

(3) notice is given prior to initiating or adjusting rental fees.

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

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

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

§ 251.58 Cost recovery.

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

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

(1) *Applications for use and occupancy that require a new special use authorization.* Fees for processing an application for a new special use authorization shall apply to any application formally accepted by the agency on or after

March 23, 2006 and to any application formally accepted by the agency before March 23, 2006, which the agency has not commenced processing. Proposals accepted as applications which the agency has commenced processing prior to March 23, 2006 shall not be subject to processing fees. The cost recovery provisions of this section shall not apply to or supersede written agreements providing for recovery of processing costs executed by the agency and applicants prior to March 23, 2006.

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

(3) *Agency actions to issue a special use authorization and applications for issuance of a new special use authorization due to termination of an existing authorization, including termination caused by expiration, a change in ownership or control of the authorized facilities, or a change in ownership or control of the holder of the authorization.* Upon termination of an existing authorization, a holder shall be subject to a processing fee for issuance of a new authorization, even if the holder's existing authorization does not require submission of an application for a new authorization.

(4) *Monitoring of authorizations issued or amended on or after March 23, 2006.*

(c) *Processing fee requirements.* A processing fee is required for each application for or agency action to issue a special use authorization as identified in paragraphs (b)(1) through (b)(3) of this section. Processing fees do not include costs incurred by the applicant in providing information, data, and documentation necessary for the authorized officer to make a decision on the proposed use or occupancy pursuant to the provisions at § 251.54.

(1) *Basis for processing fees.* The processing fee categories 1 through 6 set out in paragraphs (c)(2)(i) through (c)(2)(vi) of this section are based upon the costs that the Forest Service incurs in reviewing the application, conducting environmental analyses of the

effects of the proposed use, reviewing any applicant-generated environmental documents and studies, conducting site visits, evaluating an applicant's technical and financial qualifications, making a decision on whether to issue the authorization, and preparing documentation of analyses, decisions, and authorizations for each application. The processing fee for an application shall be based only on costs necessary for processing that application. "Necessary for" means that but for the application, the costs would not have been incurred and that the costs cover only those activities without which the application cannot be processed. The processing fee shall not include costs for studies for programmatic planning or analysis or other agency management objectives, unless they are necessary for the application being processed. For example, the processing fee shall not include costs for capacity studies, use allocation decisions, corridor or communications site planning, and biological studies that address species diversity, unless they are necessary for the application. Proportional costs for analyses, such as capacity studies, that are necessary for an application may be included in the processing fee for that application. The costs incurred for processing an application, and thus the processing fee, depend on the complexity of the project; the amount of information that is necessary for the authorized officer's decision in response to the proposed use and occupancy; and the degree to which the applicant can provide this information to the agency. Processing work conducted by the applicant or a third party contracted by the applicant minimizes the costs the Forest Service will incur to process the application, and thus reduces the processing fee. The total processing time is the total time estimated for all Forest Service personnel involved in processing an application and is estimated case by case to determine the fee category.

(i) *Processing fee determinations.* The applicable fee rate for processing applications in minor categories 1 through 4 (paragraphs (c)(2)(i) through (c)(2)(iv) of this section) shall be assessed from a schedule. The processing fee for applications in category 5, which may be ei-

ther minor or major, shall be established in the master agreement (paragraph (c)(2)(v) of this section). For major category 5 (paragraph (c)(2)(v) of this section) and category 6 (paragraph (c)(2)(vi) of this section) cases, the authorized officer shall estimate the agency's full actual processing costs. The estimated processing costs for category 5 and category 6 cases shall be reconciled as provided in paragraphs (c)(5)(ii) and (iii) and (c)(6)(ii) and (iii) of this section.

(ii) *Reduction in processing fees for certain category 6 applications.* For category 6 applications submitted under authorities other than the Mineral Leasing Act, the applicant:

(A) May request a reduction of the processing fee based upon the applicant's written analysis of actual costs, the monetary value of the rights and privileges sought, that portion of the costs incurred for the benefit of the general public interest, the public service provided, the efficiency of the agency processing involved, and other factors relevant to determining the reasonableness of the costs. The agency will determine whether the estimate of full actual costs should be reduced based upon this analysis and will notify the applicant in writing of this determination; or

(B) May agree in writing to waive payment of reasonable costs and pay the actual costs incurred in processing the application.

(2) *Processing fee categories.* No fee is charged for applications taking 1 hour or less for the Forest Service to process. Applications requiring more than 1 hour for the agency to process are covered by the fee categories 1 through 6 set out in the following paragraphs i through vi.

(i) *Category 1: Minimal Impact: More than 1 hour and up to and including 8 hours.* The total estimated time in this minor category is more than 1 hour and up to and including 8 hours for Forest Service personnel to process an application.

(ii) *Category 2: More than 8 and up to and including 24 hours.* The total estimated time in this minor category is more than 8 and up to and including 24 hours for Forest Service personnel to process an application.

(iii) *Category 3: More than 24 and up to and including 36 hours.* The total estimated time in this minor category is more than 24 and up to and including 36 hours for Forest Service personnel to process an application.

(iv) *Category 4: More than 36 and up to and including 50 hours.* The total estimated time in this minor category is more than 36 and up to and including 50 hours for Forest Service personnel to process an application.

(v) *Category 5: Master agreements.* The Forest Service and the applicant may enter into master agreements for the agency to recover processing costs associated with a particular application, a group of applications, or similar applications for a specified geographic area. This category is minor if 50 hours or less are needed for Forest Service personnel to process an application and major if more than 50 hours are needed. In signing a master agreement for a major category application submitted under authorities other than the Mineral Leasing Act, an applicant waives the right to request a reduction of the processing fee based upon the reasonableness factors enumerated in paragraph (c)(1)(ii)(A) of this section. A master agreement shall at a minimum include:

(A) The fee category or estimated processing costs;

(B) A description of the method for periodic billing, payment, and auditing;

(C) A description of the geographic area covered by the agreement;

(D) A work plan and provisions for updating the work plan;

(E) Provisions for reconciling differences between estimated and final processing costs; and

(F) Provisions for terminating the agreement.

(vi) *Category 6: More than 50 hours.* In this major category more than 50 hours are needed for Forest Service personnel to process an application. The authorized officer shall determine the issues to be addressed and shall develop preliminary work and financial plans for estimating recoverable costs.

(3) *Multiple applications other than those covered by master agreements (category 5).* (i) *Unsolicited applications where there is no competitive interest.*

Processing costs that are incurred in processing more than one of these applications (such as the cost of environmental analysis or printing an environmental impact statement that relates to all of the applications) must be paid in equal shares or on a prorated basis, as deemed appropriate by the authorized officer, by each applicant, including applicants for recreation special uses that are otherwise exempt under paragraph (g)(3) of this section when the Forest Service requires more than 50 hours in the aggregate to process the applications submitted in response to the prospectus.

(ii) *Unsolicited proposals where competitive interest exists.* When there is one or more unsolicited proposals and the authorized officer determines that competitive interest exists, the agency shall issue a prospectus. All proposals accepted pursuant to that solicitation shall be processed as applications. The applicants are responsible for the costs of environmental analyses that are necessary for their applications and that are conducted prior to issuance of the prospectus. Processing fees for these cases shall be determined pursuant to the procedures for establishing a category 6 processing fee and shall include costs such as those incurred in printing and mailing the prospectus; having parties other than the Forest Service review and evaluate applications; establishing a case file; recording data; conducting financial reviews; and, for selected applicants, any additional environmental analysis required in connection with their applications. Processing fees shall be paid in equal shares or on a prorated basis, as deemed appropriate by the authorized officer, by all parties who submitted proposals that were processed as applications pursuant to the solicitation, including applicants for recreation special uses that are otherwise exempt under paragraph (g)(3) of this section when the Forest Service requires more than 50 hours in the aggregate to process the applications submitted in response to the prospectus.

(iii) *Solicited applications.* When the Forest Service solicits applications through the issuance of a prospectus on its own initiative, rather than in response to an unsolicited proposal or

proposals, the agency is responsible for the cost of environmental analyses conducted prior to issuance of the prospectus. All proposals accepted pursuant to that solicitation shall be processed as applications. Processing fees for these cases shall be determined pursuant to the procedures for establishing a category 6 processing fee and shall include costs such as those incurred in printing and mailing the prospectus; having parties other than the Forest Service review and evaluate applications; establishing a case file; recording data; conducting financial reviews; and, for selected applicants, any additional environmental analysis required in connection with their applications. Processing fees shall be paid in equal shares or on a prorated basis, as deemed appropriate by the authorized officer, by all parties who submitted proposals that were processed as applications pursuant to the solicitation, including applicants for recreation special uses that are otherwise exempt under paragraph (g)(3) of this section when the Forest Service requires more than 50 hours in the aggregate to process the applications submitted in response to the prospectus.

(4) *Billing and revision of processing fees.* (i) *Billing.* When the Forest Service accepts a special use application, the authorized officer shall provide written notice to the applicant that the application has been formally accepted. The authorized officer shall not bill the applicant a processing fee until the agency is prepared to process the application.

(ii) *Revision of processing fees.* Minor category processing fees shall not be reclassified into a higher minor category once the processing fee category has been determined. However, if the authorized officer discovers previously undisclosed information that necessitates changing a minor category processing fee to a major category processing fee, the authorized officer shall notify the applicant or holder of the conditions prompting a change in the processing fee category in writing before continuing with processing the application. The applicant or holder may accept the revised processing fee category and pay the difference between the previous and revised proc-

essing categories; withdraw the application; revise the project to lower the processing costs; or request review of the disputed fee as provided in paragraphs (e)(1) through (e)(4) of this section.

(5) *Payment of processing fees.* (i) Payment of a processing fee shall be due within 30 days of issuance of a bill for the fee, pursuant to paragraph (c)(4) of this section. The processing fee must be paid before the Forest Service can initiate or, in the case of a revised fee, continue with processing an application. Payment of the processing fee by the applicant does not obligate the Forest Service to authorize the applicant's proposed use and occupancy.

(ii) For category 5 cases, when the estimated processing costs are lower than the final processing costs for applications covered by a master agreement, the applicant shall pay the difference between the estimated and final processing costs.

(iii) For category 6 cases, when the estimated processing fee is lower than the full actual costs of processing an application submitted under the Mineral Leasing Act, or lower than the full reasonable costs (when the applicant has not waived payment of reasonable costs) of processing an application submitted under other authorities, the applicant shall pay the difference between the estimated and full actual or reasonable processing costs.

(6) *Refunds of processing fees.* (i) Processing fees in minor categories 1 through 4 are nonrefundable and shall not be reconciled.

(ii) For category 5 cases, if payment of the processing fee exceeds the agency's final processing costs for the applications covered by a master agreement, the authorized officer either shall refund the excess payment to the applicant or, at the applicant's request, shall credit it towards monitoring fees due.

(iii) For category 6 cases, if payment of the processing fee exceeds the full actual costs of processing an application submitted under the Mineral Leasing Act, or the full reasonable costs (when the applicant has not waived payment of reasonable costs) of processing an application submitted under

other authorities, the authorized officer either shall refund the excess payment to the applicant or, at the applicant's request, shall credit it towards monitoring fees due.

(iv) For major category 5 and category 6 applications, an applicant whose application is denied or withdrawn in writing is responsible for costs incurred by the Forest Service in processing the application up to and including the date the agency denies the application or receives written notice of the applicant's withdrawal. When an applicant withdraws a major category 5 or category 6 application, the applicant also is responsible for any costs subsequently incurred by the Forest Service in terminating consideration of the application.

(7) *Customer service standards.* The Forest Service shall endeavor to make a decision on an application that falls into minor processing category 1, 2, 3, or 4, and that is subject to a categorical exclusion pursuant to the National Environmental Policy Act, within 60 calendar days from the date of receipt of the processing fee. If the application cannot be processed within the 60-day period, then prior to the 30th calendar day of the 60-day period, the authorized officer shall notify the applicant in writing of the reason why the application cannot be processed within the 60-day period and shall provide the applicant with a projected date when the agency plans to complete processing the application. For all other applications, including all applications that require an environmental assessment or an environmental impact statement, the authorized officer shall, within 60 calendar days of acceptance of the application, notify the applicant in writing of the anticipated steps that will be needed to process the application. These customer service standards do not apply to applications that are subject to a waiver of or exempt from cost recovery fees under §§ 251.58(f) or (g).

(d) *Monitoring fee requirements.* The monitoring fee for an authorization shall be assessed independently of any fee charged for processing the application for that authorization pursuant to paragraph (c) of this section. Payment of the monitoring fee is due upon issuance of the authorization.

(1) *Basis for monitoring fees.* Monitoring is defined at § 251.51. For monitoring fees in minor categories 1 through 4, authorization holders are assessed fees based upon the estimated time needed for Forest Service monitoring to ensure compliance with the authorization during the construction or reconstruction of temporary or permanent facilities and rehabilitation of the construction or reconstruction site. Major category 5 and category 6 monitoring fees shall be based upon the agency's estimated costs to ensure compliance with the terms and conditions of the authorization during all phases of its term, including but not limited to monitoring to ensure compliance with the authorization during the construction or reconstruction of temporary or permanent facilities and rehabilitation of the construction or reconstruction site. Monitoring for all categories does not include billings, maintenance of case files, annual performance evaluations, or scheduled inspections to determine compliance generally with the terms and conditions of an authorization.

(i) *Monitoring fee determinations.* The applicable fee rate for monitoring compliance with authorizations in minor categories 1 through 4 (paragraphs (d)(2)(i) through (d)(2)(iv) of this section) shall be assessed from a schedule. The monitoring fee for authorizations in category 5, which may be minor or major, shall be established in the master agreement (paragraph (d)(2)(v) of this section). For major category 5 (paragraph (d)(2)(v) of this section) and category 6 (paragraph (d)(2)(vi) of this section) cases, the authorized officer shall estimate the agency's full actual monitoring costs. The estimated monitoring costs for category 5 and category 6 cases shall be reconciled as provided in paragraphs (d)(3)(ii) and (iii) and (d)(4)(ii) and (iii) of this section.

(ii) *Reductions in monitoring fees for certain category 6 authorizations.* For category 6 authorizations issued under authorities other than the Mineral Leasing Act, the holder:

(A) May request a reduction of the monitoring fee based upon the holder's written analysis of actual costs, the monetary value of the rights or privileges granted, that portion of the costs

incurred for the benefit of the general public interest, the public service provided, the efficiency of the agency monitoring involved, and other factors relevant to determining the reasonableness of the costs. The agency will determine whether the estimate of full actual costs should be reduced based upon this analysis and will notify the holder in writing of this determination; or

(B) May agree in writing to waive payment of reasonable costs and pay the actual costs incurred in monitoring the authorization.

(2) *Monitoring fee categories.* No monitoring fee is charged for authorizations requiring 1 hour or less for the Forest Service to monitor. Authorizations requiring more than 1 hour for the agency to monitor are covered by fee categories 1 through 6 set out in the following paragraphs (d)(2)(i) through (vi) of this section.

(i) *Category 1: Minimal Impact: More than 1 hour and up to and including 8 hours.* This minor category requires more than 1 hour and up to and including 8 hours for Forest Service personnel to monitor compliance with a special use authorization during construction or reconstruction of temporary or permanent facilities and rehabilitation of the construction or reconstruction site.

(ii) *Category 2: More than 8 and up to and including 24 hours.* This minor category requires more than 8 and up to and including 24 hours for Forest Service personnel to monitor compliance with a special use authorization during construction or reconstruction of temporary or permanent facilities and rehabilitation of the construction or reconstruction site.

(iii) *Category 3: More than 24 and up to and including 36 hours.* This minor category requires more than 24 and up to and including 36 hours for Forest Service personnel to monitor compliance with a special use authorization during construction or reconstruction of temporary or permanent facilities and rehabilitation of the construction or reconstruction site.

(iv) *Category 4: More than 36 and up to and including 50 hours.* This minor category requires more than 36 and up to and including 50 hours for Forest Serv-

ice personnel to monitor compliance with a special use authorization during construction or reconstruction of temporary or permanent facilities and rehabilitation of the construction or reconstruction site.

(v) *Category 5: Master agreements.* The Forest Service and the holder of an authorization may enter into a master agreement for the agency to recover monitoring costs associated with a particular authorization or by a group of authorizations for a specified geographic area. This category is minor if 50 hours or less are needed for Forest Service personnel to monitor compliance with an authorization and major if more than 50 hours are needed. In signing a master agreement for a major category authorization issued under authorities other than the Mineral Leasing Act, a holder waives the right to request a reduction of the monitoring fee based upon the reasonableness factors enumerated in paragraph (d)(1)(ii)(A) of this section. A master agreement shall at a minimum include:

(A) The fee category or estimated monitoring costs;

(B) A description of the method for periodic billing, payment, and auditing of monitoring fees;

(C) A description of the geographic area covered by the agreement;

(D) A monitoring work plan and provisions for updating the work plan;

(E) Provisions for reconciling differences between estimated and final monitoring costs; and

(F) Provisions for terminating the agreement.

(vi) *Category 6: More than 50 hours.* This major category requires more than 50 hours for Forest Service personnel to monitor compliance with the terms and conditions of the authorization during all phases of its term, including, but not limited to, monitoring compliance with the authorization during the construction or reconstruction of temporary or permanent facilities and rehabilitation of the construction or reconstruction site.

(3) *Billing and payment of monitoring fees.* (i) The authorized officer shall estimate the monitoring costs and shall notify the holder of the required fee. Monitoring fees in minor categories 1 through 4 must be paid in full before or

at the same time the authorization is issued. For authorizations in major category 5 and category 6, the estimated monitoring fees must be paid in full before or at the same time the authorization is issued, unless the authorized officer and the applicant or holder agree in writing to periodic payments.

(ii) For category 5 cases, when the estimated monitoring costs are lower than the final monitoring costs for authorizations covered by a master agreement, the holder shall pay the difference between the estimated and final monitoring costs.

(iii) For category 6 cases, when the estimated monitoring fee is lower than the full actual costs of monitoring an authorization issued under the Mineral Leasing Act, or lower than the full reasonable costs (when the holder has not waived payment of reasonable costs) of monitoring an authorization issued under other authorities, the holder shall pay the difference in the next periodic payment or the authorized officer shall bill the holder for the difference between the estimated and full actual or reasonable monitoring costs. Payment shall be due within 30 days of receipt of the bill.

(4) *Refunds of monitoring fees.* (i) Monitoring fees in minor categories 1 through 4 are nonrefundable and shall not be reconciled.

(ii) For category 5 cases, if payment of the monitoring fee exceeds the agency's final monitoring costs for the authorizations covered by a master agreement, the authorized officer shall either adjust the next periodic payment to reflect the overpayment or refund the excess payment to the holder.

(iii) For category 6 cases, if payment of the monitoring fee exceeds the full actual costs of monitoring an authorization issued under the Mineral Leasing Act, or the full reasonable costs (when the holder has not waived payment of reasonable costs) of monitoring an authorization issued under other authorities, the authorized officer shall either adjust the next periodic payment to reflect the overpayment or refund the excess payment to the holder.

(e) *Applicant and holder disputes concerning processing or monitoring fee as-*

sessments; requests for changes in fee categories or estimated costs. (1) If an applicant or holder disagrees with the processing or monitoring fee category assigned by the authorized officer for a minor category or, in the case of a major processing or monitoring category, with the estimated dollar amount of the processing or monitoring costs, the applicant or holder may submit a written request before the disputed fee is due for substitution of an alternative fee category or alternative estimated costs to the immediate supervisor of the authorized officer who determined the fee category or estimated costs. The applicant or holder must provide documentation that supports the alternative fee category or estimated costs.

(2) In the case of a disputed processing fee:

(i) If the applicant pays the full disputed processing fee, the authorized officer shall continue to process the application during the supervisory officer's review of the disputed fee, unless the applicant requests that the processing cease.

(ii) If the applicant fails to pay the full disputed processing fee, the authorized officer shall suspend further processing of the application pending the supervisory officer's determination of an appropriate processing fee and the applicant's payment of that fee.

(3) In the case of a disputed monitoring fee:

(i) If the applicant or holder pays the full disputed monitoring fee, the authorized officer shall issue the authorization or allow the use and occupancy to continue during the supervisory officer's review of the disputed fee, unless the applicant or holder elects not to exercise the authorized use and occupancy of National Forest System lands during the review period.

(ii) If the applicant or holder fails to pay the full disputed monitoring fee, the authorized officer shall not issue the applicant a new authorization or shall suspend the holder's existing authorization in whole or in part pending the supervisory officer's determination of an appropriate monitoring fee and the applicant's or holder's payment of that fee.

(4) The authorized officer's immediate supervisor shall render a decision on a disputed processing or monitoring fee within 30 calendar days of receipt of the written request from the applicant or holder. The supervisory officer's decision is the final level of administrative review. The dispute shall be decided in favor of the applicant or holder if the supervisory officer does not respond to the written request within 30 days of receipt.

(f) *Waivers of processing and monitoring fees.* (1) All or part of a processing or monitoring fee may be waived, at the sole discretion of the authorized officer, when one or more of the following criteria are met:

(i) The applicant or holder is a local, State, or Federal governmental entity that does not or would not charge processing or monitoring fees for comparable services the applicant or holder provides or would provide to the Forest Service;

(ii) A major portion of the processing costs results from issues not related to the project being proposed;

(iii) The application is for a project intended to prevent or mitigate damage to real property, or to mitigate hazards or dangers to public health and safety resulting from an act of God, an act of war, or negligence of the United States;

(iv) The application is for a new authorization to relocate facilities or activities to comply with public health and safety or environmental laws and regulations that were not in effect at the time the authorization was issued;

(v) The application is for a new authorization to relocate facilities or activities because the land is needed by a Federal agency or for a Federally funded project for an alternative public purpose; or

(vi) The proposed facility, project, or use will provide, without user or customer charges, a valuable benefit to the general public or to the programs of the Secretary of Agriculture.

(2) An applicant's or holder's request for a full or partial waiver of a processing or monitoring fee must be in writing and must include an analysis that demonstrates how one or more of the criteria in paragraphs (f)(1)(i) through (f)(1)(vi) of this section apply.

(g) *Exemptions from processing or monitoring fees.* No processing or monitoring fees shall be charged when the application or authorization is for a:

(1) Noncommercial group use as defined in §251.51, or when the application or authorization is to exempt a noncommercial activity from a closure order, except for an application or authorization for access to non-Federal lands within the boundaries of the National Forest System granted pursuant to section 1323(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3210(a)).

(2) Water systems authorized by section 501(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761(c)).

(3) A use or activity conducted by a Federal agency that is not authorized under Title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761-1771); the Mineral Leasing Act of 1920 (30 U.S.C. 185); the National Historic Preservation Act of 1966 (16 U.S.C. 470h-2); or the Act of May 26, 2000 (16 U.S.C. 460f-6d).

(4) Recreation special use as defined in the Forest Service's directive system and requires 50 hours or less for Forest Service personnel to process, except for situations involving multiple recreation special use applications provided for in paragraph (c)(3) of this section. No monitoring fees shall be charged for a recreation special use authorization that requires 50 hours or less for Forest Service personnel to monitor.

(h) *Appeal of decisions.* (1) A decision by the authorized officer to assess a processing or monitoring fee or to determine the fee category or estimated costs is not subject to administrative appeal.

(2) A decision by an authorized officer's immediate supervisor in response to a request for substitution of an alternative fee category or alternative estimated costs likewise is not subject to administrative appeal.

(i) *Processing and monitoring fee schedules.* (1) The Forest Service shall maintain schedules for processing and monitoring fees in its directive system (36 CFR 200.4). The rates in the schedules shall be updated annually by using the annual rate of change, second quarter

Forest Service, USDA

§ 251.60

to second quarter, in the Implicit Price Deflator-Gross Domestic Product (IPD-GDP) index. The Forest Service shall round the changes in the rates either up or down to the nearest dollar.

(2) Within 5 years of the effective date of this rule, March 23, 2006, the Forest Service shall review these rates:

(i) To determine whether they are commensurate with the actual costs incurred by the agency in conducting the processing and monitoring activities covered by this rule and

(ii) To assess consistency with processing and monitoring fee schedules established by the United States Department of the Interior, Bureau of Land Management.

[71 FR 8913, Feb. 21, 2006]

§ 251.59 Transfer of authorized improvements.

If the holder, through death, voluntary sale, transfer, or through enforcement of a valid legal proceeding or operation of law, ceases to be the owner of the authorized improvements, the authorization terminates upon change of ownership. Except for easements issued under authorities other than § 251.53(e) and leases and easements under § 251.53(l) of this subpart, the new owner of the authorized improvements must apply for and receive a new special use authorization. The new owner must meet requirements under applicable regulations of this subpart and agree to comply with the terms and conditions of the authorization and any new terms and conditions warranted by existing or prospective circumstances.

[63 FR 65967, Nov. 30, 1998]

§ 251.60 Termination, revocation, and suspension.

(a) *Grounds for termination, revocation, and suspension*—(1) *Noncommercial group uses.* (i) *Revocation or suspension.* An authorized officer may revoke or suspend a special use authorization for a noncommercial group use only under one of the following circumstances:

(A) Under the criteria for which an application for a special use authorization may be denied under § 251.54(h)(1);

(B) For noncompliance with applicable statutes or regulations or the terms and conditions of the authorization;

(C) For failure of the holder to exercise the rights or privileges granted; or

(D) With the consent of the holder.

(ii) *Administrative or judicial review.* Revocation or suspension of a special use authorization under this paragraph constitutes final agency action and is immediately subject to judicial review.

(iii) *Termination.* A special use authorization for a noncommercial group use terminates when it expires by its own terms. Termination of a special use authorization under this paragraph does not involve agency action and is not subject to administrative or judicial review.

(2) *All other special uses.* (i) *Revocation or suspension.* An authorized officer may revoke or suspend a special use authorization for all other special uses, except an easement issued pursuant to § 251.53 (e) and (l):

(A) For noncompliance with applicable statutes, regulations, or the terms and conditions of the authorization;

(B) For failure of the holder to exercise the rights or privileges granted;

(C) With the consent of the holder; or

(D) At the discretion of the authorized officer for specific and compelling reasons in the public interest.

(ii) *Administrative review.* Except for revocation or suspension of an easement issued pursuant to § 251.53 (e) and (l) of this subpart, a suspension or revocation of a special use authorization under this paragraph is subject to administrative appeal and review in accordance with 36 CFR part 251, subpart C, of this chapter.

(iii) *Termination.* For all special uses except noncommercial group uses, a special use authorization terminates when, by its terms, a fixed or agreed-upon condition, event, or time occurs. Termination of a special use authorization under this paragraph does not involve agency action and is not subject to administrative or judicial review.

(b) For purposes of this section, the authorized officer is that person who issues the authorization or that officer's successor.

(c) A right-of-way authorization granted to another Federal agency will