

Subcommittee on Federal Lands
Tom McClintock, Chairman
Hearing Memorandum

October 26, 2015

To: All Natural Resources Committee Members

From: Majority Committee Staff, Terry Camp & Gary Schiff, x 6-7736
Subcommittee on Federal Lands

Hearing: Hearing on H.R.____ (Rep. Rob Bishop, R-UT) a discussion draft entitled
“*Federal Lands Recreation Enhancement Modernization Act*” on October 28,
2015 at 10:00 AM, in room 1324 Longworth

H.R.____ (Rep. Rob Bishop, R-UT) a discussion draft entitled “*Federal Lands Recreation Enhancement Modernization Act*”

Summary

H.R.____ (Rep. Rob Bishop, R-UT), a discussion draft entitled “*Federal Lands Recreation Enhancement Modernization Act of 2015*,” extends the authorization of the Federal Lands Recreation Enhancement Act (FLREA), while also improving consistency, accountability and transparency in the collection and expenditure of Federal recreation fees charged by the National Park Service (NPS), Bureau of Land Management (BLM), Fish and Wildlife Service (FWS), Bureau of Reclamation (BOR) and the U.S. Forest Service (USFS). In addition it provides new and innovative ways for the public to enjoy their federal lands.

Invited Witnesses

Ms. Leslie Weldon, Deputy Chief
U.S. Forest Service
Washington, D.C.

Ms. Olivia Ferriter, Deputy Assistant Secretary
Budget, Finance, Performance & Acquisition
National Park Service
U.S. Department of the Interior
Washington, D.C.

Mr. Warren Meyer, President
Recreation Resource Management
Phoenix, Arizona

Mr. Todd Davidson, CEO
Travel Oregon
Salem, Oregon

Mr. John Garder, Director
Budget and Appropriations
National Parks Conservation Association
Washington, D.C.

Background

Recreation fees have been charged on federal lands since 1908. In 1914, the first entrance fee was charged at Mount Rainier. Generally, until 1997 when Congress passed the Recreational Fee Demonstration Program (Fee Demo), revenue from recreation fees was sent to the Treasury. Fee Demo encouraged the agencies to develop and enhance recreational sites by allowing 80% of fee revenue to remain at the site. The program was subsequently extended through December 31, 2004.

As part of the 2005 Omnibus Appropriations Act, Congress passed the Federal Lands Recreation Enhancement Act (FLREA). The new authority attempted to address public concerns about the Fee Demo Program by limiting fees within the BLM and USFS to sites meeting specific criteria.

Since 2014, FLREA has been extended each year in annual appropriations Acts. Visitation on public lands is decreasing. Per capita visitation at National Parks has steadily declined in recent decades.¹ Visitation by youth ages 15 and under decreased by 50% in the past decade.² Some of this may be attributable to a lack of opportunity and inferior visitor service especially compared to other recreational opportunities run by the private sector. Concessionaires, outfitters and other recreation permit holders on federal lands are limited in what they can offer their customers.

Approximately 4,500 BLM, FWS, NPS, and USFS sites collect recreation fees under FLREA.³ Taken together, this amounted to \$278.6 million in recreation receipts in FY14 for the four agencies.⁴ Of these funds, 37% were used for repair and deferred maintenance and 22% were designated for interpretation and visitor services. Since FY05, the amount of available funds has increased by 42% from a starting point of \$196 million.⁵

Major Provisions

- Clarifies that fee revenue must be spent to directly improve a visitor's recreation experience. The bill ensures that 90% of the fees return to the collecting site (in current law, 80% of the funds go back to the site). It also reduces the amount that the agencies can spend on overhead from 15% to 5% and limits direct collection costs to 20% of total revenues.

¹ Watson, Reed. "If You Find Yourself in a Hole..." PERC Reports 34.1 (2015): 5.

² Bergeron, Ryan, and Sean Redlitz. "Does National Park Service Have a Youth Problem? - CNN.com." CNN. March 19, 2015. Accessed July 20, 2015.

³ Hardy Vincent, Carol. "Federal Lands Recreation Enhancement Act: Overview and Issues." CRS Report (March 17, 2015): 1.

⁴ Ibid., 1.

⁵ Ibid., 2.

- Limits how and when BLM and USFS can charge day use fees (formerly standard amenity fees) and ends agencies' ability to charge for large areas with few amenities. Further, to ensure that the agencies do not add unnecessary facilities just to make an area qualify for a fee, the legislation requires that the agency demonstrate that facilities are needed and will be used by the public.
- Allows the development of pilot programs for expanded overnight camping opportunities on federal lands; e.g., providing fully equipped tent trailers and cabin opportunities and correspondingly providing for longer concessionaire permit periods in order to amortize those investments.
- Requires the NPS to develop plans to reduce wait times at entry stations.
- Significantly changes special recreation permits for outfitters and guides by: simplifying and streamlining the process of obtaining a permit through National Environmental Policy Act exclusion for existing activities. Allows agencies to spend permit revenue on issuing new permits. Encourages better stewardship and decrease deferred maintenance by allowing permit holders to perform services (trail or campground maintenance for example) in lieu of their permit fee.
- Provides the Forest Service with the ability to develop a pilot program for cabin rentals in coordination with the National Forest Homeowners Association.
- Requires new or increased fees to be approved by Congress. Also requires the Secretary to develop a standardized entrance and day use fee rate structure for similar types of area.

Cost

Unknown at this time

Administration Position

Unknown. Committee staff have received input from agency staff in the development of many provisions of the Bill.

Section-by-Section Analysis

Title I: Reform of Federal Lands Recreation Enhancement Act

Section 101: Definitions

- Defines terms in the bill

Section 102: Recreation fee authority

- Prohibits the Interior Secretary or the USDA Secretary from charging recreation fees except as authorized by FLREA.
- Requires the Secretary to consider access to recreation opportunities when establishing fees.

- Prohibits fees from being charged for educational outings conditional upon the outing being non-recreational, the students pursuing academic credit, and the Secretary providing prior approval for a fee waiver.
- Requires motorcycles or snowmobiles to be charged the same per-vehicle entrance fees as motor vehicles.
- Requires the appropriate Secretary to determine a nationally consistent entrance fee policy and corresponding rate structure.
- Allows for fees to be charged at NPS units where the Secretary provides a transportation service. Prohibits a combined transportation and entrance fee at an NPS unit from exceeding the entrance fee at other similar units.
- Authorizes the appropriate Secretary to charge day use fees (currently known as standard amenity recreation fees) for lands and waters at a National Conservation Area, a National Volcanic Monument, a destination visitor or interpretive center, and sites of concentrated public use that meet specified criteria.
- Allows a single day use fee to be charged for multiple concentrated public use sites located within one-half mile of each other.
- Requires the Secretary concerned to: (1) publish notice in the Federal Register of any unit newly subject to fees; (2) allow at least 60 days for public comment after publishing information on agency and interagency websites, in local newspapers, at proposed and established collection points, on social media, and in publications distributed near the site; and (3) publish notice of a decision to implement a new or increased fee at least 120 days before implementation.
- Allows for a transition period not to exceed 180 days.
- Designates the specific types of facilities and services for which an amenity fee may be charged at federal recreational lands or waters. Allows additional amenity fees to be charged at NPS or USFWS lands when a visitor uses facilities, equipment, or services that have not been specifically designated.
- Allows the appropriate Secretary to charge fees for special recreation permits issued to service providers and for individual and group use of federal facilities, lands, and waters.
- Allows the Secretary to issue recreation concession permits authorizing a third party to provide facilities and services to visitors on lands and waters managed by the BLM.
- Authorizes special recreation permits to be issued to fee-charging recreation service providers who conduct the following activities on USFS, BLM, BOR, or USFWS lands or waters: (1) outfitting or guiding services; or (2) recreation or competitive events, including incidental sales.

- Provides an exemption from requirements under the National Environmental Policy Act of 1969 for certain new special recreation permits issued for services that: (1) have been considered previously, (2) are similar to existing uses, or (3) are not inconsistent with approved uses.
- Allows issuance of a single permit, administered by one agency, to a service provider or for an event on lands managed by multiple agencies.
- Requires guidelines regarding how recreation permit fees are established to be published in the Federal Register. Requires permit fee deductions to be provided to service providers for revenue from goods, services, or activities provided outside federal lands. Prohibits permit fees for outfitting, guiding, and other recreation services from exceeding 3% of the service provider's annual gross revenue for activities authorized by the permit, subject to applicable additions and exclusions.
- Requires establishment of a stewardship program for recreation service providers at USFS and BLM sites involving credit against permit fees in exchange for the performance of maintenance and resource protection work.
- Requires the Secretary to post clear notice of any fee and available recreation passes at each Federal site.
- Encourages the Secretary to use technology and automation to increase accountability, efficiency, and the convenience of paying recreation fees.
- Requires the Secretaries to establish goals to reduce traffic delays at entrance stations of highly visited units and submit to Congress plans to achieve such goals.
- Requires the Secretaries to submit to Congress no later than June 1 of each year, a list of all new entrance, day use, or amenity fees, as well as all proposed increases to existing entrance, day use, or amenity fees.
- Revises procedures for public participation in the development or changing of recreation fees.
- Requires congressional approval of new or increased entrance, day use, or amenity fees. Exempts special recreation permit fees charges by a third party for providing a good or a service to a visitor.

Section 103: Public participation

- Revises procedures for public participation in the development or changing of recreation fees.
- Authorizes solicitation of public comments at least every other year regarding how revenue should be expended at each unit.

Section 104: Recreation passes

- Restricts availability of the interagency America the Beautiful--the National Parks and Federal Recreational Lands Pass to make the pass available only to U.S. citizens and permanent residents.
- Allows the Secretaries to hold a competition (currently, the Secretaries are required to hold an annual competition) to select the image to be used on the pass.
- Requires the Secretaries to adjust the price of the pass once every three years to reflect the change in the Consumer Price Index for All Urban Consumers.
- Directs the Secretaries to report to Congress regarding how, where, and the extent to which passes are used.
- Requires lifetime passes to be available without charge to veterans with service-connected disabilities and authorizes annual passes without charge to members of the Armed Forces.
- Allows the Secretary to provide a discount to promote youth visitation to Federal recreational lands and waters.
- Requires the Secretaries to specify certain days each year on which the National Parks and Federal Recreational Lands pass will not be accepted to obtain a discount on an amenity fee. (This exception does not apply to Golden Age Passport and Golden Access Passport pass holders).
- Prohibits establishment of unauthorized discount passes.
- Allows the Secretary to provide for one or more free admission days for Federal recreational lands and waters

Section 105: Special account

- Increases the portion of fee revenue that is retained for expenditure at the collection site from 80% to 90%. Requires notification to Congress whenever the collection site's allocation is reduced based on a determination that the revenues exceed the site's needs.

Section 106: Expenditures

- Expands restrictions on expenditures at a specific site to require available amounts to be used for: (1) development and enhancement of existing recreation opportunities, (2) the direct benefit of visitors, and (3) capital construction costs associated with administering the recreation fee program.
- Prohibits fees from being used to limit visitor access, remove or close facilities except for replacement or updates, or acquire lands or waters.

- Reduces fee revenues that may be used for overhead administrative costs from 15% to 5%. Prohibits the Secretary from expending more than 20% of total revenues on direct collection costs.
- Requires the Secretaries to use revenues from special recreation permits issued to recreation to partially offset the Secretary's direct cost of administering the permits, and to stream-line the permitting process.

Section 107: Reporting requirements

- Requires the Secretaries to develop and maintain cost accounting systems to track, manage, and report fee receipts and expenditures at each unit.
- Requires the Secretaries to compile annually by agency and display on each agency's website, as well as the interagency recreational lands website, a separate accounting of: (1) total fee revenues collected by type, (2) expenditures by project, (3) a description of how expenditures benefitted visitors, and (4) any new or changed fees.
- Replaces a requirement for a report to Congress every three years with a requirement to notify Congress annually of the updated accounting information available on those websites.
- Requires regular audits at fee collection units to account for collected funds and expenditures.

Section 108: Sunset provision

- Extends the Secretaries' authorities under FLREA through December 31, 2022.

Section 109: Volunteers

- Allows waivers or discounts of day use or amenity fees in exchange for volunteer services.

Section 110: Enforcement

- Requires any person within a site or area for which an entrance or a day use fee is charged to pay the relevant fee. Exempts passholders or volunteers from those fees.
- Requires a nontransferable receipt of payment for such a fee to remain valid for the person's reentry into the same site or area for at least one day.

Section 111: Conforming amendments to remaining National Park Service admission and use fees authorities under other laws and transition provision

- Allows the Secretaries to continue to collect other recreational fees in existence on the date of the enactment of the Federal Lands Recreation Enhancement Modernization Act for up to 18 months after the date of the enactment of the Act.

Section 112: Additional technical corrections

- Prohibits a concession contract or permit for recreation services from being considered outside the scope of a labor standards exemption because the concessionaire or recreation service provider accepts a recreation pass or provides a discount under FLREA.

Title II: Reform of National Forest Cabin Fees

Section 201: Pilot cabin rental program for National Forest System.

- Authorizes the Secretary of Agriculture to create a pilot cabin rental program.

Title III—Reform of Federal Land Management Agency Concessions Policies

Section 301: Bureau of Land Management recreation concessions authority

- Creates a new authority for BLM concessions.
- Requires the federal government to be compensated monetarily for issuing concession permits at BLM lands, with collected funds to be deposited in and distributed from the special FLREA accounts established in the Treasury for federal land management agencies.

Section 302: Pass and discount acceptance by concessionaires

- Directs the Secretaries to require concessionaires operating federally owned campgrounds and day use facilities to accept recreational passes issued under FLREA or the Land and Water Conservation Fund Act of 1965 to the extent that the appropriate Secretary can reimburse pass discounts to a concessionaire in whole or in part.

Section 303: Pilot concessionaire campground permit program for National Forest System

- Authorizes the Secretary to create a pilot concessionaire campground permit program for enhanced overnight accommodations and associated recreation. Allows the agency the ability to offer concessionaire permits of up to thirty years.

Section 304: Preference for maintaining concessionaire-run facilities as concessionaire run

- Requires the agency to maintain concessionaire-run facilities as concessionaire run if a quality concessionaire is available.

Section 305: Consideration of New Concessions Opportunities

- Encourages the agencies to consider concessionaire management as an option when a new facility is made available.

Section 306: Expansion of concessionaire operating season

- Allows concessionaires to expand the duration of their operating season, based on business considerations instead of adhering strictly to the open and close dates which may be listed in a permit.

Section 307: Pilot program for conversion of federally owned improvements at Forest Service recreation sites to private ownership and operation

- Allows the agency to establish a pilot program to sell existing recreational improvements to a prospective concessionaire; e.g., picnic tables, fire rings, etc.

Effect on Current Law (Ramseyer)