

**§ 2920.7**

**43 CFR Ch. II (10–1–99 Edition)**

(e) Advance payments based on a schedule of rates developed by the authorized officer, are required for monitoring of operations and maintenance during the term of the land use authorization, which amount shall be paid simultaneously with the rental payment required by § 2920.8(a) of this title.

(f) The selected applicant shall, before a land use authorization is issued, submit a payment based on a schedule of rates developed by the Director, Bureau of Land Management, for monitoring rehabilitation or restoration of the lands upon expiration of the land use authorization.

(g) If payment, as required by paragraphs (b), (d) and (e) of this section, exceeds actual costs to the United States, refund may be made by the authorized officer from applicable funds under authority of 43 U.S.C. 1734, or the authorized officer may adjust the next billing to reflect the overpayment. Neither an applicant nor a holder of land use authorization shall set off or otherwise deduct any debt due to or any sum claimed to be owed them by the United States without the prior written approval of the authorized officer.

(h) The authorized officer shall, on request, give a selected applicant an estimate, based on the best available cost information, of the costs, which may be incurred by the United States in processing the proposed land use authorization. However, reimbursement shall not be limited to the estimate of the authorized officer if actual costs exceed the projected estimate.

(i) When through partnership, joint venture or other business arrangement, more than one person, partnership, corporation, association or other entity jointly make application for a land use authorization, each such party shall be jointly and severally liable for the costs under this section.

(j) Requests for modification of or addition to the land use authorization or reconstruction or relocation of any authorized facilities shall be treated as a new application for cost recovery purposes and are subject to the cost requirements of this section.

**§ 2920.7 Terms and conditions.**

(a) In all land use authorizations the United States reserves the right to use

the public lands or to authorize the use of the public lands by the general public in any way compatible or consistent with the authorized land use and such reservations shall be included as a part of all land use authorizations. Authorized representatives of the Department of the Interior, other Federal agencies and State and local law enforcement personnel shall at all times have the right to enter the premises on official business. Holders shall not close or otherwise obstruct the use of roads or trails commonly in public use.

(b) Each land use authorization shall contain terms and conditions which shall:

(1) Carry out the purposes of applicable law and regulations issued thereunder;

(2) Minimize damage to scenic, cultural and aesthetic values, fish and wildlife habitat and otherwise protect the environment;

(3) Require compliance with air and water quality standards established pursuant to applicable Federal or State law; and

(4) Require compliance with State standards for public health and safety, environmental protection, siting, construction, operation and maintenance of, or for, such use if those standards are more stringent than applicable Federal standards.

(c) Land use authorizations shall also contain such other terms and conditions as the authorized officer considers necessary to:

(1) Protect Federal property and economic interests;

(2) Manage efficiently the public lands which are subject to the use or adjacent to or occupied by such use;

(3) Protect lives and property;

(4) Protect the interests of individuals living in the general area of the use who rely on the fish, wildlife and other biotic resources of the area for subsistence purposes;

(5) Require the use to be located in an area which shall cause least damage to the environment, taking into consideration feasibility and other relevant factors; and

(6) Otherwise protect the public interest.

(d) A holder shall be required to secure authorization under applicable

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law to pay in advance the fair market value, as determined by the authorized officer, of any mineral, vegetative materials (including timber) to be cut, removed, used or destroyed on public lands.

(e) A holder shall not use the public lands for any purposes other than those specified in the land use authorization without the approval of the authorized officer.

(f) Liability provisions:

(1) Holders of a land use authorization and all owners of any interest in, and all affiliates or subsidiaries of any holder of a land use authorization issued under these regulations shall pay the United States the full value for all injuries or damage to public lands or other property of the United States caused by the holder or by its employees, agents or servants, or by a contractor, its employees, agents or servants, except holders shall be held to standards of strict liability where the Secretary of the Interior determines that the activities taking place on the area covered by the land use authorization present a foreseeable hazard or risk of danger to public lands or other property of the United States. Strict liability shall not be applied where such damages or injuries result from acts of war or negligence of the United States.

(2) Holders of a land use authorization and all owners of any interest in, and affiliates or subsidiaries of any holder of a land use authorization issued under these regulations shall pay third parties the full value of all injuries or damage to life, person or property caused by the holder, its employees, agents or servants or by a contractor, its employees, agents or servants.

(3) Holders of a land use authorization shall indemnify or hold harmless the United States against any liability for damages to life, person or property arising from the authorized occupancy or use of the public lands under the land use authorization. Where a land use authorization is issued to a State or local government or any agency or instrumentality thereof, which has no legal power to assume such liability with respect to damages caused by it to lands or property, such State or local

government or agency in lieu thereof shall be required to repair all damages.

(g) The authorized officer may require a bond or other security satisfactory to him/her to insure the fulfillment of the terms and conditions of the land use authorization.

(h) Any land use authorization existing on the effective date of this regulation is not affected by this regulation and shall continue to be administered under the statutory authority under which it was issued. However, by filing a proposal for amendment or renewal, the holder of a land use authorization shall be considered to have agreed to convert the entire authorization to the current statutory authority and the regulations in effect at the time of approval of the amendment or renewal.

(i) The holder of a land use authorization who has complied with the provisions thereof, shall, upon the filing of a request for renewal, be the preferred user for a new land use authorization provided that the public lands are not needed for another use. Renewal, if granted, shall be subject to new terms and conditions. If so specified in the terms of a permit, the permit may be automatically renewable upon payment of the annual rental unless the authorized officer notifies the permittee within 60 days of the expiration date of the permit that the permit shall not be renewed.

(j) Land use authorizations may be transferred in whole or in part but only under the following conditions:

(1) The transferee shall comply with the provisions of § 2920.2-3 of this title;

(2) The authorized officer may modify the terms and conditions of the land use authorization and the transferee shall agree, in writing, to comply with and be bound by the terms and conditions of the authorization as modified; and

(3) Transfers shall not take effect until approved by the authorized officer.

(k) If public lands included in a lease or easement are to be disposed of, the conveyance shall be made subject to the lease or easement. Permits shall be revoked prior to disposal of the public lands.