

date of the decision, de novo review of the value determination decision by the United States Court of Federal Claims. The Court of Federal Claims may make an order affirming, vacating, modifying or correcting the determination decision.

(d) **TRANSITION TO SUCCESSOR CONCESSIONER.**—On expiration or termination of a concession contract entered into after November 13, 1998, a concessioner shall be entitled under the terms of the concession contract to receive from the United States or a successor concessioner the value of any leasehold surrender interest in a capital improvement as of the date of the expiration or termination. A successor concessioner shall have a leasehold surrender interest in the capital improvement under the terms of a new concession contract and the initial value of the leasehold surrender interest in the capital improvement (instead of construction cost) shall be the amount of money the new concessioner is required to pay the prior concessioner for its leasehold surrender interest under the terms of the prior concession contract.

(e) **TITLE TO IMPROVEMENTS.**—Title to any capital improvement constructed by a concessioner on land owned by the United States in a System unit shall be vested in the United States.

(Pub. L. 113–287, § 3, Dec. 19, 2014, 128 Stat. 3143.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
101915(a) .....	16 U.S.C. 5954(e).	Pub. L. 105–391, title IV, § 405(a) through (e), Nov. 13, 1998, 112 Stat. 3508.
101915(b) .....	16 U.S.C. 5954(a).	
101915(c)(1) through (3).	16 U.S.C. 5954(b).	
101915(c)(4)	16 U.S.C. 5954 note.	Pub. L. 110–161, div. F, title I (1st paragraph under heading “ADMINISTRATIVE PROVISIONS” under heading “NATIONAL PARK SERVICE”), Dec. 26, 2007, 121 Stat. 2107.
101915(d), (e).	16 U.S.C. 5954(c), (d).	

In subsection (b), before paragraph (1), the words “On and after November 13, 1998” are omitted as obsolete. In paragraph (6)(A), the words “Effective 9 years after November 13, 1998” are omitted as obsolete.

In subsection (c)(4), the words “For fiscal years 2008 and hereafter” are omitted as obsolete.

#### Editorial Notes

##### REFERENCES IN TEXT

The Act of October 9, 1965, known as the National Park Service Concessions Policy Act, referred to in subsec. (c)(1), is Pub. L. 89–249, Oct. 9, 1965, 79 Stat. 969, which enacted subchapter IV (§ 20 et seq.) of chapter 1 of Title 16, Conservation, and amended section 462 of Title 16, prior to being repealed by Pub. L. 105–391, title IV, § 415(a), Nov. 13, 1998, 112 Stat. 3515.

#### § 101916. Reasonableness of rates and charges

(a) **IN GENERAL.**—A concession contract shall permit the concessioner to set reasonable and appropriate rates and charges for facilities, goods, and services provided to the public, subject to approval under subsection (b).

(b) **APPROVAL BY SECRETARY REQUIRED.**—

(1) **FACTORS TO CONSIDER.**—A concessioner’s rates and charges to the public shall be sub-

ject to approval by the Secretary. The approval process utilized by the Secretary shall be as prompt and as unburdensome to the concessioner as possible and shall rely on market forces to establish reasonableness of rates and charges to the maximum extent practicable. The Secretary shall approve rates and charges that the Secretary determines to be reasonable and appropriate. Unless otherwise provided in the concession contract, the reasonableness and appropriateness of rates and charges shall be determined primarily by comparison with those rates and charges for facilities, goods, and services of comparable character under similar conditions, with due consideration to the following factors and other factors deemed relevant by the Secretary:

(A) Length of season.

(B) Peakloads.

(C) Average percentage of occupancy.

(D) Accessibility.

(E) Availability and costs of labor and materials.

(F) Type of patronage.

(2) **RATES AND CHARGES NOT TO EXCEED MARKET RATES AND CHARGES.**—Rates and charges may not exceed the market rates and charges for comparable facilities, goods, and services, after taking into account the factors referred to in paragraph (1).

(c) **IMPLEMENTATION OF RECOMMENDATIONS.**—Not later than 6 months after receiving recommendations from the Advisory Board regarding concessioner rates and charges to the public, the Secretary shall implement the recommendations or report to Congress the reasons for not implementing the recommendations.

(Pub. L. 113–287, § 3, Dec. 19, 2014, 128 Stat. 3145.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
101916 .....	16 U.S.C. 5955.	Pub. L. 105–391, title IV, § 406, Nov. 13, 1998, 112 Stat. 3510.

#### § 101917. Franchise fees

(a) **IN GENERAL.**—A concession contract shall provide for payment to the Federal Government of a franchise fee or other monetary consideration as determined by the Secretary, on consideration of the probable value to the concessioner of the privileges granted by the particular contract involved. Probable value shall be based on a reasonable opportunity for net profit in relation to capital invested and the obligations of the concession contract. Consideration of revenue to the United States shall be subordinate to the objectives of protecting and preserving System units and of providing necessary and appropriate services for visitors at reasonable rates.

(b) **PROVISIONS TO BE SPECIFIED IN CONTRACT.**—The amount of the franchise fee or other monetary consideration paid to the United States for the term of the concession contract shall be specified in the concession contract and may be modified only to reflect extraordinary unanticipated changes from the conditions anticipated