

Communication Questions and Answers

| Section | Title | Page |
|----------------|--|-------------|
| A | General | 1 |
| B | Calculating Rental Fees - General | 3 |
| C | Determining Community Served (RMA's) | 6 |
| D | Indexing | 7 |
| E | Multiple Sites/Facilities, Associations, and Same Holder/Split Uses | 7 |
| F | Exemptions, Waivers, Hardships, Off-Sets | 8 |
| G | Deviating from the Schedule | 10 |
| H | Ancillary Use | 12 |
| I | Responsibilities of Facility Owners | 12 |
| J | Facility Managers | 14 |
| K | Tenants and Customers | 14 |
| L | Subleasing | 16 |
| M | Federal, State, and Municipal Governments, REA and BPA Facilities | 16 |
| N | Authorization Forms and Amendments | 18 |
| O | Granger-Thye Permits (Forest Service) | 20 |

| Topic | Questions Number(s) |
|------------------------------------|---|
| Ancillary Use | H1, H2, H3 |
| Appraisals | G1 |
| Calculating Fees | A5,B1, B2, B3, B4, B5, B8, B9, B11, B12, B14, E3, F4, G4, J1, J2, K7, K9, L1, M1, M2, M11 |
| Combining Facilities | E1, E5, E6 |
| Community Served/RMA | C1, C2, C3, C4, C5, C6 |
| Customers | I4, K4, M1 |
| Estimated Rent | D9 |
| Exemptions/Waivers | B4, B6, B10, F1, F7, F8, J1, M2, M4, M7, M10, M11 |
| Federal, State, and Local Entities | B6, F4, J2, M1, M3, M6,M7, M8, M10, M11 |
| Hardship | F2, F3 |
| Indian Tribes | M8 |
| Indexing (CPI-U) | B8, D8 |
| Interference | I1 |
| Inventories | B12, B13, B14, B15, I4 |
| Microwave Uses | K8 |
| New Technologies | G2 |
| Off-Sets | F4, F5, F6 |
| One-Time Payments | B15 |
| Phase-in | No longer applicable |
| REA | F7, M2, M3 |
| Security Companies | K6, K7 |
| Split Ownership of Facilities | B2, E1, E2, E3, E4, E5, J2 |
| Site Plans | A8, I4 |
| Sub-Leasing | L1, N13 |
| Tenant | B16, E3 |

Section A - General

Note: *Answers apply to both the BLM and the Forest Service, unless otherwise noted.*

Q-A1. Why are the Bureau of Land Management and U.S. Forest Service adopting a new rental policy?

- A. The two agencies are adopting uniform policy for setting fair market rent for communication uses on lands they administer. The policy eliminates most appraisals, potentially reduces the number of authorizations, and removes the agency from approving tenants in a facility.

Q-A2. What is the new communications site annual rental policy?

- A. The rental policy establishes a procedure for determining rental payments for authorized users of communication sites on National Forest System lands and Bureau of Land Management administered lands in the Western United States. The procedure includes a rental schedule that is based on the type of use and the population of the largest community served from the site. Authorization holders are responsible for paying an annual rent. The rent includes an additional amount for tenants in the facility.

Q-A3. What is the definition of a “new use?” (Forest Service only)

- A. A “new use” would include authorizations issued for new construction. Existing uses whose term has expired and will be issued a new authorization are also considered "new uses" for purposes of applying the new fee schedule and policy.

Q-A4. Will the rental schedule be periodically evaluated to be sure the rents reflect fair market value?

- A. Yes, the BLM and Forest Service will review the entire rental schedule within the next 10 years, and every 10 years thereafter, to ensure that the schedule reflects fair market value.

Q-A5. How will this new Policy affect facility owners?

- A. If you are a facility owner and do not have any other users in your building, you will be charged the full scheduled rent for your type of use. If you have tenants in your building, you will be charged a base rent for the highest value use in the building, plus 25 percent of the scheduled rent for the type of use for each additional tenant in the facility. You will not be charged for uses in your building classified as "customers". "Customers" are individuals, businesses, organizations, or agencies that pay a building owner or tenant for communications services and are not reselling communication services to others. Persons or entities benefiting from private or internal communications uses located in a facility are considered customers for purposes of calculating rent.

Q-A6. Will there be any formal briefings on the new policy and fees for the communications use industry? Should we organize any if we think appropriate?

- A. No formal briefings with industry are planned. The intention during implementation is for agency employees to provide one-on-one contact with their individual users, to explain the schedule and policy/regulation, and "assist each other" in determining facility inventories, areas served and final bills for collection.

Q-A7. What are the key points of the new regulation and rental schedule?

- A. The new regulations and rental schedule:
- were jointly adopted by the FS and BLM and both agencies have adopted identical rental schedules and similar administrative policies.
 - apply to all communication uses subject to rent on public lands. At this time, only Regions 1-6 of the Forest Service will be affected by the new policy.
 - provides for the collection of fair market value rent for communication uses on public land as required by the Federal Land Policy and Management Act. Previous provisions for rental exemptions and waivers have been retained in the new regulations.
 - reduces the administrative burden on the communications industry and the government by reducing paperwork, and eliminating the requirement that all communication site users have authorizations; the new regulations require that only building owners have authorizations.
 - simplifies and streamlines the fee determinations process by eliminating the need for site specific appraisals.
 - phases-in rental fees over a 5-year period for annual rental fee increases over \$1,000 per year.
 - provides for review of the rental schedule within 10 years.
 - supports the objectives of the National Performance Review by ensuring that the public receives full value for use of Federal land and reduces procedural burdens on the public and the government.

Q-A8. What is the affect of the new rental fee policy on existing site plans? (Forest Service).

- A. The new policy does not change or supersede existing site plans. As provided for in the existing communications site permit, the new lease makes the site plan a part of the authorizing document.

Q-A9. Who in the FCC do we contact for a printout of FCC licenses?

- A. Information on FCC licenses is available on the World Wide Wed (www.fcc.gov). Contact your Regional Coordinator for additional information. (Revised 7/2004)

Q-A10. One facility owner asserts that NEPA must be performed under NEPA regulations for any new communications use installed in a building owner's facility. The same party also asserts that the agency must still use the 2700-10 form to notify all parties on a site of new uses in the building, as was done in the past.

- A. This party is wrong on both accounts. The Federal Register (FR) notice set the policy and the NEPA concerns are addressed in the NEPA process for site designation, the communications site plan, and individual building installations. All such NEPA analyses and decisions would normally provide for installation of new communications uses in the buildings and on the site. The communication use lease requires compliance with all laws and regulations, including the provision in the lease that the facility owner is responsible for preventing and rectifying interference problems. We are no longer going to dictate that Form 2700-10 be the vehicle for preventing interference. We are relying on the technical experience of industry to adhere to the standard we set.

Section B –Calculating Rental Fees General

Q-B1. How will the Forest Service and the Bureau of Land Management calculate rent for communication uses?

- A. The Agencies consider rent on the number of actual uses in the facility. For a stand alone facility, the base rent is the schedule rent for the facility owner's use for the population served. For multiple use facilities the base rent is the highest schedule rent in the facility for the population served, plus 25% of the schedule rent for all other tenant uses, unless the agency waives or exempts those uses. (Added 2/97).

Q-B2. How is rent calculated for a facility with multiple tenants?

- A. When a facility owner has subleased space/equipment to tenants, base rent is calculated on the highest value use in the building. Additional tenant uses, including that of the facility owner, if his use is not the highest value use, would contribute at 25% of the scheduled rate for that use. In CMRS facilities with multiple users, it is important to first determine what users are tenants and what users are customers of the CMRS provider. All customer uses within someone else's facility are excluded from the rent calculation process.

Q-B3. There are two facilities on a site that serve the L. A. Metro Area. One facility belongs to the county and includes a building and tower. The other facility belongs to a CMRS provider and includes a building AND NO TOWER. The CMRS provider rents space on the county's tower and pays the county \$10,000/year in rental fees. Do we charge the county a fee, and if so, how much? What about the CMRS provider?

- A. Charge the county a fee SINCE THEY LOSE THEIR EXEMPTION STATUS WHEN THEY ENGAGE IN A COMMERCIAL OPERATION. The county's fee would be calculated the same as it would with any other facility owner or manager. The base fee would be based on the highest valued use. In this case it would be the CMRS provider since the county's INDIVIDUAL USE is still exempted. Charge the CMRS a fee based on the fee schedule and policy.

- Q-B4. If we have an exempt user as a tenant in building, will we charge the building owner for the exempted use?**
- A. No. When tenants are exempted, that use is not considered for fee calculation purposes.
- Q-B5. Do we charge a CMRS as the base, then charge 25% for each of the other uses, or do we look at all of the uses, choose the base as the highest valued use, and then take 25% of all the remaining uses, including CMRS?**
- A. A CMRS facility owner is treated just like anyone else in calculating a rental fee. When a CMRS facility owner has tenants, the base rent is the highest valued use in the building including the CMRS rate. An additional fee would be based on 25% of the tenant use (including facility owner if not the highest valued use). In all facilities, it is important to first determine which occupants are tenants and which are customers.
- Q-B6. Do all authorized communication site users pay rent? (BLM only)**
- A. No. Section 2803.1-2(b) (1) lists users who are not required to pay a fair market rent. Basically these users include Federal, State or local government agencies. Rent MAY be waived or reduced for holders, such as nonprofit organizations or those which provide, without charge, a valuable benefit to the public or to the programs of the Secretary. Also, rent may be reduced if the authorized officer determines that the requirement to pay the full rental will cause undue hardship. (Revised 7/04)
- Q-B7. If my rent increases will I have to pay the full increase the first year?**
- A. If your total rent increase is \$1,000 or less, the entire increase in rent will be assessed the first year. If your rent increases by more than \$1,000 over the previous year's rent, the first year's rent will equal the previous year's rent plus \$1000. The amount in excess of \$1,000 will be applied equally to years 2 through 5. This provision applied only to the phase-in period 1996-2001 in Regions 1-6, and phase-in period 1997-2002 in Regions 8, 9, and 10. (Revised 7/04)
- Q-B8. Will my rental payment likely increase the following year?**
- A. The rental payment is indexed to the Consumer Price Index-Urban. Increases/decreases in the CPI-U are capped at 5 percent. Rental fees can increase or decrease from the previous year depending upon the actual change in the CPI-U and any changes in tenant use. (Revised 2/97)
- Q-B9. How is rental calculated when a holder has more than one use in their facility?**
- A. A holder would be charged the full scheduled rent for his highest value use, plus 25% of the scheduled rent for any other tenant uses. For example, a holder that operates a TV transmitter and a FM radio transmitter would pay full scheduled rent for the TV transmitter and 25% of the scheduled rent for the FM transmitter. If there were some other higher value use that set the base rent for the facility, the holder's TV and FM radio use would be at 25% of the scheduled rate. If a facility owner has multiple, same category uses, i.e., two CMRS uses, the rent is assessed based on the full scheduled rate for one CMRS use, plus 25% of the scheduled rate for the remaining CMRS use.

- Q-B10. If a tenant is exempt from rent will we charge the holder for the use by the exempt user?**
- A. No, when a tenant is exempt from rent, that use would not contribute to the overall rental fee for a facility.
- Q-B11. How is rent calculated if a holder's use is in the "other" category and there are multiple tenants in his facility?**
- A. When there are tenants in a building and the building owner's use is in the "other" category, base rent would be established for the highest value use (HVU) in the facility, plus 25% for additional uses. The building owner's "other" use would not contribute to rent in this situation. However, if the same holder had no tenants, his "other category use" would form the basis for rent at the scheduled rate.
- Q-B12. What do we do if a new use is added after the snapshot date of 9/30/96? Can we adjust the rent?**
- A. Adjustment of the rent would be made at the next "snapshot" date. In this situation that would be 9/30/97.
- Q-B13. Currently we are aware of uses from the beginning because the permittee applies in advance. Under the new scenario we may not become aware of a new tenant, who may have been in place for many months, until the owner makes the annual report on Oct. 15. Would we then send the owner a bill for the adjusted actual use in the current year as well as a newly calculated bill for the next year?**
- A. No. There is no proration of tenant use. Fees will be calculated based on the building inventory on September 30, whether a tenant has been in the building one day or the full year. Likewise, tenants that leave a building prior to the September 30 date would not be included in the building owner's inventory. The October 15 certified statement is a "snapshot" of building tenants on the September 30 date.
- Q-B14. Will the facility manager be required to pay a single add-on charge for a CMRS tenant, even if the CMRS tenant has multiple transmitters/boxes in the building and not just one transmitter at the facility?"**
- A. The term "add-on charge" is not used in the draft or final Federal Register notice, nor does it appear in the final policy. However, we assume the question refers to the value of tenant occupancy associated with multiple user facilities. The 25 percent of schedule rate for tenant occupancy is not based on the number of transmitters/boxes each tenant operates, but on distinct, separate uses within the facility. We assume in the situation described in the question that the facility manager is the authorized building owner who leases space to other communications users (tenants).
- A tenant is defined in the policy (FSH 2709.11, ch. 90) as a communications user who rents space in a communications facility and operates communication equipment for the purpose of re-selling communications services to others for profit (60 FR 55096).
- The 25 percent of schedule rate for tenant occupancy applies to each tenant, represented by separate lease agreements between the building owner, and reflects the business relationship between the building owner and the tenants

in the facility. (Revised 7/04)

Q-B15. Can a facility owner make a one-time payment covering the term of the authorization?

- A. A facility owner's rent will be based upon his use and uses from any tenants in his building. Building owners with tenants will have a fluctuating annual fee based on the type and number of tenants in the building as of September 30 of each year. It is impossible to calculate future fees in these situations; therefore, a facility owner cannot be assessed a one-time rent for the term of the lease.

Section C - Determining Community Served (RMA's)

Q-C1. Definition of "Community." The new fee policy states that fee determination will be based on ". . .the population range on the schedule that corresponds with the most recent population for the largest community served by the site, as indicated in the current Rand McNally Road Atlas." Does the community have to be an incorporated town or city? We have three incorporated towns with the largest population (Kalispell) of 12,000 and a combined population of 20,000. Counting both incorporated and unincorporated towns, the combined population per Rand McNally is 27,000. The published population for the county, all reasonably within communication range of a typical permitted facility, is 65,000. Could the county possibly be considered a community?

- A. If the "community served" is not listed in FSH 2709.11, section 97, exhibit 09, as a Ranally Metro Area (RMA), locate the largest community served as identified in the Rand McNally Road Atlas. Do not "add-up" all the communities served by the site; just the largest. In the example above, the population served by the site would be "Kalispell." The current Rand McNally Road Atlas assigns a population of 11,917 for Kalispell. Fees for communication sites serving the Kalispell area would be based on the lowest scheduled rent (less than 25,000) for the type of use. (Revised 7/04)

Q-C2. How is the Ranally Metro Area (RMA) information to be used and supplied to field offices?

- A. Information on RMA's is available each year in a published book, "The Rand McNally Commercial Atlas and Marketing Guide". The book is updated annually and is rather expensive. The book is made of cumbersome maps and the material cannot be reproduced because it is copyrighted and licensed. The FS has reconfigured the listing of communities and populations and has published that information in their Federal register release. Each Regional/State Office will be responsible for distributing RMA information to their field office locations. The book is available in most University and larger public libraries or it may need to be purchased. The greatest burden will be in the first year of implementation since RMA boundaries do not change much from year to year. (Revised 2/97).

Q-C3. To determine the category of 'population served,' is it the 'population served' by the site or by the use (emphasis in original) being evaluated?

- A. The fee is based on the population of the area served by a communications site, not by the type of individual use (60 FR 55092). The authorized officer makes the final determination of the population served. The basic rule to determine "population served" is as follows:
1) when the site/facility is within a RMA, use the RMA to calculate rent;

- 2) when the site/facility is outside a RMA, but the site serves the RMA, use the RMA to calculate rent;
- 3) when the site/facility is outside a RMA, and the site does not serve a RMA, use the schedule rate for the largest community served by the site;
- 4) when the site/facility is outside a RMA, and the site serves a community of less than 25,000 in population, use the lowest rent shown on the schedule for the type of use.

Q-C4. If a site (or use category) 'serves' any part of an RMA, is it considered to 'serve' it all?

- A. In most cases, yes, because it is assumed that if any portion of the RMA area can be served, the potential exists to serve the RMA as a whole. However, we recognize that other factors, such as, topographic or geographic characteristics, may limit the overall service area of individual communications sites. In these cases, the policy allows the authorized officer leeway to adjust the schedule based on the population served by the site.

Q-C5. Where some broadcast television and radio uses can service an entire RMA from a single site, most CMRS communication services (such as paging, SMR, two-way communications, cellular, and PCS) require a network of transmitters at various sites to effectively cover an RMA. As a result, would it be possible for the base fee for different uses at one location to be based on different RMA categories (based on the population serviced by the particular communications use)? For instance, the fee for a television broadcaster at one site might be based on the 5 million+ population category while the fee for a CMRS use at the same site would be based on a 500,000 to 999,999 category (based on the lower population serviced)?

- A. The fee schedule recognizes the difference between the technologies at individual sites, such as television broadcast or CMRS services, by establishing different base rates for each type of use.

Q-C6. There are RMA cities listed in two population strata depending upon whether you include the populations on both sides of an international border. For example, San Diego is in one RMA list as the 1 million to 2,499,999 category (this only includes the U.S. population) and in the 2,500,000 to 4,999,999 RMA category when you include Tijuana, Mexico. Which one do we use?

- A. If the broadcast use involves Tijuana in any way (sponsors, customers, etc.) use the higher RMA population strata. If the broadcast use is strictly targeted to the U.S., use the lower RMA population strata. (Added 2/97).

Section D - Indexing

Q-D8. Will CPI-U be built into the Forest Service's SUDS billing system?

- A. Yes. (Revised 7/04)

Section E - Multiple Sites/Facilities, Associations, and Same Holder/Split Uses

Q-E1. A user (TV Station) has three separate buildings on three different mountaintops. Two of the buildings support the main facility which is the transmitting site. Can we issue one lease to cover all three sites and only charge one fee for the transmitting site since two of the sites support the main

transmitting facility?

A. No. Each facility is on a different mountain. You may issue one lease to a single holder who has multiple facilities on a single site (mountain top), but you would include all uses in all the facilities in the rental calculation.

Q-E2. One Forest has a site with one building containing 8 users on a mountaintop. Due to inadequate tower on the building, one user (cellular) attached a dish antenna to a nearby lookout tower owned by BLM (on NFS lands) and operated by the State of Oregon. How do we assess fee under the new policy?

A. It appears that the building owner would have an authorization and fee that includes the cellular and other uses in the building. The cellular user would also need a 2700-4 authorization and pay full fee for the antenna on the BLM tower (Federal facility).

Q-E3. How do we address situations where the same CMRS provider users use a separately owned building and tower?

A. Both the building owner and tower owner would require separate authorizations for their facilities. The CMRS provider would be considered a "tenant" in both facilities and the facility owner's rent would include the CMRS use in the rental calculation for each facility. (Revised 2/97).

Q-E4. How would the rent be calculated in the above situation if the facility manager has a single permit, but has two buildings next to each other and they share a single tower?

A. Revised 3/96 (Phoenix Training Session): Multiple facilities owned by a single individual on the same mountaintop will be treated as one facility and authorized under one authorization. There would be one base rent (HVU) and the uses in both facilities would be inventoried to determine HVU and tenant charges. (Revised 2/97).

Q-E5. What if you had 10 facilities at one site owned by 10 different individuals. These 10 different individuals wanted to form an association with the authority to manage the entire site as one entity. In this situation could we issue one lease to the association and inventory all the facilities as if it were one facility?

A. You could, but proceed with extreme caution. In addition, all 10 facilities or everyone on the mountain top would be required to participate and to either be a member of the association or to sign an agreement to abide by the terms and conditions of the site manager's lease. Don't automatically accept the standard minimum state requirements for an association. There are liability, public safety, etc., concerns that will be the responsibility of the user association. The requirements for forming an association varies from state to state and we need to make sure the bylaws and constitution adequately addresses the ability of the association to assure compliance with liability, safety, compliance etc. (Revised 7/04).

[Section F - Exemptions, Waivers, Hardships, and Off-Sets](#)

Q-F1. Does the new policy affect non-profit organizations?

A. Existing regulations at 43 CFR 2803.1-2(b) (2)(BLM) and FSH 2709.11, chapter 30 (FS) already provide that the Authorized Officer **MAY** waive or exempt rental payments for some non-profit organizations. Rental waivers are

considered on a case by case basis and the new regulation does not change this policy. If rental had been waived for the holder because of their non-profit status in the past, the waiver could continue under the new schedule. BE SURE TO REVIEW THE ABOVE REFERENCES TO ASSESS ALL CRITERIA NECESSARY TO WAIVE OR EXEMPT RENTAL! (Revised 2/97).

A non-profit organization that owns a facility and rents space to other commercial users will be assessed rent for the commercial tenants within the facility, plus any rental due that was not reduced or waived because of the facility owner's non-profits status. A non-profit organization that leases space in another users building could be assessed additional amounts for their tenancy in that building unless the Authorized Officer waived rental for that non-profit organizations use.

Q-F2. What is meant by "undue hardship? (BLM Provision only)

- A. The authorized officer has discretion to use other methods for setting rent when a determination is made, and approved by the state director, that the new rent would cause "undue hardship." "Undue hardship" may occur in a variety of ways depending on the circumstances. Generally, "undue hardship" may occur when the new rent adversely affects the viability of the holder's investment in the facility or business arrangements with tenants, or would disrupt communication service to the community.

Q-F3. Why does the Forest Service not have a hardship provision such as the one developed by BLM?

- A. The policies within the respective agencies reflect differing statutory authorities and administrative guidance that has evolved over many years. The Bureau of Land Management's existing hardship provision is granted only in specific cases where the authorized officer, "determines that the requirement to pay the full rental will cause undue hardship on the holder/applicant and that it is in the public interest to reduce or waive said rental..." (43 CFR 2803.1-2. (b) (2) (iv). The Secretary of Agriculture regulations at 36 CFR 251.57(b), applicable to all special uses, including communications uses, provides that all or part of the fee may be waived, "I.. when equitable and in the public interest..." but does not include a specific provision for waiver or reduction of fees based on the financial hardship of applicants/holders. However, authorized officers may allow semiannual, quarterly, or monthly payments to avoid personal hardship to the permittee or lessee.

Q-F4. To accommodate the free use of facilities by federal government agencies, the Forest Service notice described a temporary fee adjustment policy. Under such a plan, fees paid to the Forest Service by the building owner would be offset to compensate for the use of the facility by the federal agency. How will the use of building and tower space by federal agencies be handled once the temporary fee adjustments expire?

- A. The Federal Register (60 FR 55098) recognized the requirement placed on some holders to provide for the free use of the facilities by Federal Government agencies. When Federal agencies, including the Forest Service, are tenants in a communications facility, they are expected to pay a fee to the holder for any use of the facilities (60 FR 55098). However, we recognize in some cases holders, who are Federal agencies, State agencies, or public utility districts, and some private entities, allow free use to public agencies by choice, or policy.

In the case where free use was required by the Forest Service, the temporary fee adjustment will remain in effect until the written agreement between the building owner and the Federal agency expires, at which time, the Federal agency is expected to negotiate an agreement without a free use provision.

Q-F5. Will the rent discount for the free-use penalty be applied regardless of whether or not the Federal agency has occupied the premises? (This could be important since the building owner must set aside the space and could not rent it out to others.)

A. Yes, the rent discount still applies if the Federal agency has a written agreement with the building owner, or if the special use authorization included such a provision.

Q-F6. Is it now the policy that the Forest Service can no longer REQUIRE the facility owner to provide free rent to the FS or other Federal agencies?

A. Yes, the Forest Service can no longer require (emphasis added) facility owners/facility managers to provide free rent. However, if it is the policy of the facility owner to provide free rent to public agencies, then the FS may accept that free rent, but may not off-set the holders rent based on that free rent. (Revised 2/97).

Q-F7. What is the fee requirement status of REA facilities when acquired by a non REA financed entity?

A. If the facility was built using REA financing then the former exempted REA uses in the facility would still be exempted. New or other uses may require a fee. (See Section M for other Q&As for REAs).

Q-F8. An antenna is used to receive TV signals which are routed by wire to community users. There are approximately 10 receivers in one case and 400 in another. It's uncertain if the use is for profit or a coop community at cost venture. What is the use and how is the fee assessed?

A. The use appears to be cable TV and the fee would be the lowest rates on the schedule (\$600). Perhaps a waiver would apply if the holder has an IRS 501(c)(3) verification of nonprofit status and conforms to other criteria contained in FSH 2709.11, chapter 30, for the FS and 43 CFR 2803.1-2 (b)(2) for the BLM. (Revised 7/04)

Section G - Deviating from the Schedule

Q-G1. The process described in the Federal Register for determining when the fee schedule would not be followed, and where instead, rent would be based on methods such as appraisals or other valuations, is unclear. For instance, the notice states that when the "expected fee" would be more than \$10,000 above the rent schedule, the schedule is to be disregarded and another valuation method is to be employed. How will this determination be made; and who will make it?

A. The authorized officer makes the determination, and the fee will be determined by use of sound business management practices, such as comparative market surveys, appraisals, or other reasonable methods (60 FR 55102).

Q-G2. What category would be appropriate for PCS, ESMR, BETRS, microcells, and/or new technologies not covered by the schedule?

- A. Personal Communication services (PCS) networks transmit cellular calls digitally and the service is very similar to Cellular Telephone.

Enhanced Specialized Mobile Radio (ESMR) incorporates digital technology and interconnects mobile radio with the public telephone system. This is a wireless telephone service. Both PCS and ESMR are included in the Cellular Telephone schedule.

Forest Service regional schedules are to be used by both agencies to establish rent for Basic Exchange Telephone Radio Service (BETRS) and local exchange networks. Microcell uses are not covered by the schedule.

It is the intent of the regulations/policy to apply the schedule to similar, emerging technologies when practical. (60 FR 57067). In the final regulations, the definition for "Cellular" was specifically expanded to include "and related technologies" in order to include similar and emerging technologies within that category. It has now been determined that PCS is a similar technology to that covered by the cellular category.

Fees for uses not included in the fee schedule will be determined by authorized officers by other reasonable methods, including appraisals, or a separate market survey for this use, similar to the market analysis/survey used to establish the current fee schedule (60 FR 55101). (Revised 7/04)

Q-G3. What will happen if the schedule rent is substantially lower than the current rent?

- A. The rental schedule should be used to set rent for most communication site users. However, given the nature of schedules, there are situations where the schedule may not reasonably set fair market value.

If for instance, the current rent is \$5000 per year and the rent calculated by the schedule is \$600, it is possible that the schedule rent is too low. Under these circumstances, the authorized officer may request a preliminary rental estimate from the state office chief appraiser.

Assume the appraiser's preliminary estimate supports the current rent of \$5000. Since, the expected rent exceeds the schedule rent by more than 5 times, the authorized officer may want to request an appraisal, or negotiate a rental that more reasonably sets fair market value. The state director must concur in the authorized officer's determination. (11/7/95)

Q-G4. How do we authorize and assess fees for various temporary broadcast use situations? Included are cellular for events, broadcast of sports events from local area to an RMA, and amateur radio use. Do we use the formal lease form or the 2700-4 or 25 forms? How do we determine a fee; prorate by days used, minimum fee, some sort of appraisal or review of Fair Market rentals?

- A. If a permanent facility is involved, assess the full fee/rental schedule and Policy/regulation, as in any other situation even though the facility may be used only a few times each year. If the facility is "mobile" and the use is only a few times a year, authorize via temporary use permit and base fee as deemed appropriate by the Authorized Officer. This may include using the schedule as the basis for determining FMV for a temporary use. If the facility is mobile and use occurs on a regular bases, apply the schedule and Policy/regulation.

Section H - Ancillary Use

Q-H1. If a CMRS provider uses microwave to support his 2-way radio communications business, do we change for two uses; CMRS and microwave?

A. No. Charge only for the CMRS use. The microwave is supporting the CMRS use and is an ancillary use and not included in the rental determination. (2/97).

Q-H2. We have one situation where a building is permitted to Winter Sports, Inc., (WSI) as part of a recreational resort. The building houses communications facilities for WSI, Forest Service, and Dept. of State Lands. Do we need to have a separate permit for the communications facilities and/or make a fee adjustment to WSI as an owner, or can we count their communications as an ancillary use under their existing recreation permit with no further consideration?

A. In this situation the holder's use is ancillary under the existing recreation permit. In addition, the other uses would be classified as "customers" and no additional charges would be considered with the base fee. Therefore, a separate authorization is not necessary. If there were other "tenants" in the building, an additional authorization to the building owner (WSI) would be necessary and fees assessed according to the new policy and fee schedule.

Q-H3. How will oil and gas well monitoring devices be handled under the new regulations?

A. Any well monitoring devices located on-lease are considered well production facilities and would be authorized under lease provisions. If these facilities are located off-lease, and they are not an ancillary use authorized under the terms of a FLPMA or MLA right-of-way, then a FLPMA communication use lease would be required. The FLPMA communication use lease would be subject to rent under the schedule.

Section I - Responsibilities of Facility Owners

Q-I1. If a building owner is required to notify us only once a year of the name and type of use for each tenant in the facility, who is responsible for monitoring frequency interference when there are several buildings on a site? (We have 9 buildings on Blacktail Mtn.) Presently, as part of our responsibility for monitoring frequencies, we have a 30-day advance notification period to permittees of a potential new permit. We don't see that the new policy addresses this important concern.

A. The building owner is responsible for insuring that interference issues are resolved within their building. The building owner has an affirmative duty to **PREVENT** and **RESOLVE** interference with other buildings (see comm site lease, sec. IV). The Federal agency may, as the landowner, intercede if building owners are unwilling or unable to resolve interference issues.

Facility owners/facility managers will not be required to notify the agency when customers and tenants come and go from their facilities, except they will be required to provide the authorized officer with a list of users leasing space in their facilities on September 30th of each year for rental fee calculations purposes. However, facility owners/facility managers will be required to ensure that interference problems within their facility and adjoining facilities are prevented and/or resolved. The agency is not directing how to accomplish this. Therefore, we are not "requiring" prior notification to the agency of other users,

but the stipulation can be used if the authorized officer determines such a provision is necessary. Facility owners/facility managers may also find that prior notification to other users is a useful tool to fulfill their responsibility for preventing and resolving interference problems. We also encourage facility owners/facility managers to form user associations, or enter into other formal agreements in order to resolve interference and other issues. Prior notification will be required of applicants requesting construction of new facilities.

Q-I2. What if the current building owner does not want to be the responsible party (building owner/facility manager) under the new fee policy and schedule?

- A. If the current building owner does not want to be the lease holder, he is free to sell his improvements to a party who is willing to be the lease holder. He may consider assigning a third party as his representative, however, the authorization and ultimate responsibility for the facility and uses within that facility and/or building belongs to the facility owner. (Revised 2/97).

Q-I3. As a facility owner. how will this new policy affect the way I do business with the BLM?

- A. As a building owner you will be able to rent to a tenant without requiring the prospective tenant to get prior written approval from the authorized officer. This will save you time and allow you to provide the space or service more quickly. In addition, tenants will no longer have separate authorizations. However, you will be required to submit to the authorized officer a certified statement listing the tenants (name and type of use) in your facility each year. (See A5).

Q-I4. Will the facility manager/building owner be required to have his authorization amended every time he or a customer or tenant adds a frequency or makes any other equipment changes?

- A. No. Special use authorizations and leases issued to building owners will include a provision for tenant occupancy, but will not specify the number or types of tenants or customers. The addition of tenants, frequencies, customers, or other equipment changes will not require a formal amendment to the authorizing document. However, this does not relieve facility owners of the responsibility for ensuring new frequencies or equipment changes are compatible with other uses on the site, or furnishing the annual inventory of uses in the facility to the authorized officer. Also, the new policy/regs do no change management site plans or objectives to manage that site. For example, if a certain type of use was not authorized at the site prior to implementation of the policy/reg, it is still not authorized; if tenant occupancy was not authorized prior to the policy/reg, it still is not authorized. (Revised 2/97).

Q-I6. When the owner of a building has an active "site manager" that wants authority to receive the authorization and/or perform lease holder responsibilities, what is our response?

- A. We issue leases only to the facility owners. The named lessee is the responsible party. How the facility owner (lessee) manages his lease operations is not our concern as long as conditions of the lease are observed. In other words, the lessee may have someone else manage his site, but the lessee is ultimately responsible for payment of rental and compliance with the terms of the lease.

Section J - Facility Managers

- Q-J1. If a facility manager has three tenants and two are federal agencies (FBI and FS) and the third is a REA Electric Cooperative (exempt from rental fees) how are rental fees established?**
- A. When a facility manager has tenants that are all exempt from rent, rent for the facility would be assessed at the facility manager rate for the population served. As soon as the facility manager subleases to a tenant that would qualify for rent, the base rent would be determined by the HVU. If there is a tenant use that establishes base rent (HVU), the facility manager use would not contribute at the 25% rate. Remember the facility manager has no equipment in the building and it is the kinds of uses in the facility that are the basis for rent once a tenant use becomes the HVU in the facility. If the facility manager's schedule rent EQUALS or is GREATER THAN a tenant rate, the facility manager's rate is the HVU and is the base rent. (Revised 2/97).
- Q-J2. A person owns a communications building (building A), does not have his own equipment in it, but does have two occupants in that facility. However, he does have his own personal equipment in the building next to his (building B) which he does not own. How would you calculate the rent?**
- A. This person would be considered a "facility manager" for building "A" and the rent would be calculated per the regulation and policy. His equipment in building "B" would be considered in the rental calculation for building "B" as per the policy and regulation.

Section K - Tenants and Customers

- Q-K1. Do communications uses installed in a building (tenants/customers) AFTER the adoption of the policy qualify for an authorization if they want one?**
- A. The BLM regulations will continue to provide for this option, while the Forest Service policy does not. (12/4/95)
- Q-K2. How will the new policy/regs affect occupants in communications facilities?**
- A. An occupant in a communications facility that had a separate authorization from the BLM or the FS prior to adoption of the policy/regs has the option of retaining their authorization or relinquishing it. If they choose to relinquish their authorization they will not be charged a rental fee. If they choose to retain their authorization they will be required to pay the full schedule rental for their type of use and population served. The building owner will be charged an additional amount for each tenant in the building. Therefore, it is likely that rent paid to the facility owner by the occupants will rise to reflect the additional increase in rent. The additional amount reflects 25 percent of the scheduled rent for the type of use. (Revised 11/7/95) (Revised 2/97).
- Q-K4. We have a facility owner, Petra Communications, Inc. (CMRS) who has 4 separate uses in his building (AA Electronics, Mitas Plumbing, Fasts Mobil Radio (CMRS), and Night Time Auto). He says that Fasts Mobil Radio is really part of his company. Therefore, he contends that Fasts Mobil Radio SHOULD NOT be considered when determining the rental fee. What do we do?**
- A. For rental fee calculation purposes, INCLUDE each individual company in the rental calculation even though the facility owner contends it is part of his company. When a facility owner owns or controls more than one use (even

when the uses are in the same category) under its authorization, rent is assessed for each use owned by the holder if separate FCC licenses were issued. In other words, such uses should be treated as any other use in the facility because they contribute a greater value to the site. Otherwise, a facility owner could operate a number of CMRS uses, for example, with each generating revenue to the holder, but only pay rent on the basis of one of the uses. This would not constitute a fair return to the taxpayer for use of public land resources. In the above situation, Fasts Mobil Radio is a "Tenant" and therefore, included in the rental calculation. (Updated 7/97).

Q-K5. Do tenants and customers who want to retain their existing authorizations qualify for a phase-in? The training manual states that they pay the full schedule rental fee if they retain their authorizations.

- A. Tenants and customers who retain their existing authorizations are ASSESSED the full rental fee for the type of use and area served. In addition, those tenants and customers who had an authorization when the policy was adopted (10/27/95 for Forest Service; 11/13/95 for BLM) ALSO qualify for a phase-in if their rental fee increases exceed \$1,000. So, even though tenants and customers are assessed the full schedule rental fee, they may also qualify for the phase-in provision of the policy. These provisions would also apply to tenants and customers in federal facilities.

Q-K6. Is a security company that uses radio frequencies to monitor homes, businesses, cars, etc., a "customer" or "tenant" for fee calculation purposes? If a "tenant," what type of use?

- A. Yes, they are TENANTS. Type of use is CMRS.

Q-K7. Lojack is a commercial anti-theft company that sells tracking devices to locate stolen automobiles. They provide, free of charge, communications equipment to law enforcement agencies to track stolen cars that have the Lojack tracking device. In some instances they even pay the law enforcement agencies to maintain and operate this equipment. Since we waive rent to federal, state, and local governments, should we waive the fee in these situations?

- A. No. This is a tenant use. Lojack provides equipment to law enforcement agencies as an advertizing tool and a way to promote their business. Lojack's intent is to promote sales through this program and, in doing so, utilizes federal land for a commercial operation.

Q-K8. Would internal or private microwave users that rent space from a facility manager or owner be considered "customers", since their services are not resold?

- A. Yes. Internal communication uses that meet the definition of a customer, i.e., "paying a facility owner or tenant for communications services and is not reselling communication services to others," are considered customers for fee purposes (60 FR 55108). The principal factor to be considered in the question is "... their services are not resold." Examples of internal industrial or private microwave users are pipeline and power companies, railroads, or other individuals using a microwave system in support of a primary business and are not reselling a communications service.

The above applies only to internal" and "private" microwave uses located in a facility that they DO NOT OWN. If the internal or private microwave user owns the facility, their use would be considered in the rental fee calculation process

just like any other facility owner.

If the internal or private microwave use is a "stand alone" facility, the rental fee for that use would be calculated using the microwave rental fee for the population served.

Microwave used for commercial telecommunications purposes (resold) is charged the microwave rental fee even if located in someone else's facility.

Q-K9. Under "Definitions", a customer is an occupant that is "... paying a facility owner ... for communication services and is not reselling communication services to others." Customer use is not included in fee calculation. Private Mobile Radio Service (PMRS) is specifically noted as a "customer" use and thus exempt from charge, yet the fee schedule includes PMRS as a chargeable use. Which part controls? We have several permittees who qualify as PMRS and whom we are currently charging (Plum Cr., Stoltze Land & Lumber, etal.) that now appear to be exempt from fees.

A. A PMRS user in another's building is a "customer." A PMRS with their own building is not a "customer," they are a facility owner and charged the rental fee for PMRS use, or the highest value rent as a base fee if there are "tenants" in the PMRS's building.

Section L - Subleasing

Q-L1. How is the rent calculated when the facility owner or facility manager has a lease agreement with a tenant or customer and that tenant or customer is subleasing space and/or equipment to other tenants and customers?

A. Inventory and include ALL occupants, equipment operators, entities, users, etc., in the facility regardless with whom their lease agreement or service contract is with. Determine TENANT use from that inventory and calculate the rent as you would in any other situation and bill the facility owner or manager. These situations may be common in heavy use/high value areas like Southern California. However, any field office may have situations in which tenants are subleasing or encounter users in facilities that do not directly or indirectly have a lease agreement with the facility owner or manager. BE ESPECIALLY VIGILANT DURING THE INVENTORY PROCESS AND DISCUSS WITH THE FACILITY OWNER/MANAGER IF YOU SUSPECT THIS IS HAPPENING.

YOU MAY WANT TO MODIFY THE SAMPLE LETTER TO FACILITY OWNERS/MANAGERS IN PARAGRAPH (4) BY REMOVING (USERS WITH WHOM YOU HAVE A FORMAL OR INFORMAL AGREEMENT WITH TO LEASE SPACE) SO AS TO NOT SO NARROWLY DEFINE WHAT WE ARE LOOKING FOR IN THE INVENTORY.

Section M - Federal, State, Municipal Governments, REA, and BPA Facilities

Q-M1. What do you do with Federal communication buildings with non-Federal tenants? The Federal agency is exempted from fees. However, fees would be due because of the "tenant" occupancy in the building.

A. All uses in Federal buildings will have a separate authorization and pay full schedule rent for the type of use and area served. (Revised 4/5/96).

Q-M2. The policy talks about exceptions for Federal, State, county, and PBS., etc.

What about REA's. Are they exempt?

- A. REA's use is always exempted for REA financed facilities. However, if they are engaged in a commercial operation (renting space in their building to customers/tenants) we will assess them a fee based on the highest valued use for a base fee, and 25% of the scheduled rate for all other tenants. REA's use is not included in the fee calculation. A REA loses their "exempt status" in this situation, but they do not lose the exemption for their own use.

Q-M3. Do tenants and customers in quasi Federal (BPA, TVA, REA, etc.) buildings have to have a separate authorization?

- A. For purposes of implementation of the communications policy/regulation, a Federal agency is any entity whose employees' salary is paid for by the Federal Government. If the entity that owns the facility meets this definition of a "Federal agency" then tenants and customers in that facility need a separate authorization. BPA is a Federal agency. REA is a mechanism for financing a project; the proponent or owner in most cases are not Federal entities. Therefore, do not require a separate authorization for tenants in REA facilities.

Q-M4. A federal agency (BPA) is charging another federal agency (FBI) for occupancy in BPA's facilities. Is this a commercial operation for which a fee should be assessed? What if they were charging rents for nonagency tenants or customers?

- A. BPA, WAPA, TVA, and other such entities are "quasi" Federal agencies. For fee calculation purposes their use is exempted like other Federal agencies. See question 9a in the training guide for direction in setting fees when there are no "tenant" uses in a building and a "waived or exempted" facility owner is charging commercial rates for uses in the facility.

Q-M5. We have a situation where there is a federal building with tenants-customers that are not under separate authorizations. How do we approach these in view of the "unofficial policy" requiring separate authorizations in such instances?

- A. It is "official policy" that customers and tenants in Federal facilities have separate authorizations and pay full schedule rent for their use for the population served. Most Federal agencies do not lease space to occupants in their facilities located on BLM or FS managed land, but rely upon the landlord to collect any rent due. Therefore, issue appropriate authorizations to each tenant and/or customer that is located in a Federal facility and collect full schedule rent for each use in accordance with the schedule.

Q-M6. How do you treat a situation in which the Forest Service has a building with tenants and customer which are located on BLM land?

- A. Treat as you would any other situation involving Federal communication facilities. The Forest Service and all other users should have a BLM authorization and pay the full schedule rent, if appropriate.

Q-M7. Does the rulemaking change any current rental exemptions for REA's, or Federal, State, and County governments?

- A. For BLM the rulemaking does not change any of the exempted uses, so Federal, State, and local governments and REA communication uses are still exempted from rent, unless they are conducting a commercial business. For the FS, the new policy provides for waivers for State and local governments, if

they qualify (FSH 2709.11, chapter 30). However, a rent exempt holder may lose his rent free status when they sublease to other tenants. As a manner of policy for implementing the communication fee schedule, the holder's own use would remain exempt from rent, but he would be assessed a rent for any qualifying tenant uses in his facility. For example, if an REA holder subleases to tenants, a base rent is created by the highest value use tenant, plus 25% for all remaining tenants. The REA would retain the exemption for their own use, but would lose their rent free R/W status. BLM would only bill the REA holder for those tenant uses. (Revised 2/97).

Q-M8. Do we treat Indian Tribes like Federal Agencies?

A. No. Indian Tribes are treated like any other non-Federal entity.

Q-M9. A state agency, which has a building with it's own communication use and which allows other commercial communication users in the building, claims that it has no mechanism for collecting and transmitting fees to the USFS (other users formerly had separate permits from and paid fees to USFS).

A. The State has no other choice but to make payment to the Federal government in this commercial operation. DO NOT issue separate authorizations to each tenant or customer as suggested in response from Region/forests.

Q-M10. A government municipal transit authority has a communication use lease. They are charging fees for patrons who use the transit system. Should their use be waived/exempted?

A. No, they are charging user fees and do not qualify for a waiver or exemption. (Revised 2/97).

Q-M11. What is the rent in a situation where the building owner is a State agency and all the uses in the building are exempted? The State is in a commercial operation with the occupants of the building.

A. If the State is involved in a commercial operation, the rent would be calculated based on the highest value use in the facility, with no additional rent calculated for the remaining uses. The state's use would still be exempted.

[Section N - Authorization Forms and Amendments](#)

Q-N1. What authorization form do I use to authorize a communications use?

A. For the FS use the Communications Site Lease (FS-2700-10b) for all facility owners. Continue to use form FS-2700-4 for occupants in non-federal facilities who wish to retain their authorization, but do not issue a new authorization when the current one terminates at the end of the term. For all occupants in federal facilities, use form FS-2700-4.

For the BLM use the Communications Use Lease, form 2800-18, for all facility owners, except federal agencies. Use form 2800-14 for all occupants in facilities who want to retain or receive their own authorization from BLM. Also use form 2800-14 for Federal facility owners, unless the Federal facility owner specifically requests to operate its facility under the terms and conditions contained in the lease (Form 2800-18). See answer to question M-5 for further information regarding Federal facilities. (Revised 2/97).

Q-N2. Will there be standard stipulations in the new communications site

authorization form? Will the authorized officer be able to add special stipulations to the authorization?

- A. Yes, the BLM/FS communications use authorization form contains standard conditions. Both agencies have the flexibility to add additional stipulations to the lease to meet site specific conditions.

Q-N3. If an existing ROW grant already contains subleasing language, will an amendment still be required before the holder can add tenants under the new regulations?

- A. Where an existing grant already allows subleasing or does not specifically prohibit subleasing, it will not be necessary to amend that grant for the holder to allow additional users. However, there could be other stipulations that may need to be added to the grant to cover items such as requiring the holder to notify existing site users of a change in his tenant status, or stating that the holder is responsible for correcting interference problems caused by his tenants, or that the holder must provide annual certification (by October 15) of all his tenants and tenant uses existing in the facility on September 30 of each year. (3/18/96) BLM should convert existing R/W grants (2800-14) for facility owners to the Communications Use Lease (2800-18) at the earliest possible date. (Updated 2/97).

Q-N4. Must all grants issued pursuant to the new regulations include subgranting language or will it be up to the discretion of the authorized officer?

- A. The intent of the new regulations is to minimize the number of individual grants that we must issue and administer on public lands. The Authorized Officer would need to clearly demonstrate the rationale as to why a new grant should not include provisions for subleasing. The holder of an existing right-of-way grant cannot be forced to accept a new grant that requires him to sublease. However, the holder needs to realize that his future rental amount will be based upon all other uses in his facility even if those uses have separate authorizations. Also see question Q-14.

Q-N5. Many facility managers and National Forest users have supported the use of the footprint lease. However, it appears that the "one" special-use authorization required in the new policy may not be a lease. Are there differences between the special-use authorization and a lease? Are the rights and/or privileges of an authorization holder less than those of a lease-holder.

- A. The FLPMA describes a right-of-way to include a variety of authorizing documents, including easements, leases, permits, or licenses to occupy, use or cross public lands. The Forest Service will offer a lease to current and new permit holders. The lease will afford similar rights and/or privileges found in the private market leases for communication purposes. The lease differs from the current special use authorization, a permit, in two major ways: (1) a permit is revocable; the lease may not be revoked without due process, and (2) a permit is not transferable; the lease may be transferred or assigned with the approval of the authorized officer. (Revised 7/04)

Q-N6. What type of authorization do we issue to federal facility owners?

- A. Federal facility owners are treated just like any other private facility owner. They may keep their existing BLM grant or FS permit until it expires or request the new lease authorization. For facilities on FS lands they may retain their current authorization, but they will be issued the new lease when their current

authorization expires at the end of the term. For BLM administered lands, the federal agency may request either the 2800-14 or the 2800-18. (Revised 2/97).

Q-N7. Can we issue a lease for an existing use on a communication site that is not yet designated or for which a communication site plan has not yet been completed?

A. Yes, but not for proposed new facilities until site designation and communication plan requirements are satisfied.

Q-N8. Many of our existing communication use permits include roads and power lines outside of the designated communication site in the authorization. How do we treat these encumbrances under the new lease and policy?

All the uses within the designated communications site boundary will be authorized with the lease. Those noncommunication uses outside the designated site boundary will normally be authorized separately with separate authorizations (FS-2700-4 or Road Use SUA). However, the specific circumstances involving each site and facility need to dictate how ancillary roads and utilities are authorized.

For example, you would normally include a short spur road from the main road to the facility in the lease; you normally would not include a 9 mile access road to the site in the lease.

Q-N9. How should an existing permit be amended to accommodate the new fee policy.

A. Use fee clause or other appropriate clauses from the new lease form.

Q-N10. Will we charge the holder a processing fee when they want to replace their existing permit with the new lease?

A. No, not during this transition period. However, cost recovery provisions, when adopted, may apply in subsequent authorization issuances. (Revised 7/04)

[Section O - Granger-Thye Permits](#)

Q-O1. A cellular phone company is using a Forest Service building which is surplus to our needs. Also, as G-T is concerned, there is virtually no maintenance on the building. Originally, fees were negotiated after assessing charges adjacent Forests charged for like uses, then adjusting for the differences in market. How do we establish fees for G-T permits that are associated with communication uses?

A. For "new uses", issue a G-T permit authorization and cite both authorities (G-T and FLPMA) on the permit. Base fees on a bid prospectus, appraisal, or a fee based on land use (communication site fee schedule) and a fee for use of government facilities (G-T). For existing uses that apply a fee for land use and a fee for use of government facilities, apply the communication site fee schedule to determine a land use fee. Follow direction in the new policy for existing fees determined by competitive bid or negotiations. [Ref. FSM 2715.13 Granger-Thye Permit Fees]

Section 704(c) of the 1996 Telecommunications Act

SEC. 704. FACILITIES SITING; RADIO FREQUENCY EMISSION STANDARDS.

* * * * *

(c) **Availability of Property.** Within 180 days of the enactment of this Act, the President or his designee shall prescribe procedures by which Federal departments and agencies may make available on a fair, reasonable, and nondiscriminatory basis, property, rights-of-way, and easements under their control for the placement of new telecommunications services that are dependent, in whole or in part, upon the utilization of Federal spectrum rights for the transmission or reception of such services. These procedures may establish a presumption that requests for the use of property, rights-of-way, and easements by duly authorized providers should be granted absent unavoidable direct conflict with the department or agency's mission, or the current or planned use of the property, rights-of-way, and easements in question. Reasonable fees may be charged to providers of such telecommunications services for use of property, rights-of-way, and easements. The Commission shall provide technical support to States to encourage them to make property, rights-of-way, and easements under their jurisdiction available for such purposes.