

Forest Service/BLM Recreation Fees Timeline

Pre-1997: Fees were *prohibited except in specific circumstances* (such as developed campgrounds) by the Land and Water Conservation Fund Act (LWCFA). Fees were paid into the US Treasury, less 15% for administration.

1997-2004: The Fee Demonstration Program repealed the fee authority portion of the LWCFA. Fees became *allowed in all circumstances*, on a “demo” basis, and the agencies were allowed to retain fee revenue directly. Failure to pay was an infraction, maximum fine \$100. Original three-year program was enacted as an appropriations rider. Three two-year extensions were also enacted as appropriations riders. Program was popular with the agencies but unpopular with the general public. Amendments to eliminate Fee Demo from the appropriations bill failed three times in the House, but by increasingly small margins as congressional support dwindled. Representative Scott McInnis, originally a supporter of Fee Demo, voted to eliminate it the last time it came up for extension.

2004: Legislation to repeal Fee Demo except as applied to the National Park Service passed the Senate by unanimous consent. (S.1107 Sponsor: Craig Thomas) Never taken up in the House.

2005-Present: Federal Lands Recreation Enhancement Act (FLREA) was enacted as an appropriations rider at the end of 2004, with a ten-year authorization.

Fees are *allowed for developed areas that meet certain specific criteria*.

Fees are *prohibited for general access, parking, scenic overlooks, dispersed areas, or passing through without using any facilities and services*.

Failure to pay is a misdemeanor, first offense capped at \$100, subsequent offenses up to \$100,000 and/or 1-year imprisonment.

FLREA's language appeared to address the main objections to Fee Demo, and if implemented as written would have been a vast improvement. On the ground, however, almost nothing changed. The Forest Service and BLM have continued to charge fees even at undeveloped locations as well as for general access, parking, scenic overlooks, dispersed areas, and for access to foot/horse trails. The Forest Service has unilaterally decided that FLREA does not apply at concessionaire-operated locations, which are allowed to set their own rules.

2007: Legislation to repeal FLREA introduced in the Senate. (S.2438 Sponsors Baucus, Crapo, Tester, K. Salazar) Hearing scheduled April 2008 was cancelled by Senator Bingaman.

2009: Legislation again introduced in the Senate to repeal FLREA. (S.868 Sponsors Baucus, Crapo, Risch, Tester) Never scheduled for a hearing.

December 8, 2014: FLREA expires if not renewed or replaced by Congress.

FLREA Expires On December 8, 2014

Possible Congressional Actions:

- **Allow FLREA to expire.** Doing nothing would return fee authority to the Land and Water Conservation Fund Act. Fees would still be allowed at developed campgrounds and boat launches and for special uses such as outfitters and organized events. Fee revenue would be paid to the US Treasury.
- **Replace FLREA with revised fee authority.** Revisions should include at a minimum:
 - Eliminate the huge areas (HIRAs) where fees are required for all access.
 - Prohibit fees for access to foot/horse trails into undeveloped backcountry.
 - Require that federal facilities operated under contract by concessionaires be subject to the same federal laws as apply to the agencies.
 - Limit the use of Special Recreation Permits to commercial operations and large organized events. Prohibit their use to require payment of fees for private, noncommercial recreation.
 - Make failure to pay an infraction punishable by a monetary fine only, not incarceration.
- **Renew FLREA unchanged.** The Forest Service and BLM will continue to expand their fee programs and demand direct payment for access to millions of acres of federal recreational lands. Individuals and families will continue to be threatened with criminal prosecution if they fail to purchase a pass to go for a hike or horseback ride, enjoy a scenic overlook, or park along a roadside or at a trailhead. Forest Service concessionaires will continue to charge private fees for activities that FLREA prohibits the Forest Service itself from charging.