

117TH CONGRESS
1ST SESSION

S. 1229

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

APRIL 20, 2021

Mr. HEINRICH (for himself, Mrs. CAPITO, Mr. DAINES, Mr. RISCH, Ms. CORTEZ MASTO, Mr. CRAPO, Mr. KING, Ms. COLLINS, Mr. WYDEN, Mrs. MURRAY, Ms. SINEMA, Mr. BENNET, Mr. TESTER, Mr. ROUNDS, and Mr. BURR) 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—

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

1 (B) is under the jurisdiction of 2 or more
2 Federal land management agencies.

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

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

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

7 (C) a unit of the National Wildlife Refuge
8 System;

9 (D) a district of the Bureau of Land Man-
10 agement; and

11 (E) a project of the Bureau of Reclama-
12 tion.

13 (7) RECREATION SERVICE PROVIDER.—The
14 term “recreation service provider” has the meaning
15 given the term in section 802 of the Federal Lands
16 Recreation Enhancement Act (16 U.S.C. 6801).

17 (8) SECRETARY CONCERNED.—The term “Sec-
18 retary concerned” means—

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

22 (B) the Secretary of the Interior, with re-
23 spect to a public land unit described in sub-
24 paragraph (B), (C), (D), or (E) of paragraph
25 (6).

1 (9) SPECIAL RECREATION PERMIT.—The term
 2 “special recreation permit” has the meaning given
 3 the term in section 802 of the Federal Lands Recre-
 4 ation Enhancement Act (16 U.S.C. 6801).

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

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

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

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

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

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

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

19 (6) in paragraph (13), by striking “section
 20 3(h)” and inserting “section 803(h)”;

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

1 (8) by inserting after paragraph (8) (as so re-
2 designated) the following:

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

6 “(A) provides outfitting, guiding, or other
7 recreation services; or

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

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

12 “(13) SPECIAL RECREATION PERMIT.—The
13 term ‘special recreation permit’ means a permit
14 issued by a Federal land management agency for
15 specialized individual or group uses of Federal rec-
16 reational lands and waters, including—

17 “(A) for outfitting, guiding, or other recre-
18 ation services;

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

21 “(C) for the use of—

22 “(i) a special area; or

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

1 “(D) for motorized recreational vehicle use
 2 in compliance with an applicable travel manage-
 3 ment plan or other regulation; and

4 “(E) for a group activity or event.”.

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

8 (1) in subsection (b)(5), by striking “section
 9 4(d)” and inserting “section 804(d)”; and

10 (2) by striking subsection (h) and inserting the
 11 following:

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

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

17 “(2) SPECIAL RECREATION PERMIT FEE.—

18 “(A) IN GENERAL.—The Secretary may
 19 charge a special recreation permit fee in con-
 20 nection with the issuance of a special recreation
 21 permit under paragraph (1).

22 “(B) FEES FOR CERTAIN LANDS.—

23 “(i) IN GENERAL.—Subject to clauses
 24 (ii) and (iii), a special recreation permit fee
 25 under subparagraph (A) for use of Federal

1 recreational lands and waters managed by
 2 the Forest Service, the Bureau of Land
 3 Management, the Bureau of Reclamation,
 4 or the United States Fish and Wildlife
 5 Service shall not exceed the difference be-
 6 tween—

7 “(I) the sum of—

8 “(aa) 3 percent of the an-
 9 nual gross revenue of the recre-
 10 ation service provider for all ac-
 11 tivities authorized by the special
 12 recreation permit; and

13 “(bb) any applicable revenue
 14 addition; and

15 “(II) any applicable revenue ex-
 16 clusion.

17 “(ii) EXCLUSION OF CERTAIN REVE-
 18 NUES AND PAYMENTS.—In calculating the
 19 amount of a fee for a special recreation
 20 permit under clause (i), the Secretary shall
 21 exclude—

22 “(I) revenue from goods, services,
 23 souvenirs, merchandise, gear, food,
 24 and activities provided or sold by a
 25 special recreation permit holder in a

location other than the Federal recreational lands and waters covered by the permit, including transportation costs, lodging, and any other service before or after a trip; and

“(II) revenue from any recreational services provided by a special recreation permit holder for activities on Federal recreational lands and waters for which a separate permit is issued.

“(iii) ALTERNATIVE PER-PERSON FEE.—

“(I) IN GENERAL.—For Federal recreational lands and waters managed by the Forest Service, the Bureau of Land Management, the Bureau of Reclamation, or the United States Fish and Wildlife Service, the Secretary may charge a per-person fee in connection with the issuance of a special recreation permit under paragraph (1).

“(II) AMOUNT OF FEE.—The total amount charged by the Secretary

1 in connection with the issuance of a
2 special recreation permit under para-
3 graph (1) using a per-person fee
4 under subclause (I) shall be com-
5 parable to the amount the Secretary
6 may charge for a special recreation
7 permit fee under subparagraph (A)
8 and clauses (i) and (ii).

9 “(iv) EFFECT.—Nothing in this sub-
10 paragraph affects any fee for a commercial
11 use authorization for use of Federal rec-
12 reational lands and waters managed by the
13 National Park Service.

14 “(C) DISCLOSURE OF FEES.—A special
15 recreation permit holder may inform customers
16 of any fee charged by the Secretary under this
17 section.

18 “(3) REPORTS.—

19 “(A) IN GENERAL.—The Secretary shall
20 make available to holders of special recreation
21 permits under paragraph (1) and the public an
22 annual report describing the use of fees col-
23 lected by the Secretary under paragraph (2).

24 “(B) REQUIREMENTS.—The report under
25 subparagraph (A) shall include a description of

1 how the fees are used in each public land unit
 2 (as defined in section 2 of the SOAR Act) ad-
 3 ministered by the Secretary, including an iden-
 4 tification of the amounts used for specific ac-
 5 tivities within the public land unit.”.

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

9 (1) in subsection (a)(3)(F), by striking “section
 10 6(a)” and inserting “section 806(a)”;

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

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

15 (4) by inserting after subsection (a) the fol-
 16 lowing:

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

20 “(1) the purposes described in subsection (a);
 21 and

22 “(2) expenses—

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

1 “(B) incurred in the improvement of the
2 operation of the special recreation permit sys-
3 tem.”.

4 (d) PERMANENT AUTHORIZATION.—Section 810 of
5 the Federal Lands Recreation Enhancement Act (16
6 U.S.C. 6809) is amended—

7 (1) by striking “The authority” and inserting
8 the following:

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

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

12 “(b) APPLICABILITY.—Subsection (a) shall not apply
13 to—

14 “(1) section 802;

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

16 “(3) subsection (a), (b), or (c) of section 808.”.

17 **SEC. 4. PERMITTING PROCESS IMPROVEMENTS.**

18 (a) IN GENERAL.—To simplify the process of the
19 issuance and renewal of special recreation permits and re-
20 duce the cost of administering special recreation permits,
21 the Secretary concerned shall—

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

24 (A) evaluate the special recreation permit-
25 ting process; and

1 (B) identify opportunities—

2 (i) to eliminate duplicative processes;

3 (ii) to reduce costs; and

4 (iii) to decrease processing times; and

5 (2) not later than 180 days after the date on
6 which the Secretary concerned completes the evalua-
7 tion and identification processes under paragraph
8 (1), revise, as necessary, relevant agency regulations
9 and policy statements to implement the improve-
10 ments identified under paragraph (1)(B).

11 (b) CATEGORICAL EXCLUSIONS.—

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

15 (A) evaluate whether 1 or more additional
16 categorical exclusions developed in compliance
17 with the National Environmental Policy Act of
18 1969 (42 U.S.C. 4321 et seq.) would reduce
19 processing times or costs for the issuance or re-
20 newal of special recreation permits without sig-
21 nificantly affecting the human environment;
22 and

23 (B) if the Secretary concerned determines
24 under subparagraph (A) that 1 or more addi-
25 tional categorical exclusions would reduce proc-

1 essing times or costs for the issuance or re-
2 newal of special recreation permits without sig-
3 nificantly affecting the human environment—

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

8 (ii) fully document that a category of
9 actions will not individually or cumulatively
10 have a significant effect on the human en-
11 vironment; and

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

15 (2) ADMINISTRATION.—

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

22 (B) EXTRAORDINARY CIRCUMSTANCES.—
23 In determining whether to use a categorical ex-
24 clusion established under paragraph (1)(B), the
25 Secretary concerned shall apply, as applicable,

1 the extraordinary circumstances procedures de-
2 scribed in—

3 (i) section 220.6 of title 36, Code of
4 Federal Regulations (or a successor regula-
5 tion); or

6 (ii) section 46.215 of title 43, Code of
7 Federal Regulations (or a successor regula-
8 tion).

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

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

22 **SEC. 5. PERMIT FLEXIBILITY.**

23 (a) SIMILAR ACTIVITIES.—The Secretary concerned
24 shall establish a permit administration protocol that au-
25 thorizes, to the maximum extent practicable, a permittee

1 issued a special recreation permit for a public land unit
2 under section 803(h) of the Federal Lands Recreation En-
3 hancement Act (16 U.S.C. 6802(h)) to engage in a rec-
4 reational activity that is substantially similar to the spe-
5 cific activity authorized under the special recreation per-
6 mit, if the substantially similar recreational activity—

7 (1) is comparable in type, nature, scope, and
8 ecological setting to the specific activity authorized
9 under the special recreation permit;

10 (2) does not result in a greater impact on nat-
11 ural and cultural resources than the authorized ac-
12 tivity;

13 (3) does not adversely affect any other per-
14 mittee issued a special recreation permit for a public
15 land unit under that section;

16 (4) does not involve the use of a motor, includ-
17 ing an electric motor, for a previously nonmotorized
18 use; and

19 (5) is consistent with any laws (including regu-
20 lations) and land use or management plans applying
21 to a public land unit.

22 (b) VOLUNTARY RETURN OF SURPLUS SERVICE
23 DAYS.—The Secretary concerned shall establish a pro-
24 gram to allow a permittee issued a special recreation per-
25 mit for a public land unit to voluntarily and temporarily

1 return to the Secretary concerned 1 or more surplus serv-
2 ice days, to be made available to any other existing or po-
3 tential permittee.

4 (c) FOREST SERVICE AND BUREAU OF LAND MAN-
5 AGEMENT TEMPORARY SPECIAL RECREATION PER-
6 MITS.—

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

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

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

1 under paragraph (1) to a long-term special recre-
 2 ation permit.

3 (4) EFFECT.—Nothing in this subsection alters
 4 or affects the authority of the Secretary to issue a
 5 special recreation permit under subsection (h)(1) of
 6 section 803 of the Federal Lands Recreation En-
 7 hancement Act (16 U.S.C. 6802).

8 **SEC. 6. PERMIT ADMINISTRATION.**

9 (a) PERMIT AVAILABILITY.—

10 (1) NOTIFICATION OF PERMIT AVAILABILITY.—

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

21 (B) EXCEPTION FOR CERTAIN PERMITS.—

22 With respect to a public land unit managed by
 23 the Forest Service or the Bureau of Land Man-
 24 agement, subparagraph (A) shall apply only to

1 a long-term special recreation permit for the
2 public land unit.

3 (C) EXCEPTION FOR RENEWALS AND
4 REISSUANCES.—Subparagraph (A) shall not
5 apply to—

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

8 (ii) a new special recreation permit
9 issued to the purchaser of a recreation
10 service provider that is the holder of an ex-
11 isting special recreation permit.

12 (D) EFFECT.—Nothing in this paragraph
13 creates a prerequisite to the issuance of a spe-
14 cial recreation permit or otherwise limits the
15 authority of the Secretary concerned—

16 (i) to issue a new special recreation
17 permit;

18 (ii) to add a new or additional use to
19 an existing special recreation permit; or

20 (iii) to make special recreation per-
21 mits available to members of the public.

22 (2) UPDATES.—The Secretary concerned shall
23 ensure that information published on the website
24 under this subsection is consistently updated to pro-
25 vide current and correct information to the public.

1 (3) ELECTRONIC MAIL NOTIFICATION.—The
2 Secretary concerned shall—

3 (A) establish a system by which potential
4 special recreation permit applicants may sub-
5 scribe to receive notification of the availability
6 of special recreation permits by electronic mail;
7 and

8 (B) direct employees of the Department of
9 Agriculture or the Department of the Interior,
10 as applicable, to use that system to notify the
11 public of the availability of special recreation
12 permits.

13 (b) PERMIT APPLICATION ACKNOWLEDGMENT.—Not
14 later than 60 days after the date on which the Secretary
15 of the Interior receives a completed application or the Sec-
16 retary of Agriculture receives a complete proposal for a
17 special recreation permit for a public land unit, the Sec-
18 retary concerned shall—

19 (1) provide to the applicant notice acknowl-
20 edging receipt of the application or proposal; and

21 (2)(A) issue a final decision with respect to the
22 application or proposal; or

23 (B) provide to the applicant notice of a pro-
24 jected date for a final decision on the application or
25 proposal.

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

2 (a) SINGLE JOINT SPECIAL RECREATION PER-
3 MITS.—

4 (1) IN GENERAL.—In the case of a multijuris-
5 dictional trip, the Federal land management agen-
6 cies with jurisdiction over the multijurisdictional trip
7 may offer to the applicant a single joint special
8 recreation permit that authorizes the use of each
9 public land unit under the jurisdiction of those Fed-
10 eral land management agencies.

11 (2) LEAD AGENCY.—In offering a single joint
12 special recreation permit under paragraph (1), the
13 applicable Federal land management agencies shall
14 designate a lead agency for administering the single
15 joint special recreation permit based on the following
16 considerations:

17 (A) The length of the multijurisdictional
18 trip and the relative portions of the multijuris-
19 dictional trip on each public land unit.

20 (B) The congressional or administrative
21 designations that apply to the areas to be used
22 during the multijurisdictional trip and the de-
23 gree to which those designations impose limita-
24 tions on recreational use.

25 (C) The relative ability of the Federal land
26 management agencies with jurisdiction over the

1 multijurisdictional trip to respond to the single
2 joint special recreation permit application in a
3 timely manner.

4 (D) Other relevant administrative consider-
5 ations.

6 (3) APPLICATION.—An applicant desiring to be
7 offered a single joint special recreation permit under
8 paragraph (1) shall submit to the lead agency an ap-
9 plication, as required by the lead agency.

10 (4) OPTION TO APPLY FOR SEPARATE PER-
11 MITS.—An applicant for a special recreation permit
12 for a multijurisdictional trip may apply to each ap-
13 plicable Federal land management agency for a sep-
14 arate permit for the portion of the multijuris-
15 dictional trip on the public land unit managed by
16 each applicable Federal land management agency.

17 (5) PROHIBITIONS.—Nothing in this section al-
18 lows an activity that would otherwise be prohibited
19 on the public land unit at which the activity would
20 take place.

21 (b) REQUIREMENTS.—In issuing a single joint special
22 recreation permit under subsection (a), the lead agency
23 shall—

24 (1) coordinate with each associated agency, con-
25 sistent with the authority of the Secretary concerned

1 under section 330 of the Department of the Interior
2 and Related Agencies Appropriations Act, 2001 (43
3 U.S.C. 1703), to develop and issue 1 joint permit
4 that covers the entirety of the multijurisdictional
5 trip;

6 (2) in processing the joint special recreation
7 permit application, incorporate the findings, inter-
8 ests, and needs of the associated agency;

9 (3) in issuing the joint special recreation per-
10 mit, clearly identify the agencies that have the au-
11 thority to enforce the terms, stipulations, conditions
12 and agreements of the joint special recreation per-
13 mit, as determined under subsection (d); and

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

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

19 (d) ENFORCEMENT AUTHORITY.—

20 (1) DELEGATION OF AUTHORITY TO LEAD
21 AGENCY.—In administering a single joint special
22 recreation permit under subsection (a), the associ-
23 ated agency shall delegate to the lead agency the au-
24 thority—

1 (A) to enforce the terms, stipulations, con-
 2 ditions, and agreements of the joint special
 3 recreation permit, as may be required by the
 4 regulations of the Secretary of the associated
 5 agency; and

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

8 (i) noncompliance with Federal, State,
 9 or local laws and regulations;

10 (ii) noncompliance with the terms of
 11 the joint special recreation permit; or

12 (iii) failure of the holder of the joint
 13 special recreation permit to exercise the
 14 privileges granted by the joint special
 15 recreation permit.

16 (2) RETENTION OF AUTHORITY BY THE ASSOCI-
 17 ATED AGENCY.—The associated agency shall retain
 18 the authority to enforce the terms, stipulations, con-
 19 ditions, and agreements in the joint special recre-
 20 ation permit that apply specifically to the use occur-
 21 ring on the public land unit managed by the associ-
 22 ated agency.

23 (e) WITHDRAWAL.—

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

4 (2) ISSUANCE OF SEPARATE PERMITS.—

5 (A) IN GENERAL.—In the case of a with-
6 drawal by 1 or more agencies under paragraph
7 (1), if the holder of the joint special recreation
8 permit is in compliance with the requirements
9 of the joint special recreation permit, the lead
10 agency and each associated agency shall issue
11 to the holder of the joint special recreation per-
12 mit a new, separate special recreation permit
13 for any use occurring on the public land unit
14 managed by the agency.

15 (B) REQUIREMENTS.—A special recreation
16 permit issued under subparagraph (A) shall
17 contain the same or substantially similar terms,
18 conditions, and operating stipulations as the
19 joint special recreation permit from which an
20 agency has withdrawn under paragraph (1).

21 (C) NO NEW APPLICATION.—The holder of
22 a joint special recreation permit from which an
23 agency has withdrawn under paragraph (1)
24 shall not be required to submit a new applica-

1 tion for a separate special recreation permit
2 under subparagraph (A).

3 (f) TREATMENT OF PUBLIC LAND UNITS CHARGING
4 ENTRANCE FEES.—For any trip that originates on, or
5 outside of, but passes through, a public land unit that
6 charges entrance fees, entrance fees may be collected in
7 addition to the special recreation permit fees (as defined
8 in section 802 of the Federal Lands Recreation Enhance-
9 ment Act (16 U.S.C. 6801)).

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

11 (a) IN GENERAL.—If the Secretary of Agriculture
12 (referred to in this section as the “Secretary”) conducts
13 a special recreation permit use review in renewing a spe-
14 cial recreation permit or adjusting allocations of use in
15 a special recreation permit, the Secretary shall—

16 (1) take into consideration the performance of
17 the special recreation permit holder during the re-
18 viewed period; and

19 (2) if the special recreation permit holder re-
20 ceives a satisfactory performance review, allocate to
21 the special recreation permit holder the highest level
22 of actual annual use during the period under review
23 plus 25 percent of that use, not to exceed the level
24 allocated to the special recreation permit holder on

1 the date on which the special recreation permit was
2 issued.

3 (b) ADDITIONAL CAPACITY.—

4 (1) IN GENERAL.—If additional use capacity is
5 available, the Secretary may, at any time, assign ad-
6 ditional use capacity to 1 or more qualified recre-
7 ation service providers.

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

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

- 22 (1) unfavorable weather;
- 23 (2) fire;
- 24 (3) natural disaster;
- 25 (4) wildlife displacement;

1 (5) business interruption;

2 (6) insufficient availability of hunting and fish-
3 ing licenses; or

4 (7) significant seasonal variability or off-peak
5 periods within the allocated period of use.

6 (d) APPROVAL OF NON-USE.—

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

15 (2) TEMPORARY REASSIGNMENT OF USE.—The
16 Secretary may temporarily assign any period of non-
17 use approved under paragraph (1) to any other ex-
18 isting or potential permittee.

19 **SEC. 9. LIABILITY.**

20 (a) EXCULPATORY AGREEMENTS.—

21 (1) IN GENERAL.—A Federal land management
22 agency shall not implement, administer, or enforce
23 any regulation, guidance, or policy regarding the use
24 of an exculpatory agreement between a special recre-
25 ation permit holder and a customer of the special

1 recreation permit holder relating to services provided
 2 under a special recreation permit.

3 (2) SAVINGS CLAUSE.—Nothing in this sub-
 4 section preempts, displaces, modifies, or eliminates
 5 any State law (including common law) regarding ex-
 6 culpatory agreements.

7 (b) INDEMNIFICATION BY GOVERNMENT ENTI-
 8 TIES.—The Secretary concerned may not require a recre-
 9 ation service provider to indemnify the United States as
 10 a condition for issuing a special recreation permit for a
 11 public land unit under section 803(h) of the Federal
 12 Lands Recreation Enhancement Act (16 U.S.C. 6802(h))
 13 if—

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

17 (2) the recreation service provider—

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

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

23 **SEC. 10. COST RECOVERY REFORM.**

24 (a) REVISION OF REGULATIONS.—

1 (1) IN GENERAL.—Not later than 1 year after
2 the date of enactment of this Act, the Secretary of
3 Agriculture shall revise section 251.58 of title 36,
4 Code of Federal Regulations, and the Secretary of
5 the Interior shall revise subsections (e) and (f) of
6 section 2932.31 of title 43, Code of Federal Regula-
7 tions, to be consistent with this section.

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

14 (b) DE MINIMIS EXEMPTION FROM COST RECOV-
15 ERY.—

16 (1) IN GENERAL.—Any regulation promulgated
17 by the Secretary of the Interior or the Secretary of
18 Agriculture to establish fees to recover the costs of
19 processing an application for a special recreation
20 permit issued by the Forest Service or the Bureau
21 of Land Management, or for monitoring an author-
22 ization under a special recreation permit issued by
23 the Forest Service or the Bureau of Land Manage-
24 ment, shall include an exemption providing that fees
25 may not be recovered for not less than the first 50

1 hours of work necessary in any 1 year to process the
2 application or monitor the authorization.

3 (2) MULTIPLE APPLICATIONS.—In situations
4 involving multiple applications for special recreation
5 permits issued by the Forest Service or the Bureau
6 of Land Management for similar services in the
7 same public land unit or area that, in the aggregate,
8 require more hours to process than are exempt
9 under the regulations promulgated under paragraph
10 (1), the Secretary concerned shall, regardless of
11 whether the applications are solicited or unsolicited
12 and whether there is competitive interest—

13 (A) determine the share of the aggregate
14 quantity of hours to be allocated to each appli-
15 cation on an equal or prorated basis, as appro-
16 priate; and

17 (B) for each application, apply a separate
18 exemption as specified in the regulations pro-
19 mulgated under paragraph (1) to the share of
20 the aggregate hours allocated to the application.

21 (c) COST REDUCTION.—To the maximum extent
22 practicable, the agency processing an application for a spe-
23 cial recreation permit shall use existing studies and anal-
24 ysis to reduce the quantity of work and costs necessary
25 to process the application.

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

2 (a) IN GENERAL.—Subject to subsection (b), if the
3 holder of a long-term special recreation permit makes a
4 timely and sufficient request for renewal of the long-term
5 special recreation permit, the expiration of the permit
6 shall be tolled in accordance with the undesignated matter
7 following section 558(c)(2) of title 5, United States Code,
8 until such time as the request for renewal has been finally
9 determined by the Secretary concerned.

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

12 (c) RESPONSIBILITY OF THE SECRETARY CON-
13 CERNED.—Before allowing the expiration of a permit to
14 be tolled under subsection (a), the Secretary concerned,
15 to the maximum extent practicable, shall complete the re-
16 newal process.

17 **SEC. 12. EFFECT.**

18 (a) IN GENERAL.—Except as provided in subsection
19 (b), nothing in this Act (including an amendment made
20 by this Act) affects the authority or responsibility of the
21 Secretary of the Interior to award concessions contracts
22 for the provision of accommodations, facilities, and serv-
23 ices, or commercial use authorizations to provide services,
24 to visitors to units of the National Park System under
25 subchapter II of chapter 1019 of title 54, United States
26 Code.

1 (b) EXCEPTION.—Notwithstanding subsection (a),
2 subsections (a), (b), and (d) of section 4, subsections (a)
3 and (b) of section 5, and sections 7 and 9 shall apply to
4 commercial use authorizations under subchapter II of
5 chapter 1019 of title 54, United States Code.

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