



**FSM 2200 - RANGELAND MANAGEMENT
CHAPTER 2240 - RANGELAND IMPROVEMENTS**

Amendment No.: 2200-2020-6

Effective Date:

Duration: This amendment is effective until superseded or removed.

Approved:

Associate Deputy Chief

Date Approved:

Posting Instructions: Amendments are numbered consecutively by title and calendar year. Post by document; remove the entire document and replace it with this amendment. Retain this transmittal as the first page(s) of this document. The last amendment to this title was 2200-2019-3 to 2230.

New Document	2240	17 Pages
Superseded Document(s) by Issuance Number and Effective Date	2240 (Amendment 2200-2005-4, 07/19/2005)	15 Pages
	2240 (Amendment 2200-2003-1, 01/24/2003)	12 Pages

Digest:

2240 - Changes the chapter title from “Range Improvements” to “Rangeland Improvements.”

2240.1 - Moves authorities section to FSM 2201 and consolidates with other authorities.

2240.2 - Revises objectives to increase focus on Land Management Plans (LMPs) and on project level National Environmental Policy Act (NEPA) based decisions.

2240.3 - Revises policy section to better align with updated direction. Adds and clarifies direction to include the requirement that all agency employees must inform and consult with rangeland management experts for all proposed projects that involve rangeland vegetation resources or may potentially effect or impact livestock management operations.

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Digest--Continued:

2240.4 - Moves Responsibilities section to FSM 2204 and consolidates with other responsibilities.

2240.5 - Moves Definitions section to FSM 2205 and consolidates with other definitions.

2240.6 - Adds a section, incorporates direction from FSM 2230.6 to this section, and changes the caption from “Lands Not Under the Jurisdiction of the Forest Service” to “Livestock Intrusion.”

2241 - Changes the caption from “Financing Range Improvements” (recoded to FSM 2247) to “Structural Rangeland Improvements,” and incorporates direction formerly coded to 2242 to this section.

2241.12 - Removes this section and incorporates the direction on the Range Betterment Fund into section 2247.11.

2241.32 - Removes section with obsolete direction on procurement.

2242 - Incorporates direction on nonstructural range improvements from 2243 into this section.

2243 - Changes caption from “Nonstructural Improvements” to “Maintenance of Improvements,” and incorporates direction formerly coded to FSM 2244 into this section.

2244 - Changes caption from “Maintenance of Improvements” to “Rangeland Improvements within Wilderness Areas.” and adds new section clarifying construction, repair, and maintenance of rangeland improvements in congressionally designated wilderness areas.

2245 - Removes direction from this section and incorporates it into FSH 2209.13, chapter 20.

2246 - Changes caption and replaces former direction on range improvement investment with new direction on grazing fee credits for rangeland improvements on Eastern national forests.

2247 - Moves direction on financing range improvements in its entirety from ch. 2241 to this section and updates for clarification.

2247.11 - Consolidates and clarifies policy on the use of Range Betterment Funds (RBF) for expenses associated with the planning, design, layout, contracting, and inspection of rangeland improvements, not to exceed six percent of the total project costs (para. 2).

2247.2 - Moves direction on use of grazing fees from 2241.2 to this section and changes the caption to “Adjustment of Grazing Fees,” and revises for clarity.

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Digest--Continued:

2247.3 - Moves direction on private contributions from 2241.3 to this section and changes the caption to “Non-Forest Service Contributions.”

2247.31 - Moves direction on permit modifications section from 2241.3 to this section, changes the caption to “Permittee Contributions,” and revises for clarity.

2248 - Moves and clarifies direction concerning compensation for permittee investment in rangeland improvements, where permits cancelled to devote grazing land to another public purpose from FSH 2209.13, chapter 70 to this new section.

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2240.1 - Authority

See FSM 2201 for authorities related to rangeland improvements.

2240.2 - Objectives

In addition to the objectives set forth at FSM 2202, objectives of rangeland improvements are to:

1. Assist in achieving the desired conditions established in applicable Land Management Plans (LMPs) and project level National Environmental Policy Act (NEPA) based decisions with the resultant Allotment Management Plans (AMPs);
2. Ensure that rangeland improvements are designed, constructed, and maintained for optimal effectiveness and cost efficiency.

2240.3 - Policy

In addition to policy set forth at FSM 2203, the policy regarding rangeland improvements is to:

1. Use an interdisciplinary approach to plan and analyze rangeland improvements.
2. Design and locate rangeland improvements to reflect the LMP objectives and requirements.
3. Consult journey level rangeland expertise on management decisions, improvement practices, and appropriate inventory and monitoring procedures within rangeland ecosystems.
4. Include plans, specifications, and maintenance requirements for rangeland improvements as terms and conditions of grazing permits.
5. Design and construct/implement rangeland improvements to minimize adverse effects to National Forest System (NFS) lands, wildlife, and other resources.
6. Reimburse permittees for their contributions to rangeland improvements when a decision is made to devote the affected NFS land to another public purpose (including disposal) in accordance with FSM 2248, which results in the need to cancel their permits in whole or in part. See FSH 2209.13, chapter 70 for specific direction.
7. Require permittees to contribute to rangeland improvements with proportionate contributions of money, labor, or materials for cooperative rangeland improvements on NFS lands.

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8. Document permittee contributions to rangeland improvements through permit modifications, collection agreements, and/or established procurement procedures. Permittee contributions shall also be documented in hard copy files and electronic databases. Permit modifications should be filed on top of the term grazing permit in the 2230 permittee folder until the improvement is satisfactorily completed and the financial information entered in both locations (see FSH 2209.13, ch. 60).
9. Hold the titles to permanent rangeland improvements unless specifically designated otherwise. Temporary structures to manage livestock, such as corrals and dipping vats, may be exempt. These temporary structures must be removed by the permittee when their use is no longer needed.
10. Evaluate non-permittee proposals to construct rangeland improvements under the same criteria that apply to permit holders, to determine if the improvements contribute towards accomplishing the overall resource management objectives for the area.
11. Establish and maintain an Agency approved electronic inventory of all rangeland improvements on NFS lands.
12. Do not convey exclusive rights to use a rangeland improvement or the lands on which the improvement is located to a cooperator or permittee who performs the required rangeland improvement work on NFS lands (36 CFR 222.9(b)(5)).
13. Assign the responsibility for maintenance of rangeland improvements related to livestock grazing to permittees (including grazing associations) as a term and condition of their grazing permits.
14. Require grazing permittees to maintain all assigned range improvements even during periods of nonuse and suspension. Maintenance responsibility can be assigned to temporary permit holders, filling in behind nonuse, suspensions, and grazing on vacant allotments.
15. Limit Forest Service responsibility for fully financing maintenance work to those instances in which the grazing permittee realizes no direct or indirect benefit, in emergency situations like fires where prompt action is required, when fences are constructed for purposes other than permitted livestock management, or to ensure compliance with environmental laws such as the Endangered Species Act.
16. Ensure that rangeland improvements for livestock grazing purposes, in congressionally designated wilderness areas, are developed in conformance with the Congressional Grazing Guidelines referenced in section 108 of the Colorado Wilderness Act of 1980 (Pub. L. 96-560). See FSM 2320 and FSM 2244 below for direction on construction, reconstruction, and maintenance of rangeland improvements within wilderness areas.

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17. Design structural rangeland improvements using appropriate standards (FSM 2206). See section 2241 below for the list of standard publications that detail the standards for planning and installing numerous structural rangeland improvements.

18. Include responsibility for the construction, maintenance, and removal of improvements in the terms and conditions of the permit. The Forest Service and the permittee(s) should remove non-functional and unnecessary structural rangeland improvements based on the cost-share agreement at the time of construction.

2240.4 - Responsibility

See FSM 2204 for responsibilities for rangeland improvement.

2240.5 - Definitions

See FSM 2205 for definitions of terms used in this chapter.

2240.6 - Livestock Intrusion

The United States is not responsible for intrusion of permitted livestock upon private lands nor for the settlement of controversies between the owner of the livestock and the owner of the land. Federal courts have rendered decisions (Shannon v. United States, 160 Fed. 870 (Cir. 9 1908); Light v. United States, 220 U.S., 523; United States v. Gurley, 279 Fed. 874 (N.D. GA. 1922); United States v. Johnston, 38 F. Supp. 4 (S.D.W.VA. 1941)) holding that the United States is not required to fence its lands to protect them against unauthorized livestock, or to control the livestock permitted to graze on the national forest.

Many of the Western States are fence-out States, which means that the private landowner is legally required to fence their lands, by State statute, if they wish to prevent livestock entry onto those private lands.

A check of history will show that many of the boundary fences of the proclaimed National Forests were constructed by the young men of the Civilian Conservation Corps during President Franklin Roosevelt's "New Deal" in the Great Depression of the 1930s. A check of the fences themselves will confirm that many have outlived their normal life expectancy and are rapidly losing their effectiveness at holding livestock on – or off – the national forest.

Despite the legal Federal position regarding boundary fence policy, authorized officers are frequently finding themselves in situations of controversy, accused of being bureaucrats and "poor neighbors," and often attempting to get polarized parties together to fix legal dilemmas that no one wants to accept responsibility for, including State and county elected officials.

It is perhaps even more important to note, however, that each of the court decisions noted above were issued prior to the time that the Forest Service acquired the management of the

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national grasslands (then called Land Utilization Projects) from the Soil Conservation Service (now called the NRCS) in 1954.

Many of the national grasslands surround and include large amounts of State and private lands. The mission of the grasslands includes promoting and demonstrating sound land and resource management to and for the intermingled lands in which they are located.

The situation is often magnified on grasslands when fast-moving wildfires not only burn up mile after mile of allotment boundary and pasture division fence, but the permittees face the costs of even greater losses on their intermingled lands as well as their adjacent deeded lands.

Since national grasslands have administrative boundaries, but not proclaimed ones, authorized officers need to be aware of Agency policy regarding replacement of “boundary” fences, but also informed of State statutes concerning fence ownership and maintenance responsibility between neighbors. Authorized officers need to evaluate each situation on a case-by-case basis, determine if there are cooperating agencies or partners available, including Wyden authority (Public Law 105-277, Section 323 as amended by Public Law 109-54, Section 434) or other funding mechanisms for large projects or natural disasters, and be a good neighbor when and if circumstances make it possible to do so.

2241 - STRUCTURAL RANGELAND IMPROVEMENTS

Authorize the construction, installation, and maintenance of structures on NFS lands or other lands under Forest Service control that are designed to improve desired rangeland conditions, produce forage, change vegetative composition, control patterns of use, provide water, stabilize and improve soil and water conditions, and provide habitat for wildlife. Except as otherwise specifically provided, title to structural rangeland improvements shall be in the name of the United States.

The national handbooks for Structural Range Improvements and Nonstructural Range Improvements were obsoleted in the late 1980s. However, several regional handbooks for Structural Rangeland Improvements (FSH 2209.22) are good references and are still in existence and use.

In the absence of national direction, the following publications have become the recommended sources for construction standards and maintenance requirements:

1. Facilities for Handling, Sheltering, and Trailing Livestock, 8724-2809, September 1987. Society for Range Management, 1839 York Street, Denver, CO 80206. From the Vegetative Rehabilitation Workshop. Prepared by the Missoula Technology and Development Center, USDA, Forest Service.

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2. Rangeland Water Developments at Springs: Best Practices for Design, Rehabilitation, and Restoration. RMRS-GTR-405, January 2020.

3. Facilities for Watering Livestock and Wildlife, MTDC 89-1, January 1989. Society for Range Management, 445 Union Street, Suite 230, Lakewood, CO 80228. The Vegetative Rehabilitation Workshop. Prepared by Missoula Technology and Development Center, USDA, Forest Service.

4. Fences, 8824-2803, July 1988. Society for Range Management, 445 Union Street, Suite 230, Lakewood, CO 80228. From the Vegetative Rehabilitation Workshop. Prepared by the Missoula Technology and Development Center, USDA, Forest Service.

In addition, there are several other regional research publications and State documents available that can be used to access standard specifications for livestock and wildlife needs.

2242 - NONSTRUCTURAL RANGELAND IMPROVEMENTS

Implement practices and treatments not involving the construction or installation of structures that are designed to change vegetative composition, improve production of forage, control patterns of use, provide water, stabilize soil and water conditions, and provide habitat for livestock and wildlife.

In the absence of national direction, several regional handbooks for Nonstructural Rangeland Improvements (FSH 2209.23) are good references and are still in existence and use.

2242.1 - Vegetation Management

Use cultural, manual, mechanical, biological (including, but not limited to, animals such as sheep or goats), chemical, or prescribed fire treatments to eliminate, reduce, perpetuate, or otherwise alter vegetation composition and density. Where appropriate, use a combination of methods to most effectively achieve established resource management objectives.

A Temporary Grazing or Livestock Use Permit (FS-2200-05) can be used to authorize livestock grazing for altering vegetation composition and density or to assist in achieving desired vegetative conditions.

2242.2 - Invasive Plants and Noxious Weeds

See FSM 2900 for direction concerning the prevention, detection, control, and restoration of effects from aquatic and terrestrial invasive species (including vertebrates, invertebrates, plants, and pathogens). This new file designation replaces FSM 2080 concerning the management of invasive plants and noxious weeds.

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A Temporary Grazing or Livestock Use Permit (FS-2200-05) can also be used to authorize livestock grazing to reduce or control invasive plants and noxious weeds.

2242.3 - Pesticides

See FSM 2100 Environmental Management, chapter 2150 concerning the use, management, and coordination of pesticides on rangelands.

2242.4 - Animal Damage Control

See FSM 2600, Wildlife, Fish, and Sensitive Plant Habitat Management, chapter 2650 regarding Animal Damage Management. Animal damage management and predator control activities may be initiated against animals that are causing unacceptable damage to NFS rangelands and/or to domestic livestock as well as wild ungulate populations. Conditions and circumstances may warrant coordinated action for population control to be carried out by USDA Animal and Plant Health Inspection Service (APHIS) personnel, Wildlife Damage Management (WDM) division.

2242.5 - Insect, Disease, and Pest Management

See FSM 3400, Forest Health Protection, chapter 3420 Management for direction concerning circumstances under which actions to control or eliminate rangeland insects, diseases, and pests may be appropriate.

FSH 3409.11, Forest Health Protection Handbook replaced the Forest Pest Management Handbook of the same file designation, but the new handbook is reserved at this time.

Conditions and circumstances may warrant communication with State wildlife management agencies regarding coordinated action for control to be carried out by USDA Animal and Plant Health Inspection Service (APHIS) personnel, Wildlife Damage Management (WDM) division.

2243 - MAINTENANCE OF IMPROVEMENTS

Require permittees to maintain all assigned rangeland improvements related to livestock grazing on NFS lands or other lands under Forest Service control, and keep them in operable condition throughout their normal life expectancy, except as specifically provided. Include this maintenance requirement with a detailed list of all assigned range improvements as a term and condition of the grazing permit.

Money from the Range Betterment Fund (RBF) shall not be used for maintenance of structural rangeland improvements (see 2247.11 below).

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The requirement that grazing permittees are to maintain *all* existing rangeland improvements (as well as cost-share in the funding of new improvements) is one of the factors used in calculating the costs of grazing livestock on NFS lands to determine the grazing fee formula.

2244 - RANGELAND IMPROVEMENTS WITHIN WILDERNESS AREAS

In the Wilderness Act of 1964, Congress directed agencies to administer wilderness areas in a way that preserves their wilderness character. In order to accomplish this objective, commercial enterprise[s], motor vehicles, motorized equipment, and structures and installations are prohibited except as otherwise provided for by the act.

Section 4(d)(4)(2) of the act provides a limited exception to these prohibitions for livestock grazing where the activity was established prior to the date of the area's designation as wilderness. In these cases, the Wilderness Act authorized the continuation of grazing subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture.

Due to varying, and sometimes incorrect, interpretations of this provision since 1964, the House Interior Committee issued a report in 1980 clarifying Forest Service administration of grazing activities in congressionally designated wilderness areas. The report outlined five nationwide guidelines and specific statements of legislative policy and became generally known as the Congressional Grazing Guidelines (H. Rep. No. 617, 96th Cong. 1st Session 11 (1979)). Several of these guidelines deal specifically with the issue of legally allowed construction, reconstruction, and maintenance of improvements within wilderness areas (*see* FSM 2320).

2245 - CONSERVATION PRACTICES ON NATIONAL GRASSLANDS

Conservation practices are a type of land use practice consisting of structural and nonstructural rangeland improvements that may be implemented by grazing associations and direct permittees on national grasslands, subject to the approval of the authorized officer.

Certain expenses incurred by a grazing association or term permittee, related to the development or implementation of conservation practices, may qualify for a partial reduction in the association's grazing fee under a grazing agreement (FSH 2209.13, ch. 20) or for a full or partial reduction in the grazing fee assessed to national grassland direct permittees (FSH 2209.13, ch. 20 and 80).

2246 - GRAZING FEE CREDITS ON NATIONAL FOREST SYSTEM LANDS IN THE EASTERN STATES

Grazing fee credits can reduce grazing fees paid by permittees on NFS lands in the Eastern States, in recognition of the permittee's contribution of money, labor, and/or materials towards the development or implementation of structural or non-structural rangeland improvements approved by the authorized officer. These credits are often approved because the permittee

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pays all costs for the improvement at the time of installation, and the fee credit is allowed in subsequent years to allow for permittee reimbursement of the Agency's cost-share portion of the required improvement.

The procedure for determining grazing fee credits for Agency required rangeland improvements is the same regardless of whether the grazing fee is established by noncompetitive fair market value or by competitive bid (FSH 2209.13, ch. 80).

2247 - FINANCING RANGELAND IMPROVEMENTS

2247.1 - Appropriated Funds

These funds are allocated by Congress to the Forest Service through the annual appropriation process to construct or maintain improvements necessary for proper use, protection, and improvement of rangeland resources. Use appropriated funds as available to support planning and construction of rangeland improvements. As stated below, RBF monies are used for the construction of the improvements but are very limited as to the planning of the project, and those restrictions are limited to expenditures at the ranger district level.

2247.11 - Range Betterment Fund (RBF)

Congress established the RBF in the Federal Land Policy and Management Act (FLPMA) (43 U.S.C. §1751) to finance the construction of rangeland improvements on public lands administered by the BLM and NFS lands in the sixteen contiguous Western States. This money is deposited into a separate account to finance on-the-ground rangeland rehabilitation, protection, and improvement projects. It is used to arrest rangeland deterioration and improve vegetation conditions on rangelands in order to benefit forage production for livestock and wildlife, and to improve watershed conditions.

1. One-half of the grazing fee receipts goes into the Treasury's General Fund. The remaining one-half or \$10 million, whichever is greater, constitutes the Range Betterment Fund. One-half of the money deposited into the RBF from a national forest is returned to that national forest for use on rangeland improvement projects. The remaining money deposited to the RBF from a national forest is returned to the region in which the forest is located, and may be allocated for rangeland improvement projects anywhere within the region, as determined by the regional forester on a case-by-case basis; in many cases, the entire amount is allocated to the forest that collected it. Coordinate with permittees, and other interested parties, to evaluate and prioritize rangeland improvement projects that are proposed for financing under the RBF.
2. Money from the RBF is used principally for on-the-ground rangeland improvement expenses; however, expenses associated with the planning, design, layout, contracting and inspection of rangeland improvements may be paid from the RBF in an amount not to exceed 6 percent of total project costs.

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3. Priority is assigned to those rangeland improvement projects eligible for funding under the RBF, based upon the relative contribution of each project to: the protection of rangeland from deterioration, the rehabilitation of deteriorated rangeland, and the improvement of forage quality and quantity.
4. Costs associated with general administration, range program management, and allotment management planning to RBF must not be assessed, except as specifically provided in paragraph 2 above, and then are only allowed at the ranger district level.
5. Money from the RBF may be used for rehabilitation, protection, and improvements including, but not limited to: seeding, restoration, fence construction, invasive plant control, noxious weeds control, water development, and fish and wildlife habitat enhancement.
6. Money from the RBF may be used for improvement, replacement, new construction, or reconstruction of rangeland improvement(s).
7. Money from the RBF may not be used for maintaining structural improvements.

2247.12 - Range Activities Approved for Sale Area Improvement

Under the Knutson-Vandenberg (K-V) Act of June 9, 1930, as amended Title 16, United States Code, section 576(b), funds are available to establish, protect, and improve rangeland resources inside timber sale area boundaries (FSH 2409.19 Renewable Resources Handbook). Chapter 10 of FSH 2409.19 discusses Cooperative Work, Knutson-Vandenberg (CWKV) project planning.

A common type of rangeland improvement that should be identified on the sale area improvement (SAI) plan is the construction of a fence or fence segment that becomes necessary to control cattle movements once timber has been removed from a specific portion of the allotment.

Where a potential exists for introducing or spreading invasive species or noxious weeds on the sale area, it is appropriate to plan for collection and use of K-V funds for the control, containment, or management of noxious weeds (FSH 2409.19, ch.10). Infestations need to be mapped and included on the SAI plan to ensure funds can be planned for their treatment.

2247.13 - Improvement Funding From Other Appropriated Sources

2247.13a - Fences

Current Agency policy shall determine funds for fences that are needed to support other activities such as developed recreation sites or fish and wildlife enclosures.

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2247.13b - Trails or Stock Driveways

Use trail construction funds for financing system trails or driveways. Use trail maintenance funds to eliminate and rehabilitate abandoned system trails or driveways.

Use appropriated range funds, and/or RBF, to construct, rehabilitate and/or to abandon stock driveways used exclusively for livestock.

2247.13c - Road Right-of-Way Fences and Cattleguards

1. New Roads. Road construction funds shall finance any fences or cattleguards that become necessary due to the construction or reconstruction of roads.
2. Existing Roads. Road maintenance funds shall finance any maintenance or replacement of livestock improvements that occupy the road prism or that are required by the existence of the road.

2247.2 - Fee Credits

2247.21 - National Forest Lands in the 16 Contiguous Western States (includes National Forests in Oklahoma)

Grazing fees are not adjusted to compensate grazing permittees for rangeland improvements on national forests; funds are provided for this purpose by the RBF for distribution to the forest and region where the grazing fees are collected (FSH 2209.13, ch. 80, sec. 83).

2247.22 - National Grasslands and Land Utilization Projects

Range Betterment Funds are not available for improvement construction in these areas.

Grazing fees on national grasslands and land utilization projects can be reduced by up to 50 percent for conservation practices (FSH 2209.13, ch. 80). Conservation practices include structural and nonstructural improvements. Section 84 discusses these fee reductions, called fee credits.

On national grasslands, an additional 25 percent can be subtracted from grazing fees to compensate grazing associations for administrative costs that would otherwise be incurred by the Forest Service (FSH 2209.13, sec. 25 and 84). Such costs often include taking applications and preparing permits, issuing bills for collection, and monitoring allotments.

2247.23 - National Forest System Lands in the Eastern States (Regions 8 and 9) (excludes National Forest System lands in Oklahoma, National Grasslands in Texas, and Land Utilization Projects)

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The grazing fee for national forests in the Eastern United States (Regions 8 and 9) may be reduced through the use of fee credits, for expenses incurred by the permittee associated with the construction of rangeland improvements. (FSH 2209.13, sec. 85). This applies to both competitive bid and noncompetitive, fair market value, grazing allotments.

2247.3 - Non-Forest Service Contributions

Ensure that improvements financed by private contributions are cost-effective and that they are located and built to written Forest Service specifications.

2247.31 - Permittee Contributions

It is essential that permittees make proportionate contributions towards the cost associated with cooperative rangeland improvements on NFS land. Contributions may be in the form of money, materials, and/or labor. Document all contributions in writing.

Grazing permit modifications shall authorize rangeland improvement construction involving grazing permittee contributions. Permit modifications need to (1) specify any degree of cost-sharing (50 percent is the generally accepted contribution); and (2) accept contributions in the form of labor, materials, and/or equipment, as well as direct funding.

2247.32 - Collection Agreements

Use a collection agreement for any funds that non-federal parties deposit with the Forest Service for rangeland improvements (FSH 1509.11, ch. 40).

2247.33 - Memoranda of Understanding

Use a memorandum of understanding when cooperation is between the Forest Service and a non-permittee (including States), in those instances that do not involve an interchange of funds, materials, or services (FSH 1509.11, ch. 60).

2247.34 - Interagency Agreements

Use an interagency agreement when an agreement is between the Forest Service and other Federal agencies, including those instances that involve sharing of costs, equipment, and expertise (FSH 1509.11, ch. 50).

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2248 - COMPENSATION FOR PERMITTEE INVESTMENT IN RANGELAND IMPROVEMENTS WHERE NATIONAL FOREST SYSTEM LAND IS DEVOTED TO ANOTHER PURPOSE

2248.1 - Applicability

A current permittee may be entitled to compensation for the adjusted value of investment in rangeland improvements where a decision has been made to devote the grazing land to another public purpose (FLPMA (43 U.S.C. 1752(g), Sec. 402)), which results in the permit being cancelled in whole or in part. This provision only applies where:

1. A decision is made to devote the land to another public purpose that precludes livestock grazing on national forest system lands in the sixteen contiguous Western States, as well as on the national grasslands in Texas, which results in the term permit for grazing being cancelled in whole or in part. The decisions to devote the land to another public purpose are commonly made through the forest planning process. This compensation provision may be triggered when NFS land where permitted grazing occurs is removed from the NFS through a land exchange, or an administrative transfer to another Federal agency where the continuation of livestock grazing would be incompatible with the use for which the transfer was made; and
2. The permittee made a quantifiable and verifiable investment of money, labor, or materials to construct one or more improvements on the subject land. Former permittees who contributed to an improvement, but are no longer permitted to graze on the land, are not eligible for compensation under this provision, nor are current permittees who are grazing on the NFS land but did not contribute to an improvement.

This provision at 43 U.S.C. 1752(g) does not apply to decisions which reduce livestock numbers or seasons of use due to resource conditions or suspend or cancel livestock grazing due to noncompliance.

2248.2 - Compensation Determination

Compensation shall be based on the adjusted value of the permittee's investment that is present market value of the improvement and may not exceed the fair market value of the permittee's investment at the time of permit cancellation. Any portion of improvement funding derived from appropriated funds, including Range Betterment Funds, is not eligible for compensation under this provision. Appraisals to determine adjusted value shall be done by accepted appraisal methods in the area where the improvements occur; utilize a Forest Service appraiser or obtain the services of a qualified third party appraiser. Generally, amortization schedules shall not be used to determine adjusted value; the appraisal states the present real value. Compensation shall not be based on the value of the improvement contribution to the land for grazing use.

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Payments to permittees for their interests in range improvements shall be handled as obligations of the United States; obtain a release from the permittee to indicate that compensation has been paid. Current Agency policy shall determine the cost of compensation.

In some cases, the improvements have been constructed by a grazing association (or grazing district) that would be entitled to compensation in accordance with the foregoing principle, based on the extent of their financial contributions to the project construction. That portion of the improvement funded by conservation practices shall not be eligible for compensation. The association has responsibility to distribute any compensation money paid by the Forest Service to the association back to the member(s) who contributed funds to the improvement(s), or to make the determination that the monies will be invested in other range improvements. See FSH 2209.13, chapter 20 for further direction regarding grazing associations.