

45.5 - Arts

1. Authority.

a. Statutory Authority. Cite the Act of May 26, 2000 (16 U.S.C. 460l-6d) for all authorizations issued for still photography or commercial filming uses.

b. Regulatory Authority. The processing of proposals and applications and the authorization, administration, and monitoring of still photography and commercial filming activities on National Forest System (NFS) lands are subject to the Forest Service special use regulations at 36 CFR part 251, Subpart B.

2. Definitions. The following terms are used to describe components of still photography and commercial filming activities:

a. Actor. An individual who either:

(1) Portrays a character or himself/herself in the reenactment of an event or incident, or

(2) Narrates a storyline for commercial filming purposes. News broadcasters and correspondents, as well as witnesses, victims, or other parties interviewed by a news broadcaster or correspondent, who appear before a camera in the reporting of breaking news, are not considered actors for purposes of this definition.

b. Breaking News. An event or incident that arises suddenly, evolves quickly, and rapidly ceases to be newsworthy.

c. Commercial Filming. Use of motion picture, videotaping, sound-recording, or any other type of moving image or audio recording equipment on NFS lands that involves the advertisement of a product or service, the creation of a product for sale, or the use of actors, models, sets, or props, but not including activities associated with broadcasting breaking news. For purposes of this definition, creation of a product for sale includes a film, videotape, television broadcast, or documentary of historic events, wildlife, natural events, features, subjects or participants in a sporting or recreation event, and so forth, when created for the purpose of generating income.

d. Model. An individual who poses for the commercial filming or still photography of a product or service for the purpose of promoting its sale or use. A model may also include inanimate objects, such as vehicles, boats, off-highway vehicles, articles of clothing, food and beverage products, and so forth, placed on NFS lands so that they may be filmed, photographed, or recorded to promote their sale or use.

e. Sets and Props. Items constructed or placed on NFS lands to accommodate commercial filming or still photography, such as backdrops, generators, microphones, stages, lighting banks, camera tracks, vehicles specifically designed to accommodate camera or recording equipment, rope and pulley systems, rigging for climbers, and structures. Sets and props also include trained animals and inanimate objects, such as camping equipment, campfires, wagons, and so forth, when used to stage a specific scene. A set or prop does not include any of the preceding items when they are used to report breaking news, nor does a prop include a hand-held camera or a camera mounted on a tripod.

f. Still Photography. The use of photographic equipment to capture still images on film, digital format, and other similar technologies on NFS lands that:

(1) Takes place at a location where members of the public are generally not allowed or where additional administrative costs are likely, or

(2) Uses models, sets, or props that are not a part of the site's natural or cultural resources or administrative facilities.

3. Insurance and Bonding. Where appropriate, the Authorized Officer shall require liability insurance and/or performance bonds necessary to protect the public interest.

45.51 - Still Photography

45.51a - Permit Requirements

A special use permit is not required for still photography when that activity involves breaking news (sec. 45.5). A special use permit:

1. Is required for all still photography (sec. 45.5) activities on National Forest System (NFS) lands that involve the use of models, sets, or props that are not a part of the natural or cultural resources or administrative facilities of the site where the activity is taking place.
2. May be required for still photography activities not involving models, sets, or props when the Forest Service incurs additional administrative costs as a direct result of the still photography activity, or when the still photography activity takes place at a location where members of the public generally are not allowed.

When a special use permit is required for a still photography activity and the request is an acceptable use of NFS lands (sec. 45.52), issue a special use permit for still photography activities on Form FS-2700-25, Temporary Special Use Permit, or on Form FS-2700-4, Special Use Permit.

45.51b - Evaluation of Proposals

A special use permit may be issued (when required by sec. 45.51a) to authorize the use of NFS lands for still photography when the proposed activity:

1. Meets the screening criteria in Title 36, Code of Federal Regulations, section 251.54 (36 CFR 251.54),
2. Would not cause unacceptable resource damage,
3. Would not unreasonably disrupt the public's use and enjoyment of the site where the activity would occur,
4. Does not pose a public health and safety risk, and
5. If it is to occur in a Congressionally designated wilderness area, and the activity contributes to the purposes for which the wilderness area was established.

45.51c - Land Use Fees

Charge a land use fee for all still photography activities authorized under permit, unless the holder or the activity qualifies for a fee waiver as provided in FSH 2709.11, chapter 30.

Direction on fee administration, calculation, accounting, and expenditure of funds for still photography activities is found in FSH 2709.11, chapter 30.

45.52 - Commercial Filming

45.52a - Permit Requirements

1. A special use permit is required for all commercial filming (sec. 45.5) activities on National Forest System lands (NFS). A special use permit is not required for broadcasting breaking news (sec. 45.5).
2. Authorize the use of NFS lands for commercial filming activities on form FS-2700-25, Temporary Special Use Permit, or on form FS-2700-4, Special Use Permit, when the commercial filming activity is an acceptable use of NFS lands (sec. 45.52b).

45.52b - Evaluation of Proposals

Use the criteria found in section 45.51b for evaluating proposals to use NFS lands for commercial filming activities.

45.52c - Land Use Fees

Charge a land use fee for all commercial filming activities, unless the holder or the activity qualifies for a fee waiver as provided in FSH 2709.11, chapter 30.

Direction on land use fee administration, calculation, accounting, and expenditure of funds for commercial filming activities are found in FSH 2709.11, chapter 30.

Q & A's
Interim Directive on Commercial Filming in Wilderness Areas
Forest Service Handbook (FSH) 2709.11, Section 45.53
July 2013

Key Messages

1. This Proposed Directive provides clarification on the evaluation of proposals for commercial filming in wilderness areas. The criteria meets the exception to the prohibition on commercial enterprise in wilderness areas by identifying when commercial filming in wilderness areas is necessary to realize the recreational or other wilderness purposes of the areas.

This Proposed Directive is currently in use as an Interim Directive (ID) and is set to expire in October 2014.

2. Under the Proposed Directive, a proposal for commercial filming in a wilderness area must have a primary objective of dissemination of information about the use and enjoyment of the wilderness area for its ecological, geological, or other features of scientific, educational, scenic, or historical value.

- Proposals for commercial filming in a wilderness area must include information about the area's wilderness character, i.e., its ecological, geological, or scientific features; historic, educational, or scenic values; or opportunities for solitude or primitive and unconfined recreation.

- Proposals for commercial filming in a wilderness area must demonstrate how the proposed activity would preserve the wilderness character of the area by maintaining opportunities for solitude or primitive and unconfined recreation and by leaving the area untrammeled, natural, and undeveloped.

3. Under the Proposed Directive, proposed commercial filming in a wilderness area must be wilderness-dependent, i.e., there is no suitable location outside of a wilderness area where the proposed activity could be filmed under the same conditions.

4. The Proposed Directive makes no changes to the policy on still photography. No permit is required for most still photography, including still photography in wilderness areas. The permit requirement for still photography does not turn on whether the proposed activity is commercial, but rather whether it (a) takes place at a location where members of the public are generally not allowed or where additional administrative costs are likely or (b) uses models, sets, or props that are not a part of the site's natural or cultural resources or administrative facilities.

Questions and Answers

Q1. What are the major differences between the previous directive on commercial filming in wilderness areas and the ID that is being put forward as a Proposed Directive?

The following table displays the differences between the previous directive on commercial filming in wilderness areas and the ID **that is being put forward as a Proposed Directive**.

Previous Directive	Proposed Directive	Significance
Required only that the proposed activity contribute to the purposes for which the wilderness area was established.	Establishes several evaluation criteria that track the characteristics and purposes of wilderness areas and the requirements of the Wilderness Act.	Consistent with agency policy on management of wilderness resources. More clearly meets the exception to the prohibition on commercial enterprise in wilderness areas by establishing criteria that identify when commercial filming in wilderness areas is necessary to realize the recreational or other wilderness purposes of the areas. Provides better guidance to authorized officers and proponents.
	Requires that the proposed activity has a primary objective of dissemination of information about the use and enjoyment of a wilderness area for its ecological, geological, or other features of scientific, educational, scenic, or historical value.	Requires the film to disseminate information about the benefits and value of the wilderness area being filmed. Helps communicate the agency's successes and challenges in managing wilderness resources.
	Requires consideration of locations outside of wilderness areas for the proposed activity and documentation of why a wilderness area is the only suitable location for the proposed activity.	Ensures that the proposed activity is necessary to realize the recreational or other wilderness purposes of the areas.
Specifically discussed still photography only.	Clarifies criteria for filming requests for <i>other than non-commercial still photography</i> . i.e. filming or videography.	Brings the Directive in line with technological advances. Provides more communication opportunities for the agency to relate its successful land management successes with the public.

	Includes in the evaluation criteria the prohibitions against motor vehicles and motorized equipment, motor boats, any landing of aircraft, or the use of mechanical transport of any kind, such as hang gliders or bicycles.	More closely tracks the requirements in the Wilderness Act.
	Includes in the evaluation criteria a prohibition on advertising a product or service.	Establishes a clearer link to the purposes of the Wilderness Act.

Q2. What prompted the Proposed Directive?

The Proposed Directive was prompted by the need to remain consistent with the evaluation criteria for proposals for commercial filming in a wilderness area. Before being issued as an ID, the previous directive merely required that the proposed activity contribute to the purposes for which the wilderness area was established. The previous directive did not address necessity of the proposed activity or the characteristics and purposes of wilderness areas.

Q3. Why didn't the Forest Service issue an amendment to the Directive System, which does not expire, rather than an ID, which expires?

Issuing an ID, which expires in 18 months, allows for consistency to remain in place while being set forth as a Proposed Directive thus giving the Forest Service the opportunity to evaluate the policy clarification before issuing an amendment to the Directive System.

