A Compilation of US Forest Service Manual and Handbook Provisions Relevant to Special Use Permits

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Introduction

This manual contains selected provisions from the Forest Service Manual (FSM) and Forest Service Handbooks (FSH) related to special use permits. These specific provisions are set out in separate and various areas all throughout the Manual and Handbooks. When a specific issue arises related to a Forest Service special use permit, it can be time consuming and difficult to search through the various areas of the Manual and Handbooks to locate provisions which are relevant to that issue. This manual is valuable because it combines and re-arranges all of those provisions in a single, comprehensive volume, along with a complete index. This unique arrangement will save the reader extensive time in searching through each of those volumes to locate the provisions which are relevant to the issue which the reader faces. In addition, this comprehensive compilation allows the reader to quickly connect directly to the Forest Service’s own website which contains these provisions in the event a review of the actual provision, as issued by the Forest Service, is of assistance. This feature will also allow the reader to ensure that he or she is working with the most current version of the provisions set out in the Manual or Handbook.

The Forest Service Manual and Handbooks are internal agency guidance. They are prepared and issued by the Forest Service pursuant to 7 C.F.R. § 2.7. They are designed to assist Forest Service employees in carrying out their duties under the laws and regulations to manage activities within the National Forest System. These provisions, which at times reiterate federal statutes and federal regulations, are distinct from those legal authorities and set out the agency’s internal policy, practices, and procedures. The Forest Service has stated that these provisions serve “as the primary basis for the internal management and control of all programs and the primary source of administrative direction to Forest Service employees.” The provisions are periodically updated by either amendments or interim directives, which are in place only for a designated period time.

The difference between the FSM and the FSH is that the FSM was intended to set out legal authorities, objectives, policies, responsibilities, instructions, and guidance needed on a regular basis by the agency’s line officers, such as Regional Foresters, Forest Supervisors and District Rangers. The FSH was intended to address the same issues but set out more specific and technical policy for Forest Service specialists and technicians. However, it is important to be aware of the provisions in both the FSM and FSH to ensure you fully understand how these matters should be addressed by Forest Service employees. This volume facilitates that awareness.
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2710.1 - Authority

For further direction on special uses authorities, see FSM 2701.

2710.11 - Statutory Authority

Several acts of Congress authorize occupancy and use of National Forest System lands and interests in lands administered by the Forest Service. The applicable statutory authority determines the appropriate special use authorization. Provisions of these acts are in the Forest Service publication, "Principal Laws Relating to Forest Service Activities."

2710.11a - Types of Authorizations Provided for by Statutory Authorities

Most acts commonly refer to the intended form of authorization in general terms and often indicate more than one form of authorization. The type of document actually prescribed by the requirements of the act is sometimes quite different in legal definition than that implied by the general terminology of the act. Policy may restrict use of certain types of authorizations in specific situations.

The statutes that follow provide for the usual types of authorization documents indicated. See FSM 2701 for summaries of these authorities, and refer to FSH 2709.11, chapter 10, section 19, exhibit 03 for a guide to the types of uses, authorization documents, and terms authorized by these laws.


2710.12 - Regulations
The principal regulations of the Secretary of Agriculture that are applicable to Forest Service special use authorizations are in Title 36, Code of Federal Regulations, Part 251 (36 CFR part 251) (FSM 2701).

2710.2 - Objective

For objective statements, see FSM 2702.

2710.3 - Policy

For further policy direction, see FSM 2703.

Ensure that the correct instruments (FSM 2710.1) are used to authorize the occupancy and use of National Forest System lands. If uncertain of which instrument to use, request technical assistance from the next higher organization level before proceeding.

2710.4 - Responsibility

Refer to FSM 2704 for responsibilities and delegations of authority relating to special use authorizations.

2710.5 - Definitions

See 36 CFR 251.51 and FSM 2705 for definitions of the terms used in this chapter.

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2340.1 - Authority

See FSM 2701 for the lists of Federal laws and regulations that allow occupancy and use of National Forest System lands by entities other than the Forest Service.

2340.2 - Objectives

To provide, under special use authorization, sufficient, suitable facilities, and services that supplement or complement those provided by the private sector, State, and local government
on private land and the Forest Service on National Forest System land to meet public needs, as determined through land and resource management planning.

To facilitate the use, enjoyment, understanding, and appreciation of natural resource settings in National Forests.

2340.3 - Policy

1. Issuance of Authorizations to State, County, or Municipal Agencies for Recreational Improvements.

   a. Issue special use authorizations for State, County, or Municipal agencies to develop or manage recreational improvements on National Forest System lands for:

      (1) Lands that over a long period should be dedicated to that purpose, or

      (2) Lands that could logically be conveyed to State or local governments through land-exchange procedures without detriment to National Forest System administration or programs.

   b. In either case, National Forest System lands eligible for such use should meet at least two of the following conditions. The lands must be:

      (1) Tracts adjacent to exterior National Forest System boundaries.

      (2) Small tracts associated with adjacent, larger tracts managed by other agencies or privately owned that are not suitable for acquisition for National Forest System purposes.

      (3) Tracts adjacent to lands owned by the agency proposing or applying for the authorization and needed to complete a unit for development as a park or recreation area.

   c. Although it would be preferable to adhere to the conditions in the preceding paragraphs 1 through 1b(3) for target range authorizations, target ranges may have specific needs for special site conditions, safety zones, and sound buffers that cannot be achieved along exterior boundaries, on small tracts, or adjacent to other privately owned lands. Therefore, consider special use proposals and applications for target ranges not meeting these criteria on a site-specific, case-by-case basis.

2. Denial of Proposals by State, County, or Municipal Agencies for Recreational Improvements. Deny special use permit proposals by State and local agencies proposing to develop parks or recreational areas that do not qualify under the provisions in the preceding paragraphs 1(1)c, except in unusual circumstances or when the authorization
is clearly in the public interest. Obtain review and advice of the Chief before approving permits based on these exceptions. Review by the Chief is not required for roadside rest and picnic developments by county or State agencies if no suitable private land or other agency land is available for such purposes.

3. **Denial of Proposals by the Private Sector for Recreational Facilities and Services.** Deny proposals by the private sector to construct or provide outdoor recreation facilities and services on National Forest System lands if these facilities and services are reasonably available or could be provided elsewhere in the general vicinity. Encourage business enterprises engaged in providing such facilities and services to locate on private lands or in nearby communities.

4. **Use of Appropriated Funds.** Normally, do not use appropriated funds to construct recreation facilities for operation by others under special use authorization. Use appropriated funds, when necessary, to restore existing Government-owned recreation improvements that have been operated under special use authorization.

5. **General Requirements and Prohibitions related to Authorizations for Recreation Facilities and Services.**

   a. Require holders to protect soil, vegetation, and other resources within the authorized area to perpetuate a condition suitable for recreation purposes.

   b. Ensure that all services and facilities provided by private individuals or public entities under special use permits are equally available to all members of the public. Include non-discrimination clauses in special use permits (FSM 1700 and 2710) and revoke the permits if discriminatory practices occur.

   c. Prohibit gambling devices or activities at any facility or any area authorized for special recreation uses on National Forest System land.

**2340.4 - Responsibility**

See FSM 2710.4 for the responsibilities of the Chief; Washington Office, Director of Recreation, Heritage, and Wilderness Resources; Regional Foresters; Forest Supervisors; District Rangers; and Directors of Experiment Stations concerning the authorization and administration of special use permits. See FSM 1920 for responsibilities for land management planning relevant to planning for private sector recreation uses.

**2340.5 - Definitions**

   - **Additional Seasonal Recreation Activity.** A recreation activity other than snow sports.
   - **Advertising.** The act of calling public attention to a product or business.
Amusement Park. A developed recreation area consisting primarily of: facilities or activities that are not natural resource-based; do not encourage outdoor recreation and enjoyment of nature; do not, harmonize with the natural environment; are not consistent with the general policy on the use of National Forest System lands for special uses; and contain rides and other amusements that are not typically found in a natural resource-based environment, such as water slides and water parks, Ferris wheels, bumper cars, and miniature golf courses.

Authorized Officer. Any Forest Service employee with delegated authority to evaluate and administer special use authorizations (36 CFR 251, subparts B and C, and FSH 2709.11, section 10.41).

Caretaker Cabin. A residence that is authorized in limited cases to provide caretaker services and security to a recreation residence tract and that is not a recreation residence, even if the cabin is located in a recreation residence tract.

Concessioner. An individual, organization, company, corporation, or cooperating State or local agency holding a valid special use permit authorizing the provision of commercial recreation services, facilities, or activities on National Forest System lands.

Inspection. On-site monitoring of an authorized activity or facility to assess conditions and inform a compliance review.

Monitoring.

Administrative. Review of a holder’s performance to ensure that it is in compliance with the terms and conditions of a special use authorization.

Cost Recovery. See 36 CFR 251.58(d); FSH 2709.11, section 20.5.

Engineering. Review of a holder’s performance to ensure that an engineering design or operational standard is met.

Environmental. Review of a holder’s performance to compare implementation of a project to the project decision to determine whether it is being carried out as intended. See FSH 1909.12, section 12, regarding monitoring of land management plans, and FSH 1909.15, section 54, regarding implementation and monitoring of project decisions.

Natural Resource-Based Recreation. A proposed or existing recreation activity that occurs in a natural setting where the visitor’s experience is interdependent with attributes such as mountains, forests, geology, grasslands, water bodies, flora, fauna, and natural scenery.
Qualified Forest Officer. A Forest Service employee, who through training or experience, is sufficiently knowledgeable about the design, operation, and maintenance of concession facilities to act for the Authorized Officer in administering the recreation special use authorization and monitoring these activities.

Recreation Residence. A privately owned dwelling within an established recreation residence tract or group on National Forest System land, authorized for maintenance and use under a special use permit. A vacation structure authorized for the purpose of facilitating the use and enjoyment of related National Forest lands and recreation resources by holders, their families, and guests. A recreation residence is not intended for use as the primary or permanent residence of the owner.

Sponsorship. Monetary or in-kind support from an individual or entity for an event, project, or program that promotes public participation in or awareness of management of National Forest System lands.

Terrain Park. An area with artificial features such as jumps, rails, boxes, quarter- and half-pipes, and other obstacles that is used by freestyle skiers and snowboarders in the snow season and by bicycles in non-snow season.

AUTHORITY (FSM 2701) (version issued on January 10, 2011)

2701.1 Current Statutory Authorities
2701.2 Repealed Statutory Authorities That Remain Applicable
2701.3 Regulations

2701.1 - Current Statutory Authorities

The following statutory authorities govern the issuance and administration of special-use authorizations on National Forest System lands.

1. Organic Administration Act of June 4, 1897, (16 U.S.C. 477-482, 551). This act authorizes the Secretary of Agriculture to issue rules and regulations for the occupancy and use of the National Forests. This is the basic authority for authorizing use of National Forest System lands for other than rights-of-way.

2. Preservation of American Antiquities Act of June 8, 1906, (16 U.S.C. 431 et seq.). This act authorizes permits for archeological and paleontological exploration involving excavation, removal, and storage of objects of antiquity or permits necessary for investigative work requiring site disturbance or sampling which results in the collection of such objects.

4. The Mineral Leasing Act of 1920, as amended on November 16, 1973, (30 U.S.C. 185(1)). This act authorizes the issuance of permits and easements for oil and gas pipelines. It requires annual payments in advance which represent fair market rental value and provides for reimbursement to the Government for administrative and other costs incurred in monitoring, construction (including costs for preparing required environmental analysis and documentation), operation, maintenance, and termination of oil and gas pipelines.

5. Bankhead-Jones Farm Tenant Act of July 22, 1937, as amended (7 U.S.C. 1010-1012). Title III of this act directs and authorizes the Secretary of Agriculture to develop programs of land conservation and use to protect, improve, develop, and administer the land acquired and to construct structures thereon needed to adapt the land to beneficial use. Under the act, the Department of Agriculture may issue leases, licenses, permits, term permits, or easements for most uses, except rights-of-way.


7. Section 7 of the Granger-Thye Act of April 24, 1950, (16 U.S.C. 490, 504, 504a, 555, 557, 571c, 572, 579a, 580c-5801, 581i-1). This act authorizes special-use permits not to exceed 30 years duration for the use of structures or improvements under the administrative control of the Forest Service and for the use of land in connection therewith, without acreage limitation.

8. Independent Offices Appropriation Act of 1952, as amended (31 U.S.C. 9701). This act provides authority for agency heads to charge fees for services or benefits provided by the agency that are fair and based on fair market value and cost to the Government. Office of Management and Budget (OMB) Circular No. A-25 further defines this authority and requires agencies to establish user fees based on sound business management principles.

9. Act of September 3, 1954, (68 Stat. 1146; 43 U.S.C. 931c, 931d). This act authorizes permits, term permits, leases, or easements at the fair market value, not to exceed 30-years duration, to States, counties, cities, municipalities, or other public agencies without acreage limitation for the construction and operation of public buildings or other public works, exclusive of rights-of-way.

The Forest Service consents to the grant of these easements in a form agreed upon by the two agencies and upon the State highway agency's execution of stipulations. This is the only authority for granting rights-of-way for projects on the Federal-aid system or projects constructed under the provisions of Chapter 2 of the Highway Act (FSM 2731).

11. Wilderness Act of September 3, 1964 (16 U.S.C. 1131-1136). This act establishes requirements for special-use authorizations in designated wilderness areas for temporary structures, commercial public services and access to valid mining claims and non-Federal lands. Under this act, Presidential approval is necessary for the establishment of new water facilities, power projects, and transmission lines.

Except for the Alaska National Interest Lands Conservation Act of December 2, 1980, this act is the exclusive authority for rights-of-way occurring within designated wilderness areas.

12. Land and Water Conservation Fund Act of September 3, 1964, as amended (16 U.S.C. 4601-6a(c)). Section 4(c) of this act authorizes permits for recreation, such as group activities, organized events, motorized recreational vehicle use, and other specialized recreation activities of limited duration.

13. National Forest Roads and Trails Act of October 13, 1964, (16 U.S.C. 532-38). This act authorizes the Secretary of Agriculture to grant temporary or permanent easements to landowners who join the Forest Service in providing a permanent road system that serves lands administered by the Forest Service and lands or resources of the landowner. It also authorizes the grant of easements to public road agencies for public roads that are not a part of the Federal-aid system (FSM 2732).

14. The Act of November 16, 1973, (30 U.S.C. 185). This act, amending Section 28 of the 1920 Mineral Leasing Act, authorizes the Forest Service to issue authorizations for oil and gas pipelines and related facilities located wholly on National Forest System land. When the lands are under the jurisdiction of two or more Federal agencies, authority for issuance is reserved to the Department of the Interior, Bureau of Land Management, subject to approval by the agencies involved.

15. Title V, Federal Land Policy and Management Act of October 21, 1976, (43 U.S.C. 1761-1771). Title V of the Federal Land Policy and Management Act (FLPMA) authorizes the Secretary of Agriculture to issue permits, leases, or easements to occupy, use, or traverse National Forest System lands. FLPMA directs the United States to receive fair
market value unless otherwise provided for by statute and provides for reimbursement of administrative costs in addition to the collection of land use fees (43 U.S.C. 1764(g)).

a. Except in designated Wilderness Areas, Alaska, and specifically excepted situations, FLPMA is the only authority for all forms of use involving:

(1) Transportation, distribution, or storage of water.

(2) Transportation, distribution, or storage of liquids or gases other than water and other than oil, natural gas, synthetic liquid, or gas fuels, or their refined products.

(3) Transportation of solid materials and associated facilities for storing such materials.

(4) Generation, transmission, and distribution of electrical energy.

(5) Transmission or reception of electronic signals and other means of communication.

(6) Transportation facilities outside of wilderness, except those rights issued in connection with commercial recreation facilities, authorized by the Federal Highway Act (FSM 2731), or the National Forest Road and Trail Act (FRTA) of October 13, 1964 (FSM 2732). The FLPMA is also used for granting rights-of-way to those otherwise qualified for FRTA easements, but who elect to pay a road-use fee at the time of commercial hauling instead of paying their share of road costs at the time the easement is issued. For further direction of FLPMA road rights-of-ways see FSM 2733.

(7) Other transportation systems or facilities that are in the public interest, including those that would arise from future technological advances.

b. Section 504g of Title V (Public Law 98-300) exempts facilities financed through the Rural Electrification Administration from Federal land use fees. This section also provides for recovery of administrative costs from those uses.

c. Section 501(b)(3) of Title V (Act of October 27, 1986; 100 Stat. 3047; commonly referred to as "Colorado Ditch Bill") expanded the authority of the Secretary of Agriculture to:

(1) Issue free conditional easements for certain water conveyance systems crossing National Forest System lands;

(2) Authorize lump-sum payments for uses on National Forest System lands; and
(3) Administer uses on National Forest System lands authorized under previous acts that were granted or issued by the Secretary of the Interior.

16. **American Indian Religious Freedom Act of August 11, 1978 (42 U.S.C. 1996).** This act states the policy of the United States to preserve and protect the rights of Native Americans to reasonable access and use National Forest System lands for exercising their traditional cultural religious beliefs and practices. This act does not grant authority to issue authorizations.

17. **Archeological Resources Protection Act of October 31, 1979, (16 U.S.C. 470aa).** This act authorizes the Secretary of Agriculture to issue permits for archeological research, investigations, studies, and excavations.

   a. The Alaska National Interest Lands Conservation Act (ANILCA) provides numerous authorities related to access that are specific to National Forests in Alaska (except for sec. 1323(a), which applies to all National Forest System lands; see the following paragraph b). The Regional Forester, Region 10, shall prepare Manual supplements providing necessary direction for Alaska.
   b. The provisions of section 1323(a) (16 U.S.C. 3210) apply to all National Forest System lands. This section provides that, subject to terms and conditions established by the Secretary of Agriculture, the owners of non-Federal land within the National Forest System shall be provided adequate access to their land. Regulations implementing section 1323(a) are set forth at Title 36, Code of Federal Regulations, Part 251, Subpart D - Access to Non-Federal Lands. See FSM 2701.3, paragraph 3, for the summary of the provisions of 36 CFR 251, Subpart D.

19. **Federal Timber Contract Payment Modification Act of 1984, (16 U.S.C. 618).** Section 3 of this act authorizes a waiver of all or part of a land use fee for an organizational camp operated by the Boy Scouts of America or other nonprofit organizations when they provide services the authorized officer determines are a valuable benefit to the public or programs of the Secretary of Agriculture.

20. **National Forest Ski Area Permit Act of 1986, (16 U.S.C. 497b).** This act authorizes use for up to 40 years and acreage size deemed appropriate by the authorized officer for nordic and alpine ski areas and facilities.

21. **Omnibus Parks and Public Lands Management Act of 1996, (16 U.S.C. 497c).** Section 701 of this act:
   a. Establishes a system to calculate fees for ski area permits issued under the National Forest Ski Area Permit Act of 1986, (16 U.S.C. 497b),
b. Provides for holders of ski area permits issued under other authorities to elect this permit fee system (FSH 2709.11, sec. 38.03a),

c. Includes provisions concerning compliance with the National Environmental Policy Act when issuing permits for existing ski areas (FSM 2721.61f and FSH 2709.11, sec. 41.61b), and

d. Withdraws leasable and locatable minerals, subject to valid existing rights (FSH 2709.11, sec. 41.61c).

22. Act of May 26, 2000, (16 U.S.C. 406l-6d). This act supplements the authority of the Secretary of Agriculture to regulate commercial filming and still photography on National Forest System lands. It also authorizes the Secretary to retain and spend land use fees collected for commercial filming and still photography without further appropriation, and provides for recovery of administrative and personnel costs in addition to the collection of the land use fee.


24. National Forest Organizational Camp Fee Improvement Act of 2003, (16 U.S.C. 6231 et seq.). This act establishes a land use fee system for organizational camps located on National Forest System lands and authorizes the Secretary to retain and spend these fees without further appropriation. The act also exempts certain ministerial actions from the provisions of the National Environmental Policy Act.

2701.2 - Repealed Statutory Authorities That Remain Applicable

The following acts which authorized the use of Federal land have been repealed. However, uses on National Forest System lands which were authorized under these authorities must continue to be administered in accordance with their terms and conditions. Refer to FSM 5520 for management direction.

1. The Act of July 26, 1866, (14 Stat. 254; 30 U.S.C. 51). This act granted rights-of-way for the construction of ditches and canals for water to be used for mining, agriculture, manufacturing, or other purposes.

2. The Act of March 3, 1875, as amended by the Act of March 3, 1899 (43 U.S.C. 934-939; 16 U.S.C. 525). This act granted rights-of-way to railroads for 100 feet on each side of the center line of the road; use of land for associated facilities, not to exceed 20 acres; and the right to take earth, stone, and timber necessary for railroad construction.
3. The Act of March 3, 1891, (26 Stat. 1096; codified in scattered sections of 43 U.S.C.). This act granted rights-of-way for irrigation to any canal or ditch company organized under the State or Territory law. It requires that the survey of the canal location be filed with the land office and construction be completed within 5 years.

4. The Act of February 15, 1901, (31 Stat. 790; codified in scattered sections of 16 and 43 U.S.C.). This act authorized the Secretary of the Interior to permit the use of rights-of-way through the public lands, forests, and other reserves of the United States for electrical plants and power and telephone transmission lines; and for canals, and ditches to promote irrigation, mining, manufacturing, or the supplying of water for domestic, public, or any other beneficial uses.

5. The Act of February 1, 1905, (16 U.S.C. 524). This act granted rights-of-way for the storage and transportation of water for municipal and mining purposes and for milling and reduction of ores.


2701.3 - Regulations

The following regulations provide direction for special uses management on National Forest System lands:

1. Title 36, Code of Federal Regulations, Part 251, Subpart B. This subpart provides direction for special uses management on National Forest System lands, including guidance pertaining to the special-use application process; terms and conditions of use; rental fees; fee waivers; termination, revocation, suspension, and modification of existing authorizations; and permit administration.

2. Title 36, Code of Federal Regulations, Part 251, Subpart C. This subpart provides a process for appeals of decisions related to administration of special use authorizations on National Forest System lands.

3. Title 36, Code of Federal Regulations, Part 251, Subpart D. This subpart governs procedures by which landowners may apply for access across National Forest System lands, the terms and conditions that govern any special use authorization that is issued by the Forest Service to permit such access, and the criteria that authorized officers must consider in evaluating such applications. The rules provide that, subject to the terms and conditions set out in the rules, "landowners shall be authorized such access
as the authorized officer deems to be adequate to secure them the reasonable use and enjoyment of their land."

4. Title 36, Code of Federal Regulations, Part 251, Subpart E. This subpart implements section 1307 of the Alaska National Interest Lands Conservation Act with regard to the continuation of visitor services offered as of January 1, 1979, and the granting of a preference to local residents and certain Native Corporations to obtain special use authorizations for visitor services provided on National Forest System lands within Conservation System Units of the Tongass and Chugach National Forests in Alaska.

OBJECTIVES (FSM 2702) (version issued on January 10, 2011)

The objectives of the special-uses program are to:

1. Authorize and manage special uses of National Forest System lands in a manner which protects natural resources and public health and safety, consistent with National Forest System Land and Resource Management Plans;

2. Administer special uses based on resource management objectives and sound business management principles;

3. Develop and maintain a well-trained workforce to properly manage and administer special uses; and

4. Facilitate the delivery of recreational opportunities on National Forest System lands for services not provided by the Forest Service.

POLICY (FSM 2703) (version issued on January 10, 2011)

2703.1 Evaluation of Proposed Use
2703.2 Use of National Forest System Lands
2703.3 Authorization of Use
2703.4 Administration
2703.5 Information Systems
2703.6 Training

2703.1 - Evaluation of Proposed Use

Apply the first and second-level screening criteria per 36 CFR 251.54 and FSH 2709.11, sections 11 and 12, to proposals for the use of National Forest System lands.
2703.2 - Use of National Forest System Lands

See FSM 2720 for the types of uses that may be authorized.

In applying the second-level screening criterion regarding the public interest (36 CFR 251.54(e)(5)(ii)), consider the following:

1. Section 368(c) of the Energy Policy Act of 2005 provides that the Forest Service has an ongoing responsibility to establish procedures for identifying and designating additional energy transmission corridors on federal lands and to expedite applications for electric transmission and distribution facilities within those corridors. Cooperate and coordinate with other federal agencies to optimize siting of rights-of-way for energy transmission corridors (30 U.S.C. 185(p); 43 U.S.C. 1763), and endeavor to expedite applications for electric transmission and distribution facilities on National Forest System lands through coordination with other affected federal agencies.

2. Authorize use of National Forest System lands other than noncommercial group uses only if:
   a. The proposed use is consistent with the mission of the Forest Service to manage National Forest System lands and resources in a manner that will best meet the present and future needs of the American people, taking into account the needs of future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific, and historical values; and
   b. The proposed use cannot reasonably be accommodated on non-National Forest System lands, and the application for electric transmission and distribution facilities does not conflict with paragraph 1.

3. Do not authorize the use of National Forest System lands solely because it affords the applicant a lower cost or less restrictive location when compared with non-National Forest System lands.

4. See FSM 2340.3 for specific policy related to proposals for recreation special uses.

2703.3 - Authorization of Use

Authorize the use of National Forest System lands under the proper statutory or regulatory authority with terms and conditions which protect the resource values and the interests of the Federal Government. Limit the use to the minimum area and period of time required to accommodate the use. Establish fees reflecting the fair market value prior to authorizing the use.
2703.4 - Administration

Administer all special-uses in accordance with the terms and conditions of the authorization. Conduct field inspections and audits to ensure compliance with permit provisions. Document observed breach of terms and conditions and follow through with corrective action. Provide timely billings for all fees due the Federal Government.

2703.5 - Information Systems

Maintain an accurate database using the Special Uses Data System (SUDS) for administering, budgeting, planning, and reporting activities associated with the special uses program (FSM 2704.22).

2703.6 - Training

Develop and maintain a well-trained workforce to manage and administer special uses properly.

RESPONSIBILITY (FSM 2704) (version issued on January 10, 2011)

2704.1 Washington Office
2704.11 Deputy Chief for National Forest System
2704.12 Associate Deputy Chief for National Forest System
2704.13 Washington Office, Director of Lands and Director of Recreation and Heritage Resources
2704.2 Field Units
2704.21 Regional Forester
2704.22 Forest Supervisor
2704.23 District Ranger
2704.3 Delegation of Authority for Issuance and Approval of Special Uses Authorizations
2704.31 Chief
2704.32 Regional Forester
2704.33 Forest Supervisor
2704.34 District Ranger
2704.35 Station Director

2704.1 - Washington Office

2704.11 - Deputy Chief for National Forest System

The Deputy Chief for the National Forest System has the responsibility to provide direction, leadership, and administration of servicewide special use programs, policies, and procedures, and to advise the Chief of current, national special-uses related issues.
2704.12 - Associate Deputy Chief for National Forest System

The Associate Deputy Chief for National Forest System with responsibility for special use management has the responsibility to serve as reviewing officer on appeals of special use issues appealed to the Chief (FSM 1570), unless a superior officer elects to serve as reviewing officer.

2704.13 - Washington Office, Director of Lands and Director of Recreation and Heritage Resources

It is the responsibility of these directors to:

1. Advise the Associate Deputy Chief and the Deputy Chief for National Forest System and the Chief on servicewide special-use activities, programs, policies, and issues within their jurisdiction.

2. Ensure coordination among regions for major special-use activities through national meetings, committees, correspondence, and staff advice.

3. Maintain relationships with the public, Members of Congress, and organizations that have concerns about the special-use program and its management on a national basis.

4. Recommend objectives and priorities for special-use management.

5. Provide leadership in national training programs and support and consistency to regional training efforts.

6. Conduct on-site and off-site monitoring and field reviews of special use activities to ensure program objectives are being met.

7. Maintain a National database system to monitor the special-uses program and to facilitate information requests, both within and outside of the agency. Establish minimum standards for agencywide data systems and management.

2704.2 - Field Units

2704.21 - Regional Forester

It is the responsibility of the regional forester to:

1. Establish management direction (objectives, standards, and policies) that ensure the integration of special use activities with other regional programs and the consistency of National Forest System land and resource management plans with National policy.
2. Provide for consistency and coordination in special-use management among forests and adjacent regions.

3. Provide training and technical assistance to forest supervisors and their employees to ensure that special-uses are managed within current guidelines, policy, regulations, and laws.

4. Maintain communication with individuals and organizations with regional concerns about management of the special-uses program.

5. Evaluate special-use applications under the regional forester's authority (FSM 2704.32) and complete appropriate environmental analysis and documentation prior to issuing authorizations.

6. Review, for adherence to policy, special use permits before they are issued when the capital investment exceeds or is expected to exceed $1,000,000 for winter sports resorts (FSM 2721.61) and $500,000 for other resorts (FSM 2721.33).

2704.22 - Forest Supervisor

It is the responsibility of the forest supervisor to:

1. Provide management direction that ensures integration of special use activities and objectives into programs and projects at the ranger district level.

2. Ensure integration of special use activities with other resources management in developing and implementing the National Forest System land and resource management plan.

3. Maintain communication with organizations and individuals with interests in special uses activities.

4. Identify needs and provide technical assistance and training to ranger districts to ensure proper administration of the special-uses program.

5. Use the Special Use Data System (SUDS) for special-uses administration, program planning, budgeting, resource coordination, and reporting. Maintain, update, and verify the accuracy of the SUDS data base.

6. Evaluate special-uses applications under the forest supervisor’s authority and complete appropriate environmental documentation prior to issuing authorizations.

2704.23 - District Ranger
Each district ranger is responsible for all special use activities on the district. Except for those responsibilities specifically reserved by the forest supervisor, it is the responsibility of the district ranger to:

1. Assure high quality on-the-ground administration of the special-uses program.
2. Provide training in special-use administration to appropriate district personnel.
3. Maintain communication with local individuals and organizations with interest in the special-uses program.
4. Monitor and evaluate special-use activities to determine the effects on other resources and ensure compliance with the National Forest System land and resource management plan.
5. Evaluate special-uses applications under the district ranger's authority and complete appropriate environmental documentation prior to issuing authorizations.

2704.3 - Delegation of Authority for Issuance and Approval of Special Uses Authorizations

Pursuant to the delegations of authority by the Secretary at Title 7, Code of Federal Regulations, section 2.6(2) (FSM 1230), the Chief has full authority to act for the Secretary in the authorization and administration of special-uses on National Forest System lands. This section re-delegates that authority to other Forest Service line officers.

2704.31 - Chief

The Chief retains the authority to issue authorizations for sanitariums or hotels at mineral springs having medicinal values as prescribed by the Act of February 28, 1899, (16 U.S.C. 495).

2704.32 - Regional Forester

Except as provided in section 2704.31, regional foresters have authority to approve and issue special use authorizations. This authority may be re-delegated to forest supervisors, except for the following uses:

1. Rights-of-way for oil and gas pipelines 24 inches or more in diameter (sec. 28, Mineral Leasing Act of 1920; FSM 2701.1).
2. Easements for all uses except roads; the authority to issue easements for roads may be delegated to specific forest supervisors on a case-by-case basis.
3. Inter-Regional special-use authorizations. This authority may be re-delegated to a
forest supervisor on a case-by-case basis by formal agreement between regional
foresters, using one region or forest as the lead.

4. Inter-Forest special-use authorizations. This authority may be re-delegated on a
case-by-case or type-of-use basis with one forest designated as the lead.

2704.33 - Forest Supervisor

Forest supervisors may approve and issue all special-use authorizations for which authority has
been delegated by the regional forester, as stipulated in FSM 2704.32. Forest supervisors may
re-delegate to district rangers the authority to issue certain special-use authorizations, as
provided in FSM 2704.34.

2704.34 - District Ranger

District rangers may issue special-use authorizations for the following types of uses or
situations as delegated by the forest supervisor (FSM 2704.33):

1. Uses of a short-term nature (occupancy not to exceed 5 years).

2. Standardized authorizations for:

   a. Uses approved in the National Forest System land and resource management
      plan, including recreation residence authorizations where a determination has been
      made to continue that use.

   b. Communications uses on a designated site with an approved communications site
      plan.

   c. Ten-year permits for outfitting and guiding.

2704.35 - Station Director

Directors of research experiment stations and the Forest Products Laboratory may issue
special-use authorizations for lands under their administration.

DEFINITIONS (FSM 2705) (version issued on January 10, 2011)

The following special terms are used throughout FSM 2700. For additional terms related to
special uses, refer to Title 36, Code of Federal Regulations, Part 251.
Annual Fee. The net fee charged to a special-use authorization holder, payable in advance, for use of the land for a period of one year or fraction thereof.

Base Fee. The minimum fee that the authorized officer may accept for a given authorization subject to the graduated rate fee system. It is the historic amount the previous holder paid in the year of ownership.

Construction Fee. A fixed fee generally based on land value and used during the construction period for uses that will later generate a fee based on percentage of income.

Exempted Fee. A fee for the use of National Forest System lands that is excused from payment by statute or regulation.

Fair Market Value. The amount or value for which in all probability a property would be sold by a knowledgeable owner willing but not obligated to sell to a knowledgeable purchaser who desired but is not obligated to buy.

Fee Schedule. A predetermined fee for a defined category of use. A schedule may be National, regional, or forest-wide in scope and may be adjusted at certain intervals based on an appropriate index.

Fee System. A set of procedures and techniques used to establish fees for a particular category of authorized use.

Fee Waiver. A reduction of all, or part, of the use fee in accordance with criteria provided in regulations.

Index. A means of measuring differences in the magnitude of a group of related variables in comparison with a base period. The most common types of indexes are those which show the change in prices of specific commodities or group averages over a period of time.

Minimum Fee. The lowest fee established for a particular use.

Negotiated Fee. A fee agreed to between the applicant or holder and the authorized officer for a specific use.

Reissuance. The issuance of a new special-use authorization for the same use upon the transfer of ownership of improvements.

Renewal. The issuance of a new special-use authorization for the same use to the same holder upon the expiration of the current authorization.
Temporary Permit. An authorization that is issued for 1 year or less.

Use Fee. The unadjusted fee for the use based on fair market value.

HANDBOOKS (FSM 2709) (version issued on January 10, 2011)

2709.1 Internal Service-wide Handbooks
2709.11 Special Uses Handbook
2709.12 Road Rights-of-Way Grants Handbook
2709.14 Recreation Special Uses Handbook
2709.15 Hydroelectric Handbook

2709.1 - Internal Servicewide Handbooks

2709.11 - Special Uses Handbook

This handbook contains detailed instructions and technical information related to special-use management activities, authorization preparation, and administration.

2709.12 - Road Rights-of-Way Grants Handbook

This handbook contains specific instructions for lands staffs and program managers in the selection, writing, format, and administration of road right-of-way authorizations and grants.

2709.14 - Recreation Special Uses Handbook

This handbook contains detailed instructions and technical information related to recreation special-use management activities, authorization preparation, and administration.

2709.15 - Hydroelectric Handbook

This handbook contains specific instructions for processing applications for hydropower licenses and permits, as well as direction regarding the Forest Service's relationship with the Federal Energy Regulatory Commission and Forest Service administration of hydropower permits.

PLANNING FOR PRIVATE SECTOR USES (FSM 2341) (version issued on April 17, 2014)

2341.1 Planning for New Sites and Areas
2341.2 Planning for Changes in Development and/or Use
2341.21 Needs Assessments for New Sites or Areas
2341.22 Site Development Plans for New Sites or Areas
2341.23 Needs Assessment for Existing Permitted Sites and Areas
2341.3 Designing Structures and Facilities
2341.4 Operating Plans
2341.5 Permittee Employee Housing

2341 - PLANNING FOR PRIVATE SECTOR USES

Generally, the planning process for private use requires the following management actions:

1. Identify and justify National Forest System sites and areas suitable for development, operation, and use by the private sector under special use authorization through Forest land and resource management plans and addendums (FSM 1920 and FSH 1909.12).

2. Review needs assessments and development plans (master plans) to determine the location, nature, scope, and timing of development of facilities at current and potential permit sites.

3. Review engineering designs and drawings and approve the configuration and design of structures and facilities to be placed at sites under permit.

4. Review and approve the Permittee's operating plan to ensure agreement with the Permittee about the management, operation, and maintenance of the permitted site and area.

2341.1 - Planning for New Sites and Areas

1. Use the land and resource management planning process (FSM 1922) to identify and reserve new sites and areas for use and development when national social benefits under such use and development are expected to exceed the benefits from alternative uses of those lands and resources.

2. Base land and resource allocations for prospective private sector development and use on studies, analyses, reports, and data that:

   a. Indicate there is an expected national public need for the recreation services, facilities, and opportunities.

   b. Identify how such development will meet those needs and remain consistent with Forest Service policy.

2341.2 - Planning for Changes in Development and/or Use

When it appears necessary to change development and/or use of an established site, conduct needs assessments and studies, preferably as part of the forest planning process, and, if appropriate, prepare and approve updated site development plans.
2341.21 - Needs Assessments for New Sites or Areas

Before authorizing recreation activities, uses, or development of new sites or areas identified in the Forest plan, prepare a site-specific study including appropriate environmental analysis to determine:

1. The desirability and suitability for the intended purpose.
2. The nature and extent of needed development and services.
3. The social, economic, and environmental effects of use.
4. Required mitigation measures.
5. Prospective applicants.
6. The likelihood of a sufficient return on investment, if the development is to be commercially operated.
7. Other such qualifying factors.

2341.22 - Site Development Plans for New Sites or Areas

If the decision is to proceed with the development, prepare a conceptual site development plan that narratively describes and graphically depicts the nature, scope, location, and timing of the needed development.

2341.23 - Needs Assessment for Existing Permitted Sites and Areas

Periodically during the term of the permit, before or at the time of expiration and renewal, or in conjunction with a sale or permit relinquishment, prepare needs assessment in consultation with the Permittee, prospective Permittee, and other interested parties. Consider whether the activities, uses, and developments should be continued, modified, expanded, or otherwise changed in order to best serve the public interest.

2341.3 - Designing Structures and Facilities

Require permit holders to plan and design needed facilities for review and approval by the Forest Service. Evaluate design proposals against the following standards:

1. The nature and scope of proposed recreation facilities, services, and activities are consistent with direction and decisions made in Forest land and resource management plans.
2. Facilities authorized are of a design that is compatible with or complementary to the natural setting.

3. Design proposals for structural development are consistent with approved master/conceptual plans for the site or area. A conceptual plan prepared by the holder describes the foreseeable development sequence of the site.

4. Designs, drawings, and specifications comply with all applicable Federal, State, and local laws, codes, ordinances, and standards.

5. The proposal includes assurances that specifications, drawings, and designs have been competently prepared. For public use facilities involving health or safety considerations, the proposal must state that:

   a. Specifications and designs will be prepared by qualified Architects or Engineers.

   b. Holders will provide a post-construction certification by the Architect/Engineer that the facilities were constructed in full conformance with the approved designs.

2341.4 - Operating Plans

Require holders providing facilities and/or services to the general public to prepare an operating plan for Forest Service approval. This plan must outline their responsibilities for protecting public health, safety, and the environment and for ensuring delivery of high quality services. Ensure that operating plans contain sufficient detail and standards to enable the Forest Service permit administrators to monitor operations for compliance.

2341.5 - Permittee Employee Housing

Some special recreation uses, such as ski areas and year-round resorts, may require on-site housing for the Permittee and/or employees of the Permittee to adequately protect property and provide for public safety. The Authorized Officer shall carefully evaluate the need and justification for Permittee housing within a permit area and make the determination in compliance with the appropriate environmental analysis and documentation requirements set forth in FSM 1950 and FSH 1909.15.

The Authorized Officer may approve Permittee housing within a permit area if the following conditions are met:

1. Provision of Permittee housing is consistent with the management direction and guidelines of the Forest land and resource management plan for the area.

2. There is a clear and convincing need for 24-hour, on-site property protection, round-the-clock public safety, and/or intermittent emergency service at other than normal
operating hours, and the commuting time between the permit area and the nearest private property available for permittee housing exceeds one hour.

Ownership of Permittee housing for the holder of the permit or employees of the holder must be vested in the holder.

SPECIAL USES (FSM 2720) (version issued on August 4, 2011)

2720.1 Authority
2720.3 Policy
2720.31 Permittee Housing [Reserved]
2720.5 Definitions

2720.1 - Authority

For further direction on authorities, see FSM 2701.

1. Except as provided elsewhere in this chapter, cite the act of June 4, 1897 (16 U.S.C. 551), also known as the Organic Act, the Term Permit Act of 1915 (16 U.S.C. 497), and the act of September 3, 1954 (43 U.S.C. 931c and 931d) (for State and local governmental or public agency applicants requesting use of more than 80 acres) for special use authorizations involving the following types of special uses: recreation; agriculture; community and public information; feasibility, research, training, and cultural and historical resources (non-disturbing use and treasure hunting); industry; and water (non-power generating).

2. Cite the Federal Land Policy and Management Act (FLPMA) of 1976 (43 U.S.C. 1761-1771) for special use authorizations involving the following types of special uses: energy generation and transmission, transportation, communications, and water.


5. Cite the National Ski Area Permit Act of 1986 (16 U.S.C. 497b) as the exclusive authority to approve nordic and alpine ski areas except as provided for in FSM 2721.61e.

6. Cite the Act of May 26, 2000 (16 U.S.C. 460l-6d) for all authorizations issued for still photography or commercial filming (FSH 2709.11, sec. 45.5).
2720.3 - Policy

Base fees for special uses on an analysis of the market rental values for similar uses in the area. Use individual appraisals, fee schedules based on market evidence, and competitive bidding as appropriate to determine fair market value (FSH 2709.11, ch. 30).

See FSM 2710.03 and FSM 2723.7 for the policy on temporary encroachment use.

2720.31 - Permittee Housing [Reserved]

2720.5 - Definitions

For additional definitions, see 36 CFR 251.51 and FSM 2705.

Indian. A member of an Indian tribe.

Indian Tribe. Any Indian or Alaska Native tribe, band, nation, pueblo, village, or other community that is included on a list published by the Secretary of the Interior under section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a–1).

Special Uses Organization:

a. Special Use Class. The first division in the arrangement of special uses by topics into broad classes, which are further divided into categories and designations.

b. Special Use Category. The first subdivision of a special use class. All uses within a particular category are generally similar in purpose. These categories are further broken down into designations.

c. Special Use Designation. The basic type unit for special uses. Each designation carries an individual code indicating the type of use.

Traditional and Cultural Purpose. With respect to a definable use, area, or practice, identified by an Indian tribe as traditional or cultural because of its long-established significance or ceremonial nature for the Indian tribe.
RECREATION SPECIAL USES (FSM 2721) (version issued on Aug. 4, 2011)

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2721.03 Policy
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2721.3 Concessions Involving Privately Owned Improvements
   2721.31 Private Lodging (Cooperative, Condominium, Cabin, or Trailer Court)
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      2721.31b Trailer Court or Camp
   2721.32 Hotel, Motel
   2721.33 Resort
   2721.34 Campground (Privately Owned) [Reserved]
   2721.35 Restaurant
   2721.36 Other Commercial Public Services
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2721.01 - Authority

See FSM 2701 and FSM 2720.1 for the primary laws relating to special uses of National Forest System lands for recreation purposes.

2721.02 - Objective

To issue and to administer special use permits for recreation uses that serve the public, promote public health and safety, and protect the environment.

2721.03 - Policy

1. Manage recreation special uses of National Forest System lands in accordance with the direction in this chapter and FSM 2340.

2. Issue special use permits for recreation special uses of National Forest System lands in accordance with direction in this section and FSH 2709.11, chapter 10.

3. Determine fees for recreation special use permits based on the market rental value of the use. Calculate the market rental value by direct rental comparisons, by application of an appropriate percentage to the fair market value of the land, or by other prescribed fee rate systems described in FSH 2709.11, chapter 30.

2721.04 - Responsibility

See FSM 2704 for responsibilities relating to issuance and administration of special use permits for recreation facilities, activities, and services.

2721.1 - Privately Owned Improvements Authorized for Groups

Normally, restrict permittees to organized groups such as youth groups, service clubs, churches, private clubs, and associations of permittees. Permits may also be issued to semipublic or public agencies.

2721.11 - Boat Dock and Wharf

This designation covers recreation improvements that serve groups of boaters, such as boathouses, docks, wharfs, slips, launching ramps, or piers.

See FSM 2347.4 for direction relating to management of boat docks and wharfs for recreational purposes. For installations that include commercial services, such as dockage, boat repair, fuel, food, and lodging, see FSM 2721.38. See FSM 2727.22 when such improvements are nonrecreational in character.
The minimum annual fee is $30. When this use is included in another permit, make the charge a part of the total fee due.

2721.12 - Club

This designation covers those recreation improvements that are developed and operated to serve the membership of a private organization.

See FSM 2347.2 for direction relating to management of permits for club use.

The minimum annual fee for club use is $150. If private lodging arrangements are permitted, as discussed in FSM 2347.1, paragraph 5, make an additional charge equal to the rental value of cabin sites in that vicinity for each private unit.

2721.13 - Organizational Camp

This designation includes camps of a public or semipublic nature that are developed by the special use authorization holder, by the Federal Government, or jointly by both.

Normally, only nonprofit organizations or governmental agencies qualify for special use authorizations in this category.

Classify as “clubs” camps developed exclusively for members of an organization (FSM 2721.12). Classify as “private camps” private entrepreneur youth camps (FSM 2721.15). Classify as “education centers” camps that primarily provide educational opportunities (FSM 2724.32).

For additional direction on organizational camps, see FSH 2709.11, sections 36.5 and FSH 2709.14, section 13.

2721.14 - Shelter

This designation includes trail shelters, waiting sheds, and similar structures of a recreational nature. See FSM 2723.64 for policy on nonrecreational shelters.

See FSM 2347.5 for direction relating to management of recreation shelter permits.

The minimum fee for shelters is $30 per year.

2721.15 - Private Camp
This designation includes youth camps operated privately for profit. It does not include camps developed to provide exclusive use to members of an organization. Such camps are designated as clubs (FSM 2721.12 and FSM 2347.2).

See FSM 2343.3 for direction relating to management of private camps.

The minimum annual fee is $150.

**2721.2 - Noncommercial, Privately Owned Improvements Authorized to Individuals**

This category includes privately owned recreation facilities permitted to individuals for their use.

Where auxiliary facilities, such as boat docks, are used in conjunction with another permitted use, such as a recreation residence, include the secondary use in the permit for the primary use.

**2721.21 - Isolated Cabins**

This designation includes isolated recreation cabins located on sites not planned or designated for recreational cabin purposes. Use of these cabins originated from situations other than occupancy trespasses or invalid mining claims. In most circumstances, these uses should be phased out. The period of continued occupancy may be flexible, but normally should not exceed 15 years. See FSM 2721.23 for direction on recreation residences and FSM 2723.71 for direction on resolving trespass and invalid mining claims problems.

The minimum permit fee is $150 per year.

**2721.22 - Houseboats**

This designation includes any craft that is used principally for recreation occupancy purposes as opposed to transportation.

See FSM 2347.3 for direction relating to management of houseboats.

In the absence of market rental data, calculate fees for privately owned and operated houseboats so that these fees equal or exceed the market rent for cabin sites in the adjacent or nearby area (FSH 2709.11).

The minimum permit fee is $150 per year.

**2721.23 - Recreation Residences**
The term "recreation residence" includes only those residences that occupy planned, approved tracts or those groups of tracts established for recreation residence use. See FSM 2347 for basic policy on recreation residence use.

2721.23a - Administration

The following direction relates specifically to issuance and administration of special use permits for recreation residence. For recreation residence permits in Alaska, follow the additional requirements in section 1303(d) of the Alaska National Interest Lands Conservation Act. Administer recreation residence permits in accordance with the direction in FSM 2721.23a through 2721.23i and within the broad governing recreation residences and permitted uses set forth in FSM 2347.1 and Title 36, Code of Federal Regulations, section 251.50 (36 CFR 251.50).

1. Issue special use permits for recreation residence in the name of one individual or to a husband and wife. Upon issuance of a new permit that continues the use or amendment, revise authorizations that are not issued to an individual or to a husband and wife, so that the responsible person is identified.

2. Issue no more than one recreation residence special use permit to a single family (husband, wife, and dependent children).

3. Do not issue special use permits for recreation residence use to entities such as commercial enterprises, nonprofit organizations, business associations, corporations, partnerships, or other similar enterprises, except that a tract association may own a caretaker residence.

4. To the extent possible, issue all recreation residence permits in a tract, or in logical groups of tracts, with the same expiration date.

5. To help defray costs and provide additional recreation opportunities, a holder may obtain permission for incidental rental for specific periods; ensure that rental use is solely for recreation purposes and does not change the character of the area or use to a commercial nature. Rental arrangements must be in writing and approved in advance by the authorized officer. The holder must remain responsible for compliance with the special use authorization.

6. Allow no more than one dwelling per lot to be built. In those cases where more than one dwelling (residence/sleeping cabin) currently occupies a single lot, allow the use to continue in accordance with the authorization. However, correct such deficiencies, if built without prior approval, upon transfer of ownership outside of the family (husband, wife, and dependent children).

7. When a recreation residence is included in the settlement of an estate, issue a new special use permit to the properly determined heir, if eligible, for the remainder of the
original permit term, updated to reflect policy and procedural changes. Prior to estate settlement, issue an annual renewable permit to the executor or administrator to identify responsibility for the use pending final settlement of the estate. When a recreation residence is sold, issue a new term permit to the buyer, if eligible, for the remainder of the original permit term, updated to reflect policy and procedural changes.

8. Specify in the permit that the recreation residence must be occupied at least 15 days annually, the minimum acceptable period of occupancy.

9. Issue recreation residence term permits for a maximum of 20 years, except when the need for a shorter term has been determined by a project analysis in accordance with FSM 2721.23e and FSH 2709.14, chapter 20.

10. When a decision is made to convert the lot to an alternative use (FSM 2721.23e), take the following actions:

   a. Notify the holder of the reasons and provide a copy of the decision documentation.

   b. Allow at least 10 years of continued occupancy after notification.

   c. Allow the current term permit to expire under its own terms and, if the holder is entitled to additional time to satisfy the 10-year notification period, issue a new term permit for the remaining period. Clearly specify any limited tenure by including the following statement in the permit:

      "This permit will expire on (insert date) and a new permit will not be issued."

   d. Issue term or annual permits for additional periods as needed to allow continuation of occupancy until conversion to the alternate public use is ready to begin.

11. Before the forest supervisor issues a decision to convert a lot to an alternative public use, submit the proposed decision, supporting documentation and summary of public comments, to the regional forester for review for adequacy of the documentation and analysis. If analysis and documentation are inadequate to support the proposed decision or there is some other deficiency in the proposed decision, the regional forester shall instruct the forest supervisor to remedy the deficiencies and reconsider the proposed decision prior to making the final decision.

12. As with any resource allocation made in a forest land and resource management plan, the forest supervisor may reconsider a decision to continue or convert recreation
residence lots to an alternative public use at any time new or changed conditions merit such reconsideration.

13. In the event a recreation residence is destroyed or substantially damaged by a catastrophic event such as a flood, avalanche, or massive earth movement, conduct and document an environmental analysis to determine whether improvements on the lot can be safely occupied in the future under Federal and State laws before issuing a permit to rebuild or terminating the permit. Normally, an analysis should be completed within 6 months of such an event.

Allow rebuilding if the lot can be occupied safely and the use remains consistent with the forest plan. If the need for an alternative public use at the same location has been established prior to the catastrophic event, do not allow rebuilding if the improvements are more than 50 percent destroyed. If rebuilding is not authorized, in-lieu lots may be offered as provided by FSM 2347.1, paragraph 6, and FSH 2709.14, section 23.4.

14. At the time permits are issued, advise holders that the terms of the permit require that they notify the Forest Service if they intend to sell their improvements and that they must provide a copy of the permit to a prospective purchaser before finalizing a sale. Whenever possible, the authorized officer should advise a prospective purchaser of the terms and conditions of the permit before a sale is final.

15. Do not stay a fee increase pending completion of an appeal of the fee under the administrative appeal regulations. Make any adjustments resulting from the administrative review through credit, refund, or supplemental billing.

16. During the term of a permit, terminate or revoke the use only in accordance with regulations at 36 CFR 251.60 and the terms and conditions of the permit (FSM 2347.1, para. 5). Except for revocation for noncompliance of terms of the permit, the forest supervisor shall submit proposed revocations, with supporting documentation and a summary of the public comments, to the regional forester for review prior to the forest supervisor's issuance of a decision. If analysis and documentation are inadequate to support the proposed decision or there is some other deficiency in the proposed decision, the regional forester shall instruct the forest supervisor to remedy the deficiencies and reconsider the proposed revocation prior to making the final decision.

2721.23b - Applications

Insofar as practicable, notify a new or prospective owner that they must make application for the authorization to use existing improvements in accordance with 36 CFR 251.54.
2721.23c - Permit Preparation

1. Use the Term Special Use Permit for Recreation Residence, form FS-2700-5a, to authorize recreation residences, except as specified in paragraph 2 of this section.

2. Use the Special Use Permit, form FS-2700-4, when:
   a. Conversion of the lot to an alternative public use is authorized, the conversion will be delayed, and a minimum term of continued use cannot be predicted.
   b. Continuance of the recreation residence use is conditioned on the owner's complying with specific Forest Service requirements before a term permit is issued.
   c. The improvements are managed by a third party pending settlement of an estate, bankruptcy proceedings, or other legal action.
   d. Year-long occupancy is authorized by the forest supervisor, at which time the improvement ceases to be a recreation residence.

3. In either permit, identify all authorized improvements associated with recreation residence use. Do not authorize use of more than the statutory maximum of 5 acres under a term permit. Authorize community or association-owned improvements, such as water systems, by a separate permit (form FS-2700-4).

2721.23d - Fee Determination

For further direction, see FSH 2709.11, chapter 30.

1. Use market value as determined by appraisal in determining the base annual fees for recreation residence lots. Determine a new base fee at 10-year intervals.

2. Adjust the fee annually by the annual (second quarter to second quarter) change in the Implicit Price Deflator-Gross Domestic Product (IPD-GDP).

3. Use professional appraisal standards in appraising recreation residence lots for fee determination purposes (FSH 2709.11 and 5409.12).

4. Where practicable, contract with private fee appraisers to perform the appraisal.

5. Require appraisers to coordinate the assignment closely with affected holders by seeking advice, cooperation, and information from the holders and local holder associations.

6. Retain only qualified appraisers. To the extent feasible, use those appraisers most knowledgeable of market conditions within the local area.
7. Before accepting any appraisal, conduct a full review of the appraisal to ensure the instructions have been followed and the assigned values are supported properly.

2721.23e - Recreation Residence Continuance

See FSM 2347.1 for the general policy on recreation residence use. Follow the direction in this section and the procedures in FSH 2709.14, section 23.3, in determining whether recreation residence term permits may be issued for a new term at current lots. The permit continuance process is depicted in FSH 2709.14, section 23.3, exhibit 01.

The Forest land and resource management plan (forest plan) provides direction for continuance of the recreation residence use (FSM 1920). As forest plans are revised, availability for recreation residence use shall be explicitly addressed in the plan through delineation of management areas and associated management area prescriptions (FSM 1920).

Decisions to issue new recreation residence term permits following expiration of the current term permit require a determination of consistency with the current forest plan. Make this determination by evaluating the extent to which continued recreation residence use adheres to the standards and guidelines, which apply to the appropriate management area. Address continuation of recreation residence use on a tract or group of tracts basis, not on individual lots.

1. **Use Is Consistent With Forest Plan.** When recreation residence use is consistent with the forest plan, it shall continue. If the use has been analyzed sufficiently as part of a completed environmental assessment (EA) or environmental impact statement (EIS) completed within the 5 years prior to permit expiration, issue a new term permit upon expiration of the current term permit. Issue a record of decision or a decision notice and finding of no significant impact only if the use was not specifically approved in the appropriate decision document. If the use has changed and such change has not been analyzed sufficiently as part of a completed EA or EIS, complete the appropriate environmental analysis (FSH 1909.15). If the EA or EIS indicating the use is consistent with the forest plan was completed more than 5 years prior to permit expiration, additional environmental documentation is necessary (FSH 1909.15, sec. 18.03). Initiate action to issue a new term permit two (2) years prior to permit expiration.

2. **Use May Not Be Consistent With Forest Plan.** When the lands currently authorized for recreation residence use are allocated to alternative public uses through amendment or revision of the forest plan, and continued recreation residence use may be inconsistent with standards and guidelines, which apply to the appropriate management area, the forest supervisor shall conduct a project analysis of the alternative public use(s) (FSH 1909.15). This project analysis shall consider continuation of existing recreation residence use (through appropriate modification of the term permit provisions or
amendment of the forest plan to accommodate the use) or discontinuation of the use (see FSM 2347.1 for direction on recreation residence use continuance). Decisions reached by the project analysis must comply with National Environmental Policy Act (NEPA) requirements and are subject to appeal under Department of Agriculture appeal regulations at 36 CFR part 217 and 36 CFR part 251, Subpart C.

a. If the project analysis results in a decision to amend the forest plan so that the recreation residence use may continue, modify the provisions of the current term permits as appropriate. New term permits may be issued following current permit expiration. Additional environmental documentation may be necessary (FSH 1909.15).

b. If the project analysis results in a decision to convert a lot to an alternative public use at some point in the future, grant the holder at least 10 years continued use from the date of the decision, unless the continued use conflicts with law and regulation, and identify the specific alternative public use(s) for which the land is being recovered. As provided by FSM 2347.1, the authorized officer may allow continued use of the lot until such time as conversion of the new use is ready to begin by issuing a new permit for the remaining period and amending the forest plan if needed.

c. Review the project analysis decision 2 years prior to permit expiration to determine if there have been any changes in resource conditions that require another look at the decision. If the decision was made less than 5 years prior to permit expiration and the review shows that conditions have not changed, implement the project analysis-based decision. Affirmation of such decision is not appealable (36 CFR 251.83). If the decision was made more than 5 years from permit expiration and/or review indicates that resource conditions have changed, update the analysis to determine the proper action. Decisions arising from this new analysis are appealable.

2721.23f - In-Lieu Lots

When new permits will not be issued following expiration of the present permit, make a reasonable effort to provide an in-lieu lot, if available, at locations not needed in the foreseeable future (generally, the period covered by the forest plan) for alternative public uses in accordance with FSM 2347.1, paragraph 6, and FSH 2709.14, section 23.4.

2721.23g - Land Exchange
Proposals to convey recreation residence tracts into private ownership by land exchange may be considered at any time. Such proposals must be processed in accordance with the instructions in FSM 5430 applicable to all land exchanges.

2721.23h - Cooperation and Issue Resolution

Authorized officers shall strive to reduce conflict between holders and the Forest Service arising from permit administration. As necessary, specify a forest officer to work with the holders, their representatives, and other interested parties on specific issues.

1. Provide opportunity for holders and their representatives to participate in issue resolution. Where practicable, except where an imminent hazard or risk to health and safety or resources requires immediate action prior to issuing written decisions related to permit administration, consult and meet in person, or by telephone, with holders and their representatives to discuss any issues or concerns related to the permit and to reach a common understanding and agreement.

2. During forest plan amendment or revision and project analysis, seek full involvement of holders and their representatives in public involvement opportunities and activities. Encourage and solicit their input and comments.

Meet with holders and their representatives to discuss any issues or concerns arising in the planning and analysis processes and explores opportunities to resolve those issues prior to issuing a decision.

3. If a decision is appealed, utilize the opportunities provided in the appeal rules (36 CFR part 215, part 217, and part 251, subpart C) to discuss the appeal with the appellant(s), intervenor(s) and/or their representatives, together or separately, to explore opportunities to resolve the issues by means other than review and decision on the appeal.

2721.23i - Noncompliance

Give written notice and provide a reasonable opportunity for a holder to correct special use permit violations before terminating the use for noncompliance with the permit conditions (36 CFR 251.60(e)). Revocation for noncompliance shall be only for a breach of a permit provision(s) that continues after notice and a reasonable opportunity for correction has been given (FSM 2347.1, para. 5).

2721.23j - Lot Restoration

On expiration of a permit, which will not be reissued, or for revocation or termination prior to expiration (FSM 2721.23a, para. 10 and 16), except for revocation in the public interest, require
the holder to restore the property to a condition acceptable to the forest supervisor (36 CFR 251.60(j)). The holder may relinquish the improvements to the Forest Service upon approval of the forest supervisor. Terms and conditions for lot restoration are given in the term permit issued for recreation residences.

2721.24 - Caretaker Residence

Refer to FSM 2347.12 for the policy on caretaker residence permits.

2721.3 - Concessions Involving Privately Owned Improvements

Lodging covers concessioner-operated facilities that provide overnight accommodations.

See FSM 2343.3 for direction relating to management of lodging and overnight accommodations. Lodging is normally permitted as an adjunct to a resort permit and not as a stand-alone business. Authorize and administer combinations of facilities and activities under a permit carrying the designation of the predominant facility or activity.

2721.31 - Private Lodging (Cooperative, Condominium, Cabin, or Trailer Court)

2731.31a - Cooperative, Condominium, Cabin, or Trailer Court

This designation includes condominium-financed facilities on National Forest System land originally authorized for private use or private privilege. A few improvements have been authorized where exclusive personal, private use has been allowed, or where the investor-owner has first-choice use privileges.

See FSM 2347.6 for direction relating to management of private lodging on National Forest System land.

Calculate fees for private lodging on the basis of charging for both private and public use. See FSH 2709.11, Special Uses Handbook, for instructions on calculating private lodging fees.

2721.31b - Trailer Court or Camp

This designation includes commercial trailer courts financed with private capital and located on National Forest System lands. Authorize trailer courts and camps when such use is necessary and desirable under guidelines described in FSM 2343.3 and 2343.7.

Conduct competitive bidding processes for sites when there is competitive interest.

Calculate fees for trailer courts and camps under the graduated rate fee system (FSH 2709.11, sec. 52.1). The minimum fee is $300 per year.
2721.32 - Hotel, Motel

This designation includes facilities limited primarily to the provision of overnight public accommodations. The permit may authorize certain other services or activities in addition; however, when these constitute more than just a minor adjunct to the hotel, motel, or cabin business, use the resort (FSM 2721.33), marina (FSM 2721.52), or winter recreation resort (FSM 2721.61) designation.

See FSM 2343.3 for direction relating to management of lodging and overnight accommodations, including hotels and motels.

Normally, authorize hotel and motel facilities by term permit under the Act of 1915 (FSM 2701).

Calculate fees for hotels and motels under the graduated rate fee system (FSH 2709.11, sec. 52.1). The minimum fee for this use is $300 per year.

2721.33 - Resort

Resorts are concessioner developments that include a complex of enterprises. They may include any of the activities or services covered in FSM 2721.4 or FSM 2721.58. In addition, winter recreation resorts include uphill transport systems and other specialized services covered in FSM 2721.6.

1. Determine the minimum public services to be provided by the permittee and those services that may be optional. Make these a condition of the permit. See FSM 2343 for direction relating to management of the various types of resorts permitted on National Forest System land. See also FSM 2344 for policy on permitting use of Government-owned resorts.

2. Except for ski areas authorized under the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b) and those ski areas which elect to have their permit fees calculated under section 701 of the Omnibus Parks and Public Lands Management Act of 1996 (16 U.S.C. 497c; FSH 2709.11, sec. 38), calculate resort fees under the graduated rate fee system (FSH 2709.11 sec. 52.1). The minimum fee is $300 per year.

3. Ensure that the required review by the regional forester is completed prior to issuance of a permit where the capital investment to be authorized exceeds or is expected to exceed $500,000 for resorts.
2721.34 - Campground (Privately Owned) [Reserved]

2721.35 - Restaurant

This designation includes all uses that have as a principal purpose the serving of meals to the public. The service occurs most frequently as a part of a resort or as a part of another service or activity.

See FSM 2343.4 for direction relating to management of restaurants on National Forest System land.

Calculate fees for restaurants under the graduated rate fee system (FSH 2709.11, sec. 52.1).

2721.36 - Other Commercial Public Services

2721.36a - Store, Shop, Office

This designation includes use normally associated with other commercial public services found in a resort complex.

See FSM 2343.5 for policy relating to stores and shops and FSM 2341 for policy relating to offices.

Calculate fees for stores and shops under the graduated rate fee system and for offices on the basis of the value of the land for the use permitted (FSH 2709.11). The minimum fee is $300 per year.

2721.36b - Rental Service Facility

This designation includes rental services not otherwise covered in FSM 2721.5. Normally, needed rental services are encouraged as an adjunct to an existing permit.

See FSM 2343.7 for direction relating to management of rental services. Calculate fees for rental service facility under the graduated rate fee system (FSH 2709.11, sec. 52.1).

2721.37 - Service Station

This designation includes commercial garages, gasoline stations, and related facilities such as car washes and parking lots.

See FSM 2343.6 for direction relating to the determination of need for a service station and the facilities and services that may be provided.
Calculate fees for service stations under the graduated rate fee system (FSH 2709.11, sec. 52.1).

2721.38 - Marina

This designation includes a combination of waterfront uses that are boating oriented. These uses may include a dock or basin providing secure moorings for all types of boats, launching ramps, the supplying of food, water, fuel, repair, and other facilities or services.

See FSM 2343.2 for direction relating to management of marinas on National Forest System lands and waters.

Calculate fees for marinas under the graduated rate fee system (FSH 2709.11, sec. 52.1). The minimum fee is $300 per year.

When a marina's business includes boat rental service, require compliance with State boat laws and the Federal Boating Act of 1958 (Pub. L. 89-911, 72 Stat. 1754) in the permit. Require the permittee to post rules for safe operation of boats at each boathouse, dock, or wharf.

2721.39 - Tramway (Aerial Tram, Ropeway, or Funicular)

This designation includes tramways, ropeways, or funiculars operated for recreation purposes, provided however that it does not include tramways, ski lifts, or tows at winter recreation sites which should be coded as 161 or 162 (FSM 2721.6). Tramways operated for other than recreation purposes should be coded as 771 (FSM 2727.7).

See FSM 2340.3 and FSM 2343.9 for direction relating to development and management of tramways ropeways, or funiculars on National Forest System land. See FSM 7320 for direction related to structural safety for the development and operation of tramways, ropeways, or funiculars.

Include provisions in the permit that require compliance with American National Standards Institutes (ANSI) B77 Standard for construction and operation of tramways, ropeways, or funiculars.

Calculate fees for tramways under the graduated rate fee system (FSH 2709.11). The minimum fee is $300.

2721.4 - Concessions Involving Government-Owned Improvements

This category involves recreation activities that utilize facilities and/or National Forest System land.
Authorize and administer combinations of activities or activities and services (FSM 2721.5) that are not a part of a resort facility under a permit carrying the designation of the predominant activity or service. Authorize the activity or service in the resort special use permit when it is a part of the opportunities offered by a resort. Policy relating to these concession operations is covered in FSM 2340.

2721.41 - Concession Campground

This designation includes camping and picnicking when these activities are the primary uses permitted. Camp and picnic areas developed by non-Federal public agencies, as well as permittee-operated sites, are included.

See FSM 2344.3 for direction relating to concessioner-operated camping facilities.

See FSH 2709.11, Special Uses Handbook, for direction on computing fees for use of National Forest System land for camping and picnicking.

2721.42 - Concession Day Use Site [Reserved]

2721.43 - Organizational Camp [Reserved]

2721.44 - Recreation Lodging in Government-Owned Buildings [Reserved]

2721.45 - Visitor Center [Reserved]

2721.46 - Resort [Reserved]

2721.5 - Concession Services

This category includes concessions without facilities on NFS land that provide service to the public taking part in recreation activities.

Do not authorize the construction of facilities under use codes 151, 152, or 153. For concessions involving privately owned improvements see 2721.3. Direction for these concession operations is covered in FSM 2343.

2721.51 - Rental Service (Without Facilities) [Reserved]

2721.52 - Transportation Service [Reserved]

Do not use this use code at this time.

2721.53 - Outfitting and Guiding Service
This designation includes all commercial outfitting operations involving services for accommodating guests, transporting persons, and providing equipment, supplies, and materials. It also includes commercial guiding activities wherein the guide furnishes personal services or serves as a leader or teacher.

See FSM 2343.8 and FSH 2709.11, Special Uses Handbook, for direction relating to management of outfitting and guiding services on National Forest System lands and waters. In addition:

1. Require all private parties conducting outfitting and guiding services on National Forest System lands to have a special use authorization.

2. Allow placement of temporary structures and improvements, such as corrals, tent frames, and shelters, on National Forest System land under special use authorization only when there is a demonstrated public need for such facilities.

3. Require outfitters and guides, whose facilities are located off National Forest System land, to obtain a special use authorization if they conduct any activities on National Forest System land.

4. Authorize permanent facilities of a substantial nature under a resort special use authorization even though the primary business of the holder may be outfitting and guiding.

Calculate outfitter and guide fees as defined and described in FSH 2709.11, Special Uses Handbook.

2721.6 - Winter Recreation

Winter recreation refers to all facilities, activities, and services related to a winter recreation operation. Developments may include a complete resort facility, portions or all of slopes or lifts for a facility located partially on private land, and snow-play (FSM 2721.65). Ski activities such as ski schools are also included.

2721.61 - Winter Recreation Resort

This designation includes resorts associated with various forms of winter outdoor recreation, though they often may be used for summer recreation purposes also. Make provision in the permit, as needed, to allow all-season uses. See FSH 2709.11 for general instructions on the prospectus, application for permit, permit preparation, permit issuance, and permit administration.
Review by the regional forester is required prior to issuance of a permit where the capital investment to be authorized exceeds or is expected to exceed $1 million for winter sports resorts.

2721.61a - Permit Conditions

Normally, authorize the more costly elements of the development, such as base lodge and related buildings and uphill equipment, under a term permit. Authorize by an annual special use permit ski trails and other land disturbances, for which the permittee should not be reimbursed in the event the permit is terminated prior to its expiration date. Ensure that all of the area necessary for the operation is covered by permit.

2721.61b - Permit Fees

Calculate fees for winter recreation permits under the ski area permit fee system established by 16 U.S.C. 497c (FSH 2709.11, sec. 38) or under the graduated rate fee system (GRFS) (FSM 2715.11) as follows:


2. Permit Fee System for Ski Areas Authorized Under Organic Act of 1897 and Term Permit Act of 1915. For ski areas authorized under the Organic Act of 1897 (16 U.S.C. 551) or the Term Permit Act of 1915 (16 U.S.C. 497), provide holders the opportunity to elect the fee system in 16 U.S.C. 497c (FSH 2709.11, sec. 38). Do not require conversion of such authorizations to a permit issued under the National Forest Ski Area Permit Act of 1986.

If the holder does not elect to have permit fees calculated under the ski area permit fee system in 16 U.S.C. 497c, continue to calculate fees according to the method specified in the holder's permit (FSM 2715.11).

For nordic areas where primarily outfitting and guiding activities are conducted, continue to apply the permit fee system specified in the existing permit. Refer to FSM 2721.61e, paragraph 4, for direction on the characteristics of a nordic operation eligible for authorization under the National Forest Ski Area Permit Act of 1986 and for applicability of the permit fee system to such areas, as set out in FSH 2709.11, section 38.

3. Permit Fee System for Operations That Include Incidental Ski Activities or Facilities. For resorts that are primarily summer seasonal in nature and may include minor ski
operations (such as a simple lift or minor nordic operations), continue to apply the permit fee system specified in the existing permit.

For activities that are authorized under the National Forest Ski Area Permit Act of 1986 but include only incidental ski operations, apply the permit fee system in 6 U.S.C. 497c (FSH 2709.11, sec. 38). Encourage authorization of those activities under a more appropriate authority listed in FSM 2701, with the appropriate fee system.

4. Permit Fee System for Ski Lifts and Tows. Use the following permit fee systems for ski lifts and tows:

   a. If the use is authorized under the Term Permit Act of 1915 or the Organic Act of 1897, calculate permit fees for ski lifts and tows using a negotiated fair market value flat rate (FSH 2709.11, sec. 52) or the graduated rate fee system (FSM 2715.11).

   b. If the use is authorized under the National Forest Ski Area Permit Act of 1986, apply the permit fee system established by 16 U.S.C. 497c (FSH 2709.11, sec. 38). Encourage authorization of ski lifts and tows under a more appropriate authority listed in FSM 2701, with the appropriate fee system. Refer to FSM 2721.62 for management direction regarding ski lifts and tows.

2721.61c - Winter Recreation Site Operation Plan

Require an operation plan (FSM 2343.12) for each permit covering winter recreation activities.

2721.61d - Permittee Inspection

Include in permits for winter recreation sites requirements that permittees provide for public safety as outlined in FSM 2343.1, FSM 7320, and American National Standards Institutes (ANSI) B77 Standard.

2721.61e - Ski Area Permit

1. The National Forest Ski Area Permit Act (16 U.S.C. 497b) is the exclusive authority for authorizing primarily or entirely privately owned Nordic and alpine ski areas on National Forest System (NFS) lands. Assign use code 161, and use only the National Forest Ski Area Permit Act and form FS-2700-5b, Ski Area Term Special Use Permit, to authorize alpine ski areas and Nordic trail systems that have substantial capital improvements on NFS lands. Authorize ski areas operating entirely or primarily with federally owned facilities under Section 7 of the Granger-Thye Act (16 U.S.C. 580d). See 36 CFR 251.51 for a definition of “ski area.”
2. The following uses do not constitute ski areas and therefore should be assigned a different use code and authorized under an authority other than the National Forest Ski Area Permit Act, using a permit form other than FS-2700-5b, Ski Area Term Special Use Permit:

   a. Nordic skiing that:

      (1) Is independent of an alpine ski resort;

      (2) Is not conducted from a Nordic center located on NFS lands;

      (3) Involves only grooming and temporary signing of federally owned trails; and

      (4) Involves no privately owned improvements on NFS lands.

   Assign use code 163, ski slope or ski trail, to these activities, and authorize them under section 803(h) of the Federal Lands Recreation Enhancement Act (REA) (16 U.S.C. 6802(h)) or the Organic Act (16 U.S.C. 551) using form FS-2700-4, generally with a term of up to 5 years.

   b. Nordic and alpine skiing operations with only minor improvements on NFS lands, such as where:

      (1) Use of NFS lands for Nordic skiing is limited to a partial trail system that extends less than 10 miles or that involves less than $1,000,000 in privately owned improvements and that is incidental to facilities on private land; or

      (2) Use of NFS lands for Nordic or alpine skiing consists of minor portions of undeveloped terrain or a few cleared ski trails with no snow-making facilities, ski lifts, or other infrastructure.

   Assign use code 163, ski slope or ski trail, to these activities, and authorize them under section 803(h) of REA or the Organic Act using form FS-2700-4, generally with a term of up to 10 years.

   c. Nordic skiing that primarily involves outfitting and guiding (see 36 CFR 251.51 for definitions of “outfitting” and “guiding”), such as heliskiing or guided ski tours without groomed trails or support facilities. Assign use code 153, outfitter and guide service, to these uses, and authorize them under section 803(h) of REA using form FS-2700-4i or FS-2700-3f, as appropriate.

3. Consult with the Washington Office Director of the Recreation, Heritage, and Volunteer Resources staff before authorizing a term of more than 5 years for a federally
owned Nordic trail system that does not constitute a ski area under FSM 2721.61e, paragraph 2a.

4. Assign a use code of 133, resort, to activities that are essentially summer season operations, such as those that involve a simple lift or minimal Nordic skiing, and authorize them under the Term Permit Act of 1915 (16 U.S.C. 497).

5. Winter and year-round recreational activities and services provided by the holder within the ski area permit boundary should be authorized under the ski area permit. In general, do not issue separate permits for non-skiing recreational activities that occur solely within the permit area, such as recreation events or outfitting and guiding.

6. With the exception of condominiums, normally all ski area facilities owned or under the control of the holder should be included in the ski area permit boundary. To the extent they exist on NFS lands, condominiums should be authorized under a separate term permit issued under the Term Permit Act.

2721.61f - Environmental Compliance

Ensure that issuance of permits for winter recreation resorts complies with the Council on Environmental Quality’s regulations implementing the National Environmental Policy Act (NEPA), as well as the Forest Service’s NEPA regulations and directives (36 CFR Part 220; FSH 1909.15). See FSH 1909.15 for direction on requirements related to permit issuance for new ski areas that are not currently authorized under a permit. See FSH 1909.15 and 2709.14, section 61.2, for direction on requirements related to permit issuance for ski areas that are currently authorized under a permit.

2721.62 - Ski Lift or Tow

This use code covers situations where a ski lift or tow constitutes the most significant development on NFS lands. A ski lift or tow may be assigned this use code if:

1. The base facility is located on adjacent private land;

2. A ski lift or tow connects a ski area with a private facility, such as a lodge, that is neither owned nor operated by the ski area permit holder; or

3. A community ski area does not provide any of the typical resort services, such as eating or sleeping facilities.

See FSM 2343.1 for direction relating to administration of permits for ski lifts and tows.
See FSM 2721.61b, paragraph 4, for direction on which land use fee system to use for ski lifts and tows.

**2721.63 - Ski Slope or Ski Trail**

This use code is appropriate where ski slopes and ski trails constitute the primary development on and use of NFS lands.

For alpine skiing, this use code generally involves use of NFS lands for downhill skiing without lifts on groomed or ungroomed trails. This use code should be used in those situations where the majority of a large ski area operates on adjacent private land and the capital investment on NFS lands is limited to a few ski trails with or without seasonal grooming. See FSM 2721.61e, para. 2b. More substantial developments on NFS lands should be authorized per FSM 2721.61e, paragraph 1.

For Nordic skiing, this use code involves trail grooming across NFS lands, with privately owned improvements on NFS lands limited to a partial trail system that extends less than 10 miles or that has a value of less than $1,000,000 and that is incidental to facilities on private land.

Normally, authorize this type of use on form FS-2700-4 for a term of up to 5 years for government-developed trails and up to 10 years for privately developed trails. See FSM 2343.1 for direction on administration of permits for ski slopes and ski trails.

Calculate land use fees for ski slopes and ski trails based on land value or, where mixed landownership is involved, based on the proportion of total revenue attributable to their use (FSH 2709.11, ch. 30). The minimum land use fee for this type of use is $150.

**2721.64 - Ski Activity**

This designation covers continuing minor ski activities, such as ski schools. Do not permit these activities as separate operations. Where there are existing permits, terminate them at the earliest opportunity and authorize future operation under a basic permit.

Temporary, short-time ski events, such as races, are designated recreation events. See FSM 2721.81 for direction on these events.

Calculate fees for ski activities under the graduated rate fee system, subject to a minimum fee of $30 per year (FSM 2715).

**2721.65 - Snow Play**

This designation covers activities and facilities for winter recreation, not associated directly with skiing. Examples are tobogganing, sledding, and ice skating. Allow uphill devices provided
they are not in place to assist skiers. Use one of the other designations under FSM 2721.6 when skiers are served.

Calculate fees for snow play under the graduated rate fee system (FSM 2715).

2721.7 - Outdoor Recreation Improvements

2721.71 - Target Range

This designation includes pistol, rifle, shotgun, trap, skeet, sporting clay, and archery ranges.

If the proposal involves a military range, consult with the Office of the General Counsel (OGC), including OGC’s Pollution Control Team, before issuing the authorization to ensure that issues associated with Department of Defense rules and policies regarding the cleanup of ranges, including future land use issues, are adequately addressed in the proposed authorization language.

See FSM 2335.4, 2340.3, and 2343.9, and FSH 2709.14, section 71 for further direction on requirements related to target ranges, including the process for special use authorizations, National Environmental Policy Act (NEPA) analysis and documentation, the environmental stewardship plan, and the safety plan.

The minimum annual land use fee is $30. Use the graduated rate fee system (FSH 2709.11) to calculate fees for commercial operations.

2721.72 - Park or Playground

This designation includes uses that are usually local community ventures. They are generally discouraged on National Forest System land.

See FSM 2340.3 and FSM 2341 for direction relating to development and management of parks and playgrounds on National Forest System land.

The minimum fee is $30 per year.

2721.73 - Golf Course

This designation involves golf courses developed at existing concession sites on National Forest System land, where there was a definite public need for such facilities.

See FSM 2341 for direction relating to development and management of golf courses on National Forest System land.
Calculate fees for golf courses under the graduated rate fee system (FSH 2709.11) unless National Forest System land is less than 10 percent of the land involved, in which case, use an annual fee based on rental data or land value.

The minimum fee is $30 per year. See FSH 2709.11, Special Uses Handbook, for instructions on fee calculations.

2721.74 - Cave or Cavern

This designation involves management to permit public viewing of caves and caverns.

Authorize concessioner operation of caves or caverns that have spectacular public viewing opportunities. Base the decision as to the type of permit to issue (term or annual) on the required investment by the private sector. Normally, issue a prospectus if the visitor-day potential warrants a permittee operation.

See FSM 2343.9 for policy relating to management of caves and caverns.

Calculate fees for concessioner operation of caves and caverns under the graduated rate fee system (FSH 2709.11).

See FSH 2709.11, Special Uses Handbook, for instructions relating to issuance of permits for noncommercial exploration of caves and caverns by individuals or groups.

2721.75 - Racetrack

This designation includes racing activities where continuing land occupancy by more or less permanent structures and facilities has been permitted. New tracks are not authorized.

See FSM 2341 for direction relating to development and management of existing racetracks on National Forest System land.

The minimum fee is $300 per year. See FSH 2709.11, Special Uses Handbook, for instructions on computing fees.
2721.76 - Day Use Facility (Picnic Area, Trailhead, Scenic Overlook, or Rest Area) [Reserved]

2721.77 - Visitor Center [Reserved]

2721.78 - Hunting Enhancement [Reserved]

2721.8 - Temporary Event [Reserved]

2721.81 - Recreation Event

This designation includes organized events of a temporary nature, such as animal, vehicle, or boat races; dog trials; fishing contests; rodeos; adventure games; and fairs. Authorize continuing occupancies entailing more or less permanent structures and facilities under other appropriate designations. Require, in all cases, that a specific legal entity be identified as the permittee. In the permits include provisions for protection of the environment and site cleanup and restoration. Require performance bonds (FSM 2713.1) when needed to ensure return of the site to a satisfactory condition. Require permittees to furnish or arrange for appropriate liability insurance (FSM 2713.3), law enforcement, crowd control, safety, and sanitation. Include concession stands, vendors, and so forth, in the parent permit. Provide for subleasing in the permit.

The fee is 5 percent of adjusted gross receipts (gross revenue less cost to holder of prizes awarded) for one-time events and 3 percent for multiple events under a single permit. The minimum fee is $30 per event.

Authorize events to be held at permitted commercial public service sites through the area permittee.

Authorize exclusive film, radio, or television coverage in the parent permit. In this circumstance, the film or broadcast company becomes a sublessee of the permittee.

2721.82 - Vendor or Peddler

This designation includes mobile concession operations that are allowed where store facilities are needed by the public, but are not economically feasible.

See FSM 2343.5 for direction relating to peddler permits on National Forest System land.

See FSH 2709.11, Special Uses Handbook, for instructions on calculation of fees for peddler permits.
2721.9 - Tribal and Noncommercial Group Use

2721.91 - Noncommercial Group Use

See 36 CFR 251.51 for the definitions of “noncommercial use or activity” and “group use.” Grant applications for noncommercial group use unless they meet one of the criteria listed in 36 CFR 251.54(g)(3)(ii)(A) through (g)(3)(ii)(H) for denial of this type of use. Authorize noncommercial group use on form FS-2700-3b. A special use permit is not required if the use involves fewer than 75 people.

Utilize use code 192 to authorize noncommercial use by Indians and Indian tribes for traditional and cultural use pursuant to section 8104 of the Food, Conservation, and Energy Act of 2008 (FCEA) (25 U.S.C. 3054).

Do not authorize permanent structures under a noncommercial group use permit.

See FSM 2721.81 for direction on recreation events.

2721.92 - Traditional and Cultural Use by Indians and Indian Tribes [Reserved]

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CONCESSION USES INVOLVING PRIVATELY DEVELOPED FACILITIES (FSM 2343) (version issued on April 17, 2014)

2343.02 Objective
2343.03 Policy
2343.1 Ski Areas
2343.11 Policy
2343.12 Avalanche Control
2343.13 Operating Plans
2343.14 Additional Seasonal and Year-Round Recreation at Ski Areas
2343.2 Marinas
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2343.02 - Objective

To provide diverse, natural resource-based recreation opportunities.

2343.03 - Policy

Manage concession sites, activities, and programs according to the policies in section 2340.3, the following policies, and the specific direction for each category of use.

1. Authorize concession developments only where there is a demonstrated public need. Do not permit concession development either solely for the purpose of establishing a profit-making commercial enterprise or where satisfactory public service is or could be provided on nearby private or other public lands.

2. Issue prospectuses to solicit proposals for development of new concession sites when it is in the public interest or when competition exists or may be created. Give existing concessioners an opportunity to expand their operation to meet increasing public needs before offering new sites for development.

3. Give priority to developments offering moderately priced accommodations and services as opposed to luxurious accommodations and services affordable only by the affluent.

4. Encourage year-round, natural resource-based recreation activities at privately developed concession sites. Some facilities may be allowed as part of a resort development that would not be authorized as stand-alone developments. For example, allow installation of zip lines and other aerial adventure course facilities only under term permits for ski areas, resorts, and organizational camps, but not as stand-alone developments or under service permits. Refer to FSM 2343.14 and 7330 for guidance related to year-round natural resource-based recreation activities and associated facilities.

5. Allow holders to provide only those services and facilities and to conduct only those activities specified in the special use authorization. Amend authorizations to document the location of facilities and services that are approved.

6. Allow the sale of distilled alcoholic beverages for on-site consumption only as an adjunct to a resort or other recreation concession development where food and beverage operations are part of the overall business and only within the requirements of State and local laws. Do not allow their sale as an independent service or solely on the basis of profitability. Require holders to locate cocktail lounges and bars so that it is not necessary to pass through them to reach the other services provided for in the
authorization. Do not allow the sale of distilled alcoholic beverages for off-site consumption.

7. Authorized Officers may, at their discretion, allow the sale of fermented alcoholic beverages (beer or wine, for example) or off-site consumption as an adjunct to a resort or other concession development.

8. Require concession authorization holders to provide all of the improvements and services needed by the public and specified by the special use authorization. Under normal circumstances, issue only one authorization for each site and allow sub-leasing of facilities and services only where the holder can prove this would provide a clear public benefit.

9. Periodically analyze use at concession sites to determine whether the services being provided are still necessary. If not, either require holders to change the services over time to meet public need or terminate the authorization.

10. For concession sites receiving limited patronage as evidenced by use records, low sales revenue, and low fee payments, require one of the following:

   a. Change of facilities, services, or activities.

   b. Relocation.

   c. Termination.

11. Advertising. Except as provided in paragraphs 11 and 12, prohibit advertising at concession sites. Any exterior signage at a concession site must have prior written approval from the Authorized Officer as part of the operating plan. The Forest Service shield and any other symbol identified with the Agency shall not appear in conjunction with product or service names and advertisements, and care must be taken to avoid any other appearance of Agency endorsement of products or services. Prohibited advertising includes naming of facilities in ways designed to promote the products or services of a company other than the permit holder. Placement of product or service names or advertisements on Government vehicles is always prohibited. The Forest Service has no authority to regulate any form of advertising conducted strictly on non-National Forest System lands.

   Advertising and displays that do not comply with paragraphs 11 and 12 must be removed or modified to comply. Those that involve a contract with a third party may remain in place through the term of the current contract, but may not be renewed or extended.
a. **Indoor Spaces.** Advertising may be allowed inside buildings and other closed interior spaces owned by the holder, including the interior of tramway or gondola cabins, buses, and other vehicles. Interior spaces do not include ski lift towers, chairs, restraining bars, or other exterior ski lift components. Advertising may not be placed in a manner that allows it to be visible from outdoors, such as in building windows. Advertising in indoor spaces may promote the products or business of either the holder or other individuals and entities.

b. **Chairlift Restraining Bars.** Advertising may be allowed on chairlift restraining bars facing passengers:

(1) Only when it is included in a trail map display; and

(2) Only to the extent the advertising does not exceed 33 percent of the surface area of the panel facing passengers.

c. **Holder Services.** Holders may post signs and other information at suitable outdoor locations in the permit area that notify visitors of the location of services offered at the concession site, such as rental shops and restaurants, provided that outdoor postings:

(1) Are limited to services provided by the holder;

(2) Identify only the name and location of services provided at the concession site; and

(3) Do not include the name of other companies or product descriptions, trademarks, taglines, promotional graphics, or any other advertising for those companies.

d. **Holder Name and Logo.** Holders may post signs at suitable outdoor locations in the permit area that display the holder’s name and logo. Holders, their contractors, other service providers, and business partners may display their name and logo on personal and company vehicles operated on roads and in parking areas within the permit area. Except as provided in paragraph f, no other name, logo, or other advertising is permitted on signs and vehicles operated in the permit area.

e. **Printed Materials and Other Off-Site Media.** Printed materials and other media produced outside the permit area, such as trail map brochures, that contain advertising may be distributed at concession sites, but may not be posted in outdoor settings in the permit area, unless they are advertising strictly holder services. These materials and other media must state that the ski area is located in a National Forest.
f. Short-Term Competitive or Recreation Events. Authorized officers may approve outdoor advertising posted for periods of 21 days or less for competitive or recreation events such as ski and snowboard races. Advertising materials may be placed only at the event site and must be removed as soon as practicable after the event. Companies associated with the event may display their name and logo on personal and company vehicles operated in the permit area during the period outdoor advertising is approved for the event.

g. Designated Ski and Snowboard Race Courses and Terrain Parks. Entities such as the National Standard Race Program that provide financial or in-kind support for snow sport race courses and terrain parks with clearly defined start and finish points may be recognized at the start and finish points of the courses and parks and on race gates throughout the winter operating season. Advertising shall not be posted elsewhere at these sites. Snow sport race courses and terrain parks must be identified in a master development plan or an operating plan approved by the authorized officer.

h. Manufacturer’s Name. The manufacturer’s name may be displayed in a product, such as a ski lift, in the permit area, provided that the manufacturer’s name is embedded in the product as part of the manufacturing process. The manufacturer’s name may not be posted on products in outdoor spaces in the permit area.

12. Sponsorships. Sponsorships at concession sites should support events, projects, and programs that promote public participation in or awareness of management of National Forest System lands, such as events, projects, or programs that evaluate solutions to specific natural resource management problems, increase conservation awareness, or promote public health or safety. Use sponsorships to promote conservation education and outdoor environmental program objectives (FSM 1623.02 and 1624.02). Sponsorships may not be used to defray the cost of facilities and services authorized by a permit or to provide facilities or activities to respond to evolving customer preferences. Trail map bulletin boards, directional signing, and similar outdoor posted information are basic elements of a holder’s operations and are not appropriate for sponsorship recognition.

Sponsored events, projects, and programs must have prior written approval from the Authorized Officer and must include a plan that describes the event, project, or program; its duration, objective, outcome, and target audience; and communication or marketing strategies for the event, project, or program. Exhibit 01 is an example of a sponsorship plan.

13. Clearly define the holders’ responsibilities for the safety of their employees and the public within the boundaries of the authorization and while participating in activities.
covered by the authorization. Require that safety be addressed in applications responding to prospectus offerings, special use authorizations, and operating plans.

14. Ensure that literature, brochures, and other advertising that permit holders distribute, with respect to a concession enterprise, do not contain misleading statements or indicate that discrimination is practiced against any prospective patron because of race, color, sex, national origin, age or disability. Also ensure that such literature identifies the facility as being authorized on National Forest System land.
SPONSORSHIP PLAN FOR AN AVALANCHE BEACON
TRAINING AREA AT XYZ SKI AREA

Background

XYZ Ski Area proposes installation of an avalanche beacon and backcountry safety training area on National Forest System lands. Backcountry areas adjacent to the ski area offer extensive opportunities for skiing and snowboarding, but avalanches are a serious concern on these slopes. To prepare those who leave ski area boundaries and travel in the backcountry, two companies—Backcountry Access™ and Tracker DTS™—have agreed to lend financial support to the ski area to construct an avalanche beacon and backcountry safety training area.

Description of Sponsorship

The sponsorship would enable installation of a 0.5-acre training area near the base terminal of the main chairlift and parking lot. This location would allow both skiers at the mountain and those using the backcountry by other means to test their avalanche transceiver equipment and their skills in a managed course, which would have five permanently buried beacons. In addition, interpretive displays and several signs containing avalanche awareness and safe winter travel information would be installed at the site. The support provided by the two companies would be recognized by including their name and trademark on the signs and in the displays and free brochure that would be available at the course.

Duration

The interpretive displays and accompanying sponsorship signage would be posted at the ski area for at least 5 years.

Objectives

Consistent with FSM 2343.03, paragraph 12, the purpose of this sponsorship is to promote public health and safety by offering winter backcountry users an opportunity to test their avalanche rescue skills and equipment in a controlled situation and in a place where other safety information would be made available.

Outcome

The anticipated outcome of this sponsorship would be that skiers and snowboarders using the backcountry would be more aware of and better prepared to address avalanche hazards.
Target Audience

The target audience is winter backcountry users, including those using XYZ Ski Area and those who drive to other locations in the area.

Communication and Marketing Strategies

Backcountry Access™ and Tracker DTS™ would be identified as sponsors on information displays in the beacon training area and in the brochure that would be available at the site. The recognition would be limited to acknowledgment of the sponsors’ public service initiative and their names and trademarks. No reference to the companies’ products or services or other promotional material would be included in the recognition.

Recognition of the sponsors may be posted at no larger than pedestrian scale and should be consistent with the principles of the Forest Service Built Environment Image Guide. The Forest Service shield and any other symbol identified with the Agency shall not appear in conjunction with product or service names and advertisements, and care must be taken to avoid any appearance of Agency endorsement of the sponsor or their products or services. Recognition of sponsors is also subject to the following limitations:

a. Duration and Location of Recognition. Sponsor recognition may be allowed only during and within the proximity of the event, project, or program. To the extent practicable, recognition must be integrated into the event, project, or program so that participants and spectators can make a clear connection between the sponsor and the public service being provided.

b. Scope of the Recognition. Sponsor recognition in signs, printed and electronic media, wayside and kiosk exhibits, and temporary facilities must be limited to acknowledgment of the sponsor’s public service initiative and may include only the sponsor’s name and trademark. Taglines and other promotional materials may not be posted. The purpose of recognition is to identify the sponsor, not to promote the sponsor’s products or services.

c. Events. Recognition of sponsors of events that are conducted by the holder, such as festivals, clean-up days, and volunteer programs, may appear on banners, posters, flyers, and temporary facilities and may include sponsors’ name and trademark. This type of recognition may be placed only at the event site and must be removed as soon as practicable after the event.
2343.1 - Ski Areas

This category includes sites provided and developed on National Forest System lands under a special use permit and authorized as a ski area (36 CFR 251.51) to accommodate alpine and Nordic skiing, other snow sports, and additional seasonal and year-round natural resource-based recreation activities. For additional direction pertaining to winter recreation uses, see FSM 2703, 2710, and 2721.61, Special Uses Management; FSH 2709.11, chapter 10, Application and Authorization Processing; FSH 2709.14, chapter 60, Winter Recreation Resorts and other Concessions Involving Winter Sports; FSM 7320, Tramways, Funiculars, Ski Lifts, Conveyors, and Tows; and FSM 7330, Aerial Adventure Courses. Manage winter recreation sites through application of direction and guidance in FSM 2343.11 through 2343.14.

2343.11 - Policy

1. Work with holders to ensure that ski areas provide a high-quality recreation experience and that recreation activities at ski areas are conducted in a manner that protects the natural environment and cultural resources and enhances community values.

2. Ensure that the primary recreation purpose of ski areas is skiing and other snow sports (36 CFR 251.51). Do not authorize new ski areas if the primary purpose will be other than snow sports. Any expansion of a ski area permit boundary must be based solely on needs related to snow sports. Do not approve additional seasonal or year-round natural resource-based recreation activities and associated facilities at ski areas if they would change the primary purpose of the ski area to other than snow sports.

3. Encourage additional seasonal or year-round recreation opportunities that connect visitors to the natural environment that may range from active to passive recreation, natural and cultural resource interpretation and conservation education supporting the Forest Service’s mission to sustain the health, diversity, and productivity of the National Forests and Grasslands to meet the needs of present and future generations.

4. Allow holders to charge fees for the use of improvements and services in which they have made capital investments, such as skiing trails or other facilities they constructed, groom, or otherwise maintain. Do not allow holders to charge for the use of National Forest System lands in which they have made limited or no investments. Holders may not charge for use of non-motorized or motorized trails that are constructed and maintained by the Forest Service.
5. Do not allow a holder to charge an entrance fee. Allow permit holders to charge a fee for the facilities and services they offer, such as lifts, plowed parking lots, groomed slopes and trails, and manmade snow. Authorized Officers should strive to ensure that, to the extent possible based on public safety considerations, some portions of the permit area remain open to the public without charge, so that the holder’s charges do not constitute de facto entrance fees.

6. Ensure that holder operations comply with Forest Service regulations (36 CFR 251.55(b)) and permit terms and conditions for non-exclusive use and that the ski area remains open to the non-paying public for all lawful uses that are not inconsistent with the holder’s rights and privileges and public safety. Document in the operating plan authorized restrictions on use by the non-paying public, and require the holder to post these restrictions in locations where they would be effective in informing the public, for example, on the ski area’s website and on site at a primary entrance or public information facility. In most cases, it would not be appropriate for restrictions to preclude all public use during the ski season other than by those purchasing a lift ticket or paying for other services.

7. Encourage private ownership of Nordic skiing operations that involve substantial improvements on National Forest System lands. See FSM 2721.61e for direction on authorizing Nordic skiing in various situations.

8. Plan for the development of buildings such as day lodges, restaurants, and other occupied structures so they are not exposed to frequent and extensive or severe avalanche activity.

9. Discourage development and use of new terrain that requires military weapons for avalanche control.

2343.12 - Avalanche Control

1. Authorize control of avalanche areas under a special use authorization. Issue a separate special use authorization for avalanche control when the affected area is located outside the ski area permit boundary. Avalanche control should be addressed in ski area operating plans, and detailed plans for snow safety should be developed and retained at ski areas and should be available for Forest Service review upon request.

2. Except as provided in paragraph 3 of this section, require holders to do all avalanche control work at ski areas.

3. Consistent with the current Master Interagency Agreement (#11IA11132430205) between the Forest Service and the Assistant Secretary of the Army (Acquisition, Logistics and Technology) for the Forest Service’s national Avalanche Control Program (ACP), maintain the security of weapons and ammunition assigned to the Forest Service.
for the ACP, and ensure that all ACP personnel have received training for their respective duties using protocols established by the American Artillery Users of North America Committee (AAUNAC). Consistent with the requirements of U.S. Army regulations (AR 700-131, ch. 8) and the National Firearms Act (26 U.S.C. 5841), provide a level of oversight and supervision of the program that assures weapons and ammunition are in Forest Service possession and control.

4. In consultation with the Department of the Army and AAUNAC, the Deputy Chief for the National Forest System is responsible for determining whether permit holders may participate in the ACP. The Director of the Forest Service National Avalanche Center is responsible for coordination of the ACP nationally. The Authorized Officer is responsible for assuring compliance with the requirements of paragraphs 1 through 3 of this section at individual ski areas.

5. Forest Service participation in the ACP at ski areas is authorized under Section 5 of the Granger-Thye Act (16 U.S.C. 572). Require collection agreements (FSM 1584) to cover all costs incurred by the Forest Service in connection with participation in the ACP at ski areas.

2343.13 - Operating Plans

1. Operating plans must specify the holder’s duties and assign responsibility for public safety to the holder (FSM 2341.4). When non-winter operations are extensive, consider also requiring a summer operating plan.

2. Before approving an operating plan, require documentation that the holder can provide sufficient personnel, equipment, and facilities for rescue, first aid, and transportation of injured persons.

3. Ensure that ski area operating plans require the holder to patrol slopes, ski trails, and other areas to identify and mitigate hazards.

2343.14 - Additional Seasonal and Year-Round Recreation at Ski Areas

1. Apply the following additional criteria in initial screening of proposals for additional seasonal or year-round recreation activities and associated facilities (36 CFR 251.54(e)(1) and FSH 2709.11, sec. 12.2). These activities and associated facilities must:

   a. Not change the primary purpose of the ski area to other than snow sports;

   b. Encourage outdoor recreation and enjoyment of nature and provide natural resource-based recreation opportunities;
c. To the extent practicable, be located within the portions of the ski area that are
developed or that will be developed pursuant to the master development plan;

d. Not exceed the level of development for snow sports and be consistent with the
zoning established in the applicable master development plan;

e. To the extent practicable, harmonize with the natural environment of the site
where they would be located by:

(1) Being visually consistent with or subordinate to the ski area’s existing facilities,
vegetation and landscape and

(2) Not requiring significant modifications to topography to facilitate construction or
operations;

f. Not compromise snow sports operations or functions; and

g. Increase utilization of snow sports facilities and not require extensive new
support facilities, such as parking lots, restaurants, and lifts.

2. Additional seasonal or year-round recreation activities and associated facilities that
may meet the criteria in FSM 2343.14, paragraph 1, include but are not limited to:

   a. Zip lines;

   b. Mountain bike terrain parks and trails;

   c. Disc golf courses; and

   d. Ropes courses.

3. Additional seasonal or year-round recreation activities and associated facilities that
may not be authorized include but are not limited to:

   a. Tennis courts;

   b. Water slides and water parks;

   c. Swimming pools;

   d. Golf courses; and

   e. Amusement parks.
4. Factors that may affect whether other additional seasonal or year-round recreation activities and associated facilities besides those listed in paragraph 2 may be approved under paragraph 1 of this section include but are not limited to the degree to which visitors are able to engage with the natural setting, the extent to which the activities and facilities could be expected to lead to exploration and enjoyment of other NFS lands, and the similarity of the activities and associated facilities to those enumerated in paragraph 2 or paragraph 3 of this section.

5. Do not approve additional seasonal or year-round recreation activities and associated facilities when the visitor’s experience is not interdependent with attributes common in National Forest settings.

6. Allow temporary activities that rely on existing facilities, such as concerts or weddings, even if they are not necessarily interdependent with a National Forest setting, provided they are enhanced by it. Do not authorize new permanent facilities solely for these activities.

7. Encourage holders to utilize existing facilities to provide additional seasonal or year-round recreation activities.

8. Use ski area master development plans to guide the placement and design of additional seasonal or year-round recreation facilities. As part of the master development planning process, follow these steps in this sequence:

   a. Establish zones to guide placement and design of additional seasonal or year-round recreation facilities, basing the zones on the existing natural setting and level of development to support snow sports;

   b. Depict the general location of the facilities; and

   c. Establish an estimated timeframe for their construction.

9. Utilize the Scenery Management System (FSM 2380), Built Environment Image Guide (Publication FS-710), and the Recreation Opportunity Spectrum (FSM 2310) to ensure that additional seasonal or year-round recreation activities and associated facilities are located and constructed to harmonize with the surrounding natural environment.

10. Authorization of additional seasonal or year-round recreation activities and associated facilities is subject to terms and conditions deemed appropriate by the Authorized Officer.
11. The acreage necessary for additional seasonal or year-round recreation activities and associated facilities may not be considered in determining the acreage encompassed by a ski area permit. Permit area expansions must be based on needs related to snow sports rather than additional seasonal or year-round recreation.

12. Additional seasonal or year-round recreation activities and associated facilities that were authorized before November 7, 2011, and that do not meet the criteria in paragraphs 1 through 11 of this section may continue to be authorized during the term of the current permit. When that permit terminates or is revoked, do not reauthorize additional seasonal or year-round recreation activities and associated facilities that do not conform to paragraphs 1 through 11 of this section.

13. Notwithstanding FSM 2340.3, paragraph 3, and 2343.03, paragraph 1, a proposal that complies with paragraphs 1 through 12 of this section may be approved.

2343.2 - Marinas

This category includes facilities and services to accommodate the boating public at lakes, streams, and reservoirs on National Forest System land.

1. Allow holders to provide services needed by the public, including boat rentals, boat moorage, fuel and mechanic services, food services, grocery, bait, and sporting goods services.

2. Locate swimming sites and marina operations in such a way as to provide separation between the two types of uses and avoid conflicts.

2343.3 - Lodging and Overnight Accommodations

This category includes sites and facilities such as lodges, hotels, motels, campgrounds, trailer courts, and camps, and commercial group camps. In addition to the general policies in section 2340.3, the following policy applies to lodging and overnight accommodations.

1. Authorize provision of lodging accommodations on National Forest System land only where there is a public need for the facilities and where there is no suitable private land for such facilities within a reasonable distance.

2. Require operation, management, and marketing of lodging and overnight accommodations in a manner that ensures the general public has full access to the facilities. Deny exclusive or preferential use by holders, their employees, families, friends, business associates, partners, stockholders, lenders, or others who may have a monetary interest in the facilities.
3. Require holders to establish guest stay limits of 30 days or less to ensure the continuing availability of facilities for public use and to ensure no personal, private, or preferential use of authorized facilities, including trailer sites, overnight houseboat mooring accommodations, and campsites.

2343.4 - Restaurants, Cafes, and Other Food Services

1. Authorize Concessioners to provide food services at dining rooms, coffee shops, lunch counters, and temporary, quick-lunch counters that are a part of a resort operation.

2. Authorize Concessioners to provide restaurant, cafe, or other food service facilities as separate enterprises only where there is an overriding public need for such facilities.

3. Disapprove applications to sell prepared or packaged food in Forest Service campgrounds and picnic grounds.

2343.5 - Stores, Shops, and Vendors

This category includes general stores that are separate enterprises, shops authorized in conjunction with resorts, and mobile concessions (vendors) that provide the same basic services as a store but do not require fixed facilities or locations.

1. Allow Concessioners to construct and operate, as separate enterprises, general stores that provide basic food supplies, camping and sporting goods, basic clothing, and other necessities only where there is a demonstrated public need and suitable private land is not available.

2. As an adjunct to resorts, allow shops that provide clothing and equipment used in the primary recreation activity at the resort.

3. Specify in the prospectus and authorization the general types of merchandise concessioners may provide.

4. Allow vendors to operate on National Forest System land only where there is a public need for store services and a permanent store is desirable but cannot be provided.

5. Allow vendors to furnish items that a store would be authorized to sell under similar circumstances.

6. Authorize vendors to provide needed commodities, such as firewood, in Forest Service campgrounds only where they are not reasonably available at nearby resorts or concessions, or at businesses on nearby private land.
7. Do not allow vendors to occupy developed sites overnight or to otherwise interfere with public use or traffic.

8. Specify in the special use authorization the type of merchandise and services that vendors may provide and any necessary restrictions on the use.

2343.6 - Service Stations

This category includes businesses that provide automotive services such as gasoline, oil, and other products and basic mechanic services.

1. Authorize service stations only as a part of a resort development.

2. Allow service station permit holders to use the standard company pumps with standard markings. Where needed, allow gasoline brand names to be used on approved entrance approach signs, but no other advertising signs.

3. Require holders to obtain entrance permits from and to comply with all requirements of the agency responsible for management of the road or highway.

2343.7 - Rental Services

This category includes services provided as an adjunct to other resort-type development, such as ski, boat, trailer, and bicycle rentals and livery services. It also includes the provision of trailer and recreation vehicle sites at summer or winter resorts.

1. Allow location of rental facilities only where they do not conflict with higher public uses.

2. Permit rental services as a separate use only if other existing concession operations are unable to furnish the needed service.

3. Disapprove requests by operators of trailer rental services to locate trailers in campgrounds prior to the arrival of the rentor.

4. Require Concessioners who rent trailers for use in concession or National Forest System campgrounds to return the trailers to the holder’s site until rented by the next customer.

2343.71 - Trailer and Recreation Vehicle Sites

1. Allow development of recreation vehicle space with attachments for sewage disposal, domestic water, and electric power only when there is a public need and the facilities cannot be developed on nearby private land.
2. Do not allow development of recreation vehicle space with convenience accommodations in choice locations, to the exclusion of free trailer parking under more primitive conditions, unless comparable space is available without charge in the same vicinity.

3. Require stay limits for concession recreation vehicle spaces. Deny requests to rent spaces to patrons for more than a month.

4. Require clauses in the special use authorization that ensure that concession recreation vehicle spaces are managed for the use and convenience of temporary visitors.

5. Allow storage of trailers or other recreation vehicles on National Forest System land only at sites remote from communities or available private land.

2343.8 - Outfitters and Guides

This category includes services, equipment, and, in some cases, rudimentary facilities provided by private sector holders to the recreating public. Examples of outfitting and guiding are packing, hunting, float trips, canoe or horse liveries, ski touring, helicopter skiing, jeep tours, and fishing. Ensure that operating plans for permits authorizing winter backcountry recreation services, such as helicopter skiing, assign responsibility for public safety to the holder.

See FSM 2721.53 and FSH 2709.14, section 53 for direction relating to issuance and administration of permits for outfitting and guiding activities.

2343.9 - Other Concession Uses

This category includes concessions such as caves and caverns, tramways, target ranges, and bathhouses and beaches.

1. When appropriate, allow beaches and bathhouses to be constructed and managed as concession facilities but ensure that any structures are screened from lakes or streams.

2. Allow development of caves and caverns by Concessioners where there is a significant interest indicated by the public and the Forest Service is not prepared to initiate the operation.

3. Allow construction of tramways, not associated with winter recreation sites, only after careful review of the public need for the tram, the proponents' financial capability to provide the needed service, a cash-flow analysis indicating how the facility will generate revenue, and a demonstrated link to the natural resource attractions of the area. Refer to section 2343.1, Winter Recreation Uses, for direction on administration of permits for tramway operations.
4. Allow target ranges on National Forest System lands where such uses and facilities would be consistent with the standards and guidelines in the applicable Forest land and resource management plan and would enhance forest management by improving public safety, providing recreational opportunities or consolidating dispersed target shooting. When State and local governments submit proposals or applications for target ranges, consider land exchange to enhance long-term management of the activity.

See FSM 2335.4 and 2721.46, and FSH 2709.14, section 71, for further direction on requirements related to target ranges, including the process for special use authorizations, National Environmental Policy Act (NEPA) analysis and documentation, the environmental stewardship plan, and the safety plan.

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CONCESSION USES INVOLVING GOVERNMENT-OWNED IMPROVEMENTS (FSM 2344) (version issued on April 17, 2014)

2344.03 Policy
2344.1 Selection Criteria for Competitive Bid Process
2344.2 Special Use Authorization
2344.3 Campgrounds and Related Granger-Thye Concessions
2344.31 Policy
2344.32 Responsibility
2344.33 Selecting Concession Campground Sites

2344.03 - Policy

Manage concession uses of Government-owned improvements through the application of the following general policies and those policies listed under specific types of uses.

1. Authorize the operation of Government-owned improvements under the Granger-Thye (GT) Act (FSM 2701).

2. Require holders to operate and maintain the facilities and provide the services as specified in the prospectus, the special-use authorization, the GT fee-offset agreement, and the operation and maintenance plan.

3. Award concession operation of Government-owned improvements on a competitive basis through a prospectus and invitation to bid process. Competitively readvertise the business opportunity upon expiration of the permit.

4. Make major capital improvement additions or changes to Government-owned improvements or sites with Forest Service appropriated funds, or authorize holders at their expense to make such improvements conditioned on the agreement that the improvements and their value will accrue to the ownership and benefit of the United
States. Do not authorize or perform improvement work unless such changes are in accordance with approved land and resource management plans.

5. Allow minor improvements to Government-owned improvements and sites only if approved as part of the GT fee offset agreement.

2344.1 - Selection Criteria for Competitive Bid Process

As a minimum, use the following criteria in selecting concessioners on a competitive bid basis:

1. **Proposed Operating Plan Provisions.** Assess the quality and quantity of required and optional services.

2. **Business Plan and Business Experience.** Assess whether the business plan utilizes realistic costs for providing proposed services and has realistic revenue projections. Assess the applicant’s experience in managing recreation ventures or similar businesses and the applicant’s experience in dealing with the public.

3. **Financial Resources.** Assess the applicant’s financial capability to operate the concession in the manner prescribed. Utilize form FS-6500-25, Request for Verification in making this assessment. Complete a financial ability determination for the selected applicant only.

4. **Fee to the Government.** Assess the benefit to the Government of Granger-Thye fee-offset work to be completed or the fee to the United States. Base the evaluation on an established minimum bid supported by an economic cash-flow analysis.

5. **Fees Charged to the Public.** Compare the pricing structure proposed to the services to be provided to determine whether the proposal will provide a good value to the public.

2344.2 - Special Use Authorization

Ensure that the following topics are clearly addressed in the special use authorization:

1. Specify that the privilege to operate Government-owned facilities reserves to the Forest Service the right to regulate the operation as necessary to fully protect the public interest.

2. Identify the holder’s operation and maintenance responsibilities in the operating plan. Require that Concessioners be responsible for the holder's maintenance and reconditioning of facilities as described in the permit and operating plan. Specify whether Concessioners or the Forest Service are responsible for Government maintenance and reconditioning in the GT-fee offset agreement.
3. Require property insurance in the amount that the facilities are likely to be damaged or destroyed at one time. Require that insurance policies name the United States as additionally insured.

4. Require performance bonds, if necessary, to protect the public interest.

5. Clearly identify boundaries of special use areas and do not allow Concessioners to use or occupy National Forest System lands outside the boundary unless such use is approved in a permit amendment or separate special use authorization.

6. Limit a Concessioner's responsibility for performing unforeseen major repairs or replacement of facilities, such as a complex sewer or water system, to a specific amount per occurrence. This limitation shall not include insurable events such as natural disasters or events attributed to actions on the part of the holder.

2344.3 - Campgrounds and Related Granger-Thye Concessions

This category involves Concessioner operation of Government-owned improvements, such as campgrounds, swimming sites, and other day-use facilities, for which the Land and Water Conservation Fund Act (L&WCF) allows the charging of fees.

2344.31 - Policy

1. Require holders to honor Golden Age and Golden Access Passports by allowing the card-holders a 50-percent reduction in camping fees.

2. Encourage Concessioners to charge the public on a per-unit basis in order to maintain a comparable fee structure with other National Forest System campgrounds as outlined under the L&WCF program (FSM 2332.24).

3. Authorize Concessioners to charge for use only if the Forest Service could charge under the authority of the L&WCF Act if the Forest Service operates the facility. This includes picnic facilities, boat ramps, and swimming sites where the Forest Service did not charge prior to concession operations.

4. Specify in the prospectus that applicants describe in detail in their proposal how they plan to handle all aspects of law enforcement and associated training.

5. Issue new permits for a term up to 5 years, with an option to extend the term for up to 5 years based on sustained satisfactory performance. The Authorized Officer has the discretion to authorize shorter terms to accommodate future management needs and decisions, such as site rehabilitation, anticipated changes in the applicable land and resource management plan, and modifications to the campground concession program.
6. Identify the holder's operation responsibilities, including the holder's obligations to:
provide a designated representative on or near the site to take action in the
Concessioner's behalf; maintain and administer the site to the Recreation Opportunity
Spectrum (ROS) class and development scale specified in the prospectus and special use
permit; maintain and not change the number of units, facilities, and type of experience
or services provided; and administer the permit themselves and not reassign, transfer,
or sub-permit the authorized operations.

7. Identify holder maintenance responsibilities in campground concession prospectuses
and operating plans. Require holders to be responsible for government and holder
maintenance, reconditioning, renovation, and improvement of facilities per the
campground concession permit and corresponding Granger-Thye fee-offset agreement.
The holder may make improvements, such as replacing vault toilets with flush facilities,
paving interior roads, upgrading facilities and installing utilities when these
improvements are approved as part of the Granger-Thye fee-offset agreement.

8. Do not accept interim operation and maintenance responsibilities or partial
responsibilities for tasks such as visitor protection or operation and maintenance of
utility systems. In isolated cases, such as when a utility system services more than one
permitted facility, the Forest Service may retain maintenance responsibility and charge
the holder prorated costs.

9. Unless otherwise provided by the National Recreation Reservation Service (NRRS)
contract, ensure that holders of campground concession permits use the NRRS for all
reservation services for their campground concessions. When reservation services will
be required, include that requirement in the prospectus and permit (see FSH 2709.11,
section 52.8, clause X-23), and provide a copy of the NRRS Operating Procedures
Manual to the holder. When participating in the NRRS, the following requirements
apply:

a. At least 60 percent of the campsites in a campground must be reservable,
b. The minimum booking window must be 0 to 4 days, that is, campsites must be
reservable on the date of arrival or up to 4 days in advance of arrival, and
c. The NRRS Operating Procedures Manual must be incorporated as an appendix to
the annual operating plan.

2344.32 - Responsibility

1. Regional Foresters are responsible for reviewing prospectuses before issuance of
authorizations by the Forest Supervisor.
2. Forest Supervisors are responsible for selecting sites, issuing prospectuses and authorizations, and providing qualified Forest Officers to administer the authorizations.

2344.33 - Selecting Concession Campground Sites

1. Before issuing a prospectus, prepare an economic cash-flow analysis for each site to determine the feasibility of the Concessioner’s operation. Consider the Forest Service costs, including indirect and overhead costs, as a part of the analysis.

2. Select sites that would project a net benefit to the Forest Service and the U.S. Treasury.

3. As a general rule, select only Development Scale 3, 4, or 5 sites for concession operation (FSM 2330.3, ex. 01). Analyze all Development Scale 4 and 5 sites for possible concession operation.

11 BOAT DOCK AND WHARF [RESERVED] (FSH 2709.14) (version issued on April 15, 2011)

12 CLUB [RESERVED] (FSH 2709.14) (version issued on April 15, 2011)

13 ORGANIZATIONAL CAMP (FSH 2709.14) (version issued on April 15, 2011)

13.1 Objectives
13.2 Policy
13.3 Definitions
13.4 Priority for Competing Uses
13.5 Administration of Authorizations
13.6 Organizational Camp Fees
13.7 Continuation of Authorized Uses

This use of National Forest System lands involves camps, generally operated by nonprofit organizations, institutions, or governmental agencies, that promote the physical, mental, and spiritual health of young people, individuals with a disability, and their families through activities conducted in a natural environment. Use code 113 for privately owned improvements, and use code 143 for government-owned improvements.

13.1 - Objectives

1. Facilitate the use of National Forest System lands for organizational camp purposes when the establishment of an organizational camp cannot be reasonably accommodated on non-National Forest System lands.