

**Statement  
of  
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Deputy Assistant Secretary for Law Enforcement and Security  
United States Department of the Interior  
Before the  
Subcommittee on Forests and Forest Health  
Committee on Resources  
United States House of Representatives  
October 21, 2003  
Concerning**

**H.R. 3247 – the Trail Responsibility and Accountability for the  
Improvement of Lands Act of 2003**

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to appear before you today. My name is Larry Parkinson and I am the Deputy Assistant Secretary for Law Enforcement and Security at the Department of the Interior. I am here to present the Department's views on H.R. 3247 – the Trail Responsibility and Accountability for the Improvement of Lands Act of 2003.

As discussed further below, the Department agrees that our land management bureaus should have consistent enforcement authority, and we strongly support the goal of H.R. 3247. The investigative and enforcement simplicity offered through the option of applying a Class A or Class B misdemeanor, as proposed in H.R. 3247, is an attractive tool for law enforcement personnel. However, we would like to work with the U.S. Forest Service in the Department of Agriculture, as well as the Department of Justice, to provide the Subcommittee with specific changes to ensure that the authority provided by this bill does not conflict with or duplicate our existing authorities.

As currently drafted, H.R. 3247 is intended to amend the existing enforcement authorities of the National Park Service (Park Service), the Bureau of Land Management (BLM), and the U.S. Fish and Wildlife Service (Fish and Wildlife Service), as well as the Forest Service, to make consistent the ability of these bureaus to charge misdemeanor offenses for violations of bureau rules and regulations.

As noted above, the Department agrees that consistent enforcement authority serves important and useful interests. For example, currently the BLM and Park Service operate under different rules for criminal penalties for violations of rules regulating the use of fire by visitors and others on their respective lands. For the NPS, these violations are classified as Class B misdemeanors, which may result in a fine of up to \$5,000 or up to six months in prison. Class B violations are strict liability in nature, which means that intent need not be proved. However, under the current enforcement provisions of the Federal Land Policy and Management Act, BLM penalties for violations of land use regulations are set as Class A misdemeanors for all "knowing and willful" violations; BLM does not currently have authority to charge for a Class B misdemeanor. Therefore, similar violations of rules regulating the use of fire by visitors and others on public lands are Class A misdemeanors for the BLM, which may result in a fine of up to \$100,000 or imprisonment for up to one year and requires a demonstration that the party knowingly violated the law.

The changes advanced by this legislation will also further the economy of law enforcement resources. Under Class A misdemeanor violations, a defendant has a right to a jury trial, which frequently results in dismissed cases as prosecutors are deterred from proving a "knowing and willful" intent and judges, who already have large dockets, are less likely to take on lengthy and expensive jury cases. In contrast, under a Class B misdemeanor offense, a citation can be used as the charging instrument, and defendants can be tried directly by a Magistrate Judge. The ability to apply a lower lever penalty, as provided in H.R. 3247, for violations that are not committed in a "knowing and willful" manner will also simplify investigative and enforcement tasks that officers must currently undertake compared to that required when prosecuting Class A misdemeanor offenses.

In addition, we urge the Committee to review the intent language to determine whether it is necessary to include a "willful" element in addition to the "knowing" element. We would caution against such an inclusion and understand that Department of Justice will be providing a views letter that will specifically address this issue, as well as other issues. We intend to work with the Forest Service and Department of Justice to provide specific language addressing these concerns.

As noted above, we would also like to work with the Forest Service and the Department of Justice to provide the Subcommittee with specific changes to ensure that this new authority accomplishes the intended result and does not conflict with or duplicate our existing authorities.

For example, while the substance of the provisions in H.R. 3247 nearly mirror those provided to the Fish and Wildlife Service in the 1998 amendments to the National Wildlife Refuge System Administration Act, Pub. Law No. 105-312, the Fish and Wildlife Service's current language is structured so that Fish and Wildlife law enforcement personnel can charge an offender under two alternative provisions, an option that would not be available under H.R. 3247 as currently drafted.

The Department also supports the changes made by Section 3 of H.R. 3247, which calls for the use of fines collected by the affected agencies for the limited purposes of improvement, protection, or rehabilitation work on public lands made necessary by the actions which led to the fine, as well as to increase public awareness of regulations and other requirements regarding use of the public lands. The provisions are limited in nature and require that excess funds be transferred to miscellaneous receipts and cannot be retained by the agency.

Again, Mr. Chairman, I want to thank you and the Members of this Subcommittee for your continued interest in our law enforcement issues. We at the Department look forward to continuing positive dialog to improve our federal law enforcement capabilities. This concludes my statement and I am happy to answer any questions that you might have.