



December 6, 2023

The Honorable Tom Tiffany  
Chair  
House Natural Resources Committee  
Subcommittee on Federal Lands  
1324 Longworth House Office Building  
Washington, D.C. 20510

The Honorable Joe Neguse  
Ranking Member  
House Natural Resources Committee  
Subcommittee on Federal Lands  
1324 Longworth House Office Building  
Washington, D.C. 20510

**American Mountain Guides Association Testimony Before the House Natural Resources Subcommittee on Federal Lands Hearing on “Expanding Public Lands Outdoor Recreation Experiences Act” held on November 30, 2023**

Dear Chair Tiffany, Ranking Member Neguse, and Members of the Subcommittee,

The American Mountain Guides Association (AMGA) respectfully submits this testimony for inclusion in the public record regarding the House Natural Resources Committee, Subcommittee on Federal Lands, Legislative Hearing on the EXPLORE Act, held on November 30, 2023. The EXPLORE Act includes improved versions of several longtime priorities of AMGA such as H.R. 1527, the Simplifying Outdoor Access for Recreation Act (SOAR Act), and H.R. 1380, the Protecting America’s Rock Climbing Act (PARC Act). The American Mountain Guides Association supports both the SOAR Act and the PARC Act for the reasons stated herein.

**About American Mountain Guides Association**

The American Mountain Guides Association (AMGA) is a 501(c)(3) educational non-profit organization that provides training and certification for climbing instructors, mountain guides, and backcountry skiing guides throughout the United States. Founded in 1979, the AMGA has trained over 13,000 climbing and skiing guides who provide outdoor experiences for the public on federal lands. As the American representative to the International Federation of Mountain Guide Associations, the AMGA institutes international standards for the mountain guiding profession in the United States and serves as an educational body for land management agencies, outdoor businesses, clubs, and other recreation stakeholders. Of additional relevance to today’s hearing, our membership includes outfitters and guides who have been operating on federal lands since the inception of the modern commercial recreation permitting system. We have extensive experience with federal land management systems, climbing management including fixed anchors, and recreation special use permitting. We welcome the opportunity to provide testimony on the SOAR Act and PARC Act.

## AMGA Support for the SOAR Act

The American Mountain Guides Association appreciates the Subcommittee's recognition of the need to improve access to federal lands and we commend Chair Tom Tiffany, Ranking Member Joe Neguse, Vice-Chair John Curtis and the Federal Lands Subcommittee for taking steps to advance legislation that will enhance opportunities for Americans from all walks of life to access and enjoy federal lands. In particular, we believe there is a significant opportunity to increase access to recreational opportunities on federal lands by modernizing the outfitter and guide permitting systems of the federal land agencies. These systems are antiquated and inefficient, and they impose unnecessary and costly administrative burdens on land management agencies and guides alike. These issues prevent outfitting and guiding businesses from growing to their full potential and limit opportunities for the public to benefit from the assistance of an outfitter, guide, outdoor education center, outdoor adaptive program, veteran's outdoor program, or organized outdoor club.

The SOAR Act as written in the EXPLORE Act will clarify existing authorities and establish new authorities that will make special recreation permits easier for outfitters and guides to obtain and manage, and easier for the agencies to administer. In the following section, we outline several provisions in the bill that are particularly notable.

In Section 312(e), *Special Recreation Permits for An Organized Group Activity or Event*, the bill establishes a new type of simplified permit that can be issued quickly and easily when a guided outing will have no more than nominal effects on federal recreational lands and waters, resources, and programs. This common-sense approach will increase opportunities for the public to participate in guided recreational activities when those activities will not adversely impact the landscape and agency resources.

In Section 313(a), *Permit Flexibility*, the bill directs the agencies to allow a new recreational activity to occur under an existing permit, without doing additional analysis, when the new activity is substantially similar to the activity that is already permitted.

In Section 313(c), *Surrender of Unused Visitor-Use Days*, the bill establishes a program to allow a permit holder to return unused visitor-use days to the agency to be made available to other existing or potential permittees. Returned visitor-use days may be utilized by other permit holders and the unguided public. This section will promote economy of use by maximizing the utilization of all available visitor-use days.

In Section 315, *Service First Initiative; Permits for Multijurisdictional Trips*, the agencies are authorized to offer a single joint special recreation permit for guided trips that cross agency boundaries. Outdoor trips typically follow natural features such as rivers, canyons, and high mountain ridges for ease of travel and maximum recreational value. Often times, agency boundaries are not perfectly aligned with these landscape features and in some cases a group may cross an agency boundary (or multiple agency boundaries) in the course of a single trip. Under the current system, this requires a permit from each agency. It is time consuming and costly for guides to apply for and maintain multiple permits with different agencies. It is also inefficient for the agencies to issue multiple permits to the same outfitter for a single activity.

Section 315 of the bill will address these complexities by allowing the agencies to issue a single joint permit to minimize cost and administration when a guided trip crosses agency boundaries.

In Section 316, *Forest Service and Bureau of Land Management Transitional Special Recreation Permits for Outfitting and Guiding*, the bill directs the agencies to develop and implement a 2-year transitional permit that can convert to a 5-year or 10-year permit after four years of satisfactory performance. The creation of a 2-year permit, and the ability for it to convert to a longer term, will bring significant new efficiencies in the form of less frequent permit processing. For example, under current law, a holder of a Forest Service temporary permit must re-apply for the permit every 180 days.

In Section 318(c), *Additional Capacity*, the Forest Service is authorized to assign additional visitor-use days to a recreation service provider at any time, provided capacity is available. This will enable recreation service providers to meet the growing demand for recreational experiences and contribute to the growth of the local economies, many of which are in rural areas adjacent to federal lands.

In Section 319, *Liability*, the bill authorizes the agencies to allow special recreation permit holders to use liability waivers to the extent they are authorized by applicable state law. Presently, there is inconsistency among land management agencies, and even within individual agencies, on the use of liability release forms. The Bureau of Land Management generally allows them, the U.S. Forest Service allows them in some locations but not others, and the National Park Service does not allow them at all. The bill would resolve these inconsistencies and establish the principle that State law controls the validity of liability waivers.

In Section 319(b), *Indemnification by Government Entities*, the bill directs the agencies to waive the existing indemnification requirement for state-based institutions that are prohibited by state or local law from providing indemnification to the United States provided they carry the minimum required amount of liability insurance. Under current law, state-based institutions such as colleges, universities, and municipalities may be unable to hold special recreation permits due to their inability to fulfill the indemnification requirement. Section 319(b) of the bill would remedy this situation and enable college outdoor recreation programs and municipal recreation districts, many of which offer low-cost outdoor courses and trips, to provide outdoor programs on federal lands.

In Section 320, *Cost Recovery Reform*, the bill addresses a proposal released by the Forest Service on March 9, 2023 that would eliminate an existing fee exemption for the first 50 hours of agency time spent processing an application for a special recreation permit. If the Forest Service proposal is approved, special recreation permits will become significantly more costly. The additional cost will be a major barrier for small businesses and organizations, especially those who serve underrepresented populations. Section 320 of the EXPLORE Act would direct the Forest Service and Bureau of Land Management to establish an hourly threshold under which application processing is exempt from fees. This will allow small businesses and non-profit organizations to continue providing high-quality outdoor experiences for the public at a reasonable price.

The opportunities for improvement that are contained in the SOAR Act, as written in Title III of the EXPLORE Act, are truly bipartisan in nature. This is demonstrated by the wide range of Democrats, Republicans, and outdoor industry stakeholders who support the bill. As further evidence of bipartisan support, the SOAR Act was reported out of the House Natural Resources Committee with unanimous consent on July 29, 2020 and again on October 13, 2021. The broad array of support is not by accident. The SOAR Act has been developed over a period of 10 years with extensive input from the outdoor recreation community and in consultation with conservation groups and land management agencies. The bill has been carefully written and revised to accommodate the interests of diverse parties while promulgating change that is much needed and long overdue. With the SOAR Act, Congress has an opportunity to enact strong, bipartisan legislation that will truly enhance the recreational benefits of federal lands and empower the American people to enjoy them.

### **AMGA Support for the PARC Act**

The American Mountain Guides Association also supports the Protecting America’s Rock Climbing Act because it will preserve access to guided climbing opportunities in America’s wilderness areas. Many climbs in wilderness areas have occasional fixed anchors—such as a nylon sling wrapped around a tree, a metal piton placed in a crack, or a small bolt affixed to the rock—to allow a climbing party to safely ascend and descend a rock face or a mountain. Guides are highly reliant upon these fixed anchors to provide an enjoyable and safety-oriented experience for their clients. Without fixed anchors in place, many of the “trade routes” that guides have been using for decades to operate their businesses would become unreasonably dangerous, or altogether impossible. These trade routes exist in iconic wilderness climbing areas such as Yosemite National Park, CA; Joshua Tree National Park, CA; the Uinta-Wasatch-Cache National Forest, UT; North Cascades National Park, WA; Shoshone National Forest, WY; and many others.

Two weeks ago, the U.S. Forest Service and the National Park Service proposed a new interpretation of the Wilderness Act that would prohibit fixed anchors in wilderness. This new interpretation goes against nearly 60 years of precedent in which these federal land agencies have allowed climbing and the occasional use of fixed anchors to explore public lands and wilderness areas. The new Forest Service and National Park Service proposals are problematic for a number of reasons.

First, the federal land agency proposals would create significant safety issues by forcing local land managers to consider climbing fixed anchors as prohibited and implement a costly and time-consuming administrative exception process every time a climbing anchor needs to be maintained. The exception process, called a Minimum Requirements Analysis or “MRA,” can take months to complete. With this approach, the agencies fail to recognize that climbing guides need to maintain fixed anchors on an immediate basis to ensure the safety of their clients. A climbing guide can’t wait for a months-long approval process to be completed when an anchor must be maintained in real time for their climbing team to safely ascend or descend a climb. For example, a common form of fixed anchor is a nylon sling tied around the base of a tree. Over time, these slings become deteriorated due to sun, wind, heat, and cold exposure. If a guide reaches an anchor and finds a deteriorated nylon sling that is unable to safely secure the climbing

team, it is imperative that the guide be able to repair or replace the sling on the spot. For decades upon decades, guides have taken professional responsibility for the safety of their clients in vertical climbing terrain, which includes the fundamental need to make sure the climbing team's anchors are secure. The new proposals by the Forest Service and the National Park Service place an unnecessary administrative obstacle in front of the routine and standard practice of replacing fixed anchors that become weathered in unforgiving environments. The PARC Act is critical legislation that will protect the ability of guides to provide for the safety of the climbing public when fixed anchors are required for ascent and descent.

Second, the federal agency proposals threaten appropriate historic climbing routes that have already been allowed and managed by federal land agencies. For example, many wilderness climbing routes on El Capitan in Yosemite National Park rely on a *de minimus* number of fixed anchors to protect blank sections of rock where removable climbing gear is not available. These fixed anchors are thousands of feet up the wall, occupy a space the size of a matchbox car, and are visible only to the climbers using them. The situation is the same in other Wilderness areas such as those in North Cascades National Park, the Wind River Range, or the Sierra Nevada Range. In fact, approximately 90% of the established climbing routes in America's wilderness areas are now threatened by the agency proposals despite their negligible social, environmental, and visual impact. To be clear: America's climbing history and mountain culture is at risk. At a minimum, the federal land agency proposals need to be revised to exempt existing climbing routes that have been previously allowed and have been managed as appropriate wilderness recreation opportunities.

Third, the proposals do not align with current land agency policies and management practices. In 2013, the National Park Service issued Director's Order 41 (DO41), which provided specific management direction for climbing in wilderness. DO41 establishes the principle that fixed anchors should be rare in wilderness, it prohibits any type of bolt-intensive climbs, and it requires prior authorization for the placement of new fixed anchors in wilderness. On the topic of fixed anchor maintenance, DO41 states that maintenance of fixed anchors "may" require prior authorization—a reasonable and practical approach that generally allows for critical maintenance to be performed on site without prior authorization, but which provides the agency with discretion to require prior authorization in specific, unique circumstances.

DO41 clearly allows for the occasional use and maintenance of fixed anchors in wilderness and requires either programmatic or site-specific authorization for the placement of new fixed anchors. The policy made it clear that fixed anchors were allowed, yet regulated, and the climbing community accepted it. These guidelines demonstrate that land managers already have a template to manage climbing effectively and protect the climbing resource, including wilderness character, while providing valuable visitor experiences and supporting local economies. The new proposal by the National Park Service is vastly at odds with DO41 and would undo decades of collaborative effort between climbers and the agency.

The National Park Service and U.S. Forest Service currently—and successfully—implement numerous Wilderness Management Plans at park units and national forests that specifically allow for the conditional placement and replacement of fixed anchors in wilderness. Reversing these existing plans with new impractical and costly proposals would create safety concerns, erase

historic climbing achievements, and block future generations from safely experiencing the world's greatest climbing venues.

The EXPLORE Act, via the PARC Act, will bring consistency and predictability to climbing management by providing the land management agencies with clear direction from Congress, especially regarding climbing management within wilderness areas. It is a simple and elegant solution that will:

1. Require the Secretaries of Interior and Agriculture to issue national guidance on management of climbing within wilderness areas;
2. Clarify that climbing and the use of fixed anchors are allowable uses within wilderness areas;
3. Preserve the existing authority of land management agencies to regulate climbing to ensure it protects wilderness characteristics, natural resources, and cultural values; and,
4. Provide for public participation in decisions affecting climbing in wilderness areas.

If guides are no longer able to freely use and maintain existing wilderness fixed anchors, and occasionally place a new fixed anchor with prior authorization, the American public would be deprived of the opportunity to experience the unique character of wilderness climbing. Guiding businesses would also face severe economic impacts, which are not to be understated. Many climbing guide services are small businesses that employ local workers in rural communities adjacent to federal lands. If a guide service is forced to cease or limit its operations in wilderness, it could cause irreparable harm to the business, the workers, and the economy of the local community.

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For the aforementioned reasons, the American Mountain Guides Association strongly supports the EXPLORE Act—and the SOAR Act and PARC Act included therein—that would modernize the guide and outfitter permitting process and allow for the use, placement, and maintenance of climbing fixed anchors in wilderness areas. Thank you for the opportunity to share our perspective. We look forward to working with Congress to implement the improvements and critical measures contained in the EXPLORE Act.

Sincerely,



Matt Wade  
Executive Director  
American Mountain Guides Association