

**Comments Regarding 86 FR 72540 - Land Uses; Special Uses;
Annual Programmatic Administrative Fee for Communications
Use Authorizations**

Submitted By Shawn J. Dienhart
February 23, 2022
Revision 1

30 PAGES TOTAL INCLUDING THIS PAGE

INTRODUCTION

As a licensed amateur radio operator, I hold a special use permit for a very small communications site on La Panza Peak, located in the Los Padres National Forest (Attachment 1). My original permit was issued on November 11, 1997 and was renewed for a period of thirty years on November 13, 2018.

I consider the permit a privilege and have the highest regard for the many United States Forest Service personnel I have interacted with throughout the years.

Like other amateur radio operators, I recognize the value of the amateur service to the public as a voluntary noncommercial communication service, particularly with respect to providing emergency communications. As defined by law (citation 0), my interest in radio is with a personal aim and without pecuniary interest.

My initial interest in the proposed rulemaking was the increase of the annual administrative fees for amateur radio operator permit holders which are currently in the "Other" category of the "USFS Rental Fee Schedule for Communications Uses". The increase from \$133.38 per year to \$1400 per year has individual and broader consequences to the amateur service (citation 3).

It is clear to me that the proposed rule, and the related rulemaking before it, was not afforded the necessary oversight of the process. Consequently the resulting text is arbitrary and capricious. In this context I respectfully submit comments regarding the proposed rulemaking described in 86 FR 72540 - Land Uses; Special Uses; Annual Programmatic Administrative Fee for Communication Use Authorizations. The comments in the attachments apply as well as the main body of this document. These are solely my comments, researched and prepared by me.

BACKGROUND

On December 22, 2021, I received an email from the Program Manager - Communication Uses, United States Forest Service (Attachment 2). The message was brief, but got right to the point which stated that "the Forest Service is proposing to charge \$1,400 per communication use authorization.....".

After reading the entire proposed rulemaking, I realized it is inconsistent with my general understanding of how the USFS "Rental Fee Schedule for Communications Uses" is applied, let alone the basis for the change stemming from the Farm Bill. While the proposed rulemaking may appear straightforward, my findings proved otherwise. It is a tangled web of contradictions and misstatements which ignore evidence and research contravening their purported effects and benefits. To be respectful, I characterize the flaws as a lack of oversight that should have been applied to the process in accordance with Executive Order 12866 (citation 1).

Given the relatively brief period of time to provide comments on what has become a complex affair with many possible adverse effects, my comments only address some of the issues.

ANALYSIS

The analysis provided are for each issue identified, as shown in 1 through 7. While listed sequentially, they are not ordered by priority because to a large extent they are interrelated.

1. The Proposed Rule Exceeds the Scope of the 2018 Farm Bill

The text of the Farm Bill is very clear in its scope and intent, "to streamline the process for considering applications to locate or modify communications facilities on covered land".

The text has no words whatsoever about changing the USFS "Rental Fee Schedule For Communication Uses". There is nothing in the text that implies changing the annual fees for communication site permit holders. Conversely, the Bill clearly states its purpose for new applications or revised authorizations. The word "annual" is not used once in section 8705 while the word "application(s)" is shown twelve (12) times and the word "authorization(s)" is shown seven (7) times. The proposed rulemaking is completely in contrast to the title, text, direction and intent of section 8705.

The basis of the proposed rulemaking is flawed because it exploits the clear scope and intent of the Farm Bill, which is to make the application and authorization process of communication site permits more efficient. Instead, the Forest Service has effectively written a new law, to change the annual fee structure of communication site permit holders to literally pay all time and labor costs for the USFS Communication Uses Program (Citation 4). This is inconsistent with the law because the actions in the proposed rule are different than the direction of the Farm Bill which has been vetted and approved by the Senate of the United States and approved by the President. The completely different actions contained in the proposed rule have no such authority and have not been approved by the US Senate or approved by the President. See Attachment 3 for a side by side comparison of the proposed rule language as compared to the facts in the Farm Bill.

2. Separation of Three Years about Rulemakings on the Same Subject

Compounding these issues is the fact that a prior rulemaking on these same issues was processed and made final in 36 CFR 251" Land Uses; Special Uses; Streamlining Processing of Communications Use Applications", dated April 8, 2020. I was not made aware of this rulemaking and consequently was not able to provide comment. Notice the title of this final rule as compared to the title of the proposed rule, the objectives are different, which again indicates a new law is being written outside of the scope or authority of the Farm Bill and due process.

By reading the final rule from 2020, it is clear the Forest Service is laying the groundwork for the existing proposed rule, which allowed the text to become law. Now, that "law" about annual fees is being leveraged from the non specific information created in 2020, then two years later the details come forth as though it is justified by the current proposed rule predecessor. How this issue, in and of itself, escaped review and was made final should be of the most serious questions raised about an Agency making law without proper oversight. This could be characterized as a classic "fruits of the poisonous tree" situation.

In the rulemaking of 2020, the text does not show any new efficiencies or actions which to

meet the requirements of the Farm Bill. Instead, it takes credit for existing measures (citation 5) and the future revision of manuals with no specified date or measure for doing so. The proposed rulemaking does describe some intended efficiency improvements, yet there are no measures indicating the cost/benefit or schedule for completion (citation 6). Ironically, the "efficiencies" described are an after the fact action which come with a cost of \$1.8M annually. This of course is not an efficiency, but further loading the Agency program with additional costs for which the communication site permit holders would bear. Adding staff and budget is not an efficiency, as per its definition: [Webster's]: *effective operation as measured by a comparison of production with cost (as in energy, time, and money)*.

There is no discussion about amending existing regulation which is burdensome, no discussion about the private sector involvement, no discussion about making process improvements (a well known technique for finding and implementing efficiencies in an organization, Attachment 4), and no discussion about existing staff burdens which may compromise the organizations ability to work effectively and efficiently. Barring any of these issues, it would be prudent to conclude nothing has been done and there are no barriers to the existing program, as is. These omissions are inconsistent with the regulatory process as described in Executive Order 12866 (citation 2).

These actions would appear to be an oversight, for whatever reason and perhaps driven a rushed schedule because of the missed deadline to deliver the proposed rulemaking as stated in the Farm Bill, section (b) which in part includes :

"...not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations--

- (1) to streamline the process for considering applications to locate or modify communications facilities on covered land;
- (2) to ensure, to the maximum extent practicable, that the process is uniform and standardized across the organizational units of the Forest Service; and
- (3) to require that the applications described in paragraph (1) be considered and granted on a competitively neutral, technology neutral, and non-discriminatory basis."

The Farm Bill was approved on December 20, 2018. The proposed rulemaking was submitted for comment three years later on December 22, 2021. It calls into question the regulatory process for the issuance of rulemaking by an Agency so long after the fact coupled with the sharply contrasting prior final rule and proposed rule based on the Farm Bill requirements. These gaps have expose a failed regulatory review process. It is also inconsistent with Executive Order 12866 which states in part, "*each agency shall avoid regulations that are inconsistent, incompatible, or duplicative with its other regulations or those of other Federal agencies*".

For example, the legislators that created the 2018 version of the Farm Bill may no longer be part of the process (left office, etc.), knowledge retention by other staff or regulators has been lost, public comments have long since been forgotten, and many will not have even known

about the first [final] rulemaking and vice versa. Consequently, the Forest Service only has to point to the first of its two rulemakings to get buy in from the unknowing eye.

If a gap of three years is acceptable to produce a second rule on the Farm Bill, what then is the acceptable timeline for issuance of another proposed rule on the same subject, five years, ten years? Where is the regulatory oversight to ensure the public confidence in the regulatory process? If the regulatory process doesn't provide oversight for these high level issues, how is it to provide oversight for the detailed text of the proposed rulemaking? It would appear that the foundation for the proposed rulemaking is flawed for these reasons, a lack of discipline and oversight by regulators.

It is not clear if the Office of Information and Regulatory Affairs reviewed the proposed rule, or for that matter any other formal and documented review was done prior to seeking public comment. Either way, the inconsistencies between the Farm Bill and the proposed rulemaking are quite obvious when compared side by side.

3. Current Annual Fees vs. Proposed Annual Fees

The current annual fee structure used by the Forest Service is named the "Rental Fee Schedule For Communication Uses" (Attachment 5). There are ten categories indicating different types of communication facilities and nine zones indicating population density. The fees vary depending on the category and population density. For example, a television station in zone 1 (high population density) currently pays \$80,032.85 for annual "rent". At the opposite end of the schedule is the category "Other", used for Amateur Radio and an assortment of other communication uses which are non-commercial, non-profit, or service oriented no profit facilities. Those in the Other category currently pay \$133.38 per year.

As described in the proposed rulemaking, as of 2019 there are 4,159 communication use authorizations held by 1,448 unique entities, including 765 businesses, 384 governments or agencies, 266 organizations, and 33 individuals or households. The 4,159 use authorizations populate the rental fee schedule matrix given their facility type (TV, broadcast radio and so on) and affected population center. Based on the distribution across the rental fee matrix, the annual total revenue collected by the Forest Service for rent is quantified. However, this information is not available to me, or apparently the public at large, so the total amount collected each year by the Forest Service is unknown.

However, some values can be extrapolated for use here as an example. Using zone 9, the lowest population center (which means lowest cost), and then distributing the 4159 permits across the matrix (Attachment 6) the net revenue from rental fees collected by the Forest Service would be \$7,039,535.32 annually. Compared to the proposed rulemaking, which would use \$1,400 per year for all use authorizations, there would be a loss of \$1,216,935.32 revenue annually ($\$7,039,535.32 - \$5,822,600.00 = \$1,216,935.32$).

I have no way of knowing the actual distribution and consequently do not know the total net revenue from the Forest Service rental fees. However, the point being made here is this; changing the fee structure to a flat \$1,400 for all use authorizations is likely to result in less

revenue collected annually as compared to the existing rental fee schedule. The loss of a million dollars or more is sure to affect someone else's budget in the federal government. It does not appear as though the Office of Management and Budget has approved these reductions and changes (a rob Peter to pay Paul scenario).

These examples are shown to support this analysis which demonstrate the proposed rules intent to change the fees are being done in an effort to make the annual revenue available only to meet the primary objective of the Forest Service, which is to have the authorization use holder to pay to *"cover the costs of the Agency's communications use program."* These actions are contradictory to the Farm Bill text and intent as it does not in any way allow for shifting revenue and appropriations beyond those specified in the Bill.

It can be reasoned that the text in the proposed rule uses a framework which shifts the paradigm for the Farm Bill from its intended purpose, as approved by lawmakers, to the Forest Service primary interest in having a budget neutral program. It can also be reasoned that the authors of the Farm Bill did not know that a structure of fees already exists and the Forest Service may have used this gap as an opportunity to serve their objective of changing the law to acquire and spend a larger portion of the rental fees collected.

The repetition of the language in the proposed rule also speaks to the underlying intent of the Forest Service. For example, the word(s) 'administrative/administering' are used about 100 times and the words 'annual programmatic' are shown 50 times in the text. The Farm Bill uses the word 'administered' 1 time and the term 'annual programmatic' 0 (zero) times in its text. This in itself represent an order of magnitude difference in the Farm Bill as compared to the underlying intent of the Forest Service purposed rulemaking.

With regard to fee schedules, there is nothing in the Farm Bill that prevents different fees for different facilities and authorization use holders. In fact, the words "a structure of fees" in (c)(3) would convey that fees should vary accordingly. Why else would a structure be required? The proposed rule even takes exception to its own requirement to use flat rates of \$1,400 by stating fiber installations are somehow less costly for them to deal with. That argument could certainly be made among the many or the 4,159 authorizations. Using the well known Pareto Principle, the Forest Service is likely spending 80% of their time on 20% of the authorization use holders communication sites. In a general way, the existing rental fee schedule reflect costs vs. time. Flattening the fee will not change the time involvement of the Forest Service, it will remain as shown by the hierarchy reflected in the rental fee schedule as big broadcast stations, government agencies, cell services and other commercial entities which require more of the Agencies time while very little time, if any, applied to the "Other" category.

And finally, It must also be noted that the USDA has a FY2022 budget item (citation 14) which will *"enhance customer services with streamlined processes" and "reduce redundancies and inefficiencies" and "the Budget proposes an increase of 390 FTEs. The Budget provides \$817 million for salaries and expenses, which will enable RD to modernize its workforce by building capacity with an emphasis on customer service. About \$39 million of the increase will be used*

for increased staffing capacity". This text conveys that the actions of the Forest Service to charge administrative fees are redundant and unnecessary. One can see the same usage of words, " *modernize its workforce*" indicating this was not an unknown factor when the purposed rulemaking was written.

4. Distributional Impacts Of the Rulemaking

The proposed rule shows an analysis was conducted which concludes that "*Economic or distributional impacts (i.e., changes in jobs and labor income) of communications use authorizations are likewise not expected to be significant*" (citation 7). This analysis only included for profit businesses and "small organizations". It did not include any words about non-profit, no-profit or individuals in the amateur radio service or those with authorizations in the rental fee "Other" category which operate without pecuniary interest.

The overwhelming majority of authorizations are for commercial operations, many of which make huge profits from their television stations, am/fm radio stations, cable television, commercial radio service facilities, cellular services, private mobile radio services, microwave and internet services providers, and fiber optic cable companies. It's safe to say that anyone reading this document pays for one or more of these services for their personal use each month. Yet somehow the rulemaking is giving most of these a big break in their annual rental fees.

For example, at the high end, a zone 1 television station is going to have their fees reduced by 98.25% (\$80,032.25 - \$1,400 = \$78,632.25 reduction). Of the sixty-two values shown in the 2022 rental fee schedule table for commercial entities, only four have a rental fee of less than \$1,400 per year. Furthermore, 48% of the commercial entities will have their annual fees reduced by 80% or much more (30 values in the table are about equal to, or greater than \$7,000).

Why should this matter? Because the lack of a regulatory analysis reflects an unstated and unexamined assumption that the effects are small and hence not worthy of detailed analysis or consideration (citation 8). Consequently, those of us with no profit communication sites would disproportionately pay for the Forest Service program, while companies with seven digit and larger revenue streams are literally receiving a bonus by way of reductions in the amount they pay for the Forest Service program. In common terms, this is unfair and unjust, as our minimal personal incomes are taken away and placed squarely into the coffers of the rich.

There are means to correct the imbalance, but the Forest Service, USDA, and legislators are seemingly unaware (an optimistic view), or just don't care (a pessimistic view). Either way, if the Forest Service can reduce the price for the very profitable fiber-optic cable companies to \$400 dollars, then they surely could see, or examine to determine, that amateur radio authorizations have an equal or lesser affect on the program budget than fiber-optic installations.

If nothing else, the transfer of money in this manner should be troublesome to any prudent and reasonable decision maker in the Forest Service, USDA, regulatory process, or legislator. The point to underscore is that no one has tried to correct the impact on the no-profit authorizations and consequently nothing has been done to address it in the proposed rule.

I urge anyone in the sphere of the rulemaking process to step back and review the options available to correct the impact by reviewing Circular No. A-25 Revised, Executive Order 13563 -- Improving Regulation and Regulatory Review, or other regulations and guidance that afford some discretionary treatment where an imbalance, such as this, occurs.

5. United States Forest Service vs. Bureau of Land Management Actions

The USFS independently took action via the proposed rulemaking, and the one before it (citation 10), to charge an administrative fee for new and existing communications use authorizations to cover the costs of administering the Agency's communications use program. The first proposed rule(now final) was published for comment on September 25, 2019. This indicates that actions were actively occurring by the Forest Service prior to September 25, 2019. Neither of the rules show any evidence of involvement during the two year gap in time by other federal agencies, especially the Bureau of Land Management (BLM), to reduce inconsistent application of the pertinent laws.

These actions and omissions are inconsistent with Executive Order 13563 -- Improving Regulation and Regulatory Review. Executive Order 13563 states, — "*Some sectors and industries face a significant number of regulatory requirements, some of which may be redundant, inconsistent, or overlapping. Greater coordination across agencies could reduce these requirements, thus reducing costs and simplifying and harmonizing rules. In developing regulatory actions and identifying appropriate approaches, each agency shall attempt to promote such coordination, simplification, and harmonization.*"

For example, the BLM uses an identical rental fee schedule for communication uses (Attachment 7) showing the two agencies are in lockstep with regard to fees.

The BLM conducts actions for review, processing, authorizing and renewing communication use authorizations just as the Forest Service does. The BLM program for doing same is similar to that of the Forest Service. The Forest Service administers 193 million acres while the BLM administers 245 million acres or one-tenth of America's land base (citation 12). The BLM administers more than 1,500 communications sites on Federal public lands in the eleven Western states and Alaska. Right-of-way grants (ROWs) authorize construction and operation of more than 4,000 facilities -- ranging from radio and television transmitters to cellular and wireless broadband towers -- under regulations (43 CFR 2800) and supporting policies (citation 13).

Clearly the BLM has a similar level of communication site activities to manage. Coordination between the Forest Service and the BLM has not taken place over the past two years with respect to the rulemaking. Regardless, the Forest Service does not indicate in their proposed

rulemaking any evidence of meeting the requirements of Executive Order 13563 which states "*each agency **shall** attempt to promote such coordination, simplification, and harmonization*". Please notice the word "shall", which in context means, it is not optional.

It is certainly fair to state that any efficiencies promoted by the Forest Service would likewise be an efficiency for the BLM which oversees a land mass that is 27% larger than that the Forest Service administers. It calls into question why the BLM, if asked, would not participate in the actions of the Forest Service. It could very well be that the decision makers in the BLM realized that some of many flaws documented in these comments (and to be clear, of course I would not know but it would be reasonable that the two agencies have at a minimum discussed the matter).

6. Deleterious Effects on the Amateur Radio Service

Throughout its history, amateur radio enthusiasts have made significant contributions to science, engineering, industry, and social services. Research by amateur radio operators has founded new industries, built economies, empowered nations, and saved lives in times of emergency (citation 16). Fast forward to today and we find the amateur radio service being subjected to regulations, bureaucracies, and elevated costs eroding away at the fabric which developed many of today's technologies. The cumulative effect has consequences to the current and future status of the amateur radio service.

The increased annual fees proposed by the Forest Service for existing amateur radio communication site authorizations is a 953% increase, from \$133.38 to \$1,400. Many amateur radio operators will not have margin in their personal finances to bear the burden of the significant increase. Consequently, many will simply choose to terminate their service on federal land and not reinstall their communication equipment. Some may elect to transfer their authorization to someone else to alleviate themselves from the excessive fees, but again very few amateur radio operators would sign on to an authorization when they do the math on the annual fees. It is understood that \$1,400 seems small to the Forest Service and the USDA, working with millions of dollars per year and more, but it should also be understood the incremental degradation to the amateur service that will occur given the proposed rulemaking and surely others that will come after it.

At some juncture, it requires the leadership in the Forest Service and the USDA to recognize the actions being taken today have a much broader effect on public safety, emergency communication coordination with first responders, direct support of the Red Cross and similar organizations, especially during natural disasters.

Ironically, the amateur radio service provides support to the Forest Service when called upon for needed communication during wild land fires ("*The Camp Fire, the state's deadliest wildfire, triggered a call up of ARES members for communication support*" (citation 18)). A quick Google search would reveal the many times the amateur radio service has provided similar aide to the Forest Service.

Additionally, many amateur radio repeaters are located throughout the country which fill in communication gaps where cellular service is not available. Likewise, the cellular service is often not available to the general public during emergency events because the system has a limited throughput and then resorts to a prioritization scheme which prevents citizens from making calls. These are just a few examples of how the amateur radio service provides communication, with no pecuniary interest, on behalf of public safety.

As it directly applies to the proposed rulemaking, amateur radio repeaters and associated equipment on Forest Service managed lands will be decreased in the near term due to increased fees and likely crippled in the long term due to the cumulative effects of this, and future regulations. Turning a blind eye to the amateur service and the non-commercial sector by government agencies making laws which are lopsided will have a damaging effect.

The changes in the proposed rule fail to consider circumstances that warrant different treatment for different parties.

7. Redundant, Conflicting and Ineffective Directives About Broadband

The proposed rule contains the following text; "*On June 12, 2020, a Secretarial Memorandum was issued to the Chief of the Forest Service, which directs the Agency to focus resources on activities that support the productive use of NFS lands to deliver goods and services efficiently and effectively to meet the needs of the public. The Agency was specifically directed to expedite broadband development on NFS lands to increase connectivity in rural America.*" The proposed rule uses the word broadband throughout the document nine times indicating it is a priority to expedite broadband on NFS lands.

In addition to the memo cited above, below are three examples of Executive Orders, basically on the same subject, expediting broadband. They span a an eight year period, yet from reading each of them it would appear as though nothing has been done by the Agencies of the federal government. I use the word "appear" loosely, as no doubt some level of action has been taken, yet there isn't any concrete evidence in any of the Orders, the memo, or the proposed rule indicating so.

Clearly the President(s) have made broadband a priority and allocated the correct resources to do so, money, staff, etc. The Orders have some specific dates and measures, but still nothing clear about the results connecting the three Orders and the memo.

When the text is compared to the proposed rulemaking, there is a fair amount of similar language. Also, the proposed rule has no discernible measures or dates for results, just a lot of words such as "*the funds necessary to support a more modernized, efficient, and enhanced communications use program*". There is no specificity or accountability. With so much ambiguity as compared to the significance of the changes, public confidence would be really low about the Forest Service doing the (non-specific) things indicated in the rulemaking.

If history does repeat itself, the new regulation stemming from the proposed rule would not

provide the benefits stated, as unclear as they are, just consequences to those that bear the burden of increased fees.

a) The President issued "Executive Order 13821 Streamlining and Expediting Requests To Locate Broadband Facilities in Rural America" on January 8, 2018. This order states *that "It shall therefore be the policy of the executive branch to use all viable tools to accelerate the deployment and adoption of affordable, reliable, modern high-speed broadband connectivity in rural America...."*. It continues with *"executive departments and agencies (agencies) should seek to reduce barriers to capital investment, remove obstacles to broadband services, and more efficiently employ Government resources."* It concludes with a list of timelines for actions to measure progress with the Order.

b) The President issued Executive Order 13616 "Accelerating Broadband Infrastructure Deployment" on June 14, 2012. In part the Order states *"While broadband infrastructure has been deployed in a vast majority of communities across the country, today too many areas still lack adequate access to this crucial resource. For these areas, decisions on access to Federal property and rights of way can be essential to the deployment of both wired and wireless broadband infrastructure"*. The document expands on the prioritization of the federal government to minimize barriers for the wider installation of broadband, assigning working groups to take actions and report out at specified timelines. The USDA was one of the working group members.

c) The President issued Executive Order 13604 "Improving Performance of Federal Permitting and Review of Infrastructure Projects" on March 22, 2012. In part the Order states *"The Steering Committee shall facilitate improvements in Federal permitting and review processes for infrastructure projects in sectors including surface transportation, aviation, ports and waterways, water resource projects, renewable energy generation, electricity transmission, broadband, pipelines, and other such sectors as determined by the Steering Committee."* The USDA was one of the Steering Committee members.

9) The proposed rule states *"in the last decade there has been a significant increase in the volume, complexity, and types of communications uses in the United States, including on NFS lands"*. This is a qualitative statement about issues that are very quantifiable. The "increase in volume should be indicated numerically (e.g. during the period of 2012 to 2022 there were XX new authorizations). Complexity should be described in terms of technology (e.g. XX authorizations were for digital radio service). As to the "types" of communication uses, they are indicated on the USFS rental fee schedule which has, for the most part, remained the same over the past decade. The rule should not be processed further without these facts in order to verify what the Forest Service has stated (i.e. "trust but verify"). It is questionable how a proposed rule gets processed this far with this much of ambiguity.

CONCLUSION

The analysis provides concrete facts that detail 1) how the proposed rule exceeds the scope of the Farm Bill, 2) that prior rulemaking on the same subject is inconsistent with the regulatory process, 3) details the disproportionate fee changes, 4) the distributional impacts of the proposed rule, 5) the inconsistent and inefficient application of law between the Forest Service and BLM, 6) the deleterious effects on the amateur radio service, and 7) the ineffective and redundant Executive Orders about broadband.

Any one of these seven analysis should serve to send the proposed rule back for a re-write that is consistent with the language, scope and intent of the Farm Bill.

The totality of the seven analysis, especially with Attachment 1 showing the glaring conflicts between the Farm Bill and the excessive liberties taken in the language in the proposed rule, should serve to reject the proposed rule as it stands in its entirety.

It is reasonable to form a conclusion that the proposed rule is exploiting the Farm Bill purely for the opportunity *"to cover the costs of administering the Agency's communications use program"*. This is neither the scope or intent of the Farm Bill. Consequently, if passed, the proposed rule will fail to implement the actions required by the Farm Bill as intended and Executive Order 13821 will not garner the expected results, just as the two proceeding Orders had languished in the past.

The regulatory process should have identified and corrected the issues with the proposed rulemaking before it was published for comment. It would appear that the multiple years gap between the first rule published by the Forest Service and the current proposed rulemaking was a leading factor in the oversight.

The rulemaking contradicts the facts without explanation, especially the excessive repetition of the words *"use authorizations would be amended to provide for payment of the required annual programmatic administrative fee"*. It also fails to consider circumstances that warrant different treatment for different parties and by reaching a conclusion that contradicts the underlying record. The Forest Service seemingly issued a proposed rule that was based on bureaucratic compromise, not a reasoned endeavor. The record will show that the scope of the Presidents expectations, via the Farm Bill, are not faithfully carried out by the power vested in the Forest Service for implementing the proper actions therein.

I can only conclude, based on the preponderance of facts documented in the entirety of my comments, attachments and citations, that the proposed rulemaking is arbitrary and capricious.

Respectfully submitted,

Shawn J. Dienhart

ATTACHMENTS:

1. Panza Site Photo
2. Email From the Program Manager - Communication Uses, United States Forest Service
3. Side by Side Comparison of the Proposed Rulemaking Text and Farm Bill Section 8705
4. Process Improvement Example Graphic
5. USFS 2022 Rental Fee Schedule For Communication Uses
6. Example Distribution of 4159 permits Across the Rental Fees Matrix
7. BLM Rental Fee Schedule For Communication Uses
8. Document Citations

ATTACHMENT 1

Reference Photo: La Panza Peak

Amateur Radio Repeater / WB6JWB

The entire footprint of the communication site is 4'W x 8'L X 4'D. The antennas are mounted to a support which is 16' high. The site is solar powered and designed to have minimal impact on the environment. Maintenance or repair trips are made less than once per year since the installation.



ATTACHMENT 2 - Email from the USFS

From: Perry, Joey -FS [joey.perry@usda.gov]
Sent: Wednesday, December 22, 2021 2:28 PM
Subject: USDA Forest Service - Proposed Rule (Programmatic Administrative Fee for Communications Use Authorizations)

The Forest Service, U.S. Department of Agriculture, is proposing to amend its existing regulations to charge a statutorily required annual programmatic administrative fee for new and existing communications use authorizations to cover the costs of administering the Agency's communications use program.

The notice was published in the Federal Register today, with the comment period ending on February 22, 2022.

In summary, the Forest Service is proposing to charge an annual programmatic administrative fee of \$1,400 per communications use authorization for wireless uses and \$400 per communications use authorization for wired uses; the fees would be indexed annually for inflation. These fees represent the Forest Service's estimated average cost of administering its communications use program, prorated among all authorization holders.

[86 FR 72540 - Land Uses; Special Uses; Annual Programmatic Administrative Fee for Communications Use Authorizations - Content Details - 2021-27681 \(govinfo.gov\)](#)

I will be out of the office until January 3, 2022. If you have questions, please contact me then.

Thank you,



Joey Perry (she/her)
Program Manager – Communications Uses

Forest Service

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ATTACHMENT 3 - Side by Side Comparison of the Proposed Rulemaking Text and Farm Bill Section 8705

Ref	Proposed Rule Text	Farm Bill Text	Comments
1	<p>SUMMARY: The Forest Service (Agency), U.S. Department of Agriculture, is proposing to amend its existing regulations to charge a statutorily required annual programmatic administrative fee for new and existing communications use authorizations to cover the costs of administering the Agency’s communications use program.</p>	<p>(c) Requirements.--The regulations issued under subsection (b) shall include the following:</p> <p>(1) Procedures for the tracking of applications described in subsection (b)(1), including--</p> <p>(A) identifying the number of applications--</p> <p>(i) received;</p> <p>(ii) approved; and</p> <p>(iii) denied;</p> <p>(B) in the case of an application that is denied, describing the reasons for the denial; and</p> <p>(C) describing the amount of time between the receipt of an application and the issuance of a final decision on an application.</p> <p>(2) Provision for minimum lease terms of not less than 15 years for leases with respect to the location of communications facilities on covered land.</p> <p>(3) A structure of fees for--</p> <p>(A) submitting an application described in subsection (b)(1), based on the cost to the Forest Service of considering such an application; and</p> <p>(B) issuing communications use authorizations, based on the cost to the Forest Service of any maintenance or other activities required to be performed by the Forest Service as a result of the location or modification of the communications facility.</p>	<p>There are no words in the Farm Bill which include or imply a required annual programmatic administrative fee.</p> <p>The Bill requirements are to provide a structure of fees for specific actions which are bounded by (users) submitting an application, and the Forest Service costs to issue communication use authorizations.</p> <p>A "structure" is defined as <i>something arranged in a definite pattern of organization</i>. For example, the existing USFS RENTAL FEE SCHEDULE FOR COMMUNICATIONS USES is a structure of fees by definition. The language in the proposed rule omits the "structure" and leaves the use of fees wide open to be changed at the will of the Agency, as potentially written into law if the rule is made final which could have serious and adverse impacts those requesting a new or revised authorization.</p> <p>There is nothing "annual" in this context, only the activities directly related to the application and issuance of permits.</p>
2	<p>In addition to being statutorily mandated as outlined below, the annual programmatic administrative fee would provide the funds necessary to support a more modernized, efficient, and</p>	<p>(4) Availability of fees.--Amounts deposited in the special account for the Forest Service shall be available, to the extent and in such amounts as are provided in advance in appropriation Acts, to the Secretary to cover costs</p>	<p>This text is clearly out of scope as compared to the direction and text of the Farm Bill.</p> <p>There is nothing whatsoever in the Farm Bill that authorizes the collection of fees or expenditures to conduct the described actions,</p>

Regarding 86 FR 72540 - Land Uses; Special Uses; Annual Programmatic Administrative Fee for Communications Use Authorizations

	<p>enhanced communications use program. Programmatic administrative fee revenues would be used to reduce the backlog of expired communications use authorizations; streamline implementation by fully staffing the program; enhance automated applications; improve internal and external outreach, including training for employees; fund the national billing team; conduct national oversight; and obtain or improve access to communications sites.</p>	<p>incurred by the Forest Service described in subsection (c)(3), including the following: (A) Preparing needs assessments or other programmatic analyses necessary to designate communications sites and issue communications use authorizations. (B) Developing management plans for communications sites. (C) Training for management of communications sites. (D) Obtaining or improving access to communications sites. (5) No additional appropriations authorized.--Except as provided in paragraph (4), no other amounts are authorized to be appropriated to carry out this section.</p>	<p>either on the collection side or the appropriation side (collect and spend).</p> <p>The Forest Service seems to have missed the section (c)(3) and (5) No additional appropriations authorized.--Except as provided in paragraph (4), no other amounts are authorized to be appropriated to carry out this section.</p> <p>Notice the Farm Bill is specific about actions directly related to the actions of issuance of authorization and activities related to those authorizations. It says nothing about a more modernized, efficient, and enhanced communications use program. Programmatic administrative fee revenues would be used to reduce the backlog of expired communications use authorizations; streamline implementation by fully staffing the program; enhance automated applications; improve internal and external outreach, including training for employees; fund the national billing team; conduct national oversight.</p>
<p>3</p>	<p>The Agriculture Improvement Act of 2018 (the 2018 Farm Bill) was signed into law on December 20, 2018. Title VIII, Subtitle G, section 8705, of the 2018 Farm Bill, as amended by Division D, Title IV, section 416, of the Further Consolidated Appropriations Act, 2020 (Pub. L. 116–94), codified as 43 U.S.C. 1761a, requires the Agency to charge an annual programmatic administrative fee for communications use authorizations to cover the costs of the Agency's communications use program.</p>	<p>3) A structure of fees for-- (A) submitting an application described in subsection (b)(1), based on the cost to the Forest Service of considering such an application; and (B) issuing communications use authorizations, based on the cost to the Forest Service of any maintenance or other activities required to be performed by the Forest Service as a result of the location or modification of the communications facility.</p>	<p>There are no words in the Farm Bill which include or imply a required annual programmatic administrative fee.</p> <p>The Bill requirements are to provide a structure of fees for specific actions which are bounded by (users) submitting an application, and the Forest Service costs to issue communication use authorizations.</p> <p>There is nothing "annual" in this context, only the activities directly related to the application and issuance of permits.</p>
<p>4</p>	<p>Specifically, section 8705(c)(3)(B) directs the</p>	<p>3) A structure of fees for-- (A) submitting an application</p>	<p>The Bill requirements are to provide a structure of fees for specific</p>

	<p>Agency to issue regulations that require a structure of fees for issuing communications use authorizations based on the cost to the Agency for any maintenance or other activities required to be performed by the Agency as a result of the location or modification of a communications facility Section 8705 of the 2018 Farm Bill, as amended, also authorizes the Agency to retain and spend annual programmatic administrative fee revenues to cover the costs of the Agency's communications use program.</p>	<p>described in subsection (b)(1), based on the cost to the Forest Service of considering such an application; and (B) issuing communications use authorizations, based on the cost to the Forest Service of any maintenance or other activities required to be performed by the Forest Service as a result of the location or modification of the communications facility. - And- (4) Availability of fees.--Amounts deposited in the special account for the Forest Service shall be available, to the extent and in such amounts as are provided in advance in appropriation Acts, to the Secretary to cover costs incurred by the Forest Service described in subsection (c)(3), including the following: (A) Preparing needs assessments or other programmatic analyses necessary to designate communications sites and issue communications use authorizations. (B) Developing management plans for communications sites. (C) Training for management of communications sites. (D) Obtaining or improving access to communications sites. (5) No additional appropriations authorized.--Except as provided in paragraph (4), no other amounts are authorized to be appropriated to carry out this section.</p>	<p>actions which are bounded by (users) submitting an application, and the Forest Service costs to issue communication use authorizations.</p> <p>There is nothing "annual" in this context, only the activities directly related to the application and issuance of permits.</p> <p>The Forest Service seems to have missed the section (c)(3) and (5) No additional appropriations authorized.--Except as provided in paragraph (4), no other amounts are authorized to be appropriated to carry out this section.</p> <p>Key words in the context regarding maintenance is "location" and "modification". As "a result of the location or modification of a communication facility.</p> <p>In other words, these are actions based on the cost and conducting activities by the Forest Service related directly to specific authorization(s).</p> <p>The Farm Bill text does not authorize the Agency to retain and spend annual programmatic administrative fee revenues to cover the costs of the Agency's communications use program. There are no words that either state or imply the text in the proposed rule.</p>
<p>5</p>	<p>The proposed rule would implement the statutory requirement to charge an annual programmatic administrative fee for communications use authorizations to cover the costs of administering the Agency's communications</p>		<p>There are no words in the Farm Bill which include or imply a requirement to charge an annual programmatic administrative fee for communications use authorizations to cover the costs of administering the Agency's communications use program.</p>

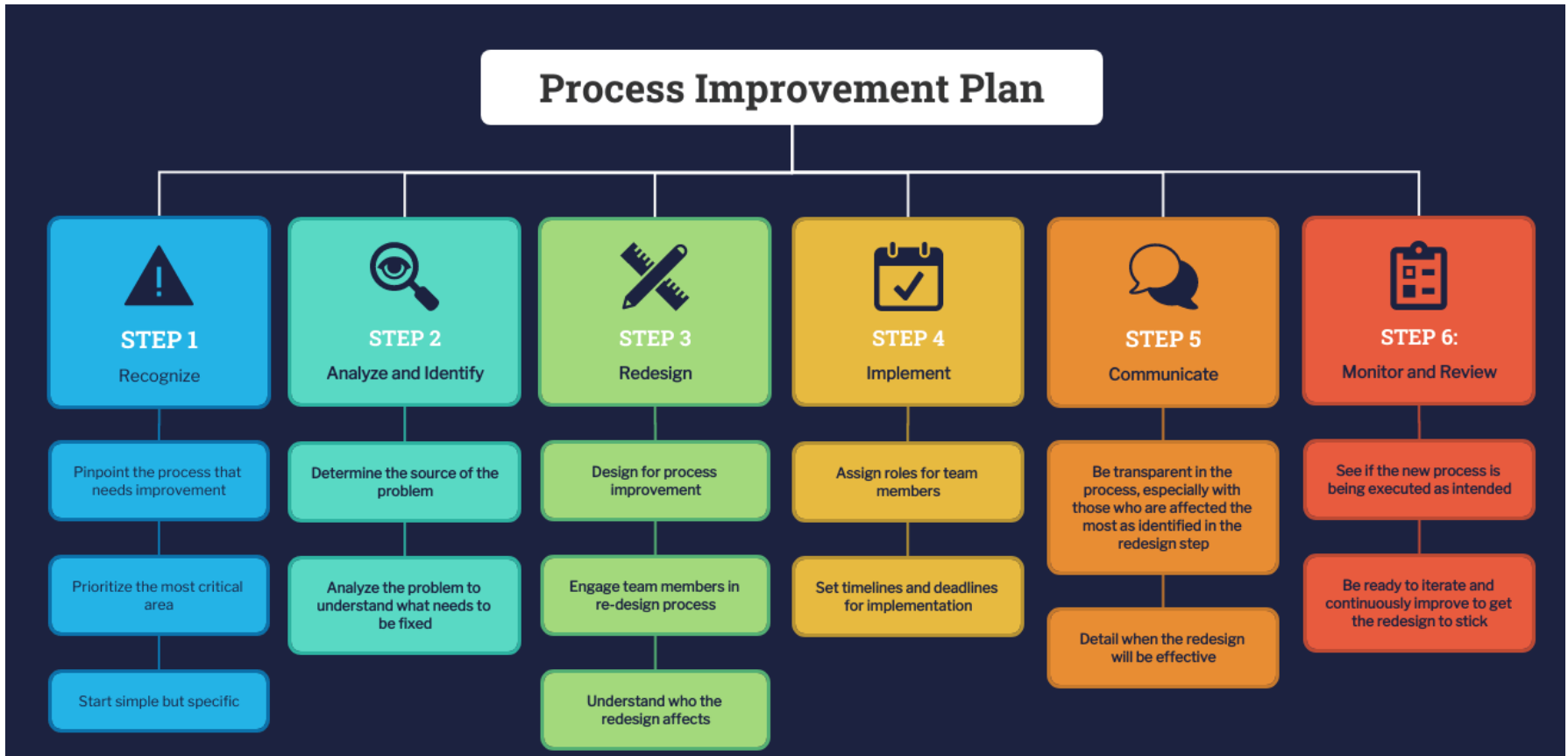
	use program.		This is clearly out of scope.
6	. The Agency proposes to implement section 8705(c)(3)(B) of the 2018 Farm Bill by adding a new subparagraph to § 251.54(g)(5), which governs the issuance of special use authorizations. Consistent with section 8705(c)(3)(B), new paragraph (g)(5)(iii) would require that an annual programmatic administrative fee be charged for communications use authorizations to cover the costs of administering the Agency's communications use program.	3) A structure of fees for-- (A) submitting an application described in subsection (b)(1), based on the cost to the Forest Service of considering such an application; and (B) issuing communications use authorizations, based on the cost to the Forest Service of any maintenance or other activities required to be performed by the Forest Service as a result of the location or modification of the communications facility. - And- (4) Availability of fees.--Amounts deposited in the special account for the Forest Service shall be available, to the extent and in such amounts as are provided in advance in appropriation Acts, to the Secretary to cover costs incurred by the Forest Service described in subsection (c)(3), including the following: (A) Preparing needs assessments or other programmatic analyses necessary to designate communications sites and issue communications use authorizations. (B) Developing management plans for communications sites. (C) Training for management of communications sites. (D) Obtaining or improving access to communications sites. (5) No additional appropriations authorized.--Except as provided in paragraph (4), no other amounts are authorized to be appropriated to carry out this section.	The text in the proposed rule is completely inconsistent with section 8705(c)(3)(B). There is no text stating or implying any such requirement for an annual programmatic administrative fee be charged for communications use authorizations to cover the costs of administering the Agency's communications use program. This is clearly out of scope.
7	Section 8705(f)(4) of the 2018 Farm Bill provides that programmatic administrative fee revenues are to be used to cover any costs incurred by the Agency in administering	(4) Availability of fees.--Amounts deposited in the special account for the Forest Service shall be available, to the extent and in such amounts as are provided in advance in appropriation Acts, to	No, the Bill does not provide that programmatic administrative fee revenues are to be used to cover any costs incurred by the Agency in administering its communications use program, including but not

	<p>its communications use program, including but not limited to the costs of on-site reviews of communications sites, developing communications site management plans, hiring and training personnel for the communications use program, conducting internal and external outreach for and national oversight of the communications use program, and obtaining or improving access to communications sites on NFS lands.</p>	<p>the Secretary to cover costs incurred by the Forest Service described in subsection (c)(3), including the following: (A) Preparing needs assessments or other programmatic analyses necessary to designate communications sites and issue communications use authorizations. (B) Developing management plans for communications sites. (C) Training for management of communications sites. (D) Obtaining or improving access to communications sites. (5) No additional appropriations authorized.--Except as provided in paragraph (4), no other amounts are authorized to be appropriated to carry out this section.</p>	<p>limited to the costs of on-site reviews of communications sites, developing communications site management plans, hiring and training personnel for the communications use program, conducting internal and external outreach for and national oversight of the communications use program, and obtaining or improving access to communications sites on NFS lands.</p> <p>This is one of the most egregious sections of the proposed rulemaking because it is in such sharp contrast to the text of the Farm Bill. It is troubling to try and understand how the Forest Service could make this interpretation based on the scope stated in the text of the Bill.</p>
<p>8</p>	<p>Cost recovery fees are charged to specific applicants for and holders of a communications use authorization to cover costs associated with processing their application and monitoring compliance with their communications use authorization. Neither of these existing fees covers the programmatic costs of administering the communications use program.</p>	<p>3) A structure of fees for-- (A) submitting an application described in subsection (b)(1), based on the cost to the Forest Service of considering such an application; and (B) issuing communications use authorizations, based on the cost to the Forest Service of any maintenance or other activities required to be performed by the Forest Service as a result of the location or modification of the communications facility. - And- (4) Availability of fees.--Amounts deposited in the special account for the Forest Service shall be available, to the extent and in such amounts as are provided in advance in appropriation Acts, to the Secretary to cover costs incurred by the Forest Service described in subsection (c)(3), including the following: (A) Preparing needs assessments or other programmatic analyses necessary to designate</p>	<p>If the Farm Bill was implemented the in manner intended by its authors, the appropriation of funds may cover a significant amount of the communications use program by the use of a structure of fees which is analogous to the existing Rental Fee Schedule For Communications USEs</p> <p>More importantly, this subject text from the proposed rule conveys the underlying context for the manner in which it is written and its many inconsistencies, a means to fund the communications use program, even though it is fully funded according to the USDA FY2022 Budget Report.</p>

		<p>communications sites and issue communications use authorizations. (B) Developing management plans for communications sites. (C) Training for management of communications sites. (D) Obtaining or improving access to communications sites. (5) No additional appropriations authorized.--Except as provided in paragraph (4), no other amounts are authorized to be appropriated to carry out this section.</p>	
9	<p>To meet the requirements of section 8705 of the 2018 Farm Bill, the Agency proposes to charge an annual programmatic administrative fee of \$1,400 per communications use authorization for wireless uses such as television and radio broadcasting, cellular telephone, and microwave and \$400 per communications use authorization for fiber optic cable. The annual programmatic administrative fee for authorizations for fiber optic cable would be lower because authorizations for this type of use have lower programmatic administrative costs, as explained below.</p>	<p>3) A structure of fees for-- (A) submitting an application described in subsection (b)(1), based on the cost to the Forest Service of considering such an application; and (B) issuing communications use authorizations, based on the cost to the Forest Service of any maintenance or other activities required to be performed by the Forest Service as a result of the location or modification of the communications facility.</p>	<p>The subject text from the proposed rulemaking are not requirements of the Farm Bill. The text in (c)(3) are the requirements.</p> <p>Charging a flat rate for all permit holders in and of itself is an egregious proposed action (see comments in main document).</p> <p>There is nothing in the Farm Bill that speaks to flat rate fees or implies same.</p>
10	<p>Consistent with section 8705(c)(3) of the 2018 Farm Bill and the proposed revisions to the Agency's regulations, the proposed directive would amend Chapter 90 to implement an annual \$1,400 programmatic administrative fee for communications use authorizations for wireless uses and an annual \$400 programmatic administrative for communications use authorizations for fiber optic cable and provide for</p>	<p>3) A structure of fees for-- (A) submitting an application described in subsection (b)(1), based on the cost to the Forest Service of considering such an application; and (B) issuing communications use authorizations, based on the cost to the Forest Service of any maintenance or other activities required to be performed by the Forest Service as a result of the location or modification of the communications facility.</p>	<p>This text is completely inconsistent with the requirements of the Farm Bill.</p> <p>There is no such language that provides an annual \$1,400 programmatic administrative fee for communications use authorizations for wireless uses and an annual \$400 programmatic administrative for communications use authorizations for fiber optic cable and provide for updating the two annual programmatic administrative fees every 5 years.</p>

	updating the two annual programmatic administrative fees every 5 years. The proposed directive would also amend Chapter 90 to establish direction on expenditure of annual programmatic administrative fee revenues.		
11	National Environmental Policy Act The proposed rule would establish procedures for charging an annual programmatic administrative fee for communications use authorizations to cover the costs of administering the Agency's communications use program.		<p>There are no words in the Farm Bill which include or imply a required annual programmatic administrative fee.</p> <p>The Bill requirements are to provide a structure of fees for specific actions which are bounded by (users) submitting an application, and the Forest Service costs to issue communication use authorizations.</p> <p>There is nothing "annual" in this context, only the activities directly related to the application and issuance of permits.</p>
XX	XX	XX	XX

ATTACHMENT 4 - Process Improvement Graphic (high level view)



ATTACHMENT 5 - USFS 2022 Rental Fee Schedule For Communication Uses

RENTAL FEE SCHEDULE FOR COMMUNICATIONS USES

Calendar Year 2022

USFS

ZONES and POPULATION	TELEVISION	AM/FM RADIO*	CABLE TELEVISION	BROADCAST TRANSLATOR/ LPTV/LPFM	CMRS/ FACILITY MANAGER	CELLULAR TELEPHONE and PCS**	PRIVATE MOBILE RADIO SERVICE	MICROWAVE and Wireless Internet Service Provider (ISP) ***	OTHER	PASSIVE REF. & LOCAL EXCH. NETWORK
Zone 1 5,000,000 plus	\$80,032.25	\$42,328.18 \$60,468.83	INSUFFICIENT	INSUFFICIENT	\$21,341.92	\$21,341.92	\$17,784.94	\$17,784.94	\$133.38	
Zone 2 2,500,000 to 4,999,999	\$53,354.83	\$26,143.86 \$37,348.37	MARKET DATA	MARKET DATA	\$17,784.94	\$17,784.94	\$10,670.98	\$14,227.98	\$133.38	
Zone 3 1,000,000 to 2,499,999	\$32,012.94	\$17,429.25 \$24,898.93	FEE TO BE DETERMINED	FEE TO BE DETERMINED	\$14,227.98	\$14,227.98	\$10,670.98	\$12,449.46	\$133.38	RENTAL FEES FOR
Zone 4 500,000 to 999,999	\$24,898.93	\$12,449.46 \$17,784.94	BY APPRAISAL OR OTHER	BY APPRAISAL OR OTHER	\$8,892.46	\$10,670.98	\$7,113.97	\$9,781.71	\$133.38	THESE USES ARE
Zone 5 300,000 to 499,999	\$21,341.92	\$9,959.59 \$14,227.98	METHODS	METHODS	\$7,113.97	\$8,892.46	\$4,446.24	\$4,446.24	\$133.38	DETERMINED BY
Zone 6 100,000 to 299,999	\$10,670.98	\$4,979.78 \$7,113.97	\$4,268.37	\$4,268.37	\$5,335.47	\$7,113.97	\$3,557.00	\$3,557.00	\$133.38	EACH USFS REGION
Zone 7 50,000 to 99,999	\$5,335.47	\$2,489.90 \$3,557.00	\$2,134.21	\$2,134.21	\$2,134.21	\$5,335.47	\$1,778.50	\$2,667.74	\$133.38	
Zone 8 25,000 to 49,999	\$2,667.74	\$1,493.95 \$2,134.21	\$1,778.50	\$889.21	\$1,778.50	\$4,446.24	\$1,067.07	\$2,667.74	\$133.38	
Zone 9 LESS THAN 25,000	\$2,134.21	\$1,120.45 \$1,600.64	\$1,067.07	\$177.82	\$1,067.07	\$4,446.24	\$622.48	\$2,667.74	\$133.38	

Index Factor is 1.054

*RENTAL FEE FOR AM RADIO IS 70% OF THE FM SCHEDULED RENT

** Also includes Enhanced Specialized Mobile Radio (ESMR), Improved Mobile Telephone Service (IMTS), Air-to-Ground, Offshore Radio Telephone Service, Cell Site Extenders, and Local Multipoint Distribution Service (LMDS)

*** For ISP populations between 1-1000, use the applicable Regional Local Exchange Network schedule.

ATTACHMENT 6 - Example Distribution of 4159 Authorizations Across the Rental Fees Matrix

A	B	C	D	E	F	G	H	I	J	K	L
ZONE	TV	RADIO	CABLE TV	TRANSLATORS	CMRS	CELL SVC	PRIVATE MOBILE RADIO	MW AND WIRELESS NET	OTHER		
1											
2											
3											
4											
5											
6											
7											
8											
9	\$2,134.21	\$1,120.45	\$1,067.07	\$177.82	\$1,067.07	\$4,446.24	\$622.48	\$2,667.74	\$133.38		
PERMITS	500	500	400	300	300	600	959	500	100	4159	TOTAL PERMITS
ZONE 9	\$1,067,105.00	\$560,225.00	\$426,828.00	\$53,346.00	\$320,121.00	\$2,667,744.00	\$596,958.32	\$1,333,870.00	\$13,338.00	\$7,039,535.32	TOTAL RENTS
								TOTAL PERMITS X	\$1,400	\$5,822,600	
										\$1,216,935.32	

This example shows all 4159 authorizations distributed across the USFS 2022 rental fee schedule in Zone 9. This is the lowest cost of the zone categories. Actual distribution is unknown as the data was not available to the public when this attachment was created.

Moving the authorization numbers around in the zone 9 row (within reason) do not significantly reduce the total rents collected annually by the USFS. In this example, there is a surplus of \$1,216,935.32 as compared to the amount of annual fees if all authorizations were collected at the proposed flat fee of \$1,400.

ATTACHMENT 7 - BLM Rental Fee Schedule For Communication Uses

Obtained from URL: https://www.blm.gov/sites/blm.gov/files/2020%20Rental%20Fee%20Schedule%20for%20Communications%20Uses_0.pdf

RENTAL FEE SCHEDULE FOR COMMUNICATIONS USES

Calendar Year 2022

BLM

ZONES and POPULATION	TELEVISION	AM/FM RADIO*	CABLE TELEVISION	BROADCAST TRANSLATOR/ LPTV/LPFM	CMRS/ FACILITY MANAGER	CELLULAR TELEPHONE and PCS**	PRIVATE MOBILE RADIO SERVICE	MICROWAVE and Wireless Internet Service Provider (ISP) ***	OTHER	PASSIVE REF. & LOCAL EXCH. NETWORK
Zone 1 5,000,000 plus	\$80,032.25	\$42,328.18 \$60,468.83	INSUFFICIENT	INSUFFICIENT	\$21,341.92	\$21,341.92	\$17,784.94	\$17,784.94	\$133.38	
Zone 2 2,500,000 to 4,999,999	\$53,354.83	\$26,143.86 \$37,348.37	MARKET DATA	MARKET DATA	\$17,784.94	\$17,784.94	\$10,670.98	\$14,227.98	\$133.38	
Zone 3 1,000,000 to 2,499,999	\$32,012.94	\$17,429.25 \$24,898.93	FEE TO BE DETERMINED	FEE TO BE DETERMINED	\$14,227.98	\$14,227.98	\$10,670.98	\$12,449.46	\$133.38	RENTAL FEES FOR
Zone 4 500,000 to 999,999	\$24,898.93	\$12,449.46 \$17,784.94	BY APPRAISAL OR OTHER	BY APPRAISAL OR OTHER	\$8,892.46	\$10,670.98	\$7,113.97	\$9,781.71	\$133.38	THESE USES ARE
Zone 5 300,000 to 499,999	\$21,341.92	\$9,959.59 \$14,227.98	METHODS	METHODS	\$7,113.97	\$8,892.46	\$4,446.24	\$4,446.24	\$133.38	DETERMINED BY
Zone 6 100,000 to 299,999	\$10,670.98	\$4,979.78 \$7,113.97	\$4,268.37	\$4,268.37	\$5,335.47	\$7,113.97	\$3,557.00	\$3,557.00	\$133.38	EACH USFS REGION
Zone 7 50,000 to 99,999	\$5,335.47	\$2,489.90 \$3,557.00	\$2,134.21	\$2,134.21	\$2,134.21	\$5,335.47	\$1,778.50	\$2,667.74	\$133.38	
Zone 8 25,000 to 49,999	\$2,667.74	\$1,493.95 \$2,134.21	\$1,778.50	\$889.21	\$1,778.50	\$4,446.24	\$1,067.07	\$2,667.74	\$133.38	
Zone 9 LESS THAN 25,000	\$2,134.21	\$1,120.45 \$1,600.64	\$1,067.07	\$177.82	\$1,067.07	\$4,446.24	\$622.48	\$2,667.74	\$133.38	

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*** For ISP populations between 1-1000, use the applicable Regional Local Exchange Network schedule.

ATTACHMENT 8 - Document Citations

#	Citation	Source
0	<p>§ 97.3 Definitions (4) Amateur service. A radio communication service for the purpose of self-training, intercommunication and technical investigations carried out by amateurs, that is, duly authorized persons interested in radio technique solely with a personal aim and without pecuniary interest</p>	<p>https://www.govinfo.gov/content/pkg/CFR-1998-title47-vol5/pdf/CFR-1998-title47-vol5-part97.pdf</p>
1	<p>(b) OIRA Responsibilities. The Administrator of OIRA shall provide meaningful guidance and oversight so that each agency’s regulatory actions are consistent with applicable law, the President’s priorities, and the principles set forth in this Executive order and do not conflict with the policies or actions of another agency.</p>	<p>https://www.reginfo.gov/public/jsp/Utilities/EO_12866.pdf</p>
2	<p>In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating. Costs and benefits shall be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nevertheless essential to consider. Further, in choosing among alternative regulatory approaches, agencies should select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.</p>	<p>https://www.reginfo.gov/public/jsp/Utilities/EO_12866.pdf</p>
3	<p><u>Other Communications Uses (OT - 801, 802, 814, 831, 832, 833)</u> means private communications uses such as amateur radio (801); personal/private receive-only antennas designed for the reception of electronic signals to serve private homes (802); natural resource and environmental monitoring equipment used by weather stations, seismic stations, and snow measurement courses (814); and other small, low-power devices used to monitor or control remote activities (831). These uses are personally owned and not operated for profit or by commercial entities.</p>	<p>https://www.fs.fed.us/specialuses/documents/2022RentalFeeScheduleForCommunicationsUses.pdf</p>
4	<p>"The total fees proposed here would collect \$5,186,777 for wireless use authorizations and \$197,390 for fiber optic cable use authorizations, a total of \$5,384,167 to be collected and retained by the Forest Service for administering the communications use program."</p>	<p>Federal Register / Vol. 86, No. 243 / Wednesday, December 22, 2021 / Proposed Rules 72543</p>
5	<p>"As discussed in the Federal Register notice for the proposed rule, existing Forest Service regulations at 36 CFR 251.54(g) and existing Forest Service directives in Forest Service Handbook (FSH) 2709.11, Chapter 10, already implement the provisions in sections 8705(b)(1) through (b)(3) and (c)(4) regarding procedures for evaluating and granting applications for</p>	<p>Federal Register / Vol. 85, No. 68 / Wednesday, April 8, 2020 / Rules and Regulations 19661 Summary of Public Comments</p>

	communications uses in a uniform, standardized manner that is competitively and technologically neutral and non-discriminatory and regarding streamlining evaluation of applications for communications uses on previously disturbed NFS lands. Proposed revisions to the Forest Service's NEPA regulations at 36 CFR part 220 (84 FR 27544) would further streamline evaluation of communications use applications."	
6	The annual programmatic administrative fee would provide the funds necessary to support a more modernized, efficient, and enhanced communications use program. Programmatic administrative fee revenues would be used to reduce the backlog of expired communications use authorizations; streamline implementation by fully staffing the program; enhance automated applications; improve internal and external outreach, including training for employees; fund the national billing team; conduct national oversight; and obtain or improve access to communications sites. The benefits from a more modernized, efficient, and enhanced communications use program funded by the annual programmatic administrative fee for communications use authorizations are expected to exceed the incremental annual programmatic administrative costs of \$1.8 million per year	https://www.govinfo.gov/content/pkg/FR-2021-12-22/pdf/2021-27681.pdf
7	The proposed rule is therefore not expected to trigger significant changes in the number of communications use authorizations or the output of communications services under those authorizations. Economic or distributional impacts (i.e., changes in jobs and labor income) of communications use authorizations are likewise not expected to be significant.	https://www.govinfo.gov/content/pkg/FR-2021-12-22/pdf/2021-27681.pdf
8	"lack of analysis reflects an unstated and unexamined assumption that the effects are small and hence not worthy of detailed analysis or consideration."	The Role of Distribution in Regulatory Analysis and Decision Making white paper / Harvard Kennedy School
9	Circular No. A-25 Revised 6.c. Exceptions Agency heads or their designee may make exceptions to the general policy if the provision of a free service is an appropriate courtesy to a foreign government or international organization; or comparable fees are set on a reciprocal basis with a foreign country. Agency heads or their designee may recommend to the Office of Management and Budget that exceptions to the general policy be made when: (a) the cost of collecting the fees would represent an unduly large part of the fee for the activity; or (b) any other condition exists that, in the opinion of the agency head or his designee, justifies an exception.	Circular No. A-25 Revised
10	36 CFR Part 251 RIN 0596-AD38 Land Uses; Special Uses;	https://www.govinfo.gov/c

	Streamlining Processing of Communications Use Applications	ontent/pkg/FR-2019-09-25/pdf/2019-20742.pdf
11	Executive Order 13563 -- Improving Regulation and Regulatory Review	https://obamawhitehouse.archives.gov/the-press-office/2011/01/18/executive-order-13563-improving-regulation-and-regulatory-review
12	The lands administered by the four major agencies are managed for many purposes, primarily related to preservation, recreation, and development of natural resources. Yet the agencies have distinct responsibilities. The BLM manages 244.4 million acres and the FS manages 192.9 million acres under similar multiple-use, sustained-yield mandates that support a variety of activities and programs. The FWS manages 89.2 million acres of the U.S. total, primarily to conserve and protect animals and plants. In FY2018, the NPS managed 79.9 million acres in 417 diverse units to conserve lands and resources and make them available for public use. The 8.8million acres of DOD lands are managed primarily for military training and testing.	https://sgp.fas.org/crs/misc/R42346.pdf?fbclid=IwAR1jDwH8R8c5psjEn00dzDDj2rEXw3l1e8UuTn3L2LP2ap6GTtWExusxjRU
13	<p>The BLM administers more than 1,500 communications sites on Federal public lands in the eleven Western states and Alaska. Right-of-way grants (ROWS) authorize construction and operation of more than 4,000 facilities -- ranging from radio and television transmitters to cellular and wireless broadband towers -- under regulations (43 CFR 2800) and supporting policies.</p> <p>Most BLM communications sites are located at geographic elevations and have one or more facilities (towers, antennas, buildings, etc.) owned by private or governmental entities. The local BLM Field Office manages activities at each site under a land use plan and a site-specific management plan.</p>	https://www.blm.gov/programs/lands-and-realty/communication-sites#:~:text=The%20BLM%20administers%20more%20than,eleven%20Western%20states%20and%20Alaska.
14	<p>Page 69 of the budget shows they've already done what the proposed rulemaking proposes: RURAL DEVELOPMENT In USDA's efforts to enhance customer services with streamlined processes, RD is making strides to reduce redundancies and inefficiencies. Supporting these objectives, the Budget proposes an increase of 390 FTEs. The Budget provides \$817 million for salaries and expenses, which will enable RD to modernize its workforce by building capacity with an emphasis on customer service. About \$39 million of the increase will be used for increased staffing capacity. The Budget requests almost \$20 million for Information Technology (IT) capabilities to support a mobile workforce</p>	USDA FY2022 Budget https://www.usda.gov/sites/default/files/documents/2022-budget-summary.pdf

	and improve customer interactions, and to replace or migrate IT legacy systems. Included in the Budget request is \$32 million for a renewed and expanded initiative to leverage USDA's extensive network of county-based offices to help people in high poverty counties, including energy communities. Referred to as the StrikeForce initiative, USDA will coordinate with other Federal agencies on an all-of-Government approach to connect rural stakeholders with Federal programs and resources. Table RD-7. Rural Development (millions of dollars)	
15	<u>Other Communications Uses (OT - 801, 802, 814, 831, 832, 833)</u> means private communications uses such as amateur radio (801); personal/private receive-only antennas designed for the reception of electronic signals to serve private homes (802); natural resource and environmental monitoring equipment used by weather stations, seismic stations, and snow measurement courses (814); and other small, low-power devices used to monitor or control remote activities (831). These uses are personally owned and not operated for profit or by commercial entities	USFS Com site billing inventory form
16	The history of amateur radio, dates from the dawn of radio communications, with published instructions for building simple wireless sets appearing at the beginning of the twentieth century. Throughout its history, amateur radio enthusiasts have made significant contributions to science, engineering, industry, and social services. Research by amateur radio operators has founded new industries, built economies, empowered nations, and saved lives in times of emergency.	https://en.wikipedia.org/wiki/History_of_amateur_radio
17	<i>"The Steering Committee shall facilitate improvements in Federal permitting and review processes for infrastructure projects in sectors including surface transportation, aviation, ports and waterways, water resource projects, renewable energy generation, electricity transmission, broadband, pipelines, and other such sectors as determined by the Steering Committee."</i> The USDA was one of the Steering Committee members.	https://www.govinfo.gov/content/pkg/FR-2012-03-28/pdf/2012-7636.pdf
18	Amateur Radio Volunteers at the Ready for California Fire Duty The Camp Fire, the state's deadliest wildfire, triggered a call up of ARES members for communication support.	http://www.arrl.org/news/amateur-radio-volunteers-at-the-ready-for-california-fire-duty