

115TH CONGRESS
1ST SESSION

H. R. 289

To authorize the Secretary of the Interior and the Secretary of Agriculture to issue permits for recreation services on lands managed by Federal agencies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 2017

Mr. LAMALFA introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To authorize the Secretary of the Interior and the Secretary of Agriculture to issue permits for recreation services on lands managed by Federal agencies, 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; TABLE OF CONTENTS; DEFINI-**
4 **TIONS.**

5 (a) **SHORT TITLE.**—This Act may be cited as the
6 “Guides and Outfitters Act” or the “GO Act”.

1 (b) TABLE OF CONTENTS.—The table of contents for
2 this Act is as follows:

3 (c) DEFINITIONS.—In this Act:

4 (1) SECRETARY.—The term “Secretary”
5 means—

6 (A) the Secretary of the Interior, with re-
7 spect to a Federal land management agency
8 (other than the Forest Service); and

9 (B) the Secretary of Agriculture, with re-
10 spect to the Forest Service.

11 (2) SECRETARIES.—The term “Secretaries”
12 means the Secretary of the Interior and the Sec-
13 retary of Agriculture acting jointly.

14 **SEC. 2. SPECIAL RECREATION PERMIT AND FEE.**

15 Subsection (h) of section 803 of the Federal Lands
16 Recreation Enhancement Act (16 U.S.C. 6802) is amend-
17 ed to read as follows:

18 “(h) SPECIAL RECREATION PERMIT AND FEE.—

19 “(1) IN GENERAL.—The Secretary may—

20 “(A) issue a special recreation permit for
21 Federal recreational lands and waters; and

22 “(B) charge a special recreation permit fee
23 in connection with the issuance of the permit.

1 “(2) SPECIAL RECREATION PERMITS.—The
2 Secretary may issue special recreation permits in the
3 following circumstances:

4 “(A) For specialized individual and group
5 use of Federal facilities and Federal rec-
6 reational lands and waters, such as, but not
7 limited to, use of special areas or areas where
8 use is allocated, motorized recreational vehicle
9 use, and group activities or events.

10 “(B) To recreation service providers who
11 conduct outfitting, guiding, and other recre-
12 ation services on Federal recreational lands and
13 waters managed by the Forest Service, Bureau
14 of Land Management, Bureau of Reclamation,
15 or the United States Fish and Wildlife Service.

16 “(C) To recreation service providers who
17 conduct recreation or competitive events, which
18 may involve incidental sales on Federal rec-
19 reational lands and waters managed by the For-
20 est Service, Bureau of Land Management, Bu-
21 reau of Reclamation, or the United States Fish
22 and Wildlife Service.

23 “(3) REDUCTION IN FEDERAL COSTS.—To re-
24 duce Federal costs in administering this subsection,
25 the issuance of a new special recreation permit for

1 activities under paragraph (2) that have been con-
2 sidered under previous analysis or that are similar
3 to existing uses or are not inconsistent with ap-
4 proved uses shall qualify for categorical exclusions
5 under the National Environmental Policy Act of
6 1969 (42 U.S.C. 4321 et seq.).”.

7 **SEC. 3. PERMIT ACROSS MULTIPLE JURISDICTIONS.**

8 (a) IN GENERAL.—In the case of an activity requir-
9 ing permits pursuant to subsection (h) of section 803 of
10 the Federal Lands Recreation Enhancement Act (16
11 U.S.C. 6802) for use of lands managed by both the Forest
12 Service and the Bureau of Land Management—

13 (1) the Secretaries may issue a joint permit
14 based upon a single application to both agencies
15 when issuance of a joint permit based upon a single
16 application will lower processing and other adminis-
17 tration costs for the permittee, provided that the
18 permit applicant shall have the option to apply for
19 separate permits rather than a joint permit; and

20 (2) the permit application required under clause
21 (i) shall be—

22 (A) the application required by the lead
23 agency; and

24 (B) submitted to the lead agency.

1 (b) REQUIREMENTS OF THE LEAD AGENCY.—The
2 lead agency for a permit under subsection (a) shall—

3 (1) coordinate with the associated agencies,
4 consistent with the authority of the Secretaries
5 under section 330 of the Department of the Interior
6 and Related Agencies Appropriations Act, 2001 (43
7 U.S.C. 1703), to develop and issue the single, joint
8 permit that covers the entirety of the trip;

9 (2) in processing the joint permit application,
10 incorporate the findings, interests, and needs of the
11 associated agencies, provided that such coordination
12 shall not be subject to cost recovery; and

13 (3) complete the permitting process within a
14 reasonable time after receiving the permit applica-
15 tion.

16 (c) EFFECT ON REGULATIONS.—Nothing in this sec-
17 tion shall alter, expand, or limit the applicability of any
18 Federal law (including regulations) to lands administered
19 by the relevant Federal agencies.

20 (d) DEFINITIONS.—In this section:

21 (1) ASSOCIATED AGENCY.—The term “associ-
22 ated agency” means an agency that manages the
23 land on which the trip of the special recreation per-
24 mit applicant will enter after leaving the land man-
25 aged by the lead agency.

1 (2) LEAD AGENCY.—The term “lead agency”
2 means the agency that manages the land on which
3 the trip of the special recreation permit applicant
4 will begin.

5 **SEC. 4. GUIDELINES AND PERMIT FEE CALCULATION.**

6 (a) GUIDELINES AND EXCLUSION OF CERTAIN REV-
7 ENUES.—The Secretary shall—

8 (1) publish guidelines in the Federal Register
9 for establishing recreation permit fees; and

10 (2) provide appropriate deductions from the fee
11 established under paragraph (1) for—

12 (A) revenue from goods, services, and ac-
13 tivities provided by a recreation service provider
14 outside Federal recreational lands and waters,
15 such as costs for transportation, lodging, and
16 other services before or after a trip; and

17 (B) fees to be paid by permit holder under
18 applicable law to provide services on other Fed-
19 eral lands, if separate permits are issued to
20 that permit holder for a single event.

21 (b) FEE CONDITIONS.—The fee charged by the Sec-
22 retary for a permit issued under section 803(h) of the
23 Federal Lands Recreation Enhancement Act (16 U.S.C.
24 6802(h)) shall not exceed 3 percent of the recreational
25 service provider’s annual gross revenue for activities au-

1 thorized by the permit on Federal lands, plus applicable
2 revenue additions, minus applicable revenue exclusions or
3 a similar flat per person fee.

4 (c) DISCLOSURE OF FEES.—A holder of a special
5 recreation permit may inform its customers of the various
6 fees charged by the Secretary under section 803(h) of the
7 Federal Lands Recreation Enhancement Act (16 U.S.C.
8 6802(h)).

9 **SEC. 5. USE OF PERMIT FEES FOR PERMIT ADMINISTRA-**
10 **TION.**

11 Revenues from special recreation permits issued to
12 recreation service providers under subparagraphs (B) and
13 (C) of section 803(h)(1) of the Federal Lands Recreation
14 Enhancement Act (16 U.S.C. 6802(h)(1)) shall be used—

15 (1) to partially offset the Secretary's direct cost
16 of administering the permits; and

17 (2) to improve and streamline the permitting
18 process.

19 **SEC. 6. ADJUSTMENT TO PERMIT USE REVIEWS.**

20 (a) IN GENERAL.—In reviewing and adjusting alloca-
21 tions of use for priority use permits for special uses of
22 Federal recreational lands and waters managed by the
23 Forest Service, and in renewing such permits, the Sec-
24 retary of Agriculture shall allocate to a permit holder the
25 highest amount of actual annual use over the reviewed pe-

1 riod plus 25 percent, capped at the amount of use allo-
2 cated when the permit was issued unless additional capac-
3 ity is available.

4 (b) WAIVER.—Use reviews under subsection (a) may
5 be waived for periods in which circumstances that pre-
6 vented use of assigned capacity, such as weather, fire, nat-
7 ural disasters, wildlife displacement, business interrup-
8 tions, and when allocations on permits include significant
9 shoulder seasons. The authorizing office may approve non-
10 use without reducing the number of service days assigned
11 to the permit in such circumstances at the request of the
12 permit holder. Approved non-use may be temporarily as-
13 signed to other qualified permit holders when conditions
14 warrant.

15 **SEC. 7. AUTHORIZATION OF TEMPORARY PERMITS FOR**
16 **NEW USES FOR THE FOREST SERVICE AND**
17 **BLM.**

18 Not later than 180 days after the date of the enact-
19 ment of this Act, the Secretary of Agriculture and the Sec-
20 retary of the Interior shall establish and implement a pro-
21 gram to authorize temporary permits for new recreational
22 uses of Federal recreational lands and waters managed by
23 the Forest Service or the Bureau of Land Management,
24 respectively, and to provide for the conversions of such
25 temporary permits to long-term permits after 2 years of

1 satisfactory operation. The issuance and conversion of
2 such permits shall be subject to subsection (h)(3) of sec-
3 tion 803 of the Federal Lands Recreation Enhancement
4 Act (16 U.S.C. 6802).

5 **SEC. 8. INDEMNIFICATION REQUIREMENTS.**

6 (a) INDEMNIFICATION.—A permit holder that is pro-
7 hibited by the State from providing indemnification to the
8 Federal Government shall be considered to be in compli-
9 ance with indemnification requirements of the Department
10 of the Interior and the Department of Agriculture if the
11 permit holder carries the required minimum amount of li-
12 ability insurance coverage or is self-insured for the same
13 minimum amount.

14 (b) EXCULPATORY AGREEMENTS.—The Secretary
15 shall not implement, administer or enforce any regulation
16 or policy prohibiting the use of exculpatory agreements be-
17 tween recreation service providers and their customers for
18 services provided under a special recreation permit when
19 such agreements are enforceable pursuant to the law of
20 the State in which the permitted services are provided.

21 **SEC. 9. STREAMLINING OF PERMITTING PROCESS.**

22 (a) REGULATIONS.—Not later than 180 days after
23 the date of the enactment of this Act, the Secretaries shall
24 revise part 251, subpart B, of title 36 Code of Federal
25 Regulations, and subpart 2932, of title 43, Code of Fed-

1 eral Regulations to streamline the processes for the
2 issuance and renewal of outfitter and guide special use
3 permits. Such amended regulations shall—

4 (1) shorten application processing times and
5 minimize application and administration costs; and

6 (2) provide for the use of programmatic envi-
7 ronmental assessments and categorical exclusions for
8 environmental reviews under the National Environ-
9 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
10 for the issuance or renewal of outfitter and guide
11 and similar recreation special use permits, to the
12 maximum extent allowable under applicable law, in-
13 cluding, but not limited to, use of a categorical ex-
14 clusion for the issuance of a new special recreation
15 permit for activities under paragraph (2)(B) of sub-
16 section (h) of section 803 of the Federal Lands
17 Recreation Enhancement Act (16 U.S.C. 6802) that
18 have been considered under previous analysis or that
19 are similar to existing uses or are not inconsistent
20 with approved uses.

21 (b) ONLINE APPLICATIONS.—To the maximum ex-
22 tent practicable, where feasible and efficient, the Secre-
23 taries shall make special recreation permit applications
24 available to be filled out and submitted online.

1 **SEC. 10. COST RECOVERY REFORM.**

2 (a) REGULATORY PROCESS.—Not later than 180
3 days after the date of enactment of this Act, the Secre-
4 taries shall revise section 251.58 of title 36, Code of Fed-
5 eral Regulations, and section 2932.31(e) and (f) of title
6 43, Code of Federal Regulations, to reduce costs and mini-
7 mize the burden of cost recovery on small businesses and
8 adverse impacts of cost recovery on jobs in the outfitting
9 and guiding industry and on rural economies provided,
10 however, that nothing in the revised regulations shall fur-
11 ther limit the Secretaries' authority to issue or renew
12 recreation special use permits.

13 (b) DE MINIMIS EXEMPTION.—

14 (1) COST RECOVERY LIMITATION.—Any regula-
15 tions issued by the Secretary of the Interior or the
16 Secretary of Agriculture to establish fees to recover
17 processing costs for recreation special use applica-
18 tions and monitoring costs for recreation special use
19 authorizations shall include an exemption providing
20 that at least the first 50 hours of work necessary in
21 any one year to process and/or monitor such an ap-
22 plication shall not be subject to cost recovery. The
23 application of a 50-hour credit per permit shall also
24 apply to any monitoring fees on a per annum basis
25 during the term of each permit.

1 (2) APPLICATION OF EXEMPTION.—An exemp-
2 tion under paragraph (1) shall apply to the proc-
3 essing of each recreation special use permit applica-
4 tion and monitoring of each recreation special use
5 authorization for which cost recovery is required, in-
6 cluding any application or authorization requiring
7 more than 50 hours (or such other greater number
8 of hours specified for exemption) to process or mon-
9 itor. In the event that the amount of work required
10 to process such an application or monitor such an
11 authorization exceeds the specified exemption, the
12 amount of work for which cost recovery is required
13 shall be reduced by the amount of the exemption.

14 (3) MULTIPLE APPLICATIONS.—In situations
15 involving multiple recreation special use applications
16 for similar services in the same unit or area that re-
17 quire more than 50 hours (or such other greater
18 number of hours specified for exemption) in the ag-
19 gregate to process, the Secretary shall, regardless of
20 whether the applications are solicited or unsolicited
21 and whether there is competitive interest—

22 (A) determine the share of the aggregate
23 amount to be allocated to each application, on
24 an equal or prorated basis, as appropriate; and

1 (B) for each application, apply a separate
2 exemption of up to 50 hours (or such other
3 greater number of hours specified for exemp-
4 tion) to the share allocated to such application.

5 (4) COST REDUCTION.—The agency processing
6 a recreation special use application shall utilize ex-
7 isting studies and analysis to the greatest extent
8 practicable in order to reduce the amount of work
9 and cost necessary to process the application.

10 (5) LIMITATION.—The Secretary of the Interior
11 and the Secretary of Agriculture may not recover as
12 processing costs for recreation special use applica-
13 tions and monitoring costs for recreation special use
14 authorizations any costs for consultations conducted
15 under section 7 of the Endangered Species Act of
16 1973 (16 U.S.C. 1536) or for biological monitoring
17 on Federal recreational lands and waters under such
18 Act for listed, proposed, or candidate species.

19 (6) WAIVER OF COST RECOVERY.—The Sec-
20 retary of the Interior and the Secretary of Agri-
21 culture may waive the recovery of costs for proc-
22 essing recreation special use permit applications and
23 renewals, on a categorical or case-by-case basis as
24 appropriate, if the Secretary determines that—

1 (A) such costs would impose a significant
2 economic burden on any small business or cat-
3 egory of small businesses;

4 (B) such cost recovery could threaten the
5 ability of an applicant or permittee to provide,
6 in a particular area, a particular outdoor rec-
7 reational activity that is consistent with the
8 public interest and with applicable resource
9 management plans; or

10 (C) prevailing economic conditions are un-
11 favorable, such as during economic recessions,
12 or when drought, fire, or other natural disasters
13 have depressed economic activity in the area of
14 operation.

15 **SEC. 11. EXTENSION OF FOREST SERVICE RECREATION**
16 **PRIORITY USE PERMITS.**

17 Where the holder of a special use permit for outfitting
18 and guiding that authorizes priority use has submitted a
19 request for renewal of such permit in accordance with ap-
20 plicable laws and regulations, the Secretary of Agriculture
21 shall have the authority to grant the holder one or more
22 extensions of the exiting permit for additional items not
23 to exceed 5 years in the aggregate, as necessary to allow
24 the Secretary to complete the renewal process and to avoid
25 the interruption of services under such permit. Before

1 granting an extension under this section, the Secretary
2 shall take all reasonable and appropriate steps to complete
3 the renewal process before the expiration of the special
4 use permit.

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