

NANPA Clarifies Proposed Regulations for Photographing on Federal Land

NANPA has been following the progress of proposed Interior Department regulations under Public Law 106-206 following the House Natural Resources Committee hearing held on the issue in December. NANPA's President, Kathy Adams Clark, had an email exchange with Lee Dickinson, Special Parks Uses Program Manager for the National Parks Service. That exchange is included below for your information and clarification.

Q: Is the proposed rule's intent to standardize procedures and the collection of fees for Department of Interior (DOI) agencies?

A: The intent is to provide uniform criteria where a permit will probably be needed. Since the Federal lands are so different, there are occasions where one agency might require a permit when another would not. One example that is cited frequently is wedding photography. On most BLM land a permit would not be needed. But at the Lincoln Memorial, a national park unit here in DC, a permit would be needed to try to avoid conflict between our many visitors and other permitted activities such as marathons, walk-a-thons, rallies and demonstrations. Location fees would be uniform between the agencies, based on a location fee schedule that is still being developed. Location fees only apply if a permit is needed. The more people associated with the photography activity and the more days the activity uses Federal lands, the higher the location fee. Cost recovery would be based on the actual cost to the agency of processing and monitoring the activity.

Q: Will the criteria that trigger a photography permit change?

A: If a person is using models, sets, or props, requesting special access, etc., they would need a permit. The law and the subsequent regulation really just uses the criteria that were included in Secretary Lujan's memo back in the early 1990s. Again, most photographers should not need a permit.

Q: Will this rule in any way affect the amateur photographer entering DOI land and photographing for their own enjoyment?

A: It does not matter whether the individual considers themselves a talented amateur or a professional. If they enter the park, remain in areas open to the public and do not use models, sets or props, they will not need a permit. Additionally, there are sometimes restrictions that apply to all photographers. For example, in a historic building managed by the National Park Service, we frequently don't allow tripods, since the space is limited and the tripod presents a trip hazard to others. That's not a restriction on professional photographers, but photographers in general. If a person wanted to use a tripod in this situation, they would probably need to apply for a permit and shoot their shot before or after public hours so as not to interfere with other visitors.

Q: Would this rule affect a professional photographer entering DOI land and photographing if they were not using models, props, sets, requesting special access, etc.? For example, if someone shot photographs from a car or on trails in a wildlife refuge for possible use in an upcoming book.

A: Same answer as above. If a photographer is a visitor to a park, they don't need a permit. A permit is required when special circumstances kick in, such as models, sets or props, or requesting access to a closed area. If you wanted to get a picture of the sun rising over the dunes at White Sands National Memorial, a photographer would need a permit, because the park does not open until 8 am.

Q: Would this rule affect a professional photographer shooting a story for a magazine if they were not using models, props, sets, requesting special access, etc.?

A: Same answer as above.

Q: Did the proposed rule pass?

A: The regulation that appeared in the Federal Register was a draft regulation open for public comment. The job now is to take the public comments received and discuss them, either incorporating the suggested changes into the draft, or drafting a response to the comment explaining why the comment was not adopted. We received about 50 comments. The process will take at least six months, and involve folks from three agencies and the Department of the Interior.