

CONCESSIONER REVIEW PROGRAM

A. LAW

1. P.L. 89-249
Section 5.

The Secretary shall encourage continuity of operation and facilities and services by giving preference in the renewal of contracts or permits*** to the concessioners who have performed their obligations under prior contracts or permits to the satisfaction of the Secretary.

2. Occupational Safety And Health Act (OSHA):

In accordance with the provisions of the OSHA Act of 1970 and the NPS Safety and Occupational Health Policy, it is the responsibility of each concessioner to provide a safe and healthful environment for all its employees and visitors.

B. REGULATIONS

CFR 36-Part 5 Commercial and Private Operations
5.10(b)

Eating, drinking or lodging establishments. Such establishments shall be maintained and operated in accordance with the rules and regulations recommended by the U.S. Public Health Service.

5.10(c)

The Superintendent shall have the right to inspect such establishments at reasonable times to determine whether the establishment is being operated in accordance with the applicable rules and regulations and in accordance with the provisions of the permit.

Special regulations are prescribed for specific park areas throughout the CFR. These specific regulations may amend, modify, relax or be more stringent than those listed above.

C. POLICY

Management Policies Manual, Chapter VIII
Concessioner Review Program

The primary goal of the Concessioner Review Program is to ensure visitor services and facilities offered by concessioners are satisfactory. Evaluations of concession facilities and services will be conducted to assure park visitors are provided quality services which are safe, sanitary, and attractive, at levels they would expect from the private sector operating outside NPS areas. Evaluation results will serve as a management tool for assuring adequate facilities and services and will be the basis for management to continue or terminate a concession authorization, as well as to determine whether a concessioner should be granted a right of preference for renewal.

D. INTRODUCTION

To accomplish these objectives, the Concessioner Review Program consists of two subprograms: 1. Operational Performance Program and 2. Contract Compliance Program. The Concessioner's Annual Overall Rating combines both the Operational Performance Rating and the Contract Compliance Rating. The Review Program shall be used to document the positive as well as the negative aspects of a concession operation.

The Review system is set up so that the operational/contract compliance evaluation rating year begins no later than October 1 and ends not later than September 30. This 12 month period is being used so that all concessioners' Operational Performance Reviews will be coordinated Systemwide. It also allows the parks or areas one month to finalize and transmit their reports to the Regional Office by November 1. The Regions will then have two months to review the reports and submit the necessary documents to WASO by December 15.

1. Operational Performance Program (formerly: Concession Evaluation Program)

The Operational Performance Program provides a systematic method for determining quality, safety and sanitation of visitor services on a periodic and annual basis using established standards.

The Operational Performance Program is explained in detail in Chapter 20, of this Concessions Guideline.

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2. Contract Compliance Program

The Contract Compliance Program requires an annual review of each section of the concessioner's contract/permit to identify, document and evaluate those performance elements which affect adherence to contract provisions and maintenance or operating plans.

The Contract Compliance Program is explained in detail in Chapter 22, of this Concessions Guideline.

E. PROGRAM RESPONSIBILITIES

1. WASO: The Washington Office is responsible for the overall program as follows:

- a. Establish and revise policy, procedures and standards as required.
- b. Develop and maintain a Servicewide monitoring program for the timely collection, analysis and synthesis of completed reports.
- c. Provide the necessary training to ensure program effectiveness, efficiency and adequacy.
- d. Provide overview of annual reports to assist the parks and Regions in meeting the program's requirements and assuring that the program is being administered consistently throughout the Service.

2. Regional: The Regional Office is responsible for the implementation and administration of the program as follows:

- a. Provide uniform regional interpretation and field implementation of the total Review Program including timely submission of reports and communication to WASO.
- b. Provide field monitoring, training and assistance.
- c. Provide coordination for technical and professional assistance by WASO and Regional Office for correction of safety, health and other major deficiencies and for dealing with non-compliance.
- d. Coordination of the program and reporting functions between WASO and field areas.
- e. Notify WASO of less-than-satisfactory concessioner performance.

f. Make final determination on appeal of concessioner regarding its annual overall rating.

g. Make final determination on termination of contract.

h. Approve modification of operational performance standards, where required, to meet the special needs of a particular park.

3.- Park/Area: The park/area is responsible for the direct field implementation and execution of the entire Review Program to ensure fulfillment of requirements of the concessions contract, or permit (including the annual operating plan and maintenance plan) as follows:

a. Conduct required evaluations and follow-up action as needed.

b. Timely submission of completed annual review reports to the Regional Office.

c. Meet periodically with the concessioner to discuss goals, services to be rendered and standards to be met.

d. Recommend suggested improvements for the Review Program to the Regional Office based on field experience.

e. Advise the Regional Office of special concession problems including those which cannot be resolved at the park level. This includes immediate notification of less-than-satisfactory performance.

f. Assign the Annual Overall Rating, Operational Performance Rating and Contract Compliance Rating.

g. Provide the Regional Director with comments and related correspondence associated with a concessioner's appeal on annual overall rating.

h. Recommend to Regional Director termination of concession contract or permits with annual gross receipts in excess of \$100,000 or more and a term of 5 years or more in accordance with policies and guidelines established in Chapter 5 Paragraph D.2.

i. Make final determination on termination of permits under \$100,000 annual gross and less than 5 year term.

4. Concessioner: The concessioner is responsible for monitoring the operation to ensure fulfillment of the requirements of the contract/permit (including the annual operating plan and maintenance plan) as follows:

a. Provide highest quality of services/facilities.

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b. Discuss with the Superintendent goals, services to be rendered, and standards to be met.

c. Conduct its own quality control program to include frequent self evaluation. This constant process creates a positive state of mind, which will result in a higher level of service to the visitor.

d. Seek public input by means of periodic information gathering and discuss results with the Superintendent.

F. ANNUAL OVERALL RATING

After the Superintendent completes the Operational Performance Rating and the Contract/Permit Compliance Rating in accordance with Chapters 20 and 22 of this Concessions Guideline, he/she will complete the Annual Overall Rating (Form 10-631). This form requires entry of the operational and contract compliance rating followed by assignment of the overall rating. For a concessioner to receive an Annual Overall Rating of Satisfactory both the Operational and Contract Compliance ratings must be Satisfactory.

The NPS Concessioner Annual Overall Rating (Form 10-631) includes space for narrative comments, use of which is mandatory. The narrative should highlight strong and/or weak points of the concession, record problems or issues which require solution, and explain, if appropriate, why the assigned Annual Overall Rating may appear different from the ratings assigned in subordinate segments of the program. Where the rating assigned meets the criteria for possible termination as set forth in paragraph G below, the narrative shall include recommendation for or against such termination, with justification. This single narrative replaces the narrative previously required with the Concession Evaluation Program.

After the Superintendent has determined the Annual Overall Rating and prior to transmitting the written report to the concessioner, the Superintendent or his designated representative is required to provide to the concessioner the opportunity to personally meet for a review of the annual overall rating, a discussion of any unresolved problems, and a general review of the status of the concession operation.

The Superintendent and concessioner (to signify receipt of rating) are to sign and date, if physically possible the Annual Overall Rating (Form 10-631) and a copy is to be given to the concessioner. (If signature of concessioner is not possible, the concessioner should be sent a copy by certified mail.)

G. DISPOSITION OF UNSATISFACTORY AND MARGINAL RATINGS

When a concessioner's Annual Overall Rating is Unsatisfactory for a given year, or Marginal for two consecutive years, it constitutes grounds for termi-

nation of the contract/permit and/or means that the concessioner is not entitled to a right of preference in the renewal of its contract or permit. In such cases, the Regional Director (or Superintendent for those permit/contract that have a term of less than 5 years and gross receipts do not exceed \$100,000) shall make a careful review of supporting documents, and determine whether there is justification for such actions. If so, he/she will initiate termination proceedings for the contract or permit authorization as set forth in the contract.

In Marginal rating situations, the Superintendent shall formally advise the concessioner when the first such rating is given that, if the next Annual Overall Rating is Marginal, the facility/service will be considered Unsatisfactory with no right of preference in renewal and that the contract/permit will then be subject to termination.



H. DISTRIBUTION OF FINAL REPORTS

1. To Concessioner: At the end of the rating year, September 30, the Superintendent is to advise the concessioner, in writing, of its Annual Overall Rating. This written report should outline both the operational and contract compliance aspects for the year and copies of the following should be included as part of the written report.

a. NPS Concessioner Annual Overall Rating (Form 10-631)

b. Concession Operational Performance Report (Form 10-629) with the following attached: Summary Of Periodic Operational Ratings (Form 10-627), Summary of Periodic Food Service Sanitation Rating Scores (Form 10-622), and Safety Report.

c. Contract Compliance Report (Form 10-630)

2. To Region: The following copies are to be sent by the park to the Regional Director by November 1 of each year.

a. NPS Concessioner Annual Overall Rating (Form 10-631) with mandatory narrative included.

b. Concession Operational Performance Report (Form 10-629) with the following attached to this report.

Summary of Periodic Operational Ratings (Form 10-627)
Summary of Periodic Food Service Sanitation Rating Scores (Form 10-622)
Comprehensive Safety Report

c. Contract Compliance Report (Form 10-630)

d. Any other forms requested by the Regional Director.

3. To WASO: The following copies are to be forwarded to WASO by the Region by December 15 of each year.

a. NPS Concessioner Annual Overall Rating (Form 10-631) with mandatory narrative included.

b. Concession Operational Performance Report (Form 10-629) with the following attached to this report.

Summary Periodic Operational Ratings (Form 10-627)
Periodic Food Service Sanitation Rating Scores (Form 10-622) 1
Comprehensive Safety Report 1

c. Contract Compliance Report (Form 10-630)

I. APPEAL PROCESS

In situations where a concessioner is not satisfied with the Annual Overall Rating assigned by the Superintendent, the concessioner may appeal to the Regional Director.

The appeal shall be in the form of a letter, through the Superintendent setting forth a statement of the problem and whatever support material the concessioner feels is appropriate.

Upon receipt, the Superintendent will forward the appeal to the Regional Director along with his comments and related correspondence. A final determination will be made by the Regional Director.

J. FORMS USED

For the sake of clarity a flow graph of forms and form numbers used in the Concessioner Review Program is provided as Exhibit 1 and a copy of the NPS Concessioner Annual Overall Rating (Form 10-631) is provided as Exhibit 2. Copies of all standards and forms used in the Operational Performance Program are located at the end of Chapter 21. The Contract Compliance Checklist (Form 10-630) can be found at the end of Chapter 22, Exhibit 1.

•K. CONCESSIONER REVIEW REPORTS FOR LIMITED CONCESSION PERMITS

1. General

Limited Concessions Permits are those which meet the criteria outlined in Chapter 6, Paragraph C.1 of this guideline. Concessioners who meet

bend to WASO only When ratings are Marginal or Unsatisfactory.

those criteria may be rated under the simplified procedures set forth below even if their concessions permit was executed prior to development of the Limited Concessions Permit.

2. Concept and Frequency of Rating

Use of the standard checklists for operational performance and contract compliance is not required. The operation will be rated annually on the basis of the "best available information" from such sources as visitor comments, observations by park staff and cooperation of the concessioner in correcting problems effectively. Additional rating procedures may be established, however, if determined necessary in the judgment of the Superintendent.

3. Reports

The evaluation will be reported in narrative form in the "Narrative" section of Form No. 10-631 shown as Exhibit 2 of this chapter. Adjective ratings will be provided in the three blocks of form 10-631. The narrative will include:

- a. Identification of the information source(s).
- b. A summary description of the services offered and the available information on their quality.
- c. A concise statement on compliance with the permit requirements, (Viz: AFR, Franchise Fee, and Insurance)
- d. The Operational Performance, Contract Compliance and Overall Rating (Satisfactory, Marginal, or Unsatisfactory)

A typical narrative report might read as follows:

XYZ Enterprises operates irregularly to guide back country camping parties. We have received no visitor complaints. Subdistrict Ranger reports that campsites are always clean. AFR and Franchise Fees were received on time. Insurance has been provided as required. Overall rating is Satisfactory.

4. PHS/Safety Evaluations

For those operations in which PHS and/or Safety are concerns because of the type service offered, the evaluation procedures described for PHS and Safety in Exhibits 1 and 2 of Chapter 21 must be followed. No reduction in scope is permitted for PHS or Safety evaluations. These are the only required complete evaluations necessary for Limited Concessions Permits.

5. Annual Rating

In assigning Annual Rating for a Limited Concession Permit, the Superintendent should generally take into account the factors which are listed below as well as those set forth in Chapters 20 and 22.

(a) Operational Performance- These simplified procedures do not provide sufficient documentation to terminate a permit for less than Satisfactory performance under the Operational Performance Program (except for Safety and Public Health). If the Superintendent has reason to believe that service to the visitor has become less than Satisfactory, he/she must immediately arrange for full scope evaluations using the applicable standards outlined in Chapter 21 of this guideline. If the probability of less than satisfactory operational performance is not identified until the end of the operating season, the narrative report must describe the known conditions in detail and state that full scope evaluations will be performed the following season in accordance with procedures and standards outlined in the Operational Performance Program, Chapter 20, and Operational Performance Standards, Chapter 21. An Operational Rating no lower than Marginal is permissible under such circumstances.

(b) Public Health and Safety - Unsatisfactory PHS and Safety ratings based on full evaluations of their respective elements outlined in Chapter 21 of this Guideline as Exhibits 1 and 2 can be a basis for award of a less than Satisfactory rating and for termination.

(c) Permit Compliance- Unsatisfactory compliance with terms and conditions of the permit, can be the basis for termination. However, the area(s) of unsatisfactory performance must be fully described on the Contract/ Permit Checklist (Form 10-630), as outlined in Chapter 22, Exhibit 1 of this guideline.

6. Exceptions to using Simplified Evaluation Method

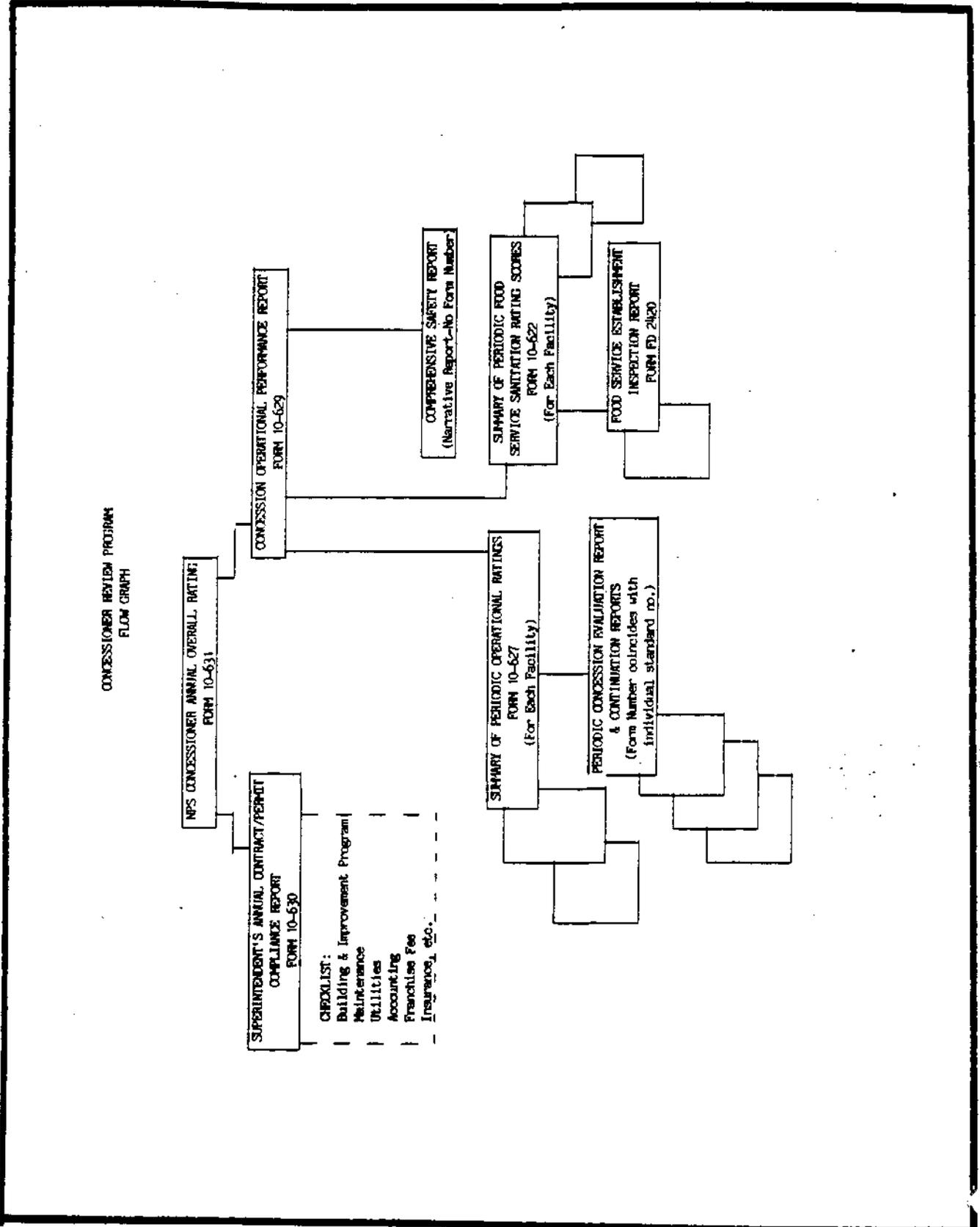
An operation should not be evaluated under this simplified process if, in the judgment of the Superintendent, one or more of the following conditions exist:

(a) Operations have major impact on park resources

(b) Operations have high visibility

(c) The previous year's rating for either Operational Performance or Contract Compliance is less than Satisfactory.*

FLOW GRAPH



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EXHIBIT 2

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NPS CONCESSIONER ANNUAL OVERALL RATING FORM 10-601

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
NPS CONCESSIONER ANNUAL OVERALL RATING

Rate 1G 1
was

Site Anywhere National Park Contract/Permit No. 2222-
with U.S. Concessions Co. 3-1111
Date 10-12-82

Operational Performance Rating SATISFACTORY
(1st Measure of Service Quality)

Contract Compliance Rating SATISFACTORY
(1st Measure of Contract Compliance)

Management Rating SATISFACTORY
(1st Measure of Management)

Management Narrative Assessment and Comments on the Concessioner Contractual Obligations and Operational Performance for the year.

* U.S. Concessions continued to provide satisfactory services to the visitors of Anywhere National Park this season. There were noticeable decreases in visitor complaints. Most operating deficiencies found were corrected on time. U.S. Concessions experienced an 82 growth in the occupancy levels at Lake View Inn. This was due, in part, to special rates offered for convention and tour groups during the offseason and managements' continuing interest in attracting offseason business. Overnight accommodations at Park Village is a concern to us as numerous deficiencies relating to a pattern of worn furniture and dirty linen were noted during all inspections. Management has been cooperative in working with the Park Service and has agreed to replace worn furniture and reevaluate and change, if necessary, housekeeping procedures prior to the next operating season. Safety inspections revealed only one potentially serious problem at Lake View Inn involving an inoperable fire alarm system. This deficiency was quickly corrected. Improvements were noted in required reporting responsibilities by U.S. Concessions Co. Requests for approvals on building improvements, advertising and new menu items were submitted in a more timely manner. Rate approval requests, however, should be submitted further in advance to allow time to properly prepare comparability studies. U.S. Concessions is satisfactory in matters of contract compliance. All franchise fees were paid on time and the necessary insurance coverage has been verified. *

10-12-82

Concessioner's Service to the National Park Service

/O-L0-ft