

DEPARTMENT OF AGRICULTURE**Forest Service****Ski Area Permit Fee System**

RIN 0596-AB49

AGENCY: Forest Service, USDA.

ACTION: Notice; adoption of final policy.

SUMMARY: The Forest Service is adopting final policy and procedures for determining permit fees for ski areas on National Forest System lands. The policy and procedures are being issued as amendments to the Forest Service Manual (FSM) chapter 2720 and the Forest Service Handbook (FSH) 2709.11, chapters 30 and 50. The policy and procedures implement the ski area permit fee system established by section 701 of the Omnibus Parks and Public Lands Management Act of 1996. The intended effect is to streamline and improve the consistency of permit administration for ski areas for both the Forest Service and ski area permit holders. Prior to the establishment of this ski area permit fee system, permit fees for most ski areas operating on National Forest System lands have been determined under the graduated rate fee system (GRFS), which is complex and costly to administer for large ski areas and has also been the subject of several audits, administrative appeals, and lawsuits.

DATES: These amendments are effective February 26, 1999.

FOR FURTHER INFORMATION CONTACT: Alice Carlton, Recreation, Heritage, and Wilderness Resources Staff, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090-6090, (202) 205-1399. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to Forest Service directives.

SUPPLEMENTARY INFORMATION:**Background**

Section 701(i) of the Omnibus Parks and Public Lands Management Act of 1996 (16 U.S.C. 497c) mandates that a new permit fee system be implemented for those ski areas operating on National Forest System lands that are authorized under the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b) and for those ski areas authorized under the Organic Act of 1897 or the Term Permit Act of 1915 that elect the new fee system.

Because the Omnibus Parks and Public Lands Management Act of 1996 provides very little discretion to the agency in implementing the new fee system, the agency is proceeding to issue final policy and procedures to

guide its employees in implementing this fee system. Permit fees for most ski areas operating on National Forest System lands have been determined under the graduated rate fee system (GRFS), which is complex and costly to administer for large ski areas and has also been the subject of several audits, administrative appeals, and lawsuits. Prior to passage of the act, the agency had published notice in the **Federal Register** of a proposed fee system based on site-specific appraisals (60 FR 36097, July 13, 1995). That proposed fee system was not finalized, because it was superseded by the fee system established by section 701 of the act.

The National Forest Ski Area Permit Act of 1986 authorizes the Forest Service to issue permits for the use and occupancy of suitable lands within the National Forest System for nordic and alpine skiing operations and purposes (16 U.S.C. 497b). Ski area permits issued before the effective date of the National Forest Ski Area Permit Act are authorized by the Term Permit Act (16 U.S.C. 497) and the Forest Service's Organic Act (16 U.S.C. 551).

Approximately 135 alpine or alpine and nordic ski areas are operating on National Forest System lands. Of those permitted areas, most pay annual permit fees determined under the graduated rate fee system (GRFS), while 15 to 20 permitted areas pay annual flat permit fees based either on GRFS principles or on a percentage of land value.

GRFS has been in effect for more than two decades and is complex and difficult to administer for ski areas. As applied to large ski areas, GRFS is not only costly to administer but also has been the subject of continuous controversy as evidenced by several audits, administrative appeals, and lawsuits.

The General Accounting Office (GAO), which conducted audits of the GRFS system in 1988, 1993, and 1996, concluded that GRFS does not reflect fair market value and recommended revision of the fee calculation system for ski areas. The U.S. Department of Agriculture's Office of Inspector General conducted internal audits of GRFS in 1993 and 1994 and recommended that the Forest Service pursue new systems for determining ski area permit fees based on fair market value.

Due to the historical controversy of ski area permit fees and the need for multidisciplinary expertise in this area, a Departmental Working Group was formed in July 1994 to expedite development of a new ski area permit fee system based on fair market value. The working group included representatives from the Forest Service,

the Office of Inspector General, the Office of the General Counsel, and the Office of the Chief Financial Officer.

In September 1994, the Forest Service awarded a contract to identify methods pertinent to determining the fair market value of the use of National Forest System lands by ski areas. The contractor's December 1994 report analyzed 14 valuation techniques, including land valuation methods, business valuation methods, and a competitive bid valuation method. At the request of the Departmental Working Group, the Forest Service contracted for a written technical review of the contractor's report by two expert real estate appraisers.

A Federal advisory committee also was established in February 1995 to advise the Secretary of Agriculture on development of a new ski area permit fee system.

On July 13, 1995, the Forest Service published in the **Federal Register** for comment a proposed policy for a ski area permit fee system based on site-specific appraisals of the use of National Forest System lands by ski areas (60 FR 36097). Comments were received on the proposal, but the policy was not finalized because of the anticipated passage of legislation (first introduced in 1992) that would establish a different ski area permit fee system based on a percentage of revenues. This legislation was reintroduced in the 104th Congress and was signed into law on November 12, 1996 as Title VII, section 701, of the Omnibus Parks and Public Lands Management Act of 1996 (16 U.S.C. 497c).

Section 701 of the act requires permit fee calculations to be based on a percentage of revenue derived from use of National Forest System lands for ski areas authorized under the National Forest Ski Area Permit Act 1986 (16 U.S.C. 497b) and for ski areas with permits issued under other authorities that elect the new ski area permit fee system. The total fee is the sum of the amount of revenue in each of four revenue brackets, multiplied by progressively increasing percentages. Revenues from year-round operations of the ski areas (such as alpine and nordic lift tickets, passes, and ski school revenues) are included and are prorated according to the percentage of use of public compared to private land. Revenue from year-round ancillary facilities and operations is included only when the facilities or operations are located on public land. The value of bartered goods and the value of most complimentary lift tickets, as well as special event revenues, also are included in the fee calculation.

This ski area fee system is expected to be simpler and less costly to administer than GRFS, by eliminating the need for burdensome audits of ski area assets for those ski areas under the new system. This system is also expected to result in nationally consistent fee determinations. Every five years the Forest Service is required to determine whether the fee system reflects fair market value and to submit a report to Congress on its findings.

Conclusion

The text of the final ski area permit fee system direction as it is being issued in amendments to the Forest Service Manual (FSM) chapter 2720 and to Forest Service Handbook (FSH) 2709.11, Special Uses Handbook, chapters 30 and 50 is set forth at the end of this document.

Ski areas authorized under the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b), and ski areas authorized under other authorities that so elect, would pay fees under the ski area permit fee system established by the Omnibus Parks and Public Lands Management Act of 1996 (16 U.S.C. 497c). Direction on specific circumstances under which the permit fee system established by 16 U.S.C. 497c applies to ski areas is found in FSM 2720.

The permit fee system established by 16 U.S.C. 497c is based on revenue from ski area lift tickets and passes and ski school operations (both alpine and nordic), adjusted for that portion of use that occurs on National Forest System lands, and revenue from ancillary facilities and operations that are located on National Forest System lands. Included in revenue are the value of bartered goods, and complimentary lift tickets and the revenue from special events. The permit fee is determined by applying progressively increasing percentage rates to the revenue amounts that fall into each of four revenue brackets, and summing the results. The implementing policy and procedures for fee calculation pursuant to 16 U.S.C. 497c are set out in FSH 2709.11, chapter 30.

The permit clause used to implement the permit fee system in 16 U.S.C. 497c by amending permits is set out in FSH 2709.11, chapter 50. Routine administrative revisions to make other agency direction consistent with implementation of this ski area permit fee system are also being issued to the FSM 2700 zero code chapter and FSH 2709.11, chapter 40.

Electronic Access

The full text of the FSM and FSH chapters for the amendments set out at the end of this document and for the related technical amendments is available electronically from the Forest Service directives home page on the World Wide Web at the Internet address www.fs.fed.us/im/directives/ and the amendments are also available upon request from Forest Service offices. These amendments are issued to FSM chapters 2700 zero code and 2720, Special Uses Administration, and FSH 2709.11, Special Uses Handbook, chapters 30, 40, and 50.

Regulatory Impact

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

Moreover, this final policy has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and it has been determined that this action will not have a significant economic impact on a substantial number of small entities as defined by that act. This ski area permit fee system, which was created and supported by the ski industry, is designed to have small ski areas with less revenue pay a smaller percentage of their earnings in permit fees than larger ski areas with higher revenues.

The statute establishing this ski area permit fee system (16 U.S.C. 497c), which the Congressional Budget Office determined to be revenue neutral, also requires the Forest Service to report to Congress every 5 years on whether the ski area permit fee system provides fair market value.

Environmental Impact

The final directives deal with technical, administrative changes associated with implementing the ski area permit fee system required by law (section 701 of the Omnibus Parks and

Public Lands Management Act of 1996). Section 31.1b of Forest Service Handbook 1909.15 (57 FR 431, September 18, 1992) excludes from documentation in an environmental assessment or environmental impact statement "rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instruction." The agency's assessment is that this policy falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or an environmental impact statement.

No Takings Implications

These directives have been analyzed in accordance with the principles and criteria contained in Executive Order 12630, and it has been determined that the directives do not pose the risk of a taking of Constitutionally protected private property. Executive Order 12630 does not apply to these directives because they consist primarily of technical and administrative changes to implement the ski area permit fee system required by law (section 701 of the Omnibus Parks and Public Lands Management Act of 1996) for authorization of occupancy and use of National Forest System lands by ski areas. Forest Service special use authorizations for ski areas do not grant any right, title, or interest in lands or resources held by the United States.

Controlling Paperwork Burdens on the Public

The information reporting requirements that will be imposed by these directives are required by the authorizing statute (16 U.S.C. 497c). Ski areas have previously reported revenue data on Form FS-2700-19 (OMB No. 0596-0082). Ski areas will now report revenue data on a modified version of Form FS-2700-19, numbered Form FS-2700-19a (OMB No. 0596-0082). All other resorts and concessions which remain on the graduated rate fee system (GRFS) will continue to use Form FS-2700-19. Because the new ski area permit fee system required by 16 U.S.C. 497c streamlines the fee calculation method, the agency estimates that the public reporting burden for ski areas will be substantially lower under this system than it is under GRFS. No additional recordkeeping, reporting requirements, or information collection requirements, as defined in 5 CFR part 1320, are required by these directives and, therefore, these directives impose no additional paperwork burden on the public. Accordingly, the review provisions of the Paperwork Reduction

Act of 1995 (44 U.S.C. 3501 *et seq.*) and implementing regulations at 5 CFR 1320 do not apply.

Unfunded Mandates Reform

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the Department has assessed the effects of these directives on State, local, and tribal governments and the private sector. These directives do not compel the expenditure of \$100 million or more by any State, local, or tribal governments or anyone in the private sector. Therefore, a statement under section 202 of the act is not required.

Civil Justice Reform

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

Dated: February 11, 1999.

Robert Lewis, Jr.,

Acting Associate Chief.

Ski Area Permit Fee System

Forest Service Manual and Handbook Directives

(**Note:** The Forest Service organizes its directive system by alphanumeric codes and subject headings. Only those sections of the Forest Service Manual (FSM) and Handbook (FSH) that are the subject of this notice are set out here. The audience for this direction is Forest Service employees charged with issuing and administering special use permits for ski areas.)

Forest Service Manual

Chapter 2720—Special Uses

Administration.

Section 2721.6—Winter Recreation.

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.

2721.61b—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:

1. *Permit Fee System for Ski Areas Authorized Under National Forest Ski Area Permit Act of 1986.* For ski areas authorized under the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b), calculate permit fees under the permit fee system established by 16 U.S.C. 497c and set out in FSH 2709.11, section 38.

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 16 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 GRFS (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.

Forest Service Handbook 2709.11—Special Uses Management Handbook Chapter 30—Fee Determination.

38—Ski Area Permit Fees. This section provides direction to be followed primarily in determining fees as required by the Omnibus Parks and Public Lands Management Act of 1996 (16 U.S.C. 497c) for ski areas on National Forest System lands authorized under the National Forest Ski Area Permit Act of 1986 and for ski areas authorized under the Organic Act and the Term Permit Act that elect the fee system established by 16 U.S.C. 497c. See FSM 2711.15 for direction on determining fees under the graduated rate fee system (GRFS) for ski areas authorized under the Organic Act and the Term Permit Act that do not elect the fee system established by 16 U.S.C. 497c. (For related direction on special uses administration for ski areas, see FSM 2721.6 and FSH 2709.11, ch. 40 and 50.)

38.01—Authority. (FSM 2701.1).

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

1. To ensure that the permit fee remains equitable to both the United States and ski area permit holders.

2. To ensure that the permit fee system is economical and simple to administer for both the permit holders and the Forest Service.

38.03—Policy.

38.03a—Ski Area Permits Subject to Fee System Established by 16 U.S.C. 497c. Use the fee system established by 16 U.S.C. 497c to calculate permit fees for ski areas authorized by the National Forest Ski Area Permit Act of 1986 (Ski Area Permit Act) and for those ski areas authorized by the Organic Act of 1897 and the Term Permit Act of 1915 that have elected the permit fee system established by 16 U.S.C. 497c. For ski areas authorized by the Ski Area Permit Act, follow the direction in section

38.43a and section 38.43b to convert permits to the permit fee system in 16 U.S.C. 497c. For ski areas authorized by other authorities, follow the direction in section 38.43c to convert permits to the permit fee system established by 16 U.S.C. 497c.

38.03b—Ski Area Permits Subject to Graduated Rate Fee System or Alternate Fee System. Until a new permit is issued under the Ski Area Permit Act, continue to administer under their current fee system those ski areas whose permits were issued under authorities other than the Ski Area Permit Act and which have not elected the permit fee system established by 16 U.S.C. 497c (FSM 2715.1).

38.04—Responsibility.

38.04a—Director of Recreation, Heritage, and Wilderness Resources, Washington Office. It is the responsibility of the Director of Recreation, Heritage, and Wilderness Resources, Washington Office to adjust annually the gross revenue figures for each revenue bracket by the Consumer Price Index for the preceding calendar year (sec. 38.12) and to analyze every five years, beginning in 1999, whether permit fees paid under 16 U.S.C. 497c are returning fair market value for the use of National Forest System lands under ski area permits.

38.04b—Director of Financial Management, Washington Office. It is the responsibility of the Director of Financial Management to compile national permit fee information annually and to provide overall management and oversight on audits of the fee system (FSH 1409.15, Auditing Concessions Handbook) to be used in administration of the permit fee system established by 16 U.S.C. 497c.

38.04c—Directors of Financial Management, Regional Offices. It is the responsibility of the Regional Directors of Financial Management or equivalent officials to submit regionally compiled permit fee information to the Washington Office on an annual basis.

38.04d—Authorized Officer. It is the responsibility of the authorized officer (36 CFR 251.51) to:

1. Notify the permit holder of the ski area permit fee system and related requirements established by 16 U.S.C. 497c and, as applicable, of the holder's option to elect the permit fee system established by 16 U.S.C. 497c.

2. Modify special use permits issued under the Ski Area Permit Act to incorporate provisions of the ski area permit fee system established by 16 U.S.C. 497c, and provide permit fee information on Form FS-2700-19a, USDA Forest Service Fee Calculation for Ski Area Permits, to the permit holder.

3. Notify holders of annual adjustments to the gross revenue figures for each revenue bracket by the Consumer Price Index for the preceding calendar year (sec. 38.12).

4. Require the holder, through provisions in the permit, to calculate and make estimated fee payments, and ensure that the holder calculates and pays permit fees in accordance with the terms of the permit.

5. Ensure that the holder submits financial documents, including annually completed permit fee information on Form FS-2700-19a, that support fee calculations in accordance with the terms of the permit.

6. Submit permit fee information to the regional director responsible for financial management on an annual basis.

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

Adjusted Gross Revenue—AGR. Revenue used in the permit fee calculation, which includes revenue from sales of year-round alpine and nordic ski area passes and tickets and revenue from alpine and nordic ski school operations associated with the use of National Forest System lands; gross year-round revenue from ancillary facilities located on National Forest System lands; the value of bartered goods; and the value of complimentary lift tickets.

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

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

Gross Revenue from Ancillary Facilities—GRAF. Gross revenue from year-round sales derived from temporary and permanent ancillary facilities located on National Forest System lands, including all holder and subholder lodging, food service, rental shops, and other ancillary operations.

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

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

Ski Area Permit Fee—SAPF. Ski area permit fee for use of National Forest System lands.

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

Slope Transport Feet Percentage—STFP. The method used to prorate revenue from the sale of alpine ski area passes and lift tickets and revenue from alpine ski school operations between National Forest System lands and private land in the ski area.

38.1—Permits Subject to Ski Area Permit Fee System. Under the ski area permit fee system established by 16 U.S.C. 497c, calculate the permit fee based on adjusted gross revenue associated with the ski area under permit.

38.11—Fee Proration for Mixed Land Ownership. Under no circumstances shall holder or subholder revenue (except those revenues from sales of lift tickets and passes and from ski school operations) obtained from operations located on private land be included in the permit fee calculation.

1. Prorate revenue derived from the ski area according to the percentage of use between National Forest System lands and private land in the ski area (for example, use the STFP for alpine revenue or the nordic trail length percentage for nordic revenue; sec. 38.12, para. 5).

2. Prorate revenue from ancillary facilities before it is included in the permit fee calculation, since GRAF is gross revenue from ancillary facilities located on National Forest System lands.

3. Include in the fee calculation and prorate accordingly all revenue from the sale of alpine and nordic ski area tickets and passes and all revenue from alpine and nordic ski school operations, even such revenue that is generated on private land (such as from tickets sold on private land).

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

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

Where:

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

1. *SAPF* is the ski area permit fee established by 16 U.S.C. 497c for use of National Forest System lands.

a. Calculate *SAPF* by summing the results of multiplying the indicated percentage rates by the amount of the holder's adjusted gross revenue (AGR), which falls into each of the four brackets.

b. Follow direction in the following paragraph 2 to determine AGR.

c. Calculate the permit fee based on the holder's fiscal year, unless otherwise mutually agreed by the holder and the authorized officer.

d. Use the revenue brackets as indexed for the previous calendar year. The Director of Recreation, Heritage, and Wilderness Resources, Washington Office, annually adjusts the four revenue brackets by the Consumer Price Index (CPI). (The Director of Lands, Washington Office, issues the updated CPI annually in sec. 36.21). Regardless of when the holder's fiscal year begins or ends, do not split the holder's AGR for any fiscal year into more than one set of indexed brackets. For example, apply the brackets as adjusted by the calendar year 1996 CPI to the holder's

fiscal year 1997 permit fee calculation. When applying the adjusted brackets to calculate fees, round the fees to the nearest thousand dollars (for example, round up to \$1,000 from \$500.00 and round down to \$0 from \$499.99). Only the levels of AGR defined in each bracket are updated annually. The percentage rates do not change.

e. To calculate permit fees for fiscal years 1996 through 1999, and for 2000 and beyond, use the revenue brackets and percentages displayed in exhibit 01 as shown in the preceding formulas in this section.

38.12—EXHIBIT 01.—ADJUSTED GROSS REVENUE (AGR) BRACKETS AND ASSOCIATED PERCENTAGE RATES FOR USE IN DETERMINING SKI AREA PERMIT FEE (*SAPF*)

[Revenue Brackets (updated annually by CPI*) and Percentage Rates]

Holder FY	Bracket 1 (1.5%)	Bracket 2 (2.5%)	Bracket 3 (2.75%)	Bracket 4 (4%)
FY 1996 CPI: N/A	All revenue below \$3,000,000	\$3,000,000 to <\$15,000,000	\$15,000,000 to \$50,000,000	All revenue over \$50,000,000.
FY 1997 CPI: 1.030	All revenue below \$3,090,000	\$3,090,000 to <\$15,450,000	\$15,450,000 to \$51,500,000	All revenue over \$51,500,000.
FY 1998 CPI: 1.022	All revenue below \$3,158,000	\$3,158,000 to <\$15,790,000	\$15,790,000 to \$52,633,000	All revenue over \$52,633,000.
FY 1999 CPI: 1.017	All revenue below \$3,212,000	\$3,212,000 to <\$16,058,000	\$16,058,000 to \$53,528,000	All revenue over \$53,528,000.
FY 2000 and beyond		BRACKETS WILL BE UPDATED ANNUALLY BY CPI*		

*The Director of Recreation, Heritage, and Wilderness Resources, Washington Office, updates the revenue brackets annually, based on the Consumer Price Index (CPI) which is revised and issued annually in section 36.21.

2. *AGR* is the adjusted gross revenue used in the permit fee calculation.

a. Include as revenue: income from sales of alpine and nordic tickets and ski area passes; alpine and nordic ski school operations; gross revenue from ancillary facilities; the value of bartered goods and complimentary lift tickets (such as lift tickets provided free of charge to the holder's friends or relatives); and special event revenue. Discriminatory pricing is not allowed, but if it occurs, include the amount that would have been received had the discriminatory pricing transaction been made at the market price.

b. Exclude from revenue: income from sales of operating equipment; refunds; rent paid to the holder by subholders; sponsor contributions to special events; any amount attributable to employee gratuities or employee lift tickets; discounts; ski area tickets or passes provided for a public safety or public service purpose (such as for National Ski Patrol or for volunteers to assist on the slope in the Special Olympics); and other goods or services (except for bartered goods and complimentary lift tickets) for which the holder does not receive money.

c. Calculate AGR by summing the revenue from lift tickets and ski school operations prorated for use of National

Forest System lands and from ancillary facility operations conducted on National Forest System lands.

d. Include the following in AGR:

(1) Revenue from sales of year-round alpine and nordic ski area passes and tickets and revenue from alpine and nordic ski school operations prorated according to the percentage of use between National Forest System lands and private land in the ski area;

(2) Gross year-round revenue from ancillary facilities located on National Forest System lands;

(3) The value of bartered goods and complimentary lift tickets. Include the market price value of bartered goods and complimentary lift tickets (except for employee gratuities, employee lift tickets, and discounts, and except for ski area tickets and passes provided for a public safety or public service purpose) in the AGR formula as revenue under LT, SS, or GRAF, depending on the type of goods, services, or privileges donated or bartered; and

(4) Special event revenue from events such as food festivals, foot races, and concerts. Include special event revenue in the AGR formula as revenue under LT, SS, or GRAF, as applicable. Prorate revenue according to the percentage of use between National Forest System lands and private land as described in

section 38.11 and as indicated in the following paragraphs 5 and 6.

3. *LT* is the revenue from sales of alpine and nordic lift tickets and passes purchased for the purpose of using a ski area during any time of the year.

4. *SS* is the revenue from lessons provided to teach alpine or nordic skiing or other winter sports activities, such as racing, snowboarding, or snowshoeing.

5. *Proration* % is the method used to prorate revenue from the sale of ski area passes and lift tickets and revenue from ski school operations between National Forest System lands and private land in the ski area. Separately prorate alpine and nordic revenue with an appropriate proration factor. Add prorated revenues together; then sum them with GRAF to arrive at AGR. Use one or both of the following methods, as appropriate:

a. *STFP* is the method used to prorate alpine revenue. Follow the direction for STFP contained in FSM 2715.11c. Include in the calculation only uphill devices (lifts, tows, and tramways) that are fundamental to the winter sports operation (usually those located on both Federal and private land). Do not include people movers whose primary purpose is to shuttle people between parking areas or between parking areas and lodges and offices.

b. *Nordic trail length* is the method used to prorate nordic revenue. Use the percentage of trail length on National Forest System lands to total trail length. To calculate the percentage, divide the length of nordic trails on National Forest System lands by the total length of ski area nordic trails.

6. *GRAF* is the revenue from ancillary facilities, including all of the holder's or subholder's lodging, food service, rental shops, parking, and other ancillary operations located on National Forest System lands. For facilities that are partially located on National Forest System lands, calculate the ratio of the facility square footage located on National Forest System lands to the total facility square footage. Prorate special event revenue allocatable to *GRAF* pursuant to paragraphs 2d (2) through 2d (4) of this section by the ratio of the use on National Forest System lands to the total use.

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

When there is minimal use of National Forest System lands under permit, especially when prorated revenues from alpine and nordic uses are zero, authorized officers should consider whether to issue such ski area permits under an authority other than the Ski Area Permit Act.

38.2—Payments.

1. In accordance with the terms of the permit, holders are required to:

- a. Calculate and submit advance, interim, and final payments;
- b. Submit financial documents that support fee calculations; and
- c. Submit permit fee information on Form FS-2700-19a annually to the authorized officer.

2. When the permit fee is expected to exceed \$10,000 per year, the permit shall require monthly payments. If the permit fee is expected to be \$10,000 or less, quarterly payments are required during months of operation.

3. Holders submit payments without billing by the Forest Service. Holders that fail to make payments in accordance with the terms of the permit are in violation of the permit and the authorized officer shall so notify them. Assess late payment charges, including interest, penalties, and administrative costs, in accordance with the Federal Claims Collection Act of 1966, as

amended by the Debt Collection Act of 1982 (31 U.S.C. 3701-3719) when the required payment is not made on time (FSH 6509.11h, Service-Wide Claim Management Handbook, ch. 20).

38.21—Advance Payments. Holders are required to make advance payments due by the beginning of the holder's fiscal year or by another payment cycle in accordance with the permit. Credit the advance payment toward the total ski area permit fee due at the end of the payment cycle, in accordance with the permit.

1. Base the advance payment on 20 percent of the holder's average fee for 3 previous operating years when applicable.

2. Base the advance payment for new holders of an existing ski area permit on 20 percent of the prior holder's average fee.

3. For new areas:

- a. Establish the advance payment for new areas as 20 percent of the permit fee, based on projected AGR, or
- b. For ski areas not expected to generate AGR for a given fiscal year, require advance payment of the permit fee as calculated according to the procedures in section 38.13 (\$2 per acre or a percentage of the appraised value of the National Forest System land under permit). If the ski area reports AGR for that fiscal year, credit the permit fee paid under provisions of section 38.13 toward the permit fee calculated according to the ski area permit fee formula in section 38.12.

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

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

38.3—Permits Subject to Fee Systems Other Than System Established by 16

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

38.4—Transition From Prior Permit Fee Systems. The ski area permit fee system established by 16 U.S.C. 497c is effective as of June 1, 1996, and covers receipts retroactively to June 1, 1995. The authorized officer shall determine revenues attributable to the graduated rate fee system (GRFS) for the holder's fiscal year 1996 that began prior to June 1, 1995. Any permit fees prepaid under GRFS for any holder's fiscal year in which the ski area permit fee system established by 16 U.S.C. 497c is in effect shall be reconciled by the authorized officer against the permit fee calculated under the latter system. For the purpose of implementing 16 U.S.C. 497c, do not require a change in the holder's fiscal year or payment schedule.

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

1. The permit fees due for the holder's fiscal years 1996, 1997, and 1998 are, respectively:

- a. Either the permit fee paid in the base year (fiscal year 1995) or the permit fee calculated under sections 38.12 or 38.13, and 38.42, whichever is higher for the holder's fiscal year 1996;
- b. Either the permit fee paid for the base year (fiscal year 1995) or the permit fee calculated under sections 38.12 or 38.13, and 38.42, whichever is higher for the holder's fiscal year 1997; or
- c. Either the permit fee paid for the base year (fiscal year 1995) or the permit fee calculated under sections 38.12 or 38.13, and 38.42, whichever is higher for the holder's fiscal year 1998;

2. Except that if a holder's AGR for fiscal years 1996, 1997, or 1998 falls more than 10 percent below the AGR for the base year (fiscal year 1995), the permit fee paid shall be the permit fee calculated under section 38.12 or 38.13. Compare the holder's AGR for the base year, as computed under section 38.12 or 38.13, against the holder's AGR for the transition years.

38.42—Permit Fee Phase-In. The fee system established by 16 U.S.C. 497c provides for a phase-in of fees during

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

38.42—EXHIBIT 01. 5-YEAR PHASE-IN OF SKI AREA PERMIT FEE UNDER 16 U.S.C. 497C

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

1. The FY 1995 fee is the permit fee paid in the holder's fiscal year 1995 (usually under GRFS).

2. The FY 1996 fee is the permit fee calculated under section 38.12 or 38.13 that would be due if phase-in were not applicable, and so on for the FY 1997–2000 fees.

3. During fiscal years 1997 and 1998, if there is no increase in the permit fee calculated under the fee formula in section 38.12 or 38.13 over the base fee (fiscal year 1995), establish the permit fee paid as the permit fee paid for fiscal year 1995. However, if a holder's AGR for fiscal years 1997 or 1998 falls more than 10 percent below the AGR for the base year (fiscal year 1995), the permit fee paid shall be the permit fee calculated under section 38.12 or 38.13. Compare the holder's AGR for the base year, as computed under section 38.12 or 38.13, against the holder's AGR for the transition years.

4. During fiscal years 1999 and 2000, if there is no increase in the permit fee calculated under the fee formula in section 38.12 or 38.13 over the base fee (fiscal year 1995), establish the permit fee paid as the fee calculated under section 38.12 or 38.13.

38.43—Applicability of Ski Area Permit Fee System Provisions Established by 16 U.S.C. 497c During

Transition From Previous Permit Fee Systems to the Permit Fee System Established by 16 U.S.C. 497c. Follow direction set out in sections 38.43a through 38.43c when applying transition provisions (sec. 38.4 through 38.42) of the ski area permit fee system established by 16 U.S.C. 497c.

38.43a—Permits Issued Under National Forest Ski Area Permit Act of 1986 On or Before June 1, 1996. Ski areas authorized under the Ski Area Permit Act of 1986 on or before June 1, 1996 are subject to the fee system established by 16 U.S.C. 497c. Amend the holder's permit by replacing the fee provisions in clause VI of the permit with the clause that implements the fee system in section 38.12. See chapter 50 for the appropriate clause. Apply transition provisions (sec. 38.4 through 38.42) of 16 U.S.C. 497c.

38.43b—Permits Issued Under National Forest Ski Area Permit Act of 1986 After June 1, 1996. Ski areas authorized under the Ski Area Permit Act of 1986 after June 1, 1996 are subject to the fee system established by 16 U.S.C. 497c. Amend the holder's permit by replacing the fee provisions in clause VI of the permit with the clause that implements the fee system in section 38.12. See chapter 50 for the appropriate clause.

1. When a permit is issued to the existing holder upon expiration of the current permit, or to the existing holder of a permit converted from a permit issued under the Organic Act of 1897 or the Term Permit Act of 1915, the following direction applies:

a. Holders of permits may elect the transition provisions on or before May 27, 1999 (90 days following the effective date of the ski area permit fee system directive issued in Amendment 2709.11–99–2). The permit fee system established by 16 U.S.C. 497c would apply retroactively to these permits. Apply transition provisions (sec. 38.4 through 38.42).

b. For holders that do not elect the transition provisions on or before May 27, 1999 (90 days following the effective date of the ski area permit fee system directive issued in Amendment 2709.11–99–2), the permit fee system established by 16 U.S.C. 497c would apply from the date the permit is issued. The phase-in or other transition provisions are not available to these holders. The permit fee system (sec. 38.12) is effective on the date of permit issuance. Do not apply transition provisions (sec. 38.4 through 38.42.)

c. Permits that are issued after May 27, 1999 (90 days following the effective date of the ski area permit fee system directive issued in Amendment

2709.11–99–2) are not subject to the transition provisions for the permit fee system. The phase-in or other transition provisions are not available to these holders. The permit fee system (sec. 38.12) is effective on the date of permit issuance. Do not apply transition provisions (sec. 38.4 through 38.42.)

2. When a permit is issued to a new owner of improvements at an existing ski area or to an owner of improvements at a new ski area, the phase-in or other transition provisions are not available to these holders. The permit fee system (sec. 38.12) is effective on the date of permit issuance. Do not apply transition provisions (sec. 38.4 through 38.42.)

38.43c—Permits Issued Under Organic Act of 1987 and Term Permit Act of 1915. Ski areas authorized under the Organic Act of 1897 or the Term Permit Act of 1915 may elect the permit fee system established by 16 U.S.C. 497c. Amend such permits by replacing the fee provisions in clause VI of the permit with the clause that implements the fee system in section 38.12. See chapter 50 for the appropriate clause.

1. Holders of permits that elect the permit fee system established by 16 U.S.C. 497c on or before May 27, 1999 (90 days following the effective date of the ski area permit fee system directive issued in Amendment 2709.11–99–2), are subject to the transition provisions for the permit fee system (sec. 38.4 through 38.42).

2. Holders that elect the permit fee system established by 16 U.S.C. 497c after May 27, 1999 (90 days following the effective date of the ski area permit fee system directive issued in Amendment 2709.11–99–2), are subject to the permit fee system established by 16 U.S.C. 497c in the holder's fiscal year following amendment of the permit to reflect coverage under this permit fee system (sec. 38.12). The phase-in or other transition provisions are not available to these holders.

Forest Service Handbook 2709.11—Special Uses Management Handbook Chapter 50—Terms and Conditions. Section 52.1—A Clauses—Fees and Payments.

A–9. Ski Area Permit Fees. The Forest Service shall adjust and calculate permit fees authorized by this permit to reflect any revisions to permit fee provisions in 16 U.S.C. 497c or to comply with any new permit fee system based on fair market value that may be adopted by statute or otherwise after issuance of this permit.

A. Fee Calculation. The annual fee due the United States for the activities authorized by this permit shall be calculated using the following formula:

SAPF = (.015 × AGR in bracket 1) + (.025 × AGR in bracket 2) + (.0275 × AGR in bracket 3) + (.04 × AGR in bracket 4)

Where:

AGR = [(LT + SS) × (proration %)] + GRAF

AGR is adjusted gross revenue;

LT is revenue from sales of alpine and nordic lift tickets and passes;

GRAF is gross year-round revenue from ancillary facilities;

Proration % is the factor to apportion revenue attributable to use of

National Forest System lands;

SAPF is the ski area permit fee for use of National Forest System lands; and

SS is revenue from alpine and nordic ski school operations.

1. SAPF shall be calculated by summing the results of multiplying the indicated percentage rates by the amount of the holder's adjusted gross revenue (AGR), which falls into each of the four brackets. Follow direction in paragraph 2 to determine AGR. The permit fee shall be calculated based on the holder's fiscal year, unless mutually agreed otherwise by the holder and the authorized officer.

The four revenue brackets shall be adjusted annually by the consumer price index issued in FSH 2709.11, chapter 30. The revenue brackets shall

be indexed for the previous calendar year. The holder's AGR for any fiscal year shall not be split into more than one set of indexed brackets. When adjusting brackets, round the fees to the nearest thousand dollars (for example, round up to \$1,000 from \$500.00 and round down to \$0 from \$499.99). Only the levels of AGR defined in each bracket are updated annually. The percentage rates do not change.

The revenue brackets and percentages displayed in Exhibit 01 shall be used as shown in the preceding formula to calculate the permit fee.

EXHIBIT 01—ADJUSTED GROSS REVENUE (AGR) BRACKETS AND ASSOCIATED PERCENTAGE RATES FOR USE IN DETERMINING SKI AREA PERMIT FEE (SAPF)

[Revenue Brackets (updated annually by CPI*) and Percentage Rates]

Holder FY	Bracket 1 (1.5%)	Bracket 2 (2.5%)	Bracket 3 (2.75%)	Bracket 4 (4%)
FY 1996 CPI: N/A	All revenue below \$3,000,000.	\$3,000,000 to \$15,000,000	\$15,000,000 to \$50,000,000.	All revenue over \$50,000,000.
FY 1997 CPI: 1.030	All revenue below \$3,090,000.	\$3,090,000 to \$15,450,000	\$15,450,000 to \$51,500,000.	All revenue over \$51,500,000.
FY 1998 CPI: 1.022	All revenue below \$3,158,000.	\$3,158,000 to \$15,790,000	\$15,790,000 to \$52,633,000.	All revenue over \$52,633,000.
FY 1999 CPI: 1.017	All revenue below \$3,212,000.	\$3,212,000 to \$16,058,000	\$16,058,000 to \$53,528,000.	All revenue over \$53,528,000.
FY 2000 and beyond		BRACKETS WILL BE UPDATED ANNUALLY BY CPI*		

* The authorized officer shall notify the holder of the updated revenue brackets based on the Consumer Price Index (CPI) which is revised and issued annually in FSH 2709.11, chapter 30.

2. AGR shall be calculated by summing the revenue from lift tickets and ski school operations prorated for use of National Forest System lands and from ancillary facility operations conducted on National Forest System lands.

Revenue inclusions shall be income from sales of alpine and nordic tickets and ski area passes; alpine and nordic ski school operations; gross revenue from ancillary facilities; the value of bartered goods and complimentary lift tickets (such as lift tickets provided free of charge to the holder's friends or relatives); and special event revenue. Discriminatory pricing, a rate based solely on race, color, religion, sex, national origin, age, disability, or place of residence, is not allowed, but if it occurs, include the amount that would have been received had the discriminatory pricing transaction been made at the market price, the price generally available to an informed public, excluding special promotions.

Revenue exclusions shall be income from sales of operating equipment; refunds; rent paid to the holder by subholders; sponsor contributions to special events; any amount attributable

to employee gratuities or employee lift tickets; discounts; ski area tickets or passes provided for a public safety or public service purpose (such as for National Ski Patrol or for volunteers to assist on the slope in the Special Olympics); and other goods or services (except for bartered goods and complimentary lift tickets) for which the holder does not receive money.

Include the following in AGR:

a. Revenue from sales of year-round alpine and nordic ski area passes and tickets and revenue from alpine and nordic ski school operations prorated according to the percentage of use between National Forest System lands and private land in the ski area;

b. Gross year-round revenue from temporary and permanent ancillary facilities located on National Forest System lands;

c. The value of bartered goods and complimentary lift tickets, which are goods, services, or privileges that are not available to the general public (except for employee gratuities, employee lift tickets, and discounts, and except for ski area tickets and passes provided for a public safety or public service purpose) and that are donated or

provided without charge in exchange for something of value to organizations or individuals (for example, ski area product discounts, service discounts, or lift tickets that are provided free of charge in exchange for advertising).

Bartered goods and complimentary lift tickets (except for employee gratuities, employee lift tickets, discounts, and except for ski area tickets and passes provided for a public safety or public service purpose) valued at market price shall be included in the AGR formula as revenue under LT, SS, or GRAF, depending on the type of goods, services, or privileges donated or bartered; and

d. Special event revenue from events, such as food festivals, foot races, and concerts. Special event revenue shall be included in the AGR formula as revenue under LT, SS, or GRAF, as applicable. Prorate revenue according to the percentage of use between National Forest System lands and private land as described in the following paragraphs 5 and 6.

3. LT is the revenue from sales of alpine and nordic lift tickets and passes purchased for the purpose of using a ski area during any time of the year,

including revenue that is generated on private land (such as from tickets sold on private land).

4. *SS* is the revenue from lessons provided to teach alpine or nordic skiing or other winter sports activities, such as racing, snowboarding, or snowshoeing, including revenue that is generated on private land (such as from tickets sold on private land).

5. *Proration %* is the method used to prorate revenue from the sale of ski area passes and lift tickets and revenue from ski school operations between National Forest System lands and private land in the ski area. Separately prorate alpine and nordic revenue with an appropriate proration factor. Add prorated revenues together; then sum them with *GRAF* to arrive at *AGR*. Use one or both of the following methods, as appropriate:

a. *STFP* shall be the method used to prorate alpine revenue. This *STFP* direction is identical to the direction issued at FSM 2715.11c in 1992; pursuant to the Omnibus Parks and Public Lands Management Act of 1996, the *STFP* method shall not be changed from the 1992 direction. Include in the calculation only uphill devices (lifts, tows, and tramways) that are fundamental to the winter sports operation (usually those located on both Federal and private land). Do not include people movers whose primary purpose is to shuttle people between parking areas or between parking areas and lodges and offices.

b. *Nordic trail length* is the method used to prorate nordic revenue. Use the percentage of trail length on National Forest System lands to total trail length.

6. *GRAF* is the revenue from ancillary facilities, including all of the holder's or subholder's lodging, food service, rental shops, parking, and other ancillary operations located on National Forest System lands. Do not include revenue that is generated on private land. For facilities that are partially located on National Forest System lands, calculate the ratio of the facility square footage located on National Forest System lands to the total facility square footage. Special event revenue allocatable to *GRAF* shall be prorated by the ratio of use on National Forest System lands to the total use.

7. In cases when the holder has no *AGR* for a given fiscal year, the holder shall pay a permit fee of \$2 per acre for National Forest System lands under permit or a percentage of the appraised value of National Forest System lands under permit, at the discretion of the authorized officer.

B. *Fee Payments*. Reports and deposits shall be tendered in accordance with the following schedule. They shall be sent or delivered to the collection officer, USDA, Forest Service, at the address furnished by the authorized officer. Checks or money orders shall be made payable to: USDA, Forest Service.

1. The holder shall calculate and submit an advance payment which is due by the beginning of the holder's payment cycle. The advance payment shall equal 20 percent of the holder's average permit fee for 3 operating years, when available. When past permit fee information is not available, the advance payment shall equal 20 percent of the permit fee, based on the prior holder's average fee or projected *AGR*. For ski areas not expected to generate *AGR* for a given payment cycle, advance payment of the permit fee as calculated in item A, paragraph 7 (\$2 per acre for National Forest System lands under permit or a percentage of the appraised value of National Forest System lands under permit, at the discretion of the authorized officer) shall be made. The advance payment shall be credited (item B, paragraph 3) toward the total ski area permit fee for the payment cycle.

2. The holder shall report sales, calculate fees due based on a tentative percentage rate, and make interim payments each calendar [MONTH, QUARTER, or YEAR], except for periods in which no sales take place and the holder has notified the authorized officer that the operation has entered a seasonal shutdown for a specific period. Reports and payments shall be made by the end of the month following the end of each reportable period. Interim payments shall be credited (item B, paragraph 3) toward the total ski area permit fee for the payment cycle.

3. Within 90 days after the close of the ski area's payment cycle, the holder shall provide a financial statement, including a completed permit fee information form, Form FS-2700-19a,

representing the ski area's financial condition at the close of its business year and an annual operating statement reporting the results of operations, including a final payment which includes year-end adjustments for the holder and each subholder for the same period. Any balance that exists may be credited and applied against the next payment due or refunded, at the discretion of the permit holder.

4. Within 30 days of receipt of a statement from the Forest Service, the holder shall make any additional payment required to ensure that the correct ski area permit fee is paid for the past year's operation.

5. Payments shall be credited on the date received by the designated collection officer. If the due date for the fee or fee calculation financial statement falls on a non-workday, the charges shall not accrue until the close of business on the next workday.

6. All permit fee calculations and records of sales are subject to review or periodic audit as determined by the authorized officer. Errors in calculation or payment shall be corrected as needed for conformance with those reviews or audits. In accordance with the *Interest and Penalties* clause contained in this authorization, interest and penalties shall be assessed on additional fees due as a result of reviews or audits.

7. Correction of errors includes any action necessary to calculate the holder's sales or slope transport fee percentage or to make any other determination required to calculate permit fees accurately. For fee calculation purposes, an error may include:

- a. Misreporting or misrepresentation of amounts;
- b. Arithmetic mistakes;
- c. Typographic mistakes; or
- d. Variation from generally accepted accounting principles (GAAP), when such variations are inconsistent with the terms of this permit.

Correction of errors shall be made retroactively to the date the error was made or to the previous audit period, whichever is more recent, and past fees shall be adjusted accordingly.

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