

106TH CONGRESS
1ST SESSION

H. R. 3268

To provide for the return of fair and reasonable fees to the Federal Government for the use and occupancy of National Forest System land under the recreation residence program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 9, 1999

Mr. COOK introduced the following bill; which was referred to the Committee on Resources

A BILL

To provide for the return of fair and reasonable fees to the Federal Government for the use and occupancy of National Forest System land under the recreation residence program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fair Cabin User Fee
5 Act of 1999”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) the recreation residence program is—

1 (A) a valid use of forest land and 1 of the
2 multiple uses of the National Forest System;
3 and

4 (B) an important component of the recre-
5 ation program of the Forest Service;

6 (2) cabins located on forest land have provided
7 a unique recreation experience to a large number of
8 cabin owners, their families, and guests each year
9 since Congress authorized the recreation residence
10 program in 1915;

11 (3) tract associations, cabin owners, their ex-
12 tended families, guests, and others that regularly
13 use and enjoy forest cabin tracts have contributed
14 significantly toward efficient management of the
15 program and the stewardship of forest land;

16 (4) cabin user fees have traditionally generated
17 income to the Federal Government in amounts sig-
18 nificantly greater than the Federal cost of admin-
19 istering the program;

20 (5) the rights and privileges granted to owners
21 of cabins authorized under the program have stead-
22 ily diminished while regulatory restrictions and fees
23 charged under the program have steadily increased;
24 and

1 (6) the current fee determination procedure has
2 been shown to incorrectly reflect market value and
3 value of use.

4 **SEC. 3. PURPOSES.**

5 The purposes of this Act are—

6 (1) to ensure, to the maximum extent prac-
7 ticable, that the National Forest System recreation
8 residence program is managed to preserve the oppor-
9 tunity for individual and family-oriented recreation
10 at a reasonable cost; and

11 (2) to develop and implement a more efficient,
12 cost-effective procedure for determining cabin user
13 fees that better reflects the probable value of that
14 use by the cabin owner, taking into consideration the
15 limitations of the authorization and other relevant
16 market factors.

17 **SEC. 4. DEFINITIONS.**

18 In this Act:

19 (1) AGENCY.—The term “agency” means the
20 Forest Service.

21 (2) AUTHORIZATION.—The term “authoriza-
22 tion” means a special use permit for the use and oc-
23 cupancy of National Forest System land by a cabin
24 owner under the authority of the program.

1 (3) BASE CABIN USER FEE.—The term “base
2 cabin user fee” means the initial fee for an author-
3 ization that results from the appraisal of a lot in ac-
4 cordance with sections 6 and 7.

5 (4) CABIN.—The term “cabin” means a pri-
6 vately built and owned structure authorized for use
7 and occupancy on National Forest System land.

8 (5) CABIN USER FEE.—The term “cabin user
9 fee” means a special use fee paid annually by a
10 cabin owner to the Secretary in accordance with this
11 Act.

12 (6) CABIN OWNER.—The term “cabin owner”
13 means—

14 (A) a person authorized by the agency to
15 use and to occupy a cabin on National Forest
16 System land; and

17 (B) an heir or assign of such a person.

18 (7) CARETAKER CABIN.—The term “caretaker
19 cabin” means a caretaker residence occupied in lim-
20 ited cases in which caretaker services are necessary
21 to maintain the security of a tract.

22 (8) CENTER.—The term “Center” means the
23 Federal Center for Dispute Resolution of the Amer-
24 ican Arbitration Association.

1 (9) CURRENT CABIN USER FEE.—The term
2 “current cabin user fee” means the most recent
3 cabin user fee that results from an annual adjust-
4 ment to the base cabin user fee in accordance with
5 section 8.

6 (10) LOT.—The term “lot” means a parcel of
7 land of the National Forest System on which a cabin
8 owner is authorized to build, use, occupy, and main-
9 tain a cabin and related improvements.

10 (11) PROGRAM.—The term “program” means
11 the recreation residence program established under
12 the Act of March 4, 1915 (38 Stat. 1101, chapter
13 144).

14 (12) SECRETARY.—The term “Secretary”
15 means the Secretary of Agriculture, acting through
16 the Chief of the Forest Service.

17 (13) TRACT.—The term “tract” means an es-
18 tablished location within a National Forest con-
19 taining 1 or more cabins authorized in accordance
20 with the program.

21 (14) TRACT ASSOCIATION.—The term “tract as-
22 sociation” means a cabin owner association in which
23 all cabin owners within a tract are eligible for mem-
24 bership.

1 **SEC. 5. ADMINISTRATION OF RECREATION RESIDENCE**
2 **PROGRAM.**

3 (a) IN GENERAL.—The Secretary shall ensure, to the
4 maximum extent practicable, that the basis and procedure
5 for calculating cabin user fees results in a reasonable and
6 fair fee for an authorization that reflects the probable
7 value of the use and occupancy of a lot to the cabin owner
8 in accordance with subsection (b).

9 (b) DETERMINATION OF VALUE.—The value of the
10 use and occupancy of a lot referred to in subsection (a)—

11 (1) shall not be equivalent to a rental fee of the
12 lot; and

13 (2) shall reflect regional economic influences, as
14 determined by an appraisal of the value of use of the
15 National Forest in which the lot is located.

16 **SEC. 6. APPRAISALS.**

17 (a) REQUIREMENTS FOR CONDUCTING APPRAIS-
18 ALS.—In implementing and conducting an appraisal proc-
19 ess for determining cabin user fees, the Secretary shall—

20 (1) establish an appraisal process to determine
21 the value of the fee simple estate of a typical lot or
22 lots within a tract, with adjustments to reflect limi-
23 tations arising from the authorization and special
24 use permit;

25 (2) enter into a contract with an appropriate
26 professional organization for the development of spe-

1 cific appraisal guidelines in accordance with sub-
2 section (b), subject to public comment and congres-
3 sional review;

4 (3) require that an appraisal be performed by
5 a State-certified general real estate appraiser, se-
6 lected by the Secretary and licensed to practice in
7 the State in which the lot is located;

8 (4) provide the appraiser with—

9 (A) appraisal guidelines developed in ac-
10 cordance with this Act; and

11 (B) a copy of the special use permit associ-
12 ated with the typical lot to be appraised, with
13 an instruction to the appraiser to consider any
14 prohibitions or limitations contained in the au-
15 thorization;

16 (5) notwithstanding any other provision of law,
17 require the appraiser to coordinate the assignment
18 closely with affected parties by seeking advice, co-
19 operation, and information from cabin owners and
20 tract associations;

21 (6) require that the appraiser perform the ap-
22 praisal in compliance with—

23 (A) the most current edition of the Uni-
24 form Standards of Professional Appraisal Prac-
25 tice on the date of the appraisal;

1 (B) the most current edition of the Uni-
2 form Appraisal Standards for Federal Land Ac-
3 quisitions on the date of the appraisal; and

4 (C) the specific appraisal guidelines devel-
5 oped in accordance with this Act;

6 (7) require that the appraisal report be a self-
7 contained report (as defined by the Uniform Stand-
8 ards of Professional Appraisal Practice);

9 (8) require that the appraisal report comply
10 with the reporting guidelines established by the Uni-
11 form Appraisal Standards for Federal Land Acquisi-
12 tions; and

13 (9) before accepting any appraisal, conduct a
14 review of the appraisal to ensure that the guidelines
15 made available to the appraiser have been followed
16 and that the appraised values are properly sup-
17 ported.

18 (b) SPECIFIC APPRAISAL GUIDELINES.—In the devel-
19 opment of specific appraisal guidelines in accordance with
20 paragraph (a)(2), the instructions to an appraiser shall
21 require, at a minimum, the following:

22 (1) APPRAISAL OF A TYPICAL LOT.—

23 (A) IN GENERAL.—In conducting an ap-
24 praisal under this paragraph, the appraiser
25 shall appraise a typical lot or lots within a tract

1 that are selected by the cabin owners and the
2 agency in a manner consistent with the policy
3 of the program.

4 (B) APPRAISAL.—In appraising a typical
5 lot or lots within a tract, the appraiser shall—

6 (i) consult with affected cabin owners;

7 and

8 (ii) appraise the typical lot or lots se-
9 lected for purposes of comparison with
10 other lots or groups of lots in the tract
11 having similar value characteristics (rather
12 than appraising each individual lot).

13 (B) ESTIMATE OF MARKET VALUE OF TYP-
14 ICAL LOT.—

15 (i) IN GENERAL.—The appraiser shall
16 estimate the market value of a typical lot
17 as a parcel of undeveloped, raw land that
18 has been made available for use and occu-
19 pancy by the cabin owner on a seasonal or
20 periodic basis.

21 (ii) NO EQUIVALENCE TO LEGALLY
22 SUBDIVIDED LOT.—The appraiser shall not
23 appraise the typical lot as being equivalent
24 to a legally subdivided lot.

1 (2) REQUIREMENT FOR ANALYSIS OF COM-
2 PARABLE SALES.—The appraisal shall be based on a
3 prioritized analysis of 1 or more categories of sales
4 of comparable land as follows:

5 (A) LARGER PARCELS.—Sales of larger,
6 privately-owned, and preferably unimproved
7 parcels of rural land, generally similar in size to
8 the tract being examined, shall be given the
9 most weight in the analysis.

10 (B) SMALLER PARCELS.—Sales of smaller,
11 privately-owned, and preferably unimproved
12 parcels of rural land that are not part of an es-
13 tablished subdivision shall be given secondary
14 weight in the analysis.

15 (C) MAPPED AND RECORDED PARCELS.—
16 Sales of privately-owned parcels in a mapped
17 and recorded rural subdivision shall be given
18 the least weight in the analysis.

19 (3) EXCEPTION FOR CERTAIN SALES OF
20 LAND.—In conducting an analysis under paragraph
21 (2), the appraiser shall select sales of comparable
22 land that are outside the area of influence of—

23 (A) land affected by urban growth bound-
24 aries;

1 (B) land for which a government or insti-
 2 tution holds a conservation or recreational ease-
 3 ment; or

4 (C) land designated for conservation or
 5 recreational purposes by Congress, a State, or
 6 a political subdivision of a State.

7 (4) ADJUSTMENTS FOR TYPICAL VALUE INFLU-
 8 ENCES.—

9 (A) IN GENERAL.—The appraiser shall
 10 consider and adjust the price of sales of com-
 11 parable land for all typical value influences de-
 12 scribed in subparagraph (B).

13 (B) VALUE INFLUENCES.—The typical
 14 value influences referred to in subparagraph
 15 (A) include—

16 (i) differences in the locations of the
 17 parcels;

18 (ii) accessibility, including limitations
 19 on access attributable to—

20 (I) weather;

21 (II) the condition of roads or
 22 trails; or

23 (III) other factors;

24 (iii) the presence of marketable tim-
 25 ber;

1 (iv) limitations on, or the absence of,
2 services such as law enforcement, fire con-
3 trol, road maintenance, or snow plowing;

4 (v) the condition and regulatory com-
5 pliance of any site improvements; and

6 (vi) any other typical value influences
7 described in standard appraisal literature.

8 (5) ADJUSTMENTS FOR RESTRICTIONS ON
9 USE.—In evaluating the sale of a comparable fee
10 simple parcel, an adjustment to the sale price of the
11 parcel shall be made to reflect the influence of prohi-
12 bitions or limitations on use or benefits imposed by
13 the agency that affect the value of the subject cabin
14 lot, including—

15 (A) any prohibition against year-round use
16 and occupancy or any other restriction that lim-
17 its or reduces the type or amount of cabin use
18 and occupancy;

19 (B) any limitation on the right of the cabin
20 owner to sell, lease, or rent the cabin without
21 restrictions imposed by the Secretary;

22 (C) any limitation on, or prohibition
23 against, improvements to the lot, such as re-
24 modeling or enlargement of the cabin, construc-
25 tion of additional structures, landscaping, signs,

fencing, clothes drying lines, mail boxes, swimming pools, or other recreational facilities; and

(D) any limitation on, or prohibition against, use of the lot for placement of amenities such as playground equipment, domestic livestock, recreational vehicles, or boats.

(6) ADJUSTMENTS TO SALES OF COMPARABLE PARCELS.—

(A) IN GENERAL.—

(i) UTILITIES PROVIDED BY AGENCY.—Only utilities (such as water, sewer, electricity, or telephone) or access roads or trails that are clearly established as of the date of the appraisal as having been provided and maintained by the agency at a lot shall be included in the appraisal.

(ii) FEATURES PROVIDED BY CABIN OWNER.—All cabin facilities, decks, docks, patios, and other nonnatural features (including utilities or access)—

(I) shall be presumed to have been provided by, or funded by, the cabin owner; and

(II) shall be excluded from the appraisal by adjusting any comparable

1 sales with the nonnatural features re-
2 ferred to in subparagraph (B)(ii).

3 (iii) WITHDRAWAL OF UTILITY OR AC-
4 CESS BY AGENCY.—If, during the term of
5 an authorization, the agency makes a sub-
6 stantial and materially adverse change in
7 the provision or maintenance of any utility
8 or access, the cabin owner shall have the
9 right to request and obtain a new deter-
10 mination of the base cabin user fee at the
11 expense of the agency.

12 (B) ADJUSTMENT FOR IMPROVEMENTS.—

13 (i) IN GENERAL.—The appraiser shall
14 consider and adjust the price of each sale
15 of a comparable parcel for all nonnatural
16 features referred to in subparagraph
17 (A)(ii) that—

18 (I) are present at, or add value
19 to, the parcel; but

20 (II) are not present at the lot
21 being appraised or not included in the
22 appraisal under subparagraph (A).

23 (ii) ADJUSTMENTS.—An adjustment
24 to the price of a parcel sold under this sub-

1 paragraph shall include allowances for
2 matters such as—

3 (I) depreciated current replace-
4 ment costs of installing nonnatural
5 features referred to in clause (i) at
6 the typical lot being appraised, includ-
7 ing an allowance for entrepreneurial
8 profit and overhead;

9 (II) likely construction difficulties
10 for nonnatural features referred to in
11 clause (i) at the lot being appraised;
12 and

13 (III) the deduction in price that
14 would be taken in the market as a
15 risk allowance if—

16 (aa) a parcel does not have
17 adequate access or adequate
18 sewer or water systems; and

19 (bb) there is a risk of failure
20 or material cost overruns in at-
21 tempting to provide the systems
22 referred to in item (aa).

23 (C) REAPPRAISAL FOR AND RECALCULA-
24 TION OF BASE CABIN USER FEE.—Periodically,
25 but not less often than once every 10 years, the

1 Secretary shall recalculate the base cabin user
2 fee (including conducting any reappraisal re-
3 quired to recalculate the base cabin user fee).

4 **SEC. 7. CABIN USER FEES.**

5 (a) IN GENERAL.—The Secretary shall establish the
6 cabin user fee as the amount that is equal to 5 percent
7 of the value of the lot, as determined in accordance with
8 section 6, reflecting an adjustment to the market rate of
9 return based solely on—

- 10 (1) the limited term of the authorization;
11 (2) the absence of significant property rights
12 normally attached to fee simple ownership; and
13 (3) the public right of access to, and use of, any
14 open portion of the lot on which the cabin or other
15 enclosed improvements are not located.

16 (b) FEE FOR CARETAKER RESIDENCES.—The base
17 cabin user fee for a lot on which a caretaker residence
18 is located shall not be greater than the base cabin user
19 fee charged for the authorized use of a similar typical lot
20 in the tract.

21 (c) ANNUAL CABIN USER FEE IN THE EVENT OF
22 DETERMINATION NOT TO REISSUE AUTHORIZATION.—If
23 the Secretary determines that an authorization should not
24 be reissued at the end of a term, the Secretary shall—

1 (1) establish as the new base cabin user fee for
 2 the remaining term of the authorization the amount
 3 charged as the cabin user fee in the year that was
 4 10 years before the year in which the authorization
 5 expires; and

6 (2) calculate the current cabin user fee for each
 7 of the remaining 9 years of the term of the author-
 8 ization by multiplying—

9 (i) $\frac{1}{10}$ of the new base cabin user fee; by

10 (ii) the number of years remaining in the
 11 term of the authorization after the year for
 12 which the cabin user fee is being calculated.

13 (d) ANNUAL CABIN USER FEE IN EVENT OF
 14 CHANGED CONDITIONS.—If a review of a decision to con-
 15 vert a lot to an alternative public use indicates that the
 16 continuation of the authorization for use and occupancy
 17 of the cabin by the cabin owner is warranted, and the deci-
 18 sion is subsequently reversed, the Secretary may require
 19 the cabin owner to pay any portion of annual cabin user
 20 fees, as calculated in accordance with subsection (d), that
 21 were forgone as a result of the expectation of termination
 22 of use and occupancy of the cabin by the cabin owner.

23 (e) TERMINATION OF FEE OBLIGATION IN LOSS RE-
 24 SULTING FROM ACTS OF GOD OR CATASTROPHIC
 25 EVENTS.—On a determination by the agency that, due to

1 an act of God or a catastrophic event, a lot cannot be
2 safely occupied and that the authorization for the lot
3 should accordingly be terminated, the fee obligation of the
4 cabin owner shall terminate effective on the date of the
5 occurrence of the act or event.

6 **SEC. 8. ANNUAL ADJUSTMENT OF CABIN USER FEE.**

7 (a) IN GENERAL.—The Secretary shall adjust the
8 cabin user fee annually, using a rolling 5-year average of
9 a published price index in accordance with subsection (b)
10 or (c) that reports changes in rural or similar land values
11 in the State, county, or market area in which the lot is
12 located.

13 (b) INITIAL INDEX.—

14 (1) IN GENERAL.—For the period of 10 years
15 beginning on the date of enactment of this Act, the
16 Secretary shall use changes in agricultural land
17 prices in the appropriate State or county, as re-
18 ported in the Index of Agricultural Land Prices pub-
19 lished by the Department of Agriculture, to deter-
20 mine the annual adjustment to the cabin user fee in
21 accordance with subsections (a) and (d).

22 (2) STATEWIDE CHANGES.—In determining the
23 annual adjustment to the cabin user fee for an au-
24 thorization located in a county in which agricultural
25 land prices are influenced by the factors described in

1 section 6(b)(3), the Secretary shall use average
2 statewide changes in the State in which the lot is lo-
3 cated.

4 (c) NEW INDEX.—

5 (1) IN GENERAL.—Not later than 10 years
6 after the date of enactment of this Act, the Sec-
7 retary may select and use an index other than the
8 index described in subsection (b)(2) to adjust a
9 cabin user fee if the Secretary determines that a dif-
10 ferent index better reflects change in the value of a
11 lot over time.

12 (2) SELECTION PROCESS.—Before selecting a
13 new index, the Secretary shall—

14 (A) solicit and consider comments from the
15 public; and

16 (B) not later than 60 days before the date
17 on which the Secretary makes a final index se-
18 lection, submit any proposed selection of a new
19 index to—

20 (i) the Committee on Resources of the
21 House of Representatives; and

22 (ii) the Committee on Energy and
23 Natural Resources of the Senate.

24 (d) LIMITATION.—In calculating an annual adjust-
25 ment to the base cabin user fee, the Secretary shall—

1 (1) limit any annual fee adjustment to an
2 amount that is not more than 5 percent per year
3 when the change in agricultural land values exceeds
4 5 percent in any 1 year; and

5 (2) apply the amount of any adjustment that
6 exceeds 5 percent to the annual fee payment for the
7 next year in which the change in the index factor is
8 less than 5 percent.

9 **SEC. 9. PAYMENT OF CABIN USER FEES.**

10 (a) DUE DATE FOR PAYMENT OF FEES.—A cabin
11 user fee shall be paid or prepaid annually by the cabin
12 owner on a monthly, quarterly, annual, or other schedule,
13 as determined by the Secretary.

14 (b) PAYMENT OF EQUAL OR LESSER FEE.—If, in ac-
15 cordance with section 7, the Secretary determines that the
16 amount of a new base cabin user fee is equal to or less
17 than the current base cabin user fee, the Secretary shall
18 require payment of the new base cabin user fee by the
19 cabin owner in accordance with subsection (a).

20 (c) PAYMENT OF GREATER FEE.—If, in accordance
21 with section 7, the Secretary determines that the amount
22 of a new base cabin user fee is greater than the current
23 base cabin user fee, the Secretary shall—

24 (1) require full payment of the new base cabin
25 user fee in the first year following completion of the

1 fee determination procedure if the increase in the
2 amount of the new base cabin user fee is not more
3 than 100 percent of the most recently paid cabin
4 user fee; or

5 (2) phase in the increase over the current cabin
6 user fee in approximately equal increments over 3
7 years if the increase in the amount of the new base
8 cabin user fee is greater than 100 percent of the
9 most recently paid base cabin user fee.

10 (d) REQUIREMENT FOR PAYMENT DURING ARBITRA-
11 TION, APPEAL, OR JUDICIAL REVIEW.—If arbitration, an
12 appeal, or judicial review concerning a cabin user fee is
13 brought in accordance with section 11 or 12, the Secretary
14 shall—

15 (1) suspend annual payment by the cabin owner
16 of any increase in the cabin user fee, pending com-
17 pletion of the arbitration, appeal, or judicial review;
18 and

19 (2) make any adjustments, as necessary, that
20 result from the findings of the arbitration, appeal, or
21 judicial review by providing to the cabin owner—

22 (A)(i) a credit toward future cabin user fee
23 payments; or

24 (ii) a refund for any overpayment of the
25 cabin user fee; and

1 (B) a supplemental billing for any addi-
2 tional amount of the cabin user fee that is due.

3 **SEC. 10. RIGHT OF SECOND APPRAISAL.**

4 (a) RIGHT OF SECOND APPRAISAL.—On receipt of
5 notice from the Secretary of the determination of a new
6 base cabin user fee, the cabin owner—

7 (1) not later than 60 days after the date on
8 which the notice is received, shall notify the Sec-
9 retary of the intent of the cabin owner to obtain a
10 second appraisal; and

11 (2) may obtain, within 1 year following the date
12 of receipt of the notice under this subsection, at the
13 expense of the cabin owner, a second appraisal of
14 the typical lot on which the initial appraisal was con-
15 ducted.

16 (b) CONDUCT OF SECOND APPRAISAL.—In con-
17 ducting a second appraisal, the appraiser selected by the
18 cabin owner shall—

19 (1) consider all relevant factors in accordance
20 with this Act (including guidelines developed under
21 section 6(a)(2)); and

22 (2) notify the Secretary of any material dif-
23 ferences of fact or opinion between the initial ap-
24 praisal conducted by the agency and the second ap-
25 praisal.

1 (c) REQUEST FOR RECONSIDERATION OF BASE
 2 CABIN USER FEE.—A cabin owner shall submit to the
 3 Secretary any request for reconsideration of the base cabin
 4 user fee, based on the results of the second appraisal, not
 5 later than 60 days after the receipt of the report for a
 6 second appraisal.

7 (d) RECONSIDERATION OF BASE CABIN USER
 8 FEE.—On receipt of a request from the cabin owner under
 9 subsection (c) for reconsideration of a base cabin user fee,
 10 not later than 60 days after the date of receipt of the re-
 11 quest, the Secretary shall—

12 (1) review the initial appraisal of the agency;

13 (2) review the results and commentary from the
 14 second appraisal;

15 (3) determine a new base cabin user fee in an
 16 amount that is—

17 (A) equal to the fee determined by the ini-
 18 tial or the second appraisal; or

19 (B) within the range of values, if any, be-
 20 tween the initial and second appraisals; and

21 (4) notify the cabin owner of the amount of the
 22 new base cabin fee.

23 **SEC. 11. RIGHT OF ARBITRATION.**

24 (a) IN GENERAL.—

1 (1) REQUEST FOR ARBITRATION.—Not later
 2 than 30 days after the receipt of notice of a new
 3 base cabin fee under section 10(d)(4), the tract asso-
 4 ciation may request arbitration if a cabin owner in
 5 the tract and the Secretary are unable to reach
 6 agreement on the amount of the base cabin user fee
 7 determined in accordance with section 10.

8 (2) IDENTIFICATION OF THIRD-PARTY
 9 NEUTRALS.—If arbitration is requested under para-
 10 graph (1), the Secretary shall promptly request the
 11 Center to develop a list of the names of not fewer
 12 than 20 appraisers and 10 attorneys who possess
 13 appropriate training and experience in valuations of
 14 land and interest in land to serve as qualified third-
 15 party neutrals.

16 (b) ARBITRATION.—Not later than 30 days after the
 17 receipt of a request from the tract association for arbitra-
 18 tion, the Secretary shall—

19 (1) notify the Center of the request; and

20 (2) request the Center to provide to the Sec-
 21 retary and the tract association, within 15 days—

22 (A) instructions related to arbitration pro-
 23 cedures; and

24 (B) the list of qualified third-party
 25 neutrals described in subsection (a)(2).

1 (c) ARBITRATION PANEL.—

2 (1) IN GENERAL.—Not later than 15 days after
3 the receipt of the list described in subsection (a)(2),
4 the Secretary and the tract association may each
5 recommend the names of 2 appraisers and 1 attorney
6 from the list for consideration in the selection
7 of an arbitration panel by the Center.

8 (2) AVAILABILITY OF LIST.—The Secretary and
9 the tract association shall disclose to each other the
10 names of third-party neutrals recommended under
11 paragraph (1).

12 (3) OPTION TO ELIMINATE RECOMMENDED
13 NEUTRALS.—The Secretary and the tract association
14 may each peremptorily eliminate from consideration
15 for the arbitration panel 1 third-party neutral recommended under paragraph (1).

17 (4) SELECTION BY CENTER.—From the third-party
18 neutrals recommended to the Center under
19 paragraph (1) that are not eliminated from consideration under paragraph (3), the Center shall select
20 and retain an arbitration panel consisting of 2 appraisers and 1 attorney.

23 (5) NOTIFICATION OF ESTABLISHMENT.—Not
24 later than 5 days after the selection of members of
25 the arbitration panel, the Center shall notify the

1 Secretary and the tract association of the establish-
2 ment of the arbitration panel.

3 (d) ARBITRATION PROCEDURE.—

4 (1) SUBMISSION OF INFORMATION.—Not later
5 than 30 days after notification by the Center of the
6 establishment of the arbitration panel under sub-
7 section (c)(3), each party shall submit to the arbitra-
8 tion panel—

9 (A) the appraisal report of each party, in-
10 cluding comments, if any, of material dif-
11 ferences of fact or opinion related to the initial
12 appraisal or the second appraisal;

13 (B) a copy of the authorization associated
14 with any typical lot that was subject to ap-
15 praisal;

16 (C) a copy of this Act; and

17 (D) a copy of appraisal guidelines devel-
18 oped in accordance with section 6(a)(2).

19 (2) HEARING OR FIELD INSPECTION.—On
20 agreement of both parties, the arbitration may be
21 conducted without a hearing or a field inspection.

22 (3) SCHEDULE FOR DECISION.—

23 (A) IN GENERAL.—Except as provided in
24 subparagraph (B), not later than 60 days after
25 the receipt of all materials described in para-

graph (1), the arbitration panel shall prepare and forward to the Secretary a written advisory decision on the appropriate amount of the base cabin user fee.

(B) EXTENSION.—If the arbitration panel or the parties to the arbitration determine that a hearing or field inspection is necessary, the date for submission of the advisory decision under subparagraph (A) shall be extended for—

(i) not more than 30 days; or

(ii) in the case of difficult or hazardous road or weather conditions, such an additional period of time as is necessary to complete the inspection.

(4) DETERMINATION OF RECOMMENDED BASE CABIN USER FEE.—The base cabin user fee recommended by the arbitration panel shall fall within the range of values, if any, between the initial and second appraisals submitted to the arbitration panel by the parties.

(e) ADOPTION OF RECOMMENDED BASE CABIN USER FEE.—

(1) IN GENERAL.—Not later than 45 days after the receipt of the recommendation by the arbitration panel, the Secretary shall make a determination to

1 adopt or reject the recommended base cabin user
2 fee.

3 (2) NOTICE TO TRACT ASSOCIATION.—Not later
4 than 15 days after making the determination under
5 paragraph (1), the Secretary shall provide notice of
6 the determination to the tract association.

7 (f) NO ADMISSION OF FACT OR RECOMMENDA-
8 TION.—Neither the fact that arbitration in accordance
9 with this section has occurred, nor the recommendation
10 of the arbitration panel, shall be admissible in any court
11 or administrative proceeding.

12 (g) COSTS OF ARBITRATION.—

13 (1) FEES.—

14 (A) IN GENERAL.—In addition to amounts
15 collected under paragraph (2), the Center may
16 charge a reasonable fee to each party to an ar-
17 bitration under this Act for the provision of ar-
18 bitration services.

19 (B) TRANSFER.—Fees collected under this
20 paragraph shall be transferred to the Secretary
21 for use in the administration of the program
22 without further Act of appropriation.

23 (2) COST SHARING.—The agency and the tract
24 association shall each pay 50 percent of the costs in-
25 curred by the Center in establishing and admin-

1 istering an arbitration in accordance with this sec-
2 tion, unless the arbitration panel recommends that
3 either the agency or the tract association bear the
4 entire cost of establishing and administering the ar-
5 bitration.

6 (h) FUNDING.—

7 (1) AUTHORIZATION OF APPROPRIATIONS FOR
8 INITIAL COSTS.—There is authorized to be appro-
9 priated to the agency for the initial costs of estab-
10 lishing and administering the program not to exceed
11 \$15,000.

12 (2) ARBITRATION FEES.—Any amounts exceed-
13 ing the amount authorized by paragraph (1) that
14 are required for the administration of the program
15 shall be derived from arbitration fees charged under
16 subsection (g)(1).

17 **SEC. 12. RIGHT OF APPEAL AND JUDICIAL REVIEW.**

18 (a) RIGHTS OF APPEAL.—Notwithstanding any ac-
19 tion of a cabin owner to exercise rights in accordance with
20 section 10 or 11, the Secretary shall by regulation grant
21 the cabin owner the right to an administrative appeal of
22 the determination of a new base cabin user fee.

23 (b) JUDICIAL REVIEW.—A cabin owner that is ad-
24 versely affected by a final decision of the Secretary under

1 this Act may commence a civil action in United States dis-
2 trict court.

3 **SEC. 13. CONSISTENCY WITH OTHER LAW AND RIGHTS.**

4 (a) CONSISTENCY WITH RIGHTS OF THE UNITED
5 STATES.—Nothing in this Act limits or restricts any right,
6 title, or interest of the United States in or to any land
7 or resource.

8 (b) SPECIAL RULE FOR ALASKA.—In determining a
9 cabin user fee in the State of Alaska, the Secretary shall
10 not establish or impose a cabin fee or a condition affecting
11 a cabin fee that is inconsistent with the requirements
12 under section 1303(d) of the Alaska National Interest
13 Lands Conservation Act (16 U.S.C. 3193(d)).

14 **SEC. 14. REGULATIONS.**

15 Not later than 1 year after the date of enactment
16 of this Act, the Secretary shall promulgate regulations to
17 implement this Act.

18 **SEC. 15. TRANSITION PROVISIONS.**

19 (a) IN GENERAL.—On enactment of this Act, the
20 Secretary shall—

21 (1) suspend appraisal activities related to exist-
22 ing authorizations until new rules, policies, and pro-
23 cedures are promulgated in accordance with this
24 Act; and

1 (2) temporarily charge an annual cabin user fee
2 for each lot that is—

3 (A) an amount equal to the cabin user fee
4 for the lot that was in effect on September 30,
5 1995, adjusted by application of the Implicit
6 Price Deflator—Gross National Product Index,
7 if no appraisal of the lot on which the cabin is
8 located was completed after that date and be-
9 fore the date of enactment of this Act;

10 (B) an amount that is not more than 100
11 percent greater than the cabin user fee in effect
12 on September 30, 1995, adjusted by application
13 of the Implicit Price Deflator—Gross National
14 Product Index prior to reappraisal, if an ap-
15 praisal conducted after that date but before the
16 date of enactment of this Act resulted in the in-
17 crease; or

18 (C) the cabin user fee in effect on the date
19 of enactment of this Act, if an appraisal con-
20 ducted after September 30, 1995, including ad-
21 justments resulting from application of the Im-
22 plicit Price Deflator—Gross National Product
23 Index before the date of enactment of this Act,
24 resulted a base cabin user fee that is not great-
25 er than the fee in effect before the appraisal.

1 (b) CONDUCT OF APPRAISALS UNDER NEW LAW.—

2 On publication of new rules, policies, and procedures
3 under this Act, the Secretary shall carry out any apprais-
4 als of lots and determinations of fees that were not com-
5 pleted between September 30, 1995, and the date of enact-
6 ment of this Act.

7 (c) REQUEST FOR NEW APPRAISAL UNDER NEW

8 LAW.—Not later than 2 years after the promulgation of
9 final regulations and policies and the development of ap-
10 praisal guidelines in accordance with section 6(a)(2), a
11 cabin owner whose base cabin user fee was adjusted sub-
12 ject to an appraisal completed after September 30, 1995,
13 but before the date of enactment of this Act, may request
14 that the Secretary conduct a new appraisal and determine
15 a new fee in accordance with this Act.

16 (d) CONDUCT OF NEW APPRAISAL.—On receiving a
17 request under subsection (c), the Secretary shall conduct,
18 and bear all costs incurred in conducting, a new appraisal
19 and fee determination in accordance with this Act.

20 (e) ASSUMPTION OF NEW BASE CABIN USER FEE.—

21 In the absence of a request under subsection (c) for a new
22 appraisal and fee determination from a cabin owner whose
23 cabin user fee was determined as a result of an appraisal
24 conducted after September 30, 1995, but before the date
25 of enactment of this Act, the Secretary may consider the

1 base cabin user fee resulting from the appraisal conducted
2 between September 30, 1995, and the date of enactment
3 of this Act to be the base cabin user fee that complies
4 with the transition provisions of this Act.

5 (f) TRANSITIONAL CABIN USER FEE OBLIGATION.—

6 (1) IN GENERAL.—In determining the liability
7 of the cabin owner for payment of fees for the period
8 of time between the date of enactment of this Act
9 and the determination of a base cabin user fee in ac-
10 cordance with this Act, the Secretary shall—

11 (A) require the cabin owner to remit any
12 balance owed for any underpayment of an an-
13 nual cabin user fee; or

14 (B) if an overpayment of a cabin user fee
15 has occurred, credit the cabin owner, or an heir
16 or assign of the cabin owner, toward future
17 cabin user fee obligations.

18 (2) BILLING.—The agency shall bill a cabin
19 owner for amounts determined to be owed under
20 paragraph (1)(A) in approximately equal increments
21 over 3 years.

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