

**TESTIMONY of
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UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE**

**BEFORE THE HOUSE NATURAL RESOURCES COMMITTEE
SUBCOMMITTEE ON FEDERAL LANDS AND SUBCOMMITTEE ON WATER,
POWER AND OCEANS**

**MAY 20, 2015
CONCERNING**

HR. _____ – _____ draft Sportsmen’s Act of 2015

Chairman McClintock, Chairman Fleming and Members of the Subcommittees, thank you for the opportunity to represent the views of the United States Department of Agriculture (USDA) on HR._____, the _____ Sportsmen’s Act of 2015. I am Leslie Weldon, Deputy Chief for the National Forest System, USDA Forest Service.

The Department has not had sufficient time to conduct an in-depth analysis of the draft legislation, which has yet to be introduced. Our testimony is based upon a discussion draft of the bill. We would like to reserve the right to submit additional comments when the bill is introduced.

Let me begin by strongly emphasizing the foundational role the National Forest System serves in providing high-quality outdoor recreational opportunities for all Americans. The 193 million acres of land the Forest Service manages in the public trust are now and always have been where people across the country go to enjoy world-class hunting, fishing, and recreational shooting, as well as nearly every other variety of healthy outdoor activity. Spending by visitors engaging in recreation activities supports more jobs and economic output than any other activity on the National Forest System. In 2012, outdoor recreation on the national forests and grasslands supported approximately 190,000 jobs and contributed about \$13 billion to the Nation’s gross domestic product.

In summary, the draft bill would: require the continued management of the National Forest System for hunting, fishing, and recreational shooting; continue provisions for the designation of shooting ranges; require reporting measures on closures or restrictions of shooting ranges; and require coordination with advisory committees. The draft bill would also establish procedures for permitting commercial film crews of five or fewer persons and the use of cameras and related equipment.

Title II– Target Practice and Marksmanship Training Support Act:

USDA supports Title II of the draft bill, which amends funding requirements under current law for target range construction and maintenance, which would reduce the financial burden on State and local governments for public target ranges. Section 204 extends and increases State’s flexibility to allocate Pittman-Robertson Act funding for shooting ranges on public lands and encourages federal land management agencies to cooperate with State and local governments to maintain recreational shooting ranges.

Section 206 of the draft bill urges the Chief of the Forest Service and the Director of the Bureau of Land Management to cooperate with State and local authorities and other entities to implement waste removal and other practices on federal land used as a public target range. We support the bill’s intent to encourage federal agency cooperation with State and local government entities in order to keep shooting ranges available for use by the American public.

Title V - Wildlife & Hunting Heritage Conservation Council Advisory Committee:

USDA has concerns with sections 501 of the draft bill, which abolishes the Wildlife and Hunting Heritage Conservation Council and replaces it with a council that is exempt from the Federal Advisory Committee Act (FACA) and the framework and transparency required by FACA.

Title VI - Recreational Fishing and Hunting Heritage Opportunities Act:

Sections 603(b) of the draft bill establishes that National Forest System (NFS) lands are open to fishing, hunting, and recreational shooting unless closed to those uses. This provision is unnecessary as all NFS lands are considered open for hunting, fishing, and shooting unless closed through an appropriate environmental analysis or a fully-transparent closure process.

Section 603(d) would require the Secretary to include in each planning document a specific evaluation of effects of the plan on opportunities to engage in recreational fishing, hunting, or shooting. Under existing law, the Forest Service considers all relevant issues during its planning processes, so if recreational hunting, fishing and shooting are relevant to the planning effort, they would already be evaluated, making this provision unnecessary. If they are not relevant to the planning effort, requiring the agency to consider them would be both burdensome and without benefit.

Section 603(d)(3) would exempt actions taken under the Act and a section of the National Wildlife Refuge System Administration Act of 1966 from environmental analysis under the National Environmental Policy Act of 1969 (NEPA). This exemption limits the ability of

federal land management agencies to consider the effects of their decisions and forecloses important and longstanding transparency and public involvement in federal decision-making.

Section 603(d)(4) also would not allow for considering cumulative effects of recreational fishing, hunting, or shooting on adjacent or nearby public or private lands for “Evaluation of effects on opportunities to engage in recreational fishing, hunting, or recreational shooting.” This is inconsistent with decision-making, planning, and environmental analysis principles.

Closing Lands to Recreational Fishing Hunting, and Shooting:

Section 603(e)(1) states that lands may be subject to closures or restrictions if determined necessary by the head of the agency. We would like the opportunity to work with the Chairman to ensure that the goals of this section are met while being responsive to local, time-sensitive safety concerns.

Section 603(e)(2)(B) would provide for leasing of federal land for shooting ranges. The Forest Service issues permits, rather than leases, for this purpose. In addition, the limitation on liability in section 603(e)(2)(B) is ineffective, as it purports to exempt the United States from tort liability without overriding the Federal Tort Claims Act.

Necessity in Wilderness Areas and “Within and Supplemental to” Wilderness Purposes:

Section 603(f) would undermine the Wilderness Act of 1964 (16 U.S.C. 1131 et seq.) The Wilderness Act provides that wilderness areas “shall be administered for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as wilderness (16 U.S.C. 1131(a)).” Section 603(f)(1) of this draft bill would open wilderness areas administered by the Forest Service and BLM to temporary roads, motorized equipment, mechanical transport, new structures, and installations in furtherance of opportunities for fishing, hunting, and recreational shooting. Section 603(f)(2) of the draft bill would subordinate wilderness preservation to the purposes provided for in the Organic Act, the Multiple Use Sustainable Yield Act (MUSY), and the National Forest Management Act (NFMA). Wilderness areas are currently managed by the Forest Service to provide opportunities for recreational use and enjoyment (including hunting and fishing) consistent with the primary responsibility of preserving the wilderness character of the area.

Section 603(g) states, “Nothing in this section requires a Federal agency to give preference to recreational fishing, hunting, or recreational shooting...” This statement articulates very well why this section is not necessary.

Section 603(h) would limit the agency's ability to manage local safety issues at the appropriate level in a timely manner by mandating consultation with established councils. Typically, these councils are established to supply recommendations to the Secretary, not to be involved in the day-to-day management of federal lands.

Volunteer Hunters, Reports, Closures and Restrictions:

Section 604(c) would direct the Forest Service to provide an annual report to Congress that describes any federal land administered by the agency closed to recreational fishing, sport hunting, or shooting at any time during the preceding year and the reason for the closure. The agency also would be required to publish the report in the *Federal Register*. These requirements would impose a cost burden on the agency to collect, track, and report data. The purpose for collecting this information is unclear.

Section 604(d)(1) would limit the agency's discretion to close or significantly restrict any acreage of public lands to access or use for fishing, hunting, or recreational shooting. To close or restrict an area, the agency would be required in advance to publish notice, demonstrate compliance with the State, and provide notice to Congress.

USDA does not support section 604(b) which provides for the use of volunteers to cull excess animals on federal land. The decision to allow culling of wildlife by volunteers or by other methods is a decision best made locally, in concert with State agencies, based on local circumstances.

Title XII - Interest on Obligations Held in the Wildlife Restoration Fund:

USDA does not object to this provision which extends, until 2026, the date after which interest earned on obligations held in the wildlife restoration fund, which was established by the Pittman-Robertson Wildlife Restoration Act, may be available for apportionment.

Title XIII - Permits for Film Crews of Five People or Less:

USDA has concerns with Section 1302 of this draft title, which requires a permit for film crews of five people or less and assesses a fee. USDA agrees commercial filming is an appropriate use of National Forest System lands and should not be overly constrained. To this end, the Forest Service is currently engaged in a public process to revise its commercial filming directives to ensure sufficient protection of public resources, the freedom of individuals and groups, both large and small, to film and photograph National Forest System lands, and protection of freedom of the press. This effort has included meeting with industry advocates and media groups, and

hosting extensive public meetings in Boise, Seattle, Portland, and Washington DC during the public comment period for the proposed directives.

It is our position that commercial film and photography permit fees should be primarily viewed as land-use fees. If the activity presents no more impact on the land than that of the general public, then it should be exempt from permit requirements. The existing Statute requiring permits for commercial filming (PL 106-206) is outdated, since it predates the availability of minimal digital equipment capable of capturing both video and still photography. We would like to work with the Committee to develop language that will remain relevant in the coming decades as technology continues to change and improve.

We also have concerns with paragraph (3)(E), which states that the Secretary may not prohibit “as a mechanized apparatus or under any other purposes, use of cameras or related equipment used for the purpose of commercial filming activities or similar projects.” Because paragraph (3)(E) applies to wilderness, this provision would allow use of motorized equipment such as cranes for filming in wilderness, which would be inconsistent with the Wilderness Act.

Title IX – Federal Land Transaction Facilitation Act:

While the Administration supports reauthorization of the Federal Land Transaction Facilitation Act (FLTFA), we oppose the requirement that the funds in the FLTFA account be used for deferred maintenance activities.

Sources such as the Land and Water Conservation Fund (LWCF) and FLTFA are significant for achieving our conservation mission, especially as an ever-increasing portion of the Forest Service budget is consumed by wildland fire suppression efforts. Resolving the fire funding issue with bipartisan legislation is a critical need and an important first step before we could adequately address and fund all the provisions in this legislation.

This concludes my testimony. Thank you again for the opportunity to comment and I am available to take your questions.