

CHAPTER 1021—PRIVILEGES AND LEASES

Sec.

- 102101. General provisions.
- 102102. Authority of Secretary to enter into lease for buildings and associated property.

§ 102101. General provisions

(a) LIMITATION.—

(1) NO LEASE OR GRANT OF A PRIVILEGE THAT INTERFERES WITH FREE ACCESS.—No natural curiosity, wonder, or object of interest shall be leased or granted to anyone on such terms as to interfere with free access by the public to any System unit.

(2) EXCEPTION FOR GRAZING LIVESTOCK.—The Secretary, under such regulations and on such terms as the Secretary may prescribe, may grant the privilege to graze livestock within a System unit when, in the Secretary’s judgment, the use is not detrimental to the primary purpose for which the System unit was created. This paragraph does not apply to Yellowstone National Park.

(b) ADVERTISING AND COMPETITIVE BIDS NOT REQUIRED.—The Secretary may grant privileges and enter into leases described in subsection (a), and enter into related contracts with responsible persons, firms, or corporations, without advertising and without securing competitive bids.

(c) ASSIGNMENT OR TRANSFER.—No contract, lease, or privilege described in subsection (a) or (b) that is entered into or granted shall be assigned or transferred by the grantee, lessee, or licensee without the prior written approval of the Secretary.

(Pub. L. 113–287, §3, Dec. 19, 2014, 128 Stat. 3152.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
102101	16 U.S.C. 3 (last sentence).	Aug. 25, 1916, ch. 408, §3 (last sentence), 39 Stat. 535; Mar. 7, 1928, ch. 137, §1 (matter relating to section 3 of the Act of August 25, 1916, in 12th undesignated par. under heading “NATIONAL PARK SERVICE”), 45 Stat. 235; Pub. L. 85–434, May 29, 1958, 72 Stat. 152; Pub. L. 105–391, title IV, §415(b)(1), Nov. 13, 1998, 112 Stat. 3515.

In subsection (a)(1), the word “rented” is omitted as included in “leases”.

In subsections (b) and (c), the word “permit” is omitted for consistency because a permit is not mentioned earlier in the source provision.

In subsection (c), the word “lessee” is substituted for “permittees” for consistency in the section.

§ 102102. Authority of Secretary to enter into lease for buildings and associated property

(a) IN GENERAL.—To facilitate the administration of the System, the Secretary, under such terms and conditions as the Secretary may consider advisable, and except as provided in subsection (b) and subject to subsection (c), may enter into a lease with any person or government entity for the use of buildings and associated property administered by the Secretary as part of the System.

(b) PROHIBITED ACTIVITIES.—The Secretary may not use a lease under subsection (a) to authorize the lessee to engage in activities that are subject to authorization by the Secretary through a concession contract, commercial use authorization, or similar instrument.

(c) USE.—Buildings and associated property leased under subsection (a)—

(1) shall be used for an activity that is consistent with the purposes established by law for the System unit in which the building is located;

(2) shall not result in degradation of the purposes and values of the System unit; and

(3) shall be compatible with Service programs.

(d) RENTAL AMOUNTS.—

(1) IN GENERAL.—With respect to a lease under subsection (a)—

(A) payment of fair market value rental shall be required; and

(B) section 1302 of title 40 shall not apply.

(2) ADJUSTMENT.—The Secretary may adjust the rental amount as appropriate to take into account any amounts to be expended by the lessee for preservation, maintenance, restoration, improvement, or repair and related expenses.

(e) SPECIAL ACCOUNT.—

(1) DEPOSITS.—Rental payments under a lease under subsection (a) shall be deposited in a special account in the Treasury.

(2) AVAILABILITY.—Amounts in the special account shall be available until expended, without further appropriation, for infrastructure needs at System units, including—

(A) facility refurbishment;

(B) repair and replacement;

(C) infrastructure projects associated with System unit resource protection; and

(D) direct maintenance of the leased buildings and associated property.

(3) ACCOUNTABILITY AND RESULTS.—The Secretary shall develop procedures for the use of the special account that ensure accountability and demonstrated results consistent with this section and sections 100101(b), 100502, 100507, 100751(b), 100754, 100901(b) and (c), 100906(a) and (d), 101302(b)(1) and (c) to (e), 101306, 101702(b) and (c), 101901, 102701, and 102702 of this title.

(f) REGULATIONS.—The Secretary shall prescribe regulations implementing this section that include provisions to encourage and facilitate competition in the leasing process and provide for timely and adequate public comment.

(Pub. L. 113–287, §3, Dec. 19, 2014, 128 Stat. 3152.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
102102(a)	16 U.S.C. 1a–2 (matter before (a)). 16 U.S.C. 1a–2(k)(1).	Pub. L. 91–383, §3 (matter before (a)), Aug. 18, 1970, 84 Stat. 826. Pub. L. 91–383, §3(k), as added Pub. L. 105–391, title VIII, §802(a), Nov. 13, 1998, 112 Stat. 3522.
102102(b) through (d).	16 U.S.C. 1a–2(k)(2) through (4)(B).	
102102(e)	16 U.S.C. 1a–2(k)(5).	

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
102102(f)	16 U.S.C. 1a-2(k)(4)(C).	

CHAPTER 1023—PROGRAMS AND ORGANIZATIONS

- Sec.
 102301. Volunteers in parks program.
 102302. National Capital region arts and cultural affairs.
 102303. National Park System Advisory Board.
 102304. National Park Service Advisory Council.

§ 102301. Volunteers in parks program

(a) ESTABLISHMENT.—The Secretary may recruit, train, and accept, without regard to chapter 51 and subchapter III of chapter 53 of title 5 or regulations prescribed under that chapter or subchapter, the services of individuals without compensation as volunteers for or in aid of interpretive functions or other visitor services or activities in and related to System units and related areas. In accepting those services, the Secretary shall not permit the use of volunteers in hazardous duty or law enforcement work or in policymaking processes, or to displace any employee. The services of individuals whom the Secretary determines are skilled in performing hazardous activities may be accepted.

(b) INCIDENTAL EXPENSES.—The Secretary may provide for incidental expenses of volunteers, such as transportation, uniforms, lodging, and subsistence.

(c) FEDERAL EMPLOYEE STATUS FOR VOLUNTEERS.—

(1) EMPLOYMENT STATUS OF VOLUNTEERS.—Except as otherwise provided in this section, a volunteer shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(2) TORT CLAIMS.—For the purpose of sections 1346(b) and 2401(b) and chapter 171 of title 28, a volunteer under this chapter shall be deemed a Federal employee.

(3) VOLUNTEERS DEEMED CIVIL EMPLOYEES.—For the purposes of subchapter I of chapter 81 of title 5, volunteers under this chapter shall be deemed civil employees of the United States within the meaning of the term “employee” as defined in section 8101 of title 5, and subchapter I of chapter 81 of title 5 shall apply.

(4) COMPENSATION FOR LOSSES AND DAMAGES.—For the purpose of claims relating to damage to, or loss of, personal property of a volunteer incident to volunteer service, a volunteer under this chapter shall be deemed a Federal employee, and section 3721 of title 31 shall apply.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section not more than \$9,000,000 for each fiscal year.

(Pub. L. 113–287, § 3, Dec. 19, 2014, 128 Stat. 3153; Pub. L. 113–235, div. F, title I, § 118, Dec. 16, 2014,

128 Stat. 2421; Pub. L. 114–113, div. G, title I, § 114, Dec. 18, 2015, 129 Stat. 2550; Pub. L. 114–289, title III, § 303, Dec. 16, 2016, 130 Stat. 1487.)

AMENDMENT NOT SHOWN IN TEXT

Subsection (d) of this section was derived from section 18j of Title 16, Conservation, which was amended by Pub. L. 113–235, div. F, title I, § 118, Dec. 16, 2014, 128 Stat. 2421. For applicability of that amendment to this section, see section 6(b) of Pub. L. 113–287, set out as a Transitional and Savings Provisions note preceding section 100101 of this title. Former section 18j of Title 16 was amended by striking “\$3,500,000” and inserting “\$5,000,000”.

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
102301(a)	16 U.S.C. 18g.	Pub. L. 91–357, § 1, July 29, 1970, 84 Stat. 472; Pub. L. 98–540, § 1(b), Oct. 24, 1984, 98 Stat. 2718.
102301(b)	16 U.S.C. 18h.	Pub. L. 91–357, § 2, July 29, 1970, 84 Stat. 472.
102301(c)	16 U.S.C. 18i.	Pub. L. 91–357, § 3, July 29, 1970, 84 Stat. 472; Pub. L. 101–286, title II, § 204(b), May 9, 1990, 104 Stat. 175.
102301(d)	16 U.S.C. 18j.	Pub. L. 91–357, § 4, July 29, 1970, 84 Stat. 472; Pub. L. 94–128, Nov. 13, 1975, 89 Stat. 682; Pub. L. 98–540, § 1(a), Oct. 24, 1984, 98 Stat. 2718; Pub. L. 104–333, div. I, title VIII, § 805, Nov. 12, 1996, 110 Stat. 4188.

In subsection (a), the words “chapter 51 and subchapter III of title 5” are substituted for “the civil service classification laws” for clarity and for consistency with other titles of the United States Code. The words “System units and related areas” are substituted for “areas administered by the Secretary through the National Park Service” for clarity and for consistency in the new title.

In subsection (b), the words “of volunteers” are added for clarity.

In subsection (c)(3), the words “relating to compensation to Federal employees for work injuries” are omitted as unnecessary.

In subsection (d), the words “such sums as may be necessary” are omitted as unnecessary.

Editorial Notes

AMENDMENTS

2016—Subsec. (d). Pub. L. 114–289 substituted “not more than \$9,000,000” for “not more than \$7,000,000”. See Amendment Subject to Availability of Appropriations note below.

2015—Subsec. (d). Pub. L. 114–113 substituted “\$7,000,000” for “\$3,500,000”.

Statutory Notes and Related Subsidiaries

AMENDMENT SUBJECT TO AVAILABILITY OF APPROPRIATIONS

Pub. L. 114–289, title III, § 303, Dec. 16, 2016, 130 Stat. 1487, provided that the amendment of this section by section 303 is subject to the availability of appropriations.

§ 102302. National Capital region arts and cultural affairs

(a) ESTABLISHMENT.—There is under the direction of the Service a program to support and enhance artistic and cultural activities in the National Capital region.