

116TH CONGRESS
1ST SESSION

S. 1665

To modify the procedures for issuing special recreation permits for certain public land units, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 23 (legislative day, MAY 22), 2019

Mr. HEINRICH (for himself, Mrs. CAPITO, Mr. KING, Mr. ROUNDS, Mr. BENNET, Mr. GARDNER, Mr. WYDEN, Ms. MCSALLY, Mr. TESTER, Mr. RISCH, Ms. SINEMA, and Mr. DAINES) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To modify the procedures for issuing special recreation permits for certain public land units, 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 “Simplifying Outdoor
5 Access for Recreation Act” or the “SOAR Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) ASSOCIATED AGENCY.—The term “associ-
9 ated agency” means the Federal land management

1 agency, other than the lead agency, that manages a
2 public land unit that is the subject of a single joint
3 special recreation permit under section 7(a).

4 (2) FEDERAL LAND MANAGEMENT AGENCY.—
5 The term “Federal land management agency” has
6 the meaning given the term in section 802 of the
7 Federal Lands Recreation Enhancement Act (16
8 U.S.C. 6801).

9 (3) LEAD AGENCY.—With respect to a single
10 joint special recreation permit application submitted
11 under section 7(a), the term “lead agency” means
12 the Federal land management agency designated to
13 administer the single joint special recreation permit
14 under section 7(a)(2).

15 (4) LONG-TERM SPECIAL RECREATION PER-
16 MIT.—The term “long-term special recreation per-
17 mit” means—

18 (A) for a public land unit managed by the
19 Forest Service, a priority use permit; and

20 (B) for a public land unit managed by the
21 Bureau of Land Management, a multiyear spe-
22 cial recreation permit.

23 (5) MULTIJURISDICTIONAL TRIP.—The term
24 “multijurisdictional trip” means a trip that—

1 (A) uses two or more public land units;
2 and

3 (B) is under the jurisdiction of two or
4 more Federal land management agencies.

5 (6) PUBLIC LAND UNIT.—The term “public
6 land unit” means—

7 (A) a unit of the National Forest System;

8 (B) a unit of the National Park System;

9 (C) a unit of the National Wildlife Refuge
10 System;

11 (D) a district of the Bureau of Land Man-
12 agement; and

13 (E) a project of the Bureau of Reclama-
14 tion.

15 (7) SECRETARY CONCERNED.—The term “Sec-
16 retary concerned” means—

17 (A) the Secretary of Agriculture, with re-
18 spect to a public land unit described in para-
19 graph (6)(A); and

20 (B) the Secretary of the Interior, with re-
21 spect to a public land unit described in sub-
22 paragraph (B), (C), (D), or (E) of paragraph
23 (6).

24 (8) SPECIAL RECREATION PERMIT.—The term
25 “special recreation permit” has the meaning given

1 the term in section 802 of the Federal Lands Recre-
2 ation Enhancement Act (16 U.S.C. 6801).

3 **SEC. 3. SPECIAL RECREATION PERMIT AND FEE.**

4 (a) DEFINITIONS.—Section 802 of the Federal Lands
5 Recreation Enhancement Act (16 U.S.C. 6801) is amend-
6 ed—

7 (1) in paragraph (1), by striking “section 3(f)”
8 and inserting “803(f)”;

9 (2) in paragraph (2), by striking “section 3(g)”
10 and inserting “section 803(g)”;

11 (3) in paragraph (6), by striking “section 5”
12 and inserting “section 805”;

13 (4) in paragraph (9), by striking “section 5”
14 and inserting “section 805”;

15 (5) in paragraph (12), by striking “section 7”
16 and inserting “section 807”;

17 (6) in paragraph (13), by striking “section
18 3(h)” and inserting “section 803(h)”;

19 (7) by redesignating paragraphs (1), (3), (4),
20 (5), (6), (7), (8), (9), (10), (11), and (13) as para-
21 graphs (15), (1), (3), (4), (5), (6), (7), (8), (11),
22 (10), and (14), respectively, and moving the para-
23 graphs so as to appear in numerical order;

24 (8) by inserting after paragraph (8) (as so re-
25 designated) the following:

1 “(9) RECREATION SERVICE PROVIDER.—The
2 term ‘recreation service provider’ means an indi-
3 vidual or entity that—

4 “(A) provides outfitting, guiding, or other
5 recreation services; or

6 “(B) conducts recreational or competitive
7 events, including incidental sales.”; and

8 (9) by inserting after paragraph (12) the fol-
9 lowing:

10 “(13) SPECIAL RECREATION PERMIT.—The
11 term ‘special recreation permit’ means—

12 “(A) with respect to the Forest Service, an
13 outfitting and guiding special use permit;

14 “(B) with respect to the National Park
15 Service, a commercial use authorization for out-
16 fitting and guiding issued under—

17 “(i) this Act; or

18 “(ii) section 101925 of title 54,
19 United States Code;

20 “(C) with respect to the United States
21 Fish and Wildlife Service, a special use permit
22 for recreational, sport fishing, or hunting outfit-
23 ting and guiding;

1 “(D) with respect to the Bureau of Land
2 Management, a special recreation permit for
3 commercial outfitting and guiding; and

4 “(E) with respect to the Bureau of Rec-
5 lamation, a use authorization for guiding, out-
6 fitting, or other recreational services.”.

7 (b) SPECIAL RECREATION PERMIT AND FEE.—Sec-
8 tion 803 of the Federal Lands Recreation Enhancement
9 Act (16 U.S.C. 6802) is amended—

10 (1) in subsection (b)(5), by striking “section
11 4(d)” and inserting “section 804(d)”; and

12 (2) by striking subsection (h) and inserting the
13 following:

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

15 “(1) SPECIAL RECREATION PERMIT.—The Sec-
16 retary may issue a special recreation permit for spe-
17 cialized individual or group uses of Federal rec-
18 reational lands and waters, including—

19 “(A) for outfitting, guiding, or other recre-
20 ation services;

21 “(B) for recreation or competitive events,
22 which may include incidental sales;

23 “(C) for the use of—

24 “(i) a special area; or

25 “(ii) an area in which use is allocated;

1 “(D) for motorized recreational vehicle use;
2 and

3 “(E) for a group activity or event.

4 “(2) SPECIAL RECREATION PERMIT FEE.—

5 “(A) IN GENERAL.—The Secretary may
6 charge a special recreation permit fee in con-
7 nection with the issuance of a special recreation
8 permit under paragraph (1).

9 “(B) FEES FOR CERTAIN LANDS.—

10 “(i) IN GENERAL.—Subject to clauses
11 (ii) and (iii), a special recreation permit fee
12 under subparagraph (A) for use of Federal
13 recreational lands and waters managed by
14 the Forest Service, the Bureau of Land
15 Management, the Bureau of Reclamation,
16 or the United States Fish and Wildlife
17 Service shall not exceed the difference be-
18 tween—

19 “(I) the sum of—

20 “(aa) 3 percent of the an-
21 nual gross revenue of the recre-
22 ation service provider for all ac-
23 tivities authorized by the special
24 recreation permit; and

1 “(bb) any applicable revenue
2 addition; and

3 “(II) any applicable revenue ex-
4 clusion.

5 “(ii) EXCLUSION OF CERTAIN REVE-
6 NUES AND PAYMENTS.—In calculating the
7 amount of a fee for a special recreation
8 permit under clause (i), the Secretary con-
9 cerned shall exclude—

10 “(I) revenue from goods, services,
11 souvenirs, merchandise, gear, food,
12 and activities provided or sold by a
13 special recreation permit holder in a
14 location other than the Federal rec-
15 reational lands and waters covered by
16 the permit, including transportation
17 costs, lodging, and any other service
18 before or after a trip; and

19 “(II) revenue from any rec-
20 reational services provided by a spe-
21 cial recreation permit holder for ac-
22 tivities on Federal recreational lands
23 and waters for which a separate per-
24 mit is issued.

1 “(iii) ALTERNATIVE PER-PERSON
2 FEE.—

3 “(I) IN GENERAL.—For Federal
4 recreational lands and waters man-
5 aged by the Forest Service, the Bu-
6 reau of Land Management, the Bu-
7 reau of Reclamation, or the United
8 States Fish and Wildlife Service, the
9 Secretary may charge a per-person fee
10 in connection with the issuance of a
11 special recreation permit under para-
12 graph (1).

13 “(II) AMOUNT OF FEE.—The
14 total amount charged by the Secretary
15 in connection with the issuance of a
16 special recreation permit under para-
17 graph (1) using a per-person fee
18 under subclause (I) shall be com-
19 parable to the amount the Secretary
20 may charge for a special recreation
21 permit fee under subparagraph (A)
22 and clauses (i) and (ii).

23 “(iv) EFFECT.—Nothing in this sub-
24 paragraph affects any fee for a commercial
25 use authorization for use of Federal rec-

1 reational lands and waters managed by the
2 National Park Service.

3 “(C) DISCLOSURE OF FEES.—A special
4 recreation permit holder may inform customers
5 of any fee charged by the Secretary under this
6 section.

7 “(3) REPORTS.—

8 “(A) IN GENERAL.—The Secretary shall
9 make available to holders of special recreation
10 permits under paragraph (1) and the public an
11 annual report describing the use of fees col-
12 lected by the Secretary under paragraph (2).

13 “(B) REQUIREMENTS.—The report under
14 subparagraph (A) shall include a description of
15 how the fees are used in each public land unit
16 (as defined in section 2 of the SOAR Act) ad-
17 ministered by the Secretary, including an iden-
18 tification of the amounts used for specific ac-
19 tivities within the public land unit.”.

20 (c) USE OF SPECIAL RECREATION PERMIT REV-
21 ENUE.—Section 808 of the Federal Lands Recreation En-
22 hancement Act (16 U.S.C. 6807) is amended—

23 (1) in subsection (a)(3)(F), by striking “section
24 6(a)” and inserting “section 806(a)”;

1 (2) in subsection (d), by striking “section 5”
2 each place it appears and inserting “section 805”;

3 (3) by redesignating subsections (b) through (d)
4 as subsections (c) through (e), respectively; and

5 (4) by inserting after subsection (a) the fol-
6 lowing:

7 “(b) USE OF SPECIAL RECREATION PERMIT FEE
8 REVENUE.—Revenue from a special recreation permit fee
9 may be used for—

10 “(1) the purposes described in subsection (a);

11 and

12 “(2) expenses—

13 “(A) associated with processing applica-
14 tions for special recreation permits; and

15 “(B) incurred in the improvement of the
16 operation of the special recreation permit sys-
17 tem.”.

18 (d) PERMANENT AUTHORIZATION.—Section 810 of
19 the Federal Lands Recreation Enhancement Act (16
20 U.S.C. 6809) is amended—

21 (1) by striking “The authority” and inserting
22 the following:

23 “(a) IN GENERAL.—Except as provided in subsection
24 (b), the authority”; and

25 (2) by adding at the end the following:

1 “(b) APPLICABILITY.—Subsection (a) shall not apply
2 to—

3 “(1) section 802;

4 “(2) subsection (d)(2) or (h) of section 803; or

5 “(3) subsection (a) or (b) of section 808.”.

6 **SEC. 4. PERMITTING PROCESS IMPROVEMENTS.**

7 (a) IN GENERAL.—To simplify the process of the
8 issuance and renewal of special recreation permits and re-
9 duce the cost of administering special recreation permits,
10 the Secretary concerned shall—

11 (1) not later than 180 days after the date of
12 enactment of this Act—

13 (A) evaluate the special recreation permit-
14 ting process; and

15 (B) identify opportunities—

16 (i) to eliminate duplicative processes;

17 (ii) to reduce costs; and

18 (iii) to decrease processing times; and

19 (2) not later than 180 days after the date on
20 which the Secretary concerned completes the evalua-
21 tion and identification processes under paragraph
22 (1), revise, as necessary, relevant agency regulations
23 and policy statements to implement the improve-
24 ments identified under paragraph (1)(B).

25 (b) ENVIRONMENTAL REVIEWS.—

1 (1) IN GENERAL.—In issuing or renewing a
2 special recreation permit, the Secretary concerned
3 may, in compliance with the National Environmental
4 Policy Act of 1969 (42 U.S.C. 4321 et seq.)—

5 (A) use a programmatic environmental re-
6 view; and

7 (B) adopt or incorporate material from a
8 previous environmental impact statement or en-
9 vironmental assessment.

10 (2) RULEMAKING.—Not later than 1 year after
11 the date of enactment of this Act, the Secretary con-
12 cerned shall promulgate such regulations as are nec-
13 essary to carry out this subsection.

14 (c) CATEGORICAL EXCLUSIONS.—

15 (1) IN GENERAL.—Not later than 1 year after
16 the date of enactment of this Act, the Secretary con-
17 cerned shall—

18 (A) evaluate whether one or more addi-
19 tional categorical exclusions developed in com-
20 pliance with the National Environmental Policy
21 Act of 1969 (42 U.S.C. 4321 et seq.) would re-
22 duce processing times or costs for the issuance
23 or renewal of special recreation permits without
24 significantly affecting the human environment;
25 and

1 (B) if the Secretary concerned determines
2 under subparagraph (A) that one or more addi-
3 tional categorical exclusions would reduce proc-
4 essing times or costs for the issuance or re-
5 newal of special recreation permits without sig-
6 nificantly affecting the human environment—

7 (i) establish those categorical exclu-
8 sions in compliance with the National En-
9 vironmental Policy Act of 1969 (42 U.S.C.
10 4321 et seq.); and

11 (ii) revise relevant agency regulations
12 and policy statements to implement those
13 categorical exclusions.

14 (2) ADMINISTRATION.—

15 (A) IN GENERAL.—In administering a cat-
16 egorical exclusion established under paragraph
17 (1)(B), the Secretary concerned shall comply
18 with the National Environmental Policy Act of
19 1969 (42 U.S.C. 4321 et seq.) (including regu-
20 lations promulgated pursuant to that Act).

21 (B) EXTRAORDINARY CIRCUMSTANCES.—
22 In determining whether to use a categorical ex-
23 clusion established under paragraph (1)(B), the
24 Secretary concerned shall apply the extraor-
25 dinary circumstances procedures described in—

1 (i) section 1508.4 of title 40, Code of
2 Federal Regulations (or a successor regula-
3 tion); and

4 (ii) as applicable—

5 (I) section 220.6 of title 36, Code
6 of Federal Regulations (or a successor
7 regulation); and

8 (II) section 46.215 of title 43,
9 Code of Federal Regulations (or a
10 successor regulation);

11 (d) NEEDS ASSESSMENTS.—Except as required
12 under subsection (c) or (d) of section 4 of the Wilderness
13 Act (16 U.S.C. 1133), the Secretary concerned shall not
14 conduct a needs assessment as a condition of issuing a
15 special recreation permit for a public land unit under this
16 Act.

17 (e) ONLINE APPLICATIONS.—The Secretary con-
18 cerned shall make applications for special recreation per-
19 mits available to be completed and submitted online unless
20 the Secretary concerned determines that making applica-
21 tions for special recreation permits available to be com-
22 pleted and submitted online would not improve the effi-
23 ciency or accessibility of the permitting process.

1 **SEC. 5. PERMIT FLEXIBILITY.**

2 (a) SIMILAR ACTIVITIES.—The Secretary concerned
3 shall establish a permit administration protocol that au-
4 thorizes, to the maximum extent practicable, a permittee
5 issued a special recreation permit for a public land unit
6 under section 803(h) of the Federal Lands Recreation En-
7 hancement Act (16 U.S.C. 6802(h)) to engage in a rec-
8 reational activity that is substantially similar to the spe-
9 cific activity authorized under the special recreation per-
10 mit, if the substantially similar recreational activity—

11 (1) is comparable in type, nature, scope, and
12 ecological setting to the specific activity authorized
13 under the special recreation permit;

14 (2) does not result in a greater impact on nat-
15 ural and cultural resources than the authorized ac-
16 tivity; and

17 (3) does not adversely affect any other per-
18 mittee issued a special recreation permit for a public
19 land unit under that subsection.

20 (b) VOLUNTARY RETURN OF SURPLUS SERVICE
21 DAYS.—The Secretary concerned shall establish a pro-
22 gram to allow a permittee issued a special recreation per-
23 mit for a public land unit to voluntarily and temporarily
24 return to the Secretary concerned one or more surplus
25 service days, to be made available to any other existing
26 or potential permittee.

1 (c) FOREST SERVICE AND BUREAU OF LAND MAN-
2 AGEMENT TEMPORARY SPECIAL RECREATION PER-
3 MITS.—

4 (1) IN GENERAL.—Not later than 180 days
5 after the date of enactment of this Act, the Sec-
6 retary concerned shall establish and implement a
7 program to authorize the issuance of temporary spe-
8 cial recreation permits for new or additional rec-
9 reational uses of Federal recreational land and water
10 managed by the Forest Service and the Bureau of
11 Land Management.

12 (2) TERM OF TEMPORARY PERMITS.—A tem-
13 porary special recreation permit issued under para-
14 graph (1) shall be issued for a period of not more
15 than 2 years.

16 (3) CONVERSION TO LONG-TERM PERMIT.—If
17 the Secretary concerned determines that a permittee
18 under paragraph (1) has completed 2 years of satis-
19 factory operation under the permit proposed to be
20 converted, the Secretary may provide for the conver-
21 sion of a temporary special recreation permit issued
22 under paragraph (1) to a long-term special recre-
23 ation permit.

24 (4) EFFECT.—Nothing in this subsection alters
25 or affects the authority of the Secretary to issue a

1 special recreation permit under subsection (h)(1) of
2 section 803 of the Federal Lands Recreation En-
3 hancement Act (16 U.S.C. 6802).

4 **SEC. 6. PERMIT ADMINISTRATION.**

5 (a) PERMIT AVAILABILITY.—

6 (1) NOTIFICATION OF PERMIT AVAILABILITY.—

7 (A) IN GENERAL.—Except as provided in
8 subparagraphs (B) and (C), if the Secretary
9 concerned has determined that the Department
10 of Agriculture or the Department of the Inte-
11 rior, as applicable, is able to issue new special
12 recreation permits to recreation service pro-
13 viders seeking to use a public land unit, the
14 Secretary concerned shall publish that informa-
15 tion on the website of the agency that admin-
16 isters the relevant public land unit.

17 (B) EXCEPTION FOR CERTAIN PERMITS.—

18 With respect to a public land unit managed by
19 the Forest Service or the Bureau of Land Man-
20 agement, subparagraph (A) shall apply only to
21 a long-term special recreation permit for the
22 public land unit.

23 (C) EXCEPTION FOR RENEWALS AND
24 REISSUANCES.—Subparagraph (A) shall not
25 apply to—

1 (i) a renewal or reissuance of an exist-
2 ing special recreation permit; or

3 (ii) a new special recreation permit
4 issued to the purchaser of a recreation
5 service provider that is the holder of an ex-
6 isting special recreation permit.

7 (D) EFFECT.—Nothing in this paragraph
8 creates a prerequisite to the issuance of a spe-
9 cial recreation permit or otherwise limits the
10 authority of the Secretary concerned—

11 (i) to issue a new special recreation
12 permit; or

13 (ii) to add a new or additional use to
14 an existing special recreation permit.

15 (2) UPDATES.—The Secretary concerned shall
16 ensure that information published on the website
17 under this subsection is consistently updated to pro-
18 vide current and correct information to the public.

19 (3) ELECTRONIC MAIL NOTIFICATION.—The
20 Secretary concerned shall—

21 (A) establish a system by which potential
22 special recreation permit applicants may sub-
23 scribe to receive notification of the availability
24 of special recreation permits by electronic mail;
25 and

1 (B) direct employees of the Department of
2 Agriculture or the Department of the Interior,
3 as applicable, to use that system to notify the
4 public of the availability of special recreation
5 permits.

6 (b) PERMIT APPLICATION ACKNOWLEDGMENT.—Not
7 later than 60 days after the date on which the Secretary
8 concerned receives an application for a special recreation
9 permit for a public land unit, the Secretary concerned
10 shall—

11 (1) provide to the applicant notice acknowl-
12 edging receipt of the application; and

13 (2)(A) issue a final decision with respect to the
14 application; or

15 (B) provide to the applicant notice of a pro-
16 jected date for a final decision on the application.

17 **SEC. 7. PERMITS FOR MULTIJURISDICTIONAL TRIPS.**

18 (a) SINGLE JOINT SPECIAL RECREATION PER-
19 MITS.—

20 (1) IN GENERAL.—In the case of a multijuris-
21 dictional trip, the Federal land management agen-
22 cies with jurisdiction over the multijurisdictional trip
23 may offer to the applicant a single joint special
24 recreation permit that authorizes the use of each

1 public land unit under the jurisdiction of those Fed-
2 eral land management agencies.

3 (2) LEAD AGENCY.—In offering a single joint
4 special recreation permit under paragraph (1), the
5 applicable Federal land management agencies shall
6 designate a lead agency for administering the single
7 joint special recreation permit based on the following
8 considerations:

9 (A) The length of the multijurisdictional
10 trip and the relative portions of the multijuris-
11 dictional trip on each public land unit.

12 (B) The congressional or administrative
13 designations that apply to the areas to be used
14 during the multijurisdictional trip and the de-
15 gree to which those designations impose limita-
16 tions on recreational use.

17 (C) The relative ability of the Federal land
18 management agencies with jurisdiction over the
19 multijurisdictional trip to respond to the single
20 joint special recreation permit application in a
21 timely manner.

22 (D) Other relevant administrative consider-
23 ations.

24 (3) APPLICATION.—An applicant desiring to be
25 offered a single joint special recreation permit under

1 paragraph (1) shall submit to the lead agency an ap-
2 plication, as required by the lead agency.

3 (4) OPTION TO APPLY FOR SEPARATE PER-
4 MITS.—An applicant for a special recreation permit
5 for a multijurisdictional trip may apply to each ap-
6 plicable Federal land management agency for a sep-
7 arate permit for the portion of the multijuris-
8 dictional trip on the public land unit managed by
9 each applicable Federal land management agency.

10 (b) REQUIREMENTS.—In issuing a single joint special
11 recreation permit under subsection (a), the lead agency
12 shall—

13 (1) coordinate with each associated agency, con-
14 sistent with the authority of the Secretary concerned
15 under section 330 of the Department of the Interior
16 and Related Agencies Appropriations Act, 2001 (43
17 U.S.C. 1703), to develop and issue 1 joint permit
18 that covers the entirety of the multijurisdictional
19 trip;

20 (2) in processing the joint special recreation
21 permit application, incorporate the findings, inter-
22 ests, and needs of the associated agency;

23 (3) in issuing the joint special recreation per-
24 mit, clearly identify the agencies that have the au-
25 thority to enforce the terms, stipulations, conditions

1 and agreements of the joint special recreation per-
2 mit, as determined under subsection (d); and

3 (4) complete the permitting process within a
4 reasonable timeframe.

5 (c) COST RECOVERY.—The coordination with the as-
6 sociated agency under subsection (b) shall not be subject
7 to cost recovery.

8 (d) ENFORCEMENT AUTHORITY.—

9 (1) DELEGATION OF AUTHORITY TO LEAD
10 AGENCY.—In administering a single joint special
11 recreation permit under subsection (a), the associ-
12 ated agency shall delegate to the lead agency the au-
13 thority—

14 (A) to enforce the terms, stipulations, con-
15 ditions, and agreements of the joint special
16 recreation permit, as may be required by the
17 regulations of the Secretary of the associated
18 agency; and

19 (B) to suspend, terminate, or revoke the
20 joint special recreation permit for—

21 (i) noncompliance with Federal, State,
22 or local laws and regulations;

23 (ii) noncompliance with the terms of
24 the joint special recreation permit; or

1 (iii) failure of the holder of the joint
2 special recreation permit to exercise the
3 privileges granted by the joint special
4 recreation permit.

5 (2) RETENTION OF AUTHORITY BY THE ASSOCI-
6 ATED AGENCY.—The associated agency shall retain
7 the authority to enforce the terms, stipulations, con-
8 ditions, and agreements in the joint special recre-
9 ation permit that apply specifically to the use occur-
10 ring on the public land unit managed by the associ-
11 ated agency.

12 (e) WITHDRAWAL.—

13 (1) IN GENERAL.—The lead agency or an asso-
14 ciated agency may withdraw from a joint special
15 recreation permit at any time.

16 (2) ISSUANCE OF SEPARATE PERMITS.—

17 (A) IN GENERAL.—In the case of a with-
18 drawal by one or more agencies under para-
19 graph (1), if the holder of the joint special
20 recreation permit is in compliance with the re-
21 quirements of the joint special recreation per-
22 mit, the lead agency and each associated agency
23 shall issue to the holder of the joint special
24 recreation permit a new, separate special recre-

1 ation permit for any use occurring on the public
2 land unit managed by the agency.

3 (B) REQUIREMENTS.—A special recreation
4 permit issued under subparagraph (A) shall
5 contain the same or substantially similar terms,
6 conditions, and operating stipulations as the
7 joint special recreation permit from which an
8 agency has withdrawn under paragraph (1).

9 (C) NO NEW APPLICATION.—The holder of
10 a joint special recreation permit from which an
11 agency has withdrawn under paragraph (1)
12 shall not be required to submit a new applica-
13 tion for a separate special recreation permit
14 under subparagraph (A).

15 **SEC. 8. FOREST SERVICE PERMIT USE REVIEWS.**

16 (a) IN GENERAL.—If the Secretary of Agriculture
17 (referred to in this section as the “Secretary”) conducts
18 a special recreation permit use review in renewing a spe-
19 cial recreation permit or adjusting allocations of use in
20 a special recreation permit, the Secretary shall—

21 (1) take into consideration the performance of
22 the special recreation permit holder during the re-
23 viewed period; and

24 (2) if the special recreation permit holder re-
25 ceives a satisfactory performance review, allocate to

1 the special recreation permit holder the highest level
2 of actual annual use during the period under review
3 plus 25 percent of that use, not to exceed the level
4 allocated to the special recreation permit holder on
5 the date on which the special recreation permit was
6 issued.

7 (b) ADDITIONAL CAPACITY.—

8 (1) IN GENERAL.—If additional use capacity is
9 available, the Secretary may, at any time, assign the
10 remaining use to one or more qualified recreation
11 service providers.

12 (2) ASSIGNMENT NOT SUBJECT TO CAP ON
13 USE.—Notwithstanding subsection (a), in assigning
14 additional use capacity under paragraph (1), the
15 Secretary may assign additional use capacity to an
16 existing special recreation permit holder even if that
17 assignment would exceed the amount of use allo-
18 cated to the special recreation permit holder on the
19 date on which the special recreation permit was
20 issued.

21 (c) WAIVER.—The Secretary may waive a special
22 recreation permit use review for any period during which
23 use of the assigned capacity has been prevented by a cir-
24 cumstance beyond the control of the special recreation per-
25 mit holder, such as—

- 1 (1) unfavorable weather;
- 2 (2) fire;
- 3 (3) natural disaster;
- 4 (4) wildlife displacement;
- 5 (5) business interruption;
- 6 (6) insufficient availability of hunting and fish-
- 7 ing licenses; or
- 8 (7) significant seasonal variability or off-peak
- 9 periods within the allocated period of use.

10 (d) APPROVAL OF NON-USE.—

11 (1) IN GENERAL.—In any circumstance for
12 which the holder of a special recreation permit would
13 qualify for a waiver under subsection (c), on request
14 of the holder of the special recreation permit, the
15 Secretary may approve non-use by the holder of the
16 special recreation permit without reducing the num-
17 ber of service days assigned to the special recreation
18 permit.

19 (2) REALLOCATION OF USE.—The Secretary
20 may assign any period of non-use approved under
21 paragraph (1) to another qualified recreation service
22 provider.

23 **SEC. 9. LIABILITY.**

24 (a) IN GENERAL.—To the extent authorized by appli-
25 cable State law, the Secretary concerned shall authorize

1 a permittee issued a special recreation permit for a public
2 land unit under section 803(h) of the Federal Lands
3 Recreation Enhancement Act (16 U.S.C. 6802(h)) to re-
4 quire a client of the permittee to sign a form that—

5 (1) releases the permittee and any agents, em-
6 ployees, and other persons affiliated with the per-
7 mittee from liability for ordinary negligence that
8 arises out of or in connection with the authorized ac-
9 tivities of the permittee;

10 (2) requires the client to indemnify and hold
11 harmless the permittee and any agents, employees,
12 and other persons affiliated with the permittee for
13 any injury or damages the permittee may sustain as
14 a result of any claim other than gross negligence
15 that is caused by or arises out of or in connection
16 with the involvement of the client in the authorized
17 activities of the permittee;

18 (3) releases the United States and any agents,
19 employees, and contractors of the United States
20 from liability for ordinary negligence that arises out
21 of or in connection with the authorized activities of
22 the permittee; and

23 (4) requires the client to indemnify and hold
24 harmless the United States and any agents, employ-
25 ees, and contractors of the United States for any in-

1 jury or damages the United States or any agents,
2 employees, and contractors of the United States may
3 sustain as a result of any claim other than gross
4 negligence that is caused by or arises out of or in
5 connection with the involvement of the client in the
6 authorized activities of the permittee.

7 (b) REQUIREMENTS.—A form under subsection (a)—

8 (1) shall not preclude claims of gross negligence
9 against the permittee;

10 (2) shall not eliminate the obligation of the per-
11 mittee to indemnify the United States unless the
12 permittee is a recreation service provider that meets
13 the requirements of paragraphs (1) and (2) of sub-
14 section (c);

15 (3) shall not affect the ability of the United
16 States to recover as an additional insured under any
17 insurance policy obtained by the permittee in con-
18 nection with the authorized activities of the per-
19 mittee;

20 (4) shall identify the State under the laws of
21 which—

22 (A) the form, including any waiver or re-
23 lease, shall be enforced; and

1 (B) any claim or cause of action, whether
 2 in tort or in contract, relating to or arising out
 3 of the form shall be governed; and

4 (5) may be subject to review and approval by
 5 the Secretary concerned to ensure that the require-
 6 ments of this subsection and subsection (a) are met.

7 (c) INDEMNIFICATION BY GOVERNMENT ENTITIES.—
 8 The Secretary concerned may not require a recreation
 9 service provider to indemnify the United States as a condi-
 10 tion for issuing a special recreation permit for a public
 11 land unit under this Act if—

12 (1) the recreation service provider is prohibited
 13 by State or local law from providing indemnification
 14 to the United States; and

15 (2) the recreation service provider—

16 (A) carries the minimum amount of liabil-
 17 ity insurance coverage required by the issuing
 18 agency for the activities conducted under the
 19 special recreation permit; or

20 (B) is self-insured for the same amount.

21 **SEC. 10. COST RECOVERY REFORM.**

22 (a) REVISION OF REGULATIONS.—

23 (1) IN GENERAL.—Not later than 1 year after
 24 the date of enactment of this Act, the Secretary of
 25 Agriculture shall revise section 251.58 of title 36,

1 Code of Federal Regulations, and the Secretary of
2 the Interior shall revise subsections (e) and (f) of
3 section 2932.31 of title 43, Code of Federal Regula-
4 tions, to be consistent with this section.

5 (2) LIMITATION.—In carrying out paragraph
6 (1), the Secretary of Agriculture and the Secretary
7 of the Interior shall not include anything in the re-
8 vised regulations that would limit the authority of
9 the Secretary concerned to issue or renew special
10 recreation permits.

11 (b) DE MINIMIS EXEMPTION FROM COST RECOV-
12 ERY.—

13 (1) IN GENERAL.—Any regulation promulgated
14 by the Secretary of the Interior or the Secretary of
15 Agriculture to establish fees to recover the costs of
16 processing an application for a special recreation
17 permit or monitoring an authorization under a spe-
18 cial recreation permit shall include an exemption
19 providing that fees may not be recovered for not less
20 than the first 50 hours of work necessary in any 1
21 year to process the application or monitor the au-
22 thorization.

23 (2) MULTIPLE APPLICATIONS.—In situations
24 involving multiple applications for special recreation
25 permits for similar services in the same public land

1 unit or area that, in the aggregate, require more
2 hours to process than are exempt under the regula-
3 tions promulgated under paragraph (1), the Sec-
4 retary of the Interior or the Secretary of Agri-
5 culture, as applicable, shall, regardless of whether
6 the applications are solicited or unsolicited and
7 whether there is competitive interest—

8 (A) determine the share of the aggregate
9 quantity of hours to be allocated to each appli-
10 cation on an equal or prorated basis, as appro-
11 priate; and

12 (B) for each application, apply a separate
13 exemption as specified in the regulations pro-
14 mulgated under paragraph (1) to the share of
15 the aggregate hours allocated to the application.

16 (c) COST REDUCTION.—To the maximum extent
17 practicable, the agency processing an application for a spe-
18 cial recreation permit shall use existing studies and anal-
19 ysis to reduce the quantity of work and costs necessary
20 to process the application.

21 **SEC. 11. EXTENSION OF SPECIAL RECREATION PERMITS.**

22 (a) IN GENERAL.—Subject to subsection (b), if the
23 holder of a long-term special recreation permit makes a
24 timely and sufficient request for renewal of the long-term
25 special recreation permit, the expiration of the permit

1 shall be tolled in accordance with the undesignated matter
2 following section 558(c)(2) of title 5, United States Code,
3 until such time as the request for renewal has been finally
4 determined by the Secretary concerned.

5 (b) LIMITATION.—Any tolling under subsection (a)
6 shall be for a period of not more than 5 years.

7 (c) RESPONSIBILITY OF THE SECRETARY CON-
8 CERNED.—Before allowing the expiration of a permit to
9 be tolled under subsection (a), the Secretary concerned,
10 to the maximum extent practicable, shall complete the re-
11 newal process.

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