

Cabin Coalition 2: Proposal for Change to the CUFFA Fee-Setting Process

The current process for determining a fee for the right to own and use a recreation residence on National Forest System land does not reflect the value of what is actually received. Change is needed. CUFFA was drafted with the intent of including the permit restrictions in the appraisal process. However, ambiguity in the legislation allows for varied interpretations and therefore gives leeway to the Forest Service's implementation of the law, leading to flawed results.

The fee-setting process under CUFFA utilizes the fee simple valuation of 'comparable' lots while excluding the value influences of the many conditions and restrictions imposed by the permit and Forest Service guidelines. The result is inaccurate valuations and unfairly high (and sometimes low) fees. The high fees threaten the very existence of the Recreation Residence Program. The low fees fail to cover the cost to administer the Program. Many of the cabins have been in existence since the inception of the Program, supported by multi-generational ownership, use and stewardship on the National Forest. The very nature of this Program, as a continuing opportunity for family-oriented recreation, may not survive this fee-setting process. Cabin owners cannot afford to pay, nor should they be expected to pay, unreasonably high fees. High fees can depress the sale prices of cabins and in some areas have made cabins unmarketable.

Tenets for Seeking Relief:

1. The Recreation Residence Program is a valid use of the National Forests.
2. It is to be managed to preserve the opportunity for individual and family-oriented recreation.
3. The Secretary of Agriculture is charged with ensuring the implementation of a consistent procedure for determining a cabin user fee that reflects market value and the consideration of all value influences.

Guiding Principles considered in developing a strategy:

1. The preservation of the Program recognizes the value cabin stewardship brings to the Forests.
2. The highest and best use of the land is the current use as a recreation residence site.
3. The fee needs to be fair to the cabin owner and reflect a fair price to the general public for the use of its lands.
4. Cabin value and marketability must be maintained. This protects both the cabin owner's investment and government revenue.
5. Certainty of fee determination must be established with consistent procedures.

Other important considerations essential to developing a strategy:

1. Revenue neutrality that will be raised by the Congressional Budget Office (CBO).
2. Support for fee retention by the Forest Service. Agency budget limitations should be considered, at least addressing the cost to administer the Program. (Note that the Park Service benefits from fee retention of 50 %.)
3. Consider that location, which affects land value, is a characteristic that may be best valued when a cabin sells.
4. The process must recognize the shared "ownership" between cabin owners and the US government. The cabin brings value to the land and the land brings value to the cabin.
5. Recognize the level of risk/cost to the cabin owner, i.e. limited term of the permit, risk of termination at any time, cost of compliance and maintenance of the land as well as the cabin.
6. Recognize the inverse relationship between fees and the value of the cabin.
7. Work to find ways to better align the long-term interests of the Forest Service and the Cabin Community, thus maintaining value for both parties and ensuring the long-term viability of the Cabin Program.

Two strategies that have been identified:

1. Amend CUFFA legislation to include all the restrictions, permit limitations and market factors in the appraisal process. Also, consider a reduced multiplier percentage, given the fluctuating market rates and the nature of the permit, which is not a lease and has a limited term.
2. Replace CUFFA appraisal/multiplier approach with a fee-setting process that includes an annual flat fee and a transfer fee at time of sale of a cabin.

Note: In both these strategies, the concept of fee retention for the Forest Service should be a consideration.

Strategy 1: Appraisal Model - Valuing All Restrictions

NFH, in cooperation with Coalition 2, is currently exploring whether an appraisal method can be established that either values, or applies a mandated adjustment from fee simple value for, all the restrictions before the multiplier is applied to arrive at a fair annual permit fee. “Alternate” appraisals are in process to define a value to these restrictions and determine the ease with which this can occur in the standard appraisal process. At issue is the fact that there are no comparable land sales with such restrictions.

An additional option includes reducing the multiplier in acknowledgement of how difficult it is to value restrictions inside the appraisal process. A reduced multiplier could recognize the effect the severe use restrictions have on the value of the lot and therefore the permit fee. A reduced multiplier would also need to recognize the low level of risk that the Forest Service has in comparison to other “rental” scenarios.

A concern with this approach is the fact that, although one can make an argument as to why the restrictions should all be considered and/or the multiplier substantially reduced, can one successfully negotiate this process to obtain a fair fee? The use of an appraisal method still leaves one with a subjective process that requires due diligence on the part of cabin owners and the possibility of continued second appraisal requests and appeals. An independent dispute resolution procedure should be incorporated in the process.

Strategy 2: Non-Appraisal Model - Flat Fee / Transfer Fee

This two-tiered permit fee includes an annual flat fee and a transfer fee when a cabin is sold. The annual flat fee should cover the cost to administer the Program and value the rights granted by the permit that every cabin owner receives, regardless of location. The location differences, site variability and the impact of the permit restrictions on value are captured when a cabin sells, when the market determines value.

In this approach, the flat fee, indexed annually, addresses the issue of affordability of the Program going forward. At the time a cabin sells, when prices are determined by buyers and sellers, a transfer fee based on a percentage of the sale price would be collected. The transfer fee represents the value influence of the cabin site location. The percentage rate is critical and must recognize the contribution of the cabin improvements in determining this value as well as the investment risk borne by the cabin owner. This “deferred” portion of the permit fee also provides for the payment of this fee when funds are available from the sale of the cabin.

A concern with this approach is that ‘cost to administer’ data is lacking and is essential to establish a fair flat fee. This will likely require congressional inquiry of the Forest Service for this data. Secondly, intra-family transfers could present tracking difficulties and raise concerns of special consideration. How “family” is defined needs further review.

Conclusion: Both of these strategies require further analysis and refining. These ideas need to be discussed with Congressional staffers for political vetting and in preparation for oversight hearings. Cabin owner input is welcomed by the leadership of NFH and the Coalition 2.