as well as a description of any beneficial or adverse effects that cannot be quantified in monetary terms. In addition, Executive Order 12291 requires that regulatory agencies prepare an analysis of the regulatory impact of major rules. Major rules are defined as those likely to result in:

1. An annual cost to the economy of $100 million or more; or

2. A major increase in costs or prices for consumers or individual industries; or

3. Significant adverse effects on competition, employment, investment, innovation or international trade.

The Agency has performed an analysis of the regulation to assess the economic effect of associated compliance costs for both the California list and the "First Third" list wastes (Refs. 6 and 7). Total compliance costs of the entire California list and "First Third" list regulations (i.e., those being finalized today as well as those which will be proposed in the near future) are estimated at $41.9 million, or $11.8 million annualized. Alternate treatment costs are estimated to total $36 million ($11.44 million annualized) and petition costs are estimated to be $5.9 million ($0.42 million annualized). The California list wastes and selected "First Third" wastes being addressed today are included in these costs. These costs indicate that the rule does not constitute a major rule under Executive Order 12291.

B. Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, whenever an agency publishes a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). This analysis is unnecessary, however, if the agency's administrator certifies that the rule will not have significant economic effect on a substantial number of small entities.

Owners and operators of hazardous waste injection wells are generally major chemical, petrochemical and other manufacturing companies. The Agency is not aware of any small entities that would be affected by this rule. Section 148.1(c)(3) of the regulatory framework for this rule exempts any small quantity generator, as defined in § 261.5, from the underground injection prohibitions proposed in that framework. The Administrator certifies that this rule will not have significant economic effects on a substantial number of small entities. As a result of this finding EPA has not prepared a formal Regulatory Flexibility Analysis.

C. Paperwork Reduction Act

The information collection requirements in this rule have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and have been assigned OMB control number 2040-0042.

V. References

(1) Estimated Quantity of Extracted Ground Water—RCRA Facilities and CERCLA Sites: 1988-1990; Report to U.S. EPA, ICF Incorporated, July 1988.

(2) Background Document for First Third Wastes to Support 40 CFR Part 268 Land Disposal Restrictions, First Third Waste Volumes, Characteristics, and Required and Available Treatment Capacity—Part II; U.S. EPA, OSW, May 1988.

(3) Findings on Class I Hazardous Wells Affected by the Land Ban Rules; Temple, Barker and Sloane, December, 1987.

(4) Evaluation of Availability of Alternate Treatment and Disposal Capacity for Injected Hazardous Wastes; Tischler/Kocurek for the Chemical Manufacturers Association, October 1987.

(5) Comments of the Chemical Manufacturers Association on EPA's Proposed Rule Regarding Hazardous Waste Disposal Injection Restrictions; Chemical Manufacturers Association, October, 1987.

(6) Regulatory Impact Analysis of Proposed Hazardous Waste Disposal Restrictions for Class I Injection of California List Wastes, EPA Report, Contract No. 68-03-3348; Cadmus Group, Inc., October 1987.

(7) Regulatory Impact Analysis of Proposed Hazardous Waste Disposal Restrictions for Class I Injection of First Thirds List Wastes, EPA Report, Contract No. 68-03-3348; Cadmus Group, Inc., October 1987.

List of Subjects in 40 CFR Part 148

Administrative practice and procedure, Confidential business information, Environmental protection, Hazardous materials, Hazardous materials transportation, Hazardous waste, Intergovernmental relations, Reporting and recordkeeping requirements, Waste treatment and disposal, Water supply, Water pollution control.

Dated: August 5, 1988.

Lee M. Thomas,

Administrator.

Therefore Chapter I of Title 40 is amended as follows:

PART 148—HAZARDOUS WASTE INJECTION RESTRICTIONS

1. The authority citation for Part 148 continues to read as follows:

Authority: Section 3004, Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*

2. Section 148.12 is added to read as follows:

§ 148.12 Waste specific prohibitions—California list wastes.

(a) Effective August 8, 1988, the hazardous wastes listed in 40 CFR 268.32 containing polychlorinated biphenyls at concentrations greater than or equal to 50 ppm or halogenated organic compounds at concentrations greater than or equal to 10,000 mg/kg are prohibited from underground injection.

(b) Effective August 8, 1990, the hazardous wastes listed in 40 CFR 268.32, other than those listed in paragraph (a) of this section, are prohibited from underground injection.

(c) The requirements of paragraphs (a) and (b) of this section do not apply:

(1) If the wastes meet or are treated to meet the applicable standards specified in Subpart D of Part 268; or

(2) If an exemption from a prohibition has been granted in response to a petition under Subpart C of this part; or

(3) During the period of extension of the applicable effective date, if an extension is granted under § 148.4 of this part.

3. Section 148.14 is added to read as follows:

§ 148.14 Waste specific prohibitions—First Third wastes.

(a) Effective August 8, 1990, the wastes specified in 40 CFR 261.32 as EPA Hazardous Waste numbers K049, K050, K051, K052, K062, K071, and K104 are prohibited from underground injection.

(b) The requirements of paragraph (a) of this section do not apply:

(1) If the wastes meet or are treated to meet the applicable standards specified in Subpart D of Part 268; or

(2) If an exemption from a prohibition has been granted in response to a petition under Subpart C of this part; or

(3) During the period of extension of the applicable effective date, if an extension is granted under § 148.4 of this part.

[FR Doc. 88-18451 Filed 8-15-88; 8:45 am]

BILLING CODE 6560-50-M

federal register

Tuesday
August 16, 1988

Part III

Office of the United States Trade Representative

Trade Policy Staff Committee; Articles Being Considered for Possible Duty Removal; Notice; Scheduling of Public Hearing

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Articles Being Considered for Possible Duty Removal

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; scheduling of public hearing.

SUMMARY: This publication gives notice of articles which may be considered for duty removal in the Uruguay Round of Multilateral Trade Negotiations and the scheduling of a public hearing in connection therewith.

FOR FURTHER INFORMATION CONTACT: Daniel Leahy, (202–395–7210), Office of Policy Coordination, Office of the U.S. Trade Representative, 600 17th Street, NW., Washngton, DC 20506.

SUPPLEMENTARY INFORMATION:

I. Articles Which May Be Considered in Trade Negotiations

In confomity with section 131(a) of the Trade Act of 1974 (the Trade Act) (19 U.S.C. 2131(a)), notice is hereby given of the articles which may, in negotiations conducted in the Uruguay Round of the Multilateral Trade Negotiations under the General Agreement on Tariffs and Trade (GATT), be considered for the removal of duties or continuance of duty-free treatment.

II. List Articles Which May Be Considered in the Tropical Products Negotiations

The U.S. negotiating proposals in the agriculture and tropical products areas are closely linked. However, because the Punta del Este declaration inaugurating the Uruguay Round calls for "special attention" for tropical products, in particular with respect to the timing of these negotiations, we are holding hearings now with respect to the articles listed in the annex to this notice. The listed articles may be considered for elimination of duties or continuance of existing duty-free treatment, as appropriate. The articles are identified by reference to eight-digit subheading numbers of the proposed Harmonized Tariff Schedule of the United States (HTSUS) and consist of all articles in such listed subheadings. The HTSUS is for sale by the Superintendent of Documents, Government Printing Office, Washington DC 20402, and is also available for inspection at any field office of the U.S. Customs Service or the Department of Commerce. A list giving informal abbreviated descriptions of the articles contained in the HTSUS subheadings identified in this notice is available upon written request from the Secretary, Trade Policy Staff Committee (TPSC), Office of the United States Trade Representative, Executive Office of the President, 600 17th Street, NW. Washington, DC 20506.

The list of articles in this notice reflects work conducted by the GATT Committee on Trade and Development in 1982–84 and is being used solely to provide an interim basis for proceeding with work in connection with the Uruguay Round Negotiations on tropical products. It has not been accepted by the United States as constituting a definition of tropical products.

III. Public Hearing

Section 133 of the Trade Act (19 U.S.C. 2153) requires that the President afford an opportunity for any interested person to present his or her views concerning any U.S. or foreign tariff concession, modification or continuance which could be offered or sought by the United States, any nontariff barrier to trade or any other matter relevant to proposed trade agreements. In accordance with the Trade Act, the TPSC will conduct a public hearing beginning at 10:00 a.m., on September 27, 1988. If necessary, the hearing will continue on September 28. The hearing will be held in the Amphitheater, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC. Interested persons wishing to testify orally at the hearing must provide written notice of their intention by 12:00 noon, September 15, 1988, to Carolyn Frank, Office of the U.S. Trade Representative, Room 523, 600 17th Street, NW., Washington, DC 20506. In addition, they must provide the following information:

(1) Their names, addresses and telephone numbers; and

(2) A summary of their presentation, including the products, with HTSUS item numbers, to be discussed.

Those persons presenting oral testimony must submit a complete written statement in 20 copies in English by 12:00 noon, September 22, 1988 to Carolyn Frank at the above address. Remarks at the hearing should be limited to no more than a 10 minute summary of the written statement, to allow time for possible questions from the Chairwoman and the interagency panel.

Persons not wishing to participate in the hearing may submit a written statement in 20 copies in English to Carolyn Frank at the above address by 12:00 noon, September 29, 1988. Any business confidential material must be clearly marked as such and must be accompanied by a nonconfidential summary thereof. Parties are referred to section 2003 of Title 15 of the Code of Federal Regulations for the rules concerning oral testimony, the submission of written briefs, the treatment of business confidential information and other procedures related to the TPSC hearing.

IV. Advice of the International Trade Commission

On behalf of the President, and in compliance with section 131(a) of the Trade Act, the U.S. International Trade Commission has been furnished with the list of articles published in this notice for the purpose of receiving from the Commission its advice on the probable economic effect on the U.S. industries producing like or directly competitive articles and on consumers of the elimination of U.S. duties or the continuance of U.S. duty-free or excise treatment, as appropriate. A notice of the Commission's investigation, and of public hearings to be held in connection therewith, was published in the Federal Register of August 3, 1988 (53 FR 29285).

Sandra J. Kristoff,

Chairwoman, Trade Policy Staff Committee.

Articles Which May be Considered for Elimination of U.S. Duties

Tropical Products

Articles provided for in the subheadings of the proposed Harmonized Tariff Schedules of the United States (HTSUS) which are listed below and which are not annotated with an asterisk may be considered for the elimination of U.S. import duties and are the subject of the request for advice of the U.S. International Trade Commission.

Subheadings listed below which are annotated with an asterisk are included in the indicative list of tropical products developed by the GATT Committee on Trade and Development, but such subheadings currently have a Column 1 rate of duty "free" in the HTSUS, and the duty-free status is bound in the U.S. Schedule annexed to the GATT.

I. Tropical Beverage Items

Coffee and Products

0901.11.00*	0901.22.00*	2101.10.40
0901.12.00*	0901.30.00*	
0901.21.00*	2101.10.20	

Coca and Products

1801.00.00*	1803.10.00*	1804.00.00*
1802.00.00*	1803.20.00	1805.00.00

Tea and Instant Tea

0902.30.00*	2101.20.20*
0902.40.00*	2101.20.40

II. Spices, Flowers, Plants, etc.

Spices and Essential Oils—Tropical

0904.11.00*	0909.10.00*	0910.99.40
0904.12.00*	0909.20.00*	0910.99.50*
0904.20.20	0909.30.00	0910.99.60
0904.20.40	0909.40.00*	3301.14.00*
0904.20.60	0909.50.00*	3301.21.00*
0904.20.70	0910.10.20*	3301.22.00*
0904.20.80*	0910.10.40	3301.26.00*
0905.00.00*	0910.20.00*	3301.29.10
0906.10.00*	0910.30.00*	3301.29.20
0906.20.00*	0910.40.20*	3301.29.50*
0907.00.00*	0910.40.30	3301.30.10
0908.10.00*	0910.40.40	3301.30.50*
0908.20.20	0910.50.00*	3301.90.00*
0908.20.40*	0910.91.00	
0908.30.00*	0910.99.20*	

Cut Flowers

0603.10.30	0603.10.70	0603.90.00
0603.10.60	0603.10.80	

Plants, Vegetable Materials, Lacs, etc.

0602.10.00	1402.10.00*	4602.10.13
0602.99.20*	1402.91.00	4602.10.19
0602.99.30	1402.99.00*	4602.10.21
0602.99.40	1403.10.00	4602.10.22
0602.99.60	1403.90.20	4602.10.23
0602.99.90	1403.90.40	4602.10.25
1211.90.20*	1404.10.00*	4602.10.29
1211.90.40	1404.90.00*	4602.10.40
1211.90.60	1521.10.00	4602.10.50
1211.90.80*	1521.90.20	9401.50.00
1301.10.00*	1521.90.40*	9401.90.10
1301.20.00*	3203.00.10*	9401.90.25
1301.90.40	3203.00.50	9401.90.35
1301.90.90*	4601.10.00	9401.90.50
1302.14.00*	4601.20.20	9403.80.30
1302.19.20*	4601.20.40	9403.80.60
1302.19.40	4601.20.60	9403.90.10
1302.19.90*	4601.20.80	9403.90.25
1302.39.00	4601.20.90	9403.90.40
1401.10.00	4601.91.20	9403.90.50
1401.20.20*	4601.91.40	9403.90.60
1401.20.40	4602.10.05	9403.90.80
1401.90.20	4602.10.11	
1401.90.40	4602.10.12	

III. Certain Oilseeds, Vegetable Oils, and Oil Cakes

1202.10.00	1513.19.00*	1519.19.20
1202.20.00	1513.21.00*	1519.19.40
1203.00.00	1513.29.00* [2]	1519.20.00
1207.10.00	1515.30.00	1519.30.20
1207.30.00*	1515.60.00	1519.30.40
1207.92.00*	1515.90.20	1519.30.60
1207.99.00*	1515.90.40	1520.10.00
1208.90.00	1516.20.10	1520.90.00
1508.10.00	1516.20.90	2305.00.00
1508.90.00	1518.00.20	2306.50.00
1511.10.00 [1]	1518.00.40	2306.60.00
1511.90.00 [1]	1519.11.00	2306.90.00
1513.11.00*	1519.12.00	

IV. Tobacco, Rice, and Tropical Roots

Tobacco and Tobacco Products

2401.10.20	2401.20.40	2402.10.30
2401.10.40	2401.20.60	2402.10.60
2401.10.60	2401.20.80	2402.10.80
2401.10.80	2401.30.30*	2402.20.10
2401.20.05	2401.30.60	2402.20.80
2401.20.20	2401.30.90	2402.20.90

Rice

1006.10.00	1006.30.10	1102.30.00
1006.20.20	1006.30.90	1103.14.00
1006.20.40	1006.40.00	

Manioc and Other Tropical Roots, and Products Thereof

0714.10.00	0714.90.50*	1903.00.20*
0714.90.10	0714.90.60	1903.00.40
0714.90.20	1106.20.00*	
0714.90.40	1108.14.00*	

[1] Palm oil and its fractions imported to be used in the manufacture of iron or steel products, or of tin plate or terne plate are bound free of duty in the GATT.

[2] Palm kernel oil unfit for use as food is not bound free of duty in the GATT.

V. Tropical Fruits and Nuts

Bananas and Banana Products

0803.00.20* [1]	0811.90.10	2008.99.15
0803.00.30*	1106.30.20	
0803.00.40	2008.99.13	

Other Tropical Fruits and Nuts and Products

0801.10.00*	0813.40.40	2008.19.15
0801.20.00*	0813.40.80	2008.19.20
0801.30.00*	0813.40.90	2008.19.25
0802.90.10	0813.50.00	2008.19.30
0802.90.15	1106.30.40	2008.19.40
0802.90.20	2001.90.10	2008.19.50
0802.90.25	2001.90.20	2008.19.85
0802.90.80	2001.90.25	2008.19.90
0802.90.90	2001.90.30	2008.20.00
0804.10.20	2001.90.35	2008.91.00
0804.10.40	2001.90.40	2008.92.10
0804.10.60	2001.90.42	2008.92.90
0804.10.80	2001.90.45	2008.99.05
0804.30.20	2001.90.50	2008.99.10
0804.30.40	2001.90.60	2008.99.18
0804.30.60	2006.00.20	2008.99.20
0804.40.00	2006.00.30	2008.99.23
0804.50.40	2006.00.40	2008.99.25
0804.50.60	2006.00.50	2008.99.28
0804.50.80	2006.00.60	2008.99.29
0807.20.00	2006.00.70	2008.99.30*
0810.90.20* [2]	2006.00.90	2008.99.35
0810.90.40	2007.10.00	2008.99.40
0811.90.20*	2007.99.05	2008.99.42
0811.90.22	2007.99.10	2008.99.45
0811.90.25	2007.99.15	2008.99.50
0811.90.30*	2007.99.20	2008.99.60
0811.90.35	2007.99.25	2008.99.61
0811.90.40	2007.99.30*	2008.99.63
0811.90.50	2007.99.35	2008.99.65
0811.90.55	2007.99.40	2008.99.80
0811.90.60	2007.99.45	2008.99.90
0812.90.10	2007.99.48	2009.40.20
0812.90.20	2007.99.50	2009.40.40
0812.90.30	2007.99.55	2009.80.20*
0812.90.40	2007.99.60	2009.80.40
0812.90.90	2007.99.65	2009.80.60
0813.40.10	2007.99.70	2009.80.80
0813.40.15	2007.99.75	2000.90.20
0813.40.20	2008.11.00	2009.90.40
0813.40.30	2008.19.10*	

[1] Dried bananas are not bound free of duty in the GATT.

[2] Kiwi fruit is not bound free of duty in the GATT.

VI. Tropical Wood and Rubber

Tropical Wood and Wood Products

4403.10.00*	4408.90.00* [1]	4412.11.20
4403.31.00*	4409.20.10*	4412.11.50
4403.32.00*	4409.20.25*	4412.12.05
4403.33.00*	4409.20.40*	4412.12.10
4403.34.00*	4409.20.50	4412.12.15
4403.35.00*	4409.20.60*	4412.12.20
4403.99.00*	4409.20.65	4412.12.50
4407.21.00*	4409.20.90*	4414.00.00
4407.22.00*	4410.10.00	4418.20.00
4407.23.00*	4410.90.00*	4418.30.00
4407.99.00*	4412.11.05	4418.50.00
4408.20.00*	4412.11.10	4418.90.20*
4418.90.40	4421.90.50	9401.90.15
4419.00.40	4421.90.60	9401.90.40
4419.00.80	4421.90.70*	9403.30.40
4420.10.00	4421.90.80	9403.30.80
4420.90.20	4421.90.85	9403.40.40
4420.90.40	4421.90.88*	9403.40.60
4420.90.60	4421.90.90	9403.40.90
4420.90.80	9401.61.20	9403.50.40
4421.10.00	9401.61.40	9403.50.60
4421.90.10	9401.61.60	9403.50.90
4421.90.15*	9401.69.20	9403.60.40
4421.90.20	9401.69.40	9403.60.80
4421.90.30	9401.69.60	9403.90.70
4421.90.40	9401.69.80	

Natural Rubber and Rubber Products

4001.10.00*	4009.10.00	4014.90.50
4001.21.00*	4009.20.00	4015.11.00
4001.22.00*	4009.30.00	4015.19.10
4001.29.00*	4009.40.00	4015.19.50
4001.30.00*	4009.50.00	4015.90.00
4005.10.00*	4011.10.00	4016.10.00
4005.20.00*	4011.20.00	4016.91.00
4005.91.00*	4011.40.00	4016.92.00
4005.99.00*	4011.50.00	4016.93.00
4006.10.00	4011.91.10*	4016.94.00
4006.90.10	4011.91.50	4016.95.00
4006.90.50	4011.99.10*	4016.99.03
4007.00.00	4011.99.50	4016.99.05
4008.11.10	4013.10.00	4016.99.10
4008.11.50	4013.20.00	4016.99.15
4008.19.10	4013.90.10*	4016.99.20
4008.19.50	4013.90.50	4016.99.25
4008.21.00	4014.10.00	4016.99.50
4008.29.00	4014.90.10	4017.00.00

[1] Reinforced or backed decorative wood veneers, not surface covered, or surface covered with a clear or transparent material which does not obscure the grain, texture or markings of the wood are not bound free of duty in the GATT.

VII. Jute and hard Fibers

5303.10.00*	5311.00.40	5702.39.10
5303.90.00*	5311.00.60	5702.39.20
5304.10.00*	5607.10.00	5702.49.10
5304.90.00*	5607.21.00*	5702.49.15
5305.11.00*	5607.29.00	5702.49.20
5305.19.00	5607.30.10*	5702.59.10
5305.21.00*	5607.30.20	5702.59.20
5305.29.00*	5608.90.10	5702.99.10
5305.91.00*	5608.90.20	5702.99.20
5305.99.00*	5608.90.30	5703.90.00
5307.10.00	5609.00.10	5705.00.10*
5307.20.00	5609.00.20	5705.00.20
5308.10.00*	5609.00.30	5905.00.10*
5308.90.00	5609.00.40	5905.00.90
5310.10.00*	5701.90.10	6305.10.00*
5310.90.00	5701.90.20	6305.90.00
5311.00.20	5702.20.10	
5311.00.30	5702.20.20*	

[FR Doc. 88-18424 Filed 8-15-88; 8:45 am]

BILLING CODE 3190-01-M

federal register

Tuesday
August 16, 1988

Part IV

Department of Agriculture

Forest Service

Recreation Residence Authorizations; Notice of Adoption of Final Policy

DEPARTMENT OF AGRICULTURE

Forest Service

Recreation Residence Authorizations

AGENCY: Forest Service, USDA.

ACTION: Notice of adoption of final policy.

SUMMARY: The Forest Service hereby gives notice that it is adopting certain new policy and procedures for administering special use permits that authorize privately-owned recreation residences on National Forest System lands. When adopted, the policy will place in effect a new method of calculating annual fees for recreation residences. It will also establish policy concerning the period of time authorized by the permit and determinations concerning the renewability of the permit.

EFFECTIVE DATE: This policy is effective August 31, 1988. The 15-day delay will allow distribution of the policy through the Agency's internal directive system.

FOR FURTHER INFORMATION CONTACT: Questions about this policy should be addressed to Ruben M. Williams, Lands Staff, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090-6090, (202) 235-2253.

SUPPLEMENTARY INFORMATION: On January 2, 1987, the Forest Service published a notice of proposed policy for the administration of recreation residence permits (52 FR 206-218). The proposed policy recommended several changes in the current policy for administering recreation residences including a proposal to calculate the annual fee by multiplying the base fee times the percent of change in the Implicit Price Deflator-Gross National Product (IPD-GNP). This new fee system would have become effective in 1987. The proposal also called for establishment of a new base fee at 20-year intervals, issuing permits for a 20-year period with a provision for renewal at the end of the first 10-year period, involvement of permittee representatives in reviewing decisions appealed to Regional Foresters, and the review of nonrenewal decisions 2 to 3 years prior to termination of the permit. The proposal was developed by the Forest Service and a working group representing recreation residence permittees, established at the request of the Chief of the Forest Service.

Analysis of Public Comment

During the public comment period on this proposal, the Forest Supervisor of the Eldorado National Forest in California, issued the Highway 88 Future Recreation Use Determination Draft Environmental Impact Statement (EIS). The preferred alternative in the draft EIS called for the removal of 82 recreation residences located near the lakeshore of Silver Lake and at other locations. Materials about the Future Use Determination were mailed to permittees in other States by the Northern Sierra Summer Home Association requesting their support in opposing the proposed nonrenewal action. Many people apparently confused the **Federal Register** notice on Recreation Residence policy with the **Federal Register** notice on the draft EIS. The Forest Supervisor withdrew the draft EIS on April 2, 1987, because the policy on future use determinations was one of the major items being considered in the proposed recreation residence policy and because of the confusion the draft EIS was creating. Any future action or study of the recreation residences in the Eldorado and other National Forests will be consistent with the direction contained in this final policy. Both the proposed policy and this final policy provide greater protection to the permittees from nonrenewal of their recreation residence permits. In this policy, we have limited the purposes for which recreation residence sites may be reclaimed by narrowing the definition of higher priority use as it applies to recreation residence sites.

To the extent possible, and based on the relative merit of the comments, the policy has been revised to respond to the comments and suggestions received. In addition, the text has been changed to improve clarity and to conform to Forest Service directive system policy and standards where necessary.

Several respondents questioned our notification procedures, i.e., direct mailings to all recreation residence permittees and via the **Federal Register** to all others. Each permittee was mailed a copy of the notice of the proposed policy because the changes would directly affect them and the administration of their permits. The general public was notified of the proposed policy via the Federal Register because this means of public notice has widespread circulation and meets Federal legal notice requirements.

Independently, the National Forest Recreation Association mailed to all recreation residence permittees a situation review position statement and offered a questionnaire-style response form. Completed questionnaires represented about 92 percent of the comments received on the proposed policy.

The Forest Service received 3,188 responses on the proposed recreation residence policy. The number and percentage of responses by category of respondent is as follows:

Respondent	Number	Percentage
Permittee	3,072	96.4
Permittee Family Member or Friends	21	0.7
Permittee Association	17	0.5
Others	56	1.7
Forest Service Personnel	22	0.7
Total	3,188	100.0

All of the comments received have been reviewed and given consideration in reaching the final decision. The summary of comments have been organized by topic and the Forest Service response to these topics follows.

1. *Base Fees and Indexing.* The Agency proposed to use established fees that became effective during the years 1978-1982 as the basis for a 20-year fee cycle using changes in the overall Implicit Price Deflator (IPD) for annual adjustments. Base fees would be updated to 1987 by applying the IPD adjustments.

About 81 percent of the reviewers supported the 20-year fee cycle and adjustment of the base fee by using the IPD. Other reviewers suggested such changes as: (1) No indexing of fees; (2) using an index that reflects Regional or State differences; (3) using a base period prior to 1978; (4) starting the indexing in 1987 or a year after the base fee year was established; (5) using the reduced fee resulting from the Appropriations Acts of 1983-1986 as the fee base; or (6) preparing new appraisals using current market sales to establish a base fee. All of these proposals were considered in the development of the proposed and final policy, and all of them, except the last one, would have the effect of reducing the fee that would become effective upon adoption of this policy. Establishing new base fees based on current appraisals would result in increased fees, but we do not believe it would be cost effective at this time.

The proposed method of adjusting fees for the years up to and including 1987 is unchanged in the final policy; however, we have clarified that the index is the Implicit Price Deflator-Gross National Product (IPD-GNP). In the proposed policy we used the term "overall Implicit Price Deflator."

For the years 1988 and thereafter to the end of the fee cycle, the fees will be adjusted by applying the percentage change in the index for the second quarter of the previous year to the second quarter of the current year to the current fees. For example, the percentage change in the index from June 1986 to June 1987 gives the factor to apply to the 1987 fees to obtain the 1988 fees.

Originally, the Forest Service and the Chief's permittee working group had proposed a 4-year phase-in of the 1987 fee increase. In the administrative review of the proposal, the phase-in period was limited to 3 years. This change in the phase-in period was identified in the response form mailed to permittees by the NFRA. Almost all of the permittee respondents asked that the phase-in period be 4 years rather than 3 years.

Other respondents favored no phase-in of fee increases stating that the phase-in of fee increases adds to the Forest Service administrative cost and reduces receipts to the Federal Government. Among the comments were concerns that the proposed phase-in of fee increases was more generous than the previous policy which provided for the phase-in of fee increases when the amount of the increase is $75 or more. Some questioned why the Forest Service was proposing a different policy for the phase-in of recreation residence fee increases from the phase-in policy for linear rights-of-way published in the **Federal Register** on December 5, 1986, noting that only the amount of the fee increase in excess of $100 or 100 percent of the previous fee could be phased-in.

We recognize that a significant number of permits will have fee increases of less than $100 and a few of less than $20. We also recognize that the phase-in of fees adds marginally to our administrative costs and reduces receipts to the Federal Government. These facts were recognized and considered when the Forest Service was meeting with the permittee working group attempting to reach an equitable solution to the fee controversy. We continue to believe that it is important to consider the fee issue as a whole. The overall policy change will significantly increase the fees that have been charged since 1983. At that time, the Congress enacted legislation that statutorily limited fee increases and required the Forest Service to grant fee credits for fees paid in previous years that exceeded the statutory limits. Under the final policy, we will restore the fees that were charged prior to 1983 and adjust the base fee by the IPD–GNP index to arrive at the 1987 fee. Only the fee increase resulting from the adjustment of the base fee will be phased-in. The base fee amount will not be phased-in, it will be restored. Likewise, annual fee adjustments for 1988 and fee adjustments that may occur in later years will not be phased-in.

The new fee schedule will apply to permits for which the fees have already been paid for 1987 and 1988. A supplementary billing will be sent to permittees for the additional amounts owed under the new fee schedules for those years (see Implementation section).

Finally, in mid-1986 we assured the Congress that we had reached agreement, subject to approval within the Administration, with the permittee working group on the fee issue. On this basis, we requested, and the Congressional Appropriations Committees agreed, that no provisions be embodied in the 1987 Appropriation Act that would limit fees for 1987, as had been the case in each Appropriation Act since 1983, should the new policy be implemented in 1987. A similar request was made, and agreed to, for the 1988 Appropriation Act. The phase-in of fee increases over a 4-year period was in the agreement reached with the permittee working group. Given the overwhelming support of the reviewers for the 4-year phase-in, rather than the 3-year period in the proposed policy, the final policy provides for a 4-year phase-in of the 1987 fee increase.

While we will not limit the phase-in of fee increases to a dollar or percentage amount, we have, as in our proposed policy, provided for the phase-in of fees for only those permittees who accept new recreation residence permits. The new recreation residence permits contain a provision for the annual adjustment of the fee amount by the percentage of change in the IPD–GNP index. Fee increases will not be phased-in for those permittees who retain their old permits which provides only for adjustment of the fee at 5-year intervals (Implementation section).

2. *Index Limitation.* Most reviewers favored the 10 percent limitation on the increase or decrease in the fees resulting from the annual IPD adjustment for 1988 and thereafter. Some reviewers recommended no limitation, and others recommended limitations ranging from 2 to 7 percent. We believe the 10 percent limitation is a reasonable level that protects both the public interest and the permittee and, therefore, it is not changed in the final.

3. *Appraisals and Fee Determination.* The proposed policy provided that the Forest Service would clarify and standardize instructions used in appraising recreation residence sites to ensure common minimum standards in the various appraisal tasks. Eighty-five percent of the commenters supported the proposed policy on appraisals. Some of the concerns expressed by those not agreeing dealt with appraisal procedures or process, such as constraints of the special use permit on use of the residence, winter accessibility, and the possibility of nonrenewal. We have considered these limitations on use in developing detailed appraisal procedures and the standard appraisal contract. Other commenters asked that we base the permit fee on the Forest Service cost of administering the permits or valuations by local tax assessors. We considered these methods in developing the proposed policy, but did not adopt them, because they would not result in fair market value fees, which the Agency is required by statute and OMB regulations to charge. Some respondents encouraged us to consider land leases where available in our appraisals rather than lot sales. Others asked us to clarify who selects and pays when a third appraisal is needed.

In our market surveys we have found that recreation residence sites are almost always sold in the private market rather than leased for construction of a residence by an individual. Therefore, because of the scarcity of such leases, we do not believe it would be practical to expend the money to search for such leases. Therefore, the final policy on appraisals and fee determinations is unchanged from the proposal. However, we have clarified that the permittee and the Forest Service will share equally the cost of a third appraisal.

4. *Annual Rental Rate.* About 73 percent of the respondents favored the continuance of basing the annual rental on 5 percent of the appraised site value. Other reviewers asked that the rate be reduced for senior citizens, retirees, pensioners, veterans and other living on fixed income. We do not have statutory authority to discount the fee because of age or economic status of the permittee. The rate of 5 percent recognizes the various limitations on recreation residence use resulting from Federal ownership of the land. Therefore, the rate remains unchanged.

5. *Term Permit.* Nearly 88 percent of the respondents favored revision of the Term Permit Form and of the proposal to issue the permits for a 20-year period with a provision to renew it at the end of 10 years, unless the Forest Service has identified a need to use the site for a higher public purpose. The Forest Service has worked with the permittee representatives in revision of the Term Permit. A copy of the new recreation residence permit is included in the

Forest Service Handbook 2709.11—Special Uses.

6. *Higher Public Purpose.* We proposed that higher public purpose for future use determinations be defined as "a higher priority use of a site for the benefit of the general public that is timely, clearly needed, in public demand, and where other sites to satisfy the need cannot reasonably be made available."

While most reviewers agreed with the proposed changes, several respondents objected to the proposed definition of higher public use and to the criteria for not renewing recreation residence use. They felt that there are valid reasons for not renewing recreation residence use of a site that could not be fully considered and evaluated using the proposed standards. For example, some believed that nonrenewal should be justified based on the need for access to streams or lakeshores. There was a feeling that the Forest Service under this proposal could only decide not to renew the residence use if the site was needed for development of public recreational facilities and no other alternative could be found.

One reviewer raised the question of applicability of the higher public purpose criteria to recreation residences located in congressionally-designated National Recreation Areas and Wild and Scenic River corridors. The decision on whether to allow recreation residences to remain in such congressionally-designated areas will be handled in a manner consistent with the enabling legislation. It is recognized that the management purpose including visual management considerations may be specifically identified in the legislation establishing these special areas.

We believe the definition of higher public purpose and the policies and guidelines for making renewal decisions are sufficiently flexible to allow the Forest Service to recapture recreation residence sites needed for public use and management of the National Forests. The guidelines do not restrict the Agency only to reclaiming sites where physical facilities are required. Therefore, the proposed definition is not changed in the final policy.

7. *Future Use Determinations.* The proposed policy included specific guidelines for conducting studies to determine whether another use should be made of recreation residence sites. Those guidelines emphasized the importance of considering common, shared, or multiple-uses that integrate recreation residences with other uses of a site; the feasibility of using other sites to meet the higher public purposes for the recreation residence sites; the potential recreational and financial losses of permittees and others using their improvements as opposed to the benefits to the general public to be gained by removal of the residences.

Over 90 percent of the respondents agreed with the statement in the response form prepared by the NFRA. That form said, "Before deciding that recreation residence sites will be converted to higher use, it is important to have an objective, fully explanatory description and analysis of the relevant data needed to explore the reasonable alternatives. A separate study is needed. It should be available to affected permittees. Specific guidelines for conducting it are necessary."

In addition, some respondents commented that permittee participation in the future use determination process should result in a reduction of appeals. Another recommendation was to use a non-partisan arbitrator between the Forest Service and permittees. The United States Statutes do not allow the Forest Service to use arbitration for decisions regarding the use of National Forest lands.

The Forest Service developed the term "future use determination" in the mid-1960's when we had a number of recreation residence tracts under nonrenewal notice or being studied for possible nonrenewal. At that time, we did not have the environmental review and decision making process that came about pursuant to the National Environmental Policy Act (NEPA). Now decisions on land uses, including special uses of National Forest lands, must be made and documented in accordance with NEPA, and implementing regulations, policies, and procedures. We have concluded that the term "future use determination" is not needed and causes confusion among permittees and Forest Service field people. For that reason, we have eliminated the term "future use determination" from the final policy as well as the requirement to conduct a future use determination study prior to renewal of recreation residence permits.

Instead, renewal of recreation residence permits will be determined in the same manner as other special use permit renewals. We will use NEPA procedures in making decisions on the renewal of recreation residence permits. When proposed alternative uses for recreation residence sites that involve a higher public purpose are identified in a Forest Plan or in the NEPA scoping process for a project, the Forest officer will consider continuance in the analysis of alternatives for that proposed higher public use. If a Forest Plan or scoping for a project does not identify a need for a higher public use of the site, the permits will be renewed.

The Forest Service will continue to provide a 10-year notice prior to the nonrenewal of a recreation residence as provided in the proposal. In the final policy, we have changed the term "private recreation use permittee" to "non-commercial recreation use permittee." The change in terminology should help remove some of the negative connotations associated with the label of an exclusive, private use of public lands. It will also help reinforce the fact that a residence cannot be used or operated as a business. We have also emphasized that recreation residences are an important component of the overall National Forest recreation program.

8. *In-Lieu Sites.* We proposed to make a reasonable effort to provide other sites upon which permittees may build or relocate their improvements when not renewing a recreation residence permit for a higher public purpose. Most permittee respondents agreed with the proposal, and some asked that the offer of an in-lieu site be extended to owners of a recreation residence permit who acquired the residence after a nonrenewal notice had been given. Other respondents opposed the offer of alternative sites for various reasons. Among the chief concerns was that the offer of in-lieu sites would lead to the permanent relocation of private recreation residences on the National Forest that are available to only a very limited number of citizens of the United States. Another concern was the added cost to the Forest Service of offering in-lieu sites, such as planning, conducting environmental reviews, processing appeals, and adminstration of the sites. We agree that offering in-lieu sites will add to the costs of administering the recreation residence program and will help perpetuate recreation residences on the National Forests. In the past 15 years there have been very few nonrenewal decisions. Based on this experience, we expect the cost of offering in-lieu sites to be very low.

In the final policy, we have clarified our intent to offer an in-lieu site to an existing owner as well as to a new owner of a recreation residence that is under nonrenewal notice.

Recreation residences under nonrenewal are commonly sold to people who attempt to use the facilities as their principal place of residence. Because the use of a recreation residence as a principal place of residence conflicts with the purpose for recreation residences and statutory authority, we are clarifying that an in-lieu site cannot be used as a principal place of residence even though the existing residence site is used full time.

Use of in-lieu sites must be consistent with the Forest Plan and must comply with State law and local government ordinances and zoning. Additionally, facilities developed on an in-lieu site must comply with Federal, State, and local building codes, and the holder will be required to pay any costs.

9. *Adjustment of Fees Upon Nonrenewal.* The proposal to freeze a fee upon a decision not to renew a permit and to reduce the fee during the last 10-year period was supported by nearly 86 percent of the reviewers. Some reviewers agreed to freezing the fee during the last 10-year period, but objected to reducing the fee. They questioned whether such fee reductions met the requirement to charge fair market value.

We find the value of the recreation residence use is reduced during the last few years prior to the nonrenewal of the residence use. The market clearly shows that value declines when limitations are placed on use. We believe the fee reduction in the last 10 year period is fair and equitable and meets the requirement to charge fair market value fees. Therefore, we have in the final policy provided for reduction of the fee as proposed.

Other reviewers asked that the fee reduction provision be granted to permits under life tenure. This would be inappropriate since the expiration date for life tenure permits is unknown. To stay a fee increase or reduce the fee on an annual basis for permits under life tenure would deprive the public of a reasonable fee for exclusive use of Federal land.

Rarely are life tenure provisions used in recreation residence permits. Where they have been used, the Forest Service would be willing, upon the request of the permittee, to review the need for the termination and where there is a need to continue with the termination action, to issue a permit with a fixed expiration date. The permittee would then qualify for a reduced fee. If there is no need to continue with the termination, a new 20-year term permit would be issued.

As discussed in this policy, notice of nonrenewal of recreation residence use must be given at least 10 years prior to the expiration date. A longer time period may be given, and in the past up to 20 years advance notice was given. Therefore, in order to be consistent in the fees charged permits under nonrenewal notice, we have clarified that the annual fee will be frozen on the tenth year prior to the scheduled expiration date rather than the date that the notice of nonrenewal is given.

Having considered the comments received, the Agency adopts the proposed policy on adjustment of fees upon nonrenewal without change, except as noted in the previous paragraph.

10. *New Recreation Residence Tracts.* A number of respondents asked the Forest Service to open new recreation residence tracts for development. They state that new sites when developed would provide more opportunity for others to own and enjoy a residence in the National Forests. Some believe that it is an economical method to provide recreational opportunities on the National Forests and would result in increased receipts to the Forest Service and help reduce the Nation's deficit.

In the mid-1960's, the Forest Service established a policy to discontinue the designation and approval of new recreation residence tracts. By that time, many private landowners had subdivided their properties for second home developments and there was no longer a need to use the National Forest for second homes. Since that time, there has been an abundant supply of second home lots that have similar or better amenities than lots that might be approved for recreation residences on the National Forest. There are approximately 3 million second homes in the Nation and about 15,800 of these homes are recreation residences on the National Forest. Currently, there are several million lots on private lands that have not been developed. Therefore, the approval of additional recreation residence sites on the National Forests could adversely impact the sale of lots for the second home market. For these reasons the Forest Service will continue its longstanding policy of not authorizing new tracts for recreation residence sites.

11. *Participation in Appeals.* The proposal stated that the Agency would work with permittee representatives who desire to participate in the resolution of recreation residence issues appealed to the Regional Forester by other permittees. About 87 percent of the reviewers concurred with the proposed policy and 674 permittees expressed an interest in working with permittee representatives and the Forest Service in the resolution of issues. Other respondents objected to the proposal feeling that the Forest Service would be making an alliance with a special interest group that can be perceived as giving the special interest an advantage over members of the general public and other special interest groups. Some questioned whether the release of the information without the permittee's consent would be a breach of the Privacy Act. Others noted that the Agency does not grant similar privileges to other special interest groups, who very well may want to be informed and involved in the resolution of issues in which they have an interest.

Our intent is to reach a fair and equitable resolution to permittee complaints, and we believe permittee representatives can assist the Forest Service in this effort. We distinguish recreation residence permittees from other interest groups through the business relationship arising from the term permit. Issues and complaints must necessarily be resolved within the context of the terms of the permit. Since all permittees have the same permit, a decision relating to one permit could affect others.

Where requested, the Agency will advise any individual permittee or permittee organization of issues related to administration of recreation residence authorizations for the purpose of reducing conflict between permittees and the Forest Service. The proposal is adopted, but in response to concern about breach of privacy, a clarifying statement has been added that notice by the Forest Service will be given to permittee representatives or others of an issue of concern to a permittee or an issue under appeal, unless requested otherwise by the permittee/appellant.

12. *Base Fee Reviews.* We proposed to review certain base fees to ensure that they are reflective of fair market value. In the proposal, we also invited respondents to provide additional criteria or unusual appraisal situations or problems. Less than 6 percent of the respondents expressed a problem with their base fee. Therefore, this provision is adopted as proposed. As a result, the Forest Service has reviewed or is presently reviewing.

a. Permits where the 1978–1982 fee is currently under appeal and a decision is to be made as required by the administrative appeal regulations (36 CFR 211.18).

b. Permits where appraisals were not conducted and used in establishing fees during the 1978–1982 period (in some cases, we may use an earlier or a later appraisal as the basis for the base fee that will be adjusted by the applicable IPD–GNP factor).

c. Permits whose fees are not based on an appraisal.

d. Permits in which the commenters questioned the appraisal values, except that appraisals that have already been reviewed and resolved in the administrative appeals process will not be reviewed.

13. *Review of Decisions Not to Renew Permits.* We proposed to conduct supplemental or follow-up reviews of nonrenewal decisions prior to expiration of the permit to determine if circumstances have changed. Most reviewers were agreeable to the proposal to review earlier nonrenewal decisions prior to the actual expiration date.

Similarly, most reviewers agreed with the item in the National Forest Recreation Association response form that asked the Forest Service to review all decisions for permits that have expired, but the residences have not been removed. It should be noted that this was not included in our proposal. To require a review of recreation residence permits that have already expired could unnecessarily delay Forest Service development plans and schedules for an area.

The Forest Service did agree to implement supplemental reviews of permits with a nonrenewal notice provided the resulting decisions are non-appealable. On July 22, 1987, we published in the **Federal Register** an Interim Rule that changed the administrative appeal regulation at 36 CFR 211.18 to accomplish this. Upon adoption of a final rule, we will require, as a matter of policy, that, upon request of the holder, a review will be conducted 2 years prior to the established expiration date of the permit for permits expiring in 1989 and thereafter. Forest Supervisors will notify affected permittees of the pending review and request their input.

Regarding permits that are not being renewed after 1987 or 1988, the Forest Service issued instructions to its field offices on July 17, 1987, directing Forest Supervisors to notify all such permittees of their opportunity to petition the Forest Supervisor to review the earlier nonrenewal decision. The notice to the permittees made clear that any decision resulting from the review is excluded from appeal under the Administrative Appeal Regulation (36 CFR 211.18). The basis for this is the Interim Rule published in the Federal Register on July 22, 1987 (52 FR 27547).

In reviewing nonrenewal decisions, the Forest Supervisor will determine whether or not circumstances have changed since the original decision was made and if the reasons for nonrenewal are still valid. If the site is still needed for a higher priority use, the permittee is to be promptly notified. If the site is no longer needed for a higher priority use, a new 20-year term permit will be issued.

14. *Isolated Cabin Permits.* The Agency proposed to work with permittee representatives to identify and review any arbitrary and/or unfair action in establishing nonrenewal dates for isolated cabins. We proposed conditions under which the reviews would be made. The NFRA permittee response form stated that, "isolated cabins should not be removed only because they are isolated. Removal of cabins that might otherwise qualify as recreation residences should be based primarily on whether they are in conflict with higher needs for the site." Most respondents agreed with the statement. Other respondents felt that cabins built on invalid mining claims, in trespass, and for other purposes to support a commercial operation, such as a sawmill or range allotment, should be removed so that the public could make use of the lands. They believe that a policy change that would allow these cabins to be managed as recreation residences would give a windfall to the current owners, would continue the private exclusive use of public lands, and could encourage others to occupy National Forest lands without a permit.

One respondent pointed out that the Alaska National Interest Lands Conservation Act (16 U.S.C. 3210) provides specific direction for permitting and terminating cabins in Alaska. We agree that cabins on National Forest lands in Alaska must be administered in accordance with the ANILCA and that those cabins cannot be included under the general policy for administration of cabin permits that applies to other National Forest System lands.

The permittee working group believes that there are isolated cabin permits that should be allowed continued occupancy of National Forest lands. While the Forest Service is willing to review individual situations, agreement has not been reached as to the guidelines for identifying individual isolated cabins that may qualify for recreation residence permits.

The permittee working group and the Forest Service will continue to pursue identification of isolated cabins which may qualify and standards for their conversion to recreation residences or continuance under isolated cabins policies. Additional public comment on this subject will be requested in a future **Federal Register** notice.

The Forest Service identified those isolated cabin occupancies that were scheduled for removal in 1987 and 1988. A joint review of these cases, and the attendant planned public involvement will provide insights into what standards may be used in determining which isolated cabin permits should appropriately be converted to recreation residence permits.

Based on agreement with the permittee working group, isolated cabins in the following categories will not qualify for conversion to recreation residences:

a. Cabins having been provided relief under the Mining Claim Occupancy Act (30 U.S.C. 701–708).

b. Cabins built in trespass which can be resolved by the Small Tracts Act (16 U.S.C. 521c–521i).

c. Cabins existing under a deed restriction in a Forest Service land acquisition.

d. Situations where delay in removal would disrupt Forest Service development plans where funds are budgeted.

e. If removal is by final court order or litigation.

15. *Compensation.* Eighty-five percent of the respondents favored compensation when a permit is not renewed because the site is needed for a higher priority purpose. They want to be paid for the value of their improvements, cost of moving to an in-lieu site, and cost of restoring the old site. However, not everyone agreed with the concept of compensation because the 10-year notice of nonrenewal with progressive fee reductions would already provide partial compensation for the permittee. Some felt that compensation should be at a percentage that is less than the fair market value of the improvements.

The NFRA permittee response form contained an inquiry as follows: "If such compensation is not available, and if permittee-paid "insurance" could be arranged to provide its equivalent, I would be willing to pay the following percentage of my fee (my annual fee is: $______)".

Approximately 43 percent of the respondents said they would be willing to pay a percentage of their fee in an insurance type of account for this purpose.

As stated in the January 2, 1987, **Federal Register** notice, the Forest Service does not have authority to compensate permittees for the value of their improvements after a permit has expired. The Forest Service remains willing to work with permittees in pursuit of alternative protection such as private insurance. We will continue to point out to holders that one of the risks of owning a recreation residence on National Forest lands is that the permit may not be renewed.

16. *Transition.* The Agency proposed to offer new 20-year term permits after approval of the final policy except in those cases where a nonrenewal notice had been given or an analysis of the need for providing for higher public

purposes was underway or was planned within 5 years. Almost all of the respondents agreed with the proposal. Therefore, permittees with unexpired terms on their permits must decide whether to immediately accept new term permits or wait until the existing permit term ends. The fee increase effective in 1987 will be phased-in over a 4-year period for those choosing to accept new permits. For permittees who keep their existing permits, the fee increase will not be phased-in. It is anticipated that most permittees who choose the new permit will receive a 20-year term permit. However, individual Forest Supervisors may elect not to grant a full 20-year term when nonrenewal is already established or must be considered within the next 5 years.

Following the analysis of public comment, the Forest Service continued discussions with the working group of recreation residence permittees for the purpose of refining and clarfying the final policy. This continued permittee review and involvement combined with the Department's internal review and clearance on this complex policy has resulted in a greater delay in adoption of the final policy then originally anticipated but has also produced a policy that meets the Government's needs and most of permittees' concerns.

Implementation

The Forest Service plans the following actions and methods for implementing this final policy:

1. A new term permit has been developed, to be issued in Chapter 50 of Forest Service Handbook 2709.11, that will implement the changes in recreation residence policy. Permittees will be offered an opportunity to convert their existing permit to the new permit and will have 75 days to respond to the Forest Supervisor's notification (item 2) indicating their intention.

2. Within 45 days of the effective date of this policy, Forest Supervisors will provide each permittee the new permit including the length of term which will be granted and the revised fee.

3. If the Forest Supervisor decides on a term of less than 20 years, the reasons for the shorter term will be stated. Except for permits on tenure, the term must be at least 10 years and cannot be less than the term remaining on the existing permit. If a term less than 20 years is necessary because a recreation residence renewal study is underway or planned, the length of term granted should provide for time to complete the study plus at least 10 years.

4. For those permittees electing to retain their existing permit, fees for 1987 will be determined by multiplying the cumulative IPD–GNP index for the number of years since the existing fee was established. For example, the 1987 fee for a permit with a fee of $300, established in 1979, would be $456 ($300 times 1.52). In accordance with the terms of existing permits, the fee established for 1987 would remain constant until the end of the 5-year fee adjustment period set forth in the permit. At the end of the adjustment period, the appropriate cumulative IPD–GNP index would be applied to redetermine the fee. This methodology would continue until expiration of the term of existing permits, at which time the new standard term permit would be issued, unless notice of nonrenewal has been given.

5. For permittees electing to convert their existing permit to the new permit, the fee will apply as of 1987. The fee charged in 1987 will be the product of the base fee multiplied by the appropriate IPD–GNP index. (See Forest Service Handbook 2709.11—Special Uses, Chapter 30.) The amount of the fee increase will be phased-in over a 4-year period for these permittees Fees for 1988 will then be determined by applying the index to the 1987 fees.

6. Since permittees have already paid a partial fee for 1987 and 1988, a supplemental billing will be mailed to each permittee to collect the additional fee owed for these two years. If the amount of the supplemental fee exceeds $100, Forest Supervisors will be authorized to collect the supplemental fees for 1987 and 1988, if the holder desires, over a period of time, not to exceed four months. Any credits due permittees resulting from the 1983–1986 Appropriation Acts provision will be applied to the supplemental fee.

7. This recreation residence policy will be issued as amendments to Forest Service Manual (FSM) Chapters 2340 and 2720 and Forest Service Handbook (FSH) 2709.11, Special Uses. The revised policy for recreation residences, as it would appear in the Agency's directive system, is set forth at the conclusion of this notice.

May 19, 1989.

George M. Leonard,

Associate Chief.

Revised Recreation Residence Policy and Procedures

(Note: The Forest Service uses alpha-numeric codes and subject headings to organize the text of direction. Only those sections of the Forest Service Manual and Handbook that would be revised are set out here. Readers should keep in mind that the audience of this direction is Forest Service employees charged with issuing and administering recreation residence use authorizations. The direction in FSH 2709.11, Chapters 30 and 40, will be issued as Interim Directives and will be converted to the permanent direction in 1 year. All other policy will be issued as final direction.)

Title 2300—Recreation, Wilderness, and Related Resource Management

2347—Non-Commercial Recreation Use

This section deals with privately built and owned structures allowed on National Forest land under special use authorization. These structures are maintained for the use and enjoyment of holders and their guests. As recreation facilities, they are vacation sites and may not be used on a permanent basis (FSM 2721.23).

2347.03—Policy

1. Manage non-commercial recreation use sites in accordance with basic recreation policy in FSM 2303 as important and valid components of the overall National Forest recreation program.

2. Maintain in place those existing facilities now occupying National Forest land under special use authorization that (a) are at locations where the need for a higher public purpose has not been established, (b) do not constitute a material, uncorrectable offsite hazard to National Forest resources, and (c) do not endanger the health or safety of the holder or the public.

3. Deny applications for construction of new facilities except where they would replace similar existing facilities.

4. Deny any proposal for commercial activity at permitted, non-commercial recreation use sites.

5. Require non-commercial recreation use holders to maintain their sites to protect the natural forest environment. Do not allow construction or placement of non-authorized facilities on these sites.

2347.1—Recreation Residences (FSM 2721.23 and FSH 2709.11)

1. Recreation residences are a very important use of National Forest System lands. They are an important component of the overall National Forest recreation program and have the potential of supporting a large number of recreation person-days. The Forest Service will work in partnership with the holders of these permits to maximize the recreational benefits of these residences.

2. Administer recreation residence special use permits to ensure proper use of the site for family and guest recreation purposes.

3. Use every reasonable effort to provide in-lieu sites to holders who have received nonrenewal or termination notices (except termination for breach). For this purpose, sites within or adjacent to the National Forest containing the residences being terminated or under nonrenewal, including undeveloped or withdrawn sites, shall be available as in-lieu sites. New tracts may be established for recreation residence in-lieu sites at locations not needed in the foreseeable future for a higher public use. In-lieu sites should be comparable to the sites being recovered when possible, but make sure that holders are informed that the Agency cannot guarantee that the available in-lieu sites will be entirely satisfactory. Do not establish new recreation residence tracts for any other purpose than for providing in-lieu sites (FSM 2721.23e).

4. Although a few full-time residences are currently authorized by special use permit, do not approve any new authorizations for such uses, except in special situations to provide caretaker or other similar services where there is a strongly demonstrated need (FSM 2347.12). Do not approve in-lieu sites for full-time residence use.

5. Issue 20-year term permits and renew them every 10 years unless need for a higher public use at the same location has been documented and established.

6. Give holders at least 10 years written advance notice if the use is not to be continued, except when the permit is to be terminated when (a) it is in the public interest, particularly when the final decision authority does not rest with the Forest Service, (b) there is an uncorrected breach of the permit, or (c) the site has been rendered unsafe by catastrophic events such as flood, avalanche, or massive earth movement. In these exceptions, give as much advance notice as possible.

7. Review nonrenewal decisions two years prior to the scheduled expiration date to determine if the original decision is still valid, provided the decision is non-appealable.

8. Termination of a recreation residence permit within the term of the permit should not be undertaken unless there are appropriations to pay for the improvements and there is an urgent need to use the site before it could be recaptured for public use by nonrenewal procedures. When considering a termination, follow the procedures for permit renewals and nonrenewals to the extent practical (FSH 2709.11, 41.23).

2347.11—Preventing Unauthorized Residential Use

Prevent unauthorized full-time residence use by enforcing the terms of the special use permit. Continue to administer those recreation residences presently authorized as a principal place of residence in accordance with provisions of the special use permit, under policy adopted in 1970. Upon transfer or sale of improvements, discontinue the residential use and authorize only recreation residence use.

2347.12—Caretaker Residences

2347.12a—Authority

Authorize caretaker use of a recreation residence with an annual permit, Form 2700-4, under the Act of June 4, 1897. (Require applicants who currently have term permits to exchange them as a condition of obtaining the caretaker authorization.)

2347.12b—Caretaker Residence Use

1. The Forest Supervisor may authorize caretaker residence 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 need for a caretaker residence rarely can be justified where yearlong occupancy is already authorized in the tract.

2. Authorize no more than one caretaker residence per recreation residence tract unless factors such as size and layout of the tract call for more than one. The affected tract association, or if there is no association, at least 60 percent of the affected holders, must document approval of request for a caretaker residence. Require the applicants for caretaker use to document the caretaker services they will provide.

3. Issue the annual permit only for an existing residence. The permit must contain a provision that automatically terminates authorization for yearlong use in case of change in ownership. Do not authorize construction of a new residence for caretaker services.

4. Coordinate applications for caretaker residence permits with local Governmental agencies to avoid creating unreasonable demands or burdens for such services as snow plowing, mail delivery, garbage pickup, school bus, or emergency services.

5. The fees for caretaker residences will be 25 percent more than those charged for recreation residence use of a similar site in the tract.

6. A tract association may own caretaker residences.

7. If a site ceases to be used as a caretaker residence, issue a new term permit for recreation residence use to the holder, if qualified, or to the purchaser of the improvements.

Title 2700—Special Uses Management

2721.23—Recreation Residence

This designation incudes only those residences that occupy planned, approved tracts or those groups established for recreation residence use (FSM 2347 for basic policy on recreation residence use).

2721.23a—Administration

The following direction relates specifically to issuance and administration of special use permits for recreation residence. For recreation residence permits in Alaska, follow the additional requirements in Section 1303(d) of the Alaska National Interest Lands Conservation Act.

1. Issue special use permits for recreation residence in the name of one individual or to a husband and wife. Upon reissuance, renewal, or amendment, revise authorizations that are not issued to an individual or to a husband and wife, so that the responsible person is identified.

2. Issue no more than one recreation residence special use permit to a single family (husband, wife, and dependent children).

3. Do not issue special use permits for recreation residence use to entities such as commercial enterprises, nonprofit organizations, business associations, corporations, partnerships, or other similar enterprises, except that a tract association may own a caretaker residence.

4. To the extent possible, issue all recreation residence permits in a tract, or in logical groups of tracts, with the same expiration date.

5. To help defray costs and provide additional recreation opportunities, a holder may obtain permission for incidental rental for specific periods. Ensure that rental use is solely for recreation purposes and does not change the character of the area or use to a commercial nature. Rental arrangements must be in writing and approved in advance by the authorized officer. The holder must remain responsible for compliance with the special use authorization.

6. Allow no more than one dwelling per site to be built. In those cases where more than one dwelling (residence/sleeping cabin) currently occupies a single site, allow the use to continue in accordance with the authorization.

However, correct such deficiencies, if built without prior approval, upon transfer of ownership outside of the family (husband, wife and dependent children).

7. When a recreation residence is included in the settlement of an estate, issue a new special use permit, updated to reflect policy and procedural changes, to the properly determined heir, if eligible. Prior to estate settlement, issue an annual renewable permit to the executor or administrator to identify responsibility for the use pending final settlement of the estate. When a recreation residence is sold, issue a new term permit to the buyer, if eligible.

8. Specify in the permit that the recreation residence must be occupied at least 15 days annually, the minimum acceptable period of occupancy.

9. Issue recreation residence term permits for a maximum of 20 years.

a. Term permits shall provide for renewal of 20-year permits 10 years before expiration unless nonrenewal has been established.

b. At the end of the first 10 years after initial issuance, offer holders, in writing, new 20-year term permits that also include the provision for renewal at the end of 10 years, unless written notice of nonrenewal has been given.

c. Continue to renew term permits in this same manner unless holders are given notice of nonrenewal.

10. When a higher public need for the site has been documented and established (FSH 2709.11, Chapter 40), initiate nonrenewal action.

a. Notify existing and prospective holders of the reasons, and provide them with copies of the documentation.

b. Allow the current term permit to expire under its own terms, or issue a new term permit for between 10 and 20 years, depending on the time of the identified need.

c. Clearly specify any limited tenure in the new permits with: "This permit will terminate on (*insert date*) and will not be renewed."

11. Recreation residences are a valid use of National Forest System lands and an important component of the total National Forest recreation program. Recreation residences may represent a substantial investment and have the potential of supporting a large number of recreation person-days per acre compared with other uses. Therefore, when considering nonrenewal of recreation residence permits for an alternative use, be sure the clear weight of the evidence is on the side of the need for the higher public purpose or use at the location.

12. Before approval by the Forest Supervisor, the Regional Forester will review proposed nonrenewal notices, supporting documentation and summary of public comments, and may modify them.

13. In cases where a nonrenewal decision has been made and use beyond the expiration date will be authorized for a limited period of time, issue a term permit for a corresponding period of time, not to exceed 20 years.

14. The Forest Supervisor or Regional Forester may review nonrenewal decisions at any time, using current Forest Service Manual and Forest Service Handbook policies and guidelines and considering any new or changed conditions. Forest Supervisors, upon request of the holder, shall review all such decisions 2 years prior to the expiration date (FSH 2709.11, Sec. 41.23d), provided decisions resulting from such review are non-appealable.

15. In the event a recreation residence is destroyed or substantially damaged by a catastrophic event such as a flood, avalanche, or massive earth movement, conduct an environmental analysis to determine whether improvements on the site can be safely occupied in the future under Federal and State laws before issuing a permit to rebuild. Normally, the analysis should be completed within 6 months of such an event.

Allow rebuilding if the site can be occupied safely. However, if the need for a higher public use at the same location has been documented and established, do not allow rebuilding if the improvements are more than 50 percent destroyed. If rebuilding is not authorized, make every reasonable effort to offer in-lieu sites to holders.

16. At the time special use permits are issued, advise holders that they must notify the Forest Service if they intend to sell their improvements, and that they must provide a copy of the special use permit to a prospective purchaser before finalizing a sale. Whenever possible, advise a prospective purchaser of the terms and conditions of the special use permit before the sale is final.

17. Usually, do not stay a fee increase pending completion of an appeal of the fee under the administrative review regulations. Make any adjustments resulting from the administrative review through credit, refund, or supplemental billing.

18. During the term of the permit, termination of the use may only take place in accordance with the terms and conditions of the permit.

Before approval by the Forest Supervisor, the Regional Forester will review proposed terminations (except termination for breach of terms of the permit), with supporting documentation and a summary of the public comments, and may modify them.

2721.23b—Applications

Insofar as practicable, notify a new or prospective owner that he or she must make application for the authorization to use existing improvements in accordance with 36 CFR 251.54.

2721.23c—Permit Preparation

1. Use the Term Special Use Permit for Recreation Residence (FSH 2709.11, ch. 50), to authorize recreation residences, except use Form FS-2700-4, Special Use Permit, when:

a. Extended use of a nonrenewed recreation residence is authorized and a minimum term of continued use cannot be predicted.

b. Continuance of the recreation residence use is conditioned on the owner complying with specific Forest Service requirements before a term permit is issued.

c. The improvements are managed by a third party pending settlement of an estate, bankruptcy proceedings, or other legal action.

d. Yearlong occupancy is authorized by the Forest Supervisor, at which time the improvement ceases to be a recreation residence.

2. Include in either permit all authorized improvements associated with recreation residence use; however, do not authorize use of more than the statutory maximum of 5 acres under a term permit. Authorize community or association-owned improvements, such as water systems, by a separate permit (Form FS-2700-4).

2721.23d—Fee Determination (FSH 2709.11, ch. 30)

1. Use fair market value as determined by appraisal in determining the base annual rental fees for recreation residence sites. Redetermine the base fee at 20-year intervals.

2. Adjust the fee annually by the annual (second quarter to second quarter) change in the Implicit Price Deflator-Gross National Product (IPD-GNP).

3. Use professional appraisal standards in appraising recreation residence sites for fee determination purposes (FSH 2709.11).

4. Where feasible, contract with private fee appraisers to perform the appraisal.

5. Require appraisers to coordinate the assignment closely with affected holders by seeking advice, cooperation, and information from the holders and local holder associations.

6. Retain only qualified appraisers. To the extent feasible, use those appraisers most knowledgeable of market conditions within the local area.

7. Before accepting any appraisal, conduct a full review of the appraisal to ensure the instructions have been followed and the assigned values are supported properly.

Forest Service Handbook 2709.11—Special Uses

Chapter 30—Fee Determination

33—Recreation Residence Fees

33.1—*Base Fees and Indexing.* Follow these procedures in determining the base (beginning) fee and subsequent fees under a 20-year cycle.

1. As the initial base, use the fees established in one of the years between 1978 and 1982. The first year of the fee cycle will be the first year of the established fee (disregarding any phase-in that may have been provided). Adjust the full base fee forward by applying the appropriate cumulative Implicit Price Deflator-Gross National Product (IPD–GNP) adjustment factor shown in Exhibit 1. New fees for 1989, established in this manner, will be phased-in over a 4-year period (1989–1992) at the rate of one-fourth of the increase each year, except that fees will not be phased-in for those permits that limit fee adjustments to 5-year intervals.

In those cases where there may not be a fee established for the 1978–1982 period, Regional Foresters are authorized, subject to concurrence of the Chief, to utilize a different starting date and to adjust the length of the fee cycle so that all permits will have a new base fee determined during the 1998–2002 period.

2. For 1990 through the last year of the fee cycle, adjust the fees on an annual basis by calculating the percentage change of the IPD–GNP index (as reported by the Bureau of Economic Analysis, Department of Commerce, in July of each year) from the second quarter of the previous year to the second quarter of the current year and applying this percentage adjustment factor to the current year's fees.

For term permits that restrict adjustments to 5-year intervals, apply the IPD index adjustments cumulatively at 5-year intervals. At the end of the current 20-year term, or earlier if agreed to by the holder, revise permits to provide for annual indexing.

3. Limit the annual fee adjustment for 1990 and thereafter to 10 percent per year when the change in the IPD–GNP index exceeds 10 percent in any one year. The index amount in excess of 10 percent will be carried over and applied to the fee for the next succeeding year in which the index factor is less than 10 percent. The 10 percent limit shall not apply to the fee adjustment (phased-in amount) for 1989.

4. Re-appraise the site toward the end of the 20-year cycle. Beginning in the twenty-first year (the first year of the next fee cycle; 1998 in the case of 1978 fees), put into effect the base fee for the next 20-year cycle by applying 5 percent to the newly determined appraised market value of the site for recreation residence purposes.

5. In those few cases where one or more additional sleeping structures (guest cabins, and so forth) have been added to a single site, add to the current adjusted base fee an additional charge equal to 25 percent of the fee established for a single residence use of the site or $100, whichever is greater, per structure.

EXHIBIT 1—SEC. 33.1—IPD–GNP ADJUSTMENT FACTOR BY YEAR

Base fee year	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	Cum. Adj.
1978	1.101	1.092	1.095	1.067	1.050	1.032	1.038	1.033	1.026	1.028	1.029	1.771
1979		1.092	1.095	1.067	1.050	1.032	1.038	1.033	1.026	1.028	1.029	1.609
1980			1.095	1.067	1.050	1.032	1.038	1.033	1.026	1.028	1.029	1.473
1981				1.067	1.050	1.032	1.038	1.033	1.026	1.028	1.029	1.346
1982					1.050	1.032	1.038	1.0233	1.026	1.028	1.029	1.261

(NOTE: Cum. Adj.=Cumulative Adjustment.)

The above factors for fee years 1979–1986 were taken from Table 5, Price Indexes and the Gross National Product Implicit Price Deflator, as published in the *Survey of Current Business* by the Department of Commerce, Bureau of Economic Analysis, February 1986. These factors represent an annual rate, based on the percent change from the first quarter to the second quarter of the indicated year. The 1987 factor of 1.026 is the percentage change in the IPD–GNP index from the second quarter of 1985 to the second quarter of 1986 as reported in the July 1986 issue of "United States Department of Commerce News," a publication by the Bureau of Economic Analysis. The IPD–GNP index for the second quarter of 1985 is 111.1. The 1988 and 1989 factors, was determined following the same procedures, using the appropriate year's publication. The factors for 1979–1989 in Exhibit 1 are shown only to illustrate how the cumulative adjustment factor used to establish the 1989 fee is determined. The factor were determined by chain multiplying the factor for the years within the base fee year period (for 1982 this would be 1.050×1.032×1.038×1.033×1.026×1.028×1.029=1.261.)

The following two examples illustrate use of this table in determining the 1989 fee:

(1) A fee of $412 that became established in 1982 (first year in the fee cycle) would be adjusted to $520 in 1989 ($412×1.261). This would be the fee amount owed by a holder who does not accept the new term permit and would remain constant until the end of the five year adjustment period. If a new term permit is accepted, the fee would be phased-in, and the holder would be charged $439 for 1989, instead of the full amount.

(2) A 1980 base year fee of $315 would be adjusted to $464 ($315×1.473) with the actual 1989 charge limited to $352 for a new term permit. A holder who keeps the old permit would pay the full fee of $464 in 1989.

Factors for the years 1990 and thereafter will be determined in the same manner as the 1980 factor. Using the 1989 factor as an example, the index for the second quarter of 1987 as reported in the July 1987 Bureau publication is 117.2; the index for February 1988 in the July 1988 Bureau publication is 120.6. The percentage change in the index to be used to determine 1989 fees is 120.6 minus 117.2 divided by 117.2. Thus, 1989 fees will be 2.9 percent higher than 1988 fees for those permits that are indexed.

Using the above two examples, calculation of the 1990 fees for those accepting new term permits would be as follows:

(A 1990 IPD–GNP adjustment factor of 1.028 is assumed.)

(1) The full 1989 fee of $520 times the IPD–GNP index factor for 1990 of 1.028

equals $535, the full fee for 1990. The increase in the fee is $15. The amount of the 1989 fee increase to be phased-in in 1990 is $54 ($520−$412=$108/2=$54). Thus, the 1990 fee to be charged is the base 1982 fee of $412+$54+$15=$484.

(2) The full 1990 fee equals $477, a fee increase of $13. The amount of the 1989 fee increase to be phased-in in 1990 is $75 ($464−$315=$149/2=$75). Thus, the 1990 fee to be charged is the base 1980 fee of $315+$75+$13=$403.

33.11—Fee Credits. Provide holders any unused or remaining credits due them under provisions of the Appropriations Acts for fiscal years 1983 through 1986.

33. 2—Fees on Nonrenewal. When permits are placed on tenure (that is, the special use permit will not be renewed upon expiration), the annual fee for the tenth year prior to the expiration, referred to as the "base on-tenure fee," will be taken as a base and the fee for each year during the last ten years will be one-tenth of the base multiplied by the number of years then remaining on the permit. For eample, charge a holder with 9 years remaining 90 percent of the frozen fee; with 8 years, 80 percent; and so forth.

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

Years remaining	Percent of base on-tenure fee
10	100
9	90
8	80
7	70
6	60
5	50
4	40
3	30
2	20
1	10

Use the following fee determination procedures when a review of the nonrenewal decision shows conditions have changed that warrant continuation of the recreation residence permit.

1. If a new 20-year term permit is issued, the Forest Service shall recover one-half of the sum of the amount of fees foregone while the previous permit was under nonrenewal notice. Collect this amount evenly over a 10-year period. The obligation will run with the site and be charged to a subsequent purchaser.

The new fee shall be the annual index adjusted fee computed as though no limit on tenure existed, plus the amount specified above until paid in full.

2. If a 20-year term permit is not issued, and the occupancy of the subject site is to be allowed to continue for less than 10 years, do not recover past fees. Determine the new fee by:

a. Computation of the fee as if no nonrenewal notice was issued reduced by the appropriate percentage for the number of years of the extension provided (that is, a 6-year tenure period results in a fee equal to 60 percent of the new base on-tenure fee).

b. If a site is allowed to continue past a 10-year period and is returned to a normal permit, the Forest Service shall recover fees as outlined in item 1, computed for the most recent 10-year period in which the term of the permit was limited.

33.3—Appraisals. Use the following process to determine the fair market value of recreation residence sites.

1. Use appraisals made by professional appraisers for determining the market value of the fee simple estate of the National Forest land underlying the site subject to a special use permit, but without consideration as to how the authorization would or could affect the fee title of the site (FSH 5409.12, Chapter 6 for the standard contract to be used to establish fair market value of recreation residence sites).

2. In consultation with affected holders, select and appraise typical sites (rather than all individual sites) within groups that have essentially the same or similar value characteristics. Within such groupings, adjust for measurable differences between the sites. (Once properly established, typical site classifications should rarely change.)

3. Ensure appraised values are based on comparable market sales of sufficient quality and quantity that will result in the least amount of dollar adjustment to make them reflective of the subject sites' characteristics. Such characteristics include:

a. Physical differences between subject site and the comparable sales.

b. Legal constraints imposed upon the market by governmental agencies.

c. Economic considerations evident in the local market.

d. Locational considerations of subject site in relation to the market (sales) comparable.

e. Functional usability and utility of the site.

f. Amenities occurring to the site as compared with selected sales comparables.

g. Availability of improvements (such as roads, water systems, and power lines) provided by nonholder entities, including the United States. Do not adjust for improvements furnished by holders.

h. Other market forces and factors identified as having a quantifiable effect upon value.

33.31—Appraisers.—1. Select fee appraisers who hold a current certification of competence from a nationally recognized professional appraisal organization. It the case of Forest Service appraisers, use those individuals who have received adequate training through professional appraisal organizations and who have satisfactorily completed the basic courses necessary to demonstrate competence.

2. Require appraisers to sign a standard agreement that states:

a. The approved appraisal format to be used.

b. The approved standard forms to be used.

c. A full, complete, and accurate definition of the appraisal problem.

d. The standards of professional competence, ethics, and practice to which the appraiser shall adhere.

e. Those requirements of the appraisal assignment that may be imposed under (1) statutes, (2) Federal regulations, (3) Forest Service policies, and procedures, and (4) situations unique to the given appraisal assignment.

3. Require appraisers to notify affected holders by mail and offer to meet with them to discuss the assignment, answer questions specific to the assignment, and seek advice, information, and cooperation from the holders and their local organization. The appraiser must notify holders of such a meeting at least 30 days in advance of the meeting. Send notices to the address used for bills for collection. Use the notice to give the holders advance information on the appraisal assignment. At such meetings, require that the appraiser have available copies of the appraisal instructions, directions, and requirements for review by the holders. An appraisal cannot be made prior to the meeting with the holders.

33.32—Establishing Recreation Residence Site Value. 1. Upon receipt of the appraisal report, conduct a review of the appraisal in conformance with the standards of the National Association of Review Appraisers.

2. Following review and acceptance of the appraisal, notify affected holders of Forest Service acceptance of the report. In the notification, inform holders that they and other interested parties have 45 days in which to review the appraisal. Upon request, provide copies of the report(s) and supporting documentation pursuant to the Freedom of Information Act.

3. Upon request, provide an opportunity for affected holders to obtain, at their expense, an appraisal report from an appraiser holding at least

the same or similar qualifications as the one selected by the Forest Service.

a. The Forest Service will provide the holders with a copy of the standards used by the appraiser selected by the Forest Service and holders will provide the standards to the holder-employed appraiser. The holder will require the observance of these standards, including a signed certification that ensures an understanding of the appraisal instructions and standards. Reject any appraisals that do not meet these standards.

b. Subject the holder-furnished appraisal to the same review requirements as the appraisal obtained by the Forest Service.

4. Give full and complete consideration to both appraisals. If the two appraisals disagree in value by more than 10 percent, ask the two appraisers to try and reconcile or reduce their differences. If the appraisers cannot agree, the Forest Supervisor will utilize either or both appraisals to determine the fee.

5. When requested, seek a third appraisal.

a. The cost shall be shared equally by the holder and the Forest Service.

b. This appraisal must meet the same standards of the first and second appraisals and may or may not be accepted by the authorized officer.

Title 2700—Special Uses Management

2721.23e—Analysis of Recreation Residence Continuance (FSH 2709.11, ch. 40)

Follow these instructions in determining whether recreation residence use may continue at current sites or whether the sites should be converted to a higher public use.

1. Analyze and consider the future use needs of recreation residence sites before renewing the authorizations for new terms. Before issuing a nonrenewal decision, ensure that the action is fully supported by a report conducted within the requirements of the National Environmental Policy Act and Forest Service analysis process. If done as part of the Forest Plan, the report will be included as a separate appendix to the plan.

2. Ensure that continuance of recreation residence uses conforms with the Act of March 4, 1915, authorizing issuance of term special use permits for summer homes.

3. Base nonrenewal decisions on the extent of the need for higher public use of the site. Higher public use or purpose refers to a higher priority use of the site by the public that is timely, clearly needed, in public demand, and where other sites to satisfy the need cannot reasonably be made available. In meeting public needs, give consideration to alternatives such as (a) availability of sites other than recreation residence sites to satisfy the public needs, (b) feasibility of common, shared, or multiple uses that include recreation residences, and (c) increased feasibility of common or shared use through adjustment of site and tract size, configuration of boundaries, or location of improvements.

4. Coordinate continuance of recreation residence use with decisions contained in the Forest Land and Resource Management Plan. When there is no readily identifiable higher public future use of the site and continued use is consistent with the Forest Land Management Plan, a decision to renew may qualify for categorical exclusion under NEPA procedures.

5. When permits are not renewed at expiration, make every reasonable effort to offer holders alternative (in lieu) sites at locations not needed in the foreseeable future for a higher public use (FSM 2347.1, and FSH 2709.11, sec. 41.23b and sec. 41.23d).

6. In the event of a nonrenewal decision, give the holder at least 10 years continued use and identify the specific higher public purpose(s) for which the land is being recovered. Allow continued use of the site until such time as conversion to the new use is ready to begin.

7. Proposals to convey recreation residence tracts into private ownership by land exchange may be considered at any time. Such proposals will be processed in accordance with the instructions in FSM 5430 applicable to all land exchanges.

2721.23f—Participation In Issue Resolution

1. Give notice of any recreation residence issues and appeals that reach the Regional Forester to holder representatives, and others that request to be notified, unless requested otherwise by the appellant. This includes the National Forest Recreation Association Homeowners Divison and National Inholders Associations. The purpose is, on a regional basis, to provide an opprtunity for the holder representatives to participate in order to reduce conflict between holders and the Forest Service. As necessary, specify a Forest Officer to work with the holder representatives and others.

2. Consider information submitted by permittee representatives within the context of the Secretary of Agriculture's administrative appeal regulations.

3. The reviewing officers may exercise their authority to extend time given the permittees and other parties a reasonable time to submit their information, not to exceed thirty (30) days.

2721.23g—Noncompliance

Give a written notice and provide a reasonable opportunity for a holder to correct special use permit violations before terminating the use for breach or noncompliance. Termination for noncompliance shall be only for a breach that continues after notice and a reasonable opportunity for correction has been given.

2721.23h—Site Restoration

On termination or nonrenewal of the permit, require the holder to return the property to a condition acceptable to the Forest Supervisor. The holder may release the improvements to the Forest Service upon approval of the Forest Supervisor.

Forest Service Handbook 2709.11—Special Uses

Chapter 40—Special Uses Administration

41.23—Recreation Residence.

41.23a—Continuing Recreation Residence Use. (FSM 2721.23e). As with all types of special uses, decisions to issue new permits and/or decisions not to renew are appealable decisions which must be appropriately supported under the requirements of NEPA.

1. In most cases, scoping will result in a finding that the sites are not needed for higher public purpose within the next 20 years and a new 20 year term permit can be issued. Such a finding will likely qualify for categorical exclusion.

2. If scoping indicates that there is firm and factual basis for believing that there may be a future higher public purpose within 20 years, after consultation with the Regional Forester, conduct an environmental analysis to determine whether or not the sites should be recovered for higher public purposes and, if so, when. Such studies will begin with the understanding that recreation residences are a valid use of National Forest lands unless clearly demonstrated otherwise. (FSM 2721.23a). Site disturbance resulting from removal and relocation of the recreation residence plus impacts of new construction may dictate that an environment assessment or environmental impact statement will be necessary.

3. Decisions to recover sites for a higher public use must be coordinated

with the Forest plan but are to be in a self-contained form.

4. If there is no reasonably foreseeable need for the recreation residence tract to be used for a higher public purpose, or if identified public needs can be met through land exchange, encourage and facilitate an exchange of the sites (on a tract or group basis) for private lands suitable for National Forest purposes.

5. Where appropriate, require deed restrictions on National Forest land disposals to ensure the recreation residence use continues in a manner compatible with adjoining or nearby National Forest uses.

41.23b—Minimum Analysis Requirements for Nonrenewal Actions—

1. *Report.* When nonrenewal is anticipated or could be recommended, the environmental assessment and/or the environmental impact statement must contain an objective and detailed description and analysis of all relevant data, and any explanatory notes, charts, and maps needed to explore all reasonable alternatives. The environmental analysis process must be followed and there must be an action plan.

During the analysis process, encourage and solicit information and comments from permittees and other interested parties. Involve affected permittees in all phases of the process except the decision itself. Provide them 120 days or more encompassing a season of use to comment on a draft of the environmental assessment and/or the environmental impact statement and the supporting documentation.

To ensure Region-wide uniformity, submit the reports, if they recommend nonrenewal, including holder comments, to the Regional Forester for review before the Forest Supervisor approves the nonrenewal.

Provide holders and interested parties with copies of the final report and decision immediately after the decision date.

Consider the following aspects in the report:

a. *Recreation Use.* Discuss the relationship between the recreation residence use and other present and proposed uses of the site. Thoroughly describe elements of compatibility and conflict. If there are current or anticipated conflicts, described the feasibility of other sites to meet public use needs or how general public needs on the site can be provided for by modifying recreation residence or proposed public use. Develop a full range of alternatives that at a minimum:

(1) Show ways to meet the public recreation needs without significant conflict with recreation residence uses, if possible, and how existing or potential conflicts can or cannot be mitigated.

(2) Examine the feasibility of common, shared, or multiple use that includes the recreation residences. Also examine the feasibility of adjusting site and tract sizes, configurations and boundaries, or relocation of site improvement to better a accommodate such use.

(3) Examine the feasibility of alternative sites for general public use. Include in this analysis suitable private lands that the Forest Service could acquire by land exchange. The presumption is that such alternative sites are available unless otherwise demonstrated.

(4) Show how the current and/or future need for other planned recreation uses outweighs or is outweighed by the benefits of continued recreation residence use.

(5) Compare the potential recreation and financial losses to holders and their guests with the benefits that the public would gain from nonrenewal of the authorization.

(6) Examine the impacts of recreation residence removal, new construction, and increased public use.

b. *Other Resources.* Show in what way recreation residence occupancy is compatible or in conflict with other National Forest resources. Consider the applicability of Section 106 of the National Historic Preservation Act and other Federal and State laws which may have an effect on these resources.

c. *Environmental Impacts.* Discuss the environmental impacts of continued recreation residence use, together with the impacts of any improvements necessary for their continued use, compared with the impacts of any proposed alternative public use.

d. *Health and Safety.* Examine whether the occupancy constitutes a hazard to the health and safety of the general public or the holders. Explain specifically how and in what manner these hazards will occur and the opportunities for acceptable curative actions. Discuss whether health and safety standards can be met.

e. *Administrative Problems.* Explain if the occupancy creates untenable administrative problems or costs when related to the benefits provided the holders and the general public, including fees, cultural benefits, barriers to environmentally harmful use, and other amenities or services attributable to the presence of the holders and their improvements.

f. *In-Lieu Site Availability.* Make every reasonable effort to locate and reserve in-lieu sites that could be offered the holder for building or relocation of improvements. Such sites must be nonconflicting locations within or adjacent to the National Forest containing the residences (FSM 2347.1 and FSM 2721.23e). Appropriate alternatives for consideration are undeveloped or withdrawn sites in, near, or adjacent to established tracts, or new traces at locations not needed in the foreseeable future for a higher public use. Sites that are vacant because of breach or other factors shall be available as in-lieu sites. Follow these procedures:

(1) If possible, offer in-lieu sites to holders at the time the nonrenewal notice is given. If sites do not become available until later, offer them then.

(2) Give first priority to identifying and offering in-lieu sites in the same tract or an expansion of that tract, where feasible.

(3) Allow the holders 90 days from the date of the joint inspection of the lieu site or 90 days from the final disposition of any appeals of the nonrenewal decision, whichever is later, to accept or reject the offer.

(4) When holders accept such offers, reserve the offered sites. Do not charge a fee until the holder begins improving the site. The site reservation will expire upon holders failure to occupy the new site on a mutually-agreed upon schedule.

(5) Allow holders accepting offers to continue use of their current sites until the expiration date. Inform the holders that they should be prepared to move to the in-lieu site during the 24 months prior to the scheduled occupancy removal, provided a supplemental review of the nonrenewal action has been completed.

(6) The opportunity to develop an in-lieu site, if accepted by the previous owner, will be extended to the new owner when there is a change in ownership of authorized improvements.

(7) Do not offer alternative sites for termination actions stemming from noncompliance with special use permit terms.

2. *Factors To Consider In Nonrenewal Actions.* Support nonrenewal decisions by full consideration and documentation of the following specific factors and criteria:

a. The specific intended use or uses and the estimated time and budgetary feasibility of the need.

b. The need for the alternative use and the reason for its priority.

c. The reasons the public need cannot be met at an alternative location.

d. All reasonable alternatives to the conversion, including the possibility of combining or sharing public uses with recreation residence uses; and adjusting or altering lots or location of improvements to better accommodate common or shared uses.

e. The reasons any conflict between the recreation residences and the proposed alternative use cannot be resolved.

f. The need to develop and provide the public use needed in a cost effective manner.

3. *Higher Public Purpose.* Identify and consider whether or not there is clear need for higher priority use of the site that is of benefit to the general public, is timely, in public demand, and where other sites to satisfy the need cannot reasonably be made available. Need and timeliness, for example, can be demonstrated by capacity use of similar nearby facilities.

Examples of higher public purposes include but are not limited to (1) public roads and other public rights-of-way where no reasonable alternatives exist, (2) legally mandated public safety or health requirements, (3) other public recreation needs, (4) habitat requirements for rare or endangered species, and (5) commercial use developments serving National Forest programs, such as authorized resort accommodations, where no reasonable public or private alternatives exist. Determination of higher public purpose for commercial use must show a clear and convincing need and bear a greater burden of proof than those for other uses. Higher public purposes do not include unspecified public needs or uses, such as general Forest use or open space alone.

41.23c—Nonrenewal Notification. Provide holders 10 years or more advance notice of nonrenewal actions except in cases involving breach, or when the site has been rendered legally unsafe by catastrophic events such as avalanche, flooding, or massive earth movement, or where the Forest Service does not have final decision authority. In these exceptions, make an effort to provide as much notice as possible.

Include in a nonrenewal notice:

1. A description of the action and the reasons for the decision. Normally, use the same expiration date for all affected holders in a particular group or tract.

2. Identification of the environmental assessment report or the environmental impact statement upon which the decision is based.

3. Notice of appeal rights under 36 CFR 211.18.

4. Notice that the holder should refrain from making costly repairs, improvements, or expenditures. Advise the holder that such expenditures will not be required unless they are necessary to protect public health or safety.

Refer to FSM 2721.23a for procedure when recreation residences are destroyed or substantially destroyed by catastrophic events.

41.23d—Review of Nonrenewal Actions. The Forest Supervisor or the Regional Forester may review nonrenewal actions in process and should consider such reviews when circumstances or Forest Service direction have changed in such a manner that could suggest modification of the original decision (FSM 2721.23a).

For permits scheduled to expire in 1989 or thereafter, Forest Supervisors will review all such decisions two years prior to the non-renewal date upon request of the holder to analyze possible new circumstances or direction, and to determine whether or not the basis for the decision is still valid, providing the decision resulting from such review is non-appealable.

For all reviews, the following apply.

1. Reviews will be in writing and conducted in accordance with FSM 2721.23e.

2. Affected holders will be notified in writing and asked to provide input for reviews and will be allowed involvement in all but the decision phase of the review process.

3. If review indicates that a site will remain needed for higher public use at the established date, the earlier decision may remain unchanged.

4. If review indicates that a site is no longer needed for higher public purposes, or is not needed as soon as estimated, provide for continuation of the recreation residence use by issuing a new permit for an appropriate term.

Forest Service Handbook 2701.11—Special Uses

Chapter 50—Terms and Conditions

54—Special Use Authorizations

54.1—Term Special Use Permit for Recreation Residences. (Exhibit 1.)

BILLING CODE 3410-11-M

EXHIBIT 1 - SEC. 54.1

USDA - Forest Service	Holder No.	Type Site	Authority
	/		
TERM SPECIAL USE PERMIT For Recreation Residences	Auth. Type	Issue Date	Expir. Date
		/ /	/ /
Act of March 4, 1915, As Amended (Ref. FSM 2710)	Location Sequence No.		Stat. Ref.
	Latitude	Longitude	LOS Case
	- -	- -	

_____________________ of _____________________
(Holder Name) (Billing Address - 1)

_______________ _______________ _______________ _______________
(Billing Address - 2) (City) (State) (Zip Code)

(hereafter called the holder) is hereby authorized to use National Forest lands, for a recreation residence for personal recreational use on the _____________________ National Forest, subject to the provisions of this permit including items ______ through ______, on page(s) __________ through __________. This permit covers __________ acres.

Described as: (1) Lot __________ of the _____________________ tract.
(A plat of which is on file in the office of the Forest Supervisor.)

OR (2) _____________________ as shown on the attached map.
(Legal Description)

The following improvements, whether on or off the site, are authorized in addition to the residence structure:

____

____

____

____

This use shall be exercised at least 15 days each year, unless otherwise authorized in writing. It shall not be used as a full-time residence to the exclusion of a home elsewhere.

THIS PERMIT IS NOT TRANSFERABLE
PURCHASERS OF IMPROVEMENTS ON SITES AUTHORIZED BY THIS PERMIT MUST SECURE A NEW PERMIT FROM THE FOREST SERVICE.

THIS PERMIT IS ACCEPTED SUBJECT TO ALL OF ITS TERMS AND CONDITIONS.

ACCEPTED:
HOLDER'S NAME AND SIGNATURE DATE

APPROVED:
AUTHORIZED OFFICER'S NAME AND SIGNATURE TITLE DATE

BILLING CODE 3410-11-C

Terms and Conditions

I. Authority and use and Term Authorized

A. This permit is issued under the authority of the Act of March 4, 1915, as amended (16 U.S.C. 497), and Title 36, Code of Federal Regulations, Sections 251.50–251.64. Implementing Forest Service policies are found in the Forest Service Directives System (FSM 2720, 2340; FSH 2709.11, Chap. 10–50). Copies of the applicable regulations and policies will be made available to the holder at no charge upon request made to the office of the Forest Supervisor.

B. The authorized officer under this permit is the Forest Supervisor, or a delegated subordinate officer.

C. This permit authorizes only personal recreation use of a noncommercial nature by the holder, members of the holder's immediate family, and guests. Use of the permitted improvements as a principal place of residence is prohibited and shall be grounds for termination of this permit.

D. Unless specifically provided as an added provision to this permit, this authorization is for site occupancy and does not provide for the furnishing of structures, road maintenance, water, fire protection, or any other such service by a Government agency, utility association, or individual.

E. Expiration at End of Term: This authorization is for a term of 20 years and will expire on

__________________.

II. Operation and Maintenance

A. The authorized officer, after consulting with the holder, will prepare an operation and maintenance plan which shall be deemed a part of this permit. The plan will be reviewed annually and updated as deemed necessary by the authorized officer and will cover requirements for at least the following subjects:

1. Maintenance of vegetation, tree planting, and removal of dangerous trees and other unsafe conditions.
2. Maintenance of the facilities.
3. Size, placement and descriptions of signs.
4. Removal of garbage or trash.
5. Fire protection.
6. Identification of the person responsible for implementing the provisions of the plan, if other than the holder, and a list of names, addresses, and phone numbers of persons to contact in the event of an emergency.

(Other provisions may be included, such as fencing, road maintenance, boat docks, piers, boat launching ramp, water system, sewage system, incidental rental, and the Tract Association).

(Note: Regional Foresters may add specific provisions that Forest Supervisors should include in the plan.)

III. Improvements

A. Nothing in this permit shall be construed to imply permission to build or maintain any improvement not specifically named on the face of this permit or approved in writing by the authorized officer in the operation and maintenance plan. Improvements requiring specific approval shall include, but are not limited to: signs, fences, name plates, mailboxes, newspaper boxes, boathouses, docks, pipelines, antennas, and storage sheds.

B. All plans for development, layout, construction, reconstruction or alteration of improvements on the site, as well as revisions of such plans, must be prepared by a licensed engineer, architect, and/or landscape architect (in those states in which such licensing is required) or other qualified individual acceptable to the authorized officer. Such plans must be approved by the authorized officer before the commencement of any work.

IV. Responsibilities of Holder

A. The holder, in exercising the privileges granted by this permit, shall comply with all present and future regulations of the Secretary of Agriculture and all present and future federal, state, county, and minicipal laws, ordinances, or regulations which are applicable to the area or operations covered by this permit. However, the Forest Service assumes no responsibility for enforcing laws, regulations, ordinances and the like which are under the jurisdiction of other government bodies.

B. The holder shall exercise diligence in preventing damage to the land and property of the United States. The holder shall abide by all restrictions on fires which may be in effect within the forest at any time and take all resonable precautions to prevent and suppress forest fires. No material shall be disposed of by burning in open fires during a closed fire season established by law or regulation without written permission from the authorized officer.

C. The holder shall protect the scenic and esthetic values of the National Forest System lands as far as possible consistent with the authorized use, during construction, operation, and maintenance of the improvements.

D. No soil, trees, or other vegetation may be removed from the National Forest System lands without prior permission from the authorized officer. Permission shall be granted specifically, or in the context of the operations and maintenance plan for the permit.

E. The holder shall maintain the improvements and premises to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the authorized officer. The holder shall fully repair and bear the expense for all damage, other than ordinary wear and tear, to National Forest lands, roads and trails caused by the holder's activities.

F. The holder assumes all risk of loss to the improvements resulting from acts of God or catastrophic events, including but not limited to, avalanches, rising waters, high winds, falling limbs or trees and other hazardous natural events. In the event the improvements authorized by this permit are destroyed or substantially damaged by acts of God or catastrophic events, the authorized officer will conduct an analysis to determine whether the improvements can be safely occupied in the future and whether rebuilding should be allowed. The analysis will be provided to the holder within 6 months of the event.

G. The holder has the responsibility of inspecting the site, authorized rights-of-way, and adjoining areas for dangerous trees, hanging limbs, and other evidence of hazardous conditions which could affect the improvements and or pose a risk of injury to individuals. After securing permission from the authorized officer, the holder shall remove such hazards.

H. In case of change of permanent address or change in ownership of the recreation residence, the holder shall immediately notify the authorized officer.

V. Liabilities

A. This permit is subject to all valid exising rights and claims outstanding in third parties. The United States is not liable to the holder for the exercise of any such right or claim.

B. The holder shall hold harmless the United States from any liability from damage to life or property arising from the holder's occupancy or use of National Forest lands under this permit.

C. The holder shall be liable for any damage suffered by the United States resulting from or related to use of this permit, including damages to National Forest resources and costs of fire suppression. Without limiting available civil and criminal remedies which may be available to the United States, all timber cut, destroyed, or injured without authorization shall be paid for at stumpage rates which apply to the unauthorized cutting of timber in the state wherein the timber is located.

VI. Fees

A. Fee Requirement: This special use authorization shall require payment in advance of an annual rental fee.

B. Appraisals:

1. Appraisals to ascertain the fair market value of the site will be conducted by the Forest Service at least every 20 years. The next appraisal will be implemented in ________ (insert year).

2. Appraisals will be conducted and reviewed in a manner consistent with the Uniform Standards of Professional Appraisal Practice, from which the appraisal standards have been developed giving accurate and careful consideration to all market forces and factors which tend to influence the value of the site.

3. If dissatisfied with an appraisal utilized by the Forest Service in ascertaining the permit fee, the holder may employ another qualified appraiser at the holder's expense. The authorized officer will give full and complete consideration to both appraisals provided the holder's appraisal meets Forest Service standards. If the two appraisals disagree in value by more than 10 percent, the two appraisers will be asked to try and reconcile or reduce their differences. If the appraisers cannot agree, the Authorized Officer will utilize either or both appraisals to determine the fee. When requested by the holder, a third appraisal may be obtained with the cost shared equally by the holder and the Forest Service. This third appraisal must meet the same standards of the first and second appraisals and may or may not be accepted by the authorized officer.

C. Fee Determination:

1. The annual rental fee shall be determined by appraisal and other sound business management principles. (36 CFR 251.57(a)). The fee shall be 5 percent of the appraised fair market fee simple value of the site for recreation residence use.

Fees will be predicated on an appraisal of the site as a base value, and that value will be adjusted in following years by utilizing the percent of change in the Implicit Price Deflator—Gross National Product (IPD–GNP) index as of the previous June 30. A fee from a prior year will be adjusted upward or downward, as the case may be, by the percentage change in the IPD–GNP, except that the maximum annual fee adjustment shall be 10 percent when the IPD–GNP index exceeds 10 percent in any one year with the amount in excess of 10 percent carried forward to the next succeeding year where the IPD–GNP index is less than 10 percent. The base rate from which the fee is adjusted will be changed with each new appraisal of the site, at least every 20 years.

2. If notice of nonrenewal has been given, the annual fee in the tenth year will be taken as the base, and the fee each year during the last 10-year period will be one-tenth of the base multiplied by the number of years then remaining on the permit. If a new 20-year permit should later be issued, the holder shall pay the United States one-half of the amount of fees foregone, for the most recent 10-year period in which the permit has been under nonrenewal notice, by the United States while the previous permit was under a nonrenewal notice. This amount may be paid in equal annual installments over a 10-year period in addition to those fees for existing permits. Such amounts owing will run with the property and will be charged to any subsequent purchaser of the improvements.

D. Initial Fee: The initial fee may be based on an approved Forest Service appraisal existing at the time of this permit, with the present day value calculated by applying the IPD–GNP index to the intervening years.

E. Payment Schedule: Based on the criteria stated herein, the initial payment is set at $________ per year and the fee is due and payable annually on ________________ (insert date). Payments will be credited on the date received by the designated collection officer or deposit location. If the due date(s) for any of the above payments or fee calculation statements fall on a nonworkday, the charges shall not apply until the close of business of the next workday. Any payments not received within 30 days of the due date shall be delinquent.

F. Interest and Penalties:

1. A fee owed the United States which is delinquent will be assessed interest based on the most current rate prescribed by the United States Department of Treasury Financial Manual (TFM–6–8020). Interest shall accrue on the delinquent fee from the date the fee payment was due and shall remain fixed during the duration of the indebtedness.

2. In addition to interest, certain processing, handling, and administrative costs will be assessed on delinquent accounts and added to the amounts due.

3. A penalty of 6 percent per year shall be assessed on any indebtedness owing for more than 90 days. This penalty charge will not be calculated until the 91st day of delinquency, but shall accrue from the date that the debt became delinquent.

4. When a delinquent account is partially paid or made in installments, amounts received shall be applied first to outstanding penalty and administrative cost charges, second to accrued interest, and third to outstanding principal.

G. Nonpayment Constitutes Breach: Failure of the holder to make the annual payment, late payment charge, or any other charges when due shall be grounds for termination of this authorization. However, no permit will be terminated for nonpayment of any monies owed the United States unless payment of such monies is more than 90 days in arrears.

H. Applicable Law: Delinquent fees and other charges shall be subject to all the rights and remedies afforded the United States pursuant to federal law and implementing regulations. (31 U.S.C. 3711 *et seq.*).

VII. Transfer, Sale, and Rental

A. Nontransferability: Except as provided in this section, this permit is not transferable.

B. Transferability Upon Death of the Holder:

1. If the holder of this permit is a married couple and one spouse dies, this permit will continue in force, without amendment or revision, in the name of the surviving spouse.

2. If the holder of this permit is an individual who dies during the term of this permit and there is no surviving spouse, an annual renewable permit will be issued, upon request, to the executor or administrator of the holder's estate. Upon settlement of the estate, a new permit incorporating current Forest Service policies and procedures will be issued for the remainder of the deceased holder's term to the eligible family member (parent(s), children, and grandchildren) as shown by an order of a court, bill of sale, or other evidence to be the owner of the improvements.

C. Divestiture of Ownership: If the holder through voluntary sale, transfer, enforcement of contract, foreclosure, or other legal proceeding shall cease to be the owner of the physical improvements, this permit shall be terminated. If the person to whom title to said improvements is transferred is deemed by the authorizing officer to be qualified as a holder, then such person to whom title has been transferred will be granted a new permit. Such new permit can be, at the discretion of the authorized officer, for a full term or for the remainder of the term of the original holder.

D. Notice to Prospective Purchasers: When considering a voluntary sale of the recreation residence, the holder shall provide a copy of this special use permit to the prospective purchaser before finalizing the sale. The holder cannot make binding representations to the purchasers as to whether the Forest Service will reauthorize the occupancy.

E. Rental: The holder may rent or sublet the use of improvements covered under this permit only with the express written permission of the authorized officer. In the event of an authorized rental or sublet, the holder shall continue to be responsible for compliance with all conditions of this permit by persons to whom such premises may be sublet.

VIII. Termination

A. Termination for Cause: This permit may be terminated for cause by the authorized officer upon breach of any of the terms and conditions of this permit or applicable law. Prior to such termination for cause, the holder shall be given notice and provided a reasonable time—not to exceed ninety (90) days—within which to correct the breach.

B. Termination in the Public Interest During the Permit Term:

1. This permit may be revoked or terminated during its term at the discretion of the authorized officer for reasons in the public interest. (36 CFR 251.60(b).) In the event of such termination in the public interest, the holder shall be given one hundred and eighty (180) days prior written notice to vacate the premises, provided that the authorized officer may prescribe a date for a shorter period in which to vacate ("prescribed vacancy date") if the public interest objective reasonably requires the site in a shorter period of time.

2. The Forest Service and the holder agree that in the event of a termination in the public interest, the holder shall be paid damages. Termination in the public interest and payment of damages is subject to the availability of funds or appropriations.

a. Damages in the event of a public interest termination shall be the lesser amount of either (1) the cost of relocation of the approved improvements to another site which may be authorized for residential occupancy (but not including the costs of damages incidental to the relocation which are caused by the negligence of the holder or a third party), or (2) the replacement costs of the approved improvements as of the date of termination. Replacement cost shall be determined by the Forest Service utilizing standard appraisal procedures giving full consideration to the improvement's condition, remaining economic life and location, and shall be the estimated cost to construct, at current prices, a building with utility equivalent to the building being appraised using modern materials and current standards, design and layout as of the date of termination. If the holder has received notification that the permit will not be renewed, then the amount of damages shall be adjusted as of the date of termination by multiplying the replacement cost by a fraction which has as the numerator the number of full months remaining to the term of the permit prior to termination (measured from the date of the notice of termination) and as the denominator, the total number of months in the original term of the permit.

b. The amount of the damages determined in accordance with paragraph a. above shall be fixed by mutual agreement between the authorized officer and the holder and shall be accepted by the holder in full satisfaction of all claims against the United States under this clause: *Provided*, That if mutual agreement is not reached, the authorized officer shall determined the amount and if the holder is dissatisfied with the amount to be paid may appeal the determination in accordance with the Appeal Regulations (36 CFR 211.18) and the amount as determined on appeal shall be final and conclusive on the parties hereto: *Provided further*, That upon the payment to the holder of the amount fixed by the authorized officer, the right of the Forest Service to remove or require the removal of the improvements shall not be stayed pending final decision on appeal.

IX Renewal

A. This permit may be renewed for another term up to 20 years in duration if the site is still being used for the purposes previously authorized and is being continually operated and maintained in accordance with all the provisions of the permit. In making a renewal, the authorized officer may modify the terms, conditions, and special stipulations to reflect any new requirements imposed by current federal and state land use plans, laws, regulations, or other management decisions. (36 CFR 251.64.)

B. The authorized officer may decide to renew this authorization at any time prior to the expiration date of this permit. Ten years prior to the expiration date of this permit, the authorized officer will make a renewal decision. If it is determined that the use may continue, a new 20-year authorization will be granted upon the holder's surrendering of the existing authorization.

C. In the event the authorized officer decides not to renew the permit, the holder shall be notified in writing. The holder will be given at least 10 years to utilize the site in the event of a decision not to nenew the permit. To the extent that the 10 years would run beyond the expiration date of the permit, the permit term shall be extended to accommodate the 10-year notice, provided that the total tenure of the holder's occupancy does not exceed 30 years by such extension.

D. Two years before permit expiration, the holder may request the Forest Supervisor to review the reason for nonrenewal of the permit in the light of any change in circumstances, and the Forest Supervisor shall determine whether or not changed circumstances warrant continuation of the use. The authorized officer will notify holder in a timely manner of his or her right to make such a request. Determinations under such reviews are not decisions for purposes of the Secretary of Agriculture's administrative appeal regulations.

E. Nonrenewal decisions based on a higher public use of the site by the Forest Service will be documented by an environmental analysis which demonstrates the higher priority use of a site for the benefit of the general public, that is timely, in public demand, and where other sites to satisfy the need cannot reasonably be made available.

X. Rights and Responsibilities Upon Termination or Nonrenewal

A. Removal of Improvements Upon Termination or Nonrenewal: At the end of the term of occupancy authorized by this permit, or upon abandonment, or termination for cause, Act of God, or catastrophic event, or in the public interest, the holder shall remove within a reasonable time all structures and improvements except those owned by the United States, and shall return the site to a condition approved by the authorized officer unless otherwise agreed to in writing or in this permit. If the holder fails to remove all such structures or improvements within a reasonable period—not to exceed one hundred and eighty (180) days from the date the authorization of occupancy is ended—the improvements shall become the property of the United States, but in such event, the holder remains obligated and liable for the cost of their removal and the restoration of the site.

B. In case of termination or nonrenewal, except if termination is for cause, the authorized officer will make every reasonable effort to locate and reserve in-lieu sites available at that time that could be offered the permit holder for building or relocation of improvements. Such sites will be nonconflicting locations within the National Forest containing the residence being terminated or under nonrenewal or in adjacent National Forests. Any in-lieu site offered the holder must be accepted within 90 days of the offer or within 90 days of the final disposition of an appeal on the termination or nonrenewal under the Secretary of Agriculture administrative appeal regulations, whichever is later, or this opportunity will terminate.

XI. Miscellaneous Provisions

A. This permit replaces a special use permit issued to:

__________ on __________, 19___.
(Holder Name) (Date)

B. The Forest Service reserves the right to enter upon the property to inspect for compliance with the terms of this permit. Reports on inspection for compliance will be furnished to the holder.

C. Issuance of this permit shall not be construed as an admission by the Government as to the title to any improvements. The Government disclaims any liability for the issuance of any permit in the event of disputed title.

D. If there is a conflict between the foregoing standard printed clauses and any special clauses added to the permit, the standard printed clauses shall control.

Note: Additional provisions may be added by the authorized officer to reflect local conditions.

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