

Section 3: Transition to REA

REA Implementation Organization

Implementing REA has provided an opportunity for the DOI and USDA to work together closely on short- and long-term issues and challenges. Since the enactment of REA, the agencies have taken proactive steps to ensure that REA is implemented in a thoughtful and consistent manner. As highlighted below, the implementation challenges fall into three general categories: organizational, programmatic, and resource.

Organizational Challenges

To develop and implement the various components mandated in REA, the two departments utilized three distinct levels of oversight to ensure a smooth transition to REA:

1. The Fee Council, comprised of high-level DOI and USDA policy officials, provides overall guidance to the Steering Committee and Working Groups.
2. The Steering Committee, comprised of senior agency staff from the participating agencies, is charged with coordinating the working groups described below and chartering subgroups as necessary to complete specific tasks.
3. Working Groups, comprised of staff from each agency, serve as the focal point for coordination and resolution of issues at a staff level. Significant policy issues requiring resolution are raised first to the Steering Committee and then to the Fee Council for approval. The following four workgroups have been created: (1) New passes; (2) Fee Collection/Expenditure; (3) Recreation Resource Advisory Committees/Public Participation; and (4) Communications.

Programmatic Challenges:

REA establishes several program components that will proceed along varying timelines. Some of these components needed short-term action (within three months), while others needed to be addressed in the intermediate-term (six months to a year), or in the long-term (one year or longer).

Short-term actions include:

- Creating Treasury accounts established under section 7 of REA and transferring unobligated amounts from recreation fees collected under previous recreation fee authorities, such as the Land and Water Conservation Act, National Park Passport, the Fee Demo program, and the Emergency Wetlands Resources Act to these accounts;
- Conducting an initial analysis of whether BLM and FS sites meet the criteria for standard amenity and expanded amenity recreation fees and whether NPS and FWS sites meet the criteria for entrance fees and expanded amenity recreation fees; and
- Ceasing the use of REA money for threatened and endangered species monitoring.

Intermediate-term actions include:

- Informing Congress and the public about the progress of implementation (ongoing);
- Publishing interagency public participation guidelines in the Federal Register;
- Conducting a more detailed analysis of the extent to which sites meet the requirements for charging entry, standard amenity, and expanded amenity fees (completed);

Long-term actions include:

- Establishing consistent guidance for the new pass (see Section 5 below for details);
- Developing consistent signage and logos (this will likely occur in the future);
- Creating an Interagency Agreement for RRACs and creating a charter.

Resource Challenges:

The participating agencies had limited capabilities for addressing implementation issues at the time REA was enacted. In the short- to intermediate- term, it was often necessary for agencies to modestly increase the level of staff time devoted to addressing REA implementation issues. Fortunately, many of the Fee Demo business practices set the stage for a smooth transition to REA.

Outreach

The Departments have continued to make information about program activities available to the public, agency staff, and Congress. The public started seeing changes from the Fee Demo program to REA program in the summer of 2005. The agencies have taken many steps and employed various media to inform the public about the implementation process throughout this period. For example, listening sessions on RRACs and the new passes were conducted across the country, press releases were issued that explained changes at specific sites, and Federal Register notices were published reflecting the input received from public participation (see Section 4 on Public Participation for more details).

Guidance was provided to field staff at many intervals (see Table 5 on REA Guidelines, below) to keep them updated about changes to the system and organization. Additionally, the agencies have met with congressional committee staff a number of times and testified before Congress on two occasions in 2005. Recently, the Departments briefed both Senate and House staff in January 2006 on the status of implementation. The GAO is also currently reviewing the implementation of REA implementation per Congress's request. The agencies will continue to provide frequent updates to committee staff.

Fee Structure and Payment Options

Federal land management agencies collect four types of recreation fees: entrance fees, standard amenity recreation fees, expanded amenity recreation fees, and special recreation permit fees. Under REA:

- The term “entrance fee” is now a term only used for NPS and FWS (mostly parks and refuges).
- The term “standard amenity recreation fee” is a new category under the REA. These fees are also authorized for BOR, who was not a participant in Fee Demo. Standard amenity recreation fees are authorized for National Conservation Areas, National Volcanic Monuments, destination visitor and interpretive centers, and areas that meet specific amenity based criteria.
- The term “expanded amenity recreation fee” is a new category which may be charged in addition to an entrance fee, or by itself, on lands managed by the NPS and FWS where the Secretary of the Interior determines visitors use a specific or specialized facility, equipment or service. On lands managed by FS, BLM, and BOR, expanded amenity recreation fees may be charged only for facilities and services that meet defined criteria such as developed campgrounds, boat launches, equipment rentals, use of hookups for electricity, cable or sewer, reservation services, transportation, first-aid, and swimming sites.
- The term “special recreation permit fees” mostly pertain to BLM and FS sites. Under REA, Advisory Councils and RRACs will have the opportunity to review all non-commercial, individual special recreation permit fees. (Commercial and group special recreation permits, such as outfitting and guiding permits or recreation events, will not be subject to review by the Advisory Councils and RRACs.)

The terms “area” and “site” are used interchangeably in REA. “Area” is defined as a site, complex of sites, or a high impact recreation area that, at a minimum, meets the following conditions:

- a. Provides significant opportunities for outdoor recreation
- b. Requires substantial Federal investments
- c. Allows fees to be effectively collected
- d. Contains all of the following amenities: designated developed parking; a permanent toilet facility; a permanent trash receptacle; interpretive signs, exhibits, or a kiosk; picnic tables; and security services

However, not all the agencies use the definition of “site” in the same way. NPS and FWS use “site” to generally mean an entire administrative unit, such as a refuge or a park. Those agencies generally charge an entrance fee for the entire unit. On the other hand, BLM and FS cannot charge an entrance fee; they charge standard amenity recreation fees, thus the sites where the BLM and FS would charge a standard amenity fee are not entire units (the whole national forest or the entire BLM district). For example, FS charges fees under REA authority at over 4,000 “sites,” in 155 forests and 20 grasslands. The term “site” for BLM and FS refers to individual recreation sites and services (campgrounds, trailheads, picnic areas, tours, mountain climbing permits, river float permits, etc.). However, FS records revenue and expenditures by national forests and not by individual recreation sites.

There are several options for paying entrance or standard amenity fees:

- First, one can use a national pass, such as the new recreation passes called for in REA. These passes will be sold and accepted by the NPS, FWS, BLM, BOR and FS and cover entrance fees and standard amenity fees. The distribution of the revenues from these passes is discussed in Section 5.
- Second, a person can pay a one-time entrance fee or standard amenity fee per vehicle (or per person), which is valid for multiple entries at the same site (1–7 days in most cases). Individual or per vehicle fee levels vary according to agency-specific price-setting policies.
- Third, at many NPS and FWS sites there is an option to purchase an annual site-specific pass that provides entry to an individual park or site, or sometimes to two adjacent sites (e.g., Grand Teton and Yellowstone National Parks, or Canyonlands and Arches National Parks).
- Fourth, there are regional and multientity passes offered for certain groups of sites. Some of these passes evolved during the Fee Demo program and are detailed in Appendix III. REA provides for the potential future development of others.

Changes in the Number of Sites

As a result of the transition from the Fee Demo program to REA program, changes were made in the number of sites introduced, eliminated, and/or reconfigured for each agency.

National Park Service

The only change for the NPS due to REA was at the Exit Glacier site in Kenai Fjords National Park in Alaska. The NPS eliminated a day-use fee because it might have been perceived to be an entrance fee, prohibited under the Alaska National Interest Lands Conservation Act, and thus, under REA. Currently, 186 of 390 park units are completely free to the public.

Fish and Wildlife Service

For the FWS, the term “site” refers to a management unit such as a refuge, a hatchery, waterfowl production area, etc. The majority of FWS recreation fee activities are located on national wildlife refuges. Other types of FWS sites, such as Wetland Management Offices and Ecological Services Field Offices, do not charge fees but will likely sell the new passes. Currently, there are 27 of these sites which do not charge a recreation fee but sell passes and are counted in REA program.

Currently, FWS manages 545 refuges. More than 450 of these are open to the public. In addition, the FWS manages hundreds of waterfowl production areas and 70 national fish hatcheries which are also open to the public. Of these sites, only 33 refuges charge entrance fees and an additional 107 sites charge expanded recreation amenity fees. This means that of FWS lands that are open to the public, over 80 percent are free of charge.

Bureau of Land Management

Over 90 percent of BLM managed recreation areas are open to the visiting public without a fee. In implementing the Fee Demo program, the BLM focused on converting the existing 390 recreation fee sites, operated under the Land and Water Conservation Fund (LWCF) authority, to Fee Demo instead of creating new Fee Demo sites. There were only a few sites where BLM imposed new fees under the Fee Demo program. These sites consisted of eleven visitor centers where BLM did not have the authority under the LWCF to charge a fee.

For this reason, the majority of BLM’s existing Fee Demo sites meet the criteria set in REA. This made the transition to REA relatively simple, since the majority of the BLM’s existing Fee Demo sites already met REA criteria for charging fees. Some adjustments were made to make BLM sites entirely REA compliant. Examples of these changes include:

- Elimination of fees for overlooks at the Imperial Sand Dunes, California;
- Elimination of fees for undeveloped sites at Orilla Verde Recreation Area, New Mexico;

- Elimination of the youth fees at Piedras Blancas visitor center, California, the Cleveland–Lloyd Dinosaur Quarry, Utah, and at Cape Blanco Lighthouse, Oregon;
- Change of “entrance fees” to standard amenity fees at eight REA compliant sites;
- Changing of the recreation use permit and fee at Little Sahara Sand Dunes, Utah to a special recreation permit; and
- Increase in the number of sites that accept national passes from 12 to 24.

In its review of recreation sites, BLM aligned fee sites into their correct REA categories. This changed the number of fee sites within each of the three categories (standard amenity, expanded amenity, and special recreation permit fees). These changes do not represent any new sites or fees. As a result, BLM now identifies its REA compliant fee sites as: 24 standard amenity sites, 344 expanded amenity sites, and 22 special recreation permit areas.

Forest Service

The FS, which used a more experimental approach under the Fee Demo Program than the BLM, made the most changes as a result of REA. The FS removed 437 recreation fees from the Agency's program as a result of enactment of REA. Instead of organizing recreation fees as projects under the Fee Demo Program, where one project could include several campgrounds or rental cabins, the FS unbundled the projects to individual recreation sites and services, such as a campground, visitor center, or trailhead. Under this approach, the total of recreation sites and services for the Forest Service is approximately 17,100. Of these 17,100 sites and services, 4,068 are fee sites and services under REA. However, the FS's financial system does not provide for tracking revenue and expenditures by site such as by campground or boat launch. For purposes of financial tracking, the basic recreation fee unit is a national forest. There are 155 national forests, 9 regional offices, and the Washington office in the Forest Service's REA program.

Bureau of Reclamation

Few BOR recreation sites currently meet the established criteria to be included in REA program due to logistical and operational factors. The BOR is currently determining an appropriate level of REA implementation based on standing authorities and responsibilities. Additionally, the BOR is also currently determining whether REA implementation and participation costs exceed potential REA revenue for the agency.

Multientity and Regional Passes

There were also some changes to multientity and regional passes as a result of the reorganization and transition from the Fee Demo to REA program. Four of the Federal passes (Golden Eagle, Golden Age, Golden Access Passports, and the National Parks Pass) will be replaced by the new passes. Certain regional passes will now be accepted at a lesser number of recreation sites. These changes are listed in the Table 20 in Appendix III.

Internal Policies and Guidelines

Each agency adopted different guidelines and internal policies for dealing with the changes in fees and sites described above. Additionally, the agencies published guidelines to accompany provisions in the Act as required by REA. The guidelines fall into two categories.

1. Interagency and agency-specific REA implementation guidelines (discussed below)
2. Interagency and bureau-specific guidelines specific to public involvement (described in Section 4 on Public Participation)

Interagency Guidelines

On December 13, 2005, the interagency team distributed the initial set of guidelines, “REA Handbook.” These guidelines clarified the statutory language in REA and provided specific instructions for implementing it. REA Handbook included guidance that clarified the following two areas of concern:

1. Section 8(b) of REA stipulates: “*The Secretary may not use any recreation fees for biological monitoring on Federal recreational lands and waters under the Endangered Species Act of 1973 for listed or candidate species.*” The Fee Collection and Expenditure Workgroup developed the following interagency definition and policy to comply with this mandate:

Definition: Section 8(b)

National Environmental Protection Act (NEPA) requires one-time actions termed survey, clearance, or inventory of the listed or candidate species as a part of the compliance process. These one-time actions are not considered monitoring as defined under the Endangered Species Act (ESA). Under the ESA, “monitoring” is defined as a distinct action with an established frequency or repetition, and monitoring is associated with recovery activities for listed or candidate species. Resulting from the NEPA process, mitigation actions may be required to insure that a project does not jeopardize the continued existence of an endangered or threatened species or result in the destruction or adverse modification of critical habitat.

Monitoring Policy: Section 8(b)

Each participating agency will ensure that no recreation fees are being expended for actions on biological monitoring under the Endangered Species Act for listed or candidate species. By policy, the excluded activities associated with listed or candidate species under the Endangered Species Act are expanded to include the writing of ESA-required recovery plans and mitigation that is generated by the implementation of a recovery plan. NEPA establishes a process that an agency must undertake prior to proceeding with certain visitor events or activities or with projects to enhance visitor facilities and services. In such cases, the definition and policy in this document allow for the use of recreation fees for surveys, inventories, and mitigation actions during an event, activity, or project execution that are required as a result of the NEPA process, even if the actions may be consistent with a recovery plan.

Exception to Policy on Recovery Plan Mitigation:

Exceptions to the prohibition of using fees for ESA recovery plans include the use of the fees on expenditures specifically provided for under Section 8(a)(3). For example, recovery plans may include expenditures that also provide for "habitat restoration directly related to wildlife-dependent recreation that is limited to hunting, fishing, wildlife observation or photography," an expenditure explicitly authorized in Section 8(a)(3)(C). Where such overlap occurs, an explanation should be provided that identifies the expenditure provision in REA that authorizes the activity and how the expenditure enhances the visitor experience.

Each agency will require the information used to determine the use of this policy exception to be documented in the justification and determination of approval of the expenditure. The agency will maintain and have readily available the documentation supporting the approval of the expenditure as within the law and the policy.

2. Section 15 of REA stipulates “*notwithstanding any other provision of law, fees collected under the authorities of this Act may not be used for employee bonuses.*”

Policy: Section 15

Recreation fees collected under this program may not pay for employee bonuses. The Office of Personnel Management identifies two types of bonuses – recruitment and relocation. For the implementation of REA, the one-time payment of performance-based awards to an employee will be considered a bonus. A Quality Step Increase award will not be considered a bonus since they are embedded as recurring salary. This exception applies only to Quality Step Increase awards for those employees whose job is directly tied to the recreation fee program and whose salary is paid from recreation fee dollars.

Agency Specific Guidelines

According to REA, each Federal land management agency is responsible for creating tailored guidelines covering provisions in the Act. Issues addressed by agency-specific guidance include how to address the changing the number and type of fee sites, the amount of fees charged at various sites, the number and types of passes offered for individual sites, and the boundaries corresponding to regional and multi-agency passes. The NPS, BLM, FWS, and FS all published interim guidelines addressing similar issues in a similar manner. The table below lists the most relevant agency-specific guidance per agency.

National Park Service:

- In December, 2004 the NPS issued interim guidelines that explained the new provisions in the law and identified the new expenditure requirements;
- The guidelines also required regions to ensure that all fee collection sites were in compliance with the provisions in the new law;
- In January, 2005 the NPS provided an extensive telnet broadcast that was viewed by over 400 participants on all aspects of the new REA law;
- In January, 2006 new Public Participation and Notification guidelines were developed and issued as an addendum to Director’s Order #75A, Civic Engagement and Public Involvement; and
- The NPS issued agency guidance to guide parks in crafting their proposals for projects that need funding from REA revenue. The guidance will take effect for the years 2007 through 2011. Under these guidelines (Appendix 5), each region will create a five-year plan for funding based on the data and project proposals submitted in 2006. The goal of the guidelines is to ensure fee revenue is expended with accountability and integrity, to improve information management capabilities, and to streamline processes. Through this process, managers will be

able to track expenditure categories such as the cost of collection, and manage these amounts to ensure compliance with REA.

In addition, Fee Revenue Comprehensive Plans will be developed to show stakeholders the value of their investment through recreation fees. Data in the Comprehensive Plans will enable the NPS to report their accomplishments under REA by parks, states, regions and servicewide.

Bureau of Land Management and Forest Service:

The BLM and FS handled their guidance to the field in similar fashions. In 2004, both agencies issued interim guidelines which stated the following:

- Field offices in each state/region must conduct an initial assessment of whether their recreation sites meet the criteria for standard or expanded recreation amenity fee sites;
- Recreation fee revenue spending aligns with the legislated expenditure categories and agency guidelines;
- Recreation site overhead and indirect costs must be below an average of 15 percent of revenue as mandated by the Act;
- A moratorium for new fee areas will take effect immediately and remain in effect until notified; and
- Changes in fees need to be approved by DOI or the agency.⁵

In 2005, the BLM and FS each issued additional agency guidance as they began to implement changes from the Fee Demo Program to REA. The 2005 guidance:

- Established fee increases to keep pace with inflation;
- Developed new fee site areas resulting from multi-year planning efforts;
- Expanded amenity sites/areas (due to the addition of developed facilities or improved visitor services, or were due to a review and evaluation of charges by the private sector and other government agencies providing similar recreation facilities or opportunities); and

⁵ Fee increases continue to be allowed at sites that receive “normal” fee increases such as campgrounds that keep pace with inflation. In addition, fee increases had to have been planned and in the process prior to REA being passed. New expanded amenity sites/areas that were scheduled to be open as a result of multi-year planning efforts that included public participation were also authorized. Any units proposing opening new expanded amenity recreation fee sites had to demonstrate that they communicated with the County Commissioners of the area, the general public, and the local Congressional representatives.

- Addressed new fee areas, special recreation permit fee increases, and fee increases already scheduled for FY 2005.

Fish and Wildlife Service:

FWS sites submit project proposals for a share of the 20 percent of fee collections managed by some Regional Offices. Fee sites will soon be developing business plans that will incorporate their five-year plans for future obligations. At a recent FWS Recreation Fee Workshop, the FWS put together a first draft Director's Order for the Recreation Fee Program. Interim guidance is expected to be distributed for review and approval in spring of 2006.

Table 5: Significant REA Guidelines

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| <p>National Park Service</p> | <p>Dec. 17, 2003, “Director’s Order #75A Civic Engagement and Public Involvement,” published and distributed. Online at https://www.nps.gov/civic/policy/</p> <p>Dec 21, 2004, “Guidance Concerning Title VIII – Federal Lands Recreation Enhancement Act of H.R. 4818 (Omnibus Appropriations Bill for FY 2005)”</p> <p>January 28, 2005, “Telnet broadcast concerning Title VIII – Federal Lands Recreation Enhancement Act of H.R. 4818.”</p> <p>August 26, 2005, “Federal Lands Recreation Enhancement Act Comprehensive Plans.”</p> <p>November 17, 2005, “Recreation Fee Enhancement Program Guidance for Project Submittal (FY 2008 Servicewide Comprehensive Call)”</p> <p>November 22, 2005, “Telnet broadcast concerning implementation of web based Fee Revenue Comprehensive Plans.”</p> <p>January 26, 2006, “Fee Program Public Participation and Notification Guidelines,” Memorandum and Addendum to DO 75A from Acting Director, Business Services. (Described in Section 3)</p> |
| <p>Bureau of Land Management</p> | <p>December 16, 2004, “Recreation Fee Guidelines for the Bureau of Land Management,” and December 20, 2004, “Cover Memo for Recreation Fee Guidance,” from Assistant Director, Renewable Resources and Planning</p> <p>Jan 26, 2005, “Federal Lands Recreation Enhancement Act, H.R. 4818, Interim Recreation Fee Guidelines for the BLM,” and <i>Instruction Memorandum</i> from Assistant Director, Renewable Resources and Planning</p> <p>May 4, 2005, “Interim Approval Guidelines for Recreation Fee Increases,” <i>Instruction Memorandum</i> from Assistant Director, Renewable Resources and Planning</p> <p>June 14, 2005, “Interim Approval Guidelines for Recreation Fee Increases,” from Assistant Director, Renewable Resources and Planning</p> <p>June 14, 2005, “Summary Document: Interim Approval Guidelines for Recreation Fee Increases, Federal Lands Recreation Enhancement Act (FLREA)”</p> <p>March 2, 2006, “Interim Approval Guidelines for Certain Recreation Fee Increases and Proposed New Fee Sites/Areas”</p> |

Table 5: Significant REA Guidelines

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| Fish & Wildlife Service | April 14, 2005, “Guidance Implementation Group for Federal Lands Recreation Enhancement Act” from Acting Assistant Director. August 9, 2005, “Close-out and Transition Procedures for Recreation Fee Accounts” from Acting Director. |
| Forest Service | December 13, 2004, “Short-Term Direction of New Recreation Fee Legislation” April 25, 2005, “Federal Recreation Enhancement Act Interim Implementation Guidelines,” File Code 2300 December 1, 2005, “Forest Service Public Involvement Strategy for Recreation Fees.” (Described in Section 3) |
| Interagency (DOI and USDA FS) | Dec 13, 2004, “Draft Implementation Workplan – Federal Lands Recreation Enhancement Act,” (REA Handbook) September 28, 2005, “Notice of Guidelines for Public Involvement in Establishing Recreation Fee Areas and for Demonstrating How the Public Was Informed on the Use of Recreation Fee Revenue,” published in the Federal Register. (Described in Section 3) |