

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Research Service

#### 7 CFR Part 500

#### National Arboretum

**AGENCY:** Agricultural Research Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Agriculture (USDA) seeks comments on a proposed rule that would revise a schedule of fees to be charged for certain uses of the facilities, grounds, and services at the United States National Arboretum (USNA). This proposed rule makes changes to subpart B of 7 CFR part 500. Subpart B contains the fee structures for use of USNA facilities, grounds and services. The USNA will change the fees charged for riding its tram service, use of the grounds and facilities, as well as for commercial photography and cinematography. The USNA will enter into a concession agreement for the provision of food services on the USNA grounds. Fees generated will be used to defray USNA expenses or to promote the mission of the USNA. The public will not be charged an admission fee for visiting the USNA.

**DATES:** Comments must be submitted on or before May 10, 2002.

**ADDRESSES:** Address all comments to Thomas S. Elias, Director, U.S. National Arboretum, Beltsville Area, Agricultural Research Service, 3501 New York Avenue, NE., Washington, DC 20002.

**FOR FURTHER INFORMATION CONTACT:** Cori Grim, Director, U.S. National Arboretum, Beltsville Area, ARS, 3501 New York Avenue, NE., Washington, DC 20002; (202) 245-4553.

#### SUPPLEMENTARY INFORMATION:

#### Classification

This proposed rule has been reviewed under Executive Order 12866, and it has been determined that it is not a "significant regulatory action" rule

because it will not have an annual effect on the economy of \$100 million or more or adversely and materially affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities. This proposed rule will not create any serious inconsistencies or otherwise interfere with actions taken or planned by another agency. It will not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof, and does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order 12866.

#### Regulatory Flexibility Act

The Department of Agriculture certifies that this rule will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. 96-354, as amended (5 U.S.C. 601, *et seq.*).

#### Paperwork Reduction Act

In accordance with the Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act of 1995 Pub. L. No. 104-13, as amended (44 U.S.C. chapter 35), the information collection and recordkeeping requirements that have been imposed in the management of these programs have been approved by OMB (OMB #0518-0024).

**Title:** Collection of information regarding the use of facilities or the performance of photography/cinematography at the U.S. National Arboretum.

**Summary:** The purpose of this collection of information is to collect, either orally or by use of a form, basic information from persons who request to use space at the USNA for which a user fee shall be charged. Use of space includes not only the use of physical space for events, but also the use of the grounds of the USNA for commercial photography and cinematography purposes. Information to be collected will include the name, address, and telephone numbers of the party requesting use of the USNA space, the date and time that the party is requesting to use the space, the purpose for which the space will be used, the

number of people expected at the event for which the space is to be used, any requirements for setup of the space that the USNA will be expected to provide, and the signature of the individual responsible for requesting space on behalf of a party.

**Need for the Information:** The information is needed for USNA to administer the scheduling of space usage and to keep records of parties accountable for use of USNA property.

**Respondents:** Respondents to the collection of information will be those persons or organizations that request use of the USNA facility or grounds. Each respondent will have to furnish the information for each space usage request. The USNA expects to receive approximately 220 requests for use of space per year.

**Estimate of burden:** The estimated burden on respondents for each space usage request is .25 hours. The total annual reporting and record keeping burden on respondents will be minimal.

#### Background

Section 890(b) of the Federal Agriculture Improvement and Reform Act of 1996, Pub. L. 104-127 (1996 Act), expands the authorities of the Secretary of Agriculture to charge reasonable fees for the use of USNA facilities and grounds as well as to enter into a concession agreement for the provision of food services on the grounds. These new authorities include the ability to charge fees for temporary use by individuals or groups of USNA facilities and grounds in furtherance of the mission of the USNA. Also, authority is provided to charge fees for the use of the USNA for commercial photography and cinematography. All rules and regulations noted in 7 CFR part 500, subpart A, Conduct on U.S. National Arboretum Property, will apply to individuals or groups granted approval to use the facilities and grounds.

#### Fee Schedule for Tours

The USNA operates a 48-passenger tram (which accommodates 2 wheelchairs) to provide mobile tours throughout the USNA grounds. The proposed rule changes the fee to be charged to all riders as well as the amount to be charged for pre-scheduled group tram tours. Additionally, a fee is proposed for providing tour guides for pre-scheduled non-tram tours. Fee amounts were determined after a survey

of similar services provided by other Arboreta and Botanical Gardens and an analysis of costs associated with the program. Fees generated will be used to offset costs or for the purposes of promoting the mission of the USNA.

#### *Fee Schedule for Use of Facilities and Grounds*

The USNA proposes to change the fees for temporary use by individuals or groups of USNA facilities and grounds. The proposed fees have been established based on actual costs (i.e., electricity, heating, water, maintenance, security, scheduling, etc.). Facilities and grounds are available by reservation at the discretion of the USNA and may be available to individuals or groups in furtherance of the mission of the USNA. Agency initiatives may be granted first priority. Reservation requests should be made as far in advance of the need as possible to ensure consideration.

#### *Fee Schedule for Use of Facilities and Grounds for Purposes of Photography or Cinematography*

The USNA proposes to change the fee for the use of the facility or grounds for purposes of commercial photography or cinematography. The proposed fees have been established based on comparable opportunities provided by other Arboreta and Botanical Gardens across the nation. Facilities and grounds are available for use for commercial photography or cinematography at the discretion of the USNA Director. Requests for use should be made a minimum of two weeks in advance of required date. The USNA does not intend to charge fees to the press for photography or cinematography related to stories concerning the USNA and its mission or for other noncommercial, First Amendment activity.

#### *Payment Submission Requirements*

Payment for use of the tram will be made by cash or money order (in U.S. funds) and is due at the time of ticket purchase. Payment for pre-scheduled tram tours should be made at least two weeks in advance and may be made by cash or check. Payment for tour guides for pre-scheduled, non-tram tours should be made at least two weeks in advance and may be made by cash or

check. Fee payments for use of facilities or grounds or for photography and cinematography must be made in advance of services being rendered. These payments are to be made in the form of a check or money order. Checks and money orders are to be made payable, in U.S. funds, to the U.S. National Arboretum. The USNA will provide receipts to requestors for their records or billing purposes.

#### *Food Services*

The USNA proposes to enter into a concession agreement for the provision of food services on the facility. Snacks and small food items will be available for visitors to purchase at established commercial prices. Box lunches may be pre-arranged with the concessionaire for a set fee.

#### **List of Subjects in 7 CFR Part 500**

Agricultural research, Federal buildings and facilities, Government property, National Arboretum.

For the reasons set out in the preamble, 7 CFR part 500 is proposed to be amended by revising subpart B to read as set forth below:

#### **PART 500—NATIONAL ARBORETUM**

##### **Subpart B—Fee Schedule for Certain Uses of National Arboretum Facilities and Grounds**

Sec.

500.20 Scope.

500.21 Fee schedule for tours.

500.22 Fee schedule for use of facilities and grounds.

500.23 Fee schedule for photography and cinematography on grounds.

500.24 Payment of fees.

500.25 Food services.

**Authority:** 20 U.S.C. 196.

##### **Subpart B—Fee Schedule for Certain Uses of National Arboretum Facilities and Grounds**

##### **§ 500.20 Scope.**

The subpart sets forth schedules of fees for temporary use by individuals or groups of United States National Arboretum (USNA) facilities and grounds for any purpose that is consistent with the mission of the USNA. This part also sets forth schedules of fees for the use of the

USNA for commercial photography and cinematography. Fees generated will be used to offset costs of services or for the purposes of promoting the mission of the USNA. All rules and regulations noted in 7 CFR 500, subpart A—Conduct on U.S. National Arboretum Property, will apply to individuals or groups granted approval to use the facilities and grounds for the purposes specified in this subpart.

##### **§ 500.21 Fee schedule for tours.**

The USNA provides tours of the USNA grounds in a 48-passenger tram (accommodating 2 wheelchairs) for a fee as follows: \$4.00 per adult; \$3.00 per senior citizen or Friend of the National Arboretum; \$2.00 per child through age 16. Pre-scheduled tram tours for groups may be arranged for a set fee of \$125.00. Additionally, a professional tour guide may be pre-arranged to provide a non-tram tour for the fee of \$50 per hour. Promotional programs offering discounted fares for these programs may be instituted at the discretion of the USNA.

##### **§ 500.22 Fee schedule for use of facilities and grounds.**

The USNA will charge a fee for temporary use by individuals or groups of USNA facilities and grounds. Facilities and grounds are available by reservation at the discretion of the USNA and may be available to individuals or groups whose purpose is consistent with the mission of the USNA. Agency initiatives may be granted first priority. Non profit organizations that substantially support the mission and purpose of the USNA may be exempted from the requirements of this part by the Director. Reservation requests should be made as far in advance of the need as possible to ensure consideration. The following are the fees for use of USNA buildings: “Half Day” usage is defined as 4 hours or less; “Whole Day” is defined as more than 4 hours in a day. For outside normal business hours, usage of such buildings and facilities requires an additional \$40/hour for supervision/security. Additionally, at the discretion of the USNA, custodial fees may be assessed in the amount of \$25 per hour.

Area	Includes—	Per day charge	
		Half day	Whole day
Auditorium .....	Basic audience-style set-up for 125 people or classroom set-up for 40–50 people. Includes microphone/lectern, screen, 4–6' tables, projection stand, (2) flip charts (no paper) and (2) trash cans. Also includes the use of the Kitchen space, Upstairs Conference Room, and Coat Room. Extra tables are \$10 each.	N/A	\$250
Upstairs Conference Room .....	(Only if Auditorium is not in use). Includes the non-exclusive use of the Kitchen space and Coat Room.	\$50	\$100

Area	Includes—	Per day charge	
		Half day	Whole day
Lobby .....	As is (with furniture in place) .....	N/A	\$100
	Furniture removed .....		\$150
	Set up with tables and chairs .....		\$100
Classroom .....	Standard set-up with 40 chairs. Includes microphone/lectern, screen, projection stand, (2) flip charts (no paper) and trash can.	\$50	\$125
Classroom—Multiple .....	5 sessions or more .....	\$45	\$90
Yoshimura Center .....	For use from 10:00 a.m. to 3:00 p.m. weekends only. ....	\$50	\$125
Set up with tables and chairs ...		\$100	\$100
Grounds—1–300 people .....	No public invited: Patio, Meadow, Triangle, NY Avenue, etc. Cost includes scheduling time, extra mowing, and site preparation. Guest organization responsible for everything related to their event, including portable toilets..	N/A	\$500
301–600 .....	Same as above .....	N/A	\$750
Grounds .....	Public invited (i.e., show or sale). Cost includes scheduling time, extra mowing, and site preparation. Guest organization responsible for everything related to their event, including portable toilets.	N/A	\$750
Damages .....	Damages to plants, grounds, facilities or equipment will be assessed on a value based on replacement cost (including labor) plus 10% (administrative fee).		

#### **§ 500.23 Fee schedule for photography and cinematography on grounds.**

The USNA will charge a fee for the use of the facility or grounds for purposes of commercial photography or cinematography. Facilities and grounds are available for use for commercial photography or cinematography at the

discretion of the USNA Director. Requests for use should be made a minimum of two weeks in advance of the required date. In addition to the fees listed below, supervision/security costs of \$40.00 per hour will be charged. The USNA Director may waive fees for photography or cinematography

conducted for the purpose of disseminating information to the public regarding the USNA and its mission or for the purpose of other noncommercial, First Amendment activity. “Half Day” usage is defined as 4 hours or less; “Whole Day” usage is defined as more than 4 hours in a days.

Category and type	Notes	Per day charge	
		Half day	Whole day
Still Photography:			
Individual .....	For personal use only. Includes hand-held cameras, recorders, small non-commercial tripods.	No charge .....	No charge
Commercial and wedding.	Includes all photography which uses professional photographer and/or involves receiving a fee for the use or production of the photography. Note: This includes 5 people or less with carry on (video) equipment. Includes wedding party photography.	\$250 plus supervisor.	\$500 plus supervisor
Cinematography:			
Set Set preparation	Set up sets; no filming performed .....	N/A .....	\$250 plus supervision
Filming .....	Sliding scale based on number of people in cast and crew and number of pieces of equipment. 45 people and 6 pieces of equipment = \$1,500, 200 people = \$3,900 Note: 5 people with carry on equipment = same as still photography.		\$1,200 to \$3,900
Strike Set .....	Take down sets, remove equipment; no filming .....	N/A .....	\$250 plus supervision
Music Videos .....	No sound involved; smaller operation .....	N/A .....	\$1,000 plus supervision
Damages: All .....	Damages to plants, grounds, facilities or equipment will be assessed on a value based on replacement cost (including labor) plus 10% (administrative fee).		

#### **§ 500.24 Payment of fees.**

Payment for use of the tram will be made by cash or money order (in U.S. funds) and is due at the time of ticket purchase. Payment for pre-scheduled tram tours or tour guides should be made at least two weeks in advance and may be made by cash or check. Fee payments for use of facilities or grounds (including security and custodial fees) or for photography and cinematography must be made in advance of services being rendered. These payments are to be made in the form of a check or

money order. Checks and money orders are to be made payable, in U.S. funds, to the “U.S. National Arboretum.” The USNA will provide receipts to requestors for their records or billing purposes.

#### **§ 500.25 Food services.**

The USNA will enter into a concession agreement for the provision of food services on the facility. Snacks and small food items will be available for visitors to purchase at established commercial prices. Box lunches may be

pre-arranged with the concessionaire for a set fee.

Done at Washington, DC, this 7th day of January, 2002.

**Edward B. Knipling,**

*Acting Administrator, Agricultural Research Service.*

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**BILLING CODE 3410–03–P**