

**STATEMENT OF JENNIFER EBERLIEN
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Before the
**UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON NATURAL RESOURCES
SUBCOMMITTEE ON NATIONAL PARKS, FORESTS, AND PUBLIC LANDS**

Regarding
H.R. 3670, Simplifying Outdoor Access for Recreation (SOAR) Act,
H.R. 3687, Environmental Justice in Recreation Permitting Act,
H.R. 3686, Ski Hill Resources for Economic Development (SHRED) Act
H.R. 3113, Modernizing Access to Our Public Lands (MAPLand) Act
June 8, 2021

Introduction

Thank you for the opportunity for the U.S. Department of Agriculture (USDA), Forest Service, to provide views on H.R. 3670, the Simplifying Outdoor Access for Recreation Act or “SOAR Act”, H.R. 3687, Environmental Justice in Recreation Permitting Act, H. R. 3686, the Ski Hill Resources for Economic Development Act or “SHRED Act”, and H.R. 3113, Modernizing Access to Our Public Lands Act or “MAPLand Act.”

The Forest Service is deeply committed to connecting all Americans to the outdoors, and we value the important role played by outfitters and guides, resorts, non-profit organizations, and others as partners in connecting people to recreation opportunities on national forests and grasslands. Outdoor recreation attracts people to visit, live, and work in gateway and rural communities and supports the health, well-being, and economic vitality of those communities. Recreation on National Forest System lands contributes more than \$13.5 billion to America’s gross domestic product and supports more than 161,000 full and part-time jobs, the vast majority of which are in gateway and rural communities.¹ More people have been making their way out to the national forests than at any other time in recent history, as Americans turned to their public lands for respite and relaxation during the COVID-19 pandemic.

With certain exceptions discussed below, USDA supports the goals of these bills to improve recreational access to National Forest System lands and looks forward to working with the bill sponsors and the Committee to effect necessary changes to achieve their goals. Our comments on these bills pertain to their effect on the Forest Service, including management of National Forest System lands. USDA defers to the Department of Interior (DOI) on the effects of these bills on DOI bureaus and the federal lands under their jurisdiction.

Background

The USDA Forest Service manages 155 national forests and 20 national grasslands, comprising 193 million acres in 41 states and Puerto Rico. These lands contain three million acres of lakes,

¹ 2020 National Visitor Use Monitoring survey. These numbers reflect total benefits (direct, indirect, and induced).

400,000 miles of streams, 122 Wild and Scenic Rivers for rafting, kayaking and other watersports, and 159,000 miles of trails for horseback riding, hiking, snowmobiling, mountain biking, and more.

Outdoor recreation is a significant use of the National Forest System. In Fiscal Year 2020, the number of recreation visits to the National Forest System rose to 168 million which represents a 12% increase compared to 2019. Annual visitation to national forests and grasslands increases to 450 million visitors if we account for the number of people who pass through these beautiful forests to enjoy the scenery and travel on our scenic roads and byways.

Moreover, recreation on National Forest System lands sustains more private sector jobs than any other Forest Service program and provides the single largest stimulus for many local economies containing National Forest System lands. Outdoor recreation opportunities and amenities are consistently ranked as one of the primary reasons people move to rural towns and can be a leading contributor to small town economies.

The Forest Service administers over 30,000 recreation special use authorizations for activities that generate nearly \$2 billion to their holders. In particular, the Forest Service administers 122 ski area permits and approximately 8,000 outfitter and guide permits. These permits enable private sector professionals and educational institutions to lead a range of activities on National Forest System lands, from whitewater rafting, downhill skiing, horseback riding, and big game hunting to youth education trips in the wilderness and scenic jeep tours. For many, these activities represent their first introduction to the outdoors, and the outfitters and guides they employ are often small businesses that generate jobs and income for local communities. Forest Service permittees help connect our citizens to their natural world and help in restoring mental health and maintaining healthy lifestyles.

In addition to economic benefits, recreation on federal lands instills a greater understanding of their meaning and value. In a 2013 survey, seven out of ten Americans responded that protecting the national history and beauty of National Forest System lands is one of the best things we do.²

H.R. 3670: The SOAR Act

Title 1 – Modernizing Recreation Permitting

USDA supports the overall intent of Title I and has been working since 2016, in conjunction with many trade and industry partners, to modernize our recreation permitting program. Although we support the intent of this Title, we would like to work with the Committee to ensure that the language accomplishes its intent.

Section 103: Permitting Process Improvements and Section 104: Permit Flexibilities

USDA supports the overall intent of these sections. Since 2016, the Forest Service has taken steps to implement several of the objectives of these sections, including reducing the number of expired permits by more than 50%. Specifically, we have conducted a Lean Six Sigma Analysis

² National Forest Foundation survey, 2013 (<https://www.nationalforests.org/who-we-are/press-news/survey-reveals-americans-overwhelming-support-for-our-national-forests>).

of our permitting process and are currently implementing recommended actions, many of which align with the intent of this bill. The Agency has also piloted an online application platform for special use permits and plans to continue expanding the capabilities of this digital platform.

Although we support the intent of this section, we would like to work with the Committee to ensure the language accomplishes its intent, considers existing program delivery, and allows sufficient time to complete revision of our regulations and policies.

Needs assessments may be appropriate and necessary to address visitor capacity issues outside wilderness. We would like to work with the committee and bill sponsors to ensure the agency can address visitor capacity issues, such as use conflicts and resource impacts, as appropriate or necessary in that context.

Section 105: Permit Administration

This section would require the Forest Service to notify the public online of available permit opportunities and the status of permit applications. We would like to work with the Committee to ensure that the Agency's current practices and processes of open seasons and prospectus announcements provide adequate notification of permit opportunities within our existing resource capabilities.

Section 106: Permits for Multijurisdictional Trips

We understand that the intent of this section is to authorize the issuance of a single joint permit issued by the lead agency for multijurisdictional trips under a single set of authorities (the lead agency's authorities). To achieve this intent, technical changes are needed to address the issue of what statutory authority the lead agency should apply to other agency's lands covered by the permit. Otherwise, the bill is consistent with the Service First Authority where the lead agency would have the delegated authority to issue a permit for use of another agency's lands under the laws applicable to that agency. In other words, one stop shopping for two permits. We want to work with the committee to confirm the intent of this section.

Section 107: Forest Service Permit Use Reviews

We would like to work with the Committee to confirm the appropriate scope of this section so that it applies only to outfitting and guiding permits and to ensure that the provisions do not duplicate existing Agency policy, which was published for public notice and comment.

Section 108: Liability

Subsection (a) of this section would preclude the Forest Service from regulating waivers of liability for outfitting and guiding permits and recreation event permits. Subsection (b) would exempt state agencies and other entities from indemnifying the United States if they are precluded by state or local law from doing so. Since environmental liability is not limited by state law, we recommend that the limitations on indemnity apply only to tort liability, not environmental liability. We would like to work with the Committee to make targeted changes regarding liability and indemnification to ensure proper implementation and protect the interests of the United States.

Section 109: Cost Recovery Reform

USDA supports efforts to responsibly apply cost recovery for processing permit applications. However, Section 109 would reduce the Forest Service's ability to process both simple and complex permit applications. Cost recovery has provided more resources to the Forest Service, enabling the Agency to enhance customer service by processing applications faster. Small recreation service providers such as outfitters and guides are generally exempt from cost recovery fees under Forest Service regulations. Expanding the exemption as proposed in the bill would generally benefit large recreation service providers and would adversely affect Forest Service customer service, thereby counteracting the efficiencies gained from other provisions in the bill and revisions to the Forest Service's NEPA regulations. These efficiencies will sufficiently reduce processing times such that limitations on the Forest Service's cost recovery authority are unnecessary. We would like to work with the Committee and bill sponsors to improve the bill's ability to apply cost recovery for processing permit applications.

Section 110: Extension of Recreation Special Use Permits

This provision would provide for renewal of an existing permit rather than issuance of a new permit upon expiration, which is the Agency's current practice. We would like to work with the Committee to preserve the Agency's ability to update permit forms, including new terms as necessary or appropriate, when a permit expires. This ability is particularly important when a permit has been in effect for many years. Additionally, priority use outfitting and guiding permits are currently renewable. Per the Administrative Procedure Act, there is no disruption of service upon expiration of an existing permit as long as a timely application has been submitted. We would like to work with the Committee to ensure this section does not duplicate existing authority that is being fully utilized.

Title II – Making Recreation a Priority

USDA is generally supportive of Title II but would like to work with the Committee to ensure its provisions would align with implementation of other Administration priorities, such as addressing climate change and racial equity. We are also concerned the provision on recreation performance metrics could be interpreted as impairing the multiple-use mission of the Forest Service under the Multiple Use–Sustained Yield Act to the extent the provision purports to establish a statutory preference for recreation.

Title III – Maintenance of Public Land

USDA supports the intent of Title III and looks forward to working with the Committee to ensure its provisions would include traditional and non-traditional partners undertaking this important work. We would like to work with the Committee and bill sponsors to ensure that current Agency efforts through the Volunteers in the National Forest Act and other existing cooperative authorities are not duplicated.

H.R. 3687: Environmental Justice in Recreation Permitting Act

USDA supports the intent of this bill, specifically the identification of barriers impacting environmental justice communities and permit holders when trying to access and enjoy public lands. We value the data being requested and would like to work with the Committee to ensure the language is drafted in a way that ensures successful implementation. Additionally, we would like to work with the Committee to ensure the bill accounts for current Agency efforts under Executive Order 13985, “Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.”

H.R. 3686: Ski Hill Resources for Economic Development (SHRED) Act

The SHRED Act would amend the Omnibus Parks and Public Lands Management Act of 1996 to establish a ski area permit fee retention account and to authorize the Forest Service to deposit ski area permit fee revenues into that account and retain and spend the revenues for specified purposes.

USDA has previously testified in support of the establishment of a ski area permit fee retention account and continues to support the authority to retain and spend this type of permit fee. The authority to retain and spend ski area permit fees would improve customer service through improved ski area permit administration. The bill would increase efficiencies in administering ski area permits, Agency staff training, visitor information, signage, wildfire preparedness coordination, and enhanced avalanche-related safety education. We appreciate that this new version of the bill would provide for some of the retained permit fees to be used for administration of other types of commercial recreation permits, visitor services, and other purposes.

In 2019, \$57 million in ski area permit fees were submitted to the United States Treasury from National Forest System lands. The current ten-year average for annual ski area permit fees is \$40 million. Based on the formula in the bill, we expect approximately \$27.5 million in ski area permit fees would be retained by the Forest Service annually. Retained ski area permit fees would be used to improve administration of recreation opportunities that contribute to local economic activity across 122 ski resort communities operating on National Forest System lands, primarily in rural areas, in 14 states. These recreation opportunities spur industry growth and generate revenue for ski areas. It is important that ski area permit fees retained under the bill supplement, not supplant, cost recovery fees collected and retained under existing statutory authorities, including cost recovery fees charged for processing applications for new uses at ski areas. We would like to work with the Committee to ensure the bill language accomplishes this intent and that the financial mechanisms in the bill also achieve their intended purpose.

H.R. 3113: Modernizing Access to Our Public Lands (MAPLand) Act

The Modernizing Access to Our Public Lands Act would direct DOI, the Forest Service, and the U.S. Army Corps of Engineers to jointly develop and adopt interagency standards to ensure compatibility and interoperability among federal databases for the collection and dissemination of outdoor recreation data related to federal lands. Specifically, the bill would require DOI, the

Forest Service, and the Army Corps of Engineers to digitize and publish geographic information system mapping data that includes:

- federal interests in private land, including easements and rights-of-way;
- status information as to whether roads and trails are open or closed;
- the dates on which roads and trails are seasonally opened and closed;
- the types of vehicles that are allowed on each segment of roads and trails;
- the boundaries of areas where hunting or recreational shooting is regulated or closed; and
- the boundaries of any portion of a body of water that is closed to entry, is closed to watercraft, or has horsepower limitations for watercraft.

USDA supports the goal of enhancing access to National Forest System lands by providing the specified data digitally for online use by the public. The Department would like to work with the bill sponsors and the Committee to address some remaining issues posed by this bill.

Some of the information and classes of data are currently available and accessible in Forest Service databases, including easements and rights-of-ways, and whether and when roads and trails are open or closed to various classes of motorized vehicles. Additionally, the Sportsmen's Access to Federal Land provisions in the John D. Dingell, Jr. Conservation, Management and Recreation Act (Public Law 116-9) requires annual reporting of National Forest System lands temporarily or permanently closed to hunting, fishing or recreational shooting under the Act but does not require the closures to be provided in digital form for use in online mapping.

Currently, the Forest Service does not maintain information on water bodies that are closed to watercraft or have horsepower limitations. Additionally, on water bodies where states, counties, or other governmental entities have jurisdiction over watercraft use, it would be exceedingly difficult for the Forest Service to build and keep current an accurate database of those restrictions. We recommend the bill language clarify that the Agency not be required to collect and compile information on watercraft restrictions imposed by other governmental entities.

We additionally recommend the date for reporting be changed to allow upward reporting after the end of the fiscal year, so units can prioritize keeping facilities open for public use and maintaining preparedness for emergency response such as wildfires during summer and early fall.

Conclusion

USDA appreciates the Committee's interest in these important topics and strongly supports efforts to foster recreational use of federal lands. We look forward to working with the bill sponsors and the Committee to promote these important goals.