

B, part 21 of the Code of Federal Regulations is proposed to be revised to read as follows:

## PART 21—BID PROTEST REGULATIONS

1. The authority citation for part 21 continues to read as follows:

**Authority:** 31 U.S.C. 3551–3556.

2. Amend § 21.0 by redesignating paragraph (a) as paragraph (a)(1) and adding new paragraph (a)(2), and by redesignating paragraph (b) as paragraph (b)(1) and adding new paragraph (b)(2) to read as follows:

### § 21.0 Definitions.

(a)(1) \* \* \*

(a)(2) In a public-private competition conducted under Office of Management and Budget Circular A–76 regarding an activity or function of a Federal agency performed by more than 65 full-time equivalent employees of the Federal agency, the official responsible for submitting the Federal agency tender is also an *interested party*.

(b)(1) \* \* \*

(b)(2) If an interested party files a protest in connection with a public-private competition conducted under Office of Management and Budget Circular A–76 regarding an activity or function of a Federal agency performed by more than 65 full-time equivalent employees of the Federal agency, a person representing a majority of the employees of the Federal agency who are engaged in the performance of the activity or function subject to the public-private competition and the official responsible for submitting the Federal agency tender as described in paragraph (a)(2) of this section may also be *intervenors*.

\* \* \* \* \*

3. Amend § 21.5 by adding paragraph (k) to read as follows:

### § 21.5 Protest issues not for consideration.

(k) *Decision whether or not to file a protest on behalf of Federal employees.* GAO will not review the decision of an agency tender official to file a protest or not to file a protest in connection with a public-private competition.

**Anthony H. Gamboa,**

*General Counsel, United States Government Accountability Office.*

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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:** Proposed rule.

**SUMMARY:** The Department of Agriculture (USDA) seeks comments on a proposed rule change that would modify the rules of conduct at the United States National Arboretum (USNA) and the schedule of fees to be charged for certain uses of the facilities, grounds, and services at the USNA.

**DATES:** Comments must be submitted on or before February 18, 2005.

**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:** Dana Laster, Administrative and Marketing Manager, U.S. National Arboretum, Beltsville Area, ARS, 3501 New York Avenue, NE., Washington, DC 20002; (202) 245–4539.

#### SUPPLEMENTARY INFORMATION:

##### Classification

This rule change 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 rule change 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 change will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility

Act, Pub. L. No. 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. 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 and assigned OMB control number 0518–0024 for the use of facilities or the performance of photography/cinematography at the USNA.

##### Background

Section 890(b) of the Federal Agriculture Improvement and Reform Act of 1996, Pub. L. 104–127 (1996 Act) expanded the authorities of the Secretary of Agriculture to charge reasonable fees for the use of USNA facilities and grounds. These authorities included the ability to charge fees for temporary use by individuals or groups of USNA facilities and grounds consistent with the mission of the USNA. In addition, authority was granted to charge fees for the use of the USNA for commercial photography and cinematography. Pursuant to the Act, the Agricultural Research Service (ARS) promulgated a fee schedule for the USNA at 7 CFR part 500, subpart B. All rules and regulations noted in 7 CFR part 500, subpart A, Conduct on the U.S. National Arboretum Property, also apply to individuals or groups granted approval to use the facilities and grounds.

This proposed rule change modifies 7 CFR part 500, subparts A and B. The USNA will continue to charge fees for riding its tram service, for use of the grounds and facilities, and for photography and cinematography. The USNA will allow use of its facilities and grounds for activities such as luncheons, dinners, receptions, and similar events in order to provide financial support to the USNA. The Director of the USNA will continue to have discretion to waive fees for non-profit scientific or educational organizations the purposes and interests of which are complementary to the mission of the USNA, such as the Friends of the National Arboretum, the National Bonsai Foundation, and the National Capital Area Federation of Garden Clubs. Even in cases of fee waiver, however, the USNA will seek to recover costs incurred in connection with use of its facilities. 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.

#### **Revision of Subpart A**

Subpart A is proposed to be revised in its entirety although, except for stylistic and editorial changes, no substantive changes are made to sections 500.1, 500.2, 500.4, 500.6, 500.9, and 500.14. Substantive changes to the other sections are as follows:

##### *Section 500.3 Preservation of Property*

This section is modified to include a prohibition on open fires, environmental spraying for insect pests, or release of biological agents on the facilities of the USNA. The purpose of this change is to protect the valuable existing plant collections, research projects, and the USNA's ongoing Integrated Pest Management Program.

##### *Section 500.5 Nuisances*

This section is amended to limit the decibel level of music at special events.

##### *Section 500.7 Intoxicating Beverages and Narcotics*

This section is modified to provide for limited beer and wine service with an approved permit and only at officially approved events when the USNA is closed to the public. It further clarifies that the sale of alcoholic beverages is prohibited.

##### *Section 500.8 Soliciting, Vending, Debt Collection, and Distribution of Handbills*

This section is modified to better identify the type of activities that are not allowed, and to identify more clearly the exceptions to the prohibitions that were not included in the earlier version of this rule.

##### *Section 500.10 Pets*

This section is modified to clarify pet leash requirements and to prohibit the release of fish, plants, and animals on the grounds of the USNA.

##### *Section 500.11 Vehicular and Pedestrian Traffic*

This section is modified to provide for access set up and break down, temporary structures, supplies, and materials used in special events and ceremonies, and to serve notice that illegal parking may result in towing in addition to fine.

##### *Section 500.12 Weapons, Explosives and Open Fires*

This section is changed to include a prohibition against the use pyrotechnic devices of any kind.

##### *Section 500.13 Nondiscrimination*

This section is modified to conform to the nondiscrimination policy established by the United States Department of Agriculture as set forth in 7 CFR part 15d.

##### *Section 500.15 Penalties and Other Law*

This section is modified and updated due to the recodification of title 40 and the creation of the Department of Homeland Security.

#### **Amendments to Subpart B**

The fee schedule and associated provisions in subpart B are generally revised as follows:

##### *Fee Schedule for Tram and Tours*

The USNA operates a 48-passenger tram (which accommodates 2 wheelchairs) to provide mobile tours throughout the USNA grounds on weekends and holidays. The USNA will continue to charge a fee 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. Payment for use of the tram is due at the time of ticket purchase. Payment for pre-scheduled tram tours must be made at least two weeks in advance. Payment for pre-scheduled, non-tram guided tours must be made at least two weeks in advance of the tour date.

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

The USNA will charge fees for the use of the facilities and grounds for activities that may include receptions, luncheons, dinners, and similar events. The proposed fee schedule is consistent with rates from comparable institutions in the Washington, DC area based upon a survey by USNA of the fees charged by such institutions.

##### *Conditions Governing the Use of Facilities and Grounds*

Organizations and others may reserve space with USNA for events and other uses of the USNA. Space also may be reserved through USNA support organizations such as the Friends of the National Arboretum, National Bonsai Foundation, and the National Capital Area Federation of Garden Clubs. Reservation requests need to be made as

far in advance as possible, with a minimum of 30 days required for all reservations. The USNA will respond to such requests within 10 working days with information as to whether the requested site is available for use. The USNA will also give notice to prospective users of any planned activities (construction, maintenance, pesticide applications, and any similar activities) that might affect the planned use or event. The USNA will not assume any responsibility for last minute changes due to failure of mechanical systems, severe storms and other weather events, or emergencies relating to security and safety.

A facilities use permit for a specific time and location must be signed and a 50% non-refundable deposit paid at the time of booking. The remaining 50% is due five working days before the event. In the event of building, property or grounds damage or excessive cleaning requirements, additional charges will be billed, and will be due within 30 days of billing.

All users of the USNA shall comply with all Federal and local laws. The USNA is a Federal property under the jurisdiction of United States Department of Agriculture. All activities are subject to Federal rules and regulations governing the buildings and grounds.

No offices, rooms, and hallways beyond the secure doors adjacent to the lobby area of the USNA's Administration Building will be available for use.

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

The USNA will continue to charge a fee for the use of the facility or grounds for purposes of commercial photography or cinematography. The 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 at least 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 activities. Fee payments for use of facilities or grounds or for photography and cinematography must be made in advance of requested date.

##### *Payment Submission Requirements*

Unless provided otherwise, all payments due under this subpart must

be made by cash, check, or money order (in U.S. funds). 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. The 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.

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

Agricultural research, Federal buildings and facilities, Government property, USNA, Photography, Cinematography, User fees.

For the reasons set out in the preamble, 7 CFR part 500 is proposed to be revised as set forth below:

1. The authority citation is revised to read as follows:

**Authority:** 20 U.S.C. 196; secs. 2, 4, 62 Stat. 281; sec. 103, 63 Stat. 380; sec. 205(d), 63 Stat. 389.

### PART 500—NATIONAL ARBORETUM

#### Subpart A—Conduct on U.S. National Arboretum Property

Sec.

- 500.1 General.
- 500.2 Recording presence.
- 500.3 Preservation of property.
- 500.4 Conformity with signs and emergency directions.
- 500.5 Nuisances.
- 500.6 Gambling.
- 500.7 Intoxicating beverages and narcotics.
- 500.8 Soliciting, vending, debt collection, and distribution of handbills.
- 500.9 Photographs for news, advertising, or commercial purposes.
- 500.10 Pets.
- 500.11 Vehicular and pedestrian traffic.
- 500.12 Weapons and explosives.
- 500.13 Nondiscrimination.
- 500.14 Exceptions.
- 500.15 Penalties and other law.

#### § 500.1 General.

The rules and regulations in this part apply to the buildings and grounds of the U.S. National Arboretum (USNA), Washington, DC, and to all persons entering in or on such property. The Administrator, General Services Administration, has delegated to the Secretary of Agriculture, with authority to further delegate, the authority to make all the needful rules and regulations for the protection of the buildings and grounds of the USNA (34 FR 6406). The Secretary of Agriculture has in turn delegated such authority to the Administrator, Agricultural

Research Service (34 FR 7389). The rules and regulations in this part are issued pursuant to such delegations.

#### § 500.2 Recording presence.

Admission to the USNA during periods when it is closed to the public will be limited to authorized individuals who may be required to sign the register or display identification documents when requested by the Security Staff, or other authorized individuals.

#### § 500.3 Preservation of property.

(a) While at the USNA, it is unlawful to:

- (1) Willfully destroy, damage, or remove USNA property or any part thereof;
- (2) Set or maintain any open fire on the property of the USNA; or
- (3) Apply any type of insecticide or herbicide on the grounds of the USNA, except for USNA employees in the course of their official duties or other persons authorized by the Director.

(b) Persons not employed by USNA are not permitted to bring biological agents of any kind, including but not limited to disease and pest agents of plants, onto the property without written permission of the Director, USNA.

#### § 500.4 Conformity with signs and emergency directions.

Persons in and on property of the USNA shall comply with official signs of prohibitory or directive nature and with the directions of authorized individuals.

#### § 500.5 Nuisances.

(a) The use of loud, abusive, or otherwise improper language, unwarranted loitering, sleeping, or assembly, the creation of any hazard to persons or things, improper disposal of rubbish, spitting, prurient prying, the commission of any obscene or indecent act, or any other unseemly or disorderly conduct, throwing articles of any kind from a building, and climbing upon any part of a building is prohibited.

(b) Playing of music or creation of other noises of a decibel level high enough to be heard outside of the USNA is prohibited.

#### § 500.6 Gambling.

Participating in games for money or other personal property, or the operation of gambling devices, the conduct of a lottery or pool, or the selling or purchasing of numbers tickets, in or on USNA property, is prohibited.

#### § 500.7 Intoxicating beverages and narcotics.

(a) Entering USNA property or the operation of a motor vehicle thereon, by a person under the influence of intoxicating beverages or a narcotic drug, is prohibited.

(b) Except as provided in subpart B, possession of or consumption of intoxicating beverages on USNA property is prohibited.

(c) The sale of alcoholic beverages on the grounds of the USNA is prohibited.

(d) The possession of or use of narcotic drugs on the grounds of the USNA is prohibited.

#### § 500.8 Soliciting, vending, debt collection, and distribution of handbills.

(a) The following activities are prohibited on USNA grounds:

- (1) Soliciting of alms or contributions;
- (2) Display or distribution of commercial advertising;
- (3) Collecting private debts;
- (4) Campaigning for election to any office;
- (5) Soliciting and vending for commercial purposes (including, but not limited to, the vending of newspapers, and other publications);
- (6) Soliciting signatures on petitions, polls, or surveys (except as authorized by the USNA); and
- (7) Impeding ingress to or egress from the USNA are prohibited.

(b) Distribution of material such as pamphlets, handbills, and flyers is prohibited without prior approval of the Director, USNA.

(c) The prohibitions in paragraphs (a) and (b) of this section do not apply to:

- (1) Commercial or nonprofit activities performed under contract or concession with the USNA or pursuant to the provisions of the Randolph Sheppard Act;
- (2) The solicitation of USNA personnel for contributions for the Combined Federal Campaign (CFC);
- (3) National or local drives for funds for welfare, health, and other purposes sponsored or approved by the Agricultural Research Service; or
- (4) Personal notices posted by employees on authorized bulletin boards.

(d) The solicitation of USNA personnel for contributions for the Combined Federal Campaign (CFC);

(e) National or local drives for funds for welfare, health, and other purposes sponsored or approved by the Agricultural Research Service; or

(f) Personal notices posted by employees on authorized bulletin boards.

#### § 500.9 Photographs for news, advertising, or commercial purposes.

Photographs for news purposes may be taken at the USNA without prior permission. Photographs for advertising and commercial purposes may be taken, but only with the prior approval of the Director, USNA and fees may be charged pursuant to § 500.23.

#### § 500.10 Pets.

Pets brought upon USNA property must have proper vaccinations and,

except assistance trained animals, must be kept on leash at all times. The release or abandonment of fish, plants, and animals of any kind on USNA grounds is prohibited.

#### **§ 500.11 Vehicular and pedestrian traffic.**

(a) Drivers of all vehicles in or on USNA property shall drive only on established roads, shall drive in a careful and safe manner at all times, and shall comply with the signals and directions of the Security Staff and all posted traffic signs.

(b) The blocking of entrances, driveways, walks, loading platforms, or fire hydrants, and parking in designated no parking areas in or on USNA property is prohibited.

(c) Except in emergencies, parking in or on USNA property in other than designated areas is not allowed without a permit. Parking without authority, parking in unauthorized locations or in locations reserved for other persons, or contrary to the direction of posted signs, is prohibited.

(d) USNA approval is required for all vehicles needed for access setup and breakdown activities relating to special events, ceremonies, or related activities. Off-road routes will be determined by the USNA.

(e) In addition to the penalties provided in § 500.15, vehicles parked in violation of this section are subject to being towed and the cost of such towing being assessed to the owner of such vehicle.

(f) This section may be supplemented from time to time, by the issuance and posting of specific traffic directives as may be required, and when so issued and posted such directives shall have the same force and effect as if incorporated in this subpart.

#### **§ 500.12 Weapons and explosives.**

(a) No person while in or on USNA property shall carry firearms, other dangerous or deadly weapons, or explosives, either openly or concealed, except for authorized official purposes.

(b) No person while in or on the USNA shall ignite fireworks or other pyrotechnical devices.

#### **§ 500.13 Nondiscrimination.**

The USNA is subject to the policy of nondiscrimination in programs or activities conducted by the United States Department of Agriculture as set forth in 7 CFR part 15d.

#### **§ 500.14 Exceptions.**

The Administrator, Agricultural Research Service, may in individual cases make prior, written exceptions to the rules and regulations in this part if

it is determined to be not adverse to the public interest.

#### **§ 500.15 Penalties and other law.**

Whoever shall be found guilty of violating the rules and regulations in this subpart is subject to fine under title 18, United States Code, or imprisonment of not more than 30 days, or both (see 40 U.S.C. 1315(c)). Nothing contained in the rules and regulations in this part shall be construed as abrogating or authorizing the abrogation of any other regulations or any Federal law or any laws and regulations of the District of Columbia that may be applicable.

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

Sec.

500.20 Scope.

500.21 Fee schedule for tram and tours.

500.22 Fees and conditions for use of facilities and grounds.

500.23 Fees for photography and cinematography on grounds.

500.24 Fee schedule.

500.25 Payment of fees.

#### **§ 500.20 Scope.**

This subpart sets forth schedules of fees for temporary use by individuals or groups of United States National Arboretum (USNA) facilities and grounds. This subpart 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 tram and tours.**

The USNA provides tours of the USNA grounds in a 48-passenger tram (accommodating 2 wheelchairs). The fee is as follows: \$4.00 per adult, \$3.00 per senior citizen or Friend of the National Arboretum, and \$2.00 per child ages 4 through 16. Children under 4 sharing a seat with an adult will not be charged. Pre-scheduled tram tours for groups may be arranged for a set fee of \$125.00. Additionally, a 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. Payment for use of the tram is due at the time of ticket purchase. Payment for pre-scheduled tram tours must be made at least two

weeks in advance. Payment for pre-scheduled, non-tram guided tours must be made at least two weeks in advance of the tour date.

#### **§ 500.22 Fees and conditions for use of facilities and grounds.**

(a) *Fee requirement.* (1) The USNA will charge a fee for temporary use by individuals or groups of USNA facilities and grounds. Fees for specific sites are listed in § 500.24.

(2) Non-profit scientific or educational organizations whose purposes and interests are complementary to the mission of the USNA and which substantially support the mission and purpose of the USNA (e.g., Friends of the National Arboretum) may be exempted from the fee for use of USNA facility or grounds requirement of this subpart by the Director, but still must reimburse the USNA for its costs, including setup, clean-up, security, and other costs as applicable.

(3) A Half Day usage is defined as 4 hours or less; a Whole Day is defined as more than 4 hours in a day. In all cases, usage includes all time during which a venue is committed, including time used to set up before and clean up after an event. For after-hours usage of sites or facilities, an additional \$40/hour will be added for supervision/security, with higher amounts required for sites or facilities that are more sensitive.

(b) *Reservations.* (1) The USNA will be available only on a limited basis at the discretion of the Director of the USNA, and not during public access hours, during the peak visitation weekends in April, May, and October.

(2) Facilities and grounds are available by reservation at the discretion of the USNA and may be available to individuals or groups for uses that are consistent with the mission of the USNA. Agency initiatives may be granted first priority. Offices and hallways beyond secured doors will not be available for use.

(3) Reservations to use USNA facilities and grounds may be made directly with the USNA. To ensure consideration, reservation requests should be made as far in advance of the need as possible with a minimum of 30 calendar days prior to the date of use required for all reservations.

(4) The USNA will respond to reservation requests within 10 working days with information as to whether the requested site is available for use. The USNA will also give notice to the prospective user of any planned activities (construction, maintenance, pesticide applications, and any similar

activities) that might affect the planned use or event.

(5) A 50% non-refundable deposit will be due at the time of a booking in order to reserve a specific date and location. The remaining 50% is due five working days prior to the event.

(c) *Terms and conditions of use.* (1) The USNA provides space, water, and electrical hookup when available, and restrooms where available. Users must provide all tents, tables, chairs, trash receptacles, or other property required for the scheduled event. Users must remove all trash from the property at the conclusion of the event. Users must remove all tents, tables and chairs and other property no later than 5:00 p.m. of the day following the event. The USNA will charge a facility use and break down fee of \$500.00 per day for each day following the deadline to remove temporary facilities and equipment. The USNA will not store temporary facilities or equipment for users.

(2) Users must abide by USNA vehicle regulations in § 500.11 including the requirement to obtain USNA approval whenever off road access is required for setup.

(3) The USNA will not assume any responsibility for last minute changes due to failure of current mechanical systems, severe storms and other weather events, emergencies relating to security and safety.

(4) Some events that involve bringing animals and certain plants onto the USNA property may not be compatible with the plant research, display, and education mission of the USNA. Such events will be evaluated on a case-by-case basis and exceptions may be made by the Director of the USNA.

(5) Music and bands will be permitted but the decibel level of music should not be loud enough to be heard outside the boundaries of the USNA.

(6) In the event of building, property or grounds damage or excessive cleaning requirements, charges will be billed and will be due within 30 days of billing. Damages to plants, grounds, facilities or equipment will be assessed on a value based on replacement cost, including labor, plus a 10% administrative fee.

(7) Upon prior request, the Director may approve the consumption of beer and wine during uses of USNA pursuant to this section. Such permission will not be granted during times when USNA is open to the public. Director approval shall be conditioned upon compliance by users and by any of their agents or contractors, with all applicable provisions of the District of Columbia Code governing sale and consumption of alcoholic beverages, including the rules of the District of Columbia Department of Consumer Affairs, Alcoholic Beverage Regulation Administration.

(8) All users of the USNA pursuant to this subpart, as well as all those contracting with such users of the USNA, shall comply with all Federal and local laws.

(9) The USNA is a Federal property under the jurisdiction of the United States Department of Agriculture. All activities are subject to Federal rules and regulations governing the use of public buildings and grounds.

(10) The USNA will not be responsible for any damage or loss suffered by an individual, group, or their contractor during a permitted event at the USNA.

(11) The Director may impose additional incidental terms and conditions concerning the use of the USNA facilities consistent with this part.

**§ 500.23 Fees 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 as specified in § 500.24. 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. The USNA will charge for supervision costs at the rate of \$40.00 per hour, in addition to the fees listed below. 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. The USNA will charge a non-refundable application fee of \$30 for commercial photography or cinematography. If the application is approved and fees will be incurred, the application fee will be applied to the total fee due. No other credits will be given for the application fee. 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.

**§ 500.24 Fee Schedule.**

Event by category	Fee*	Unit	Notes
USNA Terrace .....	\$12,000 .....	Per Day .....	Up to 240 seated or 300 standing.
USNA Herb Garden .....	10,000 .....	Per Day .....	Entrance Circle, Rose and Knot Garden: Up to 48 seated or 100 standing; cannot be tented Specialty Garden: Up to 200 standing; may not be tented.
USNA Meadow .....	15,000 .....	Per Day .....	Up to 600 seated or 1000 standing.
USNA Administration Building Lobby .....	2,000 .....	Per Day .....	Up to 150 standing.
USNA Auditorium .....	2,500 .....	Per Day .....	Up to 120 seated or 200 standing.
Friendship Garden .....	1,000 .....	Per Day .....	Up to 60 seated or 100 standing.
National Capitol Columns .....	10,000 .....	Per Day .....	Up to 190 seated or 400 standing; cannot be tented; includes night lighting of columns.
Bonsai Museum International Pavilion and Upper Courtyard.	10,000 .....	Per Day .....	Up to 120 seated or 200 standing.
Bonsai Museum Chinese Pavilion .....	10,000 .....	Per Day .....	Up to 50 seated or 100 standing.
Dogwood Collection Allee & Circle .....	3,000 .....	Per Day .....	Up to maximum of 150 people at event; reserved for marriage ceremonies and accompanying receptions only.
M Street Picnic Area .....	5,000 .....	Per Day .....	Up to 200 seated or standing; paved or grassy areas can be tented.
Classroom .....	125 .....	Per Day .....	Standard set-up with 40 chairs; includes microphone/lectern, screen, projection stand, two flip charts (no paper) and trashcan.
	50 .....	Per Half Day.	

Event by category	Fee*	Unit	Notes
Still Photography:			
Individual .....	No Charge .....	.....	For personal use only; includes hand-held cameras, recorders and small non-commercial tripods.
Commercial .....	\$30 .....	Application Fee .....	All. professional photography; photographs for which a fee will be received or which are for other than personal use.
	\$250 plus Supervisor	Per Half Day.	
Cinematography:			
Set Preparation .....	30 .....	Application Fee .....	Set up; no filming.
Filming .....	\$250 plus Supervision \$1,500 to \$3,900 .....	Per Whole Day. Per Whole Day .....	Sliding scale based on number of people in cast and crew and number of pieces of equipment from 45 people and 6 pieces of equipment = \$1,500 to 200 people = \$3,900; 5 people with carry on equipment = same as still photography.
Slide Production .....	\$100 .....	Per Image .....	Purchase of USNA photos/slides.

\*Fees includes only access to sites; additional security charges may be necessary depending upon the site and the number of people participating.

#### § 500.25 Payment of fees.

(a) Unless provided otherwise, all payments due under this subpart must be made by cash, check, or money order (in U.S. funds). Checks and money orders for payment of any fees imposed under this part are to be made payable, in U.S. funds, to the "U.S. National Arboretum." The USNA may provide receipts to requesters for their records or billing purposes. If the USNA enters into an agreement to allow USNA visitors and users to make payment in the form of a credit card, 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.

(b) Any fees that become past due shall be collected in accordance with 7 CFR part 3.

Done at Washington, DC, this 17th day of November, 2004.

**Edward B. Knipling,**

*Administrator, Agricultural Research Service.*

[FR Doc. 04-27394 Filed 12-17-04; 8:45 am]

BILLING CODE 3410-03-P

## AGENCY FOR INTERNATIONAL DEVELOPMENT

### 22 CFR Part 226

[AID Reg 226]

RIN 0412-AA55

#### Administration of Assistance Awards to U.S. Non-Governmental Organizations; Marking Requirements

**AGENCY:** United States Agency for International Development.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** USAID proposes to amend the primary regulation governing administration of USAID funded assistance awards, by adding a provision requiring marking with the USAID Standard Graphic Identity, of commodities, programs, projects, activities and public communications implemented under USAID funded assistance awards or subawards. While USAID currently requires its contractors to mark US-funded foreign assistance, that requirement does not apply to assistance awards. The purpose of this proposed regulatory addition is to extend USAID marking requirements to assistance awards in order to bring USAID regulations in line with section 641 of the Foreign Assistance Act of 1961, as amended, which requires that "[p]rograms under this Act shall be identified appropriately overseas as 'American Aid,'" as well as to advance the Administration's efforts to ensure that aid recipients overseas understand that all aid, including assistance awards, is foreign assistance from the American taxpayer.

**DATES:** Submit comments on or before February 3, 2005.

**ADDRESSES:** Because security screening precautions have slowed the delivery and dependability of surface mail to USAID/Washington, USAID recommends sending all comments by electronic mail or by fax to the e-mail address or fax number listed directly below (please note, all comments must be in writing to be reviewed).

*Electronic Access and Filing.* You may submit written electronic comments by sending electronic mail [e-mail] to: [markingnprm@usaid.gov](mailto:markingnprm@usaid.gov). Please submit comments as a Microsoft Word file avoiding the use of any

special characters and any form of encryption.

*FAX.* You may submit written comments by FAX to 202-216-3058, addressed to: "C/O John Niemeyer, Attorney Advisor, Office of the General Counsel, USAID/Washington."

*Surface Mail* (again, not advisable due to security screening): John Niemeyer, Attorney Advisor, Office of the General Counsel, Room 6.6.34, USAID/Washington, 1300 Pennsylvania Avenue, NW., Washington, DC 20523.

**FOR FURTHER INFORMATION CONTACT:** John Niemeyer, telephone (202) 712-4776; e-mail [markingnprm@usaid.gov](mailto:markingnprm@usaid.gov).

**SUPPLEMENTARY INFORMATION:** This proposed rule has been reviewed by the Office of Management and Budget (OMB). The period for comments has been established at forty-five (45) days due to the urgency and high visibility of United States Government public diplomacy initiatives, and the shortness and lack of complexity of the proposed rule.

#### Background

The marking of foreign aid as foreign assistance from the American taxpayer was first required during the Marshall Plan when Congress became concerned that the Soviet Union was taking credit for the poorly marked U.S. foreign aid donations to European countries. USAID's framework legislation, the Foreign Assistance Act of 1961, as amended, section 641 requires that all programs, including assistance awards, be identified appropriately overseas as "American aid." While USAID has required its contractors to mark US-funded foreign assistance, that requirement has not been extended to assistance awards. A recent State Department report, "Changing Minds,