



House Committee on Natural Resources Federal Lands Subcommittee

Legislative Hearing on
H.R. 930, H.R. 1319, H.R. 1380, H.R. 1527, H.R. 1576, H.R. 1614, H.R. 1642 and H.R. 1667

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Testimony for HR 1527, the Simplifying Outdoor Access for Recreation (SOAR) Act

Thank you for the opportunity to testify in support of H.R. 1527, the Simplifying Outdoor Access for Recreation (SOAR) Act. America Outdoors Association (AOA) is proud to continue supporting the SOAR Act as the 118th Congress takes it under consideration. We appreciate the swift conviction of this body to move this bill forward quickly. This bill enjoys broad support from numerous outdoor programs, associations, and organizations and has historically accumulated numerous democratic and republican co-sponsors in both the House and Senate. Outfitters need the provisions of this bill in place more than ever and appreciate the Federal Lands Subcommittee's effort. AOA hopes that the SOAR Act can move forward in its original inclusive and broad spirit, which passed this Committee by unanimous consent in both the 116th and 117th Congress.

The SOAR Act is designed to provide better opportunities for nonprofit and for-profit programs alike, including those focused on underserved communities, outdoor education programming, wilderness therapy, and traditional outfitting and guiding. In this testimony America Outdoors will call attention to a few provisions in particular, identify the challenges these provisions have been designed to address, and consider how they work together to improve the permitting paradigm for operators on public lands.

Specifically, by implementing the provisions designed to improve the permitting process (Sec. 103), to encourage permit flexibility (Sec. 104), and to provide cost recovery relief (Sec. 109), much can be done to at once streamline the application and approval process and reduce the fiscal burden imposed on the applicant.

Sec. 103. Permitting Process Improvements

Categorical exclusions, one of the few tools available to agency personnel seeking a swift and straightforward environmental review to consider a proposed activity, are limited in their applicability to outfitter and guide permitting. While the Forest Service has contemplated some categorical exclusions to streamline reissuance of an existing permit, more can be done. Section 103 directs agencies to do just that. Across affected agencies, the secretary concerned is directed to evaluate the permitting process and “identify opportunities to eliminate duplicative processes, to reduce costs, and to decrease processing times, including evaluating whether categorical exclusions would “reduce processing times and cost.” For example, extending the existing categorical exclusion for one-year temporary permits to a two-year authorization will give the agency flexibility to authorize and evaluate new uses.

The costs are excessive to both the agency and the applicant. By specifically reviewing the permitting system with a mind toward reducing costs and redundant processes, agencies will be compelled to consider the impacts of their processes from the perspective of the operator. Operators are frequently burdened by overly complex processes, and inefficient systems to drive up costs.

The SOAR Act seeks to address one of these duplicative processes directly: the Needs Assessment. According to this bill, “the Secretary concerned shall not conduct a needs assessment as a condition of issuing a special recreation permit for a Federal land unit under this act,” except as provided for in the Wilderness Act. The Forest Service likes to use a Needs Assessment, whether within designated Wilderness or beyond Wilderness boundaries, to ascertain the perceived need for allowance of an activity. Need, however, is a term given specific weight within the Wilderness Act. Commercial activities may only be permitted in Wilderness to the extent that they are necessary to fulfill the recreational purposes of the Act.

No such restriction exists outside of designated wilderness, but the process is used nonetheless. Conducting a Needs Assessment for non-wilderness areas is just one example of an undertaking that is duplicative, costly, and process-intensive, which serves only to increase the administrative backlog at a site and further delay the processing of permit applications. Eliminating needs assessments where they are not necessary is a great example of how agencies may liberate themselves to focus on the processes that will actually help connect more people with the outdoors: processing special recreation permit applications.

When the Senate Energy and Natural Resources Committee considered this Permitting Process improvements provision, they took it one step further, directing the Secretary concerned to “utilize available tools, including tiering to existing programmatic reviews, as appropriate, to facilitate an effective and efficient environmental review process for activities undertaken by the Secretary concerned relating to the issuance of special recreation permits.” (America’s Outdoor Recreation Act of 2023, Sec. 321(b)(1)). America Outdoors Association approves of this provision and recommends its inclusion in the SOAR Act. Programmatic reviews take the cost burden out of the hands of an individual operator or class of operators by considering an activity, or a set of activities, rather than a site-specific activity.

Section 104. Permit Flexibility.

Two provisions in Section 104, Permit Flexibility, provide critical tools to make temporary permits more usable and to allow substantially similar uses to be approved while sidestepping cumbersome processes.

Significant obstacles stand in the way of a permit administrator’s ability to consider an applied-for use to be permitted. On Forest Service lands, once the initial screening process is complete, the application process begins. The application process may include an environmental analysis on the part of the agency, which can consume significant time and resources. The office may not even have the team in place to conduct an environmental analysis, in which case a permit application cannot be processed. And in many cases districts have found themselves unable to process permits and consider new or additional uses.

Temporary Special Recreation Permits, which may be issued “for new or additional recreational uses” of Forest Service and BLM lands, can help ease this process paralysis. The Forest Service in particular has a history of using temporary permits to fill the role when resource impacts will be minimal, and the use is relatively minor. Temporary permits have been used more expansively in the past, and this provision encourages agencies to expand their use of these types of permits.

For Special Recreation Permit holders who are interested in providing a new experience that is “comparable in type, nature, scope, and ecological setting” to an activity that is already authorized under the permit, the provision regarding “Similar Activities” (Sec. 104(a)) is supportive. This provision directs the Secretary concerned to establish a protocol that authorizes permittees “to engage in recreational activity that is substantially similar to the specific activity authorized.” Currently, a resource manager may think that a substantially similar activity still requires extensive environmental review. This perceived barrier can compel a permit administrator to not allow the activity as part of an existing permit. In one instance, an outfitter renting canoes and kayaks was told that NEPA analysis would be required to also rent stand-up-paddleboards.

Section 109. Cost Recovery Reform.

The SOAR Act provision regarding cost recovery reform eases a cost burden that is significant for outfitters, but insignificant for agencies. Currently, when an existing or potential permittee would like to apply for a new activity or an expansion of an existing activity, the agency must conduct an environmental review of the request. If the review takes more than 50 agency hours to complete, the entire cost of the process is charged to the applicant, regardless of the outcome. If the agency concludes, therefore, that the request should not be approved as a result of the environmental review, the applicant is still expected to pay. This is an unreasonable burden to place on a business. Illogically, if the Environment Review exceeds 50 hours, then there is not credit for the first 50 hours and the included time spent on the analysis back to the first hour.

The SOAR Act would reduce this burden somewhat for outfitters by not charging them for the first 50 hours, which is only significant for relatively minimal environmental reviews. For significant environmental reviews requiring hundreds of hours, agencies could still seek to require the applicant to cover the vast majority of the cost through the cost recovery process. Already, agencies do not rely on cost recovery as a consistent source of income. Agency personnel are more likely to deny the request outright or recommend that the applicant pay a third-party contractor, as the agencies do not have the resources to conduct the necessary environmental review. Agencies will not lose significant revenue due to the changes in this section, but opportunities to expand outdoor recreation opportunities will increase significantly. The Bureau of Land Management uses cost recovery for major events, like Burning Man, but has figured out how to authorize most outfitting and guiding activities without incurring cost recovery.

Section 302. Enhancing Outdoor Recreation through Public Lands Service Organizations.

While the thrust of Section 302 is sound, to promote projects that provide additional recreation opportunities, this provision needs to be carefully worded so as not to put traditional outfitters at a competitive disadvantage. AOA recommends that the scope of "projects" as encompassed by section 302 of the Act, for which the agencies would be required to use youth or conservation corps or non-profit wilderness and trails stewardship organizations "to the maximum extent practicable," be more carefully defined. As currently drafted, this section would apply to *any* project on Federal recreational lands and waters "that would directly or indirectly enhance recreation." The scope of projects that could "directly or indirectly enhance recreation" is exceedingly broad. As just one example, a hydroelectric project could include features that could provide additional recreation opportunities. Depending upon how it is interpreted, it could also have implications for permitting of outfitting and guiding and other recreational services. AOA strongly urges that this section be amended and specifically limited to "stewardship projects."

Conclusion

As new and returning visitors explore their public lands, outfitters and guides serve as early and accessible entry points who provide critical expertise, resources, and local knowledge for a particular outdoor experience. Whether renting kayaks, guiding horsepacking trips, running climbing camps, providing bike tours, or otherwise helping the public enjoy the myriad outdoor recreation opportunities available across the nation, outfitters are making things happen. America's outfitting and guiding industry offer the public lasting memories and invigorating, authentic outdoor recreation experiences. Outfitters strive to keep the experiences they provide affordable and accessible. They face challenges, however, which the legislation being considered today can alleviate.