

value of recreation residence lots since they were last appraised in the late 1970's and early 1980's. In some locations and markets the increase in value was dramatic. Because annual land use fees are calculated on the basis of 5 percent of the fee simple value of each lot, increases in the appraised fee simple values of some lots exceeded the cumulative effect of 18 to 20 years of annual IPD-GNP indexing of fees, which resulted in corresponding increases in land use fees. Some of the more dramatic fee increases as a result of new appraisals were of significant concern to recreation residence permit holders, and to State and national associations that represent them. In response, recreation residence permit holders and associations of holders began to contact their Congressional representatives, requesting relief from the increased fees.

Congress initially responded to these concerns on November 14, 1997, in the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1998, Public Law 105-83 (Pub. L. 105-83). Section 343 of this act provided for a three-year phase-in of recreation residence fee increases when a new appraisal of a recreation residence lot results in fees that exceeded 100 percent of the previous land use fees.

In fiscal year 1999, Congress responded to the concerns of recreation residence permit holders on the Sawtooth National Forest in Idaho by directing the Forest Service not to increase recreation residence fees on the Sawtooth National Forest in fiscal year 1999 by more than 25 percent of the fee paid during the prior fiscal year.

In fiscal year 2000, Congress provided additional relief to recreation residence permit holders in section 342 of Public Law 106-113 (Consolidated Appropriations for Fiscal Year Ending September 30, 2000); which directed that recreation residence permit fees assessed during fiscal year 2000 could not exceed the fiscal year 1999 fee amount by more than \$2000.

Congress further addressed concerns with fee assessments for recreation residence uses with the October 12, 2000, passage of the Cabin User Fee Fairness Act of 2000 (CUFFA). One of the primary purposes of CUFFA is to establish a consistent and fair process for appraising the fee simple value of recreation residence lots on NFS lands.

2. Major Provisions of the Cabin User Fee Fairness Act of 2000 (CUFFA)

The Cabin User Fee Fairness Act of 2000 (CUFFA) directs the Secretary of Agriculture to promulgate regulations

and policies to implement the provisions of the act within two years of its passage. The major provisions of CUFFA include: (1) Establishment of a base annual fee for recreation residence special use permits that is 5 percent of the appraised fee simple value of the lot; (2) direction for the establishment of new guidelines for conducting appraisals of recreation residence lots; (3) an appraisal cycle shortened from the current 20 years to 10 years; and (4) the right of appeal and judicial review of a base cabin user fee determination.

Section 608 of CUFFA provides for annual adjustments to recreation residence fees based on changes to the Index of Agricultural Land Prices, published by the Department of Agriculture. Currently, the Forest Service adjusts annual fees for recreation residence using the 2nd quarter to 2nd quarter change in the Implicit Price Deflator, Gross Domestic Product (IPD-GDP) with a 10 percent increase cap in any one-year billing period. During the transition period identified in section 614 of CUFFA, the Forest Service is continuing to use the IPD-GDP as the means for annually indexing fees. This direction was provided to agency managers on February 20, 2003, in interim directive 2709.11-2003-1, issued to the Forest Service Handbook (FSH) 2709.11, chapter 30 (68 FR 8197). The Forest Service shall, however, limit annual increases using the IPD-GDP to 5 percent in any one year during the transition period as provided in section 608(d) of CUFFA. When the transition period ends, the Forest Service will use the Index of Agricultural Land Prices to index annual fees as provided in section 608 of CUFFA.

Section 606(a)(3) of CUFFA directs the Secretary to contract with a professional appraisal organization to develop appraisal guidelines for determining fees for recreation residences. The Forest Service contracted with The Appraisal Foundation (TAF) to assist in the development and review of the proposed appraisal guidelines. TAF is the single authority in the United States for development and interpretation of appraisal standards, such as those referenced in CUFFA. In addition, TAF is the only Congressionally recognized appraisal organization responsible for developing and interpreting the Uniform Standards of Professional Appraisal Practice (USPAP) as provided by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

TAF assisted the Forest Service in the development of the proposed appraisal guidelines. In its report dated October 8,

2002, TAF also documented that the proposed appraisal guidelines the Forest Service developed are in conformance with section 606 of CUFFA by stating: “* * * they (draft appraisal guidelines) follow exactly the directions in the act.” TAF did recommend minor, mostly editorial changes to the draft of the proposed appraisal guidelines. The revised draft appraisal guidelines are found in the proposed directives to Forest Service Handbook (FSH) 5409.12, Appraisal Handbook, section 6.9, exhibit 06, published elsewhere in this part of today's **Federal Register**.

Section 611 of CUFFA provides for the right of appeal and judicial review for recreation residence permit holders. The Department has reviewed this requirement and has determined that current regulations at Title 36, Code of Federal Regulations, part 251, Land Uses, subpart C, Appeal of Decisions Relating to Occupancy and Use of National Forest System Lands (36 CFR part 251, subpart C) provide all holders of recreation residence term permits the right to appeal a written decision by an authorized officer regarding the issuance, approval, and administration of their permits. The authorized officer's implementation of a new base fee, pursuant to provisions outlined in the proposed rule and directives published elsewhere in this part of today's **Federal Register**, constitutes a written decision subject to these appeal regulations. Therefore, existing regulations at 36 CFR part 251, subpart C, already provide the right of appeal identified in section 611 of CUFFA, and the Department is not proposing any new or amended appeal regulations for implementing that section of CUFFA.

Section 614 of CUFFA provides for a transition period during which the recreation residence fees in place on September 30, 1995, could not be increased by more than \$3,000 from the amount of the annual fee in effect on October 1, 1996, excluding annual indexing. The transition period ends for a recreation residence permit holder when a base fee for their recreation residence is established through guidelines contained in final regulations, directives, and appraisal guidelines developed pursuant to CUFFA. The Forest Service issued an interim directive implementing these transition provisions for fee determinations on February 20, 2003 (68 FR 8197) (ID 2709.11-2003-1 to FSH 2709.11).

Pursuant to the provisions of CUFFA previously outlined, the Forest Service is proposing revisions to its special uses regulations at 36 CFR part 251, subpart B, as set out in this notice, and also is