or facility and consistent with the contractual agreement between NPS and the State. Responsibility for compliance and enforcement of these provisions rests with the State for both State and locally sponsored projects. The responsibilities cited herein are applicable to the area depicted or otherwise described on the 6(f)(3) boundary map and/or as described in other project documentation approved by the Department of the Interior. In many instances, this mutually agreed to area exceeds that actually receiving L&WCF assistance so as to assure the protection of a viable recreation entity. For leased sites assisted under L&WCF, compliance with post-completion requirements of the grant ceases following lease expiration unless the grant agreement calls for some other arrangement.

§ 59.2 Information collection.
The information collection requirements contained in §59.3 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq. and assigned clearance number 1024–0047. The information is being collected to determine whether to approve a project sponsor’s request to convert an assisted site or facility to other than public outdoor recreation uses. The information will be used to assure that the requirements of section 6(f)(3) of the L&WCF Act would be met should the proposed conversion be implemented. Response is required in order to obtain the benefit of Department of the Interior approval.

§ 59.3 Conversion requirements.
(a) Background and legal requirements. Section 6(f)(3) of the L&WCF Act is the cornerstone of Federal compliance efforts to ensure that the Federal investments in L&WCF assistance are being maintained in public outdoor recreation use. This section of the Act assures that once an area has been funded with L&WCF assistance, it is continually maintained in public recreation use unless NPS approves substitution property of reasonably equivalent usefulness and location and of at least equal fair market value.

(b) Prerequisites for conversion approval. Requests from the project sponsor for permission to convert L&WCF assisted properties in whole or in part to other than public outdoor recreation uses must be submitted by the State Liaison Officer to the appropriate NPS Regional Director in writing. NPS will consider conversion requests if the following prerequisites have been met:

(1) All practical alternatives to the proposed conversion have been evaluated.

(2) The fair market value of the property to be converted has been established and the property proposed for substitution is of at least equal fair market value as established by an approved appraisal (prepared in accordance with uniform Federal appraisal standards) excluding the value of structures or facilities that will not serve a recreation purpose.

(3) The property proposed for replacement is of reasonably equivalent usefulness and location as that being converted. Depending upon the situation and at the discretion of the Regional Director, the replacement property need not provide identical recreation experiences or be located at the same site, provided it is in a reasonably equivalent location. Generally, the replacement property should be administered by the same political jurisdiction as the converted property. NPS will consider State requests to change the project sponsor when it is determined that a different political jurisdiction can better carry out the objectives of the original project agreement. Equivalent usefulness and location will be determined based on the following criteria:

(i) Property to be converted must be evaluated in order to determine what recreation needs are being fulfilled by the facilities which exist and the types of outdoor recreation resources and opportunities available. The property being proposed for substitution must then be evaluated in a similar manner to determine if it will meet recreation needs which are at least like in magnitude and impact to the user community as the converted site. This criterion is applicable in the consideration of all conversion requests with the exception of those where wetlands areas and interests therein
which have been identified in the wet-  
lands provisions of the Statewide Com-  
prehensive Outdoor Recreation Plan  
shall be considered to be of reasonably  
equivalent usefulness with the prop-  
erty proposed for conversion regardless  
of the nature of the property proposed  
for conversion.

(ii) Replacement property need not  
necessarily be directly adjacent to or  
close by the converted site. This policy  
provides the administrative flexibility  
to determine location recognizing that  
the property should meet existing pub-  
lic outdoor recreation needs. While  
generally this will involve the selec-  
tion of a site serving the same commu-  
nity(ies) or area as the converted site,  
there may be exceptions. For example,  
if property being converted is in an  
area undergoing major demographic  
change and the area has no existing or  
anticipated future need for outdoor  
recreation, then the project sponsor  
should seek to locate the substitute  
area in another location within the ju-  
risdiction. Should a local project spon-  
sor be unable to replace converted  
property, the State would be respon-  
sible, as the primary recipient of Fed-  
eral assistance, for assuring compli-  
ance with these regulations and the  
substitution of replacement property.

(iii) The acquisition of one parcel of  
land may be used in satisfaction of sev-  
eral approved conversions.

(4) The property proposed for substi-  
tution meets the eligibility require-  
ments for L&WCF assisted acquisition.  
The replacement property must con-  
stitute or be part of a viable recreation  
area. Unless each of the following addi-  
tional conditions is met, land currently  
in public ownership, including that  
which is owned by another public agen-  
cy, may not be used as replacement  
land for land acquired as part of an  
L&WCF project:

(i) The land was not acquired by the  
sponsor or selling agency for recrea-  
tion.

(ii) The land has not been dedicated  
or managed for recreational purposes  
while in public ownership.

(iii) No Federal assistance was pro-  
voked in the original acquisition unless  
the assistance was provided under a  
program expressly authorized to match  
or supplement L&WCF assistance.

(iv) Where the project sponsor ac-  
cquires the land from another public  
agency, the selling agency must be re-  
quired by law to receive payment for  
the land so acquired.

In the case of development projects for  
which the State match was not derived  
from the cost of the purchase or value  
of a donation of the land to be con-  
verted, but from the value of the devel-  
opment itself, public land which has  
not been dedicated or managed for  
recreation/conservation use may be  
used as replacement land even if this  
land is transferred from one public  
agency to another without cost.

(5) In the case of assisted sites which  
are partially rather than wholly con-  
verted, the impact of the converted  
portion on the remainder shall be con-  
sidered. If such a conversion is ap-  
proved, the unconverted area must re-  
main recreationally viable or be re-  
placed as well.

(6) All necessary coordination with  
other Federal agencies has been satis-  
factorily accomplished including, for  
example, compliance with section 4(f)  
of the Department of Transportation  

(7) The guidelines for environmental  
evaluation have been satisfactorily  
completed and considered by NPS dur-  
ing its review of the proposed 6(f)(3) ac-  
tion. In cases where the proposed con-  
version arises from another Federal ac-  
tion, final review of the State's pro-  
posal shall not occur until the NPS Re-  
gional office is assured that all envi-  
ronmental review requirements related  
to that other action have been met.

(8) State intergovernmental clearing-  
house review procedures have been ad-  
hered to if the proposed conversion and  
substitution constitute significant  
changes to the original Land and Water  
Conservation Fund project.

(9) The proposed conversion and sub-  
stitution are in accord with the State-  
wide Comprehensive Outdoor Recre-  
ation Plan (SCORP) and/or equivalent  
recreation plans.

(c) Amendments for conversion. All  
conversions require amendments to the  
original project agreements. Therefore,  
amendment requests should be sub-  
mitted concurrently with conversion  
requests or at such time as all details  
of the conversion have been worked out.
with NPS. Section 6(f)(3) project boundary maps shall be submitted with the amendment request to identify the changes to the original area caused by the proposed conversion and to establish a new project area pursuant to the substitution. Once the conversion has been approved, replacement property should be immediately acquired. Exceptions to this rule would occur only when it is not possible for replacement property to be identified prior to the State’s request for a conversion. In such cases, an express commitment to satisfy section 6(f)(3) substitution requirements within a specified period, normally not to exceed one year following conversion approval, must be received from the State. This commitment will be in the form of an amendment to the grant agreement.

(d) Obsolete facilities. Recipients are not required to continue operation of a particular facility beyond its useful life. However, when a facility is declared obsolete, the site must nonetheless be maintained for public outdoor recreation following discontinuance of the assisted facility. Failure to so maintain is considered to be a conversion. Requests regarding changes from a L&WCF funded facility to another otherwise eligible facility at the same site that significantly contravene the original plans for the area must be made in writing to the Regional Director. NPS approval must be obtained prior to the occurrence of the change. NPS approval is not necessarily required, however, for each and every facility use change. Rather, a project area should be viewed in the context of overall use and should be monitored in this context. A change from a baseball field to a football field, for example, would not require NPS approval. A change from a swimming pool with substantial recreational development to a less intense area of limited development such as a passive park, or vice versa, would, however, require NPS review and approval. To assure that facility changes do not significantly contravene the original project agreement, NPS shall be notified by the State of all proposed changes in advance of their occurrence. A primary NPS consideration in the review of requests for changes in use will be the consistency of the proposal with the Statewide Comprehensive Outdoor Recreation Plan and/or equivalent recreation plans. Changes to other than public outdoor recreation use require NPS approval and the substitution of replacement land in accordance with section 6(f)(3) of the L&WCF Act and paragraphs (a) through (c) of this section.


§ 59.4 Residency requirements.

(a) Background. Section 6(f)(8) of the L&WCF Act prohibits discrimination on the basis of residence, including preferential reservation or membership systems, except to the extent that reasonable differences in admission and other fees may be maintained on such basis. This prohibition applies to both regularly scheduled and special events. The general provisions regarding non-discrimination at sites assisted under Interior programs and, thereby, all other recreation facilities managed by a project sponsor, are covered in 43 CFR part 17 which implements the provisions of Title VI of the Civil Rights Act of 1964 for the Department.

(b) Policy. There shall be no discrimination for L&WCF assisted programs and services on the basis of residence, except in reasonable fee differentials. Post-completion compliance responsibilities of the recipient should continue to ensure that discrimination on the basis of residency is not occurring.

(c) Fees. Fees charged to nonresidents cannot exceed twice that charged to residents. Where there is no charge for residents but a fee is charged to nonresidents, nonresident fees cannot exceed fees charged for residents at comparable State or local public facilities. Reservation, membership, or annual permit systems available to residents must also be available to nonresidents and the period of availability must be the same for both residents and nonresidents. Recipients are prohibited from providing residents the option of purchasing annual or daily permits while at the same time restricting nonresidents to the purchase of annual permits only. These provisions apply only to the approved 6(f)(3) areas applicable to the recipient. Nonresident