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NATIONAL PARK SERVICE

Revenues Could Increase by Charging Allowed Fees for Some Special Uses Permits



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Highlights of [GAO-05-410](#), a report to congressional requesters

NATIONAL PARK SERVICE

Revenues Could Increase by Charging Allowed Fees for Some Special Uses Permits

Why GAO Did This Study

The National Park Service routinely issues permits for special park uses, such as special events or commercial filming and still photography. However, the National Football League's use of the National Mall to launch its 2003 season raised questions about whether permitting such events was consistent with existing policies and law and whether all applicable fees for permitting special park uses were being collected.

GAO (1) identified applicable policy guidance for issuing special uses permits for special events and for commercial filming and still photography, (2) assessed the extent to which this guidance was applied during fiscal year 2003, and (3) determined the extent to which the Park Service implemented the requirement to collect location fees for commercial filming and still photography.

What GAO Recommends

GAO is making several recommendations on identifying and collecting fees for administering and monitoring special events and commercial filming and still photography, and on expediting the implementation of the requirement to collect location fees and costs for such activities.

In commenting on the draft report, Interior neither agreed nor disagreed with our recommendations.

www.gao.gov/cgi-bin/getrpt?GAO-05-410.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Robin M. Nazzaro at (202) 512-3841 or nazzaror@gao.gov.

What GAO Found

The Park Service has developed policy guidance for issuing permits for special events and for commercial filming and still photography activities. This policy guidance includes general criteria about the terms and conditions as to when and where specific types of activities can take place and requires park units to recover applicable costs associated with administering and monitoring special park uses. Recovery of costs associated with filming activities is required by law. Recoverable costs include, for example, the time charged by a park ranger to visit the site of the event, such as a festival held on park grounds, to monitor that the terms and conditions of the permit are met.

During fiscal year 2003, park units did not consistently apply Park Service guidance for permitting special events and for commercial filming and still photography, and often did not identify and recover costs associated with permitting such activities, thereby decreasing financial resources available to the parks. Of the six park units we visited, one did not charge fees for processing applications; one only recovered monitoring costs associated with some of its permits; and three others had not updated, for several years, hourly charges to reflect current higher costs for personnel time for administering and monitoring permitted activities. For example, National Capital Parks-Central officials charged no administrative fees for the estimated 1,400-plus permits issued for special events and for filming and still photography in fiscal year 2003. Officials said that park units had not updated fees because of regional policy and a high workload or because updating the fees was given low priority.

The Park Service has not implemented a law enacted almost 5 years ago to collect location fees for commercial filming and still photography, resulting in significant annual forgone revenues. The agency has not implemented the law because of delays in reviewing the proposed regulations at the Department of Justice and a lack of agreement among the Interior agencies about the fee schedule and how it is to be applied. We estimated the Park Service would have collected about \$1.6 million in location fee revenues in fiscal year 2003, if the requirement to collect such fees had been implemented.

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Abbreviations

BLM	Bureau of Land Management
DCI	data collection instrument
FS	Forest Service
FWS	Fish and Wildlife Service
NFL	National Football League
OMB	Office of Management and Budget

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United States Government Accountability Office
Washington, D.C. 20548

May 6, 2005

Congressional Requesters

For over 50 years, the National Park Service has permitted special park uses—such as special events or filming and still photography—that provide benefits to an individual, group, or organization beyond those available to the public at large. Annually, the Park Service issues thousands of permits for special events, such as festivals, receptions, and fund-raisers. In the past few years, questions have been raised by Members of Congress and the public about taxpayer costs, commercialism, and Park Service policies related to permitting these activities. One particular event—held in September 2003, when the Park Service granted the National Football League (NFL) use of the National Mall to kick off its season—caused controversy. Because of some complaints that there was extensive commercial advertising and some damage to the Mall grounds resulting from this event, Members of Congress and the public questioned whether permitting such an event was consistent with established policies, was an appropriate use of the Mall, and whether taxpayer dollars were used to support the event. The Park Service also issues hundreds of permits annually for commercial filming and still photography on park land. The Park Service is required by law to collect costs and location fees associated with these permits, and is authorized to collect costs for other permit uses.

In this context, you asked us to (1) identify applicable Park Service policy guidance for issuing special uses permits for special events and for commercial filming and still photography, (2) assess the extent to which this guidance was applied during fiscal year 2003 to ensure that all applicable costs were identified and recovered, and (3) determine the extent to which the Park Service has implemented the requirement to collect location fees for commercial filming and still photography activities.

We identified Park Service policy guidance for special uses permits and obtained and analyzed applicable laws, regulations, policies, and procedures. To evaluate the extent to which policy guidance was applied, we analyzed permit records and other documentation of six selected park units that we visited and interviewed Park Service headquarters, regional, and park unit officials. We selected these park units because, during fiscal year 2003, they had issued the greatest number of both special event and filming and still photography permits in each of the six Park Service regions within the continental U.S. To determine the extent to which the

Park Service implemented the requirement to collect location fees for commercial filming and still photography activities, we interviewed Park Service officials. We also collected and assessed the reliability of Park Service data on filming and still photography permits from all park units for fiscal year 2003 and estimated the forgone location fee revenues by applying the established fee schedule of another federal land management agency to the activities reported to GAO by the Park Service. The fee schedule of the other federal agency is based on similar criteria included in the legislation authorizing the Park Service to charge fees.

A more detailed description of our scope and methodology is presented in appendix I, and a detailed description of our forgone revenue calculations and results is presented in appendix II. We performed our work from May 2004 through May 2005 in accordance with generally accepted government auditing standards.

Results in Brief

The Park Service's policy guidance includes general criteria about the terms and conditions as to when and where specific types of activities can take place. For example, the policy guidance states that activities may be permitted if they do not injure or damage park resources, are not contrary to the purposes for which the park was established, and do not unreasonably interfere with visitation. The policy guidance also covers requirements for such details as safety considerations and printing special signage. Specifically, as it relates to signage in the National Capital Region, where the 2003 NFL kickoff event was held, the park unit Superintendent must approve the size, scale, scope, and location of corporate logos and other lettering to be used in advertisements or as sponsor recognition. With regard to the 2003 NFL kickoff event, the Superintendent admittedly allowed a greater quantity of commercial signage to be displayed than she had intended. In 2004, Congress passed legislation that prohibited the use of appropriated funds in fiscal year 2004 for special event permits on the Mall unless the permits prohibited commercial advertising, although the Superintendent was authorized to approve discrete lettering recognizing sponsors. Also, the Park Service, in accordance with applicable law, has policy guidance requiring park units to generally recover costs associated with managing special park uses, including special event and commercial filming and still photography activities. This requirement includes recovering costs for processing permits, monitoring permit activities, equipment and facility use, as well as any incidental damage to park resources as a result of the event. For example, recoverable costs include the time charged by a park ranger to visit the site of the event, such as a

festival held on park grounds, to monitor that the terms and conditions of the permit are met.

At most of the park units we visited, the parks inconsistently applied guidance and did not fully identify and recover costs of permitting special events and commercial filming and still photography during fiscal year 2003. Because costs recovered from permitting activities are used by park units for managing their permits program, failing to recover such costs decreases the financial resources park units have for administering permits and monitoring permitted activities. For 2003, the park units we visited either did not charge or had not updated fees for administering or monitoring permits. According to the Park Service, several of the units did not update their fees because of a high workload at some park units and because updating fees was given a low priority at other park units, as the following examples illustrate:

- Blue Ridge Parkway did not recover monitoring costs associated with some of its permits. Park Service officials with this unit did not charge for time spent monitoring activities for 20 of the 28 special event permits issued in 2003.
- National Capital Parks-Central did not charge administrative fees for processing special uses permit applications because it was regional policy not to do so. Officials at this unit charged no administrative or permitting fees, even where applicable, for the estimated 1,400-plus permits issued for special events and for commercial filming and still photography in fiscal year 2003. We brought this issue to the attention of the Department of the Interior's Solicitor's Office and, as a result, it has modified its guidance and has initiated efforts to require the region to begin charging administrative fees to recover costs.
- Blue Ridge Parkway, Golden Gate National Recreation Area, Independence National Historical Park, and Yellowstone National Park had not recently updated hourly charges to reflect current higher costs for personnel time to administer and monitor permitted activities. As a result, these park units were not fully recovering the costs associated with their special uses permits program, as required by policy guidance.

The Park Service has also not implemented a requirement to collect location fees for commercial filming and still photography, resulting in significant annual forgone revenues. The requirement to collect location fees is in addition to the requirement to recover costs for administering and

monitoring permits. While the legislation creating the location fee requirement was passed almost five years ago, the Park Service has not implemented the law because of delays in reviewing the proposed regulations at the Department of Justice and a lack of agreement among Interior's agencies about the fee schedule and how it is to be applied. We estimated the Park Service would have collected about \$1.6 million in location fee revenues in fiscal year 2003 if the requirement had been implemented.

We are recommending that the Secretary of the Interior direct the Park Service Director to ensure that the park units we visited apply existing guidance and maintain updated cost recovery fee schedules, determine the extent to which park units systemwide are not fully recovering costs for special events and for commercial filming and still photography, follow through to ensure that National Capital Region assesses administrative fees to recover the cost of processing special event and commercial filming and still photography permits, and take action to ensure the Park Service implements the law requiring it to collect location fees and costs for commercial filming and still photography.

In commenting on a draft of this report, the Department of the Interior neither agreed nor disagreed with our recommendations. It did, however, offer several suggestions for technical clarifications and to clarify the application of policy guidance to the National Capital Region; we have incorporated these suggestions, as appropriate.

Background

The National Park Service Organic Act of 1916 created the Park Service to promote and regulate the use of national parks, monuments, and reservations with the purpose of conserving the scenery, natural and historic objects, and wildlife therein and to leave them "unimpaired" for the enjoyment of future generations. The 1970 National Park System General Authorities Act, as amended in 1978, prohibits the service from allowing any activities that would cause derogation of the values and purposes for which the parks have been established. The combination of these two laws forms the basis of a mandate for Park Service managers to actively manage all park uses in a manner that protects park resources and values.

Today, the Park Service comprises 388 units covering around 84 million acres in 49 states, the District of Columbia, American Samoa, Guam, Puerto Rico, Saipan, and the Virgin Islands. Figure 1 shows a map of the Park Service regions.

Figure 1: Park Service Regions



Source: National Park Service.

^aParkland within the National Capital Region amounts to about 88,000 acres in the District of Columbia, Maryland, Virginia, and West Virginia.

National Parks are home to many unique and beautiful landscapes and open spaces that are venues for a variety of special event activities such as cultural programs, festivals, wedding ceremonies, and athletic events, as well as commercial filming and still photography. These special uses generally provide a benefit to an individual, group, or organization rather than the public at large. In order to protect park resources and the public interest, a special uses permit must be obtained from Park Service superintendents for these activities. Special uses permits regulate the amount, kind, time, and place of the proposed activity.¹ The Park Service issues special uses permits for several different types of activities, including the two types we reviewed (1) special events, and (2) commercial filming and still photography.

Special events permits are issued for a wide range of activities, including sports, pageants, celebrations, historical re-enactments, exhibitions, parades, fairs, and festivals. Commercial filming and still photography permits are issued for such activities as major motion picture filming, commercials, and magazine photo shoots. The Park Service has specific statutory authority to recover costs associated with special uses permits and to retain the funds recovered.² The Park Service has guidance in place to collect costs associated with special event permits, including costs for commercial filming and still photography. In addition, it has been required by law to collect costs and location fees associated with filming activities for almost five years.³

¹According to National Capital Parks-Central officials, a public gathering permit, rather than a special park uses permit, is issued by their unit in response to a request for either a demonstration or a special event.

²16 U.S.C. §3a.

³Pub. L. No. 106-206 (2000), codified at 16 U.S.C. §460l-6d. The Park Service refers to this as the Commercial Filming Law.

The Park Service Has Specific Policy Guidance for Issuing Permits and Recovering Costs for Special Park Uses

The Park Service developed specific policy guidance for issuing permits and recovering costs for special park uses. This guidance includes detailed permitting criteria for special events and for commercial filming and still photography. Park Service superintendents are required to follow the established policy guidance, including numerous cost recovery requirements, when issuing permits. The cost recovery guidance generally requires the park units to recover costs associated with the permitted activity from the permittee.

Park Unit Superintendents Are Required to Follow Specific Guidance When Issuing Permits for Special Events and for Commercial Filming and Still Photography

The Park Service has developed extensive policy guidance that park unit superintendents are to follow when issuing any Park Service special uses permits. In this regard, the superintendent at each park unit is responsible for reviewing, approving, and monitoring permitted activities and for assuring that such activities are consistent with the Park Service's purpose: "to conserve scenery, natural and historic objects, and wildlife, and to provide for the enjoyment of the public while maintaining the natural and cultural resources and values of the national park system unimpaired for future generations." The policy guidance also gives the superintendent discretion by directing that permits include "the terms and conditions that the superintendent deems necessary to protect park resources or public safety." Permits establish conditions for the approved activity, such as location, date, time, and estimated number of participants.

Guidance on Special Events

Special events within park units must meet basic criteria before a permit is issued, and Park Service policy guidance gives superintendents discretion when approving permits. The basic criteria for issuing a permit include that (1) there is a meaningful association between the park area and the event and (2) the event will contribute to visitor understanding of the significance of the park area. However, the determination of what is a "meaningful association" is generally left to the superintendent's discretion. Some special event activities may be appropriate within certain park unit settings but not appropriate within others. For example, while the permitting of a rock concert in an urban park setting may be appropriate, the permitting of a rock concert at certain historical sites such as battlefields or cemeteries may not be appropriate. Also, in order to protect the park resources and the public's health and safety, the policy

guidance for special events provides strict limitations on certain uses, such as fireworks displays and the sale of food in the parks.⁴

Existing Park Service policies provide the superintendent with considerable discretion to determine the appropriateness of proposed advertisements. In 2003, the NFL kickoff event caused considerable controversy about the size, scale, scope, and location of advertising allowed during the event. In 2004, Congress passed legislation designed to strengthen and clarify commercial signage restrictions for the National Mall. This new legislation expressly prohibited the expenditure of funds in fiscal year 2004 for special uses permits on the National Mall unless the Park Service prohibited “the erection, placement, or use of structures and signs bearing commercial advertising.”⁵ However, discrete recognition of program sponsors was authorized. As a result, the Park Service has drafted additional policy guidance, applicable to all park units, pertaining to the use of signage recognizing program sponsors that will restrict the size, scale, scope, and location of corporate logos and other lettering.

Guidance on Commercial Filming and Still Photography

In general, the Park Service encourages filming and photography “when it will promote the protection and public enjoyment of park resources,” provided that the activity meets basic criteria, such as the activity will not cause unacceptable impacts to park resources. More specifically, the policy guidance outlines when a permit is and is not required. For example, a permit is required if the permitted activity involves the use of a model, set, or prop—such as a model holding a product for an advertisement photograph. However, no permit is required for visitors using a camera or recording device for their own personal use within normal visitation areas and hours. Some specific exceptions are included in the policy guidance—for example, a permit is never required for press coverage of breaking news.⁶ Also, superintendents, at their discretion, may grant the permittee

⁴Park Service general regulations for most park units are found at 36 C.F.R. §2.50. Other special regulations govern certain park units and include specific guidance on activities applicable to that particular unit, including some special permits. For example, the section specific to the National Capital Region includes subsections on permit requirements, permit applications, permit processing, and permit limitations. 36 C.F.R. §7.96(g)(2),(3),(4), and (5)(2004).

⁵Department of Interior and Related Agencies Appropriation Act, 2004, Pub. L. No. 108-108 §145. The appropriation act restrictions are limited to expenditures in fiscal year 2004.

⁶Breaking news is an event that cannot be covered at any other time or location, according to Park Service guidance.

access to a closed area of the park or permit the activity after normal visiting hours. Regardless of the specific type of commercial filming or still photography activity, the conditions specified in the permit must be followed.

Park Service Guidance Includes Requirement to Recover Costs

Park Service policy guidance generally requires park units to recover costs associated with managing special park uses, including special event and commercial filming and still photography activities, unless cost recovery is prohibited by law or otherwise exempted.⁷ This policy guidance is in line with federal law requiring recovery of costs for filming activities and Office of Management and Budget (OMB) Circular A-25, which established guidelines for federal agencies to assess fees for government services and for the sale or use of government property or resources. The OMB Circular states, “When a service (or privilege) provides special benefits to an identifiable recipient beyond those that accrue to the general public, a charge will be imposed (to recover the full cost to the Federal Government for providing the special benefit, or the market price).” The circular also states that “user charges will be sufficient to recover the full cost to the Federal Government,” and it defines full cost as all direct and indirect costs—including personnel, physical overhead, and depreciation of structures and equipment—associated with providing a good, resource, or service. As authorized by law and under the policy guidance, these recovered costs are retained at the units issuing the permits to defray the costs of administering and monitoring the permits.

The Park Service’s 2001 Management Policies document, which provides the service’s most current overall policies, states that “all costs incurred by the Service in writing the permit, monitoring, providing protection services, restoring park areas, or otherwise supporting a special park use will be reimbursed by the permittee.” Park Service policy guidance further states that “appropriate fees for cost recovery, as well as performance bond and liability insurance requirements, will be imposed, consistent with applicable statutory authorities and regulations,” and directs that “when appropriate, the Service will also include a fair charge for the use of the land or facility.” Consequently, each permit should stipulate that these costs must be reimbursed by the permittee. Recoverable costs are those costs directly attributable to the use or necessary for the safe completion of

⁷As of May 2000, this was required by law for filming activities. Recovery of costs in general was authorized prior to 2000. See 16 U.S.C. §3a.

the special park use. For example, the policy states that recoverable costs include the time charged by a park ranger to visit the site of the event, such as a festival held on park grounds, to monitor that the terms and conditions of the permit are met.⁸ Additionally, the requirement includes recovering costs for equipment and facility use as well as restoration of any damage to park resources as a result of the event.

Park Service policy guidance also outlines the conditions under which charges for special uses may be waived. According to the policy guidance, exemptions from charges for special uses *may be* appropriate when

- the incremental costs of collecting the charges would be an unduly large part of the receipts from the activity;
- the furnishing of the service without charge is an appropriate courtesy to a foreign government or international organization, or comparable fees are set on a reciprocal basis with a foreign country;
- the permittee is a state, local, or federal government agency or a tribal government; or
- the superintendent determines that the use will promote the mission of the Park Service or promote public safety, health, or welfare.

Exemptions from charges *are* appropriate when

- a charge is prohibited by legislation or executive order; or
- the requested use involves exercise of a right pertaining to water, property, minerals, access, Native American religious practices, or the rights guaranteed by the First Amendment to the Constitution, including freedom of assembly, speech, religion, and the press.

Through their special uses permit system, Park Service superintendents also manage requests for public assembly for the exercise of First Amendment rights, including freedom of assembly, speech, religion, and the press. Consistent with the First Amendment, it is the Park Service's

⁸According to the Special Park Uses Program Manager, there are also cases where monitoring was conducted as part of routine operations and when this was the case, "it did not seem appropriate to charge cost recovery."

policy to permit groups to assemble peaceably and exercise freedom of speech on park lands. The number of First Amendment permit requests varies greatly by park unit. For example, each year hundreds of permit requests are submitted for First Amendment activity in Washington, D.C., area park units, but there are few requests for this type of permit at remote units such as Yellowstone National Park. For First Amendment permits, as with other special uses permits, the superintendents establish conditions for the assembly, such as site location, date, time, and number of participants. However, unlike other special events permits, superintendents are required by Park Service policies to issue these permits without requiring fees, cost recovery, bonding, or insurance.

Inconsistent Application of Special Park Uses Guidance Has Resulted in Some Park Units Not Fully Identifying and Recovering Costs, Thereby Decreasing Resources Available to the Parks

At five of the six parks we visited, we found failure to adhere to the Park Service's policy to recover from permittees the cost to either administer or monitor permits for special events and for commercial filming and still photography activities. This inconsistent application of agency policy included not assessing or underassessing fees for reviewing and issuing permit applications, and not charging or undercharging for the cost of monitoring permits. As a result, parks did not fully identify and recover costs for permitting special events and for commercial filming and still photography. Consequently, in some parks, a portion of the financial resources spent on reviewing, issuing, and monitoring permits was not recovered from permittees, and therefore was not available to manage the park permits programs.

Failure to Consistently Apply Guidance Means That Some Costs Are Not Identified and Recovered

Of the six park units we visited, we found that one park unit did not charge fees for reviewing and approving permit applications. Although five of the six park units charged administrative fees, three of these units did not recover the full costs associated with reviewing and approving permit applications. All six park units had established fees for monitoring the implementation of the permit. However, four of these units did not recover the full costs associated with their monitoring activities. Table 1 shows the park units we visited and whether they charged administrative or monitoring fees and recovered the associated costs.

Table 1: Park Units Visited and Whether the Park Units Charged Administrative and Monitoring Fees and Recovered Associated Costs

Region	Park units visited	Administrative fee		Monitoring fee	
		Fee charged	Full cost recovery	Fee charged	Full cost recovery
Intermountain	Yellowstone National Park	yes	yes	yes	no
Midwest	Jefferson National Expansion Memorial	yes	yes	yes	yes
National Capital	National Capital Parks-Central	no	no	yes ^a	no
Northeast	Independence National Historical Park	yes	no	yes	yes
Pacific West	Golden Gate National Recreation Area	yes	yes	yes	no
Southeast	Blue Ridge Parkway	yes	no	yes	no

Source: GAO.

Notes: Table is based on reviews of agency documents and, where documents were unavailable, interviews with park unit officials.

^aIn addition to the monitoring fee, according to National Capital Parks-Central officials, for permits where a bond is required to cover potential damages to resources, the permittee is assessed a \$50 flat fee.

Administrative Fee Not Charged or Fully Recovered

The Park Service does not maintain centralized data on the number of special event and commercial filming and still photography permits issued each year. However, an agency official informed us that for fiscal year 2003, National Capital Parks-Central issued the largest number of these permits—estimated in excess of 1,400—of all park units. National Capital Parks-Central charged no administration fees for permitting special uses. For example, during fiscal year 2003, this park management unit did not assess any administrative fee for permits issued for special events, filming, and still photography, as required by Park Service policy unless prohibited by law or otherwise exempted. National Capital Parks-Central officials told us that since the mid-1990s, it has been regional policy that park units within the National Capital Region would not charge any administrative costs associated with processing permits. For example, National Capital Parks-Central issued permits for both the NFL kickoff event⁹ and the filming of the major motion picture *National Treasure*, both of which engaged Park Service personnel in numerous planning meetings, but for which no administrative costs were recovered. As a result of GAO bringing this issue to the attention of the Solicitor’s Office at Interior, the Solicitor’s Office modified its guidance and directed the National Capital Region to

⁹See appendix III for additional information on the 2003 NFL kickoff event.

re-examine its administrative cost recovery practices. As of February 2005, according to Interior's Solicitor's Office, steps were being taken to require all park units in the National Capital Region to assess processing or application fees for all permit applications.

Administrative fees are based on the actual costs incurred by the park unit involved in overseeing the permit activity and should include all costs to the Park Service associated with processing a permit application from the time the first inquiry is received until the permit is signed and issued.¹⁰ For example, officials at Independence National Historical Park charge a \$50 nonrefundable fee for each permit application. In fiscal year 2003, this park unit issued a total of over 300 permits for special events and for commercial filming and still photography. According to these park officials, this fee has not been updated for at least 8 years and will be increased to \$100 in late 2005 to reflect increased administrative costs.¹¹ Blue Ridge Parkway charged a \$25 nonrefundable fee to cover the costs of initially considering permit applications and an additional \$75 to cover additional processing costs for each approved permit. According to a park official, these fees had not been updated in 8 years, but the fees have now been increased as of January 2005 to \$50 and \$125, respectively, to reflect increased administrative costs. In fiscal year 2003, this park unit issued a total of about 40 permits for special events and for commercial filming and still photography. Officials at these park units agreed that their 2003 charges did not reflect increases in costs, such as for personnel, that had occurred during the past several years.

In contrast, according to park officials, Golden Gate National Recreational Area, Jefferson National Expansion Memorial, and Yellowstone National Park charge administrative fees based on current costs. These park units periodically assess and adjust their fees to reflect increasing costs, such as for salary and associated benefits.

¹⁰According to Park Service Reference Manual 53, these costs may include environmental (National Environmental Policy Act), cultural (National Historic Preservation Act), and other compliance and approval, as appropriate, as well as meetings, travel, clerical, public health inspection and certification, and other cost factors. Administrative charges should reflect an accurate calculation of the actual costs associated with the administrative process of decision and, if approved, preparation of the permit. See full text of reference manual at www.nps.gov/policy/DOrders/RM53.zip).

¹¹Independence National Historical Park officials stated they plan to re-evaluate this fee annually.

Monitoring Fees Not Fully Recovered

Delicate natural resources in park units (see fig. 1) require monitoring to ensure resources are protected for the enjoyment of future generations. For example, at Yellowstone National Park, if a film crew consists of five or more persons, a park official assigns staff to monitor the crew's activities at all times to ensure compliance with permit conditions, safety, and that the activity does not interfere with the visitor experience. If the filming activity is at or near one of the park's thermal pools, a Park Service staff monitor is required as part of the permit conditions to ensure that the film crew does not damage this natural resource or its surroundings by entering a restricted area to obtain a particular photo or angle of view.

Figure 2: A Frequently Filmed and Photographed Thermal Pool at Yellowstone National Park



Source: GAO.

According to Yellowstone's film permit coordinator, permittees sometimes try to push the boundaries of the permit conditions, without understanding the potential damage or injury that could result. The Yellowstone coordinator stated, however, that because of their close monitoring actions, there has not been any resource damage from permittee actions.

At three of the six parks we visited—Blue Ridge Parkway, Yellowstone National Park, and Golden Gate National Recreation Area—hourly monitoring fees had not been updated to reflect current higher costs, according to park officials. As a result, staffs at these units are not collecting fees sufficient to cover their monitoring costs. According to the Blue Ridge Parkway permit coordinator, actual hourly monitoring costs are about \$50 per hour; however, the park has charged only \$30 per hour since 1997. At Blue Ridge Parkway, not only were the monitoring fees below actual costs, but staff who monitored permitted activities did not submit documentation that would allow the park unit to bill and collect monitoring fees from the permittee for 20 of 28 permitted special events. Blue Ridge Parkway officials plan to increase the monitoring fee to \$50 per hour in 2005.

At Yellowstone National Park, the \$50 hourly monitoring fee has not been updated in about 10 years. The hourly monitoring fee at Golden Gate National Recreation Area (\$65 per hour) has not been updated for 4 years. Officials at Blue Ridge, Golden Gate, and Yellowstone explained they had not updated their hourly monitoring fees either because of a high workload at some park units or because updating fees was given a low priority at other park units. However, they said they plan to revise the fee to more accurately reflect actual costs in fiscal year 2005.

Officials at National Capital Parks-Central are not collecting fees sufficient to cover their monitoring costs. These officials require permittees to bear the cost of Park Service overtime to monitor permitted activity for those permits where a bond is required.¹² However, National Capital Parks-Central officials do not recover their costs for any permit monitoring that occurs during normal business hours and where no bond is required.

¹²National Capital Parks-Central officials were uncertain about how often they required a permittee to post a bond. Of the 1,400-plus permits issued in fiscal year 2003, park officials estimated that 15 percent were required to have a bond.

In contrast, two park units, Independence National Historical Park and Jefferson National Expansion Memorial, charged monitoring fees based on current cost rates.

Additional Park Revenues Are Available to Parks If Costs Are Collected from Permittees

As mentioned earlier, five of the six parks we visited—Blue Ridge Parkway, Golden Gate National Recreation Area, Yellowstone National Park, Independence National Historical Park, and National Capital Parks-Central—did not fully recover applicable administrative or monitoring costs. Some of these parks failed to collect several thousand dollars or more in fiscal year 2003. For example, had National Capital Parks-Central charged a \$50 administrative fee like Independence National Historical Park, it would have collected at least \$70,000 for the estimated 1,400-plus permits the park issued in fiscal year 2003 for special events and filming and photography. As a result, if these park units had implemented agency policy and the OMB directives to fully recover all costs, additional—and in one case, significant—revenues, such as those at National Capital Parks-Central, could have been available for managing permits programs.

Delays in Implementing the Law to Collect Location Fees for Commercial Filming and Still Photography Have Resulted in Forgone Revenues

Delays in implementing the May 2000 legislation requiring the Secretary of the Interior to establish a fee schedule for commercial filming and still photography have resulted in significant annual forgone revenues for the Park Service. This law requires the agencies to establish a fee for the use of the land—referred to by the Park Service as a location fee—in addition to recovering agency costs. If the law requiring the Park Service’s officials to collect location fees for commercial filming and still photography had been implemented, GAO estimates that, for the reported permitted activity in fiscal year 2003, the agency would have collected revenues of about \$1.6 million (unadjusted for inflation).¹³ According to the Park Service’s Special Uses Program Manager, the commercial filming and still photography permitted activities used by GAO to estimate forgone revenues of about \$1.6 million are representative of a typical year’s worth of activities. The Park Service, along with three other federal land management agencies, is currently participating in a working group to develop regulations to implement the legislation and the associated location fee schedule.

¹³To develop this estimate, GAO used the criteria currently in use by the Forest Service, which closely resemble the criteria specified in the law for the Park Service to use. The analysis presumes permittees would have paid the fees instead of choosing to film at relatively lower cost sites. See appendix II.

Law Requiring the Collection of Location Fees Has Not Been Implemented

The Commercial Filming Law, enacted in May 2000, requires the Secretary of the Interior and the Secretary of the Department of Agriculture to issue permits and establish reasonable fees for commercial filming and still photography activities. The law affects Interior's Bureau of Land Management (BLM), Fish and Wildlife Service (FWS), and Park Service, and Agriculture's Forest Service (FS). However, the law has not been implemented. Although BLM and FS already had established filming and still photography fee schedules in place prior to this law, the Park Service and FWS are collaborating with FS and BLM to develop a single fee schedule for all four agencies.

Subsequent to the law's enactment, the Department of the Interior's Office of the Solicitor created a working group, in June 2000, with representatives from each of the four affected agencies to develop implementing regulations and a fee schedule. To ensure that First Amendment issues were adequately addressed, attorneys from the Solicitor's Office agreed to seek concurrence from the Department of Justice prior to finalizing the regulations. In October 2000, the Solicitor's Office submitted the proposed regulations drafted by the working group to Justice's Office of Legal Counsel. However, Justice's suggested revisions were not provided to Interior officials until October 2003. Since that time, representatives from each of the four land management agencies have worked together to finalize the regulations and the associated fee schedule. According to officials at Interior and the Park Service, the draft regulations are currently being circulated among the appropriate reviewing officials in each agency, and the agencies plan to have them published in the *Federal Register* later this year.

In addition to drafting regulations to implement the Commercial Filming Law, the working group considered two different approaches when developing a uniform fee schedule: One approach specifies a uniform minimum fee schedule allowing the land management agencies to assess additional fees based on comparable markets, while the other approach does not allow for fee adjustments based on comparable markets. For example, the Forest Service currently uses the same fee schedule in five of its nine regions. In contrast, BLM's existing fee schedule for filming and still photography, while similar, varies by state and is set by BLM state offices. Although the working group has developed a standardized fee schedule, one of the group's challenges has been to reach consensus among the affected agencies on whether the use of a standardized fee schedule would allow individual locations to assess an additional fee for use of its sites.

Proposed Location Fee Schedule Includes Charges Based on the Number of People and Duration of Filming

The Commercial Filming Law requires the Park Service to establish a location fee for commercial filming and still photography that provides a fair return for the use of the land to the United States. The law specifies that this fee must be based upon the following criteria: (1) the number of days the filming activity or similar project takes place on federal land under the Secretary's jurisdiction,¹⁴ (2) the size of the film crew present on federal land under the Secretary's jurisdiction, and (3) the amount and type of equipment present. Furthermore, the law allows that "other factors" may be included in determining an appropriate fee. The Forest Service has a fee schedule, developed prior to this law and implemented under other legislative authority, that uses similar criteria. For example, the Forest Service's commercial filming fee schedule ranges from a minimum of \$150 per day for crews of 1 to 10 people to \$600 per day for crews of over 60 people.¹⁵ These fees are then multiplied by the number of days the crews are on the site during all phases of filming. For example, applying this schedule to just one of the 320-plus filming permits issued by National Capital Parks-Central in fiscal year 2003 (65 people for 2 days) would have resulted in a \$1,200 return to the park. Once these fees are collected, they remain with the Park Service units and are available until expended.

GAO Estimated Forgone Revenues of about \$1.6 Million for Fiscal Year 2003

Using the fee schedule that the Forest Service has in effect, we estimate that the Park Service would have collected location fee revenues of about \$1.6 million in fiscal year 2003. The Park Service has drafted a proposed standardized location fee schedule that would charge higher fees than the Forest Service for larger parties, but it has not yet been finalized. Using the Park Service's draft fee schedule, we estimate forgone revenues of about \$2 million in 2003 (see app. II).

Conclusions

The Park Service is required by law to collect costs and location fees associated with permits for commercial filming and still photography and authorized to collect costs for other permitted activities. Because costs recovered from permitting activities are used by park units for managing

¹⁴Secretary refers to the Secretary of the Interior for the Bureau of Land Management, National Park Service, and Fish and Wildlife Service and the Secretary of Agriculture for the Forest Service.

¹⁵Appendix II contains the Forest Service-established location fee schedule for commercial filming and still photography.

their permit program and other park programs, failing to recover such costs decreases the financial resources park units have for processing permits and monitoring permitted activities. Unless steps are taken to ensure that units fully identify and collect administrative and management (including monitoring) costs associated with special event permits and with commercial filming and still photography permits, the Park Service will continue to deprive itself of funds important for managing and carrying out agency policy and delivering agency services. This is particularly evident in the National Capital Region, where only recently has consideration been given to charging administrative fees to recover costs. Because our review was limited to six park units, the extent to which other park units are not consistently applying existing cost recovery guidance is unclear. Conducting a systemwide review would help identify park units that are not fully recovering costs for special events and filming and still photography, and the measures necessary to ensure that all park units identify and collect all appropriate permitting fees.

Significant revenues that would be available to the Park Service to help defray the costs of administering its commercial filming and still photography permit program are forgone because of delays in implementing regulations consistent with the Commercial Filming Law. By law, the Park Service is now required to collect location fees for commercial filming and still photography activities. Expediting implementation of the law will help ensure that the Park Service does not experience more forgone revenues.

Recommendations for Executive Action

To ensure that the Park Service fully identifies and collects administrative and monitoring costs associated with special event and with commercial filming and still photography permits, as well as location fees for filming activities, we recommend that the Secretary of the Interior direct the Park Service Director to take the following four actions:

- Ensure that the park units we visited consistently apply existing cost recovery guidance and maintain updated cost recovery fee schedules.
- Ascertain the extent to which other park units are not consistently applying existing cost recovery guidance, and take appropriate actions to ensure they are consistently applied and costs are identified and recovered.

-
- Expedite the implementation of the law that requires the Park Service to collect location fees and costs for commercial filming and still photography, when appropriate.
 - Follow through to ensure that the National Capital Region assesses administrative fees to recover the costs of processing permits for special events and for commercial filming and still photography.

Agency Comments and Our Response

We provided the Department of the Interior with a draft of this report for review and comment. The department provided written comments that are included in appendix IV. The department did not comment on our recommendations; however it suggested language to clarify the application of Park Service general policy guidance to the National Capital Region. Specifically, it suggested that we include language to clarify that the regulations governing special events within the National Capital Region are different from those contained in the Park Service's general regulations, particularly as it applied to the NFL kickoff event. We agree that the regulations governing such special events in the National Capital Region are different from the general regulations and have included clarifying language in the report. The department provided other technical clarifications that we have incorporated, as appropriate.

As agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies of this report to the Secretary of the Interior and other interested parties. We will also make copies available to others upon request. In addition, the report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you or your staff have questions about this report, please contact me at (202) 512-3841 or nazzaror@gao.gov. Key contributors to this report are listed in appendix V.

Robin M. Nazzaro

Robin M. Nazzaro
Director, Natural Resources
and Environment

List of Requesters

The Honorable James L. Oberstar
Ranking Democratic Member
Committee on Transportation and Infrastructure
House of Representatives

The Honorable Nick J. Rahall
Ranking Minority Member
Committee on Resources
House of Representatives

The Honorable Betty McCollum
House of Representatives

The Honorable Jim Moran
House of Representatives

The Honorable Eleanor Holmes Norton
House of Representatives

Scope and Methodology

We identified and analyzed applicable laws, regulations, policies, and procedures to determine Park Service policy and requirements applicable to the review and approval of special uses permits, including those for special events and commercial filming and still photography. This included an analysis of servicewide guidance as well as guidance applicable to the specific units we visited,¹ such as units in the National Capital Region. We discussed the policy guidance with the Office of the Solicitor, Department of the Interior, and with officials from Park Service headquarters and each of the six park units visited to gain an understanding of how the guidance should be interpreted and applied.

To evaluate whether policy guidance was consistently applied, we reviewed files and examined permitting practices at the nonprobability sample of six park units visited² and interviewed park unit officials about their procedures in reviewing, approving, and monitoring permitted activities. We also reviewed these units' procedures to identify and recover costs associated with permit activities.

We first searched for existing data sources describing the number of special event and commercial filming and still photography activities on park land. However, the Park Service does not maintain national or regional data about these activities. We also contacted sources outside of the Park Service—including the Sierra Club and The Motion Picture Association of America—to ascertain whether these sources had information on the number of special event and commercial filming and still photography permits issued by each of the park units, but these groups did not have such data, either. In the absence of this data, we used an expert referral technique to identify park units to visit. We asked officials from each of the Park Service's seven regional offices to identify, using their knowledge of regional operations, the three park units within their respective regions with the greatest number of (1) special event and (2) commercial filming and still photography permits. In each case, the officials produced a list in which the same unit had both the most special events and the most commercial filming and still photography permits for

¹The six park units visited are Blue Ridge Parkway, Golden Gate National Recreation Area, Independence National Historical Park, Jefferson National Expansion Memorial, National Capital Parks-Central, and Yellowstone National Park.

²Results from nonprobability samples cannot be used to make inferences about a population, because in a nonprobability sample, some elements of the population being studied have no chance or an unknown chance of being selected as part of the sample.

fiscal year 2003. We selected the top park unit from each of the regional offices. Park Service regional officials identified the following seven park units issuing the greatest number of permits for both special events and for commercial filming and still photography in fiscal year 2003:

- Alaska Region—Denali National Park,
- Midwest Region—Jefferson National Expansion Memorial,
- Intermountain Region—Yellowstone National Park,
- Pacific West Region—Golden Gate National Recreation Area,
- Northeast Region—Independence National Historical Park,
- National Capital Region—National Capital Parks-Central, and
- Southeast Region—Blue Ridge Parkway.

Because of the relatively low number of reported permits issued in the Park Service's Alaska Region, we limited our site visits to parks in the six Park Service regions within the continental United States.

To determine the extent to which the Park Service implemented the Commercial Filming Law, requiring it to collect location fees for commercial filming and still photography activities, we analyzed the legislation and interviewed Park Service and Department of the Interior headquarters officials. We also contacted officials at the Department of Justice and obtained their concurrence regarding the delays and changes made to the draft regulations. In addition, we analyzed documents pertinent to Justice's review of Interior's proposed regulations for collecting location fees to verify reported delays in Justice's review of the regulations. We asked the Special Uses Program Manager at Park Service headquarters to assist GAO in administering a data collection instrument (DCI) sent to each of the Park Service's 388 park units to obtain information on the amount of commercial filming and still photography activity that would have been subject to location fees in fiscal year 2003, if the legislation had been implemented.

The DCI was sent to all park units to obtain information on permits issued for filming and still photography activities occurring in fiscal year 2003. We asked the park units to provide (1) a permit number for each permit issued,

(2) the date the permit activity started, (3) the number of days for which the permit was authorized, (4) the number of people using the permit, and (5) if the park unit would have charged a location fee based on current Park Service policy guidance. We requested that the information provided by the park units in the DCI be sent to GAO with a copy to the Special Uses Program Manager.

We coordinated with the Special Uses Program Manager to ensure we received all of the responses and printed out hard copies of the filming and still photography activities provided by the park units. Because some of the smaller parks have a management office that issues permits for multiple park units, some of the respondents provided information containing the aggregated responses. These DCI responses were grouped into 27 combined park unit responses representing 95 individual park units.

Of the 388 park units operating in 2003, we removed 17 because they either (1) did not own or manage property in their designation or (2) were not located in the United States or the District of Columbia, leaving us with 371 park units. Of the 371, we received responses from 355, giving us a response rate of 96 percent. Of these 355 park units, 95 were provided in grouped responses and the remaining 260 responses were from individual park units.

We reviewed all of the filming and photography permits at four of the six sites visited. We reviewed these permit files to determine whether they contained specific required administrative information, such as evidence of the recovery of incurred costs. However, we did not review the permit files for evidence of all administrative requirements outlined in policy guidance because it was outside of the scope of this assignment. We reviewed

- 7 permit files at Jefferson National Expansion Memorial,
- 77 permit files at Yellowstone National Park,
- 76 permit files at Independence National Historical Park, and
- 15 permit files at Blue Ridge Parkway.

The key administrative information regarding cost recovery was present in all of the 175 files we reviewed.

Our file review at both of the remaining sites included an additional level of review. For these two sites, we reviewed the files for key administrative information as we did for the other four sites previously described. In addition, we also compared the information provided by the park unit on the DCI with the information contained in the permit file.

- Of 152 total permits at Golden Gate National Recreation Area, we reviewed 10 filming and photography permits with the highest costs recovered. These permits were selected using the park's 318 account summary, which lists all fees charged and collected for filming and photography permits for fiscal year 2003. All key administrative cost recovery information was present, and all DCI information matched in these 10 permit files.
- We could not identify the top 10 highest-cost filming and photography permits for National Capital Parks-Central based on the park's 318 account summary for fiscal year 2003, because the account combines costs recovered for filming and photography permits with other special uses permit costs. As a result, we requested files for filming permits that included 25 or more people, as indicated on the returned DCI from National Capital Parks-Central. This resulted in a review of 29 of 678 permit files (4 percent), which, according to National Capital Parks-Central staff, would generally be comparable with the permits with the highest costs recovered in fiscal year 2003. All key administrative cost recovery information was present, and all DCI information matched in these 29 permit files.

The information we gathered was provided by staff at National Park Service units. The Park Service staff located the data by pulling paper files and transferring the information into the DCI. This information is not centralized, and it had never been gathered on a national level prior to our data collection for fiscal year 2003. The Special Uses Program Manager is responsible for ensuring that all Park Service staff adhere to the policy and guidance regarding issues associated with permit procedures, drafting policy and guidance associated with permitting procedures, and the coordination of the training and curriculum for Park Service staff on permitting policies and procedures. In her opinion, the information provided by the park units was accurate, complete, and reflective of the amount of permitted activity in a typical year. Based on our comparison of DCI data with hard copy files and our discussion with Park Service officials regarding the data, we determined that the data were reliable enough for the purposes of this report.

Using the data we obtained from these park units, we estimated the forgone location fee revenues for fiscal year 2003 by applying the established fee schedule of the Forest Service. Both the Bureau of Land Management (BLM) and the Forest Service have established location fee schedules in place; however, the BLM fee schedule varies by state. Therefore, we used the Forest Service's established fee schedule for our calculations because it is standardized within five of its nine regions and based on similar criteria included in legislation authorizing the Park Service to charge fees. We used these data to estimate forgone revenue. Details of these calculations are provided in appendix II.

We conducted our work from May 2004 through May 2005 in accordance with generally accepted government auditing standards.

Details of the Forgone Revenue Calculations

To estimate the revenues the Park Service could have collected in location fees in fiscal year 2003, if the requirement to collect such fees had been implemented, we asked the Park Services' Special Uses Program Manager to assist GAO in administering a data collection instrument (DCI). The Park Services' Special Uses Program Manager sent the DCI to each of the Park Service's 388 park units to obtain information on the amount of filming and still photography activity that would have been subject to location fees in fiscal year 2003. In the DCI, we asked for information on activities specifically related to the number of filming and still photography permits issued, the number of days each permit was in effect, the number of people using the permit, and whether the unit would have charged a location fee based on current Park Service policy guidance. Park Service policy allows the superintendents to waive fees under certain conditions, such as if the permittee is a state, local, or federal government agency or a tribal government, or if the superintendent determines that the use will promote the mission of the Park Service or promote public safety, health, or welfare. In our calculations to estimate forgone revenues, we only used the permit activity reported by the park units where a location fee would not have been waived. We received responses from 355 of 371 park units in our sample, giving a 96 percent response rate. (Seventeen units were removed from the universe. See app. I for details of our methodology.)

To estimate forgone revenues, we used the information collected from respondents, along with the Forest Service's existing fee schedule used in five of its nine regions for commercial filming and still photography activities (see tables 2 and 3). We also used the Park Service's draft fee schedule to provide an alternative estimate of forgone revenues even though its fee schedule is not yet final (see tables 4 and 5). Both schedules charge daily fees based on the number of people participating in the activity; the Forest Service's fees are lower for larger parties.

To develop the forgone revenue estimates for activities in fiscal year 2003, we multiplied the number of people using permits each day by the corresponding Forest Service and Park Service fees when the park unit would have charged fees for the permitted activities. For example, as shown in table 6, we estimated forgone revenues for fiscal year 2003 of \$1,135,250 and \$464,450 for commercial filming and still photography activity, respectively, using the Forest Service fee schedule, for a total of \$1,599,700. By comparison, we estimated forgone revenues of \$1,292,850 and \$750,950 for commercial filming and still photography activity, respectively, using the Park Service proposed fee schedule, for a total of \$2,043,800. However, this schedule has not been approved for use, and it is

Appendix II
Details of the Forgone Revenue Calculations

uncertain whether the amounts in the schedule would have been applicable in fiscal year 2003.

Table 2: Forest Service Established Fee Schedule for Filming

Number of people	Fee per day (dollars)
1-10	150
11-30	200
31-60	500
More than 60	600

Source: Forest Service.

Table 3: Forest Service Established Fee Schedule for Still Photography

Number of people	Fee per day (dollars)
1-10	50
11-30	150
More than 30	250

Source: Forest Service.

Table 4: Park Service Proposed Filming Location Fee Schedule

Number of people	Fee per day (dollars)
1-10	150
11-30	350
31-50	650
51-70	1,000
Over 70	1,500

Source: National Park Service.

Appendix II
Details of the Forgone Revenue Calculations

Table 5: Park Service Proposed Still Photography Location Fee Schedule

Number of people	Fee per day (dollars)
1-10	100
11-20	200
21-30	300
Over 30	450

Source: National Park Service.

Table 6: Estimates of Forgone Revenues, Fiscal Year 2003

	Forgone revenues	
	Forest Service location fee schedule	Park Service proposed location fee schedule
Commercial filming	\$1,135,250	\$1,292,850
Still photography	464,450	750,950
Total	\$1,599,700	\$2,043,800

Source: GAO analysis of Park Service data.

Note: Estimates are unadjusted for inflation. Analysis assumes that, in general, permittees would have paid the fees had the fee schedule been in effect. However, it is possible that some may have chosen to film at relatively lower-cost sites elsewhere rather than pay these location fees to the Park Service.

Information on the 2003 National Football League Kickoff Event

In September 2003, the Park Service's National Capital Parks-Central staff approved a permit for the National Football League (NFL) to hold its annual kickoff event on the National Mall (Mall) in Washington, D.C. The 4-day event was promoted as a welcome home for American military troops. The Department of the Interior's Take Pride in America initiative was listed as a partner in the event. The event was attended by thousands of people—estimates ranged from 100,000 to 500,000—who participated in football-related activities and attended performances from a variety of entertainers. Public reaction to the event ranged from “joy to anger,” and many questions were raised about the event and the Park Service's permitting process. Specifically, concerns were raised about the appropriateness of permitting this event on the Mall, the extent of commercial signage, limitations on public access, and whether costs to repair damages to Mall resources and property were recovered from the NFL.

Park Service guidance states that special events should “contribute to visitor understanding of the significance of the park area.” Consequently, critics questioned whether the Mall was an appropriate venue for an NFL kickoff event. The Mall is a two-mile greenway that stretches from the U.S. Capitol on the east side to the Lincoln Memorial on the west. The Mall is the setting for world-renowned national museums, memorials, and significant federal buildings. However, for many years the Mall has also been host to diverse events, including fund-raisers, sports tournaments, and festivals as well as hundreds of First Amendment activities. Park Service policy for special events states that it “will not permit the public staging of special events that are conducted primarily for the material or financial benefit of organizers or participants; or are commercial in nature; or that demand in-park advertising or publicity; or for which a separate public admission fee is to be charged.” Critics of the NFL kickoff event asserted this was a commercial event that was conducted primarily for the financial benefit of the NFL and the event's commercial sponsors.

As discussed in this report, Park Service superintendents have a great deal of discretion in applying the agency guidance for approving permits. According to Park Service officials, the NFL kickoff event was intended to honor members of America's armed forces and to promote volunteerism on public lands. According to a September 3, 2003, statement by the Secretary of the Interior, the NFL kickoff event was “a wonderful opportunity to showcase public service by volunteers” who put “their love of country to work to improve our national parks, wildlife refuges, public lands, cultural and historic sites, playgrounds and other recreation areas.” In addition to

setting up a Take Pride in America booth at the event to recruit volunteers for this program, public service announcements about Take Pride in America, narrated by Washington Redskins players, were broadcast during the NFL team's season opener. Finally, Park Service officials stated the product-related signs were allowed as a form of sponsor recognition for those companies underwriting the cost of the concert and other activities that were all free to the public.

The 2003 NFL Kickoff Permit

On May 7, 2003, a permit application for a season-opening event on the Mall was submitted to the Park Service's National Capital Parks-Central office by an NFL representative. In the application, the event was described as a celebration of American treasures, heroes, places, and pastimes. Following receipt of the application, numerous discussions and planning meetings took place between Park Service and NFL representatives. According to Park Service officials involved in these meetings, the key issues addressed involved public safety and protection of park resources.

Park Service permits for these types of events contain general conditions such as the requirement to procure liability insurance that lists the agency granting the permit as an insured party. In addition to meeting the general conditions, the NFL was also required to acquire certain permits from the District of Columbia through the city's Emergency Management Agency, which coordinates with the Metropolitan Police, the Fire Department, and other District agencies to assure the NFL provided adequate emergency medical services such as first aid stations and ambulances during the event. In late August 2003, National Capital Parks-Central formally approved the agreed-upon terms and conditions for the event by issuing the event permit. National Capital Parks-Central officials continued to meet with NFL event planners to reach agreement on last minute details of the event and a revised permit was issued on September 3, 2003.

Due to the location of the event—the Mall—the NFL was required to closely coordinate all security plans through the United States Park Police (Park Police), which provided public safety and security for the event and related activities. A condition of the permit stated that the NFL was responsible for obtaining the necessary permissions and permits from the Metropolitan Police Department and from other agencies and departments with jurisdiction over the public lands not under the jurisdiction of the Park Service. In addition, the Park Police used the assistance of other law enforcement officers from federal, state, and local agencies to provide sufficient staff and personnel to handle the event. As required by the

permit, the costs for providing law enforcement officers, including Park Police, were reimbursed by the NFL.

During and following the event, criticism was directed at the Park Service over the lineup of entertainers, which included Aerosmith, Britney Spears, and Aretha Franklin, as well as the content of some of the performances. For example, some people did not consider specific aspects of Britney Spears' show to be appropriate family entertainment for an 8:00 p.m. broadcast. While Park Service policies state "the theme of the special event must be consistent with the mission of the park and appropriate to the park in which it is to be held," National Capital Parks-Central officials stated they do not make "content-based decisions on whether to permit" requested events.

Signage

The NFL kickoff event was advertised as a welcome home celebration for American soldiers—a tribute to the military personnel serving in Iraq and Afghanistan—and an opportunity for people to gather and watch popular entertainers for no charge. But to some observers, such as the President of the National Coalition to Save Our Mall, it was a "tasteless extravaganza of electronic advertising." Following the event, criticisms directed at the Park Service for allowing commercial signage on the Mall grew. Critics claimed there were contradictions between the Park Service's policies and the activities that occurred during the event. Some critics of the event claimed that most, if not all, of the commercial signs should not have been displayed on the Mall. One author, a former national park ranger who is the director of a Washington, D.C.-based advocacy organization and former president of the Conservation and Preservation Charities of America, concurred with outraged critics over "the dimensions of the commercial displays that had no legitimate place on the National Mall in the first place"—his description of the giant product banners on the grounds between the U.S. Capitol and the Lincoln Memorial.

According to the National Capital Parks-Central Superintendent, the nationally televised event was a new experience for park staff and resulted in many "lessons learned." Concerning the "excessive commercial signage" described by some critics, the current Superintendent, who was the Acting Superintendent at the Park in September 2003, took responsibility for these issues and said she had misunderstood the amount, type, and size of signage the NFL planned to use. In the event permit, she noted, Park Service had not quantified the number of sponsor recognition signs allowed because they had not foreseen the need to do so. Consequently, there were

also far more banners and signs posted than the Park Service had anticipated.

Congress passed legislation putting new restrictions on permits issued for the Mall. Public Law No. 108-108 prohibited the use of appropriated funds in fiscal year 2004 for special event permits on the Mall, unless the permit “expressly prohibits the erection, placement, or use of structures and signs bearing commercial advertising.” The law still allowed for recognizing the sponsors of special events, providing “the size and form of the recognition shall be consistent with the special nature and sanctity of the Mall and any lettering or design identifying the sponsor shall be no larger than one-third the size of the lettering or design identifying the special event.” As a result of this legislation, the Park Service has drafted policy guidance to restrict “the size, scale, scope and location of corporate logos and script.” In addition, National Capital Parks-Central officials now require permit applicants to provide detailed lists of planned signage along with a scaled replica of each sign to the Park Service for approval at least 30 days in advance of an event.

Public Access Restrictions

Park Service regulations for the National Capital Region state that the decision to issue a special event permit must be based on a consideration of a number of factors, including whether the park area requested is reasonably suited in terms of size, accessibility, and nature of the event. The NFL kickoff event, although permitted, raised a number of access issues. For example, while the permit for the event stipulated that “all sidewalks, walkways, and roadways must remain unobstructed to allow for the reasonable use of these areas by pedestrians, vehicles, and other park visitors,” some groups complained that large portions of the Mall were inaccessible for days leading up to the NFL event. Another condition of the permit stated “no vehicle shall obstruct or interfere with the Tourmobile service that utilizes Jefferson and Madison Drives, from 3rd to 14th Streets. However, the National Tour Association Web page advised tour operators and motorcoach drivers bound for Washington, D.C., to be aware of several street closures and the closure of access to the Mall at noon on September 4 in association with the NFL kickoff event. The Smithsonian Institution museums remained open during the festival, but access was not available from the regular Mall-side doors on the afternoon of the NFL kickoff event. According to Park Service officials, these streets were closed during the event for security reasons consistent with security plans for other large-scale public gatherings on the Mall. The Mall entrance to the Smithsonian Metro stop was also closed at noon on the day of the NFL event by the

Washington Metropolitan Area Transit Authority for security reasons. In addition to addressing signage limitations, Public Law 108-108 also stated that “the Secretary shall ensure, to the maximum extent practicable, that public use of, and access to the Mall is not restricted.”

Resource Damage Cost Recovery

There was significant turf and walkway damage to the Mall as a result of the NFL kickoff event. Prior to the event, National Capital Parks–Central officials required the permittee to provide irrevocable letters of credit totaling \$250,000 to cover event-related liabilities, such as monitoring costs and potential resource damages as a result of the event. The actual cost of the event far exceeded the Park Service’s estimated costs. According to a November 3, 2003, letter to the permittee, the increase in damage recovery costs occurred in part due to “the increase in the number and types of heavy equipment that were utilized during the setup and break down of the event staging and other facilities.” The Superintendent noted that several days of heavy rain also contributed to the higher-than-expected amount of damage to the turf and walkways. However, a condition in the NFL kickoff event permit—which is a standard condition in special event permits—specifies that the permittee is liable for damage to the resource as a result of the permitted activity. Consequently, after the NFL kickoff event, the turf and walkway damage was assessed and the permittee was notified of the damage along with the Park Service’s estimate of repair costs. The NFL ultimately reimbursed the Park Service over \$430,000 to cover both event monitoring costs and to repair resource damages (primarily to turf and sod).

The NFL reimbursed the Park Police almost \$700,000 to cover the cost for security personnel for the NFL event. Prior to the event, the NFL posted a letter of credit for the Park Police in the amount of \$1,150,000. The actual expenses charged for Park Police support of operations relating to the NFL kickoff permit totaled \$698,625. The inclement weather was cited by Park Police officials as a factor in their reduced costs, because fewer participants showed up at the event and fewer people stayed late. This resulted in fewer required security personnel than originally anticipated and with fewer actual hours of monitoring.

Reimbursement was not sought from the NFL for the time both Park Service and Park Police officials spent in planning meetings for the 2003 NFL kickoff event. The practice of the National Capital Region—to limit charges for administration of permits to cost recovery for overtime expenses—was based on a mid-1990s unwritten legal opinion from the

Appendix III
Information on the 2003 National Football
League Kickoff Event

Solicitor's Office at the Department of the Interior. National Capital Parks-Central officials told us they viewed time spent in event-planning meetings and in processing the permit paperwork as a "budgeted" or sunk cost. In February 2005, Interior's Office of Solicitor revised its legal conclusion and recommendation on this matter and advised both Park Service and Park Police officials in the National Capital Region to re-examine this practice in order to come into better compliance with cost recovery policy guidance.

Comments from the Department of the Interior

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240



APR 25 2005

Ms. Robin M. Nazzaro
Director, Natural Resources and Environment
U.S. Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Ms. Nazzaro:

Thank you for providing the Department of the Interior the opportunity to review and comment on the draft U.S. Government Accountability Office report entitled: "National Park Service: Revenues Could Increase by Charging Allowed Fee for Some Special Use Permits" (GAO-05-410).

Specific comments are listed in the enclosure. If you have any further questions, please contact Lee Dickinson, Special Park Use Program Manager, at 202-513-7092.

Sincerely,

**Assistant Secretary for Fish
and Wildlife and Parks**

Enclosure

**Appendix IV
Comments from the Department of the
Interior**

Enclosure

Department of the Interior Comments on the GAO Draft Report entitled, "National Park Service: Revenues Could Increase by Charging Allowed Fee for Some Special Use Permits" (GAO-05-410)

Special Park Use Manager (WASO), Office of Solicitor, Division of Parks Wildlife Superintendent, Independence National Historical Park, Blue Ridge Parkway have reviewed the above titled draft document and offer the following comments for your consideration and action:

General Comments:

See comment 1.

Comment on Monitoring Costs for Special Park Use Permits. Many times in the report it is stated that the National Park Service (NPS) failed to recover the full cost of monitoring permitted activities. While this is undoubtedly true in some cases, there are also cases where monitoring was conducted as part of routine operations. The permittee did not benefit from special services, since the park ranger monitored the permitted event, as well as other activities in the immediate area, as part of their routine duties. When this is the case it did not seem appropriate to charge cost recovery when special services were performed. (An example of this is the comment about Blue Ridge on page 3.)

See comment 2.

NPS policy guidance is quoted throughout the document without footnote or documentation. I question whether these quotes need an attribution to management Policies 2001, Resource Manual 53, or other policy and guidance documents. I would like to see a reference to Resource Manual 53 somewhere in the GAO report to point readers to the location of most of the policy guidance. Maybe provide a web site (www.nps.gov/policy/DOrders/RM53.zip)

page 7 - footnote "2" is not needed. The same information is supplied in the next paragraph. If the footnote is left in the definition for special use permits should be expanded to include all types of special use permits including rights-of-way, grazing, agricultural use, filming and photography, etc. The term should be changed to special event permits, making the definition more accurate

page 11 - middle of the page. Fourth bullet - replace ";or" with a period

Now on p. 13.

page 14 - I'm not sure that it is clear what the term "administrative fee" covers, and I'm not sure that the term is used consistently throughout the report. I believe it is being used in this report to cover costs incurred by the NPS associated with the processing of a permit application up to the time the permitted activity starts. The second paragraph reads "Administrative fees are based on the actual cost incurred by park unit involved in overseeing the permit activity and should..." If one uses my definition of "administrative fee" this sentence is then wrong. The administrative fee does not cover the permitted activity. Monitoring the permitted activity and any resource restoration that needs to be done is included in the monitoring charge. In the first paragraph that discusses the National Capital Region and the National Football League event and the filming of National Treasures while it is true that costs were not recovered for processing the

See comment 3.

**Appendix IV
Comments from the Department of the
Interior**

request, costs were collected for overtime associated with the events themselves. Would a definition section add to the report?

Now on p. 14.

page 15 -16 - This is the section that uses Yellowstone as an example of the role of the permit monitor. While we think the description of the purpose of this monitor is quite good, we don't think it is complete enough. There are two additional reasons for the permit monitor: (1) To ensure the safety of both the permittee and the public and (2) to ensure that the permitted activity does not interfere with normal visitor activities.

Now on p. 17.

page 19 - Section reads "Law requiring the collection of Location Fees has not Been Implemented"

The last line of the first paragraph is misleading. We would recommend that it be reworded to read:

See comment 4.

" Authority existed prior to the passage of P.L. 106-206 for the Bureau Land Management (BLM) and the Fish and Wildlife Service (FWS) to charge location fees for filming and photography and they continue to use existing location fee schedules and policy while the new regulation and fee schedule are developed. Prior to the passage of P.L. 106-206 the FWS and the NPS were barred from collecting a location fee for filming and photography, and require the promulgation of the new regulation to allow them to do so. The new regulation will apply to specific agencies in the Department of the Interior, (DOI) currently BLM, FWS, and NPS, and is drafted to allow other DOI agencies to adopt the regulation in the future if desired. The Department of the Interior agencies are working in a collaborative process with the FS to develop a fee schedule for all four agencies to use."

In the second paragraph I would add "...with representatives from each of the four affected agencies to develop regulations **and a fee schedule.**" since the FS will not be affected by the regulation just the fee schedule.

Last line, second paragraph "According to official at DOI ...in each ~~department~~ agency and they plan..." I would replace the word department with agency.

Now on p. 33.

page 35 - The title of the organization quoted "Conservation and Preservation Federation of America" should be "Conservation and Preservation Charities of America". The director of this organization is quoted as describing banners on the grounds between the U.S. Capitol and the Lincoln Memorial. The NFL event occurred on the Mall from 3rd Street to 12th Street. There were no banners past 12th Street on the grounds of any of the memorials or on the Capitol grounds.

See comment 5.

Office of the Solicitor, Division of Parks and Wildlife:

General comment: the report seems to be citing the NPS general regulations for special events as applicable to NCR, which is incorrect. The NPS general regulations for special events at 36 CFR 2.50 provide that a permitted event should not “result in significant conflict with other existing uses” or “unreasonable interfere” with park interpretative, visitor service or other park program activities, or “unreasonable impair” a park’s atmosphere. But the NPS regulatory criteria at 36 CFR 2.50 is inapplicable for NCR and are not the same as the NPS NCR regulatory criteria for special events found at 36 CFR 7.96(g)(5)(vi) which states:

(vi) Special events are not permitted unless approved by the Regional Director. In determining whether to approve a proposed special event, the Regional Director shall consider and base the determination upon the following criteria:

(A) Whether the objectives and purposes of the proposed special event relate to and are within the basic mission and responsibilities of the National Capital Region, National Park Service.

(B) Whether the park area requested is reasonably suited in terms of accessibility, size, and nature of the proposed special event.

(C) Whether the proposed special event can be permitted within a reasonable budgetary allocation of National Park Service funds considering the event’s public appeal, and the anticipated participation of the general public therein.

(D) Whether the proposed event is duplicative of events previously offered in National Capital Region or elsewhere in or about Washington, DC.

(E) Whether the activities contemplated for the proposed special event are in conformity with all applicable laws and regulations.

Page 1 – middle of the first paragraph – “Because of **some complaints that there was the extensive commercial advertising and some damage to the Mall...**”

Now on p. 8; footnote 4.

Page 8/9 – footnote 5 “Park Service **general regulations for most park units is found at 36 CFR 2.50. Other special regulations specifically govern certain park units...permit processing, and permit limitations for special events, which for the National Capital Region are found at 36 CFR 7.96(g)**”

Now on p. 7.

Page 8 – Guidance on Special Events

See comment 6.

Park Service policy guidance gives superintendents discretion when approving permits for special events within their park units, providing they meet basic criteria **set forth under NPS regulations. For most park areas** the basic **regulatory** criteria for issuing a permit for these events include the requirements that (1) there is a meaningful association between the park area and the event and (2) the event will contribute to the visitor

understanding of the significance of the park area. **Additional regulatory requirements provide that a permit may be denied (1) if the activities would cause injury or damage to the park resource (2) is contrary to the purpose for which the park was established or unreasonably impair the atmosphere (3) unreasonably interfere with park interpretive, visitor services or administration (4) substantially impair the operation of public use facilities or concessioners (5) present a clear and present danger to the public health and safety (6) or result in significant conflict with other existing uses. (36 CFR 2.50 (a) (1 -6). For the National Capital Region, the basic regulatory criteria include the requirements at 36 CFR 7.96(g)(5)(vi) that (1) whether the objective and purpose of the proposed special event relate to and are within the regions basic mission and responsibilities (2) whether the requested park area is reasonably suited in terms of accessibility, size and nature (3) whether it is within the NPS's reasonable budgetary allocation and (4) whether it is duplicative of previous offered events (5) whether it is conformity with applicable laws and regulations.**

Now on p. 8.

Page 9 – first paragraph “However, discrete recognition of program sponsors **that** was authorized was **similar to National Capital Region policy**. As a result, Park Service’s **National Capital Region has restated its earlier drafted additional policy guidance, applicable to all park units, ... sponsors which will continue to restrict size, scale, scope and location...**”

Now on p. 11.

Page 12 – first paragraph, last line - “However, unlike other special events permits **and consistent with the First Amendment**, the superintendent is required by Park Service policies to issue these permits without any requirement for fees, cost recovery, bonding or insurance.”

Now on p. 34.

Page 36 –
Public Access Restrictions – A general comment. This section refers to Park Service policy guidance that directs superintendents to not allow special events that “unreasonably interfere” with other appropriate park uses. This is found in 36 CFR 2.50(a)(3). NCR special regulations do not have these criteria, but are based on “whether the park area requested is reasonably suited in terms of accessibility, size, and nature of the proposed special event”. 36 CFR 7.96(g)(vi)(B)

See comment 7.

Office of Congressional and Legislative Affairs, Department of the Interior:

Highlights page – last paragraph “The Park Service has not implementsresulting in significant annual foregone revenues.” The commenter did not agree with the use of the word “significant” but agrees that revenues were not collected.

Page 4 – last paragraph, first sentence ... not fully recovering costs for special events and for **commercial** filming and still photography...” The word commercial needs to be added.

Now on p. 6.

Page 7 – paragraph that begins “special events permits are issued for . . . : The comment suggests moving the next line to the beginning of the paragraph so it is clear to the reader immediately.

National Capital Parks – Central
Words in bold are suggested additions or changes.

Highlights page – second paragraph, last line “Officials said that Park Units had not spent the time to updated fees because of **regional policy** and the high work load...” Commenter requests the addition of the words “regional policy”.

Abbreviations: please change NCPC to NACC

Page 2 – Results in Brief – “With **regard** to the 2003 NFL Kickoff event...quantity of ~~commercial signage~~ **sponsor recognition** to be displayed...” Commenter requests that commercial signage be changed to sponsor recognition.

Now on p. 2.

Page 2/3 – last sentence – “In 2004, the Congress passed legislation...although ~~Superintendents were~~ **Superintendent was** authorized to approve...” Commenter requests that Superintendents were be changed to Superintendent was.

Now on p. 3.

Page 4 – first sentence – “...Department of the Interior’s Solicitor’s Office and as a result, **it has modified its guidance** and has initiated ...” Please add modified its guidance.

Now on p 12; footnote is now superscript a.

Page 13, footnote 9 – Please add “is assessed a \$50 flat fee **for administration and monitoring.**”

Now on p. 12.

Page 14 – first line “National Capital Parks – Central charge no administration fees for permitting special uses **except for permits that require a bond.**”

End of the first paragraph “As a result of GAO bringing this issue to the attention of the DOI Solicitor’s Office, **the Solicitor’s Office modified its guidance and directed** the National Capital Region...”

Now footnote 12, p. 15.

Page 18 - footnote 11 – commenter requested the wording to be changed to “**was 15 percent of the estimated over 1,400 permits.**”

Now on p. 18.

Page 20 last sentence of section Proposed Location Fee Schedule... Commenter requests that statement be revised. Of those 320 filming permits with 300 people for 8 days 99% of those filming permits were for educational tour group photographs in front of the U.S. Capitol which only took 30 minutes to photograph. We did not have any major picture/TV series film shoots which lasted more than 2 days shooting time on NPS property in FY 2003.

Now on p. 19.

Page 21 Conclusion – “this is particularly evident in the National Capital Region where only recently has consideration been given to charging administrative fees to recover costs **on permits not requiring a bond.**”

Now on p. 32.

Page 33 bottom of the page “...the NFL was also required to acquire certain permits from the District of Columbia **through the city’s Emergency Management Agency who coordinates with the Metropolitan Police, DC Fire Department and other DC agencies to assure the NFL provided adequate...**”

Now on p. 33.

Page 34 third paragraph, last line “National Capital Parks – Central officials stated **that based on NPS regulations and court rulings** they do not make “content based decisions on whether to permit” requested events.

Now on p. 34.

Page 36 “According to Park Service officials, these streets were closed during the event for security reasons **consistent with security plans for other large scale public gatherings on the National Mall, such as the annual Independence Day celebration and the recent dedication of the World War II Memorial.**”

See comment 8.

Blue Ridge Parkway - The information related to the Blue Ridge Parkway is accurate but I do have one comment regarding the recovery of monitoring costs. While it is correct that we only recovered costs by billing from 8 of 28 events; there are some of the events we permitted in 2003 that were so low impact that park rangers checked on the event as a part of routine patrol and the costs were not significant enough or there actually were no costs to us to process billing.

See footnote 11, p. 13.

Independence National Historical Park - Independence NHP plans to implement an increase in the permit administrative fee this year to fully recover costs incurred. Administrative costs will be reevaluated annually.

The following are GAO's comments on the Department of the Interior's letter dated April 25, 2005.

GAO Comments

1. We added the Special Park Uses Manager's comment about the appropriateness of charging cost recovery when the monitoring was conducted as part of routine operations, in footnote 8 on page 10. However, based on our review of permit documentation and discussions with officials at Blue Ridge Parkway, this circumstance did not exist at Blue Ridge Parkway. Thus, no change to the example on page 3 is needed.
2. We have included the Reference Manual 53 Web site address in footnote 10 on page 13, so that readers can more easily seek out Park Service policy guidance.
3. We agree that further definition of the term "administrative fee" is warranted. As a result, we added clarifying text and a footnote to page 13 to more explicitly describe permit processing costs included in administrative fees. (See footnote 10.)
4. While it is true that FWS and Park Service were barred from collecting a location fee for filming and photography prior to the passage of the Commercial Filming Law, this was a regulatory prohibition instituted by the agency itself. The Commercial Filming Law effectively repealed that prohibition.
5. Park Service regulations are cited in footnote 4 on page 8; consequently, including a lengthy excerpt from the regulations in the text is unnecessary.
6. See GAO comment 5.
7. We have removed the reference to the general Park Service regulations and modified the text on page 34 to describe the specific regulations associated with the National Capital Region's permitting of the NFL event and public access restrictions.
8. See GAO comment 1.

GAO Contact and Staff Acknowledgments

GAO Contact

Robin M. Nazzaro, (202) 512-3841

Staff Acknowledgments

In addition to those named above, John Delicath, Doreen Feldman, Timothy Guinane, Julian Klazkin, Roy Judy, Diane Lund, Judy Pagano, Paul Staley, and Mary Welch made key contributions to this report. Darren Goode, Robert Martin, Miguel Lujan, Glenn Slocum, and John Warner made significant contributions related to cost accounting issues during this review. Kevin Bailey, Denton Herring, and Matthew Reinhart made important graphic or data input contributions to the report.

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