

UNITED STATES DEPARTMENT OF THE INTERIOR	
BUREAU OF LAND MANAGEMENT	
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December 22, 2003	
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Instruction Memorandum No. 2004-073
Expires: 09/30/2005

To: All Field Officials
From: Assistant Director, Minerals, Realty, and Resource Protection
Subject: Commercial Filming on Public Lands - Implementation of Public Law 106-206

Program Area: Lands and Realty

Purpose: To establish consistency among Bureau of Land Management (BLM) Field Offices in implementing new authority for commercial filming on public lands.

Background: On May 26, 2000, the President signed Public Law 106-206, authorizing land management agencies in the Departments of the Interior and Agriculture to regulate commercial filming activities on Federal lands. This legislation gives the National Park Service and the U.S. Fish and Wildlife Service new authority to require permits for commercial filming and certain still photography activities on the Federal lands they manage. The Forest Service and the Bureau of Land Management already had authority to do so, via the Organic Administration Act of 1897 and the Federal Land Policy and Management Act (FLPMA) of 1976, respectively.

Public Law 106-206 augments those previous statutes for authorizing commercial filming and still photography activities. In doing so, it clarifies policy on the requirements for commercial filming and still photography permits and establishes limitations on filming activities for the protection of resources. It also reinforces the authority that BLM has under FLPMA for collection of cost reimbursement and rental fees, and provides that collected rental fees are available for expenditure without further appropriation by Congress.

Policy/Action: The Department of the Interior (DOI) will be promulgating regulations to enact the authority granted by Public Law 106-206. Because the BLM already has the statutory authority and regulations in place governing commercial filming uses on public lands, provisions in Public Law 106-206 can be implemented now. After DOI promulgates new regulations, BLM will propose and adopt any necessary changes to our existing guidance for commercial filming activities.

Rental Fees

The Act authorizes the Secretaries of the Interior and Agriculture to establish a reasonable fee for commercial filming activities on lands under their respective jurisdictions. The agencies affected by Public Law 106-206 are working to develop an interagency rental fee schedule for filming on Federal lands managed by these agencies. In the interim, the BLM will continue to assess rental fees using current schedules established by State Office appraisal staffs.

The Act authorizes the Secretaries of the Interior and Agriculture to collect and expend, without further appropriation, land use rental fees for commercial filming uses, and to do so in accordance with the formula and purposes established in the Recreation Fee Demonstration Program (Public Law 104-134). Until the Department grants approval and direction is established concerning the expenditure of these funds, rental fees collected should be deposited into Suspense Account (455). Collection and deposits of cost recovery fees remain unchanged.

Commercial Filming

Under Public Law 106-206, the Secretary shall require a permit for all commercial filming activities on public lands. The Act further states that commercial filming, moving or still photography, will NOT be permitted if it is determined that any of the following apply:

- (1) there is likelihood of resource damage that can not be mitigated;
- (2) there would be an unreasonable disruption of the public's use and enjoyment of the site; or

- (3) the activity poses health or safety risks to the public;

Still Photography

Public Law 106-206 states that the Secretary shall NOT require a permit nor assess a fee for still photography on Federal lands if such photography takes place where members of the public are generally allowed, except when one or more of the following situations apply:

- (1) when it includes the use of models or props which are not part of a site's natural or cultural resources or administrative facilities;
- (2) if such photography takes place at locations where members of the public are generally not allowed; or
- (3) if it occurs where additional administrative costs are likely.

Field Offices should no longer require permits for still photography unless one or more of these conditions exist.

News Coverage

BLM policy is that a film permit is NOT required when the activity involves the reporting, by members of the media, for purpose of broadcast on news programs. As long as news reporting does not adversely impact public lands, it is exempt from the requirement of a film permit. Field Offices should consult with their External Affairs staffs in dealing with media related issues and activities.

Timeframe: This Instruction Memorandum (IM) is effective upon receipt.

Budget Impact: This is an augmentation to existing policy to implement new legislation. The result should have positive impacts on the budget by allowing BLM to retain rental fees collected for filming on public lands.

Manual/Handbook Sections Affected: This IM augments policy guidance contained in BLM Manual 2920, Leases and Permits.

Coordination: This guidance was coordinated with Field and State Office staffs involved in the Lands and Realty Program.

Contact: If you have any questions regarding this policy, please contact Vanessa Engle, Lands and Realty Group (WO 350) at 202-452-7776 or via email at vanessa_engle@blm.gov.

Signed by:
Tom P. Lonnie
Assistant Director
Minerals, Realty and Resource Protection

Authenticated by:
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Policy & Records Group, WO-560

2 Attachments

- [1 – Definitions Related to Commercial Filming \(1 p\)](#)
- [2 – Public Law 106-206 \(2 pp\)](#)

DEFINITIONS RELATED TO COMMERCIAL FILMING AND STILL PHOTOGRAPHY

Actor: An individual who either portrays a character or themselves in the re-enactment of an event or incident; or narrates a storyline for commercial filming purposes. News broadcasters or correspondents, as well as witnesses, victims, and other parties interviewed by a news broadcaster or correspondent, who appear before a camera in the reporting of media related news coverage, are not considered actors for purposes of this definition. Trained animals are considered animal actors.

Commercial Filming: The use of motion picture, videotaping, sound recording, or other moving image or audio recording equipment on public 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 broadcasts for news programs. For purposes of this definition, creation of a product for sale includes a film, videotape, television broadcast, or documentary of participants in commercial sporting or recreation event created for the purpose of generating income.

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. Portrait subjects would not be considered models.

News: The reporting of events or other information by members of the media for the purpose of regularly scheduled news and other information programs that are typically broadcast on network and cable outlets. Nightly news, weekly outdoor recreation programs, and monthly public affairs programs are examples of news and media related reporting that do not require a film permit.

Sets and Props: Items constructed or placed on public 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, structures, and inanimate objects, such as camping equipment, campfires, wagons, and so forth, when used to stage a specific scene. A prop also includes inanimate objects such as vehicles, boats, off-highway vehicles, articles of clothing, food and beverage products, and so forth, placed on public lands and are filmed, photographed, or recorded to promote their sale or use. A set or prop does not include any of the preceding items when they are used to report news, nor does a prop include cameras, camera supports, and ancillary still photographic equipment.

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

- 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 part of the site's natural or cultural resources or administrative facilities.