

**RESPONSE TO COMMENTS
SUPERINTENDENT'S COMPENDIUM
2023
DENALI NATIONAL PARK AND PRESERVE**

The compendium is a list of designations, closures, permit requirements and other authorizations and restrictions adopted pursuant to authority in the Code of Federal Regulations (CFR) applicable to areas administered by the National Park Service (NPS). On January 15, 2023, the NPS published proposed changes for the 2023 compendium and invited public comment on those proposed changes through February 15, 2023. Two submissions were received, both concerning the reinstatement of commercial filming permit requirements. A summary of comments and NPS responses is provided below.

Comment: The proposed changes to the Superintendent Compendium are a clear violation of Freedom of Speech and have not been thoroughly analyzed and thought through enough to make permanent changes.

NPS Response: The changes to the Denali National Park and Preserve Superintendent's Compendium were in response to a nationwide return to the existing law and policy following the United States Court of Appeals for the District of Columbia issuing a decision reversing an early order of the District Court (*Price v Garland*, 45 F.4th 1059 [D.C Cir. 2022]). As a result, the statute and regulations that governed commercial filming before the *Price* decision are again in effect. Opportunities for expression of First Amendment rights continue to follow existing law and policy.

Comment: It is unclear if all land managed as wilderness whether designated or not would require a commercial film permit.

NPS response: NPS policy is to manage all lands identified as eligible wilderness the same as designated wilderness. Therefore, both designated and eligible wilderness areas would be treated the same and would both require film permits.

Comment: Permitting requirements should focus entirely on reducing environmental impacts and protecting resources. NPS needs to think through the permit requirements before implementing any changes.

NPS Response: Federal law requires a permit for all commercial filming, no matter the size of the crew or the type of equipment. This includes individuals or small groups that don't use much equipment, but generate revenue by posting footage on websites, such as YouTube and TikTok. The primary focus of the NPS, however, is on commercial filming that has the potential to impact park resources and visitors beyond what occurs from normal visitor use of park areas. Examples of this type of filming are productions that use substantial equipment such as sets and

lighting, productions with crews that exceed 5 people, and filming in closed areas, wilderness areas, or in locations that would create conflicts with other visitors or harm sensitive resources.

All film permit holders, no matter the size of the operation, must comply with all rules that apply in park areas, just like other visitors.

Comment: It's not clear how these proposed changes will be enforced. NPS does not state in the proposed changes or in the current compendium what fine or penalties exist for violating film permit requirements.

NPS Response: Filming and photography permits will contain terms and conditions that are necessary to protect park resources and visitors. Penalties for violating the terms and conditions are in accordance with the System Unit Resource Protection Act, 54 U.S.C. §§ 100721-100725; any person that destroys, causes the loss of, or injures any park system unit resource will be liable to the United States for response costs and damages resulting from the destruction, loss, or injury. The Superintendent may immediately suspend or revoke a permit without notice if destruction of, loss of, or injury to any park property or resource has occurred, is occurring, or appears imminent

Comment: It is unclear what truly constitutes commercial filming.

NPS Response: "Commercial filming" means the film, electronic, magnetic, digital, or other recording of a moving image by a person, business, or other entity for a market audience with the intent of generating income. Examples include, but are not limited to, feature film, videography, television broadcast, or documentary, or other similar projects. Commercial filming activities may include the advertisement of a product or service, or the use of actors, models, sets, or props (43 CFR 5.12).