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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 built and owned recreation residence that is authorized to use and occupy National Forest System land.

Majority. More than 50 percent.

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 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.)

Related Improvements.

a. For the purpose of defining a recreation residence lot (36 CFR 251.51), “related improvements” include not only the examples of facilities and uses owned and maintained by the holder identified at 36 CFR 251.51, but may also include, but are not limited to, the following holder owned facilities or uses of National Forest System lands being actively operated and maintained by the holder in conjunction with the recreation residence use:

- (1) Outbuildings;
- (2) Wood piles;
- (3) Retaining walls;

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- (4) Picnic tables;
- (5) Driveways and parking areas;
- (6) Trails and boardwalks;
- (7) Campfire rings, seats, and benches.
- (8) Lawns, gardens, flower beds, and landscaped terraces;
- (9) Manipulated native vegetation, except as provided for in paragraph b(1).

b. Related improvements do not include:

(1) Native vegetation that is manipulated for the primary purpose of protecting property and mitigating safety concerns, such as the removal of hazard trees, and the treatment/management of vegetation, approved by the authorized officer, to reduce fuel loading and to create defensible space for wildfire suppression purposes.

(2) Tract association-or community-owned improvements or uses, such as boat docks, swimming areas, and water or sewer systems that are under a separate authorization issued in the name of a tract association or other entity representing the owners of the recreation residences.

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.

Urban. A mature neighborhood with a concentration of population typically found within city limits or a neighborhood commonly identified with a city (The Dictionary of Real Estate Appraisal, Fourth Edition).

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33.1 - Base Fees and Annual Adjustments

33.11 - Establishing New Base Fee

1. 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.
2. Notification of New Base Fee. 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.
3. Effective Date of New Base Fee. 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. Exhibit 01 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.

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33.12 - Exhibit 01

**Phase-In When New Base Fee Results in an Increase of More Than 100 Percent
From the Most Recent Annual Fee Assessed the Holder**

<i><u>2007</u></i>	<i><u>2008</u></i>	
<i><u>Fee</u></i>	<i><u>New</u></i>	
<i><u>Amount</u></i>	<i><u>Base Fee</u></i>	<i><u>Increase</u></i>
\$700	\$1,600	\$900 (>100% increase)

2008 Phase-in Fee: \$700 (2007 fee)
+ \$300 (1/3 of fee increase>100%) = **\$1,000**

2009 Phase-in Fee: \$1,000 (2008 fee)
+ \$300 (1/3 of fee increase>100%) x 1.03*
(annual IPD-GDP increase of 3%) = **\$1,339**

2010 Phase-in Fee: \$1,339 (2009 fee)
+ \$300 (1/3 of fee increase>100%) x 1.03*
(annual IPD-GDP increase of 3%) = **\$1,688**

2011 Phase-in Fee: \$1,688 (2010 fee) x 1.03*
(annual IPD-GDP increase of 3%) = **\$1,739**

*(*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 2009 through 2011)*

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33.13 - Annual Adjustment of Recreation Residence Fee

Adjust recreation residence fees 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 must 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. Exhibit 01 provides two examples on how annual fees are adjusted in years during which the annual change in the IPD-GDP index exceeds 5 percent.

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33.13 - Exhibit 01

Phase-in of Fees When Increase Exceeds 5 Percent in a Single Year

EXAMPLE 1 – Only 1 year in which the IPD-GDP adjustment exceeds 5%.

2007 Fee = \$700

*2008 IPD-GDP adjustment = 7%**

(\$700 x .07 = \$49)

Maximum adjustment/year = 5% (\$35)

2008 carryover adjustment = 2% (\$14)

2008 Fee = \$700 (2007 fee) x .05 (max. adj/yr.) = \$735

*2009 IPD-GDP adjustment = 3%**

Carryover adjustment from 2008 = \$14

2009 Fee = \$735 (2008 fee) + \$14 (2008 carryover) x 1.03 = \$771

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

2007 Fee = \$700

*2008 IPD-GDP adjustment = 7%**

(\$700 x .07 = \$49)

Maximum adjustment/year = 5% (\$35)

2008 carryover adjustment = 2% (\$14)

2008 Fee = \$700 (2007 fee) x 1.05 (max. adj/yr.) = \$735

*2009 IPD-GDP adjustment = 7%**

(\$735 x .07 = \$51)

Maximum adjustment /year = 5% (\$37)

2009 carryover adjustment = 2% (\$14)

Total carryover (2008 & 2009) = \$28

2009 Fee = \$735 (2008 fee) x 1.05 (max. adj/yr.) = \$772

2010 IPD-GDP adjustment = 3% (<max. adj/yr.)*

Total 2008 & 2009 carryover = \$28

2010 Fee = \$772 (2009 fee) + \$28 (2008 & 2009 carryover) x 1.03 = \$824

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

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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 has 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 10 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 9 years remaining, 90 percent of the base fee; with 8 years, 80 percent; and so forth. Do not apply annual adjustments to fees when a recreation residence has been put on tenure notice. Exhibit 01 provides a schedule to calculate the holder's fee during the 10-year period.

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33.2 - Exhibit 01

**Phase-In of Fees When Determination Is Made
To Place Recreation Residence on Tenure**

Years Remaining

<u>Prior to Date of Conversion</u>	<u>Percent of Base Fee To Charge</u>
10	100
9	90
8	80
7	70
6	60
5	50
4	40
3	30
2	20
<u>1</u>	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.

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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. 60).

1. Appraisals shall be conducted and prepared by a private contract appraiser who is licensed to practice in the State within which the recreation residence lot or lots to be appraised are located. Select private contract appraisers 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. 66, ex. 04). 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 which 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. The authorized officer may make adjustments for measurable value differences among recreation residence lots within a grouping based upon the advice of the assigned Forest Service review appraiser.

2. The appraiser shall conduct and prepare the appraisal in compliance with:
 - a. The edition of the Uniform Standards of Professional Appraisal Practice (USPAP) 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;

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- c. The appraisal sections for recreation residence lots found in the FSH 5409.12, section 66, exhibit 03; 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 lot improvements, and
 - 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.

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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 or lots 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 or lots. 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 or lots 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 or lots shall be documented and included in the permanent case file for the tract.

When the inventory of facilities, utilities, and access servicing a tract (sec. 33.42) suggest that all lots within a grouping are not comparable to the typical lots representing that group with respect to the facilities, utilities, and access servicing the typical lot, the authorized officer may consider one of the following actions:

1. Establish a new grouping of lots having clearly different attributes of access, utilities, and facilities servicing those lots from those which have been inventoried and are servicing the typical lot, and (a) identify with the holders a new typical lot to represent that new grouping, (b) prepare a new permanent inventory of utilities, access and facilities servicing that typical lot (sec. 33.42), and (c) conduct a new appraisal of that typical lot pursuant to the provisions of CUFFA. The Forest Service and the holder(s) shall pay equally for the cost of the new appraisal.
2. Where feasible, assign lots having clearly different attributes to another typical lot established in the tract which has attributes of access, utilities, and facilities that are comparable to those lots.

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3. Make adjustments to the base cabin user fee for those lots having utilities, access, and facilities that are so different from the attributes of the typical lot that it creates a measurable difference in value.

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.

33.42a - Types of Utilities, Access, and Facilities to Include in Inventories

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, and cable TV.

33.42b - Criteria to Be Considered in Determining Who Paid for Capital Costs of Inventoried Utilities, Access, and Facilities

It is the responsibility of the authorized officer to collect all available evidence to be considered in determining whether each inventoried utility, access, or utility was paid for by the cabin owner (or a predecessor of the cabin owner), a third party, or the Forest Service. In evaluating and considering the evidence, the authorized officer shall be guided by the following criteria and principles:

1. Consider the capital costs of an inventoried utility, access, or facility as having been paid by the cabin owner, or their predecessor, when:
 - a. There is evidence of direct payment of the costs of materials and installation by the cabin owner, or their predecessor;

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- b. There is evidence that the cabin owner or their predecessor was assessed and paid a lump sum fee by the road agency, or utility or service provider, for construction/ installation of the inventoried facility;
 - c. There is evidence that the cabin owner or their predecessor was assessed and paid a temporary utility or tax surcharge, in addition to other taxes, or the base rates and usage fees assessed to all of the customers in the utility provider's rate base, as a means of paying the capital costs of the inventoried utility, access, or facility;
 - d. There is evidence that some or all of a hook-up or tap fee assessed to and paid by the cabin owner, or their predecessor, as a new customer of the utility or service provider, was established to include the recovery of capital costs to the utility or service provider for installation of the inventoried utility or facility;
 - e. There is insufficient evidence to support any of the circumstances described in the criteria identified under the following paragraphs 2 through 4.
2. Consider the capital costs of an inventoried utility, access, or facility as having been paid by a third party when there is evidence to conclude:
- a. An entity, such as for-profit utility company (electric company, telephone company, cable television provider, etc.), a not-for-profit cooperative, a water or sewer district, a municipality, and so forth, installed a utility service or facility; that the corresponding service to the subject lot was provided without any lump sum or surcharge to base rates or usage fees assessed to the cabin owner or their predecessor; and that any hook-up fees or tap fees that may have been assessed to the cabin owner, or their predecessor, were not established with the intent to recover the utility company or provider's capital costs in the inventoried utility, access, or facility.
 - b. Roads providing access 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 charge or tax rate surcharge having been assessed to the cabin owners or their predecessors.
 - c. An inventoried road or trail providing access was built by a cooperator, pursuant to road or transportation cost-share agreement with the Forest Service.
3. Consider the capital costs of an inventoried utility, access, or facility as having been paid by the Forest Service when there is evidence to conclude:
- a. Forest Service appropriations were expended to construct the inventoried utility, access, or facility road, trail, or facility that provides access and/or service to the recreation residence lot.

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- b. An inventoried road was indirectly paid by the Forest Service in the form of “purchaser (road) credits” pursuant to a timber sale contract.
4. Consider the capital costs of an inventoried utility, access, or facility as having been paid by either the Forest Service or a third party when there is evidence that it existed prior to the time when the recreation residence lot or lots within the tract was (were) first authorized for recreation residence use by the Forest Service.

33.5 - Appraisal Specifications

Direction pertaining to appraisal specifications is found in FSH 5409.12, section 65.3, Recreation Residence Lots, and section 66, exhibits 03 and 04.

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 60.

If the appraisal report 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 report 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 report. Upon written request, the authorized officer shall:

1. Provide the holder with a copy of the appraisal report and supporting documentation associated with the typical lot upon which the holder’s fee is based.
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 report.
3. Inform the holder that if a request for a second appraisal report is submitted, the holder has one year following receipt of the notice to prepare, at the holder’s expense, a second appraisal report, for Forest Service review, of the typical lot on which the initial appraisal was conducted, using the same date of value as the original appraisal report.

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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 professional 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

1. Second Appraisal Assignment. The second appraisal report shall use the appraisal guidelines used in the initial appraisal (FSH 5409.12, sec. 65.3, ex. 03), as prescribed in a pre-work meeting among the holder's appraiser, the Forest Service review appraiser, and the holder or holders, or their authorized representative. Prior to starting the second appraisal report, the appraiser shall sign an Assignment Agreement as provided in FSH 5409.12, section 65.3, exhibit 04. The appraiser shall submit the second appraisal report to the client. If the holder chooses to have the second appraisal report reviewed by the Forest Service, the holder must submit the appraisal report to the authorized officer requesting review by the assigned Forest Service review appraiser.
2. Reporting of Material Differences. Section 610(b)(4) of CUFFA requires the appraiser selected to conduct the second appraisal to ". . . notify the Secretary of any material differences in fact or opinion between the initial appraisal conducted by the agency and the second appraisal." However, CUFFA does not require or mention any analysis, opinion, or recommendation concerning material differences of fact or opinion between the initial and second appraisal reports. The absence of analysis, opinion, or recommendation differentiates this document from an appraisal review report, or appraisal consulting report, as defined in the Uniform Standard of Professional Appraisal Practice (USPAP).

The assigned Forest Service review appraiser shall provide a copy of the initial appraisal report to the approved second appraiser with a request to notify the review appraiser of any material differences in fact or opinion between the initial appraisal report and the second appraisal report. After completion of the second appraisal report, and in a separate document, the appraiser shall submit in writing to the assigned Forest Service

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review appraiser his or her report of material differences of fact or opinion between the initial appraisal conducted for or by the agency and the second appraisal. The report shall be a brief statement or listing of any material differences of fact or opinion found in comparing the initial and second appraisal reports.

If the second appraiser comments in any way, such as on the quality, including the completeness, adequacy, relevance, appropriateness, reasonableness, of the other appraiser's work (any part of the appraisal report or work file), the second appraiser shall complete an appraisal review report in conformance with Standard 3 of USPAP.

3. USPAP Compliance. The Confidentiality section of USPAP's Ethics Rule states, in part that "An appraiser must not disclose confidential information or assignments results prepared for a client to anyone other than the client and persons specifically authorized by the client; state enforcement agencies and such third parties as may be authorized by due process of law. . ." However, disclosure of the first appraisal report to the second appraiser is required by CUFFA and in this situation is permitted by the Confidentiality section of USPAP's Ethics Rule. Therefore, the Jurisdictional Exception Rule does not apply to this situation because there is no conflict between this requirement in CUFFA and USPAP.

33.72 - Reconsideration of Recreation Residence Base Fees

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 the date of the second appraisal review report, if approved by the assigned Forest Service review appraiser.

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

1. Review the initial appraisal report and appraisal review report.
2. Review the results of the second appraisal report and appraisal review report.
3. Review the material differences in fact or opinion report.
4. 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.
5. Notify the holder or holders of the amount of the new base fee.

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

The transition period, as identified in §614 of the Cabin User Fee Fairness Act (CUFFA), is that period of time between the date of enactment of CUFFA (Oct. 11, 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 after 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 report of the typical lot completed after 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 report completed on or after September 30, 1995 (sec. 33.81).

A request to act on one of these options must be made by a 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. The options described in paragraphs 1 through 3, and explained in further detail in section 33.81 through 33.83, shall be the only means by which a new base cabin user fee is established during the transition period for those lots which were appraised between September 30, 1995 and October 11, 2000. Holders who request a new appraisal or the commissioning of a peer review will not have the right to request a second appraisal as provided for in section 33.7.

33.81 - Use of Appraisal Completed After 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 report of a typical lot completed after September 30, 1995, when:

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- a. Within 2 years following the adoption of regulations, policies, and appraisal guidelines established pursuant to CUFFA, a request to do so 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 2 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 after 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 (sec. 33.12).

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

The holders must make a request for a new appraisal within 2 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 the request for a new appraisal must be submitted in writing to the authorized officer and must be signed by the 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 that each of the permit holders within the typical lot shall pay a proportionate share of one-half of 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 statement in exhibit 01 as a part of their request for a new appraisal. The information required in the statement will be provided to the holder by the authorized officer.

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33.82 - Exhibit 01

Statement for Holders Requesting New Appraisal When Previous Appraisal Indicated a Base Fee Increase of More Than \$3,000 from Annual Fee Assessed on October 1, 1996

We hereby request and agree that, if the new base fee established by the new appraisal 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 (indicate tract name and 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 §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.

We agree that the cumulative difference resulting from the application of Item #2 (above) shall be assessed as a premium fee amount, payable in full or 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.

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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 report completed after September 30, 1995, shall be made within 2 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 that each of the permit holders within the typical lot shall pay a proportionate share of 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 statement contained in exhibit 01 as a part of their request. The information required in the statement will be provided to the holder by the authorized officer.

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33.83 - Exhibit 01

Statement for Holders Requesting Peer Review When Previous Appraisal Indicated a Base Fee Increase of More Than \$3,000 from Annual Fee Assessed on October 1, 1996

We hereby request and agree that, if the new base fee from the peer review 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 (indicate tract name and 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 §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.

We agree that the cumulative difference resulting from the application of Item #2 (above) will be assessed as a premium fee amount, payable in full or 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 report 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 report 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

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33.83 - Exhibit 01--Continued

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 report. 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 intended to be an administrative review report in conformance with the USPAP.

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 report 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 report. 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 intended to be an administrative review report in conformance with the USPAP.

- a. If the peer review shows that the appraisal report 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 report.

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b. If the peer review results in a determination that the appraisal report 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.