

repealing provisions set out as a note under 4601-6a of this title] may be cited as the 'Federal Lands Recreation Enhancement Act'."

### § 6802. Recreation fee authority

#### (a) Authority of Secretary

Beginning in fiscal year 2005 and thereafter, the Secretary may establish, modify, charge, and collect recreation fees at Federal recreational lands and waters as provided for in this section.

#### (b) Basis for recreation fees

Recreation fees shall be established in a manner consistent with the following criteria:

(1) The amount of the recreation fee shall be commensurate with the benefits and services provided to the visitor.

(2) The Secretary shall consider the aggregate effect of recreation fees on recreation users and recreation service providers.

(3) The Secretary shall consider comparable fees charged elsewhere and by other public agencies and by nearby private sector operators.

(4) The Secretary shall consider the public policy or management objectives served by the recreation fee.

(5) The Secretary shall obtain input from the appropriate Recreation Resource Advisory Committee, as provided in section 6803(d) of this title.

(6) The Secretary shall consider such other factors or criteria as determined appropriate by the Secretary.

#### (c) Special considerations

The Secretary shall establish the minimum number of recreation fees and shall avoid the collection of multiple or layered recreation fees for similar uses, activities, or programs.

#### (d) Limitations on recreation fees

##### (1) Prohibition on fees for certain activities or services

The Secretary shall not charge any standard amenity recreation fee or expanded amenity recreation fee for Federal recreational lands and waters administered by the Bureau of Land Management, the Forest Service, or the Bureau of Reclamation under this chapter for any of the following:

(A) Solely for parking, undesignated parking, or picnicking along roads or trailsides.

(B) For general access unless specifically authorized under this section.

(C) For dispersed areas with low or no investment unless specifically authorized under this section.

(D) For persons who are driving through, walking through, boating through, horseback riding through, or hiking through Federal recreational lands and waters without using the facilities and services.

(E) For camping at undeveloped sites that do not provide a minimum number of facilities and services as described in subsection (g)(2)(A).

(F) For use of overlooks or scenic pullouts.

(G) For travel by private, noncommercial vehicle over any national parkway or any

road or highway established as a part of the Federal-aid System, as defined in section 101 of title 23,<sup>1</sup> which is commonly used by the public as a means of travel between two places either or both of which are outside any unit or area at which recreation fees are charged under this chapter.

(H) For travel by private, noncommercial vehicle, boat, or aircraft over any road or highway, waterway, or airway to any land in which such person has any property right if such land is within any unit or area at which recreation fees are charged under this chapter.

(I) For any person who has a right of access for hunting or fishing privileges under a specific provision of law or treaty.

(J) For any person who is engaged in the conduct of official Federal, State, Tribal, or local government business.

(K) For special attention or extra services necessary to meet the needs of the disabled.

##### (2) Relation to fees for use of highways or roads

An entity that pays a special recreation permit fee or similar permit fee shall not be subject to a road cost-sharing fee or a fee for the use of highways or roads that are open to private, noncommercial use within the boundaries of any Federal recreational lands or waters, as authorized under section 537 of this title.

##### (3) Prohibition on fees for certain persons or places

The Secretary shall not charge an entrance fee or standard amenity recreation fee for the following:

(A) Any person under 16 years of age.

(B) Outings conducted for noncommercial educational purposes by schools or bona fide academic institutions.

(C) The U.S.S. Arizona Memorial, Independence National Historical Park, any unit of the National Park System within the District of Columbia, or Arlington House-Robert E. Lee National Memorial.

(D) The Flight 93 National Memorial.

(E) Entrance on other routes into the Great Smoky Mountains National Park or any part thereof unless fees are charged for entrance into that park on main highways and thoroughfares.

(F) Entrance on units of the National Park System containing deed restrictions on charging fees.

(G) An area or unit covered under section 203 of the Alaska National Interest Lands Conservation Act (Public Law 96-487; 16 U.S.C. 410hh-2), with the exception of Denali National Park and Preserve.

(H) A unit of the National Wildlife Refuge System created, expanded, or modified by the Alaska National Interest Lands Conservation Act (Public Law 96-487).

(I) Any person who visits a unit or area under the jurisdiction of the United States Fish and Wildlife Service and who has been issued a valid migratory bird hunting and

<sup>1</sup> See References in Text note below.

conservation stamp issued under section 718b of this title.

(J) Any person engaged in a nonrecreational activity authorized under a valid permit issued under any other Act, including a valid grazing permit.

**(4) No restriction on recreation opportunities**

Nothing in this chapter shall limit the use of recreation opportunities only to areas designated for collection of recreation fees.

**(e) Entrance fee**

**(1) Authorized sites for entrance fees**

The Secretary of the Interior may charge an entrance fee for a unit of the National Park System, including a national monument administered by the National Park Service, or for a unit of the National Wildlife Refuge System.

**(2) Prohibited sites**

The Secretary shall not charge an entrance fee for Federal recreational lands and waters managed by the Bureau of Land Management, the Bureau of Reclamation, or the Forest Service.

**(f) Standard amenity recreation fee**

Except as limited by subsection (d), the Secretary may charge a standard amenity recreation fee for Federal recreational lands and waters under the jurisdiction of the Bureau of Land Management, the Bureau of Reclamation, or the Forest Service, but only at the following:

- (1) A National Conservation Area.
- (2) A National Volcanic Monument.
- (3) A destination visitor or interpretive center that provides a broad range of interpretive services, programs, and media.
- (4) An area—
  - (A) that provides significant opportunities for outdoor recreation;
  - (B) that has substantial Federal investments;
  - (C) where fees can be efficiently collected; and
  - (D) that contains all of the following amenities:
    - (i) Designated developed parking.
    - (ii) A permanent toilet facility.
    - (iii) A permanent trash receptacle.
    - (iv) Interpretive sign, exhibit, or kiosk.
    - (v) Picnic tables.
    - (vi) Security services.

**(g) Expanded amenity recreation fee**

**(1) NPS and USFWS authority**

Except as limited by subsection (d), the Secretary of the Interior may charge an expanded amenity recreation fee, either in addition to an entrance fee or by itself, at Federal recreational lands and waters under the jurisdiction of the National Park Service or the United States Fish and Wildlife Service when the Secretary of the Interior determines that the visitor uses a specific or specialized facility, equipment, or service.

**(2) Other Federal land management agencies**

Except as limited by subsection (d), the Secretary may charge an expanded amenity recre-

ation fee, either in addition to a standard amenity fee or by itself, at Federal recreational lands and waters under the jurisdiction of the Forest Service, the Bureau of Land Management, or the Bureau of Reclamation, but only for the following facilities or services:

- (A) Use of developed campgrounds that provide at least a majority of the following:
  - (i) Tent or trailer spaces.
  - (ii) Picnic tables.
  - (iii) Drinking water.
  - (iv) Access roads.
  - (v) The collection of the fee by an employee or agent of the Federal land management agency.
  - (vi) Reasonable visitor protection.
  - (vii) Refuse containers.
  - (viii) Toilet facilities.
  - (ix) Simple devices for containing a campfire.

(B) Use of highly developed boat launches with specialized facilities or services such as mechanical or hydraulic boat lifts or facilities, multi-lane paved ramps, paved parking, restrooms and other improvements such as boarding floats, loading ramps, or fish cleaning stations.

(C) 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.

(D) Use of hookups for electricity, cable, or sewer.

(E) Use of sanitary dump stations.

(F) Participation in an enhanced interpretive program or special tour.

(G) Use of reservation services.

(H) Use of transportation services.

(I) Use of areas where emergency medical or first-aid services are administered from facilities staffed by public employees or employees under a contract or reciprocal agreement with the Federal Government.

(J) Use of developed swimming sites that provide at least a majority of the following:

- (i) Bathhouse with showers and flush toilets.
- (ii) Refuse containers.
- (iii) Picnic areas.
- (iv) Paved parking.
- (v) Attendants, including lifeguards.
- (vi) Floats encompassing the swimming area.
- (vii) Swimming deck.

**(h) Special recreation permit fee**

The Secretary may issue a special recreation permit, and charge a special recreation permit fee in connection with the issuance of the permit, for specialized recreation uses of Federal recreational lands and waters, such as group activities, recreation events, motorized recreational vehicle use.

(Pub. L. 108-447, div. J, title VIII, §803, Dec. 8, 2004, 118 Stat. 3378.)

REFERENCES IN TEXT

Section 6803 of this title, referred to in subsec. (b)(5), was in the original a reference to section 4, and was

translated as meaning section 804 of title VIII of div. J of Pub. L. 108-447, to reflect the probable intent of Congress.

This chapter, referred to in subsec. (d)(1), (4), was in the original “this Act”, and was translated as reading “this title”, meaning title VIII of div. J of Pub. L. 108-447, Dec. 8, 2004, 118 Stat. 3377, known as the Federal Lands Recreation Enhancement Act, to reflect the probable intent of Congress. For complete classification of title VIII to the Code, see Short Title note set out under section 6801 of this title and Tables.

Section 101 of title 23, referred to in subsec. (d)(1)(G), was subsequently amended, and section 101 no longer defines “Federal-aid System”.

The Alaska National Interest Lands Conservation Act, referred to in subsec. (d)(3)(H), is Pub. L. 96-487, Dec. 2, 1980, 94 Stat. 2371, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

### § 6803. Public participation

#### (a) In general

As required in this section, the Secretary shall provide the public with opportunities to participate in the development of or changing of a recreation fee established under this chapter.

#### (b) Advance notice

The Secretary shall publish a notice in the Federal Register of the establishment of a new recreation fee area for each agency 6 months before establishment. The Secretary shall publish notice of a new recreation fee or a change to an existing recreation fee established under this chapter in local newspapers and publications located near the site at which the recreation fee would be established or changed.

#### (c) Public involvement

Before establishing any new recreation fee area, the Secretary shall provide opportunity for public involvement by—

- (1) establishing guidelines for public involvement;
- (2) establishing guidelines on how agencies will demonstrate on an annual basis how they have provided information to the public on the use of recreation fee revenues; and
- (3) publishing the guidelines in paragraphs (1) and (2) in the Federal Register.

#### (d) Recreation Resource Advisory Committee

##### (1) Establishment

###### (A) Authority to establish

Except as provided in subparagraphs (C) and (D), the Secretary or the Secretaries shall establish a Recreation Resource Advisory Committee in each State or region for Federal recreational lands and waters managed by the Forest Service or the Bureau of Land Management to perform the duties described in paragraph (2).

###### (B) Number of Committees

The Secretary may have as many additional Recreation Resource Advisory Committees in a State or region as the Secretary considers necessary for the effective operation of this chapter.

###### (C) Exception

The Secretary shall not establish a Recreation Resource Advisory Committee in a

State if the Secretary determines, in consultation with the Governor of the State, that sufficient interest does not exist to ensure that participation on the Committee is balanced in terms of the points of view represented and the functions to be performed.

#### (D) Use of other entities

In lieu of establishing a Recreation Resource Advisory Committee under subparagraph (A), the Secretary may use a Resource Advisory Committee established pursuant to another provision of law and in accordance with that law or a recreation fee advisory board otherwise established by the Secretary to perform the duties specified in paragraph (2).

#### (2) Duties

In accordance with the procedures required by paragraph (9), a Recreation Resource Advisory Committee may make recommendations to the Secretary regarding a standard amenity recreation fee or an expanded amenity recreation fee, whenever the recommendations relate to public concerns in the State or region covered by the Committee regarding—

- (A) the implementation of a standard amenity recreation fee or an expanded amenity recreation fee or the establishment of a specific recreation fee site;
- (B) the elimination of a standard amenity recreation fee or an expanded amenity recreation fee; or
- (C) the expansion or limitation of the recreation fee program.

#### (3) Meetings

A Recreation Resource Advisory Committee shall meet at least annually, but may, at the discretion of the Secretary, meet as often as needed to deal with citizen concerns about the recreation fee program in a timely manner.

#### (4) Notice of rejection

If the Secretary rejects the recommendation of a Recreation Resource Advisory Committee, the Secretary shall issue a notice that identifies the reasons for rejecting the recommendation to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate not later than 30 days before the Secretary implements a decision pertaining to that recommendation.

#### (5) Composition of the Advisory Committee

##### (A) Number

A Recreation Resource Advisory Committee shall be comprised of 11 members.

##### (B) Nominations

The Governor and the designated county official from each county in the relevant State or Region may submit a list of nominations in the categories described under subparagraph (D).

##### (C) Appointment

The Secretary may appoint members of the Recreation Resource Advisory Committee from the list as provided in subparagraph (B).