PART 251—LAND USES

Subpart B—Special Uses

1. The authority citation for part 251 is revised to read as follows:

Authority: 16 U.S.C. 472, 479b, 551, 1134, 3210, 6201–13; 30 U.S.C. 1740, 1761–1771.

2. In § 251.51 add a definition for ''recreation residence lot'' in the appropriate alphabetical order to read as follows:

§ 251.51 Definitions

* * * * *

Recreation Residence Lot—a parcel of National Forest System land on which a holder is authorized to build, use, occupy, and maintain a recreation residence and related improvements. A recreation residence lot is considered to be in its natural, native state at the time when the Forest Service first permitted its use for a recreation residence. A recreation residence lot is not necessarily confined to the platted boundaries shown on a tract map or permit area map. A recreation residence lot includes the physical area of all National Forest System land being used or occupied by a recreation residence permit holder, including, but not limited to, land being occupied by ancillary uses such as septic systems, water systems, boat houses and docks, major vegetative modifications, and so forth.

* * * * *

3. In § 251.57 add new paragraphs (a)(3) and (i) to read as follows:

§ 251.57 Rental fees

(a) * * *

(3) A base cabin user fee for a recreation residence use shall be 5 percent of the market value of the recreation residence lot, established by an appraisal or other sound business management principles conducted in accordance with the Act of October 12, 2000 (16 U.S.C. 6201–13).

* * * * *

(i) Each permit or term permit for a recreation residence use shall include a clause stating that the Forest Service shall recalculate the base cabin user fee at least every 10 years and shall use an appraisal or other sound business management principles to recalculate that fee as provided in paragraph (a)(3) of this section.

Dated: May 3, 2003.

Dale N. Bosworth,

Chief.

[FR Doc. 03–11694 Filed 5–12–03; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 251

RIN 0596–AB83

Procedures for Appraising Recreation Residence Lots and for Managing Recreation Residence Uses Under Cabin User Fee Fairness Act

AGENCY: Forest Service, USDA.

ACTION: Notice of proposed directives; request for comment.

SUMMARY: In conjunction with a proposed rule published elsewhere in this part of today's **Federal Register**, the Forest Service is proposing changes to its directives for managing recreation residence special use permits and for determining land use fees for recreation residences as required by the Cabin User Fee Fairness Act of 2000. Guidance to forest officers in the administration of recreation residences and the determination of land use fees is issued in the Forest Service Manual (FSM) Title 2300, Recreation, Wilderness, and Related Resource Management; FSM Title 2700, Special Uses Management; Forest Service Handbook (FSH) 2709.11, Special Uses Handbook; and FSH 5409.12, Appraisal Handbook. Numerous revisions to these directives are necessary to address the changes in administering and determining fees for recreation residence lots pursuant to the act. Comments received in response to this notice will be considered in development of the final directives and final rule.

DATES: Comments must be received in writing by August 11, 2003.

ADDRESSES: Send written comments to Forest Service, USDA, Attn: Director of Lands, Mail Stop 1104, Washington, DC 20250–1140; by electronic mail to the World Wide Web/Internet site at *http://www2.srs.fs.fed.us/cuffa/cuffa.html* or by fax to (202) 205–1604. If comments are sent by electronic mail or by fax, the public is requested not to send duplicate written comments via regular mail. Only one response is required to address provisions contained in these proposed directives and in the proposed rule published elsewhere in this part of today's **Federal Register**. Please confine written comments to issues pertinent to the proposed directives and proposed rule; explain the reasons for any recommended changes; and, where possible, reference the specific section or paragraph being addressed. Those responding to the proposed rule, directives, and appraisal guidelines may want to review the provisions of the Cabin User Fee Fairness Act of 2000 before formulating their response. A copy of the act may be viewed and downloaded from the World Wide Web/Internet site previously listed. The Forest Service may not include in the administrative record for the proposed directives and the proposed rule those comments it receives after the comment period closes (see **DATES**) or comments delivered to an address other than those listed in this **ADDRESSES** section.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received on these proposed directives in the Office of the Director, Lands Staff, Forest Service, USDA, 4th Floor-South, Sidney R. Yates Federal Building, 1400 Independence Avenue, SW., Washington, DC, between the hours of 8:30 a.m. to 4 p.m. on business days. Those wishing to inspect comments are encouraged to call ahead to (202) 205–1248 or (202) 205–1064 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Randy Karstaedt, Lands Staff, (202) 205–1256, Forest Service, USDA.

SUPPLEMENTARY INFORMATION:

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1. Background

An analysis of the history and development of policy and regulations

for the administration of recreation residences is found in the notice of proposed rulemaking to Title 36, Code of Federal Regulations, part 251, subpart B (36 CFR part 251, subpart B) published elsewhere in this part of today's **Federal Register**.

Most of the changes required by the Cabin User Fee Fairness Act of 2000 (CUFFA) affect current recreation residence policy contained in the Forest Service Manual (FSM) and Forest Service Handbook (FSH) directives. Accordingly, the changes to recreation residence management identified in CUFFA will be implemented through revisions to the FSM and FSH pursuant to CUFFA. Table I at the end of this notice has been prepared as an aid to understanding the directive changes being proposed. Table I displays the recreation residence policy provision, its reference to the appropriate section of CUFFA, and a section-by-section comparison of the current and the proposed policy provisions.

2. Regulatory Certifications

Environmental Impact

These proposed directives revise the administrative procedures for determining market value for recreation residences on National Forest System lands. Section 31.1b of Forest Service Handbook (FSH) 1909.15 (57 FR 43180, September 18, 1992) excludes from documentation in an environmental assessment or impact statement ''rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions.'' The agency's preliminary assessment is that these proposed directives fall within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement.

Regulatory Impact

These proposed directives have been reviewed under USDA procedures and Executive Order 12866 on Regulatory Planning and Review. It has been determined that this is not a significant action. The proposed directives would not have an annual effect of $100 million or more on the economy, or adversely affect productivity, competition, jobs, the environment, public health or safety, or State or local governments. The proposed directives would not interfere with an action taken or planned by another agency, or raise new legal or policy issues. Finally, these proposed directives would not alter the budgetary impacts of entitlements, grants, or loan programs or the rights and obligations of recipients of such programs.

No Takings Implications

These proposed directives have been analyzed in accordance with the principles and criteria contained in Executive Order 12630. It has been determined that the proposed directives do not pose the risk of a taking of constitutionally protected private property.

Civil Justice Reform

These proposed directives have been reviewed under Executive Order 12988, Civil Justice Reform. The agency has not identified any State or local laws or regulations that are in conflict with these proposed directives or that would impede full implementation of the proposed directives. Nonetheless, in the event that such a conflict were to be identified, the proposed directives, if implemented, would preempt the State and local laws or regulations found to be in conflict. However, in that case, (1) no retroactive effect would be given to these proposed directives; and (2) the Department would not require the use of administrative proceedings before parties may file suit in court challenging its provisions.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the agency has assessed the effects of these proposed directives on State, local, and tribal governments and the private sector. These proposed directives would not compel the expenditure of $100 million or more by any State, local, or tribal government or anyone in the private sector. Therefore, a statement under section 202 of the act is not required.

Federalism and Consultation and Coordination With Indian Tribal Governments

The agency has considered these proposed directives under the requirements of Executive Order 13132 on federalism, and has made an assessment that the proposed directives conform with the federalism principles set out in this Executive order; would not impose any compliance costs on the States; and would not have substantial direct effects on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the agency has determined that no further assessment of federalism implications is necessary at this time.

Moreover, these proposed directives do not have tribal implications as defined by Executive Order 13175, Consultation and Coordination With Indian Tribal Governments, and, therefore, advance consultation with tribes is not required.

Energy Effects

These proposed directives have been reviewed under Executive Order 13211 of May 18, 2001, ''Actions Concerning Regulations That Significantly Affect Energy Supply.'' It has been determined that these proposed directives do not constitute a significant energy action as defined in the Executive order.

Controlling Paperwork Burdens on the Public

These proposed directives do not contain any record-keeping or reporting requirements or other information collection requirements as defined in 5 U.S.C. part 1320 that are not already required by law or not already approved for use. Any information collection requested as a result of these directives have been approved by the Office of Management and Budget under control number 0596–0082. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320 do not apply.

Dated: April 3, 2003.

Dale N. Bosworth,

Chief.

3. Proposed Revisions to Recreation Residence Directives

Note: The Forest Service organizes its Directive System by alphanumeric codes and subject headings. Only those sections of the Forest Service Manual and Handbook that are the subject of this notice are set out here. The intended audience for this direction is Forest Service employees charged with issuing and administering recreation residence special use authorizations.

Forest Service Manual

Chapter 2340—Privately Provided Recreation Opportunities

2340.05—Definitions

* * * * *

Caretaker Cabin. A residence occupying a lot within a recreation residence tract that is being used to provide caretaker services and security to the recreation residences within that tract.

* * * * *

2347.1—Recreation Residences

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

* * * * *

2347.12—Caretaker Cabins

2347.12a—Authorization

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

2347.12b—Caretaker Cabin Use

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

* * * * *

Chapter 2720—Special Uses Administration

* * * * *

2721.23—Recreation Residences

* * * * *

2721.23d—Fee Determination

1. Use market value as determined by appraisal in determining the base annual fees for recreation residence lots. Determine a new base fee at 10-year intervals.

Forest Service Handbook (FSH) 2709.11—Special Uses Handbook

Chapter 30—Fee Determination

* * * * *

33—Recreation Residence Lot Fees

Recreation residence lot fees shall be assessed and paid annually.

33.05—Definitions

Cabin. A privately owned structure that is authorized to occupy National Forest System land for use as a recreation residence.

Market Value. The amount in cash, or on terms reasonably equivalent to cash, for which in all probability the property would have sold on the effective date of the appraisal, after a reasonable exposure time on the open competitive market, from a willing and reasonably knowledgeable seller to a willing and reasonably knowledgeable buyer, with neither acting under any compulsion to buy or sell, giving due consideration to all available economic uses of the property at the time of the appraisal.

Natural, Native State. The condition of a lot or site, free of any improvements, at the time at which the lot or site was first authorized for recreation residence use by the Forest Service.

Recreation Residence. A privately owned, noncommercial residence, and its auxiliary buildings and improvements, located upon National Forest System lands and authorized by a recreation residence term special use permit. A recreation residence is maintained by the permit holder for personal, family, and guest use and enjoyment. A recreation residence shall not serve as a permanent residence.

Recreation residence lot. (For this definition, *see* 36 CFR 251.51.)

Simple Majority. More than 50 percent.

Term Permit. (For this definition, see 36 CFR 251.51 and FSM 2705.)

Tract. An established location within a National Forest containing one or more cabins authorized in accordance with the recreation residence program.

Typical Lot. A recreation residence lot in a tract that is selected for appraisal purposes as being representative of value characteristics similar to other recreation residence lots within the tract. All recreation residence lots represented by a typical lot shall be characterized as a group for appraisal purposes. A tract may have one or more groups of lots, with each group represented by a typical lot. A typical lot may be the only recreation residence lot in a group, and may be appraised to represent only itself, when it has unique value characteristics unlike any other recreation residence lot in a tract.

33.1—Base Fees and Annual Adjustments

33.11—Establishing New Base Fee

The base fee for a recreation residence special use permit shall be equal to 5 percent of the market value of the recreation residence lot as determined by appraisal. The base fee shall be recalculated at least once every 10 years.

The authorized officer shall notify the holder in writing at least one (1) year in advance of implementation that a new base fee has been determined by appraisal conducted in accordance with procedures contained in section 33.4 of this Handbook. If a second appraisal, secured by the holder (sec. 33.7) and approved by the agency, prompts the authorized officer to reconsider the new base fee amount, the revision to the base fee may be implemented at any time after the end of the one-year period following the initial notification.

The date of a billing for payment of a new base fee, or the date of a billing for the first payment of a phase-in amount (sec. 33.12) of a new base fee, shall constitute the date of implementation of the new base fee.

33.12—Phase-In of Base Fee

Require the holder to pay the full amount of a new base fee if that new base fee results in an increase of 100 percent or less from the amount of the most recent annual fee assessed the holder.

When the new base fee is greater than a 100 percent increase from the amount of the most recent annual fee assessed the holder, implement the new base fee increase in three (3) equal increments over a 3-year period. Annual adjustments (sec. 33.13) shall be included in the calculation of fees that are incrementally phased-in over the 3-year period.

The following example illustrates the manner in which a new base fee would be phased in when the new base fee results in an increase of more than 100 percent from the most recent annual fee assessed the holder:

2002 Fee amount	2003 New base fee	Increase
$700	$1,600	[1] $900

2003 Phase-in Fee: $700 (2002 fee) + $300 (⅓ of fee increase > 100%) = $1,000

2004 Phase-in Fee: $1,000 (2003 fee) + $300 (⅓ of fee increase > 100%) × 1.03* (annual IPD–GDP increase of 3%) = $1,339

2002 Fee amount	2003 New base fee	Increase
2005 Phase-in Fee: $1,339 (2004 fee) + $300 (⅓ of fee increase > 100%) × 1.03* (annual IPD–GDP increase of 3%) = $1,688		
2006 Phase-in Fee $1,688 (2005 fee) × 1.03* (annual IPD–GDP increase of 3%) = $1,739		

[1] >100% increase.

*3% annual IPD–GDP adjustment is used for illustrative purposes only. The actual annual IPD–GDP rate would be used for each of the phase-in amounts in years 2004 through 2006.

33.13—Annual Adjustment of Recreation Residence Fee

Recreation residence fees shall be adjusted annually using the 2nd quarter to 2nd quarter change in the Implicit Price Deflator, Gross Domestic Product (IPD–GDP).

An annual adjustment to the base fee shall be no more than 5 percent in any single year. When the annual change to the IPD–GDP results in an annual adjustment of more than 5 percent, apply the amount of the adjustment in excess of 5 percent to the annual fee payment for the next year in which the change in the index factor is less than 5 percent.

The following two examples illustrate how annual fees are adjusted in years during which the annual change in the IPD–GDP index exceeds 5 percent:

Example 1: Only 1 year in which the IPD–GDP adjustment exceeds 5%.

2004 Fee = $700
2005 IPD–GDP adjustment = 7%* ($700 × .07 = $49)
Maximum adjustment/year = 5% ($35)
2005 carryover adjustment = 2% ($14)
2005 Fee = $700 (2004 fee) × .05 (max. adj/yr.) = $735
2006 IPD–GDP adjustment = 3%*
Carryover adjustment from 2005 = $14
2006 Fee = $735 (2005 fee) + $14 (2005 carryover) × 1.03 = $771

Example 2: Multiple-year IPD–GDP adjustments exceeding 5%.

2004 Fee = $700
2005 IPD–GDP adjustment = 7%* ($700 × .07 = $49)
Maximum adjustment/year = 5% ($35)
2005 carryover adjustment = 2% ($14)
2005 Fee = $700 (2004 fee) × 1.05 (max. adj/yr.) = $735
2006 IPD–GDP adjustment = 7%* ($735 × .07 = $51)
Maximum adjustment/year = 5% ($37)
2006 carryover adjustment = 2% ($14)
Total carryover (2005 & 2006) = $28
2006 Fee = $735 (2005 fee) × 1.05 (max. adj/yr.) = $772
2007 IPD–GDP adjustment = 3%* (<max.adj/yr.)
Total 2006 & 2007 carryover = $28
2007 Fee = $772 (2006 fee) + $28 (2005 & 2006 carryover) × 1.03 = $824

(*Annual IPD–GDP adjustments used are for illustrative purposes only)

33.2—Fees When Determination Is Made To Place Recreation Residence on Tenure

A recreation residence use is placed on ''tenure'' when the authorized officer notifies the holder of the officer's decision to discontinue the use of the lot for recreation residence purposes and to convert the use of the recreation residence lot to some alternative public purpose. When a decision is made to discontinue the recreation use, the authorized officer shall provide the holder a minimum of 10 years notice prior to the date of converting the use and occupancy to an alternative public purpose. If the holder's 20-year term special use permit expires during that 10-year period, a new annual special use permit shall be issued with an expiration date that coincides with the specified date for converting the recreation residence lot to an alternative public purpose.

When a recreation residence use had been put on tenure, the fee for the tenth year prior to the date of converting the recreation residence use to an alternative public use becomes the base fee for the remaining life of the use. The fee for each year during the last ten years of the authorization shall be one-tenth of the base fee multiplied by the number of years remaining prior to the date of conversion. For example, charge a holder with nine years remaining, 90 percent of the base fee; with eight years, 80 percent; and so forth. Do not apply annual adjustments to fees when a recreation residence has been put on tenure notice.

Use the following schedule to calculate the holder's fee during the 10-year period:

Years remaining prior to date of conversion	Percent of base fee to charge
10	100
9	90
8	80
7	70
6	60
5	50
4	40
3	30
2	20
1	10

Use one of the following fee determination procedures when a review of a decision to convert the recreation residence lot to an alternative public use shows that changed conditions warrant continuation of the recreation residence use beyond the determined date of conversion:

1. If a new 20-year term permit is issued, recover the amount of fees forgone while the previous permit was under notice that the recreation residence lot would be converted to an alternative public purpose. Collect this amount evenly over a 10-year period in addition to the annual fee due under the new permit. The obligation runs with the recreation residence lot and shall be charged to any subsequent purchaser of the recreation residence. The annual fee under the newly issued 20-year permit shall be the annually-indexed fee computed as though no limit on tenure had existed, plus the amount as specified in this paragraph until paid in full.

2. Do not recover past fees when a 20-year term permit is not issued and the occupancy of the recreation residence lot will be authorized for less than 10 years past the originally identified date of conversion. Determine the fee for a new permit in these situations by computing the fee as if notice that a new permit would not be issued had not been given, reduced by the appropriate percentage for the number of years of the extension. For example, a new permit with a 6-year tenure period results in a fee equal to 60 percent of the base fee.

3. When a 20-year term permit is not issued, and the occupancy of the subject recreation residence lot will be allowed to continue for more than 10 years, but less than 20 years, recover fees as outlined in the preceding paragraph 1, computed for the most recent 10-year period in which the term of the permit was limited.

33.3—Fee When Recreation Residence Use Is Terminated or Revoked as Result of Acts of God or Other Catastrophic Events

When the authorized officer determines that the recreation residence lot cannot be safely occupied because of an act of God or other catastrophic event, the fee obligation of the recreation residence owner shall terminate effective on the date of the occurrence of the act or event.

A prorated portion of the annual fee, reflecting the remainder of the current billing period from the date of the occurrence of the act or event, shall be refunded to the holder. In the event that the holder is authorized to occupy an in-lieu lot (sec. 41.23d), the refund amount may instead be credited to the annual fee identified in a new permit for the in-lieu lot.

33.4—Establishing the Market Value of Recreation Residence Lot

The market value of a recreation residence lot shall be established by appraisal (FSH 5409.12, ch. 6).

1. Appraisals shall be conducted and prepared by either a contract or staff appraiser who is licensed to practice in the State within which the recreation residence lot(s) to be appraised are located. Select private contract or Forest Service staff who have adequate training through professional appraisal organizations and who have satisfactorily completed the basic courses necessary to demonstrate competence for the appraisal assignment. Require appraisers to sign an Assignment Agreement (FSH 5409.12, sec. 6.9, ex. 07). The appraisal must evaluate the market value of the fee simple estate of the National Forest System land underlying the typical lot or lots in a natural native state. However, access, utilities, and facilities that service a typical lot and which have been determined by the authorized officer to have been paid for or provided by the Forest Service or a third party, shall be included as features of the typical lot to be appraised (sec. 33.42).

Do not appraise individual recreation residence lots within a grouping or tract. Appraise the typical lot or lots that have been selected from within a group of recreation residence lots that all have essentially the same or similar value characteristics, pursuant to the direction in section 33.41. Adjustments may be made for measurable differences among recreation residence lots within a grouping.

2. The appraiser shall conduct and prepare the appraisal in compliance with:

a. The edition of the ''Uniform Standards of Professional Appraisal Practice'' in effect on the date of the appraisal;

b. The edition of the ''Uniform Appraisal Standards for Federal Land Acquisitions'' in effect on the date of the appraisal;

c. The appraisal sections for recreation residence lots found in the FSH 5409.12, section 6.9, exhibit 06; and

d. Any other case-specific appraisal guidelines provided to the appraiser by the Forest Service.

3. The appraiser shall ensure that appraised values are based on comparable market sales of sufficient quality and quantity. The appraiser shall recognize that the typical lot will not usually be equivalent to a legally subdivided lot.

The appraiser shall not select sales of land within developed urban areas, and in most circumstances, should not select a sale of comparable land that includes land that is encumbered by a conservation easement or recreational easement held by a government or institution. Sales of land encumbered by an easement may be used in situations in which the comparable sale is a single home site and is sufficiently comparable to the recreation residence lot or lots being appraised.

The appraiser shall also consider, and adjust as appropriate, the prices of comparable sales for typical value influences, which include, but are not limited to:

a. Differences in the locations of the parcels.

b. Accessibility, including limitations on access attributable to weather, the condition of roads and trails, restrictions imposed by the agency, and so forth.

c. The presence of marketable timber.

d. Limitations on, or the absence of, services such as law enforcement, fire control, road maintenance, or snow plowing.

e. The condition and regulatory compliance of any site improvements.

f. Any other typical value influences described in standard appraisal literature.

4. When an appraisal of the market value of a recreation residence lot in a tract is scheduled to occur, the authorized officer, or the authorized representative, and the appraiser shall, with a minimum 30-day written advance notice, arrange a meeting with the affected permit holders and provide them with information concerning the pending appraisal. At the meeting, holders shall be advised of the appraisal process, the method of appraisal, and selection of typical lots. Permit holders shall be afforded the opportunity to meet the appraiser individually, or as a group, concerning the selection of a typical lot or lots.

5. The appraiser shall provide the recreation residence permit holders with a minimum 30-day advance written notice (certified mail, return receipt requested) of the date and approximate time of the recreation residence lot visit. Documentation of the notification shall be included in the addenda of the appraisal report. At the recreation residence lot meeting, permit holders shall be given the opportunity to provide the appraiser with factual or market information pertinent to the valuation of the typical lot or lots. This information must be submitted in writing and shall be accounted for in the appraisal report.

33.41—Selection and Appraisal of Typical Lot

The appraiser shall appraise only the typical lot(s) selected within a tract. Before an appraisal is initiated, the authorized officer must make every effort to obtain the concurrence of the permit holders concerning the composition of the group or groupings of lots, which are essentially the same or which have similar economic value characteristics, and the selection of a typical lot(s). A representative typical lot shall be identified as economically typical of the recreation residence lots in each group. Exercise care in identifying and selecting a typical lot that is economically competitive with all of the recreation residence lots within the group it represents. The selection process shall be documented in a permanent case file for the tract.

With the advice of the appraiser, the authorized officer shall determine the composition of the group or groupings of recreation residence lots and the selection of a typical lot(s) when concurrence with the holders cannot be achieved. The inability to obtain concurrence with the holders on selection of the group or grouping of recreation residence lots and the selection of a typical lot(s) shall be documented and included in the permanent case file for the tract.

33.42—Inventorying Utilities, Access, and Facilities

The authorized officer is responsible for identifying, documenting, and inventorying all utilities, access, and facilities that service each of the typical lots within a recreation residence tract and providing that information to the appraiser as part of the appraisal assignment.

The inventory must include the authorized officer's determination of who paid for the capital costs of those utilities, access, or facilities. In doing so, the authorized officer shall presume that the permit holder, or the holder's predecessor, paid for the capital costs of the utility, access, or facility serving the typical lot, unless the authorized officer can document that either the Forest Service or a third party paid for those capital costs.

The types of utilities, access, and facilities that should be inventoried for each typical lot include, but are not limited to:

1. Potable water systems;

2. Roads, trails, air strips, boat docks, and water routes used to access the recreation residence lot or tract;

3. Waste disposal facilities; and

4. Utility lines, such as, telephone lines, fiber optic cable, electrical lines, cable TV, and so forth.

33.42a—Utilities Provided by Holder

Utilities shall be considered as provided by the holder when the holder, or the holder's predecessor:

1. Directly paid for the material and installation of the utility or road, or

2. Was assessed a lump sum fee for the installation, or was assessed a temporary surcharge to the utility or service that was in addition to the base rates assessed to all of the customers in the provider's rate base.

Hook-up fees or tap fees charged by a utility provider to connect to an existing facility do not constitute a payment of the capital costs of those facilities. The capital costs of those existing facilities are commonly assumed to be neighborhood-enhancing developments, if they were paid for and attributable to the entire service base, and the costs for installing them were borne by the provider of such service or utility.

33.42b—Utilities Provided by Forest Service or Third Party

The following evidence, when documented, shall serve as the basis for determining that the capital costs to construct a facility, utility, or access were provided by the Forest Service, or a third party:

1. A third party, such as a for-profit utility company, a not-for-profit cooperative, a water or sewer district, a municipality, and so forth, installed the utility service or facility, and that the third party provided the corresponding service to the subject lot without any lump sum or surcharge to base rates assessed to the holder or the holder's predecessor.

2. The roads providing access to a typical lot were built by a State, county, or local road agency, and were paid for from the general tax base or tax revenues used by that agency for road construction, without a specific lump sum or tax rate surcharge to the holder or the holder's predecessor.

3. Forest Service appropriations were used to construct the road, trail, or facility that provides access and/or service to the recreation residence lot.

4. The access to the recreation residence lot was built by a cooperator (pursuant to road or transportation cost-share agreement), or the access was indirectly paid by the Forest Service in the form of ''purchaser (road) credits'' pursuant to a timber sale contract.

5. The road, trail, utility, or facility that provides access or service to the subject recreation residence lot existed prior to the time when the recreation residence lot(s) within the tract was (were) first authorized for recreation residence use by the Forest Service. Such documentation shall be prima facie evidence that the capital costs to install the road, trail, utility, or facility were not paid for by the holder or the holder's predecessor.

33.5—Appraisal Specifications

Direction pertaining to appraisal specifications is found in FSH 5409.12, section 6.53, Recreation Residence Lots, and section 6.9, exhibits 06 and 07.

33.6—Review and Acceptance of Appraisal Report

The assigned Forest Service review appraiser shall review the appraisal report to ensure that it conforms to the Uniform Standards of Professional Appraisal Practice, the Uniform Appraisal Standards for Federal Land Acquisition, and appraisal guidelines found in the FSH 5409.12, chapter 6.

If the appraisal meets the standards as described in this section and as documented in an appraisal review report prepared by the assigned Forest Service review appraiser, the authorized officer may accept the estimated market value of the typical lot or lots in the appraisal for establishing a new base fee for that recreation residence lot or lots.

33.7—Holder Notification of Accepted Appraisal Report and the Right of Second Appraisal

The authorized officer shall notify the affected holder or holders that the Forest Service has accepted the appraisal report (sec. 33.6) and has determined a new base fee based on that appraisal. Upon written request, the authorized officer shall:

1. Provide the holder with a copy of the appraisal report and supporting documentation.

2. Advise the holder that the holder has 60 days after receipt of this notification to notify the authorized officer in writing of the holder's intent to obtain a second appraisal.

3. Inform the holder that if a request for a second appraisal is submitted, the holder has one year following receipt of the notice to prepare, at the holder's expense, an agency-approved second appraisal of the typical lot on which the initial appraisal was conducted, using the same date of value as the original appraisal.

33.71—Standards for Second Appraisal

33.71a—Appraiser Qualifications

The appraiser selected by the holder or holders to conduct a second appraisal must:

1. Meet the same general State certification requirements as the original appraiser;

2. Have experience in appraising vacant, recreational use lands;

3. Have the same or similar qualifications as the appraiser who prepared the first appraisal; and

4. Be approved in advance by the assigned Forest Service review appraiser.

33.71b—Appraisal Guidelines

The second appraiser shall use the appraisal guidelines used in the initial appraisal (FSH 5409.12, sec. 6.9, ex. 06), as prescribed in a pre-work meeting that includes the holder's appraiser, the Forest Service review appraiser, and the holder or holders, or their authorized representative. Prior to starting the second appraisal, the appraiser shall sign an Assignment Agreement as provided in FSH 5409.12, section 6.9, exhibit 07. After completion of the second appraisal, and in a separate document, the appraiser shall notify the assigned Forest Service review appraiser of any material differences of fact or opinion between the initial appraisal conducted for or by the agency and the second appraisal. If the second appraiser identifies the ''material differences'' assignment as a conflict of interest, the appraiser may request that the ''material differences'' assignment be completed by another qualified appraiser approved by the Forest Service review appraiser. The second appraisal shall be submitted to the appraiser's client. The document that cites material differences of fact or opinion shall be submitted directly to the assigned Forest Service review appraiser.

33.72—Reconsideration of Recreation Residence Base Fee

Reconsideration of the recreation residence base fee shall be based solely on the results of the second appraisal. The authorized officer shall inform the holder that they must submit to the authorized officer a request for reconsideration of the base fee within 60 days of receipt of the second appraisal report.

Within 60 days of receipt of the request for reconsideration of the base fee, the authorized officer shall:

1. Review the initial appraisal and appraisal review report.

2. Review the results and commentary of the second appraisal and appraisal review report.

3. Establish a new base fee in an amount that is equal to the base fee established by the initial or the second appraisal or is within the range of

values, if any, between the initial and second appraisals.

4. Notify the holder or holders of the amount of the new base fee.

33.8—Establishing Recreation Residence Lot Value During Transition Period of Cabin User Fee Fairness Act

The transition period, as identified in section 614 of the Cabin User Fee Fairness Act (CUFFA), is that period of time between the date of enactment of CUFFA (Oct. 12, 2000) and the date upon which a base cabin user fee for a recreation residence is established as a result of implementing the final regulations, policies, and appraisal guidelines established pursuant to CUFFA.

The authorized officer shall, upon adoption of regulations, policies, and appraisal guidelines established pursuant to CUFFA, notify all recreation residence permit holders whose recreation residence lots have been appraised since September 30, 1995, that they may request the Forest Service to take one of the following actions:

1. Conduct a new appraisal pursuant to regulations, policies, and appraisal guidelines established pursuant to CUFFA (sec. 33.82).

2. Commission a peer review of an existing appraisal of the typical lot completed since September 30, 1995 (sec. 33.83).

3. Establish a new base fee using the market value of the typical lot identified in an existing appraisal completed on or after September 30, 1995 (sec. 33.81).

A request to act on one of these options must be made by a simple majority of the holders within the group of recreation residence lots represented by the typical lot. To facilitate this process, the authorized officer shall provide each permit holder with the names and addresses of all of the other permit holders within the group of recreation residence lots that are represented by the typical lot, so that the holders within the group have the opportunity to collectively determine whether to exercise one of the options identified above.

33.81—Use of Appraisal Completed Since September 30, 1995

1. Establish a new base fee using 5 percent of the fee simple value, indexed to the current year, of a Forest Service approved appraisal of a typical lot completed since September 30, 1995, when:

a. Within two years following the adoption of regulations, policies, and appraisal guidelines established pursuant to CUFFA, a request for a new base fee is submitted in writing to the authorized officer by a majority of the holders within the group of recreation residence lots represented by a typical lot included in the appraisal (sec. 33.8, para. 3).

b. A majority of permit holders in a group of recreation residence lots fail to submit, within two years following the adoption of regulations, policies, and appraisal guidelines established pursuant to CUFFA, a request for one of the three options identified in section 33.8.

c. A peer review is requested and completed (sec. 33.8, para. 2), and the review determines that the appraisal completed since September 30, 1995, is consistent with the regulations, policies, and appraisal guidelines adopted pursuant to CUFFA.

2. Implement the new base fee at the time of the next regularly scheduled annual billing cycle, subject to the phase-in provisions established pursuant to CUFFA.

33.82—Request for New Appraisal Conducted Under Regulations, Policies, and Appraisal Guidelines Established Pursuant to CUFFA

A request for a new appraisal must be made within two years following the adoption of regulations, directives, and appraisal guidelines for recreation residences established pursuant to CUFFA. The authorized officer shall inform the holders that a request for a new appraisal must be submitted in writing to the authorized officer and must be signed by a majority of the recreation residence holders within the group of recreation residence lots represented by the typical lot to be appraised. The authorized officer shall also inform those holders requesting a new appraisal that in their request they must agree to collectively pay for one-half the cost to conduct the new appraisal. In addition, holders whose previous appraisal indicated that a base fee would increase more than $3,000 from the annual fee being assessed on October 1, 1996, shall be notified that they must include the following statement as a part of their request for a new appraisal:

We hereby agree that, if the new base fee established by the new appraisal that we are hereby requesting results in an amount that is 90 percent or more of the fee determined by the previously completed appraisal of this typical lot (specifically, that appraisal dated _____, with an estimated fee simple value of $_____, and an indicated annual fee of $_____), each of the permit holders within this group of recreation residence lots shall be obligated to pay to the United States the following:

1. The base fee that shall be established using the results of the new appraisal being requested, subject to the phase-in provisions of section 609 of CUFFA; and

2. The difference between (a) the annual fee that was paid during calendar years _____, _____, _____, (enter each calendar year beginning with that year when a new base fee based upon the above-referenced appraisal would have otherwise been implemented), and ending with calendar year _____ (enter the calendar year the request for a new appraisal is made), and (b) the amount that the annual fee for each of those identified calendar years would otherwise have been had a new base fee been assessed as a result of the above-referenced appraisal, pursuant to the phase-in provisions in effect and applicable during that time. This difference for those calendar years cumulatively totals $_____, as itemized on the enclosed worksheet (enter the cumulative difference and attach a worksheet showing how it was calculated, itemized for each of the calendar years identified above).

We agree that the cumulative amount identified in Item #2 (above) shall be assessed as a premium fee amount, in three (3) equal annual installments, in addition to the phase-in of the new base user fee established by the results of the new appraisal.

The authorized officer shall, upon receipt of a formal request, initiate a new appraisal of the typical lot in accordance with the regulations, policies, and appraisal guidelines adopted pursuant to CUFFA. The date of value of the new appraisal shall be the same date of value as that identified in the appraisal it is intended to replace.

33.83—Request for Peer Review Conducted Under Regulations, Policies, and Appraisal Guidelines Established Pursuant to CUFFA

A request for a peer review of an existing appraisal completed since September 30, 1995, shall be made within two years following the adoption of regulations, policies, and appraisal guidelines for recreation residences pursuant to CUFFA. The request shall be submitted in writing to the authorized officer and must be signed by a majority of the recreation residence holders within the group of recreation residence lots represented by the typical lot that was appraised. The holders requesting the peer review shall, in their request, agree to collectively pay for one-half the cost to commission the

review. In addition, holders requesting a peer review where the appraisal to be reviewed established a base fee that was more than a $3,000 annual increase to the fee being assessed the holders on October 1, 1996, shall include the following statement as a part of their request:

We hereby agree that, if the new base fee resulting from the peer review that we are hereby requesting results in an amount that is 90 percent or more of the fee determined by the previously completed appraisal of this typical lot (specifically, that appraisal dated _____, with an estimated fee simple value of $_____, and an indicated annual fee of $_____), then each of the permit holders within this group of recreation residence lots shall be obligated to pay to the United States the following:

1. The base fee that shall be established pursuant to this peer review, subject to the phase-in provisions of section 609 of CUFFA; and

2. The difference between (a) the annual fee that was paid during calendar years _____, _____, _____ (enter each calendar year beginning with that year when a new base fee based upon the above-referenced appraisal would have otherwise been implemented), and ending with calendar year_____ (insert the calendar year in which the request for a peer review is made), and (b) the amount that the annual fee for each of those identified calendar years would otherwise have been, had a new base fee been assessed as a result of the above-referenced appraisal, pursuant to the phase-in provisions in effect and applicable during that time. This difference for those calendar years cumulatively totals $ _____, as itemized on the enclosed worksheet (enter the cumulative difference, and include an attached worksheet showing how it was calculated, itemized for each of the calendar years identified above). We agree that the cumulative amount identified in Item #2 (above) will be assessed as a premium fee amount, in three (3) equal annual installments, in addition to the phase-in of the new base user fee established by the results of the peer review.

The authorized officer shall commission a peer review of the existing appraisal upon receipt of a written request to do so and upon submission of the appropriate documentation that shows that the request is being made by a majority of the holders affected. The manner in which the peer review is conducted shall be based upon the membership in a professional organization of the appraiser who conducted that appraisal as follows:

1. *Appraisals Prepared by an Appraiser Who Is a Member of a Single Appraisal Sponsor Organization of The Appraisal Foundation.* If the appraiser who prepared the appraisal that will be reviewed is a member of a single appraisal sponsor organization of The Appraisal Foundation, the authorized officer shall submit the appraisal report, appraisal review report, and peer review report instructions to that appraisal sponsor organization for assignment to a member of an established panel of accredited or designated members selected by the sponsor organization for the purpose of peer review. In consultation with the accredited or designated panel member, the sponsor organization shall provide the authorized officer an estimate of total cost for the peer review. The authorized officer shall consult with a representative of the permit holders requesting the peer review to determine if the holders wish to proceed with the review, based on the estimated cost. If a peer review is conducted, the review report shall be prepared in compliance with the review instructions provided with the existing appraisal. The peer review report shall be confined to an evaluation of whether the original appraisal report includes provisions or procedures that were implemented or conducted in a manner that is inconsistent with regulations, policies, or appraisal guidelines adopted pursuant to CUFFA and, if so, which provisions and to what effect. The peer review report is not intended to be a formal technical appraisal review report in compliance with Standards Rule 3–2 of the Uniform Standards of Professional Appraisal Practice.

2. *Appraisals Prepared by an Appraiser Who Is Not a Member of a Sponsor Organization, or is a Member of Two or More Sponsor Organizations of The Appraisal Foundation.* If the appraiser who prepared the appraisal that will be reviewed is not a member of a sponsor organization of The Appraisal Foundation, or is a member of two or more sponsor organizations of The Appraisal Foundation, the authorized officer shall submit the appraisal report, appraisal review report, and peer review report instructions, after consultation with the requesting permit holders, to a sponsor organization that has established a panel for peer review of recreation residence lot appraisals. If the authorized officer and a majority of the requesting permit holders cannot agree on which sponsor organization to solicit for the peer review, the authorized officer shall make the decision based upon a recommendation from the Regional Appraiser. The authorized officer shall request the selected appraisal sponsor organization to assign a member of the established panel of accredited or designated members to conduct the peer review. The authorized officer shall also request the sponsor organization to provide the authorized officer, in consultation with the accredited or designated panel member, an estimate of total cost for the peer review. The authorized officer shall consult with a representative of the requesting permit holders to determine if the holders want to proceed with the review, based on the estimated costs. If a peer review is conducted, the review report shall be prepared in compliance with the review instructions provided with the existing appraisal. The peer review report shall be confined to evaluation of whether the original appraisal report includes provisions or procedures that were implemented or conducted in a manner that is inconsistent with regulations, policies, or appraisal guidelines adopted pursuant to CUFFA and, if so, which provisions and to what effect. The peer review report is not intended to be a formal technical appraisal review report in compliance with Standard Rule 3–2 of the Uniform Standards of Professional Appraisal Practice.

a. If the peer review shows that the appraisal is consistent with the regulations, policies, and appraisal guidelines adopted pursuant to CUFFA, the authorized officer shall establish a new base fee using 5 percent of the fee simple value of the typical lot identified in the appraisal.

b. If the peer review results in a determination that the appraisal was not conducted in a manner consistent with the regulations, policies, and appraisal guidelines adopted pursuant to CUFFA, the authorized officer shall either

(1) Establish a new base fee to reflect consistency with the regulations, policies, and appraisal guidelines adopted pursuant to CUFFA, or

(2) Conduct a new appraisal in accordance with the provisions of CUFFA if requested by a majority of the affected holders.

* * * * *

FSH 5409.12—Appraisal Handbook

Chapter 6—Appraisal Contracting

6.5—Appraisals for Special Purposes

6.53—Recreation Residence Lots

The standard specifications for recreation residence lot appraisals shall be used Service-wide (sec. 6.9, ex.06). Do not modify or deviate from these

specifications without the approval of the Washington Office, Director of Lands.

Require all appraisers conducting a second appraisal for a recreation residence lot to submit an Assignment Agreement (sec. 6.9, ex. 07).

6.9—Exhibits

Exhibit 06—Required Specifications for Appraisal of Recreation Residence Lots

Exhibit 07—Assignment Agreement for Appraisal of Recreation Residence Lots

BILLING CODE 3410–11–P

6.9 - Exhibit 06

REQUIRED SPECIFICATIONS FOR APPRAISAL OF RECREATION RESIDENCE LOTS

These specifications replace Section C of the Basic Specifications for Real Property Appraisal in total. They are intended for use in the appraisal of recreation residence lots. The procedures for identifying, inventorying, and preparing for the appraisal of these lots are included in FSH 2709.11, Chapter 30.

SECTION C-2 BASIC SPECIFICATIONS FOR REAL PROPERTY APPRAISALS

SECTION C-2.1 - GENERAL SPECIFICATIONS

C-2.1(a) - Scope of Service. The Contractor shall furnish all materials, supplies, tools, equipment, personnel, travel (except those to be furnished by the Government as listed in Section I), and shall complete all requirements of this contract including performance of the professional services listed herein.

The project consists of one or more self-contained appraisal report(s) per bid item for the specified property(ies). For the purposes of these specifications ". . . . any appraisal report, whether identified by the appraiser as a self-contained report or a summary report, will be considered as meeting the "Uniform Standards of Professional Appraisal Practice" (USPAP) requirements for a 'self-contained' report if it has been prepared in accordance with . . ." the "Uniform Appraisal Standards for Federal Land Acquisitions" (UASFLA, 2000; Section A). The report shall provide an estimate of market value for the estate to be appraised, and shall conform to the current edition of USPAP, published by The Appraisal Foundation, as well as UASFLA.
The Contractor may be provided a pre-determined date of value for the entire project; otherwise, the date of the value estimate shall be the last date the appraiser inspected the appraised property.

If clarification of these specifications is needed, and/or to arrange for the site inspection and pre-work meeting, the appraiser shall contact the assigned Forest Service review appraiser.

_____ (Review Appraiser)
_____ (Address)
_____ (Phone Number)

C-2.1(b) - Appraisal Report. The appraiser selected for the assignment shall make a detailed field inspection of the subject property as identified in Exhibit __, and shall make such investigations and studies as are necessary to derive sound conclusions and to

6.9 - Exhibit 06--Continued

prepare the appraisal report.

C-2.1(c) – Pre-Work Conference: At the request of the assigned Forest Service review appraiser, the appraiser will be required to attend a pre-work conference for discussion and understanding of these instructions. The pre-work conference may be held in conjunction with the property examination [C-2.1(d)].

C-2.1(d) - Examination Notice. The authorized Forest Service officer, assigned Forest Service review appraiser, and Contractor shall offer to meet with the affected permit holders to provide them with information concerning the appraisal. The Contractor shall provide the permit holders at least a 30-day written notice in advance of the meeting. At the meeting, holders will be advised of the appraisal process, the method of appraisal, and selection of typical lots. The holders shall be given the opportunity and invited to provide the appraiser with factual or market information pertinent to the valuation of the typical lot or lots. This information must be submitted to the Contractor in writing, and shall be accounted for in the appraisal report. Permit holders will be afforded the opportunity to meet the Contractor individually, or as a group.

The Contractor shall provide the 30-day advance meeting notification by certified mail, return receipt requested, of the date and approximate time of the meeting. Documentation of notification shall be contained in the addenda of the appraisal report. The holders shall be given the opportunity to accompany the Contractor during the scheduled permitted recreation residence lot property examination. The Contractor shall certify that the signer of the report has personally visited the appraised property and all of the comparable transactions used in the comparative analyses.

C-2.1(e) - Updating of Report. Upon the request of the Government, the Contractor shall, during a two-year period following the date of the appraisal report, update the value as of a specified date. The updated report shall be submitted in original and _____ copies (number of copies to be determined) and shall include sales data or other evidence to substantiate the updated conclusion of value. Suggested format shown under Section C-2.3.

C-2.1(f) - Testimony. Upon the request of the United States Attorney or the Department of Justice, the Contractor shall, in any judicial proceedings, testify as to the value of any and all property included in the appraisal report as of the valuation date.

C-2.1(g) - Definition of Terms. Unless specifically defined herein or in either USPAP or UASFLA, definitions of all terms are the same as those found in "The Dictionary of Real Estate Appraisal" (Appraisal Institute), current edition. UASFLA shall take precedence in any differences among definitions.

6.9 - Exhibit 06--Continued

SECTION C-2.2 - TECHNICAL SPECIFICATIONS

Application of These Specifications. These technical specifications reflect the standards for the appraisal of property to be authorized for occupancy as a recreation residence lot by the Forest Service. The typical lot(s) to be appraised for this assignment are described in Exhibit ____.

Federal Law Controls. Federal law differs in some important aspects from the law of some states. Accordingly, it is incumbent upon the appraiser to understand the applicable Federal law as it affects the appraisal process in the estimation of market value.

The Federal law is reflected in UASFLA. These specifications follow UASFLA format, with emphasis on issues of special concern to the Forest Service. It should not be construed that the appraiser is to consider only the emphasized items. Appraisal reports shall be prepared in compliance with UASFLA standards and Forest Service appraisal instructions provided by the assigned review appraiser.

One aspect of the UASFLA that the appraiser should be aware of is the "unit rule." The unit rule requires valuing property as a whole rather than by the sum of the values of the various interests into which it may have been carved. A second aspect of the unit rule is that different elements or components of a tract of land are not to be separately valued and added together. Follow direction in UASFLA, Section B-13.

Jurisdictional Exception Rule. Conflicts between UASFLA and USPAP are minimal. When there is conflict, UASFLA takes precedence. It may be necessary to invoke the Jurisdictional Exception Rule (USPAP) to meet certain standards of the UASFLA and the "Cabin User Fee Fairness Act of 2000" (CUFFA). Invocation of the Jurisdictional Exception Rule must include citation of the over-riding Federal policy, rule, regulation, or law that requires it. The planned use of Jurisdictional Exception Rule of the USPAP shall be discussed with the assigned Forest Service review appraiser no later than the pre-work meeting.

Comprehensive Review. Federal law requires review of all appraisals by a qualified review appraiser to assure they meet applicable appraisal requirements, including those in UASFLA, Forest Service policy, and these specifications. Compliance with USPAP will also be reviewed. Findings of deficiency shall be discussed and corrections requested once the appraisal report has been delivered. A value estimate is acceptable for agency use only after the assigned Forest Service staff review appraiser has approved the appraisal report. (Forest Service Manual 5411)

Freedom of Information Act. Freedom of Information Act and CUFFA provisions will result in release of all or part of the appraisal report to the public. Prepare the report

6.9 - Exhibit 06--Continued

accordingly:

1. Analytical methods and techniques shall be explained (in so far as possible) in a manner understandable to the public, as well as the reviewer.

2. If providers of information request confidentiality, such information shall not be included in the report. Confidential information shall be made available to the reviewer upon request, but shall not be incorporated in a Forest Service system of records.

Unit of Comparison. The final estimate of value shall be on the basis of fee simple value for the typical lot, rather than a unit price expressed as a value per square foot, per acre, per front foot, or similar unit. Normally, the unit of comparison in the appraisal of recreation residence lots shall be the lot. Price per front foot for waterfront lot may be appropriate where it is demonstrated similar lots are bought and sold on a front-foot basis. However, the final estimate of value for the typical recreation lot shall be in terms of total fee simple value for the lot.

Lot. The appraiser shall identify the lot to be appraised in a manner that is consistent with the definition of a lot as identified at 36 CFR 251.51. When recreation residence uses and facilities occur beyond the platted boundaries displayed on a recreation residence tract map or beyond "lot" boundaries marked on the ground, the lot to be appraised shall extend beyond those plotted or marked boundaries to include all National Forest System land and related improvements being used or occupied by the permit holder.

Examples of uses or facilities that, in addition to the recreation residence itself, are considered related improvements may include, but are not limited to:

1. Ancillary structures, such as guest cabins, sleeping cabins, a second residence, and so forth.

2. Boat docks and boathouses (not including marinas).

3. Constructed pathways, boardwalks, sidewalks, stepping stones, brick pavers, and developed trails.

4. Woodpiles, picnic tables, and campfires sites.

5. Areas of vegetative manipulation and management conducted primarily for recreation residence purposes, such as landscaping, mowing, mulching, lawns, shoreline stabilization, and so forth.

6.9 - Exhibit 06--Continued

Physical Capacity of the Lot to Accommodate Essential Infrastructure. The physical capacity of the lot and appurtenant area to support essential infrastructure associated with recreation residence use, such as an appropriate septic system, domestic water source (well and pump) in conformance with local health and safety requirements, shall be documented in the appraisal and reflected in the value conclusion.

C-2.2(a) - Format. The report shall be typewritten on bond paper sized 8 1/2 by 11 inches with all parts of the report legible and shall be bound with a durable cover. The face of the report shall be labeled to identify the appraised property and to show the contract number, appraiser's name and address, and the date of the appraisal. All pages of the report, including the exhibits, shall be numbered.

C-2.2(b) - Contents. Following is a suggested format, based on UASFLA. Although it is not required that the appraiser strictly adhere to it, all items must be addressed. It should be noted that in most instances, these specifications reference UASFLA without reprinting them here. Important items are noted below, but are not all-inclusive. It is incumbent upon the appraiser to read, understand, and comply with UASFLA and these specifications.

C-2.2(b)(1) - PART I – INTRODUCTION. Follow the UASFLA format.

1. Title Page

2. Letter of Transmittal

3. Table of Contents

4. Appraiser's Certification: Follow the UASFLA (A-4) and USPAP guidelines, but include the following:

> "I have made a personal inspection of the appraised property which is the subject of this report and all comparable sales used in developing the estimate of value. The date(s) of inspection was _____, and the method of inspection was _____. (If more than one person signs the report, this certification must clearly specify which individuals did and which individuals did not make a personal inspection of the appraised property.)

> "The landowner and/or permit holder or the landowner's and/or permit holder's representative jointly inspected the property with the appraiser on (date)." (or the landowner and permit holder were invited to jointly inspect the property and declined).

6.9 - Exhibit 06--Continued

"In my opinion, the market value (or other value as required) is $ as of (date)_____."

By (Appraiser's signature)_____
Printed Name
State Certification #

5. Summary of Salient Facts and Conclusions. The summary of Salient Facts and Conclusions is a brief recital of the principal facts and conclusions contained in the appraisal report. The purpose is to offer convenient reference to the reader. In addition to the reporting requirements found in UASFLA, items which must be included in the summary are:

a. Name of recreation residence tract.

b. Size range of lots.

c. Authorized use, which is the highest and best use.

d. Improvements furnished by the Forest Service (or any other entity who is or was not a cabin owner) included in the appraised value.

e. Estimated value of each typical lot.

f. Other pertinent facts and conclusions to provide ease of use of the report by the reader, including any hypothetical conditions, extraordinary assumptions, limiting conditions, or special instructions.

g. Effective date of appraisal.

6. Photographs of Subject. Provide original color photographs or high quality color copies of photographs of the appraised property. Photographs may be a separate exhibit in the addenda or included with the narrative description of the appraised property and comparable sales. Show the following information with each photograph:

a. Identify the photographed scene. Indicate direction of view, vantage point, and other pertinent information. A map may be used to show some of this information.

b. The name of the photographer.

c. The date the photograph was taken.

6.9 - Exhibit 06--Continued

7. Statement of Assumptions and Limiting Conditions. Note the following:

All appraisal reports submitted to the Forest Service for review become the property of the United States and may be used for any legal and proper purpose. Therefore, a condition that limits distribution of the report is not permitted.

If the appraisal has been made subject to any encumbrances against the property, such as easements, that shall be stated. It is unacceptable to state that the property has been appraised as if free and clear of all encumbrances, except as stated in the body of the report; the encumbrances must be identified in this section of the report.

The adoption of an uninstructed assumption or hypothetical condition that results in other than "as is" market value will invalidate the appraisal. Include only factors relating to the appraisal problem. Assumptions and limiting conditions that are speculative in nature are inappropriate. Do not include limiting conditions that significantly restrict the application of the appraisal.

In this section of the specifications, or in separate written instructions, the contractor must be instructed as to necessary hypothetical conditions or extraordinary assumptions. The Contractor shall recognize that the typical lot will not usually be equivalent to a legally subdivided lot. The Contractor shall not select sales of land within developed urban areas and, in most circumstances, should not select a sale of comparable land that includes land that is encumbered by a conservation easement or recreational easement held by a government or institution. Sales of land encumbered by an easement may be used in situations in which the comparable sale is a single home site and is sufficiently comparable to the lot or lots being appraised.

> "An appraiser cannot make an assumption or accept an instruction that is unreasonable or misleading. Agency instructions and/or legal instructions must have a sound foundation, must be in writing, and must be included in the appraisal report." (UASFLA D-3)

All cabin-owner-provided improvements on and to the lot are excluded from consideration in the value conclusion.

All utilities, access, or facilities that, in accordance with the inventory of those improvements, are identified as having been provided by the cabin owner, or a predecessor of the cabin owner, are to be excluded from consideration in the value conclusion.

The lot is appraised as if held in private ownership.

6.9 - Exhibit 06--Continued

The highest and best use of the lot is its authorized use, a recreation residence lot.

Lot size shall conform with all local zoning requirements in effect on the date of the original authorization and all applicable "grandfathering" provisions in effect on the date of value.

8. Scope of the Appraisal: This section shall fully describe the extent of investigation and analysis. The scope of work should be consistent with the intended use of the appraisal.

9. Purpose of the Appraisal: Note the following:

A description of the property rights appraised is to be included under factual data rather than in the Purpose section.

Use the following definition: "Market value is the amount in cash, or terms reasonably equivalent to cash, for which in all probability the property would have sold on the effective date of the appraisal, after a reasonable exposure time on the open competitive market, from a willing and reasonably knowledgeable seller to a willing and reasonably knowledgeable buyer, with neither acting under any compulsion to buy or sell, giving due consideration to all available economic uses of the property at the time of the appraisal." (UASFLA A-9)

This definition makes no linkage between the estimated market value and exposure time. A specific exposure time shall not be cited in an appraisal report prepared under UASFLA standards. Invoke the Jurisdictional Exception Rule to avoid a violation of USPAP standards, which require a specific exposure time.

The purpose of the appraisal is to determine market value of the fee simple estate of a typical lot or lots. The appraisal will be used by the Forest Service to determine the base cabin user fee required by the "Cabin User Fee Fairness Act of 2000." Intended users of the appraisal are the Forest Service and affected cabin owners.

10. Summary of Appraisal Problem

C-2.2(b)(2) - Part II - FACTUAL DATA

1. Legal Description. Note the following: The legal description is provided to the appraiser in the appraisal assignment. If a lengthy description would disrupt the narrative flow, it may be placed in the addenda and referenced in the text.

2. Property Rights. The estate appraised is fee simple title to the typical lot considered to be in a natural, native state. Utilities, access, or facilities serving the lot

6.9 - Exhibit 06--Continued

that are provided by the agency shall be included as features of the lot being appraised. Utilities, access, or facilities serving the lot that are provided by the cabin owner (or predecessor of the cabin owner) shall not be included as a feature of the lot being appraised. Utilities, access, or facilities serving the lot that are provided by a third party shall not be included as a feature of the lot being appraised, unless the Forest Service determines that the capital costs have not been paid by the cabin owner (or predecessor of the cabin owner). Discuss the effect on value of identified reservations, outstanding rights, and other encumbrances.

3. Area, City and Neighborhood Data. The use of boilerplate demographic and economic data is unnecessary and undesirable. Report only those data that directly impact the market analysis.

a. Area Map. Include a small-scale map showing the general location of the appraised property. It can be placed here or in the addenda.

b. Neighborhood Map. Show the appraised property and its immediate neighborhood. The map may be placed here or in the addenda.

4. Property Data. Include a narrative description of the significant land features of the property being appraised. Briefly describe the typical recreation residence lot and group within the tract including the following:

a. Site Description: Dimensions, size, shape, vegetative cover, soil types, topography, elevations, wetlands, flood plains, view, timber, water rights, effect of encumbrances, livestock forage, access, road frontage, utilities, location, or other characteristics that may affect value. A statement must be made concerning the existence or absence of mineral deposits having a commercial value. Evidence, if any, of hazardous substances shall be described by the appraiser. The typical lot is to be appraised as though in a natural, native state, defined by CUFFA as being free of any improvements at the time the lot or site was first authorized for recreation residence use by the agency.

b. Improvements: Note that the recreation residence is owned by the permit holder and that only the underlying National Forest System land is being appraised. The Contractor shall be provided applicable information contained in the inventory of improvements relating to the lot being appraised.

c. Fixtures

d. Use History: Ten-year history required.

e. Sales History: Include a ten-year record of all sales of the appraised property and, if the information is available, offers to buy or sell. If no sale has

6.9 - Exhibit 06--Continued

occurred in the past ten years, the appraiser shall report the last sale of the property, irrespective of date.

f. Zoning and Other Land-use Restrictions: Federal lands must be appraised under the assumption that they are already in non-Federal ownership and zoned consistent with similar non-Federal properties in the market area. The appraiser shall identify, in addition to zoning, all other land-use and environmental regulations, outstanding rights, and reservations that have an impact on the highest and best use and value of the property.

g. Appraised Property Map or Plat: Show the dimensions and topography of the appraised property in detail on a large-scale topographic map, at least 2 inches to the mile. The map may be placed here or in the addenda.

C-2.2(b)(3) - Part III – DATA ANALYSES AND CONCLUSIONS

1. Analysis of Highest and Best Use. The identified highest and best use shall be the authorized use; a lot suitable for use as a recreation residence site. No other potential highest and best use shall be considered or discussed in the appraisal report. Most recreation residence sites were authorized prior to all forms of local zoning in their respective market areas. "Grandfathering" requirements recognized by local zoning authorities shall represent the capacity of the lot to meet current State and local government zoning and land use requirements.

2. Value Estimate by the Sales Comparison Approach. Nearby arms length transactions, comparable to the land under appraisement, reasonably current, are the best evidence of market value. The Federal courts recognize the sales comparison approach as being normally the best evidence of market value.

Analyze the last sale of the subject property, if relevant. If not used, explain why. An unsupported claim that a sale of the subject property was a forced sale, or is not indicative of its current value, is unacceptable. (UASFLA B-5)

When supportable by market evidence, the use of quantified adjustments is preferred. Percentage and dollar adjustments may, and often should, be combined. Resort to qualitative adjustments only when there is inadequate market data to support quantitative adjustments. Factors that cannot be quantified are dealt with in qualitative analysis. When quantitative and qualitative adjustments are both used in the adjustment process, all quantitative adjustments should be made first.

Include a sales adjustment chart summarizing the adjustments and showing the final adjusted sale prices and how the sales compare with the subject property. Utilities, access, or facilities serving a lot that are provided by the agency shall be included as features of the lot being appraised. Utilities, access, or facilities serving a lot that are

6.9 - Exhibit 06--Continued

provided by the cabin owner (recreation residence permit holder) shall not be included as a feature of the lot being appraised. Utilities, access, or facilities serving a lot that are provided by a third party shall not be included as a feature of the lot being appraised unless the agency determines that the capital costs have not been or are not being paid by the cabin owner (or a predecessor or the cabin owner).

In a case where any comparable sale includes utilities, access, or facilities that are to be excluded in the appraisal of the subject lot, the price of the comparable sale shall be adjusted, as appropriate.

In selecting comparable sales, the appraiser shall recognize that the typical lot will not usually be equivalent to a legally subdivided lot. The appraiser shall not select sales of comparable land that are within developed urban areas and should not, in most circumstances, select a sale of comparable land that includes land that is encumbered by a conservation or recreational easement that is held by a government or institution, except land that is limited to use as a site for one home.

The Contractor shall use the following adjustment process outlined in Section 606(b)(4)(C) of CUFFA:

The appraiser shall consider, and adjust as appropriate, the price comparable sales for typical lot value differences which include, but are not limited to:

a. Differences in the locations of the parcels.

b. Accessibility, including limitations on access attributable to weather, the conditions of roads and trails, restrictions imposed by the agency, or other factors.

c. The presence of marketable timber.

d. Limitations on, or the absence of, services such as law enforcement, fire control, road maintenance, or snow plowing.

e. The condition and regulatory compliance of any site improvements.

f. Any other typical value influences described in standard appraisal literature.

The documentation of each comparable sale shall include:

- Parties to the transaction
- Date of transaction
- Confirmation of the transaction with buyer, seller, broker, or other person having knowledge of the price, terms, and conditions of sale (all transactions must be verified with a party to the sale)

6.9 - Exhibit 06--Continued

- Market exposure
- Buyer motivation
- Location
- Size
- Legal description
- Property rights conveyed
- Consideration
- Financing terms
- Sale conditions, such as arm's length or distressed
- Improvements, including their condition and regulatory compliance
- Physical description (accessibility, including limitations on access attributable to weather, road or trail condition, and restrictions on use; topography; vegetative cover and the presence of marketable timber; water influence; and other characteristics)
- Limitation on, or the absence of, services such as law enforcement, fire control, road maintenance, or snow plowing
- Non-realty items
- Economic characteristics
- Zoning, including setback requirements
- Subdivision covenants
- Current use
- Intended use
- Photographs

Include a list of the sales considered, but not actually used, in the addenda. Cite pertinent facts such as date, size, buyer and seller, price, terms, location, and explain why each sale was not used.

The appraiser shall adhere to UASFLA direction pertaining to comparable sales requiring extraordinary verification and weighting considerations. These include sales to governmental agencies, sales to environmental organizations, sales to parties desiring to exchange the land to the government, distressed sales, and other atypical or non-arm's length sales. (UASFLA Sections B-4, D-9)

The appraiser must interpret the foregoing data, analyses, and estimates and state the reasons why the conclusion is the best indication of the market value for the typical lot. The indications given by the various sales cited and compared shall be analyzed individually to reach the final estimate of value showing which sale or sales were considered most comparable and provided the most reliable estimate of value for the typical lot.

6.9 - Exhibit 06--Continued

C-2.2(b)(4) - Part IV – EXHIBITS AND ADDENDA

Include the following items as applicable to the appraisal problem if not included in the body of the report:

1. Maps. Maps shall clearly identify the properties and be of sufficient quality to enable the reviewer to locate the properties on the ground. Maps shall be dated, include a legend, scale, and north arrow. The original copy of the report MUST contain original maps or vivid color copies.

a. Area Map - Small scale map showing the general location of the subject market area.

b. Neighborhood Map - This map shall show the appraised property and its immediate neighborhood.

c. Tract Map or Plat - This shall be a large-scale (2-inch/mile) USGS or similar quality map that clearly shows the appraised property and pertinent physical features such as roads, streams, and improvements.

d. Recreation Residence Tract Plat – This map will be furnished by the Forest Service, if available. The map generally depicts tract groupings and typical lot(s) within a grouping.

e. Comparable Sales Location Map - This map shall show the location of the appraised property and the sales. Delineate the boundaries of the appraised properties and comparable sales when the map is of sufficient scale to be meaningful. If all pertinent comparable sales cannot be shown on the same map as the appraised property, a smaller-scale map (such as a state road map) may be included in addition to the larger scale map.

2. Sale Transaction Forms. Include a completed form showing all information for each comparable transaction used in the appraisal. Include a plat (if available), a USGS topographic map (if appropriate), and color photo(s) of each sale. The transaction number must match the number of the transaction listed in the report.

3. Legal Description. Include a full legal description of the property appraised if not shown in the narrative section of the report.

4. Title Information. Include a copy of the statement of interest (status report) for the Federal land, if provided.

5. Photographs. Provide quality color photographs of the appraised property and all comparables in the original and all copies of the final report. Photographs may be a

6.9 - Exhibit 06--Continued

separate exhibit in the addenda or included with the narrative description of the appraised property and comparable sales. Show the following information with each photograph:

a. Identify the photographed scene. Indicate direction of view, vantage point, and other pertinent information. A map may be used to show some of this information.

b. The name of the photographer.

c. The date the photograph was taken.

6. Authorization. A copy of the recreation residence permit for each typical lot included in the appraisal report. In the case of multiple permits, the face page only may be included so long as at least one set of standard clauses is included.

7. Records. Copies of written communications with the Forest Service and with cabin owners. Include meeting notices, receipt of meeting notification, record of attendance at meetings with the appraiser, notes regarding participation by cabin owners at site inspections, and other correspondence from/to cabin owners or the Forest Service.

8. References. List sources of data, including documents and individuals.

9. Qualifications of the Appraiser. Include the qualifications of all appraisers or technicians who made significant contributions to the completion of the appraisal assignment. The appraiser(s) must provide evidence of compliance with the certification requirements of the state(s) where the properties are located.

10. Assignment Agreement. Include a copy of the Assignment Agreement provided by the Forest Service and executed by the appraiser. (ex. 07)

SECTION E - INSPECTION AND ACCEPTANCE

E-1. Agriculture Acquisition Regulation (48 CFR Chapter 1), Clause 52.246-4, Inspection of Services - Fixed Price (Apr 84) (FSH 6309.32-AGAR 52.246-4) shall be the basis of inspection and acceptance.

SECTION F - DELIVERIES OR PERFORMANCE

F-1. Time for Contract Performance.

The Contractor shall submit to the assigned Forest Service staff review appraiser, ___ original and ____ copy(ies) of the original appraisal report for approval within ____ days of the Notice to Proceed. The review appraiser will then review the final appraisal report for acceptance or recommend revisions. If revisions are necessary, the revised

6.9 - Exhibit 06--Continued

report shall be submitted within ___ days of notification.

F-2. Contract time will proceed according to the following phases. Upon the completion of one phase remaining contract time shall not be carried forward.

PHASE 1 - _____ Calendar days - The Contractor shall submit to the Government copy(ies) of the appraisal report. The appraisal report shall be submitted to the Contracting Officer (CO) within 30 calendar days after the date of value, unless otherwise specified in writing by the CO or Contracting Officer's Representative (COR), who is usually the assigned Forest Service review appraiser.

PHASE 2 - _____ Calendar days - The Government shall review the original appraisal report for acceptance.

PHASE 3 - _____ Calendar days - The Contractor shall correct any deficiencies, if any, and submit the revised appraisal report to the Government.

PHASE 4 - _____ Calendar days - The Government shall review the revised appraisal report for acceptance.

F-3. Pre-work Conference. A pre-work meeting between the assigned Forest Service review appraiser and the Contractor is required, preferably during the site examination with the permit holder present.

SECTION G - CONTRACT ADMINISTRATION DATA

G-1. Method of Measurement. The unit of measurement is designated in the Schedule of Items, Section B of the Contract.

G-2. Measurement shall be made for each item or unit of work as shown in the Schedule of Items, completed as described in the Specifications and Supplements thereto.

G-3. Payment for contract work shall be made only for items listed in the Schedule of Items. All other work shall be considered incidental and included in the payment of the items listed in the Schedule of Items.

G-4. Payment shall be made upon receipt and approval of the final appraisal report. Typically, no progress payments shall be made. However, partial payments in an amount not less than 50 percent of the total price may be authorized if the technical review period shall be extensive due to the complexity of the appraisal problem.

G-5. Payment for updating shall be at a fixed fee that may be agreed upon at the time the updating is requested.

6.9 - Exhibit 06--Continued

G-6. Payment for testimony shall be at a fixed fee to be negotiated at the time the testimony is requested. Travel expenses shall be paid at a rate not to exceed Federal Government travel allowances.

G-7. At the Contractor's request, the COR and the Contractor shall jointly prepare Form 6300-30, Contract Payment Estimate and Invoice, for the signature of the Contracting Officer for payment. It is not necessary for the Contractor to submit any other Invoice or Statement.

G-8. Basis of Payment. The accepted quantities shall be paid for at the contract unit price for the items shown in the Schedule of Items.

G-9. All submitted appraisal reports become the property of the United States and may be used for any legal and proper purpose.

The Government shall furnish the following at the Supervisor's Office in _____, at the Contractor's request after the award:

I-1. Use of aerial photographs of the appraised property and of such other aerial photographs as are available. (To be returned to the COR upon completion of the appraisal, if not included as an exhibit to the report).

I-2. Copies of pertinent Forest Service administrative maps as available for use in the appraisal report.

I-3. Current Forest Service Land Status Reports covering the Federal lands, if not previously furnished.

I-4. Copies of pertinent documents relevant to the assignment from the special-use folder not previously provided.

6.9 – Exhibit 07

ASSIGNMENT AGREEMENT FOR THE APPRAISAL OF RECREATION RESIDENCE LOTS

Typical Lot __
___*(Name)*_____ Summer Home Group or Tract

I, ***(Name of contract appraiser)***, of ***(Address)***, have received a written copy of the recreation residence lot appraisal instructions for the ___*(Name)*____ National Forest. These instructions were prepared by assigned Forest Service staff review appraiser ***(Name and accreditation)***. My work in compliance with those instructions will be reviewed by her/him for compliance with the appraisal standards cited below. She/he will apply the same review requirements to my appraisal that was applied to the original appraisal of the typical lot. (Last sentence applicable only with second appraisals.)

I agree to abide by the written instructions, including the format in which my appraisal must be documented.

I understand that the date of value for this assignment is ___*(Date)*___.

I understand the full, complete, and accurate definition of the appraisal problem.

I shall abide by the *Uniform Standards of Professional Appraisal Practice*, the *Uniform Appraisal Standards for Federal Land Acquisitions*, the applicable sections of the *Cabin User Fee Fairness Act of 2000*, the laws of the State of ____*(State)*_____, under which I am certified as a general appraiser, and the code of professional ethics and standards of professional practice of those appraisal organizations to which I belong.

I accept the requirements of this appraisal assignment that are imposed by Federal statutes and regulations, Forest Service policies and procedures, and instructions unique to this assignment.

_____ _____
(Signature of Contractor) (date)

(typed name and accreditation of Contractor)
(State appraiser certification information)

Note: The following table will not appear in the Forest Service Manual or Forest Service Handbook.

Table I - Section-by-Section Comparison Between the Current and Proposed Recreation Residence Directives

CUFFA Reference	*Forest Service Manual or Handbook Directive*	*Current Direction*	*Proposed Direction*
Section 604	FSM 2340.5 – *Definitions*	None	Adds definition for "caretaker cabin." A caretaker cabin is a residence occupying a lot within a recreation residence tract that is being used to provide caretaker services and security to the recreation residences within that tract.
Sections 602 and 603	FSM 2347.1- *Recreation Residences*	This section provides that recreation residences are a valid use of National Forest System lands and an important component of the overall National Forest recreation program.	Maintains existing language, but adds direction that the Forest Service shall, to the maximum extent practicable, manage the recreation residence program to preserve the opportunity for individual and family-oriented recreation.
Sections 604 and 607(b)	FSM 2347.12 – *Caretaker Cabin*	This section is currently titled "Caretaker Residences" and provides that land fees for a caretaker residence is 25 percent more than the fee for a recreation residence.	Changes section caption to "Caretaker Cabins," and retains direction for authorizing a caretaker cabin. FSM 2347.12b provides that a fee for a caretaker cabin is the same as a fee for use of the same lot as a recreation residence.
Section 606	FSM 2721.23d – *Fee Determination*	This section establishes a 20-year appraisal cycle.	Establishes a 10-year appraisal cycle.
	FSH 2709.11, Section 33	This section is currently titled "Recreation Residence Fees."	Changes caption to "Recreation Residence Lot Fees."
Section 604	FSH 2709.11, Section 33.05 – *Definitions*	None	Adds a section that defines "cabin," "recreation residence lot," "market value," "tract," "typical lot," "recreation residence," and "natural, native state."
Sections 606 through 608	FSH 2709.11, Section 33.1 – *Base Fees and Annual Adjustments*	This section, currently "Base Fees and Indexing," provides for: (1) appraisals conducted between 1978 and 1982 to be used as the basis for establishment of the base fee and adjusted forward using the Implicit Price Deflator- Gross National Product (IPD-GNP); (2) a phase-in upon adoption of the 1988 recreation	Changes the caption to "Base Fees and Annual Adjustments," and references appraisal procedures addressed in proposed sections 33.11 through 33.13.

CUFFA Reference	*Forest Service Manual or Handbook Directive*	*Current Direction*	*Proposed Direction*
		residence policy; (3) annual indexing using IPD-GNP; (4) maximum annual adjustments based on indexing of 10 percent; (5) adding to the base fee for additional structures on the recreation residence; and (6) appraisal cycles established every 20 years. Direction in this would either be removed or moved to other proposed sections, including direction on: (1) base fees (sec. 33.11); (2) phase-in provisions (sec. 33.12); (3) annual indexing (sec. 33.13); (4) maximum annual adjustments (sec. 33.13); (5) establishing the appraisal cycle (sec. 33.11); and (6) direction for additional sleeping structures on the recreation residence (sec. 33.11).	
Sections 606(b)(4)(D) and 607(a)	FSH 2709.11, Section 33.11 – *Establishing New Base Fee*	This section, currently "Fee Credit," provides for a fee reduced by the amount of any unused or remaining credits due holders under provisions of the Appropriations Acts for fiscal years 1983 through 1986. The current direction in section 33.11 would be removed, since fee credits have long since been depleted because they were applied in the billing years immediately after adoption of the 1988 policy.	This section replaces the now obsolete direction concerning fee credit, and instead provides that the base fee for a recreation residence lot shall be 5 percent of the market value of the lot as determined by appraisal. It eliminates direction (currently found in sec. 33.1, para. 5) directing that a premium of 25 percent of the base fee or $100 whichever is greater, be added to the base fee for each sleeping structure on a recreation residence (in addition to the recreation residence). This section also provides that the base fee shall be recalculated once every 10 years.
Section 609	FSH 2709.11, Section 33.12 – *Phase-in of Base Fee*	Current policy provides for only a one-time phase-in of the fees when the recreation residence policy was adopted in 1988 (sec. 33.1).	This new section would provide direction for implementing the phase-in provision of CUFFA, directing a phase-in of fees whenever the establishment of a new base fee results in an increase of more than 100 percent to a holder's most recent annual fee. The section includes an example to demonstrate

CUFFA Reference	*Forest Service Manual or Handbook Directive*	*Current Direction*	*Proposed Direction*
			how the phase-in would be applied when a base fee results in more than a 100 percent increase of an annual fee.
Section 608(d)	FSH 2709.11, Section 33.13 – *Annual Adjustments of Recreation Residence Fees*	Current direction on annual adjustments to recreation residence fees is contained in section 33.1 and provides that the base fee is adjusted annually using the IPD-GNP, with a 10 percent annual maximum increase cap	The Forest Service will continue to use existing policy for annually indexing recreation residence rental fees, using the 2nd quarter to 2nd quarter change in the IPD-GDP. However, this section directs the implementation of a maximum adjustment of 5 percent in those years in which the annual change in the IPD-GDP index exceeds 5 percent, as provided in section 608(d) of CUFFA. Whenever the annualized change in the IPD-GDP exceeds 5 percent, then the maximum annual adjustment in the rental fee for such years will be 5 percent, and that part of the adjustment in excess of 5 percent will be applied in the next annual rental fee payment when the index change is less than 5 percent. This section includes two examples to demonstrate how rental fee increases in excess of 5 percent would be applied when the annualized change in the IPD-GDP exceeds 5 percent. (NOTE: Approximately two years after adopting the proposed rule and proposed directives in this notice, the Forest Service will develop policy to annually adjust recreation residence rental fees using the rolling 5-year average of the "Index of Agriculture Land Prices" published by the Department of Agriculture, as directed in section of 608 (a) and (b) of CUFFA.)

CUFFA Reference	*Forest Service Manual or Handbook Directive*	*Current Direction*	*Proposed Direction*
Section 607 (c) and (d)	FSH 2709.11, Section 33.2 – *Fees When Determination is Made To Place Recreation Residence on Tenure*	The section, currently "Fees on Nonrenewal," provides direction on determining fees for recreation residences when a decision is made to discontinue that use.	This section clarifies current direction on fees when a decision is made to discontinue the recreation residence use by providing specific instructions for the assessment of land use fees after a holder has been provided with a minimum 10 years of advance notice of the agency's decision to discontinue the holder's recreation residence use. The proposed directive includes a table that demonstrates how the fee is reduced by 10 percent each year during the last ten years of the permit term. This section also provides a process for recapturing fees that were forgone, should a subsequent decision is made by the agency not to discontinue the recreation use but allow it to continue
Section 607(e)	FSH 2709.11, Section 33.3 –*Fee When Recreation Residence Use Is Terminated or Revoked as Result of Acts of God or other Catastrophic Events*	This section currently "Appraisals," provides direction on appraiser qualifications (sec. 33.31) and establishing a recreation residence lot value (sec. 33.32). Direction currently contained in sections 33.3 through 33.32 would be revised and incorporated in proposed sections 33.4 through 33.72, with considerably more detail than the current direction in this section.	This section provides agency direction concerning fee obligations of the holder in the event of a catastrophe or an "act of God" that precludes the recreation residence from being safely used and occupied for recreation residence purposes. It directs that in such an event, the fee obligations of the holder shall terminate as of the date of the event or occurrence, and provides for a refund of a prorated portion of the fee that has already been paid for the billing year in which the catastrophic event occurred.
Section 606	FSH 2709.11, Section 33.4 – *Establishing Fair Market Value of Recreation Residence Lot*	Current direction concerning the qualifications of an appraiser, conducting appraisals, and establishing the value of a recreation residence lot is contained in sections 33.3 through 33.32.	This section provides technical considerations and the procedures to be followed when appraising a recreation residence lot. Paragraph 1 directs that appraisals be conducted by either a staff or contract appraiser who is licensed to practice in the State in which the recreation residence(s) to be appraised are located. It directs that the selection of a staff or contract appraiser be based on the individual's having had adequate training and demonstrated competence to conduct the appraisal assignment. It also directs that the

CUFFA Reference	*Forest Service Manual or Handbook Directive*	*Current Direction*	*Proposed Direction*
			appraiser sign an "Assignment Agreement" as provided in FSH 5409.12, section 6.9, exhibit 07(see below). Paragraph 2 directs that the appraiser evaluate the market value of the fee simple estate of the lot, and that the access, utilities, and facilities that service the lot to be appraised that had been paid for by either the Forest Service or a third party, be included as features of the lot. Paragraph 3 directs that only previously selected typical lots be appraised, pursuant to section 33.41. Paragraph 4 directs that the authorized officer shall provide the appraiser with an inventory of utilities, access, and facilities servicing each typical lot to be appraised, as provided in section 33.42. Paragraph 5 includes an itemized listing of the standards and provisions for which compliance is required in conducting and preparing the appraisal. Paragraphs 6 and 7 provide direction for identifying and selecting sales of comparable land in appraising the value of a typical lot. Paragraph 8 includes a listing of typical value influences that the appraiser must consider in adjusting the prices of comparable sales in the appraisal of a typical lot. Paragraph 9 directs that the authorized officer and the appraiser initiate a meeting with all affected permit holders prior to conducting an appraisal, specifies how to notify the holders of such a meeting, and what to advise the holders at the meeting. This paragraph also directs the appraiser to give affected holders

CUFFA Reference	*Forest Service Manual or Handbook Directive*	*Current Direction*	*Proposed Direction*
			advance notice of the appraiser's field visit to the recreation residence (or lots) being appraised, and that the holders be given the opportunity to be present during that lot visit.
Section 606	FSH 2709.11, Section 33.41 – *Selection and Appraisal of Typical Lot*	Current direction concerning typical lot selections is contained in general direction for determining the fair market value of a recreation residence in sections 33.3 through 33.32.	This section proposes a more detailed process than current direction for identifying and selecting typical lots, with strong emphasis on working with the affected holders in the selection of a typical lot or lots. Authorized officers are directed to seek the concurrence of affected permit holders in identifying recreation residence groupings and in selecting the typical lot(s) to be appraised.
Section 606(a)(1)	FSH 2709.11, Section 33.42 – *Inventorying of Utilities, Access and Facilities*	Current direction for determining the fair market value of a recreation residence is contained in sections 33.3 through 33.32. That direction contains only general language regarding the effect on the appraised value of a recreation residence when a road, water system, or other utility is provided by a nonholder entity.	This section directs the authorized officer to identify and inventory utilities, access, and facilities that provide service to each typical lot within a recreation residence tract. It also provides criteria or guidelines for the authorized officer to use in making a determination as to who paid for the capital costs to construct those utilities, access, and other facilities servicing each typical lot.
Section 606	FSH 2709.11, Section 33.5 – *Appraisal Specifications*	Current direction for determining the fair market value of a recreation residence is contained in sections 33.3 through 33.32.	This section makes reference to FSH 5409.12, section 6.5; section 6.9, exhibit 06, Specifications for Conducting an Appraisal for Recreation Residences; and section 6.9, exhibit 07, Assignment Agreement for the Appraisal of Recreation Residence Lots.
Section 606	FSH 2709.11, Section 33.6 – *Review and Acceptance of Appraisal Report*	Current direction for determining the fair market value of a recreation residence is contained in sections 33.3 through 33.32.	This section provides direction concerning the manner in which a Forest Service Review Appraiser shall review an appraisal report and approve it for the authorized officer's acceptance and use in establishing a new base fee.
Section 610(a)	FSH 2709.11, Section 33.7 – *Holder Notification of Accepted Appraisal Report and Right of Second Appraisal*	Current direction concerning the authorized officer's acceptance of an appraisal report for establishment of a new base fee is only briefly addressed in section 33.32.	This section provides more detailed direction concerning the authorized officer's obligation to notify the affected holder or holders of the agency's acceptance of an appraisal report for the purpose of establishing a new base fee. It directs that if the holder intends to secure a second

CUFFA Reference	*Forest Service Manual or Handbook Directive*	*Current Direction*	*Proposed Direction*
			appraisal, the holder must formally notify the Forest Service of that intent within 60 days. This direction also provides that if the holder chooses to exercise the option to secure a second appraisal, the holder must provide the authorized officer with a second appraisal report within one year of the date of the holder's receipt of the notice from the authorized officer.
Section 610(b)	FSH 2709.11, Section 33.71 – *Standards for Second Appraisal*	Current direction concerning the qualifications of an appraiser conducting a second appraisal, and the standards that a second appraisal must meet, is only briefly addressed in section 33.32.	This section proposes more detailed direction concerning the qualifications of an appraiser selected by the holder to conduct a second appraisal, and the standards that must be followed for conducting a second appraisal. The direction proposes that the second appraiser also sign an Assignment Agreement, pursuant to FSH 5409.12, section 6.9, exhibit 07.
Section 610(c) and (d)	FSH 2709.11, Section 33.72- *Reconsideration of Recreation Residence Base Fee*	Current direction in section 33.32 is vague with respect to procedures by which the holder can request a reconsideration of the authorized officer's establishment of a new base fee, pursuant to the completion of a second appraisal.	This section provides detailed, time-certain procedures, for the reconsideration of a new base fee pursuant to a second appraisal. It directs that the holder shall be provided with no more than 60 days following the authorized officer's receipt of a second appraisal report, within which to formally request a reconsideration of the new base fee, based on the findings of the second appraisal. It also directs that the authorized officer, within 60 days following receipt of that request from the holder, review the agency's initial appraisal and the holder's second appraisal, and establish a new base fee pursuant to the results of either appraisal, or somewhere within the range of values established by both appraisals.
Section 614	FSH 2709.11, Section 33.8 – *Establishing Recreation Residence Lot Value During Transition Period of Cabin User Fee Fairness Act*	Not Applicable.	This section requires the authorized officer to notify recreation residence permit holders that when the agency adopts final regulations, policies, and appraisal guidelines pursuant to CUFFA they may request either: (1) a new appraisal; (2) a peer review of an exiting appraisal completed since September 30, 1995; or (3) a base fee using the value established by an

CUFFA Reference	*Forest Service Manual or Handbook Directive*	*Current Direction*	*Proposed Direction*
			appraisal completed since September 30, 1995.
Section 614	FSH 2709.11, Section 33.81 – *Use of Appraisal Completed Since September 30, 1995*	Not Applicable.	This section provides direction for situations in which an appraisal completed since September 30, 1995, would be used to establish a new base fee.
Section 614	FSH 2709.11, Section 33.82 – *Request for New Appraisal Conducted Under Regulations, Policies, and Appraisal Guidelines Established Pursuant to CUFFA*	Not Applicable.	This section provides guidance and procedures for requesting a new appraisal conducted under regulations, policies, and appraisal guidelines established pursuant to CUFFA.
Section 614	FSH 2709.11 Section 33.83 – *Request for Peer Review Conducted Under Regulations, Policies, and Appraisal Guidelines Established Pursuant to CUFFA*	Not Applicable.	This section provides guidance and procedures for requesting a peer review conducted under regulations, policies, and appraisal guidelines established pursuant to CUFFA.
Section 606	FSH 5409.12, Section 6.53 – *Recreation Residence Lots*	This section provides that the appraisal direction contained in exhibit 06, section 6.9, be used Service-wide and cannot be modified without approval of the Washington Office, Director of Lands.	This section revises appraisal contracting direction by replacing use of the current terminology for appraising "Recreation Residence Sites" to "Recreation Residence Lots," to be consistent with the terminology used in CUFFA. This section also directs that the appraisal guidelines for recreation residence lots, included in FSH 5409.12, section 6.9, exhibit 06, Required Specifications for Appraisal of Recreation Residence Lots, be used agency-wide, and that they can not be modified without the approval of the Director of Lands. The section requires that the appraiser execute an Assignment Agreement, as provided in FSH 5409.12, section 6.9, exhibit 07.

CUFFA Reference	*Forest Service Manual or Handbook Directive*	*Current Direction*	*Proposed Direction*
Section 606	FSH 5409.12, Section 6.9—*Exhibit 06*	Current contracting specifications (which were in use prior to the enactment of CUFFA) for appraising the fee simple value of a recreation residence site are contained in section 6.9, exhibit 06.	This section revised exhibit 06, which contains all the technical appraisal provisions and appraisal guidelines enumerated in section 606 of CUFFA. These technical specifications must be included in an appraisal contract for an appraisal conducted by a contract appraiser, and Forest Service staff appraisers must adhere to these provisions and procedures when conducting an appraisal of a recreation residence lot.
	FSH 5409.12, Section 6.9—*Exhibit 07*	There are no provisions in the current policy for documenting the appraiser's commitment to comply with appraisal instructions.	Exhibit 07, Assignment Agreement, requires both Forest Service staff appraisers and contract appraisers to document their intention to comply with the appraisal instructions (ex. 06), the provisions of CUFFA, the *Uniform Standards of Professional Appraisal Practice,* and the *Uniform Appraisal Standards for Federal Land Acquisitions*, prior to conducting an appraisal or a second appraisal of recreation residence lot.

[FR Doc. 03–11695 Filed 5–12–03; 8:45 am]
BILLING CODE 3410–11–C