

Subcommittee on Federal Lands

Tom McClintock, Chairman
Hearing Memorandum

November 30, 2016

To: All Subcommittee on Federal Lands Members

From: Majority Committee Staff – Terry Camp
Subcommittee on Federal Lands (x 6-7736)

Hearing: Legislative hearing on H.R. 5129 (Rep. LaMalfa), *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.*
November 30, 2016 at 10:00 AM; 1324 Longworth HOB.

H.R. 5129, “Guides and Outfitters Act” or “GO Act”

Bill Summary

H.R. 5129, introduced by Congressman Doug LaMalfa (R-CA-1), amends the Federal Lands Recreation Enhancement Act to streamline the recreation permitting process and allow for increased public access to recreation opportunities on federal lands. Among other provisions, the bill, 1) authorizes joint permits for trips crossing multiple agency boundaries, 2) caps permit fees, 3) prevents federal agencies from imposing fees on services delivered outside of federal lands, 4) authorizes temporary permits for new uses, 5) allows for the extension of existing permits to prevent interruption of services to the public, 6) authorizes the agencies to streamline permitting processes where appropriate, and 7) provides categorical exclusions for previously studied uses to eliminate duplicative studies that delay permits.

Cosponsors:

Rep. Tom McClintock [R-CA-4], Rep. David Valadao [R-CA-21], Rep. Chris Stewart [R-UT-2], Rep. Mia Love [R-UT-4], Rep. Dan Newhouse [R-WA-4], Rep. Cynthia Lummis [R-WY-At Large].

Invited Witnesses

Panel I

The Honorable Doug LaMalfa (R-CA-1)

Panel II

Mr. Glenn Casamassa
Associate Deputy Chief

U.S. Forest Service
Washington, DC

Dr. Stephanie S. Toothman
Associate Director, Cultural Resources, Partnerships, and Science
National Park Service
Washington, D.C.

Mr. David L. Brown
Executive Director
America Outdoors Association
Knoxville, TN

Mr. Paul Sanford
National Director of Recreation Policy
The Wilderness Society
Washington, D.C.

Background

In 2004, President Bush signed the Federal Lands Recreation Enhancement Act (FLREA).¹ This Act provides the Secretary of the Interior and the Secretary of Agriculture the authority to issue a special recreation permit and charge a special recreation permit fee for specialized uses of federal lands, such as group activities, recreation events, and motor vehicle use. Special recreation and special use permits are issued as a means to manage visitor use, protect natural and cultural resources, minimize recreational use conflicts, provide for the health and safety of visitors, and ensure a fair return to the government for commercial and other uses of public lands. Each year, the U.S. Forest Service (USFS) and Bureau of Land Management (BLM) issue thousands of special recreation and special use permits for events, competitions, and outfitting and guiding on agency-managed lands.

Under FLREA, fees paid to USFS and BLM by permittees, including outfitters and guides, are retained by the agency. Most of the revenue is supposed to be retained at the local site where the fees are collected. For USFS, BLM, and BOR, FLREA authorizes three types of fees: standard amenity fees, expanded amenity fees, and special recreation permits fees, collectively referred to as recreation fees. H.R. 5129 only directs the use of special recreation permit fees to permit administration.

While the permitting and fee retention authority provided by FLREA has been positive in many ways, in the intervening years since FLREA's passage, a flood of complex rules, regulations, and court decisions have gradually increased the cost of permit administration. Both USFS and BLM have responded by writing a "cost recovery" regulation which requires small

¹ Pub. L. 108-447 (16 U.S.C. § 6801 et seq.).

businesses to pay for permit processing and environmental analyses when the time required to complete these processes exceed 50 hours. This cost recovery requirement along with the complex planning requirements have virtually shut down public lands to new permitted uses which require extensive analysis unless they are programmatic.

Unfortunately, a full Environmental Impact Statement or an Environmental Assessment can cost tens of thousands of dollars, well beyond the affordability of many small businesses. Even permit renewals are subject to cost recovery and may total tens of thousands of dollars for a group of permits.

Recognizing issues with the current permitting process, USFS recently announced it would be taking to action to modernize its recreation permitting process. These changes include investing in technology to improve business tools and data that support recreation special uses, and creating an electronic permit application process.² While the USFS should be commended for identifying and taking action to fix some of the problems associated with the current permitting process, there are still other issues that must be addressed.

H.R. 5129, “Guides and Outfitters Act” or “GO Act,” was crafted in consultation with recreation groups throughout the country, and is intended to reduce the cost and complexity for those applying for and renewing special recreation and special use permits.

Section-By-Section

SEC. 1 – Short Title; Table of Contents; Definitions

SEC. 2 – Amends FLREA to authorize special event, individual, outfitter and guide and competitive event permits and fees, and authorizes the use of categorical exclusions for previously studied uses or uses that are similar to those previously authorized provided they are not inconsistent with approved uses.

SEC. 3 - Authorizes land management agencies to issue one joint permit for USFS and BLM managed areas when a trip crosses multiple boundaries, provided that the permit holder will also have the option to apply for individual permits rather than a joint permit.

SEC. 4 – Establishes a basis for permit fees and limits those fees to activities on federal lands; Allows permit holders to publish the fees charged by the agencies; Eliminates fees on activities and services outside public land boundaries.

SEC. 5. – Amends FLREA to authorize the use of permit fees for permit administration.

SEC. 6 - For USFS, amends the basis for reviews of utilization of permitted capacity and allows existing permit holders to volunteer capacity for use by others without incurring a penalty for doing so.

² ["Forest Service Makes It Easier for Visitors to Enjoy National Forests and Grasslands."](#) U.S. Forest Service. USDA Office of Communications, 17 June 2016. Web.

SEC. 7 – Authorizes BLM and USFS to issue temporary permits for new uses for a term not to exceed 2 years.

SEC. 8 – Aligns federal land-managing agencies policies regarding indemnification for state institutions and the use of exculpatory agreements with state law.

SEC. 9 - Requires BLM and USFS to streamline processes for permit issuance and renewal including shortening application processing times and minimizing administrative costs; Authorizes programmatic environmental assessments and categorical exclusions to extent consistent with existing law; Authorizes online applications for permits.

SEC. 10 - Revises BLM and USFS cost recovery regulations to ensure that the current 50-hour credit for work done on a permit applies to each permit authorization.

SEC.11 – Authorizes the extension of existing permits for no more than 5 years to avoid an interruption of services while the agency completes required documentation.

Administration Position

The Administration position on H.R. 5129 is unknown at this time.

Cost

A Congressional Budget Office cost estimate has not yet been completed for this bill.

Effect on Current Law (Ramseyer):

http://naturalresources.house.gov/UploadedFiles/Ramseyer_HR_5129.pdf