

United Four Wheel Drive Associations

December, 2004

Summary of the “Federal Lands Recreation Enhancement Act” – a 10-year authorization from Congress allowing federal agencies to charge recreation fees for use of some federally managed areas.

Bill Summary

A) Amount of Fees: Amount of fee has to be commensurate with the benefits and services provided considering comparable fees charged elsewhere by other public agencies or by nearby private sector with input from the Recreation Resource Advisory Committee (RRAC).

BLM (Bureau of Land Management), USFS (U.S. Forest Service), and USBR (U.S. Bureau of Reclamation) can NOT charge a fee for

- * Parking
- * Picknicking along roads or trails
- * General access (unless specifically authorized to do so within this bill)
- * Dispersed areas with low or no investment (unless specifically authorized to do so within this bill)
- * For persons who are simply passing through federal lands without using the facilities or services
- * For camping at undeveloped sites
- * For use of overlooks or scenic pullouts
- * For travel by private, noncommercial vehicle over any road or highway (Maintenance Level 3-5 only for USFS) commonly used by the public as a means of getting between two places either or both of which are outside an area at which a rec. fee is charged
- * For travel by private, noncommercial vehicle, boat or aircraft to any land where the person has a property right if such land is within any fee area.
- * For any person that has a right of access for hunting or fishing privileges under a specific law or treaty
- * For any person conducting official federal, state, tribal, or local government business
- * For special attention or extra services necessary to meet the needs of the disabled.

No agency may charge a fee for:

- * A person under 16
- * outings conducted for noncommercial educational purposes by schools or academic institutions.
- * The USS Arizona Memorial and other national memorials listed in the act
- * Entrance on other routes into Great Smoky National Park unless fees are charged for entrance into that park on main highways.
- * Entrance on units of the NPS (National Park Service) containing deed restrictions on charging fees
- * Areas covered under the ANILCA (Alaska National Interest Lands Conservation Act) (except Denali National Park and Preserve)
- * A unit of the National Wildlife Refuge System created under ANILCA.
- * Any person visiting a unit under the jurisdiction of the FWS (U.S. Fish and Wildlife Service) that has a valid migratory bird hunting and conservation stamp issued under the Duck Stamp Act.
- * Any person engaged in a nonrecreational activity authorized under a valid permit (including grazing permit)

B) Types of Fees

ENTRANCE fee: Entrance fees can only be charged by the Secy. (Secretary) of Interior for units of the NPS and the National Wildlife Refuge System.

STANDARD AMENITY fee – can be charged by BLM, USFS, and USBR only and only at the following:

- * National Conservation Area
- * National Volcanic Monument
- * Interpretive centers
- * Or an area that:

- Provides significant opportunities for outdoor recreation
- Has substantial federal investments
- Where fees can be efficiently collected AND
- That contains all of the following amenities: designated developed parking; permanent toilet facility; a permanent trash receptacle; interpretive sign, exhibit, or kiosk; picnic tables; and security services.

EXPANDED AMENITY fee -

NPS and FWS can charge an Expanded Amenity fee (by itself or in addition to an entrance fee) if the Secy. determines that visitor uses a specific or specialized facility, equipment, or service.

BLM, USFS, and USBR can charge an Expanded Amenity fee (by itself or in addition to a Standard Amenity fee) only for the following services:

- * Use of developed campgrounds that provide at least 5 of the following: tent or trailer spaces; picnic tables; drinking water; access roads; collection of the fee by agency employees or agents; reasonable visitor protection; refuse containers; toilet facilities; and simple devices for containing a campfire.
- * Use of highly developed boat launches with specialized facilities or services (mechanical or hydraulic boat lifts; multi-lane paved ramps; paved parking; restrooms; boarding floats, loading ramps or fish cleaning stations)
- * Rental of cabins boats, stock animals, lookouts, historic structures, group day-use or overnight sites, audio tour devices, portable sanitation devices, binoculars or other equipment.
- * Use of hookups for electricity, cable, or sewer.
- * Use of sanitary dump stations
- * Participation in an enhanced interpretive program or special tour
- * Use of reservation services
- * Use of transportation services
- * Use of areas where agency staff's emergency medical or first-aid services
- * Use of developed swimming sites that provide at least 4 of the following: bathhouse with showers and flush toilets; refuse containers; picnic areas; paved parking; attendants, including lifeguards; floats encompassing the swimming area; swimming deck.

SPECIAL PERMIT fee – Secy. may issue a special recreation permit and charge a special recreation permit fee for specialized recreation uses of federal lands such as group activities, recreation events, motorized recreational vehicle use.

C) Recreation Resource Advisory Committee (RRAC)

Bill requires each Secy. to establish a RRAC for each State or Region for federal recreation lands managed by the USFS or BLM.

The RRAC is comprised of 11 members.

- 5 – Recreation users: 1 motorized winter, 1 non-motorized winter, 1 motorized summer, 1 non-motorized summer, 1 hunting and fishing
- 3 – Interest Groups: 1 motorized outfitter and guide, 1 non-motorized outfitter and guide, 1 local environmental group
- 3 – Government interests: 1 state tourism official, 1 Indian tribe representative, 1 local government interest

8 of the 11 members must be present to make a quorum. A quorum must be present for the committee to vote on a recommendation it makes to the Secy. Furthermore, committee recommendations must be approved by a majority of the committee members from each of the three categories (Recreation, Interest Groups, Government) AND if general public support of the recommendation is documented. The Secy. is prohibited from establishing an RRAC if the Secy. is unable to ensure that the Committee will be balanced in terms of points of view represented and functions to be performed.

The function of the committee is to relate public concerns in the area to the Secy. regarding implementation of a Standard Amenity fee, an Expanded Amenity fee, the establishment of a specific recreation fee site, the elimination of a Standard or Expanded Amenity fee, or the expansion or limitation of the recreation fee program.

D) Recreation Passes

* America the Beautiful pass: an annual interagency pass to cover the Entrance fee and Standard Amenity fee for all federal lands where such fees are charged. The price of the pass will be determined by the Secy's and sold wherever such fees are charged. This will be the only national recreation pass available.

* Site-Specific Agency pass: an annual pass that will cover entrance or Standard Amenity fees for particular areas.

* Regional Multi-entity pass: an annual pass established by consenting government entities and agencies.

* Discounted passes: America the Beautiful pass price will be limited to \$10 for those age 62 and over and will be valid for the lifetime of the pass holder. America the Beautiful pass will be free to those determined permanently disabled (under the ADA -Americans with Disabilities Act) and will be valid for the lifetime of the pass holder.

* Discounted or Free Admission Days: The Secy's are authorized to offer free admission day or use of federal lands.

* Golden Eagle Passport, Golden Age Passport, Golden Access Passport, and the National Parks Passport will be valid under this bill until expired, lost, or stolen.

E) Spending Of Collected Fees

80% of the fee revenues are to be spent in the unit or area from which they are collected.

If the 80% revenue exceeds the reasonable needs of the area the Secy. may reduce the 80% to as low as 60%.

The fees can only be used for repair, maintenance, and facility enhancement related directly to visitor access; interpretation, visitor information, signs; habitat restoration directly related to wildlife-dependent recreation that is limited to hunting, fishing, wildlife observation, or photography; law enforcement related to recreation; direct operating costs associated with the fee program; and for a fee management agreement for visitor reservation services. The fees can NOT be used for BIOLOGICAL MONITORING under the ESA for listed or candidate species. No more than 15% of the 80% can be used for administrative costs.

F) Law Enforcement For Nonpayment Of Fees

An agency may require users to display proof of payment of recreation fees in applicable areas. Users who fail to display proof of payment when required or to pay the fee within the time period required constitutes nonpayment.

Nonpayment shall be punishable as a Class A or Class B misdemeanor, except first offences which shall not be more than \$100.

Class A and Class B misdemeanors are defined by the Federal Sentencing Guidelines.

Class A misdemeanor occurs when a user "knowingly" fails to pay a fee when required to do so and is punishable *up to* a fine of \$100,000.

Class B misdemeanor occurs when a user fails to pay a fee when required to do so and is punishable *up to* a fine of \$5,000.

First Offences for nonpayment occurs when a user fails to pay a fee and this is the first offence and is punishable *up to* \$100.

