

**RESPONSE TO COMMENTS
SUPERINTENDENT’S COMPENDIUM
2023**

GLACIER BAY NATIONAL PARK AND PRESERVE

The compendium is a list of designations, closures, permit requirements and other restrictions adopted pursuant to authority in the Code of Federal Regulations (CFR) applicable to areas administered by the National Park Service (NPS). On January 17, the NPS published proposed changes for the 2023 compendium and invited public comment on those proposed changes through February 16. A summary of comments and NPS responses is provided below.

Process Comments and Responses

“Closures and Restrictions”

36 CFR 13.50

– Filming – rescinded

The comment received related to the proposed change appears to be addressing and questioning the **interim** guidance that was put in place in 2021 after *Price v. Barr* and not the laws and regulations that were in place **before** 2021. The Interim Guidance directed superintendents how to manage filming activities in park areas following a decision by the United States District Court for the District of Columbia in *Price v. Barr*, 514 F.Supp. 3d 171 (D.D.C. 2021). That decision had declared that permit and fee requirements for commercial filming found in 54 U.S.C. § 100905, 43 C.F.R. Part 5 and 36 C.F.R. § 5.5 were unconstitutional under the First Amendment and prohibited the NPS from enforcing those requirements.

The U.S. Department of Justice appealed the District Court's decision and on August 23, 2022, the United States Court of Appeals for the District of Columbia issued a decision reversing the order of the District Court. *Price v. Garland*, 45 F.4th 1059 (D.C. Cir. 2022). With the reversing of the order, effective October 28, 2022, the National Park Service rescinded interim guidance that was in place during litigation regarding commercial filming and has returned to longstanding laws and regulations governing commercial filming in parks.

The Glacier Bay National Park and Preserve proposed changes to the 2023 compendium for 36 CFR 1.6(f) and 36 CFR 13.50 indicated what the current compendium language was in 2022 based on the interim guidance. Under that interim guidance, the proposed change was to remove all that language relating to commercial filming from the compendium thus reverting to pre-2021 laws and regulations.

In most cases, a permit is not necessary for visitors engaging in casual, non-commercial still photography. There are some circumstances when a permit is needed for commercial still photography. The most appropriate place to see when a permit may be necessary is to visit [Filming & Still Photography Permits \(U.S. National Park Service\) \(nps.gov\)](https://www.nps.gov/learn/visit/filming-still-photography-permits) and the park's specific page such as Glacier Bay's found here: [Commercial Filming - Glacier Bay National Park & Preserve \(U.S. National Park Service\) \(nps.gov\)](https://www.nps.gov/glacierbay/learn/visit/filming).

"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, and documentaries. Commercial filming may include the advertisement of a product or service, or the use of actors, models, sets, or props.

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.

Individual parks may require a permit for non-commercial filming if necessary to manage the activity, to protect park resources and values, minimize conflict between user groups, or to ensure public safety. Examples of non-commercial filming include, but are not limited to, filming for tourism bureaus, convention and visitor bureaus, student filming, and filming for personal use and enjoyment. If you have questions about whether a non-commercial film project requires a permit, please contact the park where you intend to film in advance.

In most cases, a permit is not necessary for visitors filming for personal enjoyment.

The Glacier Bay National Park and Preserve compendium is approved and all previous versions are rescinded.



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Superintendent
Tom Schaff

Date