

Compliance Manual Series

Forest Service Recreation Residences

A cabin in the woods is a dream come true. But if you own a cabin on a National Forest, you are no doubt already aware of the myriad of laws, regulations and Forest Service policy directives



which apply to and control your use and enjoyment of that cabin. The rules apply to virtually every aspect of your cabin, whether it be how you can access it, maintain it, alter it or sell it. But the problem is that the rules are scattered about in various locations ranging from federal statutes to federal regulations to both the Forest Service Manual and Handbooks. This manual is an effort to collect those various rules and put them in one place, and where possible, to set them out in plain speak so they make sense. The rules cannot possibly cover all the various issues that may arise, but it is important

to at least know what the rules are and, perhaps just as important, to know when a specific situation is not addressed by a particular rule thus allowing for a reasonable solution. When various issues regarding your cabin arise, and they will, this manual can be a valuable resource in determining what your rights are and how the Forest Service should be addressing your situation.

The key laws

The key statute that authorizes Forest Service recreation residences on National Forests is the Term Permit Act of 1915, which is set out in the United States Code at 16 U.S.C. § 497 (specific additional laws for recreation residences in Alaska are set out at 16 U.S.C. §§ 497a and 3193). Copies of those laws are attached, but they do not provide much guidance. In essence, they authorize the Forest Service to issue permits, under regulations it deems to be proper, allowing the use and occupancy of land not exceeding five

acres and 30 years for the construction and maintenance of summer homes.

Another important statute is the Cabin Fee Act, which is set out at 16 U.S.C. §6214. A copy of that law is also attached. Enacted in 2014, the Cabin Fee Act established a new procedure for determining recreation residence fees. It replaced the prior law which addressed cabin fees, the Cabin User Fee Fairness Act known as CUFFA. An excellent summary of the Cabin Fee Act has been prepared by the National Forest Homeowners and is [available on their website](#).

The agency's view of recreation residences

In the Forest Service Manual, the Forest Service clearly sets out its view of the importance and value of recreation residences, stating that “recreation residences are a valid use of National Forest System lands. They provide a unique recreation experience to a large number of owners of recreation residences, their families, and guests. To the maximum extent practicable, the recreation residence program must be managed to preserve the opportunity it provides for individual and family-oriented recreation. It is Forest Service direction to continue recreation residence use and to work in partnership with holders of these permits to maximize the recreational benefits of recreation residences.” (FSM 2347.1.)

The standard recreation residence permit

The Forest Service is required to issue a specific permit form, referred to as FS-2700-5a, to authorize a recreation residence. A copy of that standard permit form is attached. The permit itself sets out many of the general rules and criteria that apply to the ownership of a recreation residence. As the permit shows, the standard term length is 20 years per agency policy (but keep in mind the Forest Service can legally issue permits for up to 30 years if they choose). When a recreation residence is sold, the agency will issue a new term permit to the buyer, if eligible, for the remainder of the original permit term.

Because the permit is, at its heart, a Term Permit, and contains a provision requiring the Forest Service to compensate a permittee in certain situations, the permit likely constitutes

a binding contract between the permittee and Forest Service. While the Forest Service has stated in the permit that it is “not a contract,” that assertion is probably not true and would not hold up in court because courts have consistently viewed Term Permits as binding contracts. The fact that the permit is likely a binding contract can be very important if the agency were to try to remove your cabin or terminate the permit prior to its natural expiration date and without proper notice. If that were to happen, the agency may in fact be legally obligated to compensate the permittee for the value of its cabin.

Who's in charge of your permit?

The Forest Service Manual (FSM 2704.34) states that a District Ranger may be delegated the authority by the Forest Supervisor to re-issue a recreation residence permit when a determination is made to continue that use of the Forest Service land.

Who are recreation residence permits issued to?

The Forest Service Manual (FSM 2721.23a) directs agency employees to issue special use permits for recreation residence in the name of one individual or to a husband and wife. When permits are issued to use or amend a permit, agency personnel are directed to revise authorizations that are not issued to an individual or to a husband and wife so that the responsible person is identified. In addition, the agency will issue no more than one recreation residence special use permit to a single family (husband, wife, and dependent children). The Manual states that recreation residence permits should not be issued 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.

What structures are authorized under a recreation residence permit?

Recreation residences include a residence and “related improvements,” which includes the following permittee owned facilities or uses of National Forest System lands being actively operated and maintained by the permittee in conjunction with the recreation residence use:

- (1) Outbuildings;
- (2) Wood piles;
- (3) Retaining walls;
- (4) Picnic tables;
- (5) Driveways and parking areas;
- (6) Trails and boardwalks;
- (7) Campfire rings, seats, and benches.
- (8) Major vegetative modifications such as lawns, gardens, flower beds, and landscaped terraces;
- (9) Manipulated native vegetation, except as provided for in paragraph b(1);
- (10) Septic systems; and
- (11) Boat houses and docks;

But related improvements do not include:

- (1) Native vegetation that is manipulated for the primary purpose of protecting property and mitigating safety concerns, such as the removal of hazard trees, and the treatment/management of vegetation, approved by the authorized officer, to

reduce fuel loading and to create defensible space for wildfire suppression purposes.

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

(36 C.F.R. § 251.51; FSH 2709.11(33.05).)

Can heirs of a permit holder automatically acquire recreation residence permits?

Yes, the Manual states that when a recreation residence is included in the settlement of an estate, the agency should issue a new special use permit to the properly determined heir, if eligible, for the remainder of the original permit term. The permit will be updated to reflect any policy or procedural changes. Because estate settlement can sometimes take awhile, the agency will issue an annual renewable permit to the executor or administrator of the estate pending final settlement of the estate while the rightful heir is identified. (FSM 2721.23a.)

Can you rent out your cabin?

The Manual provides that, to help defray costs and provide additional recreation opportunities, a permittee may obtain permission for incidental rental for specific periods. (FSM 2721.23a.) But the agency must ensure that any rental use is solely for recreation purposes and does not change the

character of the area or use to a commercial nature. In addition, rental agreements must be in writing and approved in advance by the authorized officer. And the permittee remains responsible for compliance with the special use authorization by any renters. Some Forest Regions have additional criteria, so you will need to check with your District Ranger.

Can you sell your cabin?

When private improvements change ownership, it is Forest Service policy to issue a new special use authorization. (FSM 2716.1.) Upon application and presentation of proof of ownership, a new authorization may be issued to the new owner, provided continuation of the use is desirable. The new authorization is required to contain any new conditions or stipulations the agency may decide are warranted. However, the agency has no obligation to issue a new permit to the persons acquiring the improvements.

While the Forest Service does not require its permittees to obtain its consent to the sale of improvements, the agency typically advises permit holders that they are required to notify the Forest Service if they intend to sell their cabin and that they must provide a copy of the permit to a prospective purchaser before finalizing a sale. (FSM 2716.1.) Whenever possible, the authorized officer should advise a prospective purchaser of the terms and conditions of the permit before a sale is final. (FSM 2721.23a.) The agency will notify a new or prospective owner that they must make application for the authorization to use existing improvements in accordance with 36 CFR 251.54. (FSM 2721.23b.)

The agency's Manual notes that the sale and transfer of recreation residences frequently results in administrative problems because the new owners are not always aware that the permit terminates with transfer of ownership of the improvements, nor do they always realize that the new permit may include requirements in addition to those in the old permit. Legal title to improvements does not pass to the purchaser under the terms of some sales contracts until all conditions of the contract have been satisfied. This may take years. In these cases, the purchaser is recognized as the "effective" owner by virtue of the contract and the purchaser's possession of the improvements. (FSM 2716.1.)

What other activities can be authorized under your permit?

The Forest Service Manual directs the agency to include in a recreation residence permit the authority to have an auxiliary facility, such as a boat dock, if it is used in conjunction with the recreation residence. (FSM 2721.2.) This direction avoids the need for a second permit for any such facilities.

How many cabins can you have on a lot?

The agency's Manual limits recreation residences to no more than one dwelling per lot. Where more than one dwelling (such as a residence or sleeping cabin) currently occupies a single lot, that use can continue in accordance with the authorization. However, if the permit is transferred outside of the family that has it, the agency may at that point require that any additional dwellings be removed. (FSM 2721.23a.)

Is there a minimum and maximum amount of use?

A recreation residence must be occupied at least 15 days annually. (FSM 2721.23a.) However, it cannot be a primary residence or occupied year round. (FSM 2347.11.) The agency may require proof of primary residency at another address.

Can you rebuild your cabin if it's destroyed?

If a recreation residence is destroyed or substantially damaged by a catastrophic event such as a flood, avalanche, or massive earth movement, the agency will conduct and document an environmental analysis to determine whether improvements on the lot can be safely occupied in the future under Federal and State laws before issuing a permit to rebuild or revoking the permit. (FSM 2721.23a.) Normally, an analysis should be completed within 6 months of such an event. The agency will allow rebuilding if the lot can be occupied safely and the use remains consistent with the Forest Plan. However, if the agency has made a decision to no longer allow the cabin after the current permit expires, it will not allow any rebuilding if the improvements are more than 50 percent destroyed. In such case, in-lieu lots may be offered.

Is the Forest Service required to issue a new permit when a current one expires?

The Manual states that, when recreation residence use is consistent with the forest plan, it shall continue. (FSM 2721.23e.) However, an environmental analysis may be required. But the agency can also make a

decision to convert the lot to an alternative use at any time new or changed conditions merit such reconsideration. (FSM 2721.23a.)

But if it does, it must take the following actions:

- a. Notify the holder of the reasons and provide a copy of the decision documentation.
- b. Allow at least 10 years of continued occupancy after notification;
- c. Allow the current term permit to expire under its own terms and, if the holder is entitled to additional time to satisfy the 10-year notification period, issue a new term permit for the remaining period. Clearly specify any limited tenure by including the following statement in the permit:

"This permit will expire on (insert date) and a new permit will not be issued."
- d. Issue term or annual permits for additional periods as needed to allow continuation of occupancy until conversion to the alternate public use is ready to begin.

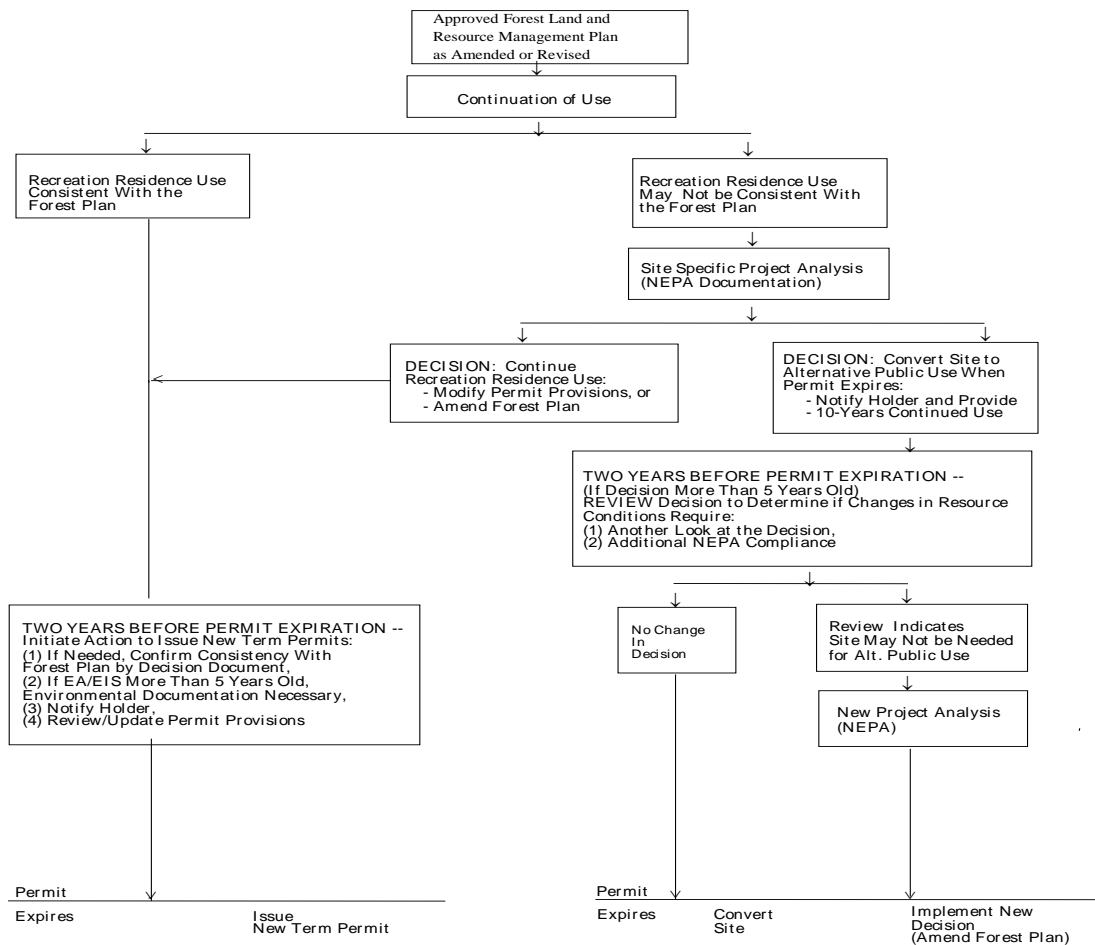
Before the Forest Supervisor issues a decision to convert a lot to an alternative public use, he or she must submit the proposed decision, supporting documentation and summary of public comments to the Regional Forester for review for adequacy of the documentation and analysis. If analysis and documentation are inadequate to support the proposed decision or there is some other deficiency in the proposed decision, the Regional Forester shall instruct the Forest Supervisor to remedy

the deficiencies and reconsider the proposed decision prior to making the final decision.

When new permits will not be issued following expiration of the present permit, the agency is directed to make a reasonable effort to provide an in-lieu lot, if available, at locations not needed in the foreseeable future

(generally, the period covered by the forest plan) for alternative public uses. (FSM 2721.23f.)

The following diagram sets out the agency's analysis process for determining whether to re-issue a recreation residence permit:



How does the Forest Service feel about isolated cabins?

Isolated cabins include recreation cabins located on sites not planned or designated for recreation cabin purposes, unlike recreation residences which are residences that occupy planned, approved tracts or those groups of tracts established for recreation residence use. The Forest Service Manual (FSM 2721.21) states that “in most circumstances, these uses should be phased out.” It also directs that the period of continued occupancy may be flexible, but normally should not exceed 15 years.

How does the Forest Service deal with conflicts with cabin owners?

The Forest Service Manual directs agency employees to reduce conflict between cabin permittees and the agency arising from permit administration. (FSM 2721.23h.) Each Forest should have a specified employee who works with the cabin owners, their representatives, and other interested parties on specific issues. In addition, the agency should provide opportunity for cabin owners to participate in issue resolution. Where practicable, except when there is an imminent hazard or risk to health or resources, the agency should consult with and meet in person cabin owners to discuss any issues or concerns related to the permit and to reach a common understanding and agreement.

What are the rules for caretaker residences?

While recreation residences cannot be occupied full time, cabins for caretakers of recreation residences can. (FSM 2347.1.) A caretaker cabin is defined as “a residence

that is authorized in limited cases to provide caretaker services and security to a recreation residence tract and that is not a recreation residence, even if the cabin is located in a recreation residence tract.” (FSM 2347.12.) Caretaker cabin use is authorized with an annual permit that is different than a recreation residence permit (Form FS-2700-4). (FSM 2347.12a.) A caretaker cabin may be owned by a tract association, and the authorization may be issued in the name of the head of that association. The agency’s manual states that the need for a caretaker cabin can rarely be justified where yearlong occupancy is already authorized in the tract. Nonetheless, the Forest Supervisor may authorize a caretaker cabin in limited cases where it is demonstrated that caretaker services are needed for the security of a recreation residence tract and alternative security measures are not feasible or reasonably available. (FSM 2347.12b.)

Will the agency revoke a permit for noncompliance with its terms?

The agency may revoke a recreation residence permit when:

- a. The holder is in noncompliance with applicable laws, regulations, or the terms and conditions of the authorization;
- b. For failure of the holder to exercise the rights or privileges granted;
- c. With the consent of the holder; or
- d. There are specific and compelling reasons in the public interest, for example, the National Forest System

lands covered by the authorization are required for a higher public use.

(FSM 2716.3.) Before it does so, the agency will first give written notice and provide a reasonable opportunity for a holder to correct the violations (typically up to 90 days). If the violations are not corrected, the agency may then revoke the permit for noncompliance with the permit conditions. (FSM 2716.3; 2721.23i.) In all cases of revocation, the holder is entitled to adequate notice and a statement of the

reasons for the action. Revocation for noncompliance is only for a breach of a permit provision(s) that continues after notice and a reasonable opportunity for correction. If a permit is revoked or allowed to expire with re-issuance, except for revocation in the public interest, the permittee will be required to restore the property to a condition acceptable to the forest supervisor, and will be given a reasonable amount of time to do so. (FSM 2721.23j; 2716.3.)

Background on the Forest Service Manual and Handbook

This manual contains a summary of selected provisions from the Forest Service Manual (FSM) and Forest Service Handbooks (FSH) (as of May 2019) related to audits of special use permit operations. The Forest Service Manual and Handbooks are internal agency guidance. They are prepared and issued by the Forest Service pursuant to 7 C.F.R. § 2.7. They are designed to assist Forest Service employees in carrying out their duties under the laws and regulations to manage activities within the National Forest System. These provisions, which at times reiterate federal statutes and federal regulations, are distinct from those legal authorities and set out the agency's internal policy, practices, and procedures. The Forest Service has stated that these provisions serve "as the primary basis for the internal management and control of all programs and the primary source of administrative direction to Forest Service employees." The provisions are periodically updated by either amendments or interim directives, which are in place only for a designated period time.

Disclaimer

This manual does not constitute legal advice, which requires a review of your specific factual situation. Nor does its distribution create an attorney-client relationship. It is also without any warranty of any kind, without limitation. If we can be of any specific assistance to you, please contact us through www.gardenlawfirm.com.

APPENDIX

Term Permit Act of 1915 (16 U.S.C. § 497)..... App. 2

Term Permit Act for Alaska (16 U.S.C. § 497a)..... App. 3

Alaska National Interest Lands Conservation Act (16 U.S.C. § 3193).. App. 4

Cabin Fee Act (16 U.S.C. § 6214)..... App. 8

Standard Permit Form for Recreation Residence Permits..... App. 14

Term Permit Act of 1915 (16 U.S.C. § 497)

Use and occupation of lands for hotels, resorts, summer homes, stores, and facilities for industrial, commercial, educational or public uses

The Secretary of Agriculture is authorized, under such regulations as he may make and upon such terms and conditions as he may deem proper, (a) to permit the use and occupancy of suitable areas of land within the national forests, not exceeding eighty acres and for periods not exceeding thirty years, for the purpose of constructing or maintaining hotels, resorts, and any other structures or facilities necessary or desirable for recreation, public convenience, or safety; (b) to permit the use and occupancy of suitable areas of land within the national forests, not exceeding five acres and for periods not exceeding thirty years, for the purpose of constructing or maintaining summer homes and stores; (c) to permit the use and occupancy of suitable areas of land within the national forest, not exceeding eighty acres and for periods not exceeding thirty years, for the purpose of constructing or maintaining buildings, structures, and facilities for industrial or commercial purposes whenever such use is related to or consistent with other uses on the national forests; (d) to permit any State or political subdivision thereof, or any public or nonprofit agency, to use and occupy suitable areas of land within the national forests not exceeding eighty acres and for periods not exceeding thirty years, for the purpose of constructing or maintaining any buildings, structures, or facilities necessary or desirable for education or for any public use or in connection with any public activity. The authority provided by this section shall be exercised in such manner as not to preclude the general public from full enjoyment of the natural, scenic, recreational, and other aspects of the national forests. (Mar. 4, 1915, c. 144, 38 Stat. 1101; July 28, 1956, c. 771, 70 Stat. 708.)

Term Permit Act for Alaska (16 U.S.C. § 497a)

Occupancy and use under permit of lands in Alaska for various purposes; period of permit; size of allotment; prohibitions; termination

The Secretary of Agriculture, in conformity with regulations prescribed by him, may permit the use and occupancy of national-forest lands in Alaska for purposes of residence, recreation, public convenience, education, industry, agriculture, and commerce, not incompatible with the best use and management of the national forests, for such periods as may be warranted but not exceeding thirty years and of such areas as may be necessary but not exceeding eighty acres, and after such permits have been issued and so long as they continue in full force and effect the lands therein described shall not be subject to location, entry, or appropriation, under the public land laws or mining laws, or to disposition under the mineral leasing laws: *Provided*, That nothing contained in this section shall prevent the said Secretary from canceling, revoking, or otherwise terminating a permit so issued upon proof of a breach of its terms and conditions or for other just cause. (Mar. 30, 1948, c. 162, 62 Stat. 100.)

**Alaska National Interest Lands Conservation Act
(16 U.S.C. § 3193)**

Use of cabins and other sites of occupancy on conservation system units

(a) Improved property on National Park System lands

- (1)** On public lands within the boundaries of any unit of the National Park System created or enlarged by this Act, cabins or other structures existing prior to December 18, 1973, may be occupied and used by the claimant to these structures pursuant to a renewable, nontransferable permit. Such use and occupancy shall be for terms of five years each: *Provided*, That the claimant of the structure by application:
- (A)** Reasonably demonstrates by affidavit, bill of sale or other documentation, proof of possessory interest or right of occupancy in the cabin or structure;
 - (B)** Submits a sketch or photograph of the cabin or structure and a map showing its geographic location;
 - (C)** Agrees to vacate the cabin and to remove all personal property from the cabin or structure upon expiration of the permit; and
 - (D)** Acknowledges in the permit that the applicant has no interest in the real property on which the cabin or structure is located.
- (2)** On public lands within the boundaries of any unit of the National Park System created or enlarged by this Act, cabins or other structures, the occupancy or use of which commenced between December 18, 1973, and December 1, 1978, may be used and occupied by the claimant of such structure pursuant to a nontransferable, nonrenewable permit. Such use and occupancy shall be for a maximum term of one year: *Provided, however*, that the claimant, by application:
- (A)** Reasonably demonstrates by affidavit, bill of sale, or other documentation proof of possessory interest or right of occupancy in the cabin or structure;

- (B) Submits a sketch or photograph of the cabin or structure and a map showing its geographic location;
- (C) Agrees to vacate the cabin or structure and to remove all personal property from it upon expiration of the permit; and
- (D) Acknowledges in the permit that the applicant has no legal interest in the real property on which the cabin or structure is located.

The Secretary may, on a case by case basis, subject to reasonable regulations, extend such permit term beyond one year for such reasons as the Secretary deems equitable and just.

- (3) Cabins or other structures not under permit as specified herein shall be used only for official government business: *Provided, however,* that during emergencies involving the safety of human life or where designated for public use by the Secretary, these cabins may be used by the general public.
- (4) The Secretary may issue a permit under such conditions as he may prescribe for the temporary use, occupancy, construction and maintenance of new cabins or other structures if he determines that the use is necessary to reasonably accommodate subsistence uses or is otherwise authorized by law.

(b) Improved property on other units or areas established or expanded by this Act

The following conditions shall apply regarding the construction, use and occupancy of cabins and related structures on Federal lands within conservation system units or areas not provided for in subsection (a) of this section:

- (1) The construction of new cabins is prohibited except as may be authorized pursuant to a nontransferable, five-year special use permit issued by the Secretary. Such special use permit shall only be issued upon a determination that the proposed use, construction, and maintenance of a cabin is compatible with the purposes for which the unit or area was established and that the use of the cabin is either directly related to the administration of the unit or area or is necessary to provide for a continuation of an ongoing activity or use otherwise allowed within the unit or area where the permit applicant has no

reasonable alternative site for constructing a cabin. No special use permit shall be issued to authorize the construction of a cabin for private recreational use.

- (2)** Traditional and customary uses of existing cabins and related structures on Federal lands within a unit or area may be allowed to continue in accordance with a nontransferable, renewable five-year special use permit issued by the Secretary. Such special use permit shall be issued only upon a determination that the traditional and customary uses are compatible with the purposes for which the unit or area was established. No special use permits shall be issued to authorize the use of an existing cabin constructed for private recreational use.
- (3)** No special use permit shall be issued under paragraphs (1) or (2) of this subsection unless the permit applicant:

 - (A)** In the case of existing cabins or structures, reasonably demonstrates by affidavit, bill of sale or other documentation, proof of possessory interests or right of occupancy in the cabin or structure;
 - (B)** Submits a sketch or photograph of the existing or proposed cabin or structure and a map showing its geographic location;
 - (C)** Agrees to vacate the cabin or structure and remove, within a reasonable time period established by the Secretary, all personal property from it upon nonrenewal or revocation of the permit; and
 - (D)** Acknowledges in the permit application that the applicant has no interest in the real property on which the cabin or structure is located or will be constructed.
- (4)** The United States shall retain ownership of all new cabins and related structures on Federal lands within a unit or area specified in this subsection, and no proprietary rights or privileges shall be conveyed through the issuance of the special use permit authorized by paragraphs (1) or (2) of this subsection. Cabins or other structures not under permit shall be used only for official Government business: *Provided, however,* that during emergencies involving

the safety of human life or where designated for public use by the unit or area manager, such cabins may be used by the general public.

(c) Permits to be renewed for life of claimant and immediate family

- (1)** Whenever issuance of a nontransferable renewable five-year special use permit is authorized by subsections (a) or (b) of this section, said permit shall be renewed every five years until the death of the last immediate family member of the claimant residing in the cabin or structure, or unless the Secretary has revoked the special use permit in accordance with the criteria established in this section.
- (2)** Notwithstanding any other provision of this section, the Secretary, after notice and hearing, may revoke a permit provided for in this section if he determines, on the basis of substantial evidence in the administrative record as a whole, that the use under the permit is causing or may cause significant detriment to the principal purposes for which the unit was established.

(d) Existing cabin leases or permits

Nothing in this Act shall preclude the renewal or continuation of valid leases or permits in effect on December 2, 1980, for cabins, homesites, or similar structures on Federal lands. Unless the Secretary, or in the case of national forest lands, the Secretary of Agriculture, issues specific findings following notice and an opportunity for the lease-holder or permittee to respond, that renewal or continuation of such valid permit or lease constitutes a direct threat to or a significant impairment to the purposes for which a conservation system unit was established (in the case of a structure located within a conservation system unit) or the public domain or national forest (in case of a structure located outside conservation system units), he shall renew such valid leases or permits upon their expiration in accordance with the provisions of the original lease or permit, subject to such reasonable regulations as he may prescribe. Subject to the provisions of the original lease or permit, nothing in this Act or subsection shall necessarily preclude the appropriate Secretary from transferring such a lease or permit to another person at the election or death of the original permittee or lessee.

(Pub.L. 96-487, Title XIII, § 1303, Dec. 2, 1980, 94 Stat. 2476.)

**Cabin Fee Act
(16 U.S.C. § 6214)**

Cabin user and transfer fees

Effective: December 19, 2014

(a) In general

The Secretary of Agriculture (referred to in this section as the “Secretary”) shall establish a fee in accordance with this section for the issuance of a special use permit for the use and occupancy of National Forest System land for recreational residence purposes.

(b) Interim fee

During the period beginning on January 1, 2014, and ending on the last day of the calendar year during which the current appraisal cycle is completed under subsection (c), the Secretary shall assess an interim annual fee for recreational residences on National Forest System land that is an amount equal to the lesser of--

(1) the fee determined under the Cabin User Fee Fairness Act of 2000 (16 U.S.C. 6201 et seq.), subject to the requirement that any increase over the fee assessed during the previous year shall be limited to not more than 25 percent; or

(2) \$5,600.

(c) Completion of current appraisal cycle

Not later than 1 year after December 19, 2014, the Secretary shall complete the current appraisal cycle, including receipt of timely second appraisals, for recreational residences on National Forest System land in accordance with the Cabin User Fee Fairness Act of 2000 (16 U.S.C. 6201 et seq.) (referred to in this section as the “current appraisal cycle”).

(d) Lot value

Only appraisals conducted and approved by the Secretary in accordance with the Cabin User Fee Fairness Act of 2000 (16 U.S.C. 6201 et seq.) during the current appraisal cycle

shall be used to establish the base value assigned to the lot, subject to the adjustment in subsection (e). If a second appraisal--

- (1) was approved by the Secretary, the value established by the second appraisal shall be the base value assigned to the lot; or
- (2) was not approved by the Secretary, the value established by the initial appraisal shall be the base value assigned to the lot.

(e) Adjustment

On the date of completion of the current appraisal cycle, and before assessing a fee under subsection (f), the Secretary shall make a 1-time adjustment to the value of each appraised lot on which a recreational residence is located to reflect any change in value occurring after the date of the most recent appraisal for the lot, in accordance with the 4th quarter of 2012 National Association of Homebuilders/Wells Fargo Housing Opportunity Index.

(f) Annual fee

(1) Base

After the date on which appraised lot values have been adjusted in accordance with subsection (e), the annual fee assessed prospectively by the Secretary for recreational residences on National Forest System land shall be in accordance with the following tiered fee structure:

Fee Tier	Approximate Percent of Permits Nationally	Fee Amount
Tier 1	6 percent	\$650
Tier 2	16 percent	\$1,150

Tier 3.....	26 percent	\$1,650
Tier 4.....	22 percent	\$2,150
Tier 5.....	10 percent	\$2,650
Tier 6.....	5 percent.....	\$3,150
Tier 7.....	5 percent.....	\$3,650
Tier 8.....	3 percent.....	\$4,150
Tier 9.....	3 percent.....	\$4,650
Tier 10.....	3 percent.....	\$5,150
Tier 11.....	1 percent.....	\$5,650.

(2) Inflation adjustment

The Secretary shall increase or decrease the annual fees set forth in the table under paragraph (1) to reflect changes in the Implicit Price Deflator for the Gross Domestic Product published by the Bureau of Economic Analysis of the Department of Commerce, applied on a 5-year rolling average.

(3) Access and occupancy adjustment

(A) In general

The Secretary shall by regulation establish criteria pursuant to which the annual fee determined in accordance with this section may be suspended or reduced temporarily if access to, or the occupancy of, the recreational residence is significantly restricted.

(B) Appeal

The Secretary shall by regulation grant the cabin owner the right of an administrative appeal of the determination made in accordance with subparagraph (A) whether to suspend or reduce temporarily the annual fee.

(g) Periodic review

(1) In general

Beginning on the date that is 10 years after December 19, 2014, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report that--

(A) analyzes the annual fees set forth in the table under subsection (f) to ensure that the fees reflect fair value for the use of the land for recreational residence purposes, taking into account all use limitations and restrictions (including any limitations and restrictions imposed by the Secretary); and

(B) includes any recommendations of the Secretary with respect to modifying the fee system.

(2) Limitation

The use of appraisals shall not be required for any modifications to the fee system based on the recommendations under paragraph (1)(B).

(h) Cabin transfer fees

(1) In general

The Secretary shall establish a fee in the amount of \$1,200 for the issuance of a new recreational residence permit due to a change of ownership of the recreational residence.

(2) Adjustments

The Secretary shall annually increase or decrease the transfer fee established under paragraph (1) to reflect changes in the Implicit Price Deflator for the Gross Domestic Product published by the Bureau of Economic Analysis of the Department of Commerce, applied on a 5-year rolling average.

(i) Effect

(1) In general

Nothing in this section limits or restricts any right, title, or interest of the United States in or to any land or resource in the National Forest System.

(2) Alaska

The Secretary shall not establish or impose a fee or condition under this section for permits in the State of Alaska that is inconsistent with [section 3193\(d\)](#) of this title.

(j) Retention of fees

(1) In general

Beginning 10 years after December 19, 2014, the Secretary may retain, and expend, for the purposes described in paragraph (2), any fees collected under this section without further appropriation.

(2) Use

Amounts made available under paragraph (1) shall be used to administer the recreational residence program and other recreation programs carried out on National Forest System land.

(k) Repeal of Cabin User Fee Fairness Act of 2000

Effective on the date of the assessment of annual permit fees in accordance with subsection (f) (as certified to Congress by the Secretary), the Cabin User Fee Fairness Act of 2000 (16 U.S.C. 6201 et seq.) is repealed.

(Pub.L. 113-291, Div. B, Title XXX, § 3024, Dec. 19, 2014, 128 Stat. 3764.)

Standard Form for Recreation Residence Permits

Auth ID: #AUTH_ID# **FS-2700-5a** (02/07)

Contact ID: #HOLDER_ID# OMB No. 0596-0082

Expiration Date:

#EXPIRATION_DATE# Use

Code: #USE_CODE#

U.S. DEPARTMENT OF AGRICULTURE FOREST SERVICE

TERM SPECIAL USE PERMIT FOR RECREATION RESIDENCES

AUTHORITY:

Act of March 4, 1915, 16 U.S.C. 497

<Delete all user notes before printing.>

<USER NOTES FOR HOLDER NAME>

<If the permit is issued to a living trust, include as the holder name the name of the trustee, followed by the phrase, "trustee of the [trust name, e.g., 'XYZ Living Trust'].>

#HOLDER_NAME#, #HOLDER_ADD_LINE_1#, #HOLDER_ADD_LINE_2#, #HOLDER_ADD_LINE_3#, (the holder)

#HOLDER_CITY#, #HOLDER_STATE# #HOLDER_ZIP# is authorized to occupy a recreation residence on National

Forest System lands for personal, noncommercial recreational use on the _____ National Forest, subject to the terms and conditions of this permit and its appendices. This permit covers #USE_ACRES# acres, hereinafter referred to as "the permit area" and described as:

(1) Lot #REC_RES_LOT_NUMBER# of the #REC_RES_TRACT_NAME# tract, a plat of which is on file in the office of the Forest Supervisor;

OR

(2) #TOWNSHIP_SECT_RANGE# #FIRST_DIVISION# #FIRST_DIV_NAME_NUMBER#, SECOND_DIVISION# #SECOND_DIV_NAME_NUMBER#, #THIRD_DIVISION# #THIRD_DIV_NAME_NUMBER#, as shown on the attached map.

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

#PURPOSE#

TERMS AND CONDITIONS

I. GENERAL TERMS

- A. **AUTHORITY**. This permit is issued pursuant to the Act of March 4, 1915, 16 U.S.C. 497, 36 CFR Part 251, Subpart B, as amended, Forest Service Manual (FSM) 1920, 1950, 2340, 2720, and 5410, Forest Service Handbook (FSH) 2709.11, Chapters 10-50, and FSH 5409.12, Chapter 60, and is subject to their provisions. Copies of these regulations and directives shall be provided by the authorized officer to the holder at no charge upon request.

B. AUTHORIZED OFFICER. The authorized officer for this permit is the Forest or Grassland Supervisor or a subordinate officer with delegated authority.

C. AUTHORIZED USE. This permit authorizes only noncommercial recreational use by the holder's immediate family and the holder's non-paying guests, other than incidental rental that has prior written approval from the authorized officer pursuant to clause VII.A.

<USER NOTES FOR CLAUSE I.D>

<Include clause I.D when the permit is issued to a living trust. Otherwise, delete clause I.D, and reletter the remaining clauses in section I.>

D. PERMITS ISSUED TO A LIVING TRUST. For permits issued to a living trust, if the grantor's immediate family will not be occupying the recreation residence, the trustee shall notify the authorized officer which immediate family will be occupying the recreation residence. The permanent address of this immediate family shall be provided to the Forest Service. The trustee shall update the identification and permanent address of this immediate family as necessary. The trustee warrants that the trustee has the authority to bind the trust to the terms and conditions of this permit. The trust is liable for compliance with all the terms and conditions of this permit.

E. TERM. This permit shall expire at midnight on #EXPIRATION_DATE, IN MOST CASES, 20 years from the date of issuance, unless the permit is being issued upon a change of ownership of the recreation residence, in which case the permit runs for the remainder of the prior holder's term#.

F. CHANGE IN ADDRESS, OWNERSHIP OF THE RECREATION RESIDENCE, OR THE TRUSTEE. The holder or the holder's executor or personal representative shall immediately notify the authorized officer of a change in the holder's permanent address or a change in the ownership of the recreation residence. If the permit is issued to a trust, the trustee shall immediately notify the authorized officer of a change in the trustee or revocation or termination of the trust.

G. AMENDMENT. This permit may be amended in whole or in part by the Forest Service when, at the discretion of the authorized officer, such action is deemed necessary or desirable to incorporate new terms that may be required by law, regulation, the applicable land management plan, or projects and activities implementing a land management plan pursuant to 36 CFR Part 215.

H. COMPLIANCE WITH LAWS, REGULATIONS, AND OTHER LEGAL REQUIREMENTS. In exercising the privileges granted by this permit, the holder shall comply with all present and future federal laws and regulations and all present and future state, county, and municipal laws, regulations, and other legal requirements that apply to the permit area, to the extent they do not conflict with federal law, regulations, or policy. The Forest Service assumes no responsibility for enforcing laws, regulations, and other legal requirements that fall under the jurisdiction of other governmental entities.

I. NON-EXCLUSIVE USE. The use and occupancy authorized by this permit are not exclusive. The Forest Service reserves the right of access to the permit area, including a continuing right of physical entry to the permit area for inspection, monitoring, or any other purpose consistent with any right or obligation of the United States under any law or regulation. The Forest Service reserves the right to allow others to use the permit area in any way that is not inconsistent with the holder's rights and privileges under this permit, after consultation with all parties involved.

II. IMPROVEMENTS

A. LIMITATIONS ON USE. This permit authorizes only occupancy of a recreation residence. Nothing in this permit gives or implies permission to build or maintain any structure or improvement or to conduct any activity, unless specifically authorized by this permit. Any use not specifically authorized by this permit must be proposed in accordance with 36 CFR

251.54. Approval of such a proposal through issuance of a new permit or permit amendment is at the sole discretion of the authorized officer. Improvements requiring specific approval shall include but are not limited to signs, fences, name plates, mailboxes, newspaper boxes, boathouses, docks, pipelines, antennas, water and sewer facilities, and storage sheds.

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

III. **OPERATIONS**

A. OPERATING PLAN. The holder shall prepare an operating plan in consultation with the authorized officer or the authorized officer's designated representative. The operating plan shall cover all activities authorized by this permit. The operating plan shall outline steps the holder will take to protect public health and safety and the environment and shall include sufficient detail and standards to enable the Forest Service to monitor the holder's activities for compliance with the terms and conditions of this permit. The operating plan shall be submitted by the holder and approved by the authorized officer or the authorized officer's designated representative prior to commencement of authorized activities and shall be attached to this permit as an appendix. The operating plan shall, at a minimum, address requirements for the following:

1. Maintenance of vegetation, tree planting, and removal of dangerous trees and other unsafe conditions.
2. Maintenance of the authorized improvements.
3. Size, placement and description of authorized signs.
4. Removal of garbage.
5. Fire protection.
6. Identification of the person responsible for implementing the operating plan, if other than the holder, and a list of the name, address, and telephone numbers of persons to contact in the event of an emergency.

The operating plan shall be revised as necessary when changes to the authorized use are approved by the authorized officer.

B. MINIMUM OCCUPANCY AND PROHIBITION ON FULL-TIME OCCUPANCY. The permitted improvements shall be occupied at least 15 days each year, unless otherwise authorized in writing, but shall not be used as a full-time residence. Use of the permitted improvements as a principal place of residence is prohibited and shall be grounds for revocation of this permit.

C. MAINTENANCE OF IMPROVEMENTS. The holder shall maintain the authorized improvements and National Forest System lands to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the authorized officer.

D. INSPECTION OF THE PERMIT AREA. The holder is responsible for inspecting the permit area, authorized rights-of-way, and adjoining areas for dangerous trees, hanging limbs, and other evidence of hazardous conditions that could affect the authorized improvements or pose a risk to public safety. After obtaining written approval from the authorized officer, the holder shall remove these hazards at the holder's expense.

E. REMOVAL AND PLANTING OF VEGETATION. This permit does not authorize the cutting of timber or other vegetation. Trees, shrubs, grasses, and other plants may be removed or destroyed only after the authorized officer or the authorized officer's designated representative has approved in writing and marked or otherwise identified what may be removed or destroyed. Timber cut or destroyed shall be paid for at current stumpage rates for similar timber in the National Forest. The Forest Service reserves the right to

dispose of the merchantable timber to those other than the holder at no stumpage cost to the holder. Unmerchantable material shall be disposed of as directed by the authorized officer. Trees, shrubs, grasses, and other plants may be planted within the permit area with prior written approval of the authorized officer.

IV. **RIGHTS AND LIABILITIES**

- A. **LEGAL EFFECT OF THE PERMIT.** This permit, which is revocable and terminable, is not a contract or a lease, but rather a federal license. The benefits and requirements conferred by this authorization are reviewable solely under the procedures set forth in 36 CFR Part 251, Subpart C, and 5 U.S.C. 704. This permit does not constitute a contract for purposes of the Contract Disputes Act, 41 U.S.C. 601. The permit is not real property, does not convey any interest in real property, and may not be used as collateral for a loan.
- B. **VALID OUTSTANDING RIGHTS.** This permit is subject to all valid outstanding rights. Valid outstanding rights include those derived from mining and mineral leasing laws of the United States. The United States is not liable to the holder for the exercise of any such right.
- C. **ABSENCE OF THIRD-PARTY BENEFICIARY RIGHTS.** The signatories of this permit do not intend to confer any rights on any third party as a beneficiary under this permit.
- D. **RISK OF LOSS.** The holder assumes all risk of loss to the authorized improvements. Loss to the authorized improvements may result from but is not limited to theft, vandalism, fire and any fire-fighting activities (including prescribed burns), avalanches, rising waters, winds, falling limbs or trees, and acts of God. If authorized improvements in the permit area are destroyed or substantially damaged, the authorized officer shall conduct an analysis to determine whether the improvements can be safely occupied in the future and whether rebuilding should be allowed. If rebuilding is not allowed, the permit shall terminate.
- E. **SERVICES NOT PROVIDED.** This permit is for the occupancy of land for the purposes stated in this permit and does not provide for the furnishing of road maintenance, water, fire protection, or any other such service by a government agency, utility, association, or individual.
- F. **DAMAGE TO UNITED STATES PROPERTY.** The holder has an affirmative duty to protect from damage the land, property, and other interests of the United States. Damage includes but is not limited to fire suppression costs, and all costs and damages associated with or resulting from the release or threatened release of a hazardous material occurring during or as a result of activities of the holder or the holder's heirs, assigns, agents, employees, contractors, or lessees on, or related to, the lands, property, and other interests covered by this permit. For purposes of clauses IV.F and section V, "hazardous material" shall mean any hazardous substance, pollutant, contaminant, hazardous waste, oil, and/or petroleum product, as those terms are defined under any federal, state, or local laws or regulations.
1. The holder shall avoid damaging or contaminating the environment, including but not limited to the soil, vegetation (such as trees, shrubs, and grass), surface water, and groundwater, during the holder's use and occupancy of the permit area. If the environment or any government property covered by this permit becomes damaged during the holder's use and occupancy of the permit area, the holder shall immediately repair the damage or replace the damaged items to the satisfaction of the authorized officer and at no expense to the United States.
 2. The holder shall be liable for all injury, loss, or damage, including fire suppression or other costs in connection with rehabilitation or restoration of natural resources, associated with the holder's use and occupancy of the permit area. Compensation shall include but is not limited to the value of resources damaged or destroyed, the costs of restoration, cleanup, or other mitigation, fire suppression or other types of abatement costs, and all associated administrative, legal (including attorney's fees), and other costs.

3. The holder shall be liable for damage caused by use of the holder or the holder's heirs, assigns, agents, employees, contractors, or lessees to all roads and trails of the United States that are open to public use to the same extent as provided under clause IV.F.1, except that liability shall not include reasonable and ordinary wear and tear.

G. HEALTH, SAFETY, AND ENVIRONMENTAL PROTECTION. The holder shall take all measures necessary to protect the environment, natural resources, and the health and safety of all persons affected by the use and occupancy authorized by this permit. The holder shall promptly abate as completely as possible and in compliance with all applicable laws and regulations any physical or mechanical procedure, activity, event, or condition existing or occurring before, during, or after the term of this permit and arising out of or relating to any activity, event, or condition existing or occurring during the term of this permit that causes or threatens to cause a hazard to the health or safety of the public or the holder's employees or agents or harm to the environment (including areas of vegetation or timber, fish, or other wildlife populations, their habitats, or any other natural resources). The holder shall immediately notify the authorized officer of all serious accidents that occur in connection with these activities, events, or conditions. The holder has sole responsibility to protect the health and safety of all persons affected by the use and occupancy authorized by this permit. The Forest Service has no duty under the terms of this permit to inspect the permit area or operations of the holder for hazardous conditions or compliance with health and safety standards.

H. INDEMNIFICATION. The holder shall indemnify, defend, and hold harmless the United States for any costs, damages, claims, liabilities, and judgments arising from past, present, and future acts or omissions of the holder in connection with the use and occupancy authorized by this permit. This indemnification and hold harmless provision includes but is not limited to acts and omissions of the holder or the holder's family, guests, invitees, heirs, assignees, agents, employees, contractors, or lessees in connection with the use and occupancy authorized by this permit which result in (1) violations of any laws and regulations which are now or which may become applicable, including but not limited to those environmental laws listed in clause V.A of this permit; (2) judgments, claims, demands, penalties, or fees assessed against the United States; (3) costs, expenses, and damages incurred by the United States; or (4) the release or threatened release of any solid waste, hazardous waste, hazardous substance, pollutant, contaminant, oil in any form, or petroleum product into the environment. The authorized officer may prescribe terms that allow the holder to replace, repair, restore, or otherwise undertake necessary curative actions to mitigate damages in addition to or as an alternative to monetary indemnification.

<USER NOTES FOR CLAUSE IV.I>

<Include clause IV.I when the permit area is located or presumed to be located in a floodplain or floodway as those terms are defined in Executive Order 11988. Otherwise, delete clause IV.I.>

I. FLOOD DAMAGE. The lands covered by this permit are in a floodplain or floodway. This permit is issued with the specific understanding that if the authorized improvements are substantially damaged and made uninhabitable by a flood, the permit shall terminate and the remaining improvements shall be removed within 90 days. If damage to the improvements is not substantial, they may be repaired and allowed to remain if they can be flood-proofed without affecting flows in the floodplain or floodway. No expansion of existing improvements or new improvements will be allowed in the floodplain or floodway. No claim shall be made against the United States for loss, damage, or termination of the permit due to a flood.

V. RESOURCE PROTECTION

A. COMPLIANCE WITH ENVIRONMENTAL LAWS. The holder shall in connection with the use and occupancy authorized by this permit comply with all applicable federal, state, and local environmental laws and regulations, including but not limited to those established pursuant to the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 *et seq.*, the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 *et seq.*, the Oil Pollution Act, as amended, 33 U.S.C. 2701 *et seq.*, the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, 42 U.S.C. 9601 *et seq.*, the Toxic Substances Control Act, as



amended, 15 U.S.C. 2601 *et seq.*, the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. 136 *et seq.*, and the Safe Drinking Water Act, as amended, 42 U.S.C. 300f *et seq.*

- B. WATER POLLUTION.** No waste or by-product shall be discharged into water if it contains any substance in concentrations which will result in harm to fish and wildlife, or to human water supplies. Storage facilities for materials capable of causing water pollution, if accidentally discharged, shall be located so as to prevent any spillage into waters or channels leading into water that would result in harm to fish and wildlife or to human water supplies.
- C. ESTHETICS.** The holder shall protect the scenic esthetic values of the permit area and the adjacent land to the greatest extent possible during construction, operation, and maintenance of the authorized improvements.
- D. VANDALISM.** The holder shall take reasonable measures to prevent and discourage vandalism and disorderly conduct and when necessary shall contact the appropriate law enforcement officer to address these problems.
- E. PESTICIDE USE.** Pesticides may not be used outside of buildings to control undesirable woody and herbaceous vegetation (including aquatic plants), insects, rodents, or fish without the prior written approval of the authorized officer. A request for approval of planned uses of pesticides shall be submitted annually by the holder on the due date established by the authorized officer. The report shall cover a 12-month period of planned use beginning 3 months after the reporting date. Information essential for review shall be provided in the form specified. Exceptions to this schedule may be allowed, subject to emergency request and approval, only when unexpected outbreaks of pests require control measures which were not anticipated at the time an annual report was submitted. Only those materials registered by the U.S. Environmental Protection Agency for the specific purpose planned shall be authorized for use on National Forest System lands. Label instructions and all applicable laws and regulations shall be strictly followed in the application of pesticides and disposal of excess materials and containers.
- F. ARCHAEOLOGICAL-PALEONTOLOGICAL DISCOVERIES.** The holder shall immediately notify the authorized officer of all antiquities or other objects of historic or scientific interest, including but not limited to historic or prehistoric ruins, fossils, or artifacts discovered in connection with the use and occupancy authorized by this permit. The holder shall leave such discoveries intact and in place until directed otherwise by the authorized officer. Protective and mitigative measures specified by the authorized officer shall be the responsibility of the holder.
- G. NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION.** If the holder inadvertently discovers human remains, funerary objects, sacred objects, or objects of cultural patrimony on federal or tribal lands, the holder shall immediately cease work in the area of the discovery and shall make a reasonable effort to protect and secure the items. The holder shall immediately notify the forest archaeologist by telephone of the discovery and shall follow up with written confirmation of the discovery. The activity that resulted in the inadvertent discovery may not resume until 30 days after the forest archaeologist certifies receipt of the written confirmation, if resumption of the activity is otherwise lawful, except that a recovery plan adopted as a binding agreement between the Forest Service and the affected Indian tribes may provide for earlier resumption of the activity.
- H. PROTECTION OF HABITAT OF THREATENED, ENDANGERED, AND SENSITIVE SPECIES.** The location of sites within the permit area needing special measures for protection of plants or animals listed as threatened or endangered under the Endangered Species Act (ESA), 16 U.S.C. 531 *et seq.*, as amended, or as sensitive by the Regional Forester under FSM 2670, pursuant to consultation conducted under section 7 of the ESA, may be identified on the ground or shown on a separate map. The map shall be attached to this permit as an appendix. The holder shall take any protective and mitigative measures specified by the authorized officer. If protective and mitigative measures prove inadequate, if other sites within the permit area containing threatened, endangered, or sensitive species are discovered, or if new species are listed as federally threatened or endangered under the ESA or as sensitive by the Regional Forester under the FSM, the authorized officer may specify additional protective and mitigative measures. Discovery of these sites by the holder or the Forest Service shall be promptly reported to the other party.

I. CLEANUP AND REMEDIATION

1. The holder shall immediately notify all appropriate response authorities, including the National Response Center and the Forest Service authorized officer or the authorized officer's designated representative, of any oil discharge or of the release of a hazardous substance in the permit area in an amount greater than or equal to its reportable quantity, in accordance with 33 CFR Part 153, Subpart B, and 40 CFR Part 302. For the purposes of this requirement, "oil" is defined by section 311(a)(1) of the Clean Water Act, 33 U.S.C. 1321(a)(1). The holder shall immediately notify the authorized officer or the authorized officer's designated representative of any release or threatened release of any hazardous material in or near the permit area which may be harmful to public health or welfare or which may adversely affect natural resources on federal lands.
2. Except with respect to any federally permitted release as that term is defined under section 101(10) of CERCLA, 42 U.S.C. 9601(10), the holder shall clean up or otherwise remediate any release, threat of release, or discharge of hazardous materials that occurs either in the permit area or in connection with the holder's activities in the permit area, regardless of whether those activities are authorized under this permit. The holder shall perform cleanup or remediation immediately upon discovery of the release, threat of release, or discharge of hazardous materials. The holder shall perform the cleanup or remediation to the satisfaction of the authorized officer and at no expense to the United States. Upon revocation or termination of this permit, the holder shall deliver the permit area to the Forest Service free and clear of contamination.

VI. BASE CABIN USER FEES AND DEBT COLLECTION

- A. BASE CABIN USER FEE.** The base cabin user fee shall be equal to 5% of the appraised market value of the recreation residence lot. The base cabin user fee for the first year of this permit shall be \$ and shall be due on _____. For purposes of determining the base cabin user fee after the first year of this permit, the initial and any subsequent appraised value of the recreation residence lot shall be adjusted by the percentage of change in the Implicit Price Deflator-Gross Domestic Product (IPD-GDP) from the second quarter of the previous year to the second quarter of the current year. An annual adjustment to the base cabin user fee shall be no more than 5% in any year. When the annual percentage of change in the IPD-GDP would result in an annual adjustment of more than 5%, apply the amount of the adjustment in excess of 5% to the annual fee payment for the next year in which the percentage of change in the IPD- GDP is less than 5%.
- B. NEW BASE CABIN USER FEE.** The authorized officer shall notify the holder in writing at least 1 year before implementing a new base cabin user fee based on a subsequent appraisal performed pursuant to clause VI.D. The holder shall be required to pay the full amount of the new base cabin user fee if it results in an increase of 100% or less from the amount of the most recent base cabin user fee assessed the holder. When the new base cabin user fee results in an increase of more than 100% from the amount of the most recent base cabin user fee assessed the holder, one-third of the increase will be added to the base cabin user fee for the next 3 years. Annual adjustments also shall be included in the base cabin user fee as appropriate pursuant to clause VI.A.
- C. BASE CABIN USER FEE IF A DECISION IS MADE NOT TO RENEW THE USE UPON EXPIRATION OF THE PERMIT**
 1. If a new recreation residence permit will not be issued upon expiration of this permit, the base cabin user fee for the 10th year prior to the date of converting the use and occupancy to an alternative public purpose will become the base fee for the remaining life of the use. The fee for each year during the last 10 years of the authorization shall be one-tenth of the base fee multiplied by the number of years remaining prior to the date of conversion.

2. When review of a decision to convert the recreation residence lot to an alternative public use shows that changed conditions warrant continuation of the recreation residence use beyond the conversion date and a new permit with a term of more than 10 years is issued, the holder shall pay the Forest Service the total amount of fees foregone for the 10-year period prior to the conversion date. This amount may be paid in equal annual installments over a 10-year period. Any unpaid portion of this amount shall be charged to a purchaser of the authorized improvements.
3. When review of a decision to convert the recreation residence lot to an alternative public use shows that changed conditions warrant continuation of the recreation residence use beyond the conversion date and a new permit with a term of 10 years or less is issued, the fee for the new permit will be computed as if notice had not been given that the a new permit would not be issued, reduced by 10 percent for each year the permit term is extended less than 10 years. For example, a new permit with a 6-year term results in a land use fee of 60 percent of the base cabin user fee.
4. If the authorized officer determines that the recreation residence lot cannot be safely occupied because of an act of God or other catastrophic event, the base cabin user fee obligation of the holder shall terminate as of the date the act or event occurred. A prorated portion of the annual base cabin user fee reflecting the remainder of the current billing period from the date the act or event occurred shall be refunded to the holder, provided that if the holder is authorized to occupy an in-lieu lot, the prorated amount shall be credited to the annual base cabin user fee for the permit for the in-lieu lot.

D. APPRAISALS

1. Appraisals to ascertain the market value of the recreation residence lot shall be conducted by the Forest Service at least every 10 years. The next appraisal shall be procured by the Forest Service in time to implement the base cabin user fee by #INSERT_DATE#.
2. Appraisals shall be prepared consistent with FSM 5410 and FSH 5409.12, Chapter 60.
3. If dissatisfied with an appraisal report used by the Forest Service to determine the base cabin user fee, the holder must notify the authorized officer within 60 days of the holder's intent to obtain a second appraisal report. If a request for a second appraisal report is submitted, the holder has one year following receipt of the notice of the determination of a new base cabin user fee to obtain, at the holder's expense, a second appraisal report using the same typical lot and date of value as the original appraisal report and based on all other relevant factors. The appraiser selected by the holder shall have qualifications equivalent to the appraiser who conducted the original appraisal and must be approved in advance by the assigned Forest Service review appraiser. The second appraisal report shall meet the appraisal guidelines enumerated in FSH 5409.12, Chapter 60. The holder's appraiser shall notify the Forest Service review appraiser of any material differences of fact or opinion between the initial and second appraisal reports. If the holder chooses to have the second appraisal report reviewed by the Forest Service, the holder shall submit a request for review by a Forest Service appraiser within 60 days of receipt of the second appraisal report. Within 60 days of receipt of the request, the authorized officer shall:
 - a. Review the initial and second appraisal reports and their corresponding review reports;
 - b. Determine a new base cabin user fee in an amount that is equal to the base cabin user fee determined by the initial or second appraisal or within the range of values, if any, between the initial and second appraisals; and
 - c. Notify the holder of the new base cabin user fee.

E. FFF PAYMENT ISSUES

1. Crediting of Payments. Payments shall be credited on the date received by the deposit facility, except that if a payment is received on a non-workday, the payment shall not be credited until the nextworkday.
2. Disputed Fees. Base cabin user fees are due and payable by the due date. Disputed fees must be paid in full. Adjustments will be made if dictated by an administrative appeal decision, a court decision, or settlementterms.
3. Late Payments
 - (a) Interest. Pursuant to 31 U.S.C. 3717 *et seq.*, interest shall be charged on any base cabin user fee not paid within 30 days from the date it became due. The rate of interest assessed shall be the higher of the Prompt Payment Act rate or the rate of the current value of funds to the Treasury (i.e., the Treasury tax and loan account rate), as prescribed and published annually or quarterly by the Secretary of the Treasury in the *Federal Register* and the Treasury Fiscal Requirements Manual Bulletins. Interest on the principal shall accrue from the date the fee is due.
 - (b) Administrative Costs. If the account becomes delinquent, administrative costs to cover processing and handling the delinquency shall be assessed.
 - (c) Penalties. A penalty of 6% per annum shall be assessed on the total amount that is more than 90 days delinquent and shall accrue from the same date on which interest charges begin to accrue.

F. NONPAYMENT. Failure of the holder to make timely payments, pay interest charges, or any other charges when due shall be grounds for revocation of this permit.

G. ADMINISTRATIVE OFFSET AND CREDIT REPORTING. Delinquent fees and other charges associated with the permit shall be subject to all rights and remedies afforded the United States pursuant to 31 U.S.C. 3711 *et seq.* and common law. Delinquencies are subject to any or all of the following:

1. Administrative offset of payments due the holder from the Forest Service.
2. If in excess of 60 days, referral to the Department of the Treasury for appropriate collection action as provided by 31 U.S.C. 3711(g)(1).
3. Offset by the Secretary of the Treasury of any amount due the holder, as provided by 31 U.S.C. 3720 *et seq.*
4. Disclosure to consumer or commercial credit reporting agencies.

VII. RENTAL, NON-TRANSFERABILITY, AND SALE

- A. INCIDENTAL RENTAL**. With prior written approval from the authorized officer, the holder may rent the recreation residence covered by this permit for a limited number of short, specific periods for recreational purposes, provided the rental does not change the character or use of the authorized improvements from noncommercial to commercial. The rental agreement must be in writing and must provide that the holder remains responsible for compliance with all the terms of this permit. A copy of the rental agreement shall be provided to the authorized officer.
- B. NONTRANSFERABILITY**. This permit is not transferable. A purchaser or transferee of the recreation residence covered by this permit must apply for and obtain a new permit from the Forest Service.
- C. PROSPECTIVE PURCHASERS AND TRANSFEREES**. When the holder is contemplating a sale of the recreation residence authorized by this permit, the holder shall notify the authorized officer and provide a copy

of this permit to the prospective purchaser or transferee. The holder shall not represent that the Forest Service will issue a new permit to the prospective purchaser or transferee. Any purchaser or transferee must apply for and obtain a new permit from the Forest Service.

VIII. REVOCATION, SUSPENSION, AND TERMINATION

A. REVOCATION AND SUSPENSION. The authorized officer may revoke or suspend this permit in whole or in part:

1. For noncompliance with federal, state or local law.
2. For noncompliance with the terms and conditions of this permit.
3. For abandonment or other failure of the holder to exercise the privileges granted.
4. With the consent of the holder.
5. For specific and compelling reasons in the public interest.

Prior to revocation or suspension, other than immediate suspension under clause VIII.C, the authorized officer shall give the holder written notice of the grounds for revocation or suspension. In the case of revocation or suspension based on clause VIII.A.1, 2, or 3, the authorized officer shall give the holder a reasonable period, not to exceed 90 days, to cure any noncompliance.

B. REVOCATION FOR SPECIFIC AND COMPELLING REASONS IN THE PUBLIC INTEREST

1. If during the term of this permit the authorized officer determines that specific and compelling reasons in the public interest require revocation of this permit, this permit shall be revoked after 180 days written notice to the holder, provided that the authorized officer may prescribe a shorter notice period if justified by the public interest. The Forest Service shall then have the right to relocate the holder's improvements to another lot, to remove them, or to require the holder to relocate or remove them, and the Forest Service shall be obligated to pay an equitable amount for the improvements or for their relocation and damages resulting from their relocation that are caused by the Forest Service. If that amount is fixed by mutual agreement between the authorized officer and the holder, that amount shall be accepted by the holder in full satisfaction of all claims against the United States under this clause. If mutual agreement is not reached, the authorized officer shall determine the amount to be paid, which shall become part of the revocation decision.
2. If revocation in the public interest occurs after the holder has received notification that a new permit will not be issued following expiration of this permit, the amount of damages shall be adjusted as of the date of revocation by multiplying the replacement cost by a fraction which has as the numerator the number of full months remaining in the term of the permit as of the date of revocation (measured from the date of the revocation notice) and as the denominator the total number of months in the original term of this permit.

C. IMMEDIATE SUSPENSION. The authorized officer may immediately suspend this permit in whole or in part when necessary to protect public health or safety or the environment. The suspension decision shall be in writing. The holder may request an on-site review with the authorized officer's supervisor of the adverse conditions prompting the suspension. The authorized officer's supervisor shall grant this request within 48 hours. Following the on-site review, the authorized officer's supervisor shall promptly affirm, modify, or cancel the suspension.

D. APPEALS AND REMEDIES. Written decisions made by the authorized officer relating to administration of this permit are subject to appeal pursuant to 36 CFR Part 251, Subpart C, as amended. Revocation or suspension of this permit shall not give rise to any claim for damages by the holder against the Forest Service, other than as provided in clause VIII.B.

E. TERMINATION. This permit shall terminate when by its terms a fixed or agreed upon condition, event, or time occurs without any action by the authorized officer. Examples include but are not limited to expiration of the permit by its terms on a specified date and termination upon a change in ownership of the authorized

improvements. Termination of this permit is not subject to administrative appeal and shall not give rise to any claim for damages by the holder against the Forest Service.

1. Termination Upon Change in Ownership. If the holder through voluntary sale, transfer, enforcement of contract, foreclosure, or other legal proceeding ceases to be the owner of the authorized improvements, this permit shall terminate. If the person who acquires title to the improvements is qualified to be a holder under applicable regulations and Forest Service directives, that person shall be granted a new permit for the remainder of the term of this permit.
2. Termination of a Permit Issued to a Husband and Wife or an Individual Upon Their Death
 - a. Married Couple. If the holder of this permit is a married couple and one spouse dies, the permit shall remain in effect, without amendment or revision, in the name of the surviving spouse.
 - b. Individual or Surviving Spouse. If the holder of this permit is an individual or a surviving spouse and the holder dies, this permit shall terminate. Pending settlement of the holder's estate, an annual renewable permit, using form FS-2700-4, shall be issued to the executor or personal representative of the holder's estate. Upon settlement of the estate, the authorized officer shall issue a new permit, updated as necessary to reflect Forest Service policy changes, to a qualified heir or devisee for the remainder of the term of this permit. To qualify, an heir or a devisee must be one individual 21 years of age or older or a husband and wife who have title to the recreation residence authorized by this permit, as shown by a court order, bill of sale, recorded will, or other legally sufficient documentation.

IX. CONTINUATION OF THE AUTHORIZED USE UPON EXPIRATION OF THE PERMIT

- A. CONSISTENCY DETERMINATION**. A decision to issue a new permit or convert the permit area to an alternative public use upon expiration of this permit requires a determination of consistency with the applicable land management plan (the plan).
1. Where continued use is consistent with the plan, the authorized officer shall issue a new permit, in accordance with applicable requirements for environmental analysis.
 2. If, as a result of an amendment or revision of the plan, the permit area is allocated to an alternative public use, the authorized officer shall conduct site-specific environmental analysis to determine the range and intensity of the alternative public use.
 - a. If the environmental analysis results in a decision that the authorized use may continue, the holder shall be notified in writing, this permit shall be modified as necessary, and a new permit shall be issued upon expiration of this permit.
 - b. If the environmental analysis results in a decision that the authorized use shall be converted to an alternative public use, the holder shall be notified in writing and given at least 10 years continued occupancy. The holder shall be given a copy of the environmental analysis and decision document.
 - c. If a land use decision relating to the permit area and its supporting environmental documentation are more than 5 years old, the decision and supporting documentation shall be reviewed at least 2 years prior to permit expiration. If the review indicates that the conditions resulting in the decision are unchanged, the decision may be implemented. If the review indicates that conditions have changed, new environmental analysis shall be conducted to determine the proper course of action.
- B. NEW TERMS AND CONDITIONS**. In issuing a new permit, the authorized officer shall include terms and conditions that reflect new requirements imposed by current federal and state land use plans, laws, regulations, or other management decisions.

C. **NEW PERMIT TO ACCOMMODATE 10-YEAR CONTINUED OCCUPANCY.** If the 10-year continued occupancy given a holder who receives notification that a new permit will not be issued would extend beyond the expiration date of the current permit, a new term permit shall be issued for the remaining portion of the 10-year period.

X. **RIGHTS AND RESPONSIBILITIES UPON REVOCATION OR TERMINATION WITHOUT RENEWAL**

A. **REMOVAL OF IMPROVEMENTS.** Except as provided in clause VIII.B, upon revocation of this permit or termination of this permit without renewal of the authorized use, the authorized officer has the discretion to require the holder to sell or remove all structures and improvements, except those owned by the United States, within a reasonable period prescribed by the authorized officer and to restore the site to the satisfaction of the authorized officer. If the holder fails to sell or remove all structures or improvements within the prescribed period, they shall become the property of the United States and may be sold, destroyed, or otherwise disposed of without any liability to the United States. However, the holder shall remain liable for all costs associated with their removal, including costs of sale and impoundment, cleanup, and restoration of the permit area.

B. **OFFER OF AN IN-LIEU LOT.** Upon revocation (other than revocation for noncompliance) or upon notification that a new permit will not be issued after expiration of this permit, the authorized officer may offer an in-lieu lot, if available, to the holder for building or relocating a recreation residence. An in-lieu lot must be in a location that is consistent with the applicable land management plan in the same National Forest as the authorized improvement or in an adjacent National Forest. An offer of an in-lieu lot must be accepted within 90 days or within 90 days of final disposition of administrative appeal of the revocation decision, termination when rebuilding is not allowed, or notification that a new permit will not be issued upon permit expiration, whichever is later, or the offer will expire.

XI. **MISCELLANEOUS PROVISIONS**

A. **MEMBERS OF CONGRESS.** No member of or delegate to Congress or resident commissioner shall benefit from this permit either directly or indirectly, except to the extent the authorized use provides a general benefit to a corporation.

B. **SUPERSEDED PERMIT.** This permit replaces a special use permit issued to: PREV_REISSUE_HOLDER#, #PREV_AUTH_ID#, on #PREV_REIS_ISSUE_DATE#.

C. **DISCLAIMER REGARDING TITLE.** Issuance of this permit shall not be construed as an admission by the United States as to the title to any of the authorized improvements. The United States disclaims any liability for issuance of a permit in the event of disputed title.

D. **RULES OF CONSTRUCTION**

1. If there is a conflict between the foregoing standard printed clauses and any clauses added to the permit, the standard printed clauses shall control.
2. If this permit is issued to a trust and there is a conflict between any of the terms and conditions of this permit and the terms of the trust documents or state law applicable to the trust, the terms and conditions of this permit shall control.

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

ACCEPTED:

HOLDER NAME SIGNATURE DATE

APPROVED:

NAME AND TITLE OF AUTHORIZED OFFICER SIGNATURE DATE

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond, to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0082. The time required to complete this information collection is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a discrimination complaint, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (800) 975-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

The Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552) govern the confidentiality to be provided for information received by the Forest Service.