

**Statement for the Record
Bureau of Land Management
U.S. Department of the Interior
House Natural Resources Committee
Subcommittee on Federal Lands
H.R. 5129, Guides and Outfitters Act
November 30, 2016**

Thank you for the opportunity to present testimony on H.R. 5129, the Guides and Outfitters Act. H.R. 5129 makes various changes to the administration of the Special Recreation Permit (SRP) programs authorized under the Federal Lands Recreation Enhancement Act (FLREA). SRPs are authorizations that allow for commercial, competitive, and group recreation uses of the public lands and related waters. They are issued as a means to manage visitor use, protect recreational and natural resources, and provide for the health and safety of visitors. The bill would limit the range of recreational activities that may be covered under SRPs; create new multiple jurisdiction permits; and require the Secretary to create a new categorical exclusion under the National Environmental Policy Act (NEPA) for SRP-related activities. It would also modify permit fee calculations and uses; establish temporary permits for new recreational uses; and change the way the Department of the Interior's (Department) bureaus can engage in cost recovery.

While the Department shares the sponsor's goal of enhancing outdoor recreation access, we have concerns with a number of provisions and cannot support the bill as currently written. The Department looks forward to working with the sponsor and the Subcommittee to address these issues as H.R. 5129 moves through the legislative process.

Background

The Department's bureaus manage a total of approximately 20% of the nation's land. Providing access to quality recreation on these lands is one of the Department's primary missions as outlined in its current Strategic Plan, which commits to improving outdoor recreation access and increasing opportunities for public enjoyment of Federal lands and waters.

Every year, over 500 million Americans and travelers from around the world visit our national parks, national forests, wildlife refuges, and public lands to hike, bike, fish, camp, and otherwise enjoy the abundant recreation opportunities offered on our federal lands.

Not only do these visitors take their positive experiences home and benefit from the physical activity that promotes health and quality of life, but recreation is a significant contributor to the national economy and the economies of the communities that surround the lands we manage. In its most recent report, published in 2012, the Outdoor Industry Association stated that recreation activities generate \$646 billion dollars in spending each year and support 6.1 million jobs. The approximately 417 million visits to Department-managed lands in 2012 contributed an estimated \$45 billion in economic output to the surrounding economies through trip-related spending.

The enactment of FLREA in 2004 enabled us to enhance these visits with greater recreation opportunities and services by leveraging recreation fees to implement thousands of projects that directly benefit visitors. In 2014, the Department's bureaus collected over \$230 million in recreation fees to support over 1,000 projects. These projects support public safety and accessibility, maintain recreation sites, provide eye-opening educational experiences, build informational exhibits, fund interpretive programs, and offer a wide range of recreational and cultural opportunities.

Bureau of Land Management

Visitors to public lands managed by the Bureau of Land Management (BLM) enjoy countless types of outdoor adventure such as camping, hunting, fishing, hiking, horseback riding, boating, whitewater rafting, hang-gliding, off-highway vehicle driving, mountain biking, climbing, and all types of winter sports. Visitors also engage in birding and wildlife viewing, photography, and visiting natural and cultural heritage sites.

FLREA has greatly improved the quality of recreational experiences for visitors to public lands and waters managed by the BLM, while boosting local economies and creating employment opportunities for young people, veterans, and many others. During FY 2016, more than 64.5 million recorded visits were made to lands and waters managed by the BLM. Recreation fees collected under FLREA averaged \$18 million a year from 2012 to 2016, enabling the BLM to enhance the visitor services and recreation opportunities available to the public at the sites where the fees are collected. The revenue generated under FLREA comes from certain developed recreation fee sites, recreation permits, and sales of America the Beautiful – Interagency passes.

Recreational experiences are especially important in the growing West, where more than half of BLM-managed public lands are within 25 miles of an urban area. Lands used for recreational activities contribute significantly to local economies. In 2015, the BLM's management of recreation and visitor services supported nearly 44,000 jobs and contributed \$5.9 billion in economic output throughout the country. Currently, the BLM administers over 4,500 SRPs for commercial, competitive, and organized group activities.

Other Interior Bureaus

Recreation fees collected by the U.S. Fish and Wildlife Service (FWS) under FLREA have averaged \$5 million annually for the last 10 years. The majority of revenue collected comes from entrance and expanded amenity fees. SRPs account for less than 5% of total fees collected. The majority of SRP fees collected occur in Alaska for commercial outfitters and guides under provisions of the Alaska National Interest Lands Conservation Act.

Recreation fees collected by the National Park Service (NPS) under FLREA have averaged \$180 million annually for the last 3 years. The majority of revenue collected comes from entrance and expanded amenity fees. SRPs account for less than 1% of total fees collected. The NPS authorizes outfitters and guides and other commercial visitor activities on national park system lands in accordance with the NPS Concessions Management Improvement Act (54 U.S.C. 101911 et seq.).

H.R. 5129

H.R. 5129 makes various changes to the administration of the Special Recreation Permit (SRP) programs authorized under FLREA. The bill limits the range of recreational activities that may be covered under SRPs; creates new multiple jurisdiction permits; and requires the Secretary to create a new categorical exclusion under NEPA for SRP-related activities. The bill also modifies permit fee calculations and uses, establishes temporary permits for new recreational uses, and changes the way the Department's bureaus, particularly BLM, can engage in cost recovery.

Covered Activities & Joint Permits

Section 2 of the bill appears to limit which activities may be covered by SRPs. The Department is concerned that this could restrict the BLM's ability to provide SRPs for certain vendors supporting recreational activities and local economies, and we would like to work with the sponsor and Subcommittee to further refine this language.

Section 3 of H.R. 5129 would create a joint permit for use of lands managed by the BLM and the U.S. Forest Service (USFS) and would establish a new method for designating a lead agency. In addition, Section 3 would allow an applicant to submit a single application for a joint permit or keep the option to apply for separate permits. Finally, this section would prohibit cost recovery for coordination between agencies.

The Department is concerned that enforcing permit terms and conditions across agencies would be challenging because of varying legal obligations arising from each agency's statutory authorities. In addition, the Department opposes limiting cost recovery options available for permits. The Department would like to work with the sponsor and Subcommittee on language ensuring that permit terms and conditions can be enforced across agencies and bureaus have the flexibility for designating lead agencies, and that appropriate cost recovery for agency coordination can occur.

Categorical Exclusions

Section 2 of the bill would require the Secretaries of the Interior and Agriculture to create one or more new categorical exclusions under NEPA for SRPs that have been considered under previous analysis, are similar to existing uses, or are not inconsistent with approved uses. While the use of categorical exclusions could be warranted in some circumstances, the Department has concerns with the broad scope of the authority granted by this section.

Calculation & Use of Fees

Section 4 of the bill creates deductions from the SRP fee charged by an agency. This section also sets fee conditions for SRPs, including capping fees to not more than 3 percent of the recreational service provider's annual gross revenue for activities authorized by the permit. The Department is concerned that this language would prevent its bureaus from charging a flat fee for events where an equivalent fee to 3 percent of the gross is very difficult to determine. The Department notes that many permittees appreciate this simple formula and reporting requirements in such circumstances.

Section 5 of H.R. 5129 directs that revenues received from SRPs be used to partially offset the Secretary's direct cost of administering the permits and to improve and streamline the existing

permitting process. The Department supports finding ways to continually improve the permitting process but opposes restricting fee revenue expenditures solely to offset costs of the permitting process. The fees collected are currently used for administration of the permit and for improving recreation opportunities for the public, which includes infrastructure and facility maintenance and improvements.

Temporary Permits

Section 7 of the bill would require the Secretaries of the Interior and Agriculture to establish a new program to authorize temporary permits for new recreational uses. The bill also requires that the temporary permits be converted automatically to long-term permits after two years of satisfactory performance. The Department supports the goal of encouraging greater recreational use of federal lands but would like to work with the sponsor on language ensuring that this new program would not result in duplication of existing agency efforts, be inconsistent with approved or pending land use plans, or limit agency discretion.

Cost Recovery Modification

Section 10 requires the Secretary of the Interior and the Secretary of Agriculture to amend the cost recovery process for issuing and renewing SRPs. This section would exempt the first 50 hours of work from cost recovery in issuing SRPs and would also apply to monitoring fees on an annual basis during the term of the permit. Under the bill, the exemption would be applied to multiple permit applications for similar services in the same area. The agencies would be required to determine the share of the aggregate amount to be allocated to each application on an equal or prorated basis. The Department opposes exempting the first 50 hours of work when the total number of hours exceeds 50 hours. Limiting full cost recovery on larger, more complex applications would prevent the effective administration of the recreation permits.

Additionally, Section 10 would prohibit the Secretary of the Interior and the Secretary of Agriculture from recovering costs incurred from consultation under the Endangered Species Act (ESA) on SRPs. This section would also prohibit cost recovery for biological monitoring conducted under SRPs. The Department opposes this provision, as limiting recovery of costs for ESA consultations would create a significant drain on the Department's ability to process permits. The Department also objects to the provision allowing for the waiver of cost recovery on a case-by-case basis without any criteria for such a waiver. Such a provision could create an incentive for applicants to try to avoid the payment of costs for the permitting process or the appearance of arbitrary or unfair treatment of various applicants. Either result could undermine the Department's ability to fairly and efficiently administer the program.

Conclusion

Thank you for this opportunity to present testimony on H.R. 5129. The Department thanks the sponsor and the Subcommittee for their dedication to this issue, and we look forward to continuing to work with the sponsor on this bill.