appraiser comments in any way, such as on the quality, including the completeness, adequacy, relevance, appropriateness, reasonableness, of the other appraiser's work (any part of the appraisal report or work file), the second appraiser shall complete an appraisal review report in conformance with Standard 3 of USPAP.

3. USPAP Compliance. The Confidentiality section of USPAP's Ethics Rule states, in part that "An appraiser must not disclose confidential information or assignments results prepared for a client to anyone other than the client and persons specifically authorized by the client; state enforcement agencies and such third parties as may be authorized by due process of law. . ." However, disclosure of the first appraisal report to the second appraiser is required by CUFFA and in this situation is permitted by the Confidentiality section of USPAP's Ethics Rule. Therefore, the Jurisdictional Exception Rule does not apply to this situation because there is no conflict between this requirement in CUFFA and USPAP.

33.72 - Reconsideration of Recreation Residence Base Fees

The authorized officer shall inform the holder that they must submit to the authorized officer a request for reconsideration of the base fee within 60 days of the date of the second appraisal review report, if approved by the assigned Forest Service review appraiser.

Within 60 days of receipt of the request for reconsideration of the base fee, the authorized officer shall:

1. Review the initial appraisal report and appraisal review report.
2. Review the results of the second appraisal report and appraisal review report.
3. Review the material differences in fact or opinion report.
4. Establish a new base fee in an amount that is equal to the base fee established by the initial or the second appraisal or is within the range of values, if any, between the initial and second appraisals.
5. Notify the holder or holders of the amount of the new base fee.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

33.8 - Establishing Recreation Residence Lot Value During Transition Period of Cabin User Fee Fairness Act

The transition period, as identified in §614 of the Cabin User Fee Fairness Act (CUFFA), is that period of time between the date of enactment of CUFFA (Oct. 11, 2000) and the date upon which a base cabin user fee for a recreation residence is established as a result of implementing the final regulations, policies, and appraisal guidelines established pursuant to CUFFA.

The authorized officer shall, upon adoption of regulations, policies, and appraisal guidelines established pursuant to CUFFA, notify all recreation residence permit holders whose recreation residence lots have been appraised after September 30, 1995, that they may request the Forest Service to take one of the following actions:

1. Conduct a new appraisal pursuant to regulations, policies, and appraisal guidelines established pursuant to CUFFA (sec. 33.82).
2. Commission a peer review of an existing appraisal report of the typical lot completed after September 30, 1995 (sec. 33.83).
3. Establish a new base fee using the market value of the typical lot identified in an existing appraisal report completed on or after September 30, 1995 (sec. 33.81).

A request to act on one of these options must be made by a majority of the holders within the group of recreation residence lots represented by the typical lot. To facilitate this process, the authorized officer shall provide each permit holder with the names and addresses of all of the other permit holders within the group of recreation residence lots that are represented by the typical lot, so that the holders within the group have the opportunity to collectively determine whether to exercise one of the options identified above. The options described in paragraphs 1 through 3, and explained in further detail in section 33.81 through 33.83, shall be the only means by which a new base cabin user fee is established during the transition period for those lots which were appraised between September 30, 1995 and October 11, 2000. Holders who request a new appraisal or the commissioning of a peer review will not have the right to request a second appraisal as provided for in section 33.7.

33.81 - Use of Appraisal Completed After September 30, 1995

1. Establish a new base fee using 5 percent of the fee simple value, indexed to the current year, of a Forest Service approved appraisal report of a typical lot completed after September 30, 1995, when:

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

- a. Within 2 years following the adoption of regulations, policies, and appraisal guidelines established pursuant to CUFFA, a request to do so is submitted in writing to the authorized officer by a majority of the holders within the group of recreation residence lots represented by a typical lot included in the appraisal (sec. 33.8, para. 3).
 - b. A majority of permit holders in a group of recreation residence lots fail to submit, within 2 years following the adoption of regulations, policies, and appraisal guidelines established pursuant to CUFFA, a request for one of the three options identified in section 33.8.
 - c. A peer review is requested and completed (sec. 33.8, para. 2), and the review determines that the appraisal completed after September 30, 1995, is consistent with the regulations, policies, and appraisal guidelines adopted pursuant to CUFFA.
2. Implement the new base fee at the time of the next regularly scheduled annual billing cycle, subject to the phase-in provisions (sec. 33.12).

33.82 - Request for New Appraisal Conducted Under Regulations, Policies, and Appraisal Guidelines Established Pursuant to CUFFA

The holders must make a request for a new appraisal within 2 years following the adoption of regulations, directives, and appraisal guidelines for recreation residences established pursuant to CUFFA. The authorized officer shall inform the holders that the request for a new appraisal must be submitted in writing to the authorized officer and must be signed by the majority of the recreation residence holders within the group of recreation residence lots represented by the typical lot to be appraised. The authorized officer shall also inform those holders requesting a new appraisal that in their request they must agree that each of the permit holders within the typical lot shall pay a proportionate share of one-half of the cost to conduct the new appraisal. In addition, holders whose previous appraisal indicated that a base fee would increase more than \$3,000 from the annual fee being assessed on October 1, 1996, shall be notified that they must include the statement in exhibit 01 as a part of their request for a new appraisal. The information required in the statement will be provided to the holder by the authorized officer.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

33.82 - Exhibit 01

Statement for Holders Requesting New Appraisal When Previous Appraisal Indicated a Base Fee Increase of More Than \$3,000 from Annual Fee Assessed on October 1, 1996

We hereby request and agree that, if the new base fee established by the new appraisal results in an amount that is 90 percent or more of the fee determined by the previously completed appraisal of this typical lot (specifically, that appraisal dated _____, with an estimated fee simple value of \$_____, and an indicated annual fee of \$_____), each of the permit holders within this group of recreation residence (indicate tract name and lots) shall be obligated to pay to the United States the following:

1. The base fee that shall be established using the results of the new appraisal being requested, subject to the phase-in provisions of §609 of CUFFA; and
2. The difference between (a) the annual fee that was paid during calendar years _____, _____, _____, (enter each calendar year beginning with that year when a new base fee based upon the above-referenced appraisal would have otherwise been implemented), and ending with calendar year _____ (enter the calendar year the request for a new appraisal is made), and (b) the amount that the annual fee for each of those identified calendar years would otherwise have been had a new base fee been assessed as a result of the above-referenced appraisal, pursuant to the phase-in provisions in effect and applicable during that time.

We agree that the cumulative difference resulting from the application of Item #2 (above) shall be assessed as a premium fee amount, payable in full or in three (3) equal annual installments, in addition to the phase-in of the new base user fee established by the results of the new appraisal.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

33.83 - Request for Peer Review Conducted Under Regulations, Policies, and Appraisal Guidelines Established Pursuant to CUFFA

A request for a peer review of an existing appraisal report completed after September 30, 1995, shall be made within 2 years following the adoption of regulations, policies, and appraisal guidelines for recreation residences pursuant to CUFFA. The request shall be submitted in writing to the authorized officer and must be signed by a majority of the recreation residence holders within the group of recreation residence lots represented by the typical lot that was appraised. The holders requesting the peer review shall, in their request, agree that each of the permit holders within the typical lot shall pay a proportionate share of one-half the cost to commission the review. In addition, holders requesting a peer review where the appraisal to be reviewed established a base fee that was more than a \$3,000 annual increase to the fee being assessed the holders on October 1, 1996, shall include the statement contained in exhibit 01 as a part of their request. The information required in the statement will be provided to the holder by the authorized officer.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

33.83 - Exhibit 01

Statement for Holders Requesting Peer Review When Previous Appraisal Indicated a Base Fee Increase of More Than \$3,000 from Annual Fee Assessed on October 1, 1996

We hereby request and agree that, if the new base fee from the peer review results in an amount that is 90 percent or more of the fee determined by the previously completed appraisal of this typical lot (specifically, that appraisal dated _____, with an estimated fee simple value of \$_____, and an indicated annual fee of \$_____), then each of the permit holders within this group of recreation residence (indicate tract name and lots) shall be obligated to pay to the United States the following:

1. The base fee that shall be established pursuant to this peer review, subject to the phase-in provisions of §609 of CUFFA; and
2. The difference between (a) the annual fee that was paid during calendar years _____, _____, _____ (enter each calendar year beginning with that year when a new base fee based upon the above-referenced appraisal would have otherwise been implemented), and ending with calendar year _____ (insert the calendar year in which the request for a peer review is made), and (b) the amount that the annual fee for each of those identified calendar years would otherwise have been, had a new base fee been assessed as a result of the above-referenced appraisal, pursuant to the phase-in provisions in effect and applicable during that time.

We agree that the cumulative difference resulting from the application of Item #2 (above) will be assessed as a premium fee amount, payable in full or in three (3) equal annual installments, in addition to the phase-in of the new base user fee established by the results of the peer review.

The authorized officer shall commission a peer review of the existing appraisal report upon receipt of a written request to do so and upon submission of the appropriate documentation that shows that the request is being made by a majority of the holders affected. The manner in which the peer review is conducted shall be based upon the membership in a professional organization of the appraiser who conducted that appraisal as follows:

1. Appraisals Prepared by an Appraiser Who Is a Member of a Single Appraisal Sponsor Organization of The Appraisal Foundation. If the appraiser who prepared the appraisal report that will be reviewed is a member of a single appraisal sponsor organization of The Appraisal Foundation, the authorized officer shall submit the appraisal report, appraisal review report, and peer review report instructions to that appraisal sponsor organization for assignment to a member of an established panel of accredited or designated members selected by the sponsor organization for the purpose of peer review. In consultation with the accredited or designated panel member, the sponsor organization shall provide the authorized officer an estimate of total cost for the peer review. The authorized officer

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

33.83 - Exhibit 01--Continued

shall consult with a representative of the permit holders requesting the peer review to determine if the holders wish to proceed with the review, based on the estimated cost. If a peer review is conducted, the review report shall be prepared in compliance with the review instructions provided with the existing appraisal report. The peer review report shall be confined to an evaluation of whether the original appraisal report includes provisions or procedures that were implemented or conducted in a manner that is inconsistent with regulations, policies, or appraisal guidelines adopted pursuant to CUFFA and, if so, which provisions and to what effect. The peer review report is intended to be an administrative review report in conformance with the USPAP.

2. Appraisals Prepared by an Appraiser Who Is Not a Member of a Sponsor Organization, or is a Member of Two or More Sponsor Organizations of The Appraisal Foundation. If the appraiser who prepared the appraisal report that will be reviewed is not a member of a sponsor organization of The Appraisal Foundation, or is a member of two or more sponsor organizations of The Appraisal Foundation, the authorized officer shall submit the appraisal report, appraisal review report, and peer review report instructions, after consultation with the requesting permit holders, to a sponsor organization that has established a panel for peer review of recreation residence lot appraisals. If the authorized officer and a majority of the requesting permit holders cannot agree on which sponsor organization to solicit for the peer review, the authorized officer shall make the decision based upon a recommendation from the Regional Appraiser. The authorized officer shall request the selected appraisal sponsor organization to assign a member of the established panel of accredited or designated members to conduct the peer review. The authorized officer shall also request the sponsor organization to provide the authorized officer, in consultation with the accredited or designated panel member, an estimate of total cost for the peer review. The authorized officer shall consult with a representative of the requesting permit holders to determine if the holders want to proceed with the review, based on the estimated costs. If a peer review is conducted, the review report shall be prepared in compliance with the review instructions provided with the existing appraisal report. The peer review report shall be confined to evaluation of whether the original appraisal report includes provisions or procedures that were implemented or conducted in a manner that is inconsistent with regulations, policies, or appraisal guidelines adopted pursuant to CUFFA and, if so, which provisions and to what effect. The peer review report is intended to be an administrative review report in conformance with the USPAP.

- a. If the peer review shows that the appraisal report is consistent with the regulations, policies, and appraisal guidelines adopted pursuant to CUFFA, the authorized officer shall establish a new base fee using 5 percent of the fee simple value of the typical lot identified in the appraisal report.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

33.83 - Exhibit 01--Continued

b. If the peer review results in a determination that the appraisal report was not conducted in a manner consistent with the regulations, policies, and appraisal guidelines adopted pursuant to CUFFA, the authorized officer shall either:

(1) Establish a new base fee to reflect consistency with the regulations, policies, and appraisal guidelines adopted pursuant to CUFFA, or

(2) Conduct a new appraisal in accordance with the provisions of CUFFA if requested by a majority of the affected holders.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

34 - FACILITIES FINANCED BY RURAL ELECTRIFICATION ADMINISTRATION

34.1 - Determination of Exemption

The Federal Land Policy and Management Act (FLPMA) (43 U.S.C. 1764(g)), Section 504, as amended by Public Law 98-300, exempts facilities authorized under FLPMA and financed pursuant to the Rural Electrification Act from land use rental fees for rights-of-way on Federal lands. It also provides fee relief for extensions of facilities financed through the Rural Electrification Administration (REA) (sec. 34.12).

34.11 - Eligibility for Rent-Free Rights-of-Way

1. Do not charge a land use fee for any REA-financed facility, including electronic sites and access roads paid for in whole or in part with funds from one or more of the following sources:

- a. A direct loan from the REA;
- b. A loan from a private source for which repayment is guaranteed by the REA; or
- c. A loan for telephone facilities from the Rural Telephone Bank, a quasi-Federal government agency.

2. Determine fee exemption eligibility by the presence of REA financing of the facility. Require applicants and holders who claim eligibility to show evidence of REA financing of the facility. Such evidence includes approved loan, work order, work plan, or system maps. If information for the facility is unavailable, as may be the case for older REA loans, use system-wide information from the following sources:

- a. The REA published annual reports, "Statistical Report, Rural Electric Borrowers" and "Statistical Report, Rural Telephone Borrowers";
- b. A system map provided by the affected individual borrower which shows facilities covered by REA's mortgage; or
- c. A statement from the borrower certifying that the facilities in question meet the exemption status of Public Law 98-300.

If necessary, confirm the information provided with the REA by obtaining the name and address of that agency's General Field Representative from the applicant or holder and contacting the REA representative to confirm the REA financing.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

34.12 - Facility Extensions

Use information provided by the holder to determine the fee exemption eligibility under Public Law 98-300, for any extension from such a facility. The facility must be an extension of a REA-financed facility.

The fee exemption provisions also apply to extensions of electrical and telephone lines when:

1. The facility is constructed by the ultimate consumer or user, not an REA borrower.
2. The electrical current or telephone service is provided by an eligible REA-financed facility.

34.13 - Former Borrowers

Those REA borrowers who have repaid their loans in full and those REA-financed facilities that have been acquired by non-REA financed private companies or municipalities are eligible for a fee-exempted right-of-way under Public Law 98-300 based either on the original REA financing or on extensions of the REA-financed facility.

34.14 - Joint Ventures

In case of joint venture sponsoring, where one or more of the sponsors have eligible REA financing, the REA financing must be more than nominal or token to qualify the right-of-way grant for the fee exemption provision of Public Law 98-300 as an extension. Apply the fee exemption provisions only to those specific portions of the project that are REA financed.

34.15 - Exclusions

A holder who purchases power delivered through an REA-financed transmission line for further transmission, distribution, or sale is not eligible for the fee exempted benefits of Public Law 98-300 as an extension. Similarly, merely wheeling power through an REA-financed transmission line does not qualify an otherwise unqualified holder to receive a fee-exempted right-of-way.

34.16 - Authorizations Not Under Federal Land Policy and Management Act

Although Public Law 98-300 applies only to authorizations made pursuant to the Federal Land Policy and Management Act, do not charge a fee for rights-of-way made under other authorities (now repealed) if the facilities otherwise meet the test for exemption fees.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

34.17 - Fee Clause

Delete the standard permit fee clause and insert Clause A17, Fees - Rural Electrification Administration Facilities (FSH 2709.11, sec. 53), when amending or issuing permits to REA-financed facilities. Do not collect administrative costs for REA permits exempted from a land use rental fee.

36 - FEE SYSTEMS AND SCHEDULES

36.04 - Responsibility

36.04a - Regional Foresters

It is the responsibility of regional foresters to adjust the minimum 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. 36.51c).

36.1 - Fee Based on Sales (Graduated Rate Fee System)

See FSM 2715.11 for direction on the graduated rate fee system (GRFS), which is used to determine fees for concessions, such as ski areas.

36.2 - Communications Site Fee Schedule

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

36.3 - Government Owned Facilities Fee (Granger-Thye)

For direction on fees for Government owned facilities (Granger-Thye), see FSM 2715.13.

36.4 - Linear Right-of-Way Fee Schedule

This section provides direction for use of the fee schedule in special use authorizations for linear rights-of-ways. This schedule is established pursuant to the linear right-of-way fee policy adopted December 5, 1986 (48 FR 44014).

36.41 - Determination of Fee

Calculate the annual fee by using the fee schedule in exhibit 02 (which is issued separately as an interim directive) that provides rental rates by State, county, and type of linear right-of-way use. The annual fee is the rental rate times the number of acres. Round the acres to the nearest

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

hundredth and round the total fee to the nearest dollar. For example, the 1991 fee for a municipal water canal located on 21.392 acres of National Forest System lands in Hood River County, Oregon, is calculated as follows:

$$\$23.55 \text{ per acre per year} \times 21.39 \text{ acres} = \$558.84 \text{ (rounded to } \$559\text{)}.$$

1. Annual Adjustments. The per-acre rental fees in the fee schedule are adjusted annually by multiplying the current year per-acre rental fee by the annual change (second quarter to second quarter) in the implicit price deflator-gross national product (IPD-GNP) index, exhibit 01 (which is issued separately as an interim directive), 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 is responsible for making annual updates to the IPD-GNP index and fee schedule.
2. Minimum Fee. Charge the Regional or Forest minimum fee when the calculated annual fee from the fee schedule is less than the minimum fee established by the Regional Forester or Forest Supervisor. For example, when the Regional Forester sets \$50 as the Regional minimum fee for a special-use permit, charge the minimum \$50 rather than the \$20 fee calculated from the linear right-of-way fee schedule.
3. Consolidated Fee. Calculate the annual fee amount from the fee schedule and multiply the product by the number of years for which fees are collected (sec. 32.21). For example, the 1991 annual fee amount for a water line is \$60 and the special use permit provides for fee payments for 5-year periods. The fee amount would be \$300 (\$60 x 5 years = \$300). The fee would be collected again in 1996 and would be calculated by using the adjusted values in 1996 for the next 5-year period.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

36.41 - Exhibit 01

**Cumulative Implicit Price Deflator-Gross National Product (IPD-GNP)
for the
Linear Right-of-Way Fee Schedule**

EXHIBIT 01 IS ISSUED YEARLY AS A SEPARATE INTERIM DIRECTIVE

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

36.41 - Exhibit 02

Linear Right-of-Way Fee Schedule

EXHIBIT 02 IS ISSUED SEPARATELY AS AN INTERIM DIRECTIVE.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

36.42 - Exceptions to Fee Schedule

Do not charge the rates in the 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 permit 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 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 under a different fee system, such as the graduated rate fee system or a per unit fee system.
3. The fee being calculated is for dams and reservoirs.
4. The rights-of-way are water transmission facilities for hydroelectric projects.
5. The fee determined by an appraisal is 10 or more times the fee from the schedule. For example, the fee schedule would not be used when the fee determined by appraisal is \$1,000 and the fee from the schedule is \$100. When the appraisal is based on land value of the area occupied by the right-of-way for the authorized use, apply the differential adjustment for the category of right-of-way and amortization rate (sec. 36.45) to the appraised value to arrive at the current calendar year fee per acre.

Example: The indicated 1991 rental fee per acre from the schedule (sec. 36.45) for a private land access road in Glacier County, Montana, is \$5.88 per acre. The road crosses highly valued recreation land. An appraisal values the land at \$1,500 per acre. The calculated rental fee would be as follows:

$$\text{Rental fee per acre} = \$1,500 \times 80\% \times 6.41\% = \$76.92 \text{ per acre.}$$

6. The calculated annual fee is less than the minimum established by the Regional Forester or Forest Supervisor.

36.43 - Amending Existing Special-Use Authorizations

1. Fees. Special-use permits issued on Forms FS-2700-4 and FS-2700-11 contain a provision in the fee clause that states, "Provided, however, charges for this use may be made or readjusted whenever necessary to place the charges on a basis commensurate with the value of use authorized by this permit." Amend permits containing this provision by deleting the fee clause and adding clause A-14 or A-15, as appropriate, from section 53.1 of this handbook. At the same time, include the current clause regarding interest, penalty, and administrative charges, if needed.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

Term permits provide for fee adjustment at 5-year intervals and cannot be amended without the holder's approval. Amend these authorizations when there is an opportunity to provide for annual adjustment of fees and other needed changes.

2. Relocation. Retain clause X-33 in all authorizations where it is required (sec. 52).
3. Assignability. Special-use permits are not assignable. Do not amend special-use permits to provide for assignability.

36.44 - Preparing New Authorizations

Choose the appropriate fee clause in Form FS-2700-4 to provide for annual adjustment or consolidated payment (sec. 52.1). Modify the fee clause included in other printed forms or formats to provide for annual adjustment or consolidation, as appropriate, using clause A-14 or A-15 (sec. 52.1).

36.45 - Fee Schedule

1. Fee Formula. The annual rental fee per acre (rental fee/acre) is calculated by taking the right-of-way zone value (ZV) times the differential adjustment (DA) times the amortization rate (AR):

$$\text{Rental fee/acre} = \text{ZV} \times \text{DA} \times \text{AR}.$$

2. Right-of-Way Zone Value. The right-of-way zones are based on typical rawland values for the types of land on which, in the past, the Forest Service and Bureau of Land Management have authorized linear rights-of-way. The zones established in the schedule in section 36.41, exhibit 02 (issued separately as an interim directive), are by State and county jurisdiction. The values for right-of-way zones are not based on the values for urban or suburban residential areas, industrial parks, farms or orchards, recreational properties, or other such types of land. Specific sites within a zone may have actual values higher or lower than the value assigned to the zone.
3. Differential Adjustment. The differential adjustment is a component of the rental formula which adjusts the zone value downward to reflect the differences between rights-of-way authorizations granted by private landowners and those authorized by the Government. Two categories of uses have different adjustment factors:
 - a. Adjust land values for energy pipelines, ditches, canals, and road rights-of-way at 80 percent of the zone right-of-way value, and
 - b. Adjust land values for electrical transmission, electrical distribution, telephone, and other linear rights-of-way not identified above at 70 percent.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

4. Amortization Rate. The rental 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 as outlined in paragraph 5 on updating the fee formula.

5. Updating the Fee Formula. When one of the following conditions occurs the Washington Office Director of Lands is responsible for undertaking a review of all the elements of the formula.

a. A cumulative change in the IPD-GNP index of plus or minus 30 percent occurs. 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 and 9.61 percent.

If the review indicates a change or adjustment to the formula is needed, the Forest Service shall request public input by notice in the Federal Register and follow the public involvement procedures in Title 36, Code of Federal Regulations, Part 216.

6. Cumulative IPD-GNP Adjustments for the Fee Schedule. The cumulative IPD-GNP adjustments for the linear right-of-way fee schedule, second quarter to second quarter, are in section 36.41, exhibit 01 (issued separately as an interim directive).

7. Rental Fee/Acre. The current fee schedule to be used is set out in section 36.41, exhibit 02 (issued separately as an interim directive).

36.5 - Organizational Camp

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

36.51 - Land Use Fee

36.51a - Initial Fee Computation

Establish the initial land use fee by assessing a rate based on 5 percent of the total value of National Forest System 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 through the World Wide Web/Internet at <http://www.agcensus.usda.gov/>.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

36.51b - 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. 36.56, ex. 01) in the Special Uses Data System. Exhibit 03 in section 36.56 provides direction for computing the annual compounded rate of change between the two most recent Censuses of Agriculture.

36.51c - Minimum Fee

The minimum 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.

36.51d - Reduction and Offset of Land Use Fees

The reductions provided for in this section may not reduce the land use fee below the minimum land use fee (sec. 36.51c). 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 2709.11, section 41.13d. 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, see FSH 2709.11, 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.
3. Work-in-Lieu Program. Pursuant to section 3 of the Federal Timber Contract Payment Modification Act (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.

36.52 - Facility Use Fee

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

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

36.52a - Fee Formula

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

36.52b - Reductions and Waivers

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.

36.52c - 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. 580d). Document offset of a facility use fee on form FS-2700-4h, appendix B.

36.53 - 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 National Forest System lands or Government-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. 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 fees based on other revenues.

36.54 - Phase-In of 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 (see sec. 36.52, Facility Use Fee), but which was offset previously under the Federal Timber Contract Payment Modification Act; and
3. The holder's cash flow.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

Do not phase in fee increases that result from an increase in permitted acres or a change in reductions to the land use fee (sec. 36.51d) from the previous fee year. The length of the phase-in may not exceed 5 years.

36.55 - Deposit and Expenditure of Fees

36.55a - Land Use Fees and Fees Based on Other Revenues

1. Accounting and Availability of Fees. Land use fees (sec. 36.51) and fees based on other revenues (sec. 36.53) 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.
- 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.

36.55b - 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.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

36.56 - 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 the Special Uses Data System (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.

**FSH 2709.11 - SPECIAL USES HANDBOOK
 CHAPTER 30 - FEE DETERMINATION**

36.56 - Exhibit 01

Annual Fee Worksheet Example

Permit Data					
Permit ID:					
Holder ID:					
Holder name:					
State:					
County:					
<hr/>					
Land Use Fee					
1 Per-Acre Value*:	\$1,000	CLICK HERE FOR * Census of Agriculture web link.			
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		Previous
4 d) Number of Years Between Date of Most Recent Census and Date of Fee Calculation	6		Census		Census
5 Total Value:	\$114,871				
6 Base Land Use Fee (5% of Total Value)	\$5,744				
7 Reductions		<u>Amount</u>			
% Priority 1	10%	\$574			
% Priority 2	60%	\$3,102			
8 Adjusted Land Use Fee	\$2,068				
<hr/>					
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				
<hr/>					
Total Land Use Fee and Fee Based on Other Revenues:					
11 a) Minimum Fee	\$300	LAND USE FEE CANNOT BE LESS THEN \$300			
<hr/>					
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				
<hr/>					
13 Final Fee	\$10,300				
<hr/>					
Worksheet Prepared by _____		Date _____			
Approved by _____		Date _____			

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

36.56 - 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 (FSH 2709.11, 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 (FSH 2709.11, sec. 36.54) -
 - (a) Enter amount of revenue.
 - (b) Amount of fee based on other revenues.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

36.56 - Exhibit 01--Continued

10) Work In Lieu (FSH 2709.11, sec. 36.52) - Enter dollar value of qualifying work performed by the holder.

11) Total Land Use Fee - Must be equal to or greater than minimum fee.

(a) Enter minimum fee value

12) Facility Use Fee (FSM 2715.13 and FSH 2709.11, sec. 36.53) - 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.

**FSH 2709.11 - SPECIAL USES HANDBOOK
 CHAPTER 30 - FEE DETERMINATION**

36.56 - 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					
% Priority 1	10%	0%	0%	0%	0%
% Priority 2	60%	0%	0%	0%	0%
Amount	\$574	\$0	\$0	\$0	\$0
Amount	\$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

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

36.56 - 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 (FSH 2709.11, 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 (FSH 2709.11, sec. 36.54)
 - (a) Enter amount of revenue.
 - (b) Amount of fee based on other revenues.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

36.56 - Exhibit 02--Continued

10) Work In Lieu (FSH 2709.11, sec. 36.52) - Enter dollar value of qualifying work performed by the holder.

11) Total Land Use Fee - Must be equal to or greater than minimum fee.

(a) Enter minimum fee value

12) Facility Use Fee (FSM 2715.13 and FSH 2709.11, sec. 36.53) - 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.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

36.56 – 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 interested 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 time period, and so on for each time 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);
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)^{-1/n}", 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. 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.

$$(500)(1.148698)^5 = (500)[(1.148698)(1.148698)(1.148698)(1.148698)(1.148698)] =$$
$$(500)[1.99999] = 1,000$$

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

36.56 – Exhibit 04

EXAMPLE OF ORGANIZATIONAL CAMP FEE CALCULATION

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

Land Use Fee = .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 = .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 = $100/1000 = .10$ or 10%

Priority 2 = $600/1000 = .60$ 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 = .05 x \$500 = \$25

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

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

36.56 – Exhibit 04--Continued

Work In Lieu = \$2,000

Assume the holder completed \$2000 in work that benefited the government. 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.

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

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

Facility Use Fee = (.05 x value of Government-owned facilities) – offset work

The facility use fee is subject to 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 Government-owned facilities is \$200,000 and the holder conducted \$0 worth of offset work.

Facility Use Fee = (.05 x \$200,000) - \$0 = \$10,000

Final Fee = Total Land Use Fee and Fee Based on Other Revenues + Facility Use Fee

Final Fee = \$300 + \$10,000 = \$10,300

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

36.6 - Geological and Geophysical Exploration Fee

The fee for seismic exploration is \$200.00 per mile or fraction of a mile. Charge this fee for any permit issued to authorize seismic exploration for oil and gas on National Forest System 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 fee to a leaseholder for seismic exploration of an area within a valid leasehold (FSM 2860).

36.7 - Commercial Filming and Still Photography Fees

For direction pertaining to the permitting and administration of commercial filming and still photography, see FSM 2720 and sections 45.5 through 45.52c of this handbook.

36.71 - Determining Commercial Filming and Still Photography Fees

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

36.72 - Accounting of Commercial Photography and Still Photography 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.

36.73 - Expenditure of Commercial Filming and Still Photography Fees

The Act of May 26, 2000 (16 U.S.C. 4601-6d(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. 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. 30.1).

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 National Forest System 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 activities when approved in advance by the Director of Lands, Washington Office.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

1. Land Use Fees Retained on National Forest Units.

a. Program Support. Each Forest 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.

b. Program Administration. Each Forest 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.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

(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.

(b) Printing and distribution of permits and brochures.

2. Land Use Fees Retained at the Regional Office. The Regional Office shall retain 5 percent of all land use fees collected within the Region from commercial filming and still photography activities. 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 Forest or Regional film board liaisons.

d. Creating Forest or zone commercial filming and still photography permit specialists.

3. Land Use Fees Retained at Washington Office. The Washington Office, Lands 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.

37 - OUTFITTER AND GUIDE FEES

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

37.01 - Authority

For related authorities, see section 30.1 and FSM 2701.1.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

37.03 - Policy

For related policy, see section 31 and FSM 2715.03.

37.03a - Fees for Activities Associated With Commercial Public Service Site

Use the Graduated Rate Fee System (GRFS) (FSM 2715.11) to determine fees for outfitter and guide activities (such as cross-country skiing or horseback riding) established by the Forest Service in connection with an authorized commercial public service site on National Forest System lands (such as a resort or lodge). Where applicable, require holders under GRFS to pay additional fees for assignment of sites (sec. 37.21h) and livestock grazing use (sec. 37.21i).

37.03b - Fees for Activities Not Associated With Commercial Public Service Site

Require payment of fees according to the direction in sections 37.21 to 37.24 for outfitter and guide activities authorized as a distinct activity not associated with a public service site.

37.04 - Responsibility

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

37.05 - Definitions

See section 41.53d for additional 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 National Forest System Lands. The reduction in the fee for commercial use to account for the portion of the outfitted or guided trip that occurs off National Forest System lands (sec. 37.21e).

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.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

Client Days.

- a. National Forest System Client Days. The number of service days (that is, days on National Forest System 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.
- b. Total Client Days. Where there is use both on and off National Forest System 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 National Forest System 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:

- a. 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);
- b. Revenue received by the holder or the holder's employees or agents for scheduling or booking the outfitted or guided trip; and
- c. Revenue from goods or services provided off National Forest System lands, such as lodging and meals, unless specifically excluded.

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

- a. 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
- b. The value of gratuities, which are goods, services, or privileges that are not available to the general 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.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

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

- a. Revenue derived from goods or services sold on private land that are not related to outfitting and guiding operations conducted on National Forest System lands, such as souvenirs, telephone toll charges, and accident insurance sales;
- b. 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
- c. 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 National Forest System 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 National Forest System lands.

37.1 - Commercial Services Associated With Commercial Public Service Site

Use the Graduated Rate Fee system to determine outfitter and guide fees associated with such sites (sec. 37.03a and FSM 2715.11).

37.2 - Commercial Services Not Associated With Public Service Site

37.21 - Fees

Fees are assessed against adjusted gross revenue. Fees are also assessed against all unapproved non-use.

37.21a - Minimum Fee

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

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

37.21b - Flat Fee for Temporary Use Permits

1. Charge a flat 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

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.

37.21c - Fee for Commercial Use

Calculate and collect a fee for commercial outfitting and guiding occurring on National Forest System lands. Charge for any commercial use of National Forest System 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 is based on an average client-day charge using the following schedule of rates:

**FSH 2709.11 - SPECIAL USES HANDBOOK
 CHAPTER 30 - FEE DETERMINATION**

<u>Average Client-Day Charge (for Client Days on and off NFS Lands)</u>		<u>Client-Day Fee</u>
Less than \$	8.00	\$.25
8.01 -	20.00	.40
20.01 -	35.00	.80
35.01 -	50.00	1.30
50.01 -	75.00	1.90
75.01 -	100.00	2.60
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:

- a. Client Days (National Forest System and Total). To determine the number of National Forest System 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.
- b. 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. 37.05). This figure represents adjusted gross revenue for the duration of the outfitted or guided trip.
- c. Average Client-Day Charge. Divide the adjusted gross revenue by the number of client days (National Forest System or total) for the duration of the outfitted or guided trip. This figure is the average client-day charge.
- d. Client-Day Fee. Refer to the preceding Schedule of Rates, and use the average client-day charge to determine the client-day fee.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

e. Interim Calculation for Fee for Commercial Use. Where use is strictly on National Forest System lands, multiply the number of National Forest System client days by the client-day fee to determine the fee for commercial use. Where use is both on and off National Forest System 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 National Forest System lands under the following paragraph f.

f. Adjustment for Use off National Forest System Lands. Adjust for use off National Forest System 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 National Forest System lands. Refer to 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 National Forest System 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

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

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.

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.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

f. Adjustment for use off NFS lands:

NFS client days:

3 service days x 8 clients = 24 NFS client days

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. 37.21e):

$\$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 is 3 percent of the annual adjusted gross revenue, minus any applicable adjustment for use off National Forest System 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 National Forest System lands to determine the fee for commercial use (sec. 37.05; 37.21c, para. 1b, and 37.21e).

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

$\$4850 \times 0.03 = \145.50 fee for actual commercial use.

Example B-2: For one year, the holder had an annual adjusted gross revenue of \$4,650 and used 90 days of 100 authorized use days. Unapproved non-use accounted for 10 days.

$\$4,650 \times 0.03 = \139.50 fee for 90 days of commercial use.

\$139.50 = \$1.55 per day
90 days

$\$1.55$ per day x 10 days = \$15.50 fee for 10 days of unapproved non-use.

$\$139.50 + \$15.50 = \$155$ fee for commercial use.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

Example B-3: 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. 37.21e):

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

$$\$7,500 - \$3,000 = \$4,500 \text{ fee for commercial use.}$$

3. Short-Stop Fee. (Sec. 37.05). 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 National Forest System 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 \$2.00 per client for this service.

$$175 \text{ passenger trips} \times \$2.00 = \$350 \text{ fee for commercial use.}$$

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 \$2.00 per client.

$$35 \text{ people} \times 50 \text{ buses} \times \$2.00 = \$3,500 \text{ fee for commercial use.}$$

37.21d - 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.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

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.

37.21e - Adjustment for Use off National Forest System Lands

Reduce the fee or estimated fee if the outfitter or guide's clients occupy National Forest System 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 National Forest System lands to qualify for the adjustment. Other units of measure besides days may be used where equitable to calculate the percentage on and off National Forest System lands. For example, trail distance may be used at Nordic centers.

1. Apply the following schedule in calculating adjustments for use off National Forest System lands:

Percentage on NFS Lands	Fee Reduction
Less than 5 percent	80 percent
5 to 60 percent	40 percent
Over 60 percent	None

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 National Forest System lands.

2. When use off National Forest System 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 Bureau of Land Management (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).

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

37.21f - 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. 37.21c, 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. 37.21c, 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. 37.22 and 37.23). See sections 37.21b, 41.53m and 41.53n for additional direction.

37.21g - Payment [Reserved]

37.21h - 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 and Heritage Resources adjusts the minimum annual fee (in para. 1) that applies to each assigned site every three years based on the Gross Domestic Product-Implicit Price Deflator Index (sec. 37.04). The assigned site fee is in addition to the minimum permit fee and other mandatory fees for commercial outfitting and guiding (sec. 37.21c).
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.
5. Authorized officers may not authorize refunds or credits for assigned site fees.

37.21i - Fee for Grazing Livestock

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

37.21j - Fee for Nonprofit Organizations

The fee for nonprofit organizations is three percent of annual adjusted gross revenue (option B, sec. 37.21c, 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.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

37.21k - Fee for Educational Institutions

The fee is three percent of annual adjusted gross revenue (option B, sec. 37.21c, para. 2).

1. Credited Programs. Exclude tuition and other payments made by students which are unrelated to the use of National Forest System 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.

37.22 - 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. 31.4) prior to the operating season.
3. Establish payment due dates prior to the start of the operating season for all payments.
4. Calculate the total 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).

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

37.23 - 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 37.22, paragraph 1. Use financial records and records of use appropriate for the fee option selected (sec. 37.21c).

37.24 - Billing and Refunds

Calculate the fee for commercial use and adjust for use off National Forest System lands, if applicable. Charge the holder for any unapproved non-use. 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. Under the authority of the Land and Water Conservation Fund Act of 1964 (16 U.S.C. 4601-6a(c) and (i)(1)), deposit fees into the Land and Water Conservation Fund (FSM 6530).

38 - SKI AREA PERMIT FEES

38.01 - Authority

For related direction, see FSM 2701.1.

38.02 - Objectives

The objectives of the permit fee system for ski areas operating on National Forest System lands are:

1. To ensure that the permit fee remains equitable to both the United States and ski area permit holders.
2. To ensure that the permit fee system is economical and simple to administer for both the permit holders and the Forest Service.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

38.03 - Policy

38.03a - Ski Area Permits Subject to Fee System Established by 16 U.S.C. 497c

Use the fee system established by 16 U.S.C. 497c to calculate permit fees for ski areas authorized by the National Forest Ski Area Permit Act of 1986 (Ski Area Permit Act) and for those ski areas authorized by the Organic Act of 1897 and the Term Permit Act of 1915 that have elected the permit fee system established by 16 U.S.C. 497c. For ski areas authorized by the Ski Area Permit Act, follow the direction in section 38.43a and section 38.43b to convert permits to the permit fee system in 16 U.S.C. 497c. For ski areas authorized by other authorities, follow the direction in section 38.43c to convert permits to the permit fee system established by 16 U.S.C. 497c.

38.03b - Ski Area Permits Subject to Graduated Rate Fee System or Alternate Fee System

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

38.04 - Responsibility

38.04a - Director of Recreation and Heritage Resources, Washington Office

It is the responsibility of the Director of Recreation and Heritage Resources, Washington Office to adjust annually the gross revenue figures for each revenue bracket by the Consumer Price Index for the preceding calendar year (sec. 38.12) and to analyze every five years, beginning in 1999, whether permit fees paid under 16 U.S.C. 497c are returning fair market value for the use of National Forest System lands under ski area permits.

38.04b - Director of Financial and Accounting Operations, Washington Office

It is the responsibility of the Director of Financial and Accounting Operations, Washington Office to compile national permit fee information annually and to provide overall management and oversight on audits of the fee system (FSH 1409.15, Auditing Concessions Handbook) to be used in administration of the permit fee system established by 16 U.S.C. 497c.

38.04c - Directors of Financial Management, Regional Offices

It is the responsibility of the Regional Directors of Financial Management or equivalent officials to submit regionally compiled permit fee information to the Washington Office on an annual basis.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

38.04d - Authorized Officer

It is the responsibility of the authorized officer (36 CFR 251.51) to:

1. Notify the permit holder of the ski area permit fee system and related requirements established by 16 U.S.C. 497c and, as applicable, of the holder's option to elect the permit fee system established by 16 U.S.C. 497c.
2. Modify special use permits issued under the Ski Area Permit Act to incorporate provisions of the ski area permit fee system established by 16 U.S.C. 497c, and provide permit fee information on Form FS-2700-19a, USDA Forest Service Fee Calculation for Ski Area Permits, to the permit holder.
3. Notify holders of annual adjustments to the gross revenue figures for each revenue bracket by the Consumer Price Index for the preceding calendar year (sec. 38.12).
4. Require the holder, through provisions in the permit, to calculate and make estimated fee payments, and ensure that the holder calculates and pays permit fees in accordance with the terms of the permit.
5. Ensure that the holder submits financial documents, including annually completed permit fee information on Form FS-2700-19a, that support fee calculations in accordance with the terms of the permit.
6. Submit permit fee information to the regional director responsible for financial management on an annual basis.

38.05 - Definitions

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

Adjusted Gross Revenue - AGR. Revenue used in the permit 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 National Forest System lands; gross year-round revenue from ancillary facilities located on National Forest System 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).

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

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 National Forest System lands, including all holder and subholder 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 permit fee for use of National Forest System 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 Percentage - STFP. 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 National Forest System lands and private land in the ski area.

38.1 - Permits Subject to Ski Area Permit Fee System

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

38.11 - Fee Proration for Mixed Land Ownership

Under no circumstances shall holder or subholder 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 permit fee calculation.

1. Prorate revenue derived from the ski area according to the percentage of use between National Forest System 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. 38.12, para. 5).
2. Prorate revenue from ancillary facilities before it is included in the permit fee calculation, since GRAF is gross revenue from ancillary facilities located on National Forest System lands.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

3. Include in the 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).

38.12 - Fee Calculation

(See sec. 38.05 for definitions of acronyms and terms used in this section.) Use the following formula to calculate the ski area permit fee in accordance with 16 U.S.C. 497c:

$$\text{SAPF} = (.015 \times \text{AGR in bracket 1}) + (.025 \times \text{AGR in bracket 2}) + (.0275 \times \text{AGR in bracket 3}) + (.04 \times \text{AGR in bracket 4})$$

Where:

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

1. SAPF is the ski area permit fee established by 16 U.S.C. 497c for use of National Forest System 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 permit 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 Director of Recreation and Heritage Resources, Washington Office, annually adjusts the four revenue brackets by the Consumer Price Index (CPI). (The Director of Lands, Washington Office, issues the updated CPI annually in sec. 36.21). 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 permit fee calculation. Only the levels of AGR defined in each bracket are updated annually. The percentage rates do not change.
 - e. To calculate permit fees for fiscal years 1996 through 1999, and for 2000 and beyond, use the revenue brackets and percentages displayed in exhibit 01 as shown in the preceding formulas in this section.
2. AGR is the adjusted gross revenue used in the permit fee calculation.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

- a. Include as 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 subholders; 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 National Forest System lands and from ancillary facility operations conducted on National Forest System 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 National Forest System lands and private land in the ski area;
 - (2) Gross year-round revenue from ancillary facilities located on National Forest System lands;
 - (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 National Forest System lands and private land as described in section 38.11 and as indicated in the following paragraphs 5 and 6.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

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 % is the method used to prorate revenue from the sale of ski area passes and lift tickets and revenue from ski school operations between National Forest System 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. STFP is the method used to prorate alpine revenue. Follow the direction for STFP contained in FSM 2715.11c. Include in the calculation only uphill devices (lifts, tows, and tramways) that are fundamental to the winter sports operation (usually those located on both Federal and private land). Do not include people movers whose primary purpose is to shuttle people between parking areas or between parking areas and lodges and offices.
 - b. Nordic trail length is the method used to prorate nordic revenue. Use the percentage of trail length on National Forest System lands to total trail length. To calculate the percentage, divide the length of nordic trails on National Forest System lands by the total length of ski area nordic trails.
6. GRAF is the revenue from ancillary facilities, including all of the holder's or subholder's lodging, food service, rental shops, parking, and other ancillary operations located on National Forest System lands. For facilities that are partially located on National Forest System lands, calculate the ratio of the facility square footage located on National Forest System 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 National Forest System lands to the total use.

**FSH 2709.11 - SPECIAL USES HANDBOOK
 CHAPTER 30 - FEE DETERMINATION**

38.12 - Exhibit 01

**Adjusted Gross Revenue (AGR) Brackets and Associated Percentage Rates
 for Use in Determining Ski Area Permit Fee (SAPF)**

Revenue Brackets (updated annually by CPI*) and Percentage Rates				
Holder FY	Bracket 1 (1.5%)	Bracket 2 (2.5%)	Bracket 3 (2.75%)	Bracket 4 (4%)
FY 1996 CPI: N/A	All revenue below \$3,000,000	\$3,000,000 to <\$15,000,000	\$15,000,000 to \$50,000,000	All revenue over \$50,000,000
FY 1997 CPI: 1.030	All revenue below \$3,090,000	\$3,090,000 to <\$15,450,000	\$15,450,000 to \$51,500,000	All revenue over \$51,500,000
FY 1998 CPI: 1.022	All revenue below \$3,158,000	\$3,158,000 to <\$15,790,000	\$15,790,000 to \$52,633,000	All revenue over \$52,633,000
FY 1999 CPI: 1.017	All revenue below \$3,212,000	\$3,212,000 to <\$16,058,000	\$16,058,000 to \$53,528,000	All revenue over \$53,528,000
FY 2000 CPI: 1.021	All revenue below \$3,279,000	\$3,279,000 to <\$16,395,000	\$16,395,000 to \$54,652,000	All revenue over \$54,652,000
FY 2001 CPI: 1.035	All revenue below \$3,394,000	\$3,394,000 to <\$16,969,000	\$16,969,000 to \$56,565,000	All revenue over \$56,565,000

**FSH 2709.11 - SPECIAL USES HANDBOOK
 CHAPTER 30 - FEE DETERMINATION**

38.12 - Exhibit 01--Continued

Holder FY	Bracket 1 (1.5%)	Bracket 2 (2.5%)	Bracket 3 (2.75%)	Bracket 4 (4%)
FY 2002 CPI: 1.028	All revenue below \$3,489,000	\$3,489,000 to <\$17,444,000	\$17,444,000 to \$58,149,000	All revenue over \$58,149,000
FY 2003 CPI: 1.015	All revenue below \$3,541,000	\$3,541,000 to <\$17,706,000	\$17,706,000 to \$59,021,000	All revenue over \$59,021,000
FY 2004 CPI: 1.021	All revenue below \$3,615,000	\$3,615,000 to <\$18,078,000	\$18,078,000 to \$60,260,000	All revenue over \$60,260,000
FY 2005 CPI: 1.030	All revenue below \$3,723,000	\$3,723,000 to <\$18,620,000	\$18,620,000 to \$62,068,000	All revenue over \$62,068,000
FY 2006 CPI: 1.032	All revenue below \$3,842,000	\$3,842,000 to <\$19,216,000	\$19,216,000 to \$64,054,000	All revenue over \$64,054,000

*The Director of Recreation, Heritage, and Wilderness Resources, Washington Office, updates the revenue brackets annually, based on the Consumer Price Index, (CPI-U), Table A which is published monthly at <http://www.bls.gov>. The CPI is revised and issued annually in section 97.

The bracket update is accomplished by using the change in the CPI-U for "All Urban Consumers" index for the month of July and is based on the percentage increase or decrease for the preceding calendar year. This index base period is 1982-84=100. For example, the 2002 adjustment uses the change between July 2000 and July 2001.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

38.13 - Permit Fee if There is No Adjusted Gross Revenue

In cases when a ski area permit holder has no adjusted gross revenue (AGR) for a given fiscal year, charge the holder a permit fee of \$2 per acre for National Forest System lands under permit or a percentage of the appraised value of National Forest System lands under permit (sec. 31.1), at the discretion of the authorized officer.

When there is minimal use of National Forest System 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.

38.2 - 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 permit fee information on Form FS-2700-19a annually to the authorized officer.
2. When the permit fee is expected to exceed \$10,000 per year, the permit shall require monthly payments. If the permit 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 violation of 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 (31 U.S.C. 3701-3719) when the required payment is not made on time (FSH 6509.11h, Service-Wide Claim Management Handbook, ch. 20).

38.21 - 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 toward the total ski area permit 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 3 previous operating years when applicable.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

2. Base the advance payment for new holders of an existing ski area permit on 20 percent of the prior holder's average fee.
3. For new areas:
 - a. Establish the advance payment for new areas as 20 percent of the permit 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 permit fee as calculated according to the procedures in section 38.13 (\$2 per acre or a percentage of the appraised value of the National Forest System land under permit). If the ski area reports AGR for that fiscal year, credit the permit fee paid under provisions of section 38.13 toward the permit fee calculated according to the ski area permit fee formula in section 38.12.

38.22 - Interim Payments

To keep permit fees current with use, require interim payments. Credit interim payments toward the total ski area permit 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.

38.23 - Final Payments

Reconcile payments made in the current payment cycle against the total ski area permit 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 permit fee information on Form FS-2700-19a, as provided in the permit.

38.3 - Permits Subject to Fee Systems Other Than System Established by 16 U.S.C. 497c

For ski areas authorized by the Organic Act of 1897 and Term Permit Act of 1915 that do not elect the ski area permit fee system established by 16 U.S.C. 497c, continue to assess fees in the manner prescribed in the existing permit. When a new permit is issued under the Ski Area Permit Act or if the holder elects the permit fee established by 16 U.S.C. 497c, calculate the permit fee as set forth in section 38.12 or 38.13.

38.4 - Transition From Prior Permit Fee Systems

The ski area permit 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 the graduated rate fee system (GRFS) for the holder's fiscal year 1996 that began

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

prior to June 1, 1995. Any permit fees prepaid under GRFS for any holder's fiscal year in which the ski area permit fee system established by 16 U.S.C. 497c is in effect shall be reconciled by the authorized officer against the permit fee calculated under the latter system. For the purpose of implementing 16 U.S.C. 497c, do not require a change in the holder's fiscal year or payment schedule.

38.41 - Permit Fee Floor

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

1. The permit fees due for the holder's fiscal years 1996, 1997, and 1998 are, respectively:
 - a. Either the permit fee paid in the base year (fiscal year 1995) or the permit 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 permit fee paid for the base year (fiscal year 1995) or the permit 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 permit fee paid for the base year (fiscal year 1995) or the permit 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 permit fee paid shall be the permit fee calculated under section 38.12 or 38.13. Compare the holder's AGR for the base year, as computed under section 38.12 or 38.13, against the holder's AGR for the transition years.

38.42 - Permit Fee Phase-In

The fee system established by 16 U.S.C. 497c provides for a phase-in of fees during the first five years the system is in effect when the permit fee calculated according to direction in section 38.12 or 38.13 for the holder's fiscal year 1996 results in an increase in the permit fee greater than 0.5 of one percent of the holder's AGR. In such cases, the increase in fees above the base year is phased in over a 5-year period. By the holder's fiscal year 2001, calculate all permit fees under section 38.12 or 38.13. For fiscal years 1996 through 2000, phase in that portion of the permit fee that exceeds the base fee (the fee paid in fiscal year 1995), beginning with the holder's fiscal year 1996. If the phase-in applies, calculate the permit fee according to the fee schedule in exhibit 01.

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

1. The FY 1995 fee is the permit fee paid in the holder's fiscal year 1995 (usually under GRFS).
2. The FY 1996 fee is the permit fee calculated under section 38.12 or 38.13 that would be due if phase-in were not applicable, and so on for the FY 1997-2000 fees.
3. During fiscal years 1997 and 1998, if there is no increase in the permit fee calculated under the fee formula in section 38.12 or 38.13 over the base fee (fiscal year 1995), establish the permit fee paid as the permit 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 permit fee paid shall be the permit fee calculated under section 38.12 or 38.13. Compare the holder's AGR for the base year, as computed under section 38.12 or 38.13, against the holder's AGR for the transition years.
4. During fiscal years 1999 and 2000, if there is no increase in the permit fee calculated under the fee formula in section 38.12 or 38.13 over the base fee (fiscal year 1995), establish the permit fee paid as the fee calculated under section 38.12 or 38.13.

38.42 - Exhibit 01

5-Year Phase-In of Ski Area Permit Fee Under 16 U.S.C. 497c

1. 1996 Permit Fee = FY 1995 fee + .2 x (FY 1996 fee - FY 1995 fee)
2. 1997 Permit Fee = FY 1995 fee + .4 x (FY 1997 fee - FY 1995 fee)
3. 1998 Permit Fee = FY 1995 fee + .6 x (FY 1998 fee - FY 1995 fee)
4. 1999 Permit Fee = FY 1995 fee + .8 x (FY 1999 fee - FY 1995 fee)
5. 2000 Permit Fee = FY 1995 fee + 1.0 x (FY 2000 fee - FY 1995 fee)

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

38.43 - Applicability of Ski Area Permit Fee System Provisions Established by 16 U.S.C. 497c During Transition From Previous Permit Fee Systems to Permit Fee System Established by 16 U.S.C. 497c

Follow direction set out in sections 38.43a through 38.43c when applying transition provisions (sec. 38.4 through 38.42) of the ski area permit fee system established by 16 U.S.C. 497c.

38.43a - Permits Issued Under National Forest Ski Area Permit Act of 1986 on or Before June 1, 1996

Ski areas authorized under the Ski Area Permit Act of 1986 on or before June 1, 1996 are subject to the fee system established by 16 U.S.C. 497c. Amend the holder's permit by replacing the fee provisions in clause VI of the permit with the clause that implements the fee system in section 38.12. See chapter 50 for the appropriate clause. Apply transition provisions (sec. 38.4 through 38.42) of 16 U.S.C. 497c.

38.43b - Permits Issued Under National Forest Ski Area Permit Act of 1986 After June 1, 1996

Ski areas authorized under the Ski Area Permit Act of 1986 after June 1, 1996 are subject to the fee system established by 16 U.S.C. 497c. Amend the holder's permit by replacing the fee provisions in clause VI of the permit with the clause that implements the fee system in section 38.12. 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 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 permit fee system directive issued in Amendment 2709.11-99-2). The permit fee system established by 16 U.S.C. 497c would apply retroactively to these permits. Apply transition provisions (sec. 38.4 through 38.42).
 - 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 permit fee system directive issued in Amendment 2709.11-99-2), the permit 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 permit fee system (sec. 38.12) is effective on the date of permit issuance. Do not apply transition provisions (sec. 38.4 through 38.42.)

**FSH 2709.11 - SPECIAL USES HANDBOOK
CHAPTER 30 - FEE DETERMINATION**

- c. Permits that are issued after May 27, 1999 (90 days following the effective date of the ski area permit fee system directive issued in Amendment 2709.11-99-2) are not subject to the transition provisions for the permit fee system. The phase-in or other transition provisions are not available to these holders. The permit fee system (sec. 38.12) is effective on the date of permit issuance. Do not apply transition provisions (sec. 38.4 through 38.42.)
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 permit fee system (sec. 38.12) is effective on the date of permit issuance. Do not apply transition provisions (sec. 38.4 through 38.42.)

38.43c - Permits Issued Under Organic Act of 1897 and Term Permit Act of 1915

Ski areas authorized under the Organic Act of 1897 or the Term Permit Act of 1915 may elect the permit fee system established by 16 U.S.C. 497c. Amend such permits by replacing the fee provisions in clause VI of the permit with the clause that implements the fee system in section 38.12. See chapter 50 for the appropriate clause.

1. Holders of permits that elect the permit 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 permit fee system directive issued in Amendment 2709.11-99-2), are subject to the transition provisions for the permit fee system (sec. 38.4 through 38.42).
2. Holders that elect the permit fee system established by 16 U.S.C. 497c after May 27, 1999 (90 days following the effective date of the ski area permit fee system directive issued in Amendment 2709.11-99-2), are subject to the permit 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 permit fee system (sec. 38.12). The phase-in or other transition provisions are not available to these holders.