

105TH CONGRESS  
1ST SESSION

# S. 1489

To provide the public with access to outfitted activities on Federal land,  
and for other purposes.

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 8, 1997

Mr. CRAIG (for himself and Mr. WYDEN) introduced the following bill; which  
was read twice and referred to the Committee on Energy and Natural  
Resources

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## A BILL

To provide the public with access to outfitted activities on  
Federal land, 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 “Outfitter Policy Act  
5 of 1997”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) the experience, skills, equipment, and  
9 trained staff provided by commercial outfitters are  
10 necessary to ensure public access and enjoyment of

1 recreational and educational opportunities on Fed-  
2 eral land;

3 (2) the investment of private sector capital by  
4 commercial outfitters is an important contribution  
5 toward assisting land management agencies in—

6 (A) serving visitors to Federal land;

7 (B) managing and protecting resources;

8 and

9 (C) providing a broad spectrum of dis-  
10 persed recreational opportunities in accordance  
11 with user trends and the public's need and de-  
12 sire for access to resources;

13 (3) the provision of opportunities for outfitted  
14 visitors to Federal land to engage in fishing and  
15 hunting is best served by continued recognition that  
16 the States retain primary authority regarding the  
17 taking of fish and wildlife on Federal land;

18 (4) an effective commitment to meeting the  
19 needs of outfitted visitors requires implementation of  
20 agency programs to provide for—

21 (A) reliable consistent performance by out-  
22 fitters using equipment, facilities, supplies, and  
23 staff that provide the assistance necessary for  
24 public access to and enjoyment of Federal land;

25 (B) the health and welfare of the public;

1 (C) management and protection of the re-  
2 source values that support outfitted activities  
3 and enhance the visitor experience;

4 (D) a fair return to the Federal Govern-  
5 ment through appropriate fees; and

6 (E) greater efficiency in management of  
7 outfitted activities; and

8 (5) an effective relationship between land man-  
9 agement agencies and commercial outfitters requires  
10 implementation of agency programs to provide—

11 (A) encouragement to qualified, skilled, ex-  
12 perienced, career-oriented persons from the pri-  
13 vate sector to invest in equipment, facilities,  
14 supplies, and staff training;

15 (B) a stable business climate that offers  
16 reasonable opportunities for commercial outfit-  
17 ters to realize a profit on their operations as a  
18 whole, commensurate with—

19 (i) the capital invested in facilities and  
20 equipment, staff training, safety features,  
21 and overall operations; and

22 (ii) the obligations assumed;

23 (C) the incentive to reinvest in order to in-  
24 crease the quality and scope of opportunities  
25 available to outfitted visitors;

1 (D) an equitable share for commercial out-  
2 fitters of the type and amount of use deter-  
3 mined to be suitable for an area through re-  
4 source management planning;

5 (E) an effective and fair means of evaluat-  
6 ing the performance of commercial outfitters to  
7 ensure the public of continued availability of  
8 commercial outfitted activities;

9 (F) renewal of outfitter contracts based on  
10 a performance evaluation system that rewards  
11 outfitters that meet required performance  
12 standards and eliminates outfitters that fail to  
13 meet those standards;

14 (G) the ability to recapture investment  
15 through the transfer of an outfitter contract to  
16 the qualified purchaser of the business, an heir  
17 or assign, or another qualified person; and

18 (H) training for agency managers that is  
19 appropriate for the administration of this Act.

20 **SEC. 3. PURPOSES.**

21 The purposes of this Act are—

22 (1) to regulate the terms and conditions of use  
23 and occupancy of Federal land by commercial outfit-  
24 ters, including the procedures, standards, customs,  
25 and practices by which Federal agencies manage and

1 regulate commercial outfitters to ensure continuity,  
2 efficiency, and good performance in providing access  
3 for visitors to Federal land;

4 (2) to ensure that members of the public who  
5 require or desire access to Federal land with the as-  
6 sistance of an outfitter have the opportunity to  
7 renew their heritage through recreational and edu-  
8 cational experiences;

9 (3) to ensure that the land management agen-  
10 cies retain qualified outfitter operations to assist in  
11 providing for the health and welfare of outfitted visi-  
12 tors to Federal land, protection of resources, visitor  
13 access to recreational and educational opportunities  
14 on Federal land, and attainment of land manage-  
15 ment objectives;

16 (4) to provide outfitters with reasonable assur-  
17 ances and the incentive to invest in outfitter oper-  
18 ations on Federal land; and

19 (5) to ensure that Federal revenue consider-  
20 ations are properly subordinated to meeting the rec-  
21 reational and educational needs of visitors to Fed-  
22 eral land, maintaining the health and welfare of the  
23 public, and protecting resources.

24 **SEC. 4. DEFINITIONS.**

25 In this Act:

1           (1) ACTUAL USE.—The term “actual use”  
2 means the portion of a principal use allocation made  
3 to an authorized outfitter for an operating season  
4 that the authorized outfitter actually uses during the  
5 operating season.

6           (2) ADJUSTED GROSS RECEIPTS.—The term  
7 “adjusted gross receipts” means, with respect to an  
8 authorized outfitter, an amount equal to—

9                   (A) the sum of—

10                           (i) the gross receipts of the authorized  
11 outfitter from outfitted activities that are  
12 conducted in whole or in part on Federal  
13 land; and

14                           (ii) value derived by the authorized  
15 outfitter from goods or services that are  
16 donated or bartered by the public for the  
17 opportunity to participate in an outfitted  
18 activity on Federal land; less

19                   (B) the sum of—

20                           (i) revenue to the authorized outfitter  
21 from goods sold to outfitted visitors or de-  
22 rived from operations on non-Federal land;

23                           (ii) fees conveyed by the authorized  
24 outfitter to units of Federal, State, or local  
25 government for hunting or fishing licenses,

1 entrance or recreation fees, or other pur-  
2 poses (other than outfitter activities); and  
3 (iii) such other exclusions as an agen-  
4 cy head may specify.

5 (3) AGENCY.—The term “agency” means—

6 (A) the National Park Service;

7 (B) the United States Fish and Wildlife  
8 Service;

9 (C) the Bureau of Land Management;

10 (D) the Forest Service; and

11 (E) the Bureau of Reclamation.

12 (4) AGENCY HEAD.—The term “agency head”  
13 means—

14 (A) with respect to Federal land adminis-  
15 tered by the National Park Service, the Direc-  
16 tor of the National Park Service or a designee;

17 (B) with respect to Federal land adminis-  
18 tered by the United States Fish and Wildlife  
19 Service, the Director of the United States Fish  
20 and Wildlife Service or a designee;

21 (C) with respect to Federal land adminis-  
22 tered by the Bureau of Land Management, the  
23 Director of the Bureau of Land Management or  
24 a designee;

1 (D) with respect to Federal land adminis-  
2 tered by the Forest Service, the Chief of the  
3 Forest Service or a designee; and

4 (E) with respect to Federal land adminis-  
5 tered by the Bureau of Reclamation, the Com-  
6 missioner of the Bureau of Reclamation or a  
7 designee.

8 (5) ALLOCATION OF USE.—

9 (A) IN GENERAL.—The term “allocation of  
10 use” means commitment by an agency to an  
11 authorized outfitter to provide access to Federal  
12 land for outfitted visitors through the allocation  
13 to the authorized outfitter of all or a portion of  
14 user days (or other periods of operation),  
15 launch dates, assigned camps or launches, or  
16 other allocations of use.

17 (B) INCLUSION.—The term “allocation of  
18 use” includes the designation of a geographic  
19 area, zone, or district in which a limited num-  
20 ber of authorized outfitters are authorized to  
21 operate.

22 (6) ASSIGNED CAMP OR LAUNCH.—The term  
23 “assigned camp or launch” means a campsite or  
24 launch authorized to be reserved for use by an au-

1       thorized outfitter for accommodation of outfitted  
2       visitors during an operating season.

3           (7) AUTHORIZED OUTFITTER.—

4           (A) IN GENERAL.—The term “authorized  
5       outfitter” means an outfitter that conducts out-  
6       fitted activity under an outfitter authorization.

7           (B) INCLUSIONS.—The term “authorized  
8       outfitter” includes—

9           (i) an outfitter authorization awarded  
10       in accordance with an agreement between  
11       the agency head and a State or local gov-  
12       ernment that provides for the regulation by  
13       State or local authorities of commercial  
14       outfitter operations on Federal land; and

15          (ii) a holder of a recreation site facil-  
16       ity authorization from which an outfitted  
17       activity is authorized to be conducted  
18       under the recreation site facility authoriza-  
19       tion.

20          (8) COMMERCIAL OUTFITTER.—The term  
21       “commercial outfitter” means a person engaged in  
22       the business of conducting an outfitted activity—

23           (A) that is advertised and available to the  
24       public;

1 (B) that is conducted under the direction  
2 of paid, professional staff; and

3 (C) for which an outfitted visitor is re-  
4 quired to pay (including payment to an outfitter  
5 that is a nonprofit organization).

6 (9) FEDERAL LAND.—

7 (A) IN GENERAL.—The term “Federal  
8 land” means all land, and associated resources  
9 of the land, administered by an agency.

10 (B) EXCLUSION.—The term “Federal  
11 land” does not include—

12 (i) land held in trust by the United  
13 States for the benefit of an Indian tribe or  
14 individual; or

15 (ii) land held by an Indian tribe or in-  
16 dividual subject to a restriction by the  
17 United States against alienation.

18 (10) INSTITUTIONAL RECREATION PROGRAM.—

19 The term “institutional recreation program” means  
20 a program of recreational activities on Federal land  
21 that may include the conduct of an outfitted activity  
22 on Federal land that is administered by—

23 (A) an institution with a membership or  
24 limited constituency, such as a religious, con-

1           servant, youth, fraternal, or social organiza-  
2           tion; or

3           (B) an educational institution, such as a  
4           school, college, or university.

5           (11) LIMITED OUTFITTER AUTHORIZATION.—  
6           The term “limited outfitter authorization” means an  
7           outfitter authorization under section 5(e).

8           (12) LIVERY.—The term “livery” means—

9           (A) the dropping off or picking up of sup-  
10          plies or equipment; or

11          (B) the conveying of outfitted visitors to or  
12          from points of access to Federal land.

13          (13) NONCOMPETITIVE AUTHORIZATION.—The  
14          term “noncompetitive authorization” means an out-  
15          fitter authorization awarded without issuance of a  
16          prospectus.

17          (14) OUTFITTED ACTIVITY.—

18          (A) IN GENERAL.—The term “outfitted ac-  
19          tivity” means outfitting, guiding, supervision,  
20          education, interpretation, skills training, pack-  
21          ing, transportation, assistance, or livery activ-  
22          ity, or a traditional or historical activity con-  
23          ducted for a member of the public in an out-  
24          door environment, that—

1 (i) relies on the recreational, natural,  
2 historical, or cultural resources of Federal  
3 land; and

4 (ii) includes the use of—

5 (I) an aircraft, vehicle, boat, sad-  
6 dle, or pack animal or other means of  
7 conveyance; or

8 (II) camp gear or other outdoor  
9 recreational or educational equipment  
10 or supplies.

11 (B) EXCLUSION.—The term “outfitted ac-  
12 tivity” does not include a service provided under  
13 the National Forest Ski Area Permit Act of  
14 1986 (16 U.S.C. 497b).

15 (15) OUTFITTED VISITOR.—The term “outfit-  
16 ted visitor” means a member of the public that relies  
17 on a commercial outfitter for access to or use of  
18 Federal land.

19 (16) OUTFITTER.—

20 (A) IN GENERAL.—The term “outfitter”  
21 means a person that conducts an outfitted ac-  
22 tivity on Federal land.

23 (B) INCLUSION.—The term “outfitter” in-  
24 cludes a person that conducts an outfitted ac-

1           tivity and by local custom or tradition is known  
2           as a “guide”.

3           (17) OUTFITTER AUTHORIZATION.—The term  
4           “outfitter authorization” means—

5                   (A) a standard outfitter contract; or

6                   (B) a limited outfitter authorization.

7           (18) PRINCIPAL USE ALLOCATION.—The term  
8           “principal use allocation” means a principal use allo-  
9           cation provided to an authorized outfitter under sec-  
10          tion 9.

11          (19) RECREATION SITE FACILITY.—The term  
12          “recreation site facility” means a privately or pub-  
13          licly owned facility authorized for use and occupancy  
14          on Federal land from which an outfitted activity is  
15          conducted under the authority of a recreation site  
16          facility permit, contract, lease, or other authoriza-  
17          tion.

18          (20) RESOURCE AREA.—The term “resource  
19          area” means a planning unit that is described by or  
20          contained within the boundaries of a unit of the Na-  
21          tional Park System, a National Forest, a wildlife  
22          refuge, a congressionally designated area, a hunting  
23          zone or district, or a similar Federal land manage-  
24          ment unit (including an area in which directly com-

1       petitive operations are regulated by more than 1  
2       agency).

3               (21) STANDARD OUTFITTER CONTRACT.—The  
4       term “standard outfitter contract” means an outfit-  
5       ter contract awarded under section 5(d).

6               (22) TEMPORARY USE ALLOCATION.—The term  
7       “temporary use allocation” means an amount of al-  
8       location of use for a term of not more than 2 years.

9               (23) TRADITIONAL OR HISTORICAL ACTIVITY.—  
10       The term “traditional or historical activity” means  
11       a method of transport, lodging, facility, structure, or  
12       recreational or educational activity that—

13               (A) reflects an early era of the exploration,  
14       technology, or cultural evolution of the United  
15       States; and

16               (B) was established before the date of en-  
17       actment of this Act as part of an outfitter oper-  
18       ation (with any adaptation on or after that date  
19       that may be necessary to ensure the health and  
20       welfare of outfitted visitors and the protection  
21       of resources).

22               (24) USER DAY.—The term “user day” means  
23       a day on which an authorized outfitter is authorized  
24       to conduct an outfitted activity for an outfitted visi-  
25       tor on Federal land.

1 **SEC. 5. OUTFITTER AUTHORIZATIONS.**

2 (a) REQUIREMENT OF OUTFITTER AUTHORIZA-  
3 TIONS.—

4 (1) PROHIBITION.—No commercial outfitter ex-  
5 cept an authorized outfitter shall conduct an outfit-  
6 ted activity on Federal land.

7 (2) CONDUCT OF OUTFITTED ACTIVITIES.—An  
8 authorized outfitter shall not conduct an outfitted  
9 activity on Federal land except in accordance with  
10 an outfitter authorization.

11 (3) INAPPLICABILITY OF PROCUREMENT LAW  
12 AND SERVICE CONTRACT LAW.—Law relating to pro-  
13 curement of property and services by Federal agen-  
14 cies, including title III of the Federal Property and  
15 Administrative Services Act of 1949 (41 U.S.C. 251  
16 et seq.), the Office of Federal Procurement Policy  
17 Act (41 U.S.C. 401 et seq.), the Service Contract  
18 Act of 1965 (41 U.S.C. 351 et seq.), and subchapter  
19 V of chapter 35 of title 31, United States Code  
20 (commonly known as the “Competition in Contract-  
21 ing Act”), shall not apply to an outfitter authoriza-  
22 tion.

23 (b) TERMS AND CONDITIONS.—An outfitter author-  
24 ization shall specify the rights and obligations of the au-  
25 thorized outfitter and the agency head and other terms  
26 and conditions of the authorization.

1 (c) CRITERIA FOR AWARD.—The agency head shall  
2 establish criteria for award of an outfitter authorization  
3 that—

4 (1) identify skilled, experienced, and financially  
5 capable persons to offer and conduct outfitted activi-  
6 ties in a manner that—

7 (A) provides recreational and educational  
8 experiences for the outfitted visitors;

9 (B) promotes the health and welfare of  
10 outfitted visitors; and

11 (C) protects the natural, historical, cul-  
12 tural, and recreational resources in areas where  
13 the outfitted activities are conducted;

14 (2) acknowledge the traditional and historical  
15 role of outfitters in providing the experience, skills,  
16 equipment, and trained staff necessary for access by  
17 outfitted visitors to, and use and enjoyment by out-  
18 fitted visitors of, recreational or educational opportu-  
19 nities on Federal land;

20 (3) recognize the importance of the private sec-  
21 tor in providing the public with access to Federal  
22 land by encouraging investment by authorized outfit-  
23 ters in facilities, equipment, and employee training;  
24 and

1           (4) except as provided in subsections (d)(4)(C)  
2           and (e) and section 11, include a competitive process  
3           for awarding outfitter authorizations.

4           (d) STANDARD OUTFITTER CONTRACTS.—

5           (1) IN GENERAL.—An agency head may enter  
6           into a written contract with a commercial outfitter  
7           for the use and occupancy of Federal land for the  
8           purpose of conducting outfitted activities.

9           (2) TERM.—A standard outfitter contract shall  
10          provide for—

11           (A) a standard 10-year term; or

12           (B) a term that is longer than 10 years, if  
13          the agency head determines that a longer term  
14          is necessary because of the extent of investment  
15          required to conduct outfitted activities con-  
16          templated by the standard outfitter contract or  
17          is otherwise in the public interest.

18          (3) TERMS AND CONDITIONS.—A standard out-  
19          fitter contract shall provide for—

20           (A) a principal use allocation and, if ap-  
21          propriate, a temporary use allocation;

22           (B) an authorization fee in accordance  
23          with section 6;

24           (C) renewal of the standard outfitter con-  
25          tract on a determination of good performance

1 during the term of the contract (including any  
2 extension or renewal of the term), in accordance  
3 with section 11;

4 (D) amendment of the standard outfitter  
5 contract in accordance with paragraph (6);

6 (E)(i) in the case of an authorized outfitter  
7 that conducts an outfitted activity in a resource  
8 area in which another authorized outfitter con-  
9 ducts the same or a similar outfitted activity,  
10 the authority of the authorized outfitter to de-  
11 termine the amounts to be charged to outfitted  
12 visitors; or

13 (ii) in the case of an authorized outfitter  
14 that has exclusive authorization to conduct an  
15 outfitted activity in a resource area, the author-  
16 ity of the authorized outfitter to determine the  
17 amounts to be charged to outfitted visitors sub-  
18 ject to approval by the agency head, who shall  
19 use reasonable criteria in making a determina-  
20 tion within a reasonable period of time;

21 (F) full disclosure to each outfitted visitor  
22 that participates in an outfitted activity con-  
23 ducted by the authorized outfitter of the  
24 amount and type of fees that the authorized

1 outfitter is required to pay to the agency head  
2 in connection with—

- 3 (i) entrance fees;
  - 4 (ii) outfitter or visitor fees directly re-  
5 lated to outfitter operations; or
  - 6 (iii) other fees; and
- 7 (G) transfer or assignment of the standard  
8 outfitter contract in accordance with section 12.

9 (4) AWARD.—

10 (A) IN GENERAL.—An agency head may  
11 award a standard outfitter contract if—

- 12 (i) additional or unallocated use ca-  
13 pacity is available in a resource area, or  
14 public demand for recreational or edu-  
15 cational opportunities has been identified  
16 through the resource planning process;
- 17 (ii) a standard outfitter contract is  
18 terminated;
- 19 (iii) a reduction in principal use allo-  
20 cation under section 9(d) makes the alloca-  
21 tion of use available;
- 22 (iv) competitive interest in a resource  
23 area or outfitted activity arises where no  
24 authorized outfitter offers the outfitted ac-  
25 tivity and the proposed type of activity and

1 amount of use are not inconsistent with  
2 the objectives of applicable resource man-  
3 agement plans; or

4 (v) in the case of a resource area in  
5 the State of Alaska, competitively awarded  
6 Federal permits have been issued to au-  
7 thorized outfitters providing fishing or  
8 hunting opportunities.

9 (B) SOLICITATION AND SELECTION OF AP-  
10 PPLICANTS; FEES.—In awarding a standard out-  
11 fitter contract under clause (i), (ii), (iii), or (iv)  
12 of subparagraph (A), an agency head—

13 (i)(I) except as provided in subpara-  
14 graph (C), shall solicit applicants by issu-  
15 ing a prospectus; and

16 (II) to the maximum extent prac-  
17 ticable, shall contact each person that has  
18 expressed an interest in conducting an out-  
19 fitted activity in the resource area; and

20 (ii) shall, in selecting qualified appli-  
21 cants—

22 (I) determine the most qualified  
23 applicants by considering past experi-  
24 ence and knowledge of the resource  
25 area, financial capability, performance

1 records, and resource protection capa-  
2 bility; and

3 (II) subordinate considerations of  
4 revenue to the United States to the  
5 objectives of providing recreational  
6 and educational opportunities for the  
7 public, providing for the health and  
8 welfare of the public, and protecting  
9 resources.

10 (C) NONCOMPETITIVE AUTHORIZATIONS.—

11 An agency head may award a standard outfitter  
12 contract to an applicant without issuing a pro-  
13 spectus if the agency head determines that—

14 (i) an application has been submitted  
15 to conduct an outfitted activity for which  
16 the agency head determines that a non-  
17 competitive authorization would serve the  
18 needs of outfitted visitors;

19 (ii) the applicant meets criteria estab-  
20 lished by the agency head; and

21 (iii) issuance of a prospectus would  
22 provide no significant benefit to the public,  
23 and waiving the requirement for a prospec-  
24 tus would cause no significant detriment to  
25 prospective outfitter applicants.

1 (5) EXTENSIONS.—

2 (A) IN GENERAL.—An agency head may  
3 extend the term of a standard outfitter contract  
4 if the agency head determines that an extension  
5 is necessary to avoid interruption of the public’s  
6 access to recreational and educational opportu-  
7 nities.

8 (B) PENDING APPLICATIONS.—Before ex-  
9 tending the term of a standard outfitter con-  
10 tract, an agency head shall take all reasonable  
11 and appropriate steps to consider pending ap-  
12 plications for standard outfitter contracts.

13 (6) AMENDMENTS.—An amendment to a stand-  
14 ard outfitter contract—

15 (A) shall be made only—

16 (i) with the consent of the authorized  
17 outfitter;

18 (ii) in accordance with the terms of  
19 the standard outfitter contract; or

20 (iii) to bring the outfitter operations  
21 of the authorized outfitter into compliance  
22 with applicable law;

23 (B) shall be undertaken with reasonable  
24 advance notice of any new requirements for  
25 capital expenditures arising during the term of

1 the standard outfitter contract, if the expendi-  
2 tures are expected to affect pricing, advertising,  
3 or other aspects of the operations of the author-  
4 ized outfitter;

5 (C) may be made for the purpose of per-  
6 mitting the authorized outfitter to conduct a  
7 new or expanded outfitted activity if the agency  
8 head determines that the new or expanded out-  
9 fitted activity may contribute to the use and en-  
10 joyment of Federal land by outfitted visitors;  
11 and

12 (D) shall not—

13 (i) constitute the issuance of a new  
14 contract necessitating compliance with any  
15 paperwork or other requirements under  
16 any law except any that are specifically re-  
17 lated to the amendment; or

18 (ii) adversely affect other rights and  
19 obligations that exist under the standard  
20 outfitter contract.

21 (e) LIMITED OUTFITTER AUTHORIZATIONS.—

22 (1) IN GENERAL.—An agency head may issue a  
23 limited outfitter authorization to an applicant if the  
24 agency head determines that the applicant is quali-  
25 fied to conduct outfitted activity on a limited basis.

1           (2) TERM.—A limited outfitter authorization  
2 shall have a term of not to exceed 2 years.

3           (3) REISSUANCE OR RENEWAL.—A limited out-  
4 fitter authorization may be reissued or renewed at  
5 the discretion of the agency head.

6           (4) TRANSFERABILITY.—A limited outfitter au-  
7 thorization shall be transferable at the sole discre-  
8 tion of the agency head.

9           (5) CONSISTENCY WITH RESOURCE MANAGE-  
10 MENT GOALS.—A limited outfitter authorization  
11 shall not authorize any type or quantity of outfitted  
12 activity that is inconsistent with resource manage-  
13 ment goals for a resource area.

14           (6) NO CONSTRUCTION.—A limited outfitter au-  
15 thorization shall not authorize construction of a  
16 structure, fixture, or other improvement on Federal  
17 land.

18           (7) PREFERENCE FOR STANDARD OUTFITTER  
19 CONTRACTS.—If a person that is seeking or has  
20 been awarded a limited outfitter authorization sub-  
21 mits to an agency an application for a standard out-  
22 fitter contract, the agency head shall—

23                   (A) process the application as an applica-  
24 tion for a standard outfitter contract; and

1 (B) award a standard outfitter contract  
2 rather than a limited outfitter authorization un-  
3 less the agency head submits to the applicant a  
4 written determination stating reasons why an  
5 award of a standard outfitter contract would  
6 not be in the best interests of the public.

7 (f) RESOURCE AREAS UNDER THE JURISDICTION OF  
8 MORE THAN 1 AGENCY.—

9 (1) LEAD AGENCY.—To reduce administrative  
10 costs, the heads of agencies with jurisdiction over  
11 adjoining resource areas, or noncontiguous resource  
12 areas in which a prospective authorized outfitter  
13 proposes to conduct outfitted activities for outfitted  
14 visitors in a single trip, may designate a lead agency  
15 for the authorization and management of outfitter  
16 operations using both resource areas under the au-  
17 thority of a single outfitter authorization.

18 (2) SINGLE OUTFITTER AUTHORIZATION AND  
19 FEE.—The lead agency shall award a single outfitter  
20 authorization and collect a single fee in accordance  
21 with section 6.

22 (3) CONSISTENCY WITH PLANS AND POLICIES  
23 OF EACH AGENCY.—An outfitter authorization under  
24 paragraph (2) shall provide for the conduct of an  
25 outfitted activity in a manner that is consistent with

1 the resource management plans and policies for each  
2 resource area in which an outfitted activity is con-  
3 ducted.

4 **SEC. 6. AUTHORIZATION FEES.**

5 (a) ANNUAL FEE.—

6 (1) IN GENERAL.—An agency head shall re-  
7 quire payment of a reasonable annual fee for an out-  
8 fitter authorization.

9 (2) PAYMENT SCHEDULE.—An annual author-  
10 ization fee shall be paid in accordance with a reason-  
11 able schedule of payment during the course of an op-  
12 erating season.

13 (b) ESTABLISHMENT OF AMOUNT APPLICABLE TO A  
14 STANDARD OUTFITTER CONTRACT.—

15 (1) IN GENERAL.—The amount of an authoriza-  
16 tion fee under a standard outfitter contract—

17 (A) shall reflect the value of the oppor-  
18 tunity to conduct the outfitted activity on Fed-  
19 eral land that—

20 (i) is expressed as a simple charge per  
21 day of actual use or as a flat fee; or

22 (ii) if calculated as a percentage of  
23 revenue, is determined based on adjusted  
24 gross receipts;

1 (B) shall take into account economic condi-  
2 tions and other factors so as to provide the au-  
3 thorized outfitter a reasonable opportunity to  
4 realize a profit on the operation as a whole,  
5 commensurate with the capital invested and the  
6 obligations assumed; and

7 (C) may include an amount for rental of  
8 any federally owned facility that is used by the  
9 authorized outfitter.

10 (2) ACTUAL USE.—

11 (A) IN GENERAL.—For the purposes of  
12 paragraph (1)(A)(i), actual use shall be based  
13 on a full user day or the portion of a user day  
14 (or other measure of activity) in which actual  
15 use occurs.

16 (B) LIMITATION.— In the case of an au-  
17 thorized outfitter that conducts an outfitted ac-  
18 tivity in adjoining or noncontiguous resource  
19 areas as described in section 5(f), whether or  
20 not the resource areas are under the jurisdic-  
21 tion of different agencies, or, if the resource  
22 areas are under the jurisdiction of different  
23 agencies, whether or not the heads of the agen-  
24 cies designate a lead agency and award a single  
25 outfitter authorization or separate outfitter au-

1           thorizations, the authorization fee, or if author-  
2           zation fees are assessed separately, the aggre-  
3           gate amount of authorization fees assessed,  
4           shall be based on not more than 1 user day per  
5           outfitted visitor per day.

6           (3) SPECIAL RULE FOR ALASKA.—With respect  
7           to an outfitted activity conducted in the State of  
8           Alaska, an agency head shall establish a reasonable  
9           authorization fee based on a simple charge per user  
10          day.

11          (4) SUBSTANTIALLY SIMILAR SERVICES IN A  
12          SPECIFIC GEOGRAPHIC AREA.—If more than 1  
13          standard outfitter contract is awarded to conduct  
14          the same or a similar outfitted activity in the same  
15          resource area, the agency head shall establish an  
16          identical fee for all such standard outfitter contracts.

17          (c) ESTABLISHMENT OF AMOUNT APPLICABLE TO A  
18          LIMITED OUTFITTER AUTHORIZATION.—The amount of  
19          an authorization fee under a limited outfitter authoriza-  
20          tion shall be not less than an amount that is sufficient  
21          to recover the cost to the agency of managing the activities  
22          of the authorized outfitter.

23          (d) NO ADDITIONAL FEES.—An agency head shall  
24          not require the payment by an authorized outfitter of any

1 new or increased fee or other charge in addition to the  
2 authorization fee specified in an outfitter authorization.

3 (e) ADJUSTMENT OF FEES.—The amount of an au-  
4 thorization fee—

5 (1) shall be determined as of the date of the  
6 outfitter authorization; and

7 (2) may be modified as provided in the outfitter  
8 authorization—

9 (A) on the basis of inflation (as measured  
10 by changes in the Consumer Price Index or an-  
11 other appropriate index), when the annual pay-  
12 ment is not determined by a percentage of ad-  
13 justed gross receipts;

14 (B) to reflect material adverse changes  
15 from the conditions specified in the outfitter au-  
16 thorization; or

17 (C) in the event of an unforeseen disaster.

18 **SEC. 7. LIABILITY AND INDEMNIFICATION.**

19 (a) IN GENERAL.—An authorized outfitter shall de-  
20 fend and indemnify the United States for costs or ex-  
21 penses associated with injury, death, or damage to any  
22 person or property caused by the authorized outfitter's  
23 negligence, gross negligence, or willful and wanton dis-  
24 regard for persons or property arising directly out of the

1 authorized outfitter's conduct of outfitted activity under  
2 an outfitter authorization.

3 (b) NO LIABILITY.—An authorized outfitter—

4 (1) shall have no responsibility to defend or in-  
5 demnify the United States, its agents, employees, or  
6 contractors, or third parties for costs or expenses as-  
7 sociated with injury, death, or damage to any person  
8 or property caused by the acts, omissions, neg-  
9 ligence, gross negligence, or willful and wanton mis-  
10 conduct of the United States, its agents, employees,  
11 or contractors, or third parties;

12 (2) shall not incur liability of any kind to the  
13 United States, its agents, employees, or contractors,  
14 or third parties as a result of the award of an outfit-  
15 ter authorization or as a result of the conduct of an  
16 outfitted activity under an outfitter authorization  
17 absent a finding by a court of competent jurisdiction  
18 of negligence, gross negligence, or willful and wanton  
19 disregard for persons or property on the part of the  
20 authorized outfitter; and

21 (3) shall have no responsibility to defend or in-  
22 demnify the United States, its agents, employees, or  
23 contractors, or third parties for costs or expenses as-  
24 sociated with injury, death, or damage to any person  
25 or property resulting from the inherent risks of the

1       outfitted activity conducted by the authorized outfit-  
2       ter under the outfitter authorization or the inherent  
3       risks present on Federal land.

4       (c) AGREEMENTS.—An authorized outfitter may  
5       enter into contracts or other agreements with outfitted  
6       visitors, including agreements providing for release, waiv-  
7       er, indemnification, acknowledgment of risk, or allocation  
8       of risk.

9       **SEC. 8. OPERATING PLANS.**

10       (a) IN GENERAL.—Before operations are conducted  
11       under a standard outfitter contract, the authorized outfit-  
12       ter shall submit to the agency head an operating plan that  
13       provides information necessary for effective coordination  
14       between the authorized outfitter and the agency.

15       (b) CONTENTS.—An operating plan shall include—

16               (1) the names and mailing addresses of the au-  
17       thorized outfitter and its employees and agents;

18               (2) a map, sketch, or description providing in-  
19       formation sufficient to locate—

20                       (A) the authorized area of outfitter oper-  
21       ations on the ground;

22                       (B) existing and proposed roads or access  
23       routes to be used in connection with the oper-  
24       ation; and

1 (C) assigned camps or launches or other  
2 facilities to be used;

3 (3) information describing—

4 (A) an itinerary and the nature of the out-  
5 fitted activity to be conducted;

6 (B) the period during which the outfitted  
7 activity will be conducted; and

8 (C) the measures to be taken for the pro-  
9 tection of natural, historical, and cultural re-  
10 sources within the resource area; and

11 (4) an agreement between the agency head and  
12 the authorized outfitter outlining the objective and  
13 attainable measurements of outfitter performance to  
14 be evaluated during the operating season.

15 (c) UPDATING.—An authorized outfitter shall update  
16 the operating plan as necessary to reflect changes in oper-  
17 ations or itinerary.

18 (d) REVIEW BY AGENCY HEAD.—

19 (1) IN GENERAL.—The agency head shall re-  
20 view and approve an operating plan based on criteria  
21 consistent with the requirements of this Act and  
22 other applicable law.

23 (2) NO ALTERATION OF STANDARD OUTFITTER  
24 CONTRACT OR AGENCY POLICY.—In connection with

1 review of an operating plan, an agency head shall  
2 not—

3 (A) alter provisions of the standard outfit-  
4 ter contract except with the consent of the au-  
5 thorized outfitter; or

6 (B) depart from established agency policy  
7 that is applicable to operating plans submitted  
8 by authorized outfitters generally.

9 (e) SPECIAL RULE FOR ALASKA.—With respect to  
10 outfitted activity conducted in the State of Alaska, an  
11 agency head shall not establish or impose a limitation on  
12 access by an authorized outfitter that is inconsistent with  
13 the access ensured under subsections (a) and (b) of section  
14 1110 of the Alaska National Interest Lands Conservation  
15 Act (16 U.S.C. 3170).

16 **SEC. 9. ALLOCATIONS OF USE.**

17 (a) IN GENERAL.—An agency head—

18 (1) shall provide a principal use allocation to an  
19 authorized outfitter under a standard outfitter con-  
20 tract; and

21 (2) may provide a temporary use allocation to  
22 an authorized outfitter under a standard outfitter  
23 contract or a limited outfitter authorization.

24 (b) PRINCIPAL USE ALLOCATION.—

1           (1) IN GENERAL.—An agency head shall pro-  
2           vide a principal use allocation to be available for use  
3           by the authorized outfitter in the same amount dur-  
4           ing each year through the term of a standard outfit-  
5           ter contract.

6           (2) TERMS.—A principal use allocation may be  
7           defined in terms of user days or portions of user  
8           days, outfitter areas, the operating season, months,  
9           weeks, days, people-at-one-time, or other means of  
10          measurement that may be appropriate in view of—

11                   (A) the nature of the outfitted activity;

12                   (B) the amount of use required to sustain  
13           an economically viable operation;

14                   (C) the nature and limitations of the re-  
15           source area within which the outfitted activity  
16           is to be authorized;

17                   (D) the various modes of transportation to  
18           be used in conducting the outfitted activity;

19                   (E) the location of assigned camps or  
20           launches; and

21                   (F) other appropriate factors.

22          (3) EXTENSIONS, RENEWALS, AND TRANS-  
23          FERS.—Upon the extension, renewal, or transfer of  
24          a standard outfitter contract, an agency head shall  
25          provide an allocation of the same type of outfitted

1 activity and amount of principal use, except as pro-  
2 vided in subsection (d).

3 (4) EFFECT OF ADJUSTMENTS.—

4 (A) PRINCIPAL USE ALLOCATIONS.—An  
5 adjustment made by the agency head in the ag-  
6 gregate amount of principal use allocations pro-  
7 vided to all authorized outfitters conducting the  
8 same or a similar outfitted activity in a re-  
9 source area shall not be offset by an adjustment  
10 in the amount of use made available to mem-  
11 bers of the public who engage in the activity  
12 without the assistance of an authorized outfit-  
13 ter.

14 (B) USE BY PERSONS WITHOUT THE AS-  
15 SISTANCE OF AN AUTHORIZED OUTFITTER.—An  
16 adjustment made by the agency head in the  
17 amount of use made available to members of  
18 the public who engage in an activity without the  
19 assistance of an authorized outfitter shall not  
20 be offset by an adjustment in the amount of  
21 principal use allocations provided to authorized  
22 outfitters in the resource area for the purpose  
23 of providing access for outfitted visitors.

24 (c) SEASONAL DEVIATION FROM PRINCIPAL USE AL-  
25 LOCATIONS.—

## 1 (1) WAIVER.—

2 (A) IN GENERAL.—At the request of an  
3 authorized outfitter, an agency head may waive  
4 the obligation of the authorized outfitter to use  
5 all or part of the amount of the principal use  
6 allocation provided to the authorized outfitter,  
7 if the request is made in sufficient time to allow  
8 the agency head to reallocate the unused alloca-  
9 tion of use to other authorized outfitters.

10 (B) NO DEDUCTION.—An amount of prin-  
11 cipal use allocation that is waived under para-  
12 graph (1) shall not be withheld from use by the  
13 authorized outfitter through the remainder of  
14 the term of the standard outfitter contract ex-  
15 cept with the consent of the authorized outfit-  
16 ter.

## 17 (2) POOL OF UNALLOCATED USE.—

18 (A) IN GENERAL.—An agency head may  
19 create a pool of available, unallocated principal  
20 use (including any part of an allocation of use  
21 waived under subparagraph (A)), which may be  
22 distributed at the discretion of the agency head  
23 to authorized outfitters.

24 (B) CONSIDERATION OF EXISTING OUTFIT-  
25 TER OPERATIONS.—In determining the alloca-

1           tion of unallocated use under subparagraph (A),  
2           an agency head shall give first consideration to  
3           improving the economic viability of existing out-  
4           fitter operations in the resource area.

5           (d) ADJUSTMENT OF ALLOCATIONS OF PRINCIPAL  
6           USE.—

7           (1) RENEWAL OF CONTRACT.—

8           (A) IN GENERAL.—In renewing a standard  
9           outfitter contract, an agency head may—

10                   (i) reduce the amount of the principal  
11                   use allocation provided to an authorized  
12                   outfitter in a resource area in which no  
13                   other authorized outfitter conducts an out-  
14                   fitted activity under a standard outfitter  
15                   contract that is the same as or similar to  
16                   an outfitted activity conducted by the au-  
17                   thorized outfitter if the authorized outfitter  
18                   failed in more than 40 percent of the years  
19                   of the expired contract term to make ac-  
20                   tual use of 70 percent or more of the  
21                   amount of the principal use allocation pro-  
22                   vided for the expired contract term; or

23                   (ii) in the case of an authorized outfit-  
24                   ter that conducts the same outfitted activ-  
25                   ity as, or an outfitted activity that is simi-

1 lar to, an outfitted activity conducted by 1  
2 or more other authorized outfitters under  
3 standard outfitter contracts in the same  
4 resource area, reduce the amount of the  
5 principal use allocation provided to the au-  
6 thorized outfitter if the authorized outfitter  
7 failed in more than 40 percent of the years  
8 of the expired contract term to make ac-  
9 tual use of 70 percent or more of the aver-  
10 age amount of principal use expressed as a  
11 percentage of total use actually used by all  
12 of the authorized outfitters.

13 (B) APPROVED NONUSE.—In determining  
14 the extent of the failure to make actual use of  
15 a principal use allocation for the purpose of  
16 subparagraph (A), an agency head shall treat  
17 any approved nonuse under subsection (c)(1) as  
18 actual use by the authorized outfitter.

19 (2) AMOUNT OF REDUCTION.—In determining a  
20 reduced amount of principal use to be allocated in  
21 the renewal of a standard outfitter contract, an  
22 agency head shall not make any reduction related to  
23 factors beyond the control of the authorized outfitter  
24 (such as general market and other economic fluctua-  
25 tions, availability of State hunting licenses, closure

1 of a resource area, or natural phenomena such as  
2 weather) that may have adversely affected the ability  
3 of the authorized outfitter to make actual use of the  
4 full amount of the principal use allocation.

5 (3) DOCUMENTATION.—An agency head shall  
6 provide an authorized outfitter with documentation  
7 of the basis for any adjustment in the principal use  
8 allocation, including new terms and conditions that  
9 result from the adjustment.

10 (e) TEMPORARY USE ALLOCATIONS.—

11 (1) IN GENERAL.—A temporary use allocation  
12 may be provided to an authorized outfitter at the  
13 discretion of the agency head for a period of not to  
14 exceed 2 years.

15 (2) REISSUANCE, RENEWAL, AND TRANSFER.—  
16 A temporary use allocation may be reissued, re-  
17 newed, or transferred at the discretion of the agency  
18 head.

19 (3) CONVERSION TO PRINCIPAL USE.—At the  
20 request of the authorized outfitter, a temporary use  
21 allocation provided and used for 2 years may be con-  
22 verted at the discretion of the agency head to a prin-  
23 cipal use allocation.

1 **SEC. 10. EVALUATION OF PERFORMANCE UNDER STAND-**  
2 **ARD OUTFITTER CONTRACTS.**

3 (a) OBJECTIVES.—An agency head shall use the fol-  
4 lowing objectives to develop a program for annual evalua-  
5 tion of operations conducted under a standard outfitter  
6 contract:

7 (1) Provision of recreational and educational  
8 opportunities on Federal land to the outfitted visi-  
9 tors.

10 (2) Protection of the health and welfare of visi-  
11 tors to Federal land.

12 (3) Protection of natural, historical, cultural,  
13 and recreational resources.

14 (4) Responsible administrative and financial  
15 performance, including payment of fees.

16 (5) Compliance with the outfitter authorization,  
17 the operating plan, and applicable laws (including  
18 regulations).

19 (b) EVALUATION CRITERIA.—

20 (1) IN GENERAL.—Specific criteria to be used  
21 by an agency head to evaluate the authorized outfit-  
22 ter's performance in meeting the objectives described  
23 in subsection (a)—

24 (A) shall be objective, measurable, and rea-  
25 sonably attainable; and

26 (B) shall include—

1 (i) standards generally applicable to  
2 all commercial outfitter operations mar-  
3 keted and available to visitors on Federal  
4 land;

5 (ii) standards specific to an individual  
6 outfitter operation or outfitted activity;  
7 and

8 (iii) such other terms and conditions  
9 of the standard outfitter contract or oper-  
10 ating plan as are agreed to by the agency  
11 head and the authorized outfitter as meas-  
12 urements of performance.

13 (2) REQUIREMENTS.—In evaluating the level of  
14 performance of an authorized outfitter with respect  
15 to the fulfillment of the objectives described in sub-  
16 section (a), an agency head—

17 (A) shall ensure that—

18 (i) the effect that any deficiency in  
19 the performance on the part of an author-  
20 ized outfitter has on the performance rat-  
21 ing determined for the authorized outfitter  
22 is proportionate to the severity of the defi-  
23 ciency and any harm that may have re-  
24 sulted from the deficiency; and

1 (ii) similar deficiencies found in the  
2 performance of different authorized outfit-  
3 ters result in similar effects on the respec-  
4 tive performance ratings determined for  
5 the authorized outfitters;

6 (B) shall allow additional credit to be  
7 earned for elements of performance that exceed  
8 the requirements of the standard outfitter con-  
9 tract or operating plan; and

10 (C) shall appropriately account for factors  
11 beyond the control of the outfitter including  
12 agency actions, general market or other eco-  
13 nomic fluctuations, and weather or other natu-  
14 ral phenomena that resulted in actions or condi-  
15 tions that adversely affected the authorized out-  
16 fitter's level of performance.

17 (c) LEVELS OF PERFORMANCE.—An agency head  
18 shall define 3 levels of performance, as follows:

19 (1) Good, indicating a level of performance that  
20 fulfills the terms and conditions of the standard out-  
21 fitter contract and annual operating plan.

22 (2) Marginal, indicating a level of performance  
23 that, if not corrected, will result in an unsatisfactory  
24 level of performance.

1           (3) Unsatisfactory, indicating a level of per-  
2           formance that threatens the public health and wel-  
3           fare, willfully damages a resource, or demonstrates  
4           routine or gross violation of the requirements of the  
5           standard outfitter contract or operating plan.

6           (d) PERFORMANCE EVALUATION.—

7           (1) EVALUATION SYSTEM.—An agency head  
8           shall establish a performance evaluation system that  
9           ensures the public of continued availability of de-  
10          pendable outfitter operations and eliminates author-  
11          ized outfitters that fail to meet the required stand-  
12          ards.

13          (2) PROCEDURE.—An authorized outfitter shall  
14          be entitled—

15                (A) to be present, or represented, at in-  
16                spections of operations or facilities, which in-  
17                spections shall be limited to the operations and  
18                facilities of the authorized outfitter located on  
19                Federal land;

20                (B) to receive written notice of any con-  
21                duct or condition that, if not corrected, might  
22                lead to a performance evaluation of marginal or  
23                unsatisfactory, which notice shall include an ex-  
24                planation of needed corrections and provide a

1 reasonable period of time in which the correc-  
2 tions may be made without penalty; and

3 (C) to receive written notice of the results  
4 of the performance evaluation not later than 30  
5 days after the conclusion of the authorized out-  
6 fitter's operating season, including the level of  
7 performance and the status of corrections that  
8 may have been required.

9 (e) MARGINAL PERFORMANCE.—If an authorized  
10 outfitter's level of performance for a year is determined  
11 to be marginal, and the authorized outfitter fails to com-  
12 plete the corrections within the time specified as provided  
13 in subsection (d)(2)(B), the level of performance shall be  
14 determined to be unsatisfactory for the year.

15 (f) AGGREGATION OF RESULTS.—

16 (1) IN GENERAL.—The results of all annual  
17 performance evaluations of authorized outfitters  
18 shall be aggregated following determination of the  
19 level of performance in the year before the year in  
20 which the standard outfitter contract expires to de-  
21 termine whether the authorized outfitter's overall  
22 performance during the term has been good or un-  
23 satisfactory.

24 (2) GOOD PERFORMANCE.—Overall perform-  
25 ance during the term of the standard outfitter con-

1 tract shall be considered to be good when annual  
2 performance has been determined to be good in 75  
3 percent or more of the term of the standard outfitter  
4 contract that occurs before the year in which the  
5 standard outfitter contract expires.

6 (3) UNSATISFACTORY PERFORMANCE IN FINAL  
7 YEAR.—If a determination of unsatisfactory per-  
8 formance is made with respect to the final year of  
9 the term of a standard outfitter contract, the cal-  
10 culation to determine overall performance shall in-  
11 clude that determination.

12 (4) NOTICE.—Not later than 30 days after the  
13 close of the evaluation period for the final year of a  
14 standard outfitter contract, an agency head shall  
15 provide the authorized outfitter an evaluation of the  
16 overall level of performance for the term of the  
17 standard outfitter contract that shall serve as the  
18 basis for determining eligibility for renewal under  
19 section 11.

20 (g) FAILURE TO EVALUATE.—If an agency head fails  
21 to evaluate an authorized outfitter in any year of the term  
22 of a standard outfitter contract, the performance of the  
23 authorized outfitter in that year shall be considered to  
24 have been good.

1 (h) SPECIAL RULE FOR ALASKA.—For the purposes  
2 of this section, with respect to outfitted activities con-  
3 ducted in the State of Alaska, objectives and criteria relat-  
4 ing to protection of natural resources and the taking of  
5 fish and game shall not be inconsistent with the laws (in-  
6 cluding regulations) of the Alaska Department of Fish and  
7 Game.

8 **SEC. 11. REQUIREMENTS FOR RENEWAL OR TERMINATION**  
9 **OF STANDARD OUTFITTER CONTRACTS.**

10 (a) RENEWAL AT EXPIRATION OF TERM.—

11 (1) IN GENERAL.—On a determination of good  
12 overall performance under section 10 during the  
13 term of a standard outfitter contract, an agency  
14 head shall renew the contract at the request of the  
15 authorized outfitter subject to the terms and condi-  
16 tions of this Act.

17 (2) EFFECT.—A renewal of a standard outfitter  
18 contract earned on a determination of good perform-  
19 ance shall not have an adverse effect on other rights  
20 and obligations that exist under the standard outfit-  
21 ter contract.

22 (b) TERMINATION AT EXPIRATION OF TERM.—A re-  
23 newal of a standard outfitter contract shall be denied on  
24 a determination of unsatisfactory overall performance  
25 under section 10.

1 (c) TERMINATION FOR CAUSE.—A standard outfitter  
2 contract may be terminated for cause if—

3 (1) the authorized outfitter fails to correct con-  
4 ditions with respect to which notice was provided  
5 under section 10(d)(2)(B) that are considered by the  
6 agency head to be of significant importance with re-  
7 spect to the quality of operations, the health and  
8 welfare of outfitted visitors, or the protection of re-  
9 sources;

10 (2) the authorized outfitter is repeatedly in ar-  
11 rears in the payment of fees; or

12 (3) the authorized outfitter's conduct dem-  
13 onstrates willful and wanton disregard for the health  
14 and welfare of outfitted visitors or other users of  
15 Federal land.

16 **SEC. 12. TRANSFERABILITY OF STANDARD OUTFITTER**  
17 **CONTRACTS.**

18 (a) TRANSFERABILITY.—

19 (1) IN GENERAL.—A standard outfitter con-  
20 tract shall be transferable on approval of the agency  
21 head, based solely on a determination whether the  
22 proposed transferee is a qualified transferee under  
23 paragraph (2) and on the considerations described in  
24 paragraph (3).

1           (2) QUALIFIED TRANSFEREES.—A standard  
2 outfitter contract may be transferred to—

3           (A) a purchaser of the authorized outfitter,  
4 or of all or a portion of the business operations  
5 or facilities of the authorized outfitter, that sat-  
6 isfies the criteria established under section  
7 5(e)(1); or

8           (B) an assignee, partner, or stockholder or  
9 other owner of an interest in the authorized  
10 outfitter, at the request of authorized outfitter  
11 the transfer, or, in the case of an authorized  
12 outfitter who is an individual, an heir of the in-  
13 dividual, on the death of the individual.

14           (3) CONSIDERATIONS.—In approving a transfer  
15 of a standard outfitter contract to a qualified trans-  
16 feree, an agency head shall—

17           (A) allow for recovery of the current au-  
18 thorized outfitter's investment in the business;  
19 and

20           (B) allow a purchase price based on the  
21 value of the business as a going concern or on  
22 any other basis of valuation agreed to by the  
23 authorized outfitter and the proposed trans-  
24 feree.

1 (b) NO MODIFICATION AS CONDITION OF AP-  
2 PROVAL.—An agency head may not condition approval of  
3 a transfer of a standard outfitter contract on the accept-  
4 ance by the proposed transferee of a modification of the  
5 contract.

6 (c) CONSIDERATION PERIOD.—If an agency head  
7 fails to approve or disapprove a transfer of a standard out-  
8 fitter contract under subsection (a) within 90 days after  
9 receipt of an application containing the information re-  
10 quired with respect to the transfer, the transfer shall be  
11 deemed to have been approved.

12 (d) CONTINUANCE OF CONTRACT.—If a transfer of  
13 a standard outfitter contract is not approved by the agen-  
14 cy head or if the transfer is not subsequently made, the  
15 standard outfitter contract shall remain in effect.

16 **SEC. 13. APPEALS.**

17 (a) APPEALS AND ADMINISTRATIVE REVIEW.—

18 (1) IN GENERAL.—An authorized outfitter shall  
19 be entitled to not less than 1 level of administrative  
20 review within an agency to attempt to resolve any  
21 dispute arising under an outfitter authorization.

22 (2) DEPARTMENT OF THE INTERIOR.—An ap-  
23 peal or other administrative review of a decision of  
24 an agency within the Department of the Interior ad-  
25 judicating any disputes arising under this Act may

1 be taken to the Board of Land Appeals of the De-  
2 partment of the Interior under subtitle A of part 4  
3 of title 43, Code of Federal Regulations (or any suc-  
4 cessor regulation).

5 (3) FOREST SERVICE.—An appeal or other ad-  
6 ministrative review of a decision of the Forest Serv-  
7 ice adjudicating any disputes arising under this  
8 Act—

9 (A) may be taken under section 251.80 of  
10 title 36, Code of Federal Regulations (or any  
11 successor regulation); and

12 (B) may be further pursued through an  
13 independent de novo appeal before the Board of  
14 Contract Appeals under subtitle A of part 24 of  
15 title 7, Code of Federal Regulations (or any  
16 successor regulation).

17 (b) EXPEDITED PROCEDURE.—Each agency head  
18 shall by regulation establish an expedited procedure for  
19 consideration of appeals of decisions to suspend, revoke,  
20 or terminate a standard outfitter contract.

21 **SEC. 14. INSTITUTIONAL RECREATION PROGRAMS.**

22 (a) IN GENERAL.—An agency head shall manage the  
23 occupancy and use of Federal land by institutional recre-  
24 ation programs that conduct outfitted activities under this  
25 Act, if appropriate, or as provided by other law.

1 (b) REQUIREMENTS.—An institutional recreation  
2 program shall—

3 (1) operate in a manner that is consistent with  
4 resource management plans;

5 (2) provide for the health and welfare of mem-  
6 bers or affiliated participants;

7 (3) ensure the protection of resources; and

8 (4) pay appropriate fees in amounts that are  
9 not less than amounts that are sufficient to recover  
10 the cost to the agency of regulating the provision of  
11 outfitting services by the institutional recreation pro-  
12 gram.

13 **SEC. 15. CONSISTENCY WITH OTHER LAW AND RIGHTS.**

14 (a) CONSISTENCY WITH OTHER LAW.—Each outfit-  
15 ter program of an agency that administers Federal land  
16 subject to this Act shall be consistent with the agency's  
17 mission and laws applicable to the agency.

18 (b) CONSISTENCY WITH RIGHTS OF UNITED  
19 STATES.—Nothing in this Act limits or restricts any right,  
20 title, or interest of the United States in or to any land  
21 or resource.

22 **SEC. 16. REGULATIONS.**

23 (a) IN GENERAL.—Not later than 2 years after the  
24 date of enactment of this Act, each agency head shall pro-  
25 mulgate a regulation to implement this Act.

1 (b) QUALIFICATIONS OF AGENCY PERSONNEL AS-  
2 SIGNED OUTFITTER MANAGEMENT DUTIES.—An agency  
3 head, by regulation under subsection (a) and taking into  
4 account the provisions of this Act, shall specify the mini-  
5 mum training and qualifications required for agency per-  
6 sonnel assigned predominantly to management of commer-  
7 cial outfitting activities, including competency in—

- 8 (1) business finance and management;
- 9 (2) public health and safety; and
- 10 (3) evaluation of the experiences of outfitted  
11 visitors.

12 (c) CONSISTENCY OF REGULATIONS.—The regula-  
13 tions promulgated by the agency heads under subsection  
14 (a) shall be consistent among the various agencies, to the  
15 extent practicable, so as to—

- 16 (1) increase efficiency;
- 17 (2) simplify requirements for persons author-  
18 ized to use public resources;
- 19 (3) provide the public with dependable outfitter  
20 operations;
- 21 (4) provide a fair return of revenue to the Fed-  
22 eral Government; and
- 23 (5) ensure fair and reasonable management and  
24 administration of outfitter operations conducted on  
25 Federal land.

1 (d) INTERIM ACTION.—Before publication of a final  
2 regulation under subsection (a), an agency head may not  
3 rely on any provision of this Act as cause for not awarding  
4 an outfitter authorization under authority existing before  
5 the date of enactment of this Act.

6 **SEC. 17. RELATIONSHIP TO OTHER LAWS.**

7 (a) UPPER DELAWARE SCENIC AND RECREATIONAL  
8 RIVER.—Nothing in this Act amends, supersedes, or oth-  
9 erwise affects any provision of subsections (b) through (j)  
10 of section 704 of Public Law 95–625 (16 U.S.C. 1274  
11 note).

12 (b) SUPERSEDED PROVISIONS.—The provisions of  
13 this Act shall supersede the provisions of the following  
14 Acts the provisions pertain to outfitter authorizations:

15 (1) The Act entitled “An Act to establish a Na-  
16 tional Park Service, and for other purposes”, ap-  
17 proved August 25, 1916 (commonly known as the  
18 “National Park Service Organic Act”) (16 U.S.C. 1  
19 et seq.).

20 (2) The Act entitled “An Act to facilitate the  
21 administration of the national parks by the United  
22 States Department of the Interior, and for other  
23 purposes”, approved May 26, 1930 (16 U.S.C. 17 et  
24 seq.).

1           (3) Public Law 89–249 (commonly known as  
2 the “National Park System Concessions Policy Act”)  
3 (16 U.S.C. 20 et seq.).

4           (4) Public Law 91–383 (16 U.S.C. 1a–1 et  
5 seq.).

6           (5) The Federal Water Project Recreation Act  
7 (16 U.S.C. 4601–12 et seq.).

8           (6) The paragraphs under the heading “SUR-  
9 VEYING THE PUBLIC LANDS.” under the heading  
10 “UNDER THE DEPARTMENT OF THE INTE-  
11 RIOR.” in the first section of the Act of June 4,  
12 1897 (commonly known as the “Organic Administra-  
13 tion Act of 1897”) (30 Stat. 32, chapter 2; 16  
14 U.S.C. 473–475, 477–482, 551).

15           (7) The last paragraph under the heading  
16 “GENERAL EXPENSES, FOREST SERVICE” UNDER  
17 THE HEADING “FOREST SERVICES.” in the first  
18 section of the Act of March 4, 1915 (commonly  
19 known as the “Occupancy Permits Act”) (38 Stat.  
20 1101; 16 U.S.C. 497).

21           (8) The Federal Land Policy and Management  
22 Act of 1976 (43 U.S.C. 1701 et seq.).

23           (9) The National Trails System Act (16 U.S.C.  
24 1241 et seq.).

1           (10) The Act entitled “An Act relating to the  
2           revested Oregon and California Railroad and recon-  
3           veyed Coos Bay Wagon Road grant lands situated in  
4           the state of Oregon”, approved August 28, 1937  
5           (commonly known as the “Oregon and California  
6           Grant Lands Act of 1937”) (43 U.S.C. 1181a et  
7           seq.).

8           (11) Public Law 87–714 (commonly known as  
9           the “Refuge Recreation Act”) (16 U.S.C. 460k et  
10          seq.).

11          (12) The National Wildlife Refuge System Ad-  
12          ministration Act of 1966 (16 U.S.C. 668dd et seq.).

13          (13) The Land and Water Conservation Fund  
14          Act of 1965 (16 U.S.C. 460l–4 et seq.).

15          (14) The Fish and Wildlife Coordination Act  
16          (16 U.S.C. 661 et seq.).

17          (15) The Contract Disputes Act of 1978 (41  
18          U.S.C. 601 et seq.).

19 **SEC. 18. TRANSITION PROVISIONS.**

20          (a) IN GENERAL.—

21           (1) OUTFITTERS WITH SATISFACTORY RAT-  
22           INGS.—An outfitter that holds a special use permit  
23           or a concessioner permit or contract (or extension of  
24           such a permit or contract) in effect on the date of  
25           enactment of this Act shall be entitled, on request,

1 to the issuance of a standard outfitter contract  
2 under this Act if a recent performance evaluation  
3 determined that the outfitter's aggregate perform-  
4 ance under the permit or contract is satisfactory, ac-  
5 ceptable, or the equivalent.

6 (2) OUTFITTERS WITH NO RATINGS.—For the  
7 purpose of paragraph (1), if no recent performance  
8 evaluation exists with respect to an outfitter, the  
9 outfitter's aggregate performance under the permit  
10 or contract shall be deemed to be satisfactory.

11 (b) EFFECT OF ISSUANCE.—The issuance of a stand-  
12 ard outfitter contract under subsection (a) shall not ad-  
13 versely affect rights and obligations that exist under the  
14 permit or contract (or an extension of the permit or con-  
15 tract) on the date of enactment of this Act.

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