

§9.193

will notify you and specify the reasons for the delay. The Director's written decision will include:

- (1) A statement of facts;
- (2) A statement of conclusions; and
- (3) An explanation of the basis for the decision.

(f) No NPS decision under these regulations that is subject to appeal to the Director, or the Regional Director pursuant to §9.194, will be considered final agency action subject to judicial review under 5 U.S.C. 704 unless the appropriate official has rendered a decision on the matter. That decision will constitute NPS's final agency action, and no further appeal will lie in the Department from that decision.

§9.193 Will filing a request for reconsideration or appeal stop the NPS from taking action under this subpart?

(a) Except as provided for in paragraph (b) of this section, during the reconsideration and appeal processes, the decision at issue will be stayed (suspended). The decision will not become effective until the appeals process is completed.

(b) If NPS suspends your operation due to an emergency within your area of operation that poses an immediate threat of injury to federally owned or administered lands or waters, or to public health and safety, you have a right to request reconsideration and appeal the decision under §§9.190 through 9.194, but the suspension will not be stayed until the threat is eliminated.

§9.194 What if the original decision was made by the Superintendent?

Where the Superintendent has the authority to make the original decision, requests for reconsideration and appeals may be filed in the manner provided by §§9.190 through 9.193, except that:

(a) The request for reconsideration will be filed with and decided by the Superintendent;

(b) The appeal will be filed with and decided by the Regional Director; and

(c) The Regional Director's decision will constitute the final agency action on the matter.

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PUBLIC PARTICIPATION

§9.200 How can the public participate in the approval process?

(a) Interested parties may view the publicly available documents at the Superintendent's office during normal business hours or by other means prescribed by the Superintendent. The availability for public inspection of information about the nature, location, character, or ownership of park resources will conform to all applicable law and implementing regulations, standards, and guidelines.

(b) The Superintendent will make available for public inspection any documents that an operator submits to the NPS under this subpart except those that you have identified as proprietary or confidential.

(c) For the information required in §§9.88, 9.89, and 9.122, the operator and the submitter of the information will be deemed to have waived any right to protect from public disclosure information submitted to the NPS. For information required under §§9.88, 9.89, and 9.122 that the owner of the information claims to be exempt from public disclosure and is withheld from the NPS, a corporate officer, managing partner, or sole proprietor of the operator must sign and the operator must submit to the Superintendent an affidavit that:

(1) Identifies the owner of the withheld information and provides the name, address and contact information for a corporate officer, managing partner, or sole proprietor of the owner of the information;

(2) Identifies the Federal statute or regulation that would prohibit the NPS from publicly disclosing the information if it were in the NPS's possession;

(3) Affirms that the operator has been provided the withheld information from the owner of the information and is maintaining records of the withheld information, or that the operator has access and will maintain access to the withheld information held by the owner of the information;

(4) Affirms that the information is not publicly available;

(5) Affirms that the information is not required to be publicly disclosed under any applicable local, State, tribal, or Federal law;