

## HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
101915(a) .....	16 U.S.C. 5954(e).	Pub. L. 105-391, title IV, § 405(a) through (e), Nov. 13, 1998, 112 Stat. 3508.
101915(b) .....	16 U.S.C. 5954(a).	
101915(c)(1) through (3).	16 U.S.C. 5954(b).	
101915(c)(4)	16 U.S.C. 5954 note.	Pub. L. 110-161, div. F, title I (1st paragraph under heading "ADMINISTRATIVE PROVISIONS" under heading "NATIONAL PARK SERVICE"), Dec. 26, 2007, 121 Stat. 2107.
101915(d), (e).	16 U.S.C. 5954(c), (d).	

In subsection (b), before paragraph (1), the words "On and after November 13, 1998" are omitted as obsolete. In paragraph (6)(A), the words "Effective 9 years after November 13, 1998" are omitted as obsolete.

In subsection (c)(4), the words "For fiscal years 2008 and hereafter" are omitted as obsolete.

## Editorial Notes

## REFERENCES IN TEXT

The Act of October 9, 1965, known as the National Park Service Concessions Policy Act, referred to in subsec. (c)(1), is Pub. L. 89-249, Oct. 9, 1965, 79 Stat. 969, which enacted subchapter IV (§ 20 et seq.) of chapter 1 of Title 16, Conservation, and amended section 462 of Title 16, prior to being repealed by Pub. L. 105-391, title IV, § 415(a), Nov. 13, 1998, 112 Stat. 3515.

## § 101916. Reasonableness of rates and charges

(a) IN GENERAL.—A concession contract shall permit the concessioner to set reasonable and appropriate rates and charges for facilities, goods, and services provided to the public, subject to approval under subsection (b).

(b) APPROVAL BY SECRETARY REQUIRED.—

(1) FACTORS TO CONSIDER.—A concessioner's rates and charges to the public shall be subject to approval by the Secretary. The approval process utilized by the Secretary shall be as prompt and as unburdensome to the concessioner as possible and shall rely on market forces to establish reasonableness of rates and charges to the maximum extent practicable. The Secretary shall approve rates and charges that the Secretary determines to be reasonable and appropriate. Unless otherwise provided in the concession contract, the reasonableness and appropriateness of rates and charges shall be determined primarily by comparison with those rates and charges for facilities, goods, and services of comparable character under similar conditions, with due consideration to the following factors and other factors deemed relevant by the Secretary:

- (A) Length of season.
- (B) Peakloads.
- (C) Average percentage of occupancy.
- (D) Accessibility.
- (E) Availability and costs of labor and materials.
- (F) Type of patronage.

(2) RATES AND CHARGES NOT TO EXCEED MARKET RATES AND CHARGES.—Rates and charges may not exceed the market rates and charges for comparable facilities, goods, and services, after taking into account the factors referred to in paragraph (1).

(c) IMPLEMENTATION OF RECOMMENDATIONS.—Not later than 6 months after receiving recommendations from the Advisory Board regarding concessioner rates and charges to the public, the Secretary shall implement the recommendations or report to Congress the reasons for not implementing the recommendations.

(Pub. L. 113-287, § 3, Dec. 19, 2014, 128 Stat. 3145.)

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<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
101916 .....	16 U.S.C. 5955.	Pub. L. 105-391, title IV, § 406, Nov. 13, 1998, 112 Stat. 3510.

## § 101917. Franchise fees

(a) IN GENERAL.—A concession contract shall provide for payment to the Federal Government of a franchise fee or other monetary consideration as determined by the Secretary, on consideration of the probable value to the concessioner of the privileges granted by the particular contract involved. Probable value shall be based on a reasonable opportunity for net profit in relation to capital invested and the obligations of the concession contract. Consideration of revenue to the United States shall be subordinate to the objectives of protecting and preserving System units and of providing necessary and appropriate services for visitors at reasonable rates.

(b) PROVISIONS TO BE SPECIFIED IN CONTRACT.—The amount of the franchise fee or other monetary consideration paid to the United States for the term of the concession contract shall be specified in the concession contract and may be modified only to reflect extraordinary unanticipated changes from the conditions anticipated as of the effective date of the concession contract. The Secretary shall include in concession contracts with a term of more than 5 years a provision that allows reconsideration of the franchise fee at the request of the Secretary or the concessioner in the event of extraordinary unanticipated changes. The provision shall provide for binding arbitration in the event that the Secretary and the concessioner are unable to agree on an adjustment to the franchise fee in those circumstances.

(c) SPECIAL ACCOUNT IN TREASURY.—

(1) DEPOSIT AND AVAILABILITY.—All franchise fees (and other monetary consideration) paid to the United States pursuant to concession contracts shall be deposited in a special account established in the Treasury. Twenty percent of the funds deposited in the special account shall be available for expenditure by the Secretary, without further appropriation, to support activities throughout the System regardless of the System unit in which the funds were collected. The funds deposited in the special account shall remain available until expended.

(2) SUBACCOUNT FOR EACH SYSTEM UNIT.—There shall be established within the special account a subaccount for each System unit. Each subaccount shall be credited with 80 percent of the franchise fees (and other monetary consideration) collected at a single System