

## **Outdoor Access Working Group**

### **Policy Recommendations for Increasing Guided Recreational Access**

#### **Introduction**

Most Americans agree that it is good for people to get outside. People from all walks of life recognize the power of outdoor recreation, and research shows the long-term physical, mental, social and emotional benefits of recreating and learning outdoors. The key to a lifetime of healthy outdoor activity is to provide a positive first experience. Thankfully, there are thousands of organizations and businesses, large and small, whose mission is to take people outdoors and provide them with these experiences, in a safe, social and fun environment.

To provide outdoor recreation and education opportunities, businesses, organizations and education institutions need access to our nation's public lands. Unfortunately, our current system for managing access has become complex and cumbersome, and frequently serves as a barrier that prevents organizations and businesses from taking people outside. This is at odds with the land management agency and administration goals of giving all 4<sup>th</sup> graders a park experience in order to introduce the next generation to our public lands.

The Outdoor Access Working Group (OAWG) is a broad alliance of stakeholders with an interest in the management of guided recreation on public lands. We believe there needs to be a cultural change in the way this use is managed. Agencies should recognize the critical role that outfitters, guides, and nonprofit organizations play in connecting people to public lands in an increasingly urbanized country. To make these connections possible, land managers should stop treating guided recreational use as a commercial use for which the public must receive a financial return, and start treating guided recreation as facilitated use that furthers the agency's mission of connecting more people to America's public lands. Land management agencies should treat the organizations that provide these services as partners that help them fulfill the agency's mission.

The Outdoor Access Working Group offers the following recommendations for improving the management of the recreational permitting systems of the land management agencies. Adopting these recommendations will help the organizations we represent get more people outdoors and help the agencies connect more people to America's public lands.

#### **Administrative Actions to Improve Guided Recreational Access to Public Lands**

##### 1. Increase Agency Capacity to Administer Recreational Permits

The U.S. Forest Service does not have the staff capacity needed to issue and manage its recreational permits. Additional staff capacity is needed. To begin to address this need, the following steps should be taken:

- a. The U.S. Forest Service should dedicate \$2 million to the creation of a nationwide strike team to improve the Forest Service permitting system.
- b. The Office Management and Budget should include \$2 million for operation of this strike team in the Administration's Forest Service budget request in future years.

##### 2. Increase Transparency in The Permitting Process

Agency online resources often do not provide clear information about the recreational permitting system. Land management agencies should increase transparency in the permitting process by taking the following actions:

- a. Create a centralized portal for the agency's permitting websites to make necessary permit information easier to find for the general public.
- b. Create a simplified permit application form that can be used by multiple agencies
- c. Require land managers to develop a system for notifying the public when and where recreation permits are available.
- d. The terms and conditions for concessions contracts, special park use permits, and Commercial Use Authorizations should be reasonable and attainable so outfitter and guide services and outdoor recreation and education providers of all sizes that offer authentic, quality experiences may continue to provide backcountry services to the public at affordable prices.
- e. All agencies should focus on having a reasonable response time for pending applications – between 30 – 60 days post application with clear steps on how to obtain a permit if denied.

### 3. Increase Consistency in The Permitting Process

Agencies that offer outdoor recreation and education to the public through commercial use authorizations and special recreation permits should increase consistency in the permitting process by:

- a. Identifying and eliminating unnecessary differences between their permitting systems and adopting the simplest user friendly permitting procedures whenever possible.
- b. Create consistency in timelines, particularly for commercial use authorization, priority use, or special use recreation permits, with at least a 9-month window prior to the start of the busy season so operators can reliably depend on having permits to promote and sell their programs.

### 4. Increase Flexibility in The Permitting Process

Regulations and procedural requirements limit the agencies' ability to efficiently issue recreational permits and reduce opportunities for diverse programs that provide experiences to the guided public.

We recommend the following actions to increase flexibility in the permitting system:

- a. The U.S. Forest Service should do the following:
  - i. Expand temporary permits so that they provide opportunities for new types of use, more user days and lead to qualification for ten year permits.
  - ii. Develop a simple way of authorizing one-time guided recreation activities as recreation events instead of outfitting and guiding.
- b. The National Park Service should develop a flexible permit system with a larger CUA pool open to all operators. These CUAs should offer opportunities for new types of use, more user days and lead to qualification for ten year agreements.
- c. All land management agencies should develop a system that allows permit holders to share unused service days without loss of future use.

### 5. Streamline The Permitting Process

Several actions are needed to reduce complex analysis requirements and streamline the permitting process.

- a. Streamline agency assessments of the need for guided services on public lands.
  - i. Eliminate the U.S. Forest Service requirement to assess the "need" for guided services on National Forest lands outside of wilderness.
  - ii. Develop a concise methodology for making "extent necessary" determinations to authorize commercial guiding services in designated Wilderness.
- b. Improve the management of recreational impacts and resource carrying capacity.
  - i. Develop consistent methods for managing the impacts of recreational use.

- ii. Minimize the use of numerical capacity limits and increase the use of other management methods.
- c. Develop carefully crafted NEPA categorical exclusions that will allow the agencies to issue permits with more appropriately scaled NEPA analysis.
- d. Explore additional opportunities to streamline the permitting process that connect to primary agency objectives.

#### 6. Reduce Barriers to Recreational Access Created by Agency Risk Management Requirements

A few targeted actions by the agencies will reduce barriers to recreational access created by agency risk management requirements.

- a. Waive the requirement to indemnify the U.S. government for entities that are prohibited from providing indemnification by state or local law (may require legislation).
- b. Federal policies regarding the use of exculpatory agreements between visitors and recreations service providers in consideration for participation in permitted recreation activities should be consistent with state laws in which the permits are issued.
- c. Maintain reasonable minimum insurance requirements for permit holders.

## **Legislative Actions to Improve Guided Recreational Access to Public Lands**

Legislative action on several issues would significantly improve guided recreational access to public lands. We urge Congress to pass legislation that does the following:

1. Establishes Recreation Priority and Performance Measures – Directs the agencies to make recreation a priority and adopt performance measures for meeting recreation management goals.
2. Relieves State Entities from the Indemnification Requirement – Directs the agencies to waive the indemnification requirement for entities that are prohibited from providing indemnification under state law.
3. Establishes A System for Sharing User Days – Directs the agencies to develop a system for allowing permit holders to donate unused user days to other, pre-approved recreation and education service providers without risking the loss of user days in future years (could be implemented without legislation).
4. Allows the Use of Liability Release Forms – States that agreements containing indemnity and/or other exculpatory provisions entered into between participants and permit holders in consideration for the opportunity to participate in recreation activities under permit shall not be limited, prohibited or regulated by any federal land manager or any federal policy, and that such agreements shall be permitted and will be interpreted consistent with applicable state law.
5. Authorizes Targeted NEPA Categorical Exclusions – Authorizes the agencies to develop NEPA categorical exclusions that would allow them authorize guided recreational activities in well-traveled areas with existing general public use using limited environmental review.
6. Expands U.S. Forest Service and BLM Temporary Permits -- Directs the Forest Service and Bureau of Land Management to issue temporary permits that allow both new uses and new users, provide more than 200 user days, and lead to qualification for 10-year priority use after two years of acceptable use.
7. Increases Funding for Permit Administration – Directs more resources towards streamlining the permitting process from permit fees collected under FLREA. 95% of Fees from temporary, special use, and priority use permits should be re-invested in the local districts with funds specifically allocated to permit administration.
8. Improves Permit Administration -- Directs the agencies to develop, within two years, strategies for achieving the following goals:
  - a. At the U.S. Forest Service, issuing permits without conducting needs assessments in areas where they are not required by law (outside designated Wilderness).
  - b. Increasing transparency in the permitting system so that businesses, and recreation and education organizations can easily determine where permits are and are not available;
  - c. Increasing flexibility in the types of activities allowed under permits so that permit holders may make reasonable adjustments in the types of activities and services provided without requesting a formal permit amendment;
  - d. Establishing a 60-day deadline for (i) acknowledging a permit application, and (ii) approving the application or providing a projected date for a final decision; and
  - e. Encouraging the use of programmatic NEPA analyses that allow permit administrators to authorize use without completing additional NEPA.
9. Authorizes Micro-Contracts for Stewardship Projects -- Authorizes the use of agency-wide recreation fees to fund noncompetitive micro-contracts (under \$3,500) with outfitters, guides and nonprofit organizations stewardship projects that support the goals and resource needs of the agency, and establishes criteria for project approval and fund distribution.