

was to encourage the sale of such handicrafts by making their sale more profitable to concessioners. However, experience has shown that concessioners generally are not encouraged to stock and sell more United States Indian and native handicrafts as a result of this policy than they would in its absence. Consequently, the exemption from franchise fees constitutes a windfall to concessioners with no overriding benefits to United States Indian or native handcrafters.

According to a recent report from the Department of the Interior Inspector General, this exemption reduced NPS franchise fee revenues by over \$2.7 million from 1988 through 1992 from 55 concessions in 43 parks. In addition, the Inspector General criticized NPS for not adequately monitoring merchandising procedures with respect to sale of United States Indian and native handicrafts and stated that NPS personnel often did not have the expertise to verify handicraft authenticity. The Inspector General recommended the elimination of the policy of exempting sales of United States Indian and native handicrafts from franchise fee calculations.

For these reasons, NPS intends to eliminate this exemption from the Standard NPS Concession Contract and to remove it from Chapter 10 of NPS Management Policies.

Dated: July 3, 1995.

John Reynolds,

Acting Director, National Park Service.

[FR Doc. 95-17916 Filed 7-19-95; 8:45 am]

BILLING CODE 4310-70-P

Revision of Certain Concession Policies

AGENCY: National Park Service, Interior.

ACTION: Revision of certain concession policies.

SUMMARY: The National Park Service (NPS) authorizes private businesses known as concessioners to provide necessary and appropriate visitor facilities and services in areas of the National Park System. NPS is undertaking a review of its policies concerning concession management activities. Pending completion of a full review, NPS has amended certain specific policies regarding concession contracts as follows: (1) Its current system for determining concessioner franchise fees by eliminating a policy which indicates that a concessioner's franchise fee usually should not exceed 50 percent of the concessioner's pre-tax, pre-franchise fee profit; and (2) revising

portions of the NPS rate approval system. NPS had also proposed an amendment to eliminate the policy that franchise fees should not be collected with respect to the sale of Native American handicrafts. However, due to a technical oversight, NPS has determined that it is appropriate to seek additional comments on this policy proposal under a separate notice to assure that all potentially affected parties have an adequate opportunity to comment.

EFFECTIVE DATE: July 20, 1995.

FOR FURTHER INFORMATION CONTACT: Robert Yearout, Chief, Concessions Division, National Park Service, PO Box 37127, Washington, DC 20013-7127, Tele. (202) 343-3784.

SUPPLEMENTARY INFORMATION: On January 17, 1995, NPS published for public comment in the *Federal Register* proposed amendments to the concession policies described above. Although not required by law to seek public comments on these policy amendments, NPS wished to afford all potentially affected or interested parties an opportunity to comment before making its final decisions on these matters.

NPS received 11 comments concerning their proposal to amend certain management policies. Eight of these comments came from NPS concessioners or associated companies, two from associations representing groups of NPS concessioners, and one comment from an interested environmental organization.

Analysis of Comments

The following is an analysis of comments received on the two policy proposals NPS is adopting under this notice.

1. Franchise Fees

With respect to the elimination of the policy which indicates that a concessioner's franchise fee usually should not exceed 50 percent of the concessioner's pre-tax, pre-franchise fee profit (the 50 percent policy), the majority of those commenting opposed this proposal. This opposition was based on their belief that this change is contrary to the intent of the Concession Policy Act of 1965 and that elimination of the policy would remove needed safeguards from the franchise fee process. Franchise fees would rise, they believe, to inappropriate levels and the subsequent reduced profits would adversely impact services to the visitor, the availability of funds for needed maintenance and improvements, and the incentive to actively participate in the bidding process.

According to statute, franchise fees are to be based on the probable value of the privileges granted by the particular authorization in question, but are secondary to the protection and preservation of the areas and of providing adequate and appropriate services to visitors at reasonable rates. Of primary importance to this process, the statute also requires that franchise fees must be consistent with a reasonable opportunity for the concessioner to realize a profit on the investment.

The 50 percent policy was originally intended as a "shorthand" mathematical approximation of the upper limit on franchise fees and was not intended to obstruct the assignment of probable value fees. As this formula had neither an empirical nor theoretical basis, the results of analyses have shown that this 50 percent policy can restrict the assignment of probable value fees and, therefore, does not function in the manner intended. This change in policy simply removes the use of the faulty mathematical approximation and leaves the remaining aspects of the franchise fee process in place. The statutory mandate of a reasonable opportunity for profit in coordination with the probable value determination process provides a powerful safeguard against arbitrary fees. As such, the fears of inappropriately rising fees and bankrupt concessioners would not be possible given these procedural checks and balances.

There were also comments that this change was unnecessary due to the increased professionalism of National Park Service employees and because the current policy allows the setting of fees above this limit. It is this increased professionalism that allows the National Park Service to eliminate this arbitrary and fundamentally unsound policy and still assure concessioners a reasonable opportunity for profit as required by statute. Furthermore, while the policy was originally intended to be used as a guideline to aid in the setting of franchise fees, it has often been interpreted by various parties to the fee setting process as a firm cap. This view has led to confusion and the setting of fees below the probable value of the authorizations involved. The elimination of this policy will end this confusion. Finally, one commenter indicated that the elimination of the 50 percent policy could adversely impact small concessioners if adequate safeguards do not exist. It was suggested that the 50 percent policy be retained for those concessioners under \$1 million in annual gross receipts and that safeguards be established to include the

provision that individual concessioner cash needs be taken into account in the fee process, that 5-year averages be used to lessen the weight of abnormal years, and that fixed fee percentages cannot be applied across the board to all concessioners.

While experience has shown that the 50 percent policy has been more of a problem with larger concessioners, it still can result in the application of less than probable value franchise fees for smaller concessioners. In other words, the arbitrary 50 percent policy does not meet statutory requirements for any size of concessioner. Moreover, the suggested safeguards presently exist in the current franchise fee determination system. It should also be noted that in order to secure additional safeguards for the smallest concessioners, concessioners under \$100,000 in annual gross receipts pay only 2 percent of gross receipts, and this policy would be unaffected by this change.

One commenter strongly supported the NPS proposal.

In consideration of the foregoing, the 50 percent policy is eliminated.

2. Rate Approval System

With regard to the proposal to amend existing guidelines to make clear that allowing an interim rate schedule is discretionary, 2 commenters expressed concern that tour operators and individual travelers are asking for rates and booking travel well over a year in advance, and the current rate approval system places NPS concessioners at a disadvantage in addressing these advance requests. Current procedures regarding the honoring of rates, contained in Chapter 29 of NPS-48 allow concessioners to accept deposits for individual reservations without securing the rates for the facility or service reserved if the confirmation notice states in bold print that "Rates are subject to change without notice and are not guaranteed." NPS believes that this concept can be applied to increase rates as a result of increased costs.

One commenter objected to the change of the word "should" to "may". NPS regards this change in wording as a matter of clarification rather than a change in policy. The previous wording was not considered by NPS to limit discretion in the approval of interim rate schedules. The word change does not preclude a rate increase. If NPS determines that an interim rate schedule is justified, it will be approved.

With regard to the elimination of the interim appeal right of concessioners regarding the selection of comparables, 5 commenters objected to this proposal. In addition, one commenter added that

delaying the appeal until the whole process had run its course would defeat the real justice of an appeal. It should be noted that the approval of rates and the appeal process applies to all rates, interim or otherwise. NPS recognizes that the selection of comparables plays an integral part in approving rates. However, the crux of the issue is the rate that NPS approves. Any appeal will center on the approved rate and the manner in which it was determined. The selection of comparables may be a part of a rate appeal. However, the existing language would permit a concessioner to appeal on the selection of comparables, and if this proved unsuccessful, to then appeal the approved rate. Conversely, if a concessioner's appeal of an approved rate were unsuccessful, it could then appeal on the basis of the comparables selected. The intent of the amended language is to remove this duplicative appeal tier. NPS believes that the approved rate and the selection of comparables are part of the entire rate approval process, and should not be treated as separate processes for the purpose of appeals. NPS also feels that combining appeals for approved rates and selection of comparables will significantly expedite the entire rate appeal process.

One commenter supported the changes in the rate approval system.

In consideration of the foregoing, the rate approval system policy amendments are adopted.

Dated: July 3, 1995.

John Reynolds,

Acting Director, National Park Service.

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BILLING CODE 4310-70-P

Development Concept Plan and Environmental Impact Statement for the Front Country, Denali National Park and Preserve, Alaska

AGENCY: National Park Service, Interior.

ACTION: Notice of Intent.

TITLE: Development Concept Plan and Environmental Impact Statement for the Front Country, Denali National Park and Preserve, Alaska.

SUMMARY: The National Park Service (NPS) is preparing a development concept plan (DCP) and accompanying environmental impact statement (EIS) for the front country of Denali National Park and Preserve. The purposes of the DCP/EIS are to formulate a comprehensive plan for the Denali front country and to evaluate the impacts of alternative development scenarios for the area. The proposed action and

alternatives will be developed from public input and comment received at public scoping meetings. Public scoping meetings will be held in Anchorage, Fairbanks, Cantwell, and Healy in the fall of 1995.

The Denali front country is defined to include the Riley Creek entrance/headquarters area and the Denali Park Road corridor to Wonder Lake. The anticipated demand for future uses of these areas has prompted the NPS to initiate this DCP/EIS to address the full scope of existing and potential uses in the front country.

Primary issues that the Denali Front Country DCP/EIS will address are visitor use, environmental constraints, park operations and management concerns, and interrelationships with adjacent areas. Visitor use issues include increasing demand, changing use patterns, visitor experience, access, transportation systems, services, and facilities. Environmental constraints consist primarily of natural and cultural resources, such as limited groundwater supply, unstable permafrost soils, wetlands, important wildlife habitat, historic structures, and aesthetics. Operational and management concerns include the amount and location of seasonal and permanent housing, location and amount of administrative offices, support facilities, and road maintenance standards. Adjacent area concerns include location of facilities and services outside of the park, the ability of adjacent areas to accommodate future development needs, and coordination of access networks.

The EIS will be prepared in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4331 et seq.) and its implementing regulations at 40 CFR part 1500. The NPS will prepare the EIS in conjunction with preparation of the Denali Front Country DCP.

Interested groups, organizations, individuals and government agencies are invited to comment on the plan at any time. The draft DCP/EIS is anticipated to be available for public review in the spring of 1996. Public meetings will be scheduled in the McKinley Park/Healy area, Fairbanks and Anchorage, Alaska, after release of the draft DCP/EIS. The final EIS is expected to be released in the fall of 1996.

FOR FURTHER INFORMATION CONTACT: Steve Martin, Superintendent, Denali National Park and Preserve, P.O. Box 9, Denali Alaska 99755. Telephone (907) 683-2294.