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DEPARTMENT OF AGRICULTURE

Agricultural Research Service

7 CFR Part 500

National Arboretum

AGENCY: Agricultural Research Service; Research, Education, and Economics; USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is revising a schedule of fees to be charged for certain uses of the facilities, grounds, and services at the United States National Arboretum (USNA).

DATES: This rule is effective May 28, 2003.

ADDRESSES: Address all correspondence 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: Thomas S. Elias, Director, National Arboretum, Beltsville Area, ARS, 3501 New York Avenue, NE., Washington, DC 20002; (202) 245-4539.

SUPPLEMENTARY INFORMATION: This final rule was published as a proposed rule for comment on April 10, 2002 (67 FR 17301). No comments were received. Accordingly, the proposed rule is published as the final rule without changes.

Classification

This final 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 final 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

This rule does not alter the reporting or recordkeeping requirements contained in the proposed rule. Those requirements have been previously approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 and assigned OMB control number 0518-0024 for the use of facilities or the performance of photography/cinematography at the U.S. National Arboretum.

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 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 USNA facilities and grounds for commercial photography and cinematography. All rules and regulations noted in 7 CFR 500, subpart A, Conduct on the 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. This 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 will be charged 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

This rule modifies the fees for temporary use by individuals or groups of USNA facilities and grounds. The fees are 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 Director or designee 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

This rule modifies the fee for the use of the facility or grounds for the purposes of commercial photography or cinematography. The fees are established based on comparable opportunities provided by other Arboreta and Botanical Gardens across the nation. USNA facilities and grounds are available for use for the purpose of 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 Director may waive fees, and the USNA does not intend for photography or cinematography relating to media stories concerning the USNA and its mission or for other noncommercial, First Amendment activity.

Payment Submission Requirements

Payment for use of the tram must 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 must be made by cash or check. Payment for pre-scheduled, non-tram guided tours should be made at least two weeks in advance of tour date and must 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 requested date. These payments must be made in the form of a check or money order. Checks and money orders must be made payable, in U.S. funds, to the U.S. National Arboretum. The USNA will provide receipts to requesters for their records or billing purposes. USNA is pursuing opportunities to enter an agreement to allow USNA visitors and users to make payment in the form of a credit card. If USNA enters into such an agreement, USNA visitors and users who are assessed user fees may pay those fees with a credit card subject to the terms and conditions of such agreement.

Food Services

The USNA entered into a concession agreement for the provision of food services at the USNA facility. Snacks and small food items are available for visitors to purchase at established commercial prices. Hours of operation depend on volume of visitors. Box lunches may be pre-arranged by the requestor 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 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; secs. 2, 4, 62 Stat. 281; sec. 103, 63 Stat. 380; sec. 205(d), 63 Stat. 389.

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 the 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 fees 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 (on 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 use of telephone for local calls. Also includes the non-exclusive use of the Kitchen space and Coat Room | \$50 | 100 |
| Lobby | As is (with furniture in place) Furniture removed | N/A | 100 150 |
| Classroom | Set up with tables and chairs Standard set-up with 40 chairs | 50 | 100 125 |
| Classroom—Multiple | Includes microphone/lectern, screen, projection stand, (2) flip charts (no paper) and trash can. 5 sessions or more | 45 | 90 |
| Yoshimura Center | For use from 10:00 a.m. to 3:30 p.m. weekends only Set up with tables and chairs | 50 100 | 125 100 |

| Area | Includes— | Per day charge | |
|----------------------------|---|----------------|-----------|
| | | Half day | Whole day |
| Grounds—1–300 people | NO PUBLIC INVITED Patio, Meadow, Triangle, NY Avenue, etc. Cost includes scheduling time, extra mowing, and site preparation. Guest organizations responsible for everything related to event, including portable toilets.. | N/A | 500 |
| 301–600 people | 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 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 the 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 assessed. 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.

| 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. 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. | No Charge | No Charge |
| Commercial and Wedding | | \$250 plus Supervisor. | \$500 plus Supervisor |
| Cinematography: | | | |
| 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).. Half Day = 4 hours or less. Full Day = More than 4 hours. | . | |

§ 500.24 Payment of fees.

Payment for use of the USNA tram must 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 must 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 required date. These payments must be made in the form of a check or money order. Checks and

money orders must be made payable, in U.S. funds, to the "U.S. National Arboretum." USNA will provide receipts to requesters for their records or billing purposes. OMB approved the information collection requirements in this regulation and assigned control number 0518-0024.

§ 500.25 Food Services.

The USNA entered into a concession agreement for the provision of food services on the facility. Snacks and small food items may be available for visitors to purchase at established

commercial prices. Hours of operation depend on volume of visitors. Box lunches may be pre-arranged with the concessionaire for a set fee.

Done at Washington, DC, this 2nd day of May, 2003.

Caird E. Rexroad,

Acting Administrator, Agricultural Research Service.

[FR Doc. 03-12857 Filed 5-23-03; 8:45 am]

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