

Suggested Comments on Forest Service’s Special Recreation Permit Fee for Central Cascades. Due 11/25/19

Love it or hate it. You have until November 25th to let the Forest Service know how you feel. More information about proposed fees is available at www.fs.usda.gov/willamette. Comments can be sent to WillametteRecFeeComments@usda.gov

These are merely suggestions. The final wording and decision about what to include are completely up to you.

- The proposed special recreation permit fee structure potentially violates the following laws:
 - Administrative Procedure Act (APA), 5 U.S.C. §§ 701-706 as a final agency action that is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.
 - Federal Lands Recreation Enhancement Act (FLREA), 16 U.S.C. § 6801 et seq.
 - National Environmental Policy Act (NEPA), 42 U.S.C. 4321 et seq. and Civil Rights Act, 42 U.S.C. Ch. 21 and Executive Order 12898.
 - National Forest Management Act (NFMA), 16 U.S.C. § 1601 et seq. and forest-specific plans, including the Northwest Forest Plan, the Willamette National Forest Plan, and the Deschutes National Forest Plan.
 - Wilderness Act, 16 U.S.C. § 1311 et seq.
- Describe your outdoor activities, what you do, how often you use these areas (e.g., “I backpack, climb, hike, fish, etc. in Mt. Jefferson Wilderness, Three Sisters Wilderness at least xxx per year”).
- Describe (if applicable): 1) how the fee makes it harder for you to access these lands; and 2) will deter you from engaging in your normal activities in these areas.
- This fee proposal is unprecedented. Willamette National Forest and Deschutes National Forest are the first national forests in the U.S. to try to implement a fee system across three wilderness areas that will charge all overnight users and 19 trailhead day users across over 450,000 acres.
- The amount of the fee is exorbitant. For example, for an 8-person group that seeks to complete a 10-day backing trip of the area, the fee will jump from its current amount of \$0 to \$406 (\$5/person/day + \$6 reservation fee).
- The proposed fee violates FLREA, which prohibits charges for general access, hiking, dispersed camping, and other uses.
- The proposed fee violates FLREA, which prohibits the Forest Service from charging an entrance fee. There is no way to enter the three wilderness areas for overnight use without paying this entrance fee.
- None of the exceptions to the FLREA’s fee prohibitions apply here.
 - This proposal is not a “special recreation use” within the meaning of the FLREA. The plain language of the statute is specifically limited to specialized recreation uses such as group activities, recreation events, and motorized recreational vehicle use. Activities such as hiking, walking, camping are wholly outside the scope of the *special* activities Congress intended to cover.
 - The Northwest Forest Pass covers some of the areas at issue in this Project; not all of the areas contain the six amenities, so FLREA prohibits a fee.
 - For persons who solely park at a site where the Northwest Forest Pass is required without using any of the required amenities, FLREA prohibits a fee.
 - The proposal will charge persons age 12 and over. But the FLREA prohibits charging such fees to people under 16 years of age.
 - The proposed reservation fee of \$1 for day use and \$6 for overnight use is a prohibited reservation fee under FLREA.

- Public process requirements for the proposed fee are not satisfied
 - The Forest Service has not provided a sufficient opportunity for public involvement or participation in the developing of recreation fees, has not established guidelines for public involvement, and has not established guidelines for how the agency will demonstrate on an annual basis how it will inform the public of the use of recreation fee revenues.
 - Notice documents have been wholly insufficient
 - In March 2019, the Forest Service said: “The public will have the opportunity to learn more about and comment on each of these items . . . annual pass option . . . volunteer pass . . . passes/permits to underserved communities.”
 - In October 2019 the Forest Service’s press release stated that it was seeking authorization through FLREA and sought “the public’s engagement on the specifics of the fee structure.”
 - But the documents made available during the current comment period do not provide the public with necessary information about any of these items.
 - In addition, the public cannot comment and participate because it lacks information about the Forest Service’s rationale for the fee or the fee amount. We have no information about how the Forest Service developed these fees or how the proposed fees compare to fees in other areas. We also lack any information on which to comment about cancellations, weather problems, how the Forest Service will address day-of or last minute passes, how low income people will be included in the pass system.
 - Open house/Public hearings
 - **Describe you attendance at a public hearing and what happened.**
 - The Forest Service had posters, pictures and made a 15 minute presentation. Attendees reported they were not allowed to make public comments; instead, the Forest Service broke the meeting attendees into groups for “informal” discussions despite members of the public demanding to be allowed to make public comments, and even asking for one 15 minute open comment period. Informal dispersed discussion groups made it difficult to hear each other in the group and throughout the room so no meaningful public engagement actually occurred.
 - The Forest Service engagement to questions was vague, combative, non-responsive, or deferred to email.
 - Upcoming Resource Advisory Committees, Recommendations, Final Decision
 - Without a substantive proposal to comment on, the public cannot meaningfully comment, and the Resource Advisory Committees will not be able to receive a proper proposal, and any recommendation the RACs make to the Forest Service can only be arbitrary, capricious, or contrary to law.
- NEPA
 - Need for fees insufficiently identified, discussed, analyzed.
 - Effects of fees on dispersal, quotas, insufficiently discussed, analyzed, mitigated
 - Civil rights
 - Fees and socio economic effects insufficiently identified, discussed, analyzed, mitigated in available documentation
 - The Forest Service essentially says “you can go elsewhere” if you cannot or do not want to pay the fee
 - Obtaining a permit must occur in advance; the Forest Service has provided no indication how many free day-of permits will be available, how it will determine how many day-of permits will be free, and how it will decide who is entitled to a day-of permit. It seeks public input but has no proposal to discuss for its own project.
 - Applicants must have access to a telephone, computer or a smartphone and a credit card, bank account, or electronic payment mechanism.

- The Forest Service is “working with partner organizations and local libraries” but provides no details. The public cannot comment on a void.
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- Investment
 - The Forest Service states it is accepting comments on how the fees should be invested, but it offers no proposal for the public to comment on. No investment plan means no fees can be charged.
 - In the Forest Service’s “Updated FAQ” sheet of October 2019, it states 80-95% of monies would be invested in wilderness management activities, trail maintenance, visitor education and expanding work with volunteers and partners within the three wilderness. How much money does the Forest Service expect to generate? Why did it propose these reinvestments? All of this must be explained and supported.