

New Regulations for Commercial Filming, Still Photography and Audio recording

On August 22, 2013 the Department of the Interior published final regulations in the Federal Register on commercial filming, still photography and audio recording applying to the National Park Service, U.S. Fish and Wildlife Service and Bureau of Land Management. The regulations become effective September 23, 2013.

Also published was a proposed location fee schedule for commercial filming and still photography that would be adopted by the three agencies after public comment has been received and considered. Comments will be accepted until September 23, 2013.

Operationally there are only a few changes that parks will need to make to comply with the new regulations:

- As of October 1, 2013, cost recovery money for still photography permits will be collected pursuant to 16 U.S.C. 3a, must be deposited in PRO1ESUC1.380000 (former PWE 318), and must be spent in the same fiscal year.
- 43 CFR 5.10 states that an applicant may appeal the denial of a permit application. The NPS will develop an appeals process and include it in the policy guidance found in DO #53. For now, the applicant should submit a written appeal of the decision with reasons for reconsideration addressed to the individual who signed the denial letter. That individual should submit the reconsideration request to the next level of signature authority (i.e. Chief Ranger submits it to the Superintendent or the Superintendent submits it to the Regional Director). The decision of the senior individual is the final agency action.

Here are the major points of the new regulations:

Audio Recording

- 36 CFR 5.5 governs how the NPS manages audio recording. Essentially, audio recording does not require a permit unless:
 - It takes place at a location where or when members of the public are generally not allowed;
 - It uses equipment that requires mechanical transport;
 - It uses equipment that requires an external power source other than a battery pack; or
 - The NPS would incur additional administrative costs to manage and oversee the permitted activity to:
 - Avoid unacceptable impacts and impairment to resources or values; or
 - Minimize health or safety risks to the visiting public.
- If a permit is issued, cost recovery must be collected, and a location fee based on the location fee schedule for still photography must be collected.
- 36 CFR 5.5 directs people to 43 CFR part 5 subpart A for regulations applying to commercial filming and still photography.

Commercial filming and still photography

- The regulation governing commercial filming and still photography is found at 43 CFR subpart A.
- Definitions, including definitions for commercial filming, model, news gathering activities, set and props, and still photography are found at 43 CFR 5.12.
- All commercial filming requires a permit.
- Most still photography activities will NOT require a permit.
- Still photography requires a permit if it uses models, sets, or props.
- Still photography may require a permit if it takes place in areas closed to the public, or the agency needs to manage the activity to minimize resource damage or visitor conflict.
- When a permit is issued for either commercial filming or still photography, cost recovery charges and a location fee based on the location fee schedule for that activity must be collected.

News gathering activities

- News gathering activities may require a permit if the activities are of such size and scope that a permit would help manage the activity to minimize possible damage to park resources and visitor use conflicts or authorize entrance into a closed area.
- Even when the above circumstances are present, permits will be required only if there is sufficient time to issue the permit without impeding the crew's ability to gather the news. If there is not sufficient time to issue a permit, visitor and resource protection will be managed verbally in the field.
- There are no cost recovery charges or location fees for permits issued for news gathering activities.

Denying a permit

A permit will be denied if the activity would:

- Damage resources;
- Unreasonably disrupt or conflict with the public's use and enjoyment of the site;
- Pose health or safety risks to the public;
- Result in unacceptable impacts or impairment to National Park Service resources or values;
- Violate the Endangered Species Act (7 U.S.C. 136, 16 U.S.C. 1531 et seq.), Wilderness Act (16 U.S.C. 1131-1136), or any other applicable Federal, State, or local law or regulation.

Contact Information

For further information contact your regional [special park uses program coordinator](#) or WASO Special Park Uses program manager Lee Dickinson.