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**FSM 2300 - RECREATION, WILDERNESS, AND RELATED
RESOURCE MANAGEMENT**

CHAPTER 2340 - PRIVATELY PROVIDED RECREATION OPPORTUNITIES

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Approved: GLORIA MANNING
Associate Deputy Chief

Date Approved: 01/04/2006

Posting Instructions: Amendments are numbered consecutively by title and calendar year. Post by document; remove the entire document and replace it with this amendment. Retain this transmittal as the first page(s) of this document. The last amendment to this title was 2300-2004-2 to 2350.

New Document	2340	31 Pages
Superseded Document(s) by Issuance Number and Effective Date	2340 (Amendment 2300-2004-1, 05/04/2004)	32 Pages

Digest:

This amendment revises and incorporates direction regarding the administration of recreation residences on National Forest System lands. The new direction reflects the provisions of the Cabin User Fee Fairness Act of 2000 (CUFFA). This direction was adopted after notice and comment in the Federal Register (FR 71 16614, April 3, 2006).

2340.5 - Adds a definition for caretaker cabin.

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Digest--Continued:

2347.1 - Revises paragraph one to clarify that to the extent practicable the recreation residence program will be managed to preserve the opportunity it provides to individual and family-oriented recreation. Adds a new paragraph 7, that community-or association-owned and maintain improvements are to be authorized under a separate permit and authority for the type of use.

2347.12a - Revises section caption to “Caretaker Cabins.” Adds a sentence to paragraph 1 to identify that a caretaker cabin may be owned by a tract association. Adds new paragraphs 2 and 3, which was direction previously contained in section 2347.12b, paragraphs 3 and 4 respectively, regarding coordination with local government agencies and issuance of a new recreation residence term permit if the lot ceases to be used as a caretaker cabin.

2347.12b - Revises section caption to “Caretaker Cabin Use.” Provides new direction that annual cabin use fee for a caretaker cabin is the same as the fee for use of the same lot as a recreation residence. Adds direction for determining annual fees for a caretaker cabin when it resides in a recreation residence tract (paragraph 1) and direction for determining a fee when the caretaker cabin is located outside of a recreation residence tract (paragraph 2).

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This chapter provides direction for planning, authorizing, and administering developments and activities of private parties or groups; public agencies such as State and local government bodies; private or public institutions such as clubs and youth, religious, or civic groups; and private businesses that provide accommodations and services on National Forest System lands. See FSM 2700 for direction on issuing and administering special use permits.

2340.1 - Authority

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

2340.2 - Objectives

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

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

2340.3 - Policy

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

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

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

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

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

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

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

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- (3) Tracts adjacent to lands owned by the agency proposing or applying for the authorization and needed to complete a unit for development as a park or recreation area.
- c. Although it would be preferable to adhere to the conditions in the preceding paragraphs 1 through 1b(3) for target range authorizations, target ranges may have specific needs for special site conditions, safety zones, and sound buffers that cannot be achieved along exterior boundaries, on small tracts, or adjacent to other privately owned lands. Therefore, consider special use proposals and applications for target ranges not meeting these criteria on a site-specific, case-by-case basis.
2. Denial of Applications by State, County, or Municipal Agencies for Recreational Improvements. Deny special use permit applications by State and local agencies proposing to develop parks or recreational areas that do not qualify under the provisions in the preceding paragraphs 1-1c, except in unusual circumstances or when the authorization is clearly in the public interest. Obtain review and advice of the Chief before approving permits based on these exceptions. Review by the Chief is not required for roadside rest and picnic developments by county or State agencies if no suitable private land or other agency land is available for such purposes.
3. Denial of Applications by the Private Sector for Recreational Facilities and Services. Deny applications by the private sector to construct or provide outdoor recreation facilities and services on National Forest System lands if these facilities and services are reasonably available or could be provided elsewhere in the general vicinity. Encourage business enterprises engaged in providing such facilities and services to locate on private lands or in nearby communities.
4. Use of Appropriated Funds. Normally, do not use appropriated funds to construct recreation facilities for operation by others under special use authorization. Use appropriated funds, when necessary, to restore existing Government-owned recreation improvements that have been operated under special use authorization.
5. General Requirements and Prohibitions related to Authorizations for Recreation Facilities and Services.
- a. Require holders to protect soil, vegetation, and other resources within the authorized area to perpetuate a condition suitable for recreation purposes.
- b. Ensure that all services and facilities provided by private individuals or public entities under special use permits are equally available to all members of the public. Include non-discrimination clauses in special use permits (FSM 1700 and 2710) and revoke the permits if discriminatory practices occur.
- c. Prohibit gambling devices or activities at any facility or any area authorized for special recreation uses on National Forest System land.

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2340.4 - Responsibility

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

2340.5 - Definitions

Authorized Officer. Any Forest Service employee with delegated authority to evaluate and administer special use authorizations (36 CFR 251, subparts B and C, and FSM 2710.41 to FSM 2710.45).

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

Inspect. To view closely and critically in order to ascertain quality or state, detect error, or otherwise appraise.

Monitor. To compare performance with sources of information or bodies of data. To check and sometimes cause others to adjust the quality of a program. To check for reasonable accuracy and satisfactory performance of management systems and similar mechanisms.

Qualified Forest Officer. A Forest Service employee who, through training or experience, is sufficiently knowledgeable about the design, operation, and maintenance of concession facilities to act for the authorized officer in administering the recreation special use authorization and monitoring these activities.

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

Caretaker Cabin. A residence that is authorized in limited cases to provide caretaker services and security to a recreation residence tract.

2341 - PLANNING FOR PRIVATE SECTOR USES

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

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1. Identify and justify National Forest System sites and areas suitable for development, operation, and use by the private sector under special use authorization through Forest land and resource management plans and addendums (FSM 1920, FSH 1909.12).
2. Review needs assessments and development plans (master plans) to determine the location, nature, scope, and timing of development of facilities at current and potential permit sites.
3. Review engineering designs and drawings and approve the configuration and design of structures and facilities to be placed at sites under permit.
4. Review and approve the permittee's operating plan to ensure agreement with the permittee about the management, operation, and maintenance of the permitted site and area.

2341.1 - Planning for New Sites and Areas

1. Use the land and resource management planning process (FSM 1922) to identify and reserve new sites and areas for use and development when national social benefits under such use and development are expected to exceed the benefits from alternative uses of those lands and resources.
2. Base land and resource allocations for prospective private sector development and use on studies, analyses, reports, and data that:
 - a. Indicate there is an expected national public need for the recreation services, facilities, and opportunities.
 - b. Identify how such development will meet those needs and remain consistent with Forest Service policy.

2341.2 - Planning for Changes in Development and/or Use

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

2341.21 - Needs Assessments for New Sites or Areas

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

1. The desirability and suitability for the intended purpose.

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

2341.22 - Site Development Plans for New Sites or Areas

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

2341.23 - Needs Assessment for Existing Permitted Sites and Areas

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

2341.3 - Designing Structures and Facilities

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

1. The nature and scope of proposed recreation facilities, services, and activities are consistent with direction and decisions made in Forest land and resource management plans.
2. Facilities authorized are of a design that is compatible with or complementary to the natural setting.
3. Design proposals for structural development are consistent with approved master/conceptual plans for the site or area. A conceptual plan prepared by the holder describes the foreseeable development sequence of the site.
4. Designs, drawings, and specifications comply with all applicable Federal, State, and local laws, codes, ordinances, and standards.

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

- a. Specifications and designs will be prepared by qualified architects or engineers.
- b. Holders will provide a post-construction certification by the architect/engineer that the facilities were constructed in full conformance with the approved designs.

2341.4 - Operating Plans

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

2341.5 - Permittee Employee Housing

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

An authorized officer may approve permittee housing within a permit area if the following conditions are met:

1. Provision of permittee housing is consistent with the management direction and guidelines of the Forest land and resource management plan for the area.
2. There is a clear and convincing need for 24-hour, on-site property protection, round-the-clock public safety, and/or intermittent emergency service at other than normal operating hours and the commuting time between the permit area and the nearest private property available for permittee housing exceeds one hour.

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

2342 - ADMINISTRATION OF PRIVATE SECTOR USES

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2342.03 - Policy

Require concession and organization camp holders to provide operating plans for all public use sites to facilitate monitoring for compliance with the terms of the special use authorization.

2342.04 - Responsibility

Authorized officers have the responsibility to:

1. Evaluate special use applications, approve authorizations, and administer subsequent special use operations (FSM 2710 and 2720).
2. Ensure that permit holders providing service to the public have inspection, maintenance, and documentation processes that provide for meeting applicable public health and safety standards.
3. Monitor the holder's system of inspection, maintenance, and documentation to determine whether the system is in place and functioning properly.
4. Conduct on-site spot checks of operation and maintenance, as necessary, based on a holder's performance history and adequacy of the holder's inspection and maintenance documentation processes.
5. Through consultation with Forest Service staff engineers and other specialists, determine that all technical requirements of the special use authorization are met.
6. Periodically meet with holders providing service to the public to review their operation and maintenance programs.

2342.1 - Law Enforcement

The responsibility for conducting law enforcement at concession campgrounds operated on National Forest System lands is borne by several governmental entities. It is the responsibility of the authorized officer to ensure that law enforcement activities at concession campgrounds are conducted in a manner consistent with the provisions of exhibit 01.

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2342.1 - Exhibit 01

Law Enforcement at Concession Campgrounds

ROLES AND RESPONSIBILITIES

1. Concessionaires. In responding to violations of Federal, State, and local laws, ordinances, and regulations, concessionaires have the same authority as a private citizen. Concessionaires generally cannot enforce Federal, State, or local laws or regulations, including 36 CFR part 261, Prohibitions on National Forest System lands. Concessionaires should be knowledgeable of applicable Federal, State, and local laws and regulations, including 36 CFR part 261, and should report violations of these laws and regulations to the appropriate law enforcement authorities.

Concessionaires may enhance public safety at concession campgrounds in a number of ways. For example, they may hire a private security firm, hire off-duty State or local law enforcement personnel, or enter into a cooperative agreement with the county for additional patrols.

Under the terms of the campground concession permit, the authorized officer may allow or require a concessionaire to establish certain restrictions on conduct or rules of use. For instance, the concessionaire may establish a rule of use that limits the number of vehicles per campground site, establishes a limit on the length of stay, or prohibits washing food at a water hydrant. The rules of use may be incorporated into the concessionaire's operating plan, and the concessionaire may be held accountable for ensuring compliance under the terms of the special use permit.

Conduct that violates rules of use may also violate Federal, State, or local laws. When such conduct occurs, the concessionaire should report those violations to the appropriate law enforcement authority. For example, violation of a rule of use may constitute a disturbance of the peace in violation of State law or disorderly conduct in violation of Forest Service regulations at 36 CFR 261.4

To minimize confusion between criminally enforceable Federal, State, and local laws and concessionaire-established rules of use, each should be separately posted within the campground.

2. State and Local Law Enforcement Agencies. Generally, State and local law enforcement agencies have authority to enforce applicable State and local laws, ordinances, and regulations on National Forest System lands. Under 16 U.S.C. 480, States retain their civil and criminal jurisdiction over persons on the National Forests. Thus, crimes involving persons and their property are generally the primary responsibility of State and local law enforcement authorities.

Where a concessionaire has established rules of use, there is no authority for a State or local law enforcement agency to take enforcement action, unless the conduct giving rise to the violation of a rule of use also constitutes a violation of State or local law.

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2342.1 - Exhibit 01--Continued

There is no authority for the Forest Service to allow State and local law enforcement personnel to enforce Federal laws and regulations, including 36 CFR part 261. Some conduct may be prosecuted under Federal or State law because the conduct violates both Federal and State law. However, State and local law enforcement officers may enforce only State and local law.

3. Forest Service. The Forest Service retains all its authorities and responsibilities for enforcing Federal laws and regulations relating to administration of National Forest System lands. The role and responsibilities of the Forest Service do not change simply because the Forest Service has issued a special use permit to a concessionaire. Forest Service personnel should continue to enforce all Federal laws and regulations relating to administration of National Forest System lands within concessionaire-operated campgrounds.

Forest Service personnel should not assume, however, that all laws and regulations applicable to facilities operated by the Forest Service are also applicable to sites operated by concessionaires. For example, as a matter of policy the Forest Service does not interpret failure to pay a camping fee charged by a concessionaire to be a violation of 36 CFR 261.15 because the camping fee charged by the concessionaire is not an admission or recreation use fee for a "site, facility,... or service furnished by the United States." The agency construes "furnished by the United States" to mean "owned and operated" by the United States." Therefore, the Forest Service would not cite someone for failure to pay a camping fee at a concession campground because the site is operated by a concessionaire, rather than the Forest Service, and the concessionaire, rather than the Forest Service, retains the campground fees.

The regulations at 36 CFR part 261, subpart A, apply at both Forest Service and concessionaire-operated campgrounds. In contrast, orders issued under 36 CFR part 261, subpart B, may or may not apply at concession campgrounds. A subpart B order must clearly state the area to which it applies. 36 CFR 261.50(c)(1). If the order is forest-wide, it applies to all campgrounds, including concession campgrounds, within the forest. Operating plans for concession campground permits should be consistent with any orders that apply. A concessionaire may not allow an activity prohibited by an order. However, a concessionaire's rule of use may be stricter than an order.

The Regional Forester or Forest Supervisor may exempt concession campgrounds from an order and may want to exempt them to place more responsibility for the site on the concessionaire. Rules of use rather than the order would then govern. This approach is consistent with one of the purposes of the campground concession program, which is to reduce expenditure of limited Forest Service resources in administering developed recreation sites.

When issuing a subpart B order, the Regional Forester or Forest Supervisor should consider whether the order should apply at concession campgrounds.

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2342.1 - Exhibit 01--Continued

If concession campgrounds are exempted from a subpart B order, the rules of use established by concessionaires may differ from the restrictions contained in the order that applies elsewhere. For example, the restriction established by an order on the number of vehicles allowed per campsite at a Forest Service-operated campground may differ from the same type of restriction adopted as a rule of use at a concession campground. Forest Service personnel should ensure that they enforce only those subpart B orders that apply to concession campgrounds.

36 CFR part 261, subpart C, regulations should be handled the same way as subpart B orders. Subpart C regulations are issued by the Chief or Regional Forester to prohibit acts or omissions in all or any part of an area over which the Chief or Regional Forester has jurisdiction.

Forest Service law enforcement personnel should cooperate with State and local law enforcement agencies to the extent authorized by Forest Service policy (FSM 5360) and State and Federal law, such as 16 U.S.C. 559g(c), which authorizes acceptance of a law enforcement designation from States, and 16 U.S.C. 553, which authorizes the Forest Service to aid in the enforcement of State laws in certain respects.

Prospectuses and permits for concession campgrounds should clearly describe the respective responsibilities of Forest Service law enforcement personnel, State and local law enforcement authorities, and concessionaires.

SUMMARY

Crimes involving persons and property are generally violations of State law. State and local law enforcement authorities have jurisdiction to enforce State laws at concession campgrounds. Forest Service personnel have the responsibility to enforce Federal laws and regulations relating to the administration of National Forest System lands. Concessionaires may establish and enforce rules of use that are subordinate to Federal, State, and local laws and regulations. Rules of use are not enforceable by Federal, State, or local law enforcement authorities unless violations or rules of use constitute violations of Federal, State, or local laws.

Concessionaires should contact Federal, State, and local law enforcement authorities to address criminal violations under their respective jurisdictions. Concessionaires may also consider hiring a private security firm or contracting with off-duty State or local law enforcement personnel to address day-to-day public safety concerns at concession campgrounds.

Campground concession prospectuses and permits should clearly describe the respective responsibilities of Forest Service law enforcement personnel, local law enforcement authorities, and concessionaires. In order to minimize visitor confusion between criminally enforceable Federal, State, and local laws and concessionaire-established rules of use, each should be separately posted within a campground.

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2343 - CONCESSION USES INVOLVING PRIVATELY DEVELOPED FACILITIES

2343.02 - Objective

To provide a diversity of recreation activities that emphasizes the forest setting and rustic, natural resource-based recreation opportunities.

2343.03 - Policy

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

1. Authorize concession developments only where there is a demonstrated public need. Do not permit concession development either solely for the purpose of establishing a profit-making commercial enterprise or where satisfactory public service is or could be provided on nearby private or other public lands.
2. Issue prospectuses to solicit proposals for development of concession sites, when it is in the public interest or when competition exists or may be created. Give existing concessioners an opportunity to expand their operation to meet increasing public needs before offering new sites for development.
3. Give priority to developments offering moderately priced accommodations and services as opposed to luxurious accommodations and services affordable only by the affluent.
4. Encourage year-round recreation use at privately developed concession sites.
5. Allow holders to provide only those services and facilities and to conduct only those activities specified in the special use authorization. Some services may be allowed in conjunction with a resort that would not be allowed as a separate enterprise.
6. Allow the sale of distilled alcoholic beverages for on-site consumption only as an adjunct to a resort or other recreation concession development where food and beverage operations are part of the overall business and only within the requirements of State and local laws. Do not allow their sale as an independent service or solely on the basis of profitability. Require holders to locate cocktail lounges and bars so that it is not necessary to pass through them to reach the other services provided for in the authorization. Do not allow the sale of distilled alcoholic beverages for off-site consumption.
7. Authorized officers may, at their discretion, allow the sale of fermented alcoholic beverages (beer or wine, for example) or off-site consumption as an adjunct to a resort or other concession development.

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

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

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

- a. Change of facilities, services, or activities.
- b. Relocation.
- c. Termination.

11. Restrict advertising outside of buildings to attractive and approved signs that simply state the services and accommodations available in each building. Do not allow other exterior advertising on National Forest System land.

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

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

2343.1 - Winter Recreation Uses

This category includes sites provided and developed on National Forest System land by private individuals to accommodate Alpine skiing, Nordic skiing, snow play, tobogganing, snowmobiling, helicopter skiing, and other snow and ice related winter outdoor recreation activities. Winter recreation permit holders are encouraged to provide outdoor recreation opportunities during other seasons. See FSM 2700, Special Uses Management, and FSM 7320, Tramways, Ski Lifts, and Tows, for additional direction. Manage winter recreation sites through application of the following general and specific policies in FSM 2343.11 through 2343.13.

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2343.11 - Policy

1. Encourage summertime use of ski area facilities where that use is compatible with or enhances natural resource-based recreation opportunities and does not require additional specialized facilities. Ensure that holders provide for development of facilities and protection of environmental values as an integral part of the development plan for the area.
2. Encourage privately operated Nordic ski touring centers.
 - a. Authorize high-investment, permanent facilities under a term special use authorization; base the length of the term on the holders' anticipated investment in the operation.
 - b. Allow holders to charge for the use of permitted trails when they make capital investments or incur expense directly for trail maintenance, grooming, and patrolling. Do not allow holders to charge for use of National Forest System land where they have made limited or no investments or provide only limited trail services.
3. Plan for development of new winter recreation sites or expansion of existing sites in such a way that the location of ski runs, trails, lifts, and other facilities avoids terrain inherently prone to frequent and extensive or severe avalanche activity.
4. Deny development and use of terrain that requires military ordnance for avalanche control, until the holders can own or operate the necessary equipment.

2343.12 - Avalanche Control

1. Authorize control of avalanche areas by other than Forest Service personnel through a special use authorization. Avalanche control may be included in the annual authorization for a ski area. Issue a separate annual authorization when it is not desirable to include the control area within the ski area.
2. Require holders to do all avalanche control work except as noted under the following paragraph 3. Monitor the holder's avalanche procedures and results.
3. Participate in avalanche control on a recurring basis only when military ordnance is necessary and the holder cannot acquire the weapons. Maintain effective control of, and supervise the firing of, military weapons assigned to the Forest Service. Forest Service participation in avalanche control is authorized under the Granger-Thye Act of April 24, 1950. Require collection agreements (FSM 1584) to cover all costs associated with the military weapons program.

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2343.13 - Winter Recreation Site Operating Plans

1. Require as a provision of the special use permit that permittees providing helicopter skiing or commercial Nordic skiing operations, or operating other developed winter recreation sites, prepare a Winter Recreation Operating Plan (WROP) clearly assigning duties and fixing responsibilities for public safety to the holder (FSM 2341.4).

2. In considering plan approval, require evidence that the holder can provide sufficient personnel, equipment, and facilities for rescue, first aid, and transportation of injured persons; also require the holder to patrol slopes, ski trails, and snow play runs in order to identify and mitigate hazards.

2343.2 - Marinas

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

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

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

2343.3 - Lodging and Overnight Accommodations

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

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

2. Require operation, management, and marketing of lodging and overnight accommodations in a manner that ensures the general public has full access to the facilities. Deny exclusive or preferential use by holders, their employees, families, friends, business associates, partners, stockholders, lenders, or others who may have a monetary interest in the facilities.

3. Require holders to establish guest stay limits of 30 days or less to ensure the continuing availability of facilities for public use and to ensure no personal, private, or preferential use of authorized facilities, including trailer sites, overnight houseboat mooring accommodations, and campsites.

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2343.4 - Restaurants, Cafes, and Other Food Services

1. Authorize concessioners to provide food services at dining rooms, coffee shops, lunch counters, and temporary, quick-lunch counters that are a part of a resort operation.
2. Authorize concessioners to provide restaurant, cafe, or other food service facilities as separate enterprises only where there is an overriding public need for such facilities.
3. Disapprove applications to sell prepared or packaged food in Forest Service campgrounds and picnic grounds.

2343.5 - Stores, Shops, and Peddlers

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

1. Allow concessioners to construct and operate, as separate enterprises, general stores that provide basic food supplies, camping and sporting goods, basic clothing, and other necessities only where there is a demonstrated public need and suitable private land is not available.
2. As an adjunct to resorts, allow shops that provide clothing and equipment used in the primary recreation activity at the resort.
3. Specify in the prospectus and authorization the general types of merchandise concessioners may provide.
4. Allow peddlers to operate on National Forest System land only where there is a public need for store services and a permanent store is desirable but cannot be provided.
5. Allow peddlers to furnish items that a store would be authorized to sell under similar circumstances.
6. Authorize peddlers to provide needed commodities, such as firewood, in Forest Service campgrounds only where they are not reasonably available at nearby resorts or concessions, or at businesses on nearby private land.
7. Do not allow peddlers to occupy developed sites overnight or to otherwise interfere with public use or traffic.
8. Specify in the special use authorization the type of merchandise and services that peddlers may provide and any necessary restrictions on the use.

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2343.6 - Service Stations

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

1. Authorize service stations only as a part of a resort development.
2. Allow service station permit holders to use the standard company pumps with standard markings. Where needed, allow gasoline brand names to be used on approved entrance approach signs, but no other advertising signs.
3. Require holders to obtain entrance permits from and to comply with all requirements of the agency responsible for management of the road or highway.

2343.7 - Rental Services

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

1. Allow location of rental facilities only where they do not conflict with higher public uses.
2. Permit rental services as a separate use only if other existing concession operations are unable to furnish the needed service.
3. Disapprove requests by operators of trailer rental services to locate trailers in campgrounds prior to the arrival of the rentor.
4. Require concessioners who rent trailers for use in concession or National Forest System campgrounds to return the trailers to the permittee's site until rented by the next customer.

2343.71 - Trailer and Recreation Vehicle Sites

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

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

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

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

2343.8 - Outfitters and Guides

This category includes services, equipment, and, in some cases, rudimentary facilities provided by private sector holders to the recreating public. Examples of outfitting and guiding are packing, hunting, float trips, canoe or horse liveries, ski touring, helicopter skiing, jeep tours, and fishing.

See FSM 2721.53 for policy relating to issuance and administration of permits for outfitting and guiding activities.

2343.9 - Other Concession Uses

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

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

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

3. Allow construction of tramways, not associated with winter recreation sites, only after careful review of the public need for the tram, the proponents' financial capability to provide the needed service, a cash-flow analysis indicating how the facility will generate revenue, and a demonstrated link to the natural resource attractions of the area. Refer to FSM 2343.1, Winter Recreation Uses, for direction on administration of permits for tramway operations.

4. Allow target ranges on National Forest System lands where such uses and facilities would be consistent with the standards and guidelines in the applicable Forest land and resource management plan and would enhance forest management by improving public safety, providing recreational opportunities, or consolidating dispersed target shooting. When State and local governments submit proposals or applications for target ranges, consider land exchange to enhance long-term management of the activity.

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See FSM 2335.4 and 2721.46, and FSH 2709.11, section 41.46, for further direction on requirements related to target ranges, including the process for special use authorizations, National Environmental Policy Act (NEPA) analysis and documentation, the environmental stewardship plan, and the safety plan.

2344 - CONCESSION USES INVOLVING GOVERNMENT-OWNED IMPROVEMENTS

This use involves private sector operation of Government-owned improvements to provide recreation services needed by the public.

2344.03 - Policy

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

1. Authorize the operation of Government-owned improvements under the Granger-Thye (GT) Act (FSM 2701).
2. Require holders to operate and maintain the facilities and provide the services as specified in the prospectus, the special-use authorization, the GT fee-offset agreement, and the operation and maintenance plan.
3. Award concession operation of Government-owned improvements on a competitive basis through a prospectus and invitation to bid process. Competitively readvertise the business opportunity upon expiration of the permit.
4. Make major capital improvement additions or changes to Government-owned improvements or sites with Forest Service appropriated funds, or authorize holders at their expense to make such improvements conditioned on the agreement that the improvements and their value will accrue to the ownership and benefit of the United States. Do not authorize or perform improvement work unless such changes are in accordance with approved land and resource management plans.
5. Allow minor improvements to Government-owned improvements and sites only if approved as part of the GT fee offset agreement.

2344.1 - Selection Criteria for Competitive Bid Process

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

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

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

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

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

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

2344.2 - Special Use Authorization

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

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

2. Identify the holder's operation and maintenance responsibilities in the operating plan. Require that concessioners be responsible for the holder's maintenance and reconditioning of facilities as described in the permit and operating plan. Specify whether concessioners or the Forest Service are responsible for Government maintenance and reconditioning in the GT-fee offset agreement.

3. Require property insurance in the amount that the facilities are likely to be damaged or destroyed at one time. Require that insurance policies name the United States as additionally insured.

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

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

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

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2344.3 - Campgrounds and Related Recreation Facilities

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

2344.31 - Policy

1. Require holders to honor Golden Age and Golden Access Passports by allowing the card-holders a 50-percent reduction in camping fees.
2. Encourage concessioners to charge the public on a per-unit basis in order to maintain a comparable fee structure with other National Forest System campgrounds as outlined under the L&WCF program (FSM 2332.24).
3. Authorize concessioners to charge for use only if the Forest Service could charge under the authority of the L&WCF Act if the Forest Service operates the facility. This includes picnic facilities, boat ramps, and swimming sites where the Forest Service did not charge prior to concession operations.
4. Specify in the prospectus that bidders, in their proposal, describe in detail how they plan to handle all aspects of law enforcement and associated training.
5. Issue new permits for a term up to 5 years, with an option to extend the term for up to 5 years based on sustained satisfactory performance. The authorized officer has the discretion to authorize shorter terms to accommodate future management needs and decisions, such as site rehabilitation, anticipated changes in the standards and guidelines for Forest land and resource management plans, and adjustments to the campground concession program.
6. Identify the holder's operation responsibilities, including the holder's obligations to: provide a designated representative on or near the site to take action in the concessioner's behalf; maintain and administer the site to the Recreation Opportunity Spectrum (ROS) class and development scale specified in the prospectus and special use permit; maintain and not change the number of units, facilities, and type of experience or services provided; and administer the permit themselves and not reassign, transfer, or sublease the permit.
7. Identify holder maintenance responsibilities. Require that concessioners be responsible for Government and holder maintenance and reconditioning of facilities as described in the special use authorization and fee-offset agreement. The concessioner may make minor improvements, such as gates, traffic control barriers, and temporary quarters, for site protection and administration when these improvements are approved as part of the GT fee-offset agreement.

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

9. Unless otherwise provided by the national agency contract, where a Forest Service developed campground is managed under permit, ensure that concessioners use the National Recreation Reservation Service (NRRS) for all recreation reservation services (FSM 2334.35).

Review and amend existing permits issued for developed campground concessions to include the following clause:

**NATIONAL RECREATION RESERVATION SERVICE (NRRS).
The NRRS is the only authorized reservation service to be utilized by the holder. No other reservation service of any kind may be used by the holder. Operational procedures for the NRRS shall be developed and placed in the annual operating plan.**

2344.32 - Responsibility

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

2344.33 - Selecting Concession Campground Sites

1. Before issuing a prospectus, prepare an economic cash-flow analysis for each site to determine the feasibility of the concessioner's operation. Consider Forest Service costs, including indirect and overhead costs, as a part of the analysis.
2. Select sites that would project a net benefit to the Forest Service and the U.S. Treasury.
3. As a general rule, select only Development Scale 3, 4, or 5 sites for concession operation (FSM 2330.3, ex. 01). Analyze all Development Scale 4 and 5 sites for possible concession operation.
4. Select sites only if the facilities are in good maintenance condition.
5. In selecting sites, consider location and cooperation of local law enforcement agencies, conflicting user groups, past history of public use, and ease of site administration.

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6. Do not include sites that need major new construction or rehabilitation work until the work is completed.

7. Select sites that do not conflict with other existing permittee programs or recreation uses, so that more than one permittee does not occupy the same general area or site, even if they provide different services.

2345 - USE BY INSTITUTIONS OR OTHER ENTITIES

This use of National Forest System lands usually involves the development of camps by non-profit organizations, institutions, or other governmental agencies to provide recreational facilities and services to the public. Direction for the management of this use is found in FSM 2340, FSM 2720, and FSH 2709.11, chapters 30 and 40.

2347 - NONCOMMERCIAL RECREATION USE

This section sets forth direction for special use authorizations for privately built and owned structures on National Forest System land. These structures are maintained for the use and enjoyment of holders and their guests. As recreation facilities, they are vacation sites and may not be used on a permanent basis (FSM 2721.23).

2347.03 - Policy

1. Manage noncommercial recreation use sites in accordance with basic recreation policy in FSM 2303 as valid and important components of the overall National Forest System recreation program.

2. Continue to authorize those existing facilities now occupying National Forest System land under special use authorization that:

- a. Are consistent with management direction given in the Forest land and resource management plan (FSM 2721.23e),
- b. Are at locations where the need for an alternative public purpose has not been established,
- c. Do not constitute a material, uncorrectable offsite hazard to National Forest System resources, and
- d. Do not endanger the health or safety of the holder or the public.

3. Manage noncommercial recreation use sites in such a way that the general public is not precluded from full enjoyment of the natural, scenic, recreational, and other aspects of the National Forest System (FSM 2701).

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4. Deny applications for construction of new facilities except where they would replace similar existing facilities.
5. Deny any proposal for commercial activity at permitted, noncommercial recreation use sites.
6. Require noncommercial recreation use holders to maintain their sites to protect the natural forest environment. Do not allow construction or placement of nonauthorized facilities on these sites.

2347.1 - Recreation Residences

(For further direction, see FSM 2721.23 and FSH 2709.11.) Recreation residences are a valid use of National Forest System lands. They provide a unique recreation experience to a large number of owners of recreation residences, their families, and guests. To the maximum extent practicable, the recreation residence program shall be managed to preserve the opportunity it provides for individual and family-oriented recreation. It is Forest Service direction to continue recreation residence use and to work in partnership with holders of these permits to maximize the recreational benefits of recreation residences.

1. Administer recreation residence special use permits to ensure proper use of the lot for family and guest recreational purposes (FSM 2347.11).
2. Do not approve any new authorizations for full-time residences, except in special situations to provide caretaker or other similar services where there is a strongly demonstrated need (FSM 2347.12). Do not approve in-lieu lots for full-time residential use.
3. Issue recreation residence term permits for a maximum of 20 years in accordance with procedures in FSM 2721.23e and FSH 2709.11, section 41.23.
4. Give holders at least 10 years written advance notice if a new permit will not be issued following expiration of the existing permit term (FSM 2721.23a).
5. Revoke a recreation residence permit before expiration of the term of the permit when:
 - a. It is in the public interest, particularly when the final decision authority does not rest with the Forest Service,
 - b. There is an uncorrected breach of a permit provision(s) (FSM 2721.23i),
 - c. The site has been rendered unsafe by catastrophic events such as flood, avalanche, or massive earth movement, or
 - d. When there is other cause as provided in 36 CFR 251.60.

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Revocation in the public interest should not be undertaken unless monies are available to pay for the holder's improvements and there is an urgent need to use the lot before the action can be considered through the Forest planning process resulting in a decision to convert to an alternative public use. When revoking a permit for any cause, give as much advance notice as possible (FSM 2721.23i).

6. Although provision of an in-lieu lot is not required, make a reasonable effort to provide a lot to holders whose lots will be converted to an alternative public use and who have received notification that new permits for those lots will not be issued or who have received revocation notices (except revocation for noncompliance) (FSM 2721.23e). For this purpose, in-lieu lots must be in nonconflicting locations in or adjacent to established tracts within the National Forest System containing the residences, or in or adjacent to established tracts on adjacent National Forest System lands.

Appropriate lots for consideration are undeveloped, formerly developed, and withdrawn lots in or adjacent to established recreation residence tracts and which are not needed in the foreseeable future for other public uses. Lots that are vacant because of noncompliance or other factors also may be considered as in-lieu lots. In-lieu lots should be comparable to the lots being converted to an alternative public use when possible, but authorized officials should advise holders that the agency cannot guarantee that the available in-lieu lots will be entirely comparable. Do not establish new recreation residence tracts for in-lieu lot purposes. Offer in-lieu lots in accordance with the procedures in FSH 2709.11, section 41.23d.

7. Authorize community-or association-owned and maintained improvements under a separate permit and authority appropriate for that use (see FSH 2709.11, sec. 33.05, definition of "related improvements" and FSM 2721.23c, para. 3.)

2347.11 - Preventing Unauthorized Residential Use

Prevent unauthorized full-time residence use by enforcing the terms of the special use permit.

2347.12 - Caretaker Cabins

2347.12a - Authorization

1. Authorize caretaker cabin use of a recreation residence lot with an annual permit, Form FS-2700-4, under the Act of June 4, 1897. Require applicants who currently have a recreation residence term special use permit to request that the Forest Service revoke their recreation residence permit, as a condition for qualifying for a caretaker cabin authorization. A caretaker cabin may be owned by a tract association, and the authorization may be issued in the name of the head of that association.

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2. Coordinate applications for caretaker cabin permits with local governmental agencies to avoid creating unreasonable demands or burdens for services such as snow plowing, mail delivery, garbage pickup, school bus, or emergency services.

3. If the lot is located within a recreation residence tract and ceases to be used as a caretaker cabin, issue a new term permit (Form FS-2700-5a, Term Special Use Permit for Recreation Residences) for recreation residence use to the holder, if qualified.

2347.12b - Caretaker Cabin Use

The need for a caretaker cabin can rarely be justified where yearlong occupancy is already authorized in the tract. The Forest Supervisor may authorize a caretaker cabin in limited cases where it is demonstrated that caretaker services are needed for the security of a recreation residence tract and alternative security measures are not feasible or reasonably available. The annual fees for a caretaker cabin special use permit shall not be greater than the fee charged for the use of the lot as a recreation residence. That fee shall be determined as follows:

1. The fee for a caretaker cabin located on a lot within a recreation residence tract shall be determined by the typical lot representing the group of lots that includes the lot occupied by the caretaker cabin.

2. When a caretaker cabin is not located within a recreation residence tract, the annual fee shall be equal to the annual fee being assessed for one of the typical lots within the recreation residence tract being monitored by caretaker cabin use which is most representative of the National Forest System land being occupied by the caretaker cabin.

2347.2 - Private Clubs

This category includes camps or other facilities developed for the use and enjoyment of members of a club, group, or organization. Such facilities are not available to the general public. Examples of this type of use may be alumni association ski lodges, organization camps that provide facilities and services only to organization members, and ski areas where only ski club members may ski.

1. Issue no new authorizations for private-club type uses. Reserve property with high outdoor recreation resource values for future use by the general public.

2. Where conflict exists between currently permitted private club use and the recreation needs of the general public, always consider the public's needs first.

3. As opportunity presents, phase out private-club use unless Forest plans indicate there will be no public need for the land involved. If this is the case, consider exchanging out of the land.

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4. Where holder organizations have allowed individual members to construct cabins or erect other lodging accommodations and this use has been approved in writing by the Forest Service, continue to allow the use until the term of the current permit expires. Upon expiration of the term permit, require holders to either remove the personal-use facilities or convert ownership and control to the holder organization rather than individual members.

2347.3 - Houseboats

This category includes any craft that is suitable for recreation occupancy.

1. Issue no new authorizations for private recreation houseboats on Forest Service-managed bodies of water.
2. Where studies indicate that existing houseboat authorizations already exceed comfortable carrying capacities, take action to reduce numbers as holders sell their boats.
3. Require houseboats to meet county, State, and Federal water quality standards. Terminate authorizations for houseboats whose design would allow dumping of sewage or waste water into lakes or streams.
4. Deny overnight mooring of houseboats where they would be adjacent to recreation residences sites, organization camps, campgrounds, resorts, or public beaches, or would be in heavily fished areas.

2347.4 - Boat Docks and Wharves

This category includes improvements that serve groups of boaters, such as boathouses, docks, wharves, slips, launching ramps, and piers. (See also FSM 2720 for direction on nonrecreation special uses.)

1. Deny new uses of this type if there is any chance that they would interfere with public access to National Forest System land or water.
2. Authorize uses in this category as term permits under the Act of 1915 only when substantial investment is made (FSM 2720.1).
3. Consolidate existing permits where possible and issue to a recreation association or similar organization.
4. Where existing facilities limit public access to National Forest System land or water, phase out the use as opportunities arise.

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2347.5 - Shelters

This category includes trail shelters, waiting sheds, and other minimal structures, constructed to provide rudimentary comfort for backcountry users of the National Forest System lands. (See also FSM 2720 for nonrecreation special uses.)

1. Allow current use of shelters to continue as long as it does not interfere with use of National Forest System land by the general public.
2. Deny new applications for shelters that accommodate private use of National Forest System lands by individuals or groups.

2347.6 - Private Lodging

This category includes private accommodations such as condominiums, condo-hotels, and time-share camps, hotels, and motels. (See also FSM 2720 for direction on nonrecreation special uses.)

1. Allow cooperative or condominium financing of overnight accommodations only when units will be operated on a fully public basis, available for rental to the general public.
2. Submit all proposals for cooperative or condominium financing of overnight accommodations to the Chief for review.
3. Issue permits for cooperative or condominium-financed lodging to a single permittee-operator entity, rather than to individual investors.
4. Require permittees to exercise effective ownership and operational control of the structures through leaseback, lease, or other formal agreement.
5. On an opportunity basis, convert all cooperative or condominium permits to fully public use.
6. Require permittees to establish reservation systems that guarantee access to condominium units by the general public and do not allow investor-owners to make a reservation more than 2 months in advance of any given period of occupancy.
7. Make no commitments to individual investors in the event of dissolution of the permittee through transfer, bankruptcy, foreclosure, or other legal proceeding.