

**§ 251.57**

**36 CFR Ch. II (7-1-08 Edition)**

(2) Any current holder of a ski area permit who wishes to convert an existing permit to one issued pursuant to the National Forest Ski Area Permit Act must submit a written request for the new authorization to the authorized officer.

(3) With the consent of the holder, the authorized officer shall convert the authorization if:

(i) The holder is in compliance with the existing authorization;

(ii) All fees currently due under the existing authorization are paid in full; and

(iii) Any proposed modifications of terms and conditions of the existing authorization included in a request for conversion meet the standards of paragraphs (2)(i) (A) through (F) of this section and the relevant requirements of this subpart.

(4) A holder retains the right to decline a new authorization offered pursuant to this paragraph and to continue to operate under the terms of the existing permit. However, pursuant to the rules at §251.61 of this subpart, major modifications of existing permits shall require conversion to a permit issued under the authority of the National Forest Ski Area Permit Act, unless the holder provides compelling justification for retaining the existing permit.

[45 FR 38327, June 6, 1980, as amended at 49 FR 46895, Nov. 29, 1984; 54 FR 22594, May 25, 1989; 60 FR 45294, Aug. 30, 1995; 63 FR 65967, Nov. 30, 1998; 64 FR 48960, Sept. 9, 1999]

**§ 251.57 Rental fees.**

(a) Except as otherwise provided in this part or when specifically authorized by the Secretary of Agriculture, special use authorizations shall require the payment in advance of an annual rental fee as determined by the authorized officer.

(1) The fee shall be based on the fair market value of the rights and privileges authorized, as determined by appraisal or other sound business management principles.

(2) Where annual fees of one hundred dollars (\$100) or less are assessed, the authorized officer may require either annual payment or a payment covering more than one year at a time. If the annual fee is greater than one hundred

dollars (\$100), holders who are private individuals (that is, acting in an individual capacity), as opposed to those who are commercial, other corporate, or business or government entities, may, at their option, elect to make either annual payments or payments covering more than one year.

(3) A base cabin user fee for a recreation residence use shall be 5 percent of the market value of the recreation residence lot, established by an appraisal conducted in accordance with the Act of October 11, 2000 (16 U.S.C. 6201-13).

(b) All or part of the fee may be waived by the authorized officer, when equitable and in the public interest, for the use and occupancy of National Forest System land in the following circumstances:

(1) The holder is a State or local government or any agency or instrumentality thereof, excluding municipal utilities and cooperatives whose principal source of revenue from the authorized use is customer charges; or

(2) The holder is a nonprofit association or nonprofit corporation, which is not controlled or owned by profit-making corporations or business enterprises, and which is engaged in public or semi-public activity to further public health, safety, or welfare, except that free use will not be authorized when funds derived by the holder through the authorization are used to increase the value of the authorized improvements owned by the holder, or are used to support other activities of the holder; or

(3) The holder provides without charge, or at reduced charge, a valuable benefit to the public or to the programs of the Secretary; or

(4) When the rental fee is included in the fees for an authorized use or occupancy for which the United States is already receiving compensation; or

(5) When a right-of-way is authorized in reciprocation for a right-of-way conveyed to the United States; or

(6) For rights-of-way involving cost-share roads or reciprocal right-of-way agreements.

(c) No rental fee will be charged when the holder is the Federal government.

(d) No fee shall be charged when the authorization is for a noncommercial

group use as defined in §251.51 of this subpart.

(e) Special use authorizations issued under §251.53(g) of this part may require as all or a part of the consideration the reconditioning and maintenance of the government-owned or controlled structures, improvements, and land to a satisfactory standard. The total consideration will be based upon the fair market value of the rights and privileges authorized.

(f) Special use authorizations involving government-owned or controlled buildings, structures, or other improvements which require caretakers' services, or the furnishing of special services such as water, electric lights, and clean-up, may require the payment of an additional fee or charge to cover the cost of such services.

(g) Except where specified otherwise by terms of a special use authorization, rental fees may be initiated or adjusted whenever necessary: (1) As a result of fee review, reappraisal; or (2) upon a change in the holder's qualifications under paragraph (b) of this section; and (3) notice is given prior to initiating or adjusting rental fees.

(h) Each ski area authorization issued under the authority of the National Forest Ski Area Permit Act shall include a clause that provides that the Forest Service may adjust and calculate future rental fees to reflect Agency revisions to the existing system for determining fees based on fair market value or to comply with any new fee system for determining fees based on fair market value that may be adopted after issuance of the authorization.

(i) Each permit or term permit for a recreation residence use shall include a clause stating that the Forest Service shall recalculate the base cabin user fee at least every 10 years and shall use an appraisal to recalculate that fee as provided in paragraph (a)(3) of this section.

[45 FR 38327, June 6, 1980, as amended at 51 FR 16683, May 6, 1986; 54 FR 22594, May 25, 1989; 60 FR 45294, Aug. 30, 1995; 63 FR 65967, Nov. 30, 1998; 71 FR 16621, Apr. 3, 2006]

#### § 251.58 Cost recovery.

(a) *Assessment of fees to recover agency processing and monitoring costs.* The For-

est Service shall assess fees to recover the agency's processing costs for special use applications and monitoring costs for special use authorizations. Applicants and holders shall submit sufficient information for the authorized officer to estimate the number of hours required to process their applications or monitor their authorizations. Cost recovery fees are separate from any fees charged for the use and occupancy of National Forest System lands.

(b) *Special use applications and authorizations subject to cost recovery requirements.* Except as exempted in paragraphs (g)(1) through (g)(4) of this section, the cost recovery requirements of this section apply in the following situations to the processing of special use applications and monitoring of special use authorizations issued pursuant to this subpart:

(1) *Applications for use and occupancy that require a new special use authorization.* Fees for processing an application for a new special use authorization shall apply to any application formally accepted by the agency on or after March 23, 2006 and to any application formally accepted by the agency before March 23, 2006, which the agency has not commenced processing. Proposals accepted as applications which the agency has commenced processing prior to March 23, 2006 shall not be subject to processing fees. The cost recovery provisions of this section shall not apply to or supersede written agreements providing for recovery of processing costs executed by the agency and applicants prior to March 23, 2006.

(2) *Changes to existing authorizations.* Processing fees apply to proposals that require an application to amend or formally approve specific activities or facilities as identified in an existing authorization, operating plan, or master development plan. Processing fees also apply to agency actions to amend a special use authorization.

(3) *Agency actions to issue a special use authorization and applications for issuance of a new special use authorization due to termination of an existing authorization, including termination caused by expiration, a change in ownership or control of the authorized facilities, or a change in ownership or control of the*