implications of this regulatory action have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at *http://www1.va.gov/orpm/,* by following the link for ''VA Regulations Published.''

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

This final rule contains no new provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Catalog of Federal Domestic Assistance

This final rule affects the verification guidelines of veteran-owned small businesses, for which there is no Catalog of Federal Domestic Assistance program number.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Chief of Staff, Department of Veterans Affairs approved this document on July 7, 2013, for publication.

List of Subjects in 38 CFR Part 74

Administrative practice and procedures, Privacy, Reporting and recordkeeping requirements, Small business, Veteran, Veteran-owned small business, Verification.

Dated: August 19, 2013.

Robert C. McFetridge,

Director, Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

Accordingly, the interim final rule amending 38 CFR part 74, which was published on June 27, 2012, at 77 FR 38181, is adopted without change.

[FR Doc. 2013–20488 Filed 8–21–13; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2011–0502; FRL–9900–30–Region 5]

Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; Disapproval of $PM_{2.5}$ Permitting Requirements; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: EPA published a final rule in the **Federal Register** on July 25, 2013, disapproving a Wisconsin State Implementation Plan revision pertaining to permitting requirements relating to particulate matter of less than 2.5 micrometers ($PM_{2.5}$). An error in the amendatory instruction is identified and corrected in this action.

DATES: *Effective Date:* This final rule is effective on August 26, 2013.

FOR FURTHER INFORMATION CONTACT: Christos Panos, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8328, *panos.christos@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA published a final rule document on July 25, 2013, (78 FR 44881) disapproving revisions to Wisconsin rules NR 400, 404, 405, 406, 407, 408 and 484, submitted by the State on May 12, 2011, because the rule revisions submitted are not consistent with Federal regulations governing state permitting programs. In this disapproval EPA erroneously stated that the revision was being made to 40 CFR 52 Subpart P—Indiana, but the language should have said the revision was being made to Subpart YY—Wisconsin. Therefore, the amendatory instruction is being corrected to reflect the corrected subpart reference.

Correction

In the final rule published in the **Federal Register** on July 25, 2013, (78 FR 44881), on page 44884, second column, below amendatory instruction 1, ''Subpart P—Indiana'' is corrected to read: ''Subpart YY—Wisconsin''.

Dated: August 12, 2013.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2013–20416 Filed 8–21–13; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 5

Office of the Secretary of the Interior

43 CFR Part 5

Fish and Wildlife Service

50 CFR Part 27

[NPS–WASO–VRP–09328; PXXVPADO515]

RIN 1024–AD30

Commercial Filming and Similar Projects and Still Photography Activities

AGENCY: National Park Service, Office of the Secretary of the Interior, and Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule implements legislation that directs the Department of the Interior to establish permits and reasonable fees for commercial filming activities or similar projects and certain still photography activities.

DATES: The rule is effective September 23, 2013.

FOR FURTHER INFORMATION CONTACT: Lee Dickinson, Special Park Uses Program Manager, National Park Service, 1849 C Street NW., CODE 2460, Washington, DC 20240, telephone: 202–513–7092 or email: *Lee_Dickinson@nps.gov.*

SUPPLEMENTARY INFORMATION: We published a proposed rule on this subject in the **Federal Register** on August 20, 2007 (72 FR 46426). The proposed rule's comment period ended on October 19, 2007, and resulted in 57 submissions containing 30 distinct comments. We made numerous changes to the rule in response to these comments. These comments and our responses are summarized in this preamble under *Response to Comments.*

Public Law 106–206

- Directs the Secretaries of the Interior and Agriculture to establish a permit system for commercial filming and similar activities.
- Directs the Secretaries to collect an amount to cover agency costs as well as a reasonable fee for the use of Federal

lands based on the size of the film crew, the number of days the permitted activity takes place, the amount and type of equipment present, and other factors.

• Authorizes commercial filming and still photography permits subject to statutory criteria. It is in the public's interest to manage these activities through a permitting process to minimize damage to the cultural or natural resources, prevent interference with other visitors, and promote safety and security. For the purposes of this rule, the term ''commercial filming'' includes commercial videography and other magnetic imaging.

This Rule

• Defines commercial filming and still photography and explains which activities require a permit, thereby ensuring consistency among agencies in the Department of the Interior (DOI).

• Establishes seven factors for denying the request for a permit.

• Allows each of the DOI agencies to impose reasonable permit terms and conditions to mitigate the impact of the activity on agency resources and visitor use and enjoyment and allows the issuing agency to revoke the permit for violation of a permit condition.

• Sets out the financial responsibilities of the permit holder, including payment of the location fee, reimbursement of any costs incurred by the agency as a result of processing the application and monitoring the permitted activity, and maintaining required liability insurance and surety bonds.

Background and Need for Action

The background and need for action were described in detail in the preamble to the proposed rule published in the **Federal Register** on August 20, 2007 (72 FR 46426). As stated in the preamble to the proposed rule, other than renumbering 43 CFR 5.2 and making a technical correction to a citation in that section, this rule does not affect or amend the regulation governing areas administered by the Bureau of Indian Affairs, currently codified at 43 CFR 5.2. The proposed rule's comment period ended on October 19, 2007. DOI received 57 submissions. These comments are summarized below.

Response to Comments

Comment 1: The regulation puts too many restrictions on still photographers and requires most still photographers, including hobbyists and visitors, to obtain a permit and pay fees to photograph on agency lands.

Response: This was not the intent of the proposed regulation. The general rule is that still photography does not require a permit. We have edited the language of 43 CFR 5.3(b) to clarify the still photography permit requirements of Public Law 106–206 and renumbered it as § 5.2(b). This regulation implements the three circumstances listed in the law where a permit for still photography is or may be required. We will require a permit for still photography when the activity uses models, sets, or props, and we may require a permit when the photographer wants to enter an area closed to the public or when on-site management is necessary to protect resources or to avoid visitor conflicts. However, we anticipate that most still photographers will not fall into these categories and will not need a permit to take photographs on lands managed by DOI agencies.

Comment 2: The provisions governing sound recording are too restrictive. Sound recording should not be included in this regulation, since Public Law 106–206 addressed commercial filming and still photography and did not address audio recording.

Response: The previous regulation found at 43 CFR part 5 pertaining to lands we manage included sound recording among the activities that required a permit. Moreover, Public Law 106–206 applies to ''commercial filming activities or similar projects,'' which we interpret to include audio recording. In response to the comments received to the proposed rule, we evaluated the potential impact of sound recording activities on cultural and natural resources and on other visitors. Taking into account the different agency missions and diverse cultural and natural resources, we decided to address the permit requirements for audio recording in agency-specific regulations.

The National Park Service (NPS) and the Fish and Wildlife Service (FWS) will continue to require permits for audio recording activities using criteria similar to those set out in Public Law 106–206 for still photography. Audio recording activities in units of the National Park System and on National Wildlife Refuge lands will require a permit only if the activity takes place in a closed area, involves more than hand-held equipment, or requires agency oversight. The Bureau of Land Management (BLM) has the discretion to manage audio recording under the permit requirements contained in other regulations.

Title 43 CFR Subpart B applies to areas administered by the Bureau of Indian Affairs (BIA). This Subpart was published as part of the proposed rule of August 20, 2007, to make technical corrections to the existing regulation published in 1957. BIA will continue to require a permit for sound recording.

Comment 3: The phrase ''unreasonable disruption of or conflict with the public's use and enjoyment of the site'' used in § 5.4(b) needs to be clarified.

Response: We have renumbered proposed 43 CFR 5.4(b) as § 5.5(b). The term ''unreasonable disruption of the public's use and enjoyment of the site'' comes directly from Public Law 106–206. Authorizing laws for each agency and applicable enabling laws for each Federal land unit determine the primary purposes of Federal management of those sites. A determination of ''unreasonable disruption'' will be made by each BLM field office manager, FWS refuge unit manager, and NPS unit manager based on agency statutes, regulations, policy, and guidance.

Comment 4: The proposed regulation allowing an agency to deny permission to photograph if they feel the photography is ''inappropriate'' or ''incompatible'' is too vague and can be subject to interpretation (§ 5.4(a)(5)).

Response: We have renumbered proposed 43 CFR 5.4(a)(5) as § 5.5(e), which applies to the National Wildlife Refuge System. The statement is based on the requirements of the National Wildlife Refuge System Improvement Act of 1997 (Pub. L. 105–57), which requires that refuge managers discontinue or not approve activities that are inappropriate or incompatible with the refuge's mission. For example, a refuge manager may make a determination that the photography activity is inappropriate or incompatible with the refuge's mission if the activity would negatively impact a threatened species, not on the basis of the possible content of the photograph.

Comment 5: The criteria listed in 43 CFR 5.4(d), (e) and (f) as bases to deny a permit are very broad and quite subjective in their practical application.

Response: We have moved the criteria formerly in proposed 43 CFR 5.4 to § 5.5. The criteria referred to in this comment are all based upon statutory requirements. Sections 5.5(a)–(c) are taken directly from Public Law 106–206 and will be applied by individual land managers in accordance with agency-specific laws, regulations, policy, and guidance.

• Section 5.5(d) is required under the NPS Organic Act, (16 U.S.C. 1 *et seq.).* This legal requirement is interpreted in the ''NPS Management Policies 2006'' section 8.1.1, which states that the NPS will

allow only those uses that are (1) appropriate to the purpose for which the park was established, and (2) can be sustained without causing unacceptable impacts . . . uses that would impair a park's resources, values, or purposes cannot be allowed.

- Section 5.5(e) is based on the National Wildlife Refuge System Improvement Act of 1997, (Pub. L. 105–57), which requires that each refuge be managed to fulfill the mission of the System and the purposes for which the refuge was established. A refuge manager must ensure that a particular use would not interfere with or detract from the mission of the refuge as well as the Refuge System.
- Section 5.5(f) is based on Section 302(b) of the Federal Land Policy and Management Act ((FLPMA), 43 U.S.C. 1732(b)), which requires BLM to prevent unnecessary or undue degradation of BLM-managed lands.

Comment 6: A commenter wanted to know if different levels of commercial use would result in different location fee rates, if rates would be standardized or decided by local jurisdiction, how the location fees were being determined, and how the fees would be spent.

Response: DOI and U.S. Forest Service (USFS) are jointly developing a location fee schedule. In developing the schedule, we are taking into account the current fee schedules used by BLM and USFS, public comments received on a draft location fee schedule previously proposed by the NPS, and discussions with state and local film commissioners and industry representatives. As directed by Congress, the location fee is strictly a fee to provide a ''fair return'' for the use of the Federal lands. No overhead costs or other types of cost recovery costs are included in the fee.

We are publishing the proposed location fee schedule in today's **Federal Register** for public review and comment. Once we have analyzed public comments on the proposed location fee schedule, we will publish a notice in the **Federal Register** announcing the final location fee schedules and the procedure for periodically reviewing the location fee schedule and announcing changes.

Public Law 106–206 requires us to base location fees on the number of days the activity takes place on Federal lands, the size of the crew, the amount of equipment, and other factors that we determine necessary. The proposed location fee schedule creates a per-day charge based on the number of people involved in the commercial filming or still photography activity. Under the proposed schedule, permit holders are charged a lower fee for days when there are fewer people present. For example, if a set-up day involves 20 people and the actual filming day involves 75 people, each day would result in a different fee.

Public Law 106–206 authorizes Federal land management agencies in DOI and USFS to collect a ''fair return'' for the use of lands for commercial filming and certain still photography activities. The law adopts the formula and purposes established in the Recreational Fee Demonstrations Program (Pub. L. 104–134) for use of the funds collected. The funds collected remain available for use at the location where the funds are collected and may be spent only for specific purposes including:

- Backlogged repair and maintenance projects, including those related directly to health and safety;
- Interpretation, signage, habitat, or facility enhancement;
- Resource preservation;
- Maintenance; and
- Law enforcement related to public use and recreation.

Comment 7: A commenter asked that a definition of ''model'' be added. The commenter felt that the section on the use of models, sets, or props would require everyone to get a permit. Visitors should not have to obtain a permit to take pictures of families and friends.

Response: A definition of ''model'' has been added to 43 CFR 5.12 providing that, for the purpose of this regulation, family members or friends not being filmed to promote the sale or use of a product or service are not considered models. Therefore this activity would not require a still photography permit. Filming and photography activities by visitors are addressed in § 5.2(c).

The definition also provides that individuals being photographed for events such as a wedding or a graduation are not considered models and therefore aren't required to have a permit for the still photography activity under those criteria. However, if the activity results in additional cost to the government due to required monitoring of the activity by agency employees, a permit may be required for which location fees and cost recovery charges may be collected. Other laws and regulations may also govern this type of still photography.

Comment 8: A commenter requested that a definition of ''prop'' and ''set'' be added.

Response: We have added a definition of ''props and sets'' in 43 CFR 5.12. Under Public Law 106–206, we must require a permit and establish a reasonable fee for still photography activities that use models or props. In this rule, we have used the terms ''set'' and ''prop'' to cover the use of large backdrops, temporary structures, and other construction that could be added to agency land to alter or enhance the setting. By definition, a camera tripod is not considered a prop. However, the use of a camera tripod could contribute to an agency's decision to require a permit for a still photography activity under § 5.2(b). One example might be still photography activities using a camera and a tripod in an area with limited space where the tripod could create a tripping hazard for other visitors. This activity might need monitoring by agency personnel to ensure visitor safety.

Comment 9: The proposed rule does not appear to require a permit for non-commercial filming that takes place where or when members of the general public are not allowed.

Response: The comment is correct; the rule does not address non-commercial filming because Public Law 106–206 does not address non-commercial filming. Activities such as student films and public service announcements may use models, sets, or props, require access to areas not open to the general public, or require monitoring to avoid resource damage. An amateur videographer might request access to an area not open to the general public. In these cases, the activities are subject to other statutes, regulations, policies, and guidance under which a permit may be required. For example, the NPS would require a person wishing to engage in non-commercial filming in a closed area to obtain a permit under 36 CFR 1.5(d). This regulation addresses photography by visitors in 43 CFR 5.2(c)

Comment 10: Title 43 CFR 5.3(b)(3) and § 5.3(b)(4) appear to be essentially the same thing.

Response: We agree with this comment and have consolidated proposed 43 CFR 5.3(b)(3) and § 5.3(b)(4) into § 5.2(b)(2)(ii).

Comment 11: Commercial filming should only require a permit if it satisfies the same requirements as still photography, i.e., the commercial filming uses models, sets, or props, enters an area closed to the general public, etc.

Response: Public Law 106–206 established different permit requirements for commercial filming and still photography. If a filming project is commercial, then the statute requires that a permit be issued and a fee charged to provide a fair return to the United States for the use of the Federal lands. To determine whether a filming activity is commercial or not,

the agency considers if it is intended for a market audience for the purpose of generating income. However the content of the material does not play a role in determining whether a permit is necessary.

Comment 12: Do not require a permit for commercial filming crews of 3 people or less. Individuals with small amounts of equipment should be explicitly excluded from the provisions of this act.

Response: Public Law 106–206 states that agencies ''shall require a permit . . . for commercial filming activities.'' There is no basis for an exclusion based on crew size or amount of equipment under this statute. While it could be assumed that crews of three people or fewer have less potential for causing resource damage or interfering with the public's use or enjoyment of the site, the agencies governed by this regulation manage and protect some of the nation's most treasured and valuable natural and cultural resources. In many circumstances it is important for land managers to know the specific time and location of certain activities so permit terms and conditions may be used to mitigate the possibility of resource damage or impact to visitors. For example, park units may have limited space, fragile resources, or experience high visitation during a specific time period. Refuges may need to protect nesting areas of threatened or endangered species during certain times of the year. Permit applications for smaller crews with little equipment are likely to require less time to process, thereby incurring less cost for the permit holder. In addition, the size of an activity is reflected in the proposed location fee schedule that is being published separately in the **Federal Register** for public comment.

Comment 13: The purpose and final use of the images, recordings, or video should be irrelevant in determining the need for a permit.

Response: Public Law 106–206 established different permit requirements for still photography and commercial filming activities. Still photography requires a permit only if it meets several distinct criteria created by Congress, which are addressed in 43 CFR 5.2(b). These criteria are based on the potential for the activity to damage natural or cultural resource or interfere with visitors. The intended use of the image is not relevant to the decision to approve a still photography permit application.

The basis for requiring a permit for commercial filming is the commercial nature of the project. To determine whether a filming activity is commercial or not, the agency considers the intended use of the film or video. However, the content of the material does not play a role in the decision to approve or deny a permit request.

Comment 14: The regulation gives local officials the power through the imposition of an inappropriate fee to prevent documentation of a scene or activity that could be construed as critical of the agency.

Response: The decision to approve a request for a commercial filming or still photography permit will be based on the potential impact on cultural and natural resources and values and not on the content of the film or photograph. Title 43 CFR 5.5 provides a list of reasons that would result in the denial of a permit request. We will charge a location fee based on a location fee schedule. Local land managers will be required to use the location fee schedule to determine the correct location fee to charge. As directed by Public Law 106–206, the proposed location fee schedule contains higher fees for larger filming projects.

Comment 15: Still photography is a form of free speech and should not be subject to a permit.

Response: As intended by Congress, most still photographers will not be required to obtain a permit. However, Public Law 106–206 outlines several instances where a permit is either required or may be required by the agency, in recognition of the responsibility of the agencies to protect the resources entrusted to them. The permit ensures that the activity conforms to applicable laws and regulations through permit terms and conditions crafted to minimize damage to natural and cultural resources and disruption of other visitors, while remaining content neutral. This permit program is consistent with statutory as well as constitutional requirements.

Comment 16: Documentaries are a form of news, not commercial filming, and are the product of research, interviews, and analysis. The only difference is the time it takes to produce a finished product.

Response: Documentaries convey information to the viewing public with content that is unique to that production. Requests for filming activities are evaluated for potential impacts on agency resources, operations, and visitor activities. Agencies do not manage or control content through the permitting process. After carefully considering these comments we believe documentaries are commercial in nature and generate income for those involved in the production, and as such are subject to permit requirements, location fees, and cost recovery charges.

Comment 17: Title 43 CFR 5.8 is too vague and gives the administrator unspecified time to respond.

Response: Proposed § 5.8 has been renumbered as § 5.9. The agencies are pledging to process permit applications as quickly as possible. However, because of the varying scope and complexity of the requests and the sensitivity of the agencies' resources, it is impossible to include in the regulation specific time frames for processing applications. Requests may range from a few people as part of the crew to several hundred, from very little equipment to enough equipment to fill several tractor trailers. Permit requests are also subject to the requirements of the National Environmental Policy Act of 1969, the National Historic Preservation Act, and other applicable laws, which may add to the processing time. The proposed activity must be evaluated against the potential impact to the resources of the park, refuge, or district.

Comment 18: Permit costs should be based on the type of land impact and estimated project profits.

Response: Public Law 106–206 instructs agencies to charge a ''fair return to the United States'' based on a number of factors, including the number of days a filming activity takes place on Federal land, the size of the crew, and the amount and type of equipment. The agencies are publishing a proposed location fee schedule for public comment that has lower fees for activities with smaller crews, and higher fees for activities with larger crews. Public Law 106–206 also allows the Secretary to include other appropriate factors in the decision to set location fees. After carefully considering whether to tie location fees to the estimated profit of each project, the agencies concluded this approach was not feasible.

Cost recovery charges will be based on the actual amount of the costs incurred by the Federal agency in receiving and processing the permit request, monitoring by agency personnel, and other costs related to the permitted activity.

Comment 19: A commenter would like to see a permit developed that would allow access to any Federal land under one permit.

Response: An interagency permit would allow permit holders to move easily from one agency's jurisdiction to another. However, each agency has unique resources that must be protected, varying kinds and numbers of visitors, and specific legal mandates that need to

be followed. In addition, agencies only have the legal authority to permit special uses on the lands they manage; they cannot issue a permit for activities on lands managed by another agency.

Comment 20: In 43 CFR 5.7(a), who is responsible for determining what a ''fair return'' to the United States is?

Response: The proposed § 5.7(a) is renumbered as § 5.8(a). The agencies have developed a proposed location fee schedule, which we are publishing separately in today's **Federal Register** for public comment. The proposed location fee schedule is based upon consideration of fees charged by the public and private sectors, comments received on an earlier proposed location fee schedule published by NPS on December 14, 2000, (65 FR 78186), and on the criteria outlined in Public Law 106–206.

Comment 21: A commenter is concerned about the requirement for liability insurance, which is not required by Public Law 106–206. The commenter asked if there will be affordable insurance available on site, similar to when one rents a car.

Response: The agencies have a responsibility to protect the United States from financial loss due to the actions of a permit holder. Under the regulation, a permit holder may be required to obtain insurance in an amount sufficient to protect the United States. Agency officials will determine the necessary level of insurance based on the planned activity and the potential risk to natural and cultural resources as well as other factors. An agency official may determine that the appropriate amount of insurance for low risk activities is zero. Insurance, if required, will not be available through the Federal agency and must be obtained from the private sector.

Comment 22: Fees would impact most heavily those with smaller working budgets, and would make it harder for them to realize a profit.

Response: Consistent with Public Law 106–206, we are proposing a location fee schedule to be published separately in the **Federal Register** that would charge the required fair return for the use of Federal lands. The proposed location fee schedule is based on the number of days the Federal lands are used, the number of people involved, and the amount of equipment. The location fee schedule proposes lower location fees for smaller commercial filming and permitted still photography operations.

Comment 23: Permits and fees should not be required for filming, video, sound recording, or still cameras on Federal lands.

Response: Still photography activities require a permit only in the limited circumstances listed in 43 CFR 5.2(b). Commercial filming and similar projects require a permit in accordance with Public Law 106–206. The term ''similar projects'' in the law has been interpreted by the agencies to include audio recording; however any permit requirements for audio recording will be addressed by each agency individually. The NPS and FWS regulations implementing permit requirements for audio recording are included in this **Federal Register** publication.

Comment 24: News gathering is not a commercial activity; as such, it is not governed by Public Law 106–206 and should not be subject to the regulation.

Response: We agree that news gathering should not be treated in the same manner as other commercial filming activities, and the agencies intend to allow news media access to Federal lands to gather news. However, we may require news-gathering activities to obtain a permit for filming and still photography when time allows and the agency determines that a permit is required to protect agency resources, to avoid visitor use conflicts, to ensure public safety, or authorize entrance into a closed area. Permits issued for news-gathering activities are not subject to cost recovery charges or location fees. We have added a new section, 43 CFR 5.4, to address the permit requirements for news-gathering activities. News-gathering activities may be subject to narrowly tailored permit requirements that protect Federal resources while allowing news-gathering activity.

Coverage of breaking news will not require a permit, since the requirement could interfere with the ability of the news-gathering organization to obtain the story. However, in these cases, our employees may monitor or direct the activities to ensure the safety of the public and the media, to maintain order, and to protect natural and cultural resources.

Comment 25: Several commenters stated that news is more than just breaking news. Moreover, affiliation with a news organization should not be used to exclusively define a news-gathering activity; many freelance film producers are shooting footage for news organizations and their activity should be considered news gathering. It is improper to require the media to pay fees and charges to the government when gathering information in their capacity as media.

Response: We have added a definition for ''news'' and ''news-gathering activities'' in 43 CFR 5.12 in response to this comment. We agree that ''news'' is more than just breaking news. The term ''breaking news'' is a product of the electronic news era when broadcasters would interrupt programming to relay information about unfolding events. Reporters generally cover events as they occur and disseminate the information to the public as soon as possible. We agree that freelance reporters and videographers could be covering ''news'' and would be within the scope of this regulation. When time allows, individuals working in a news-gathering capacity may be required to obtain a permit under this section, but are not subject to location fees and cost recovery charges. The agencies will not include a permit condition that asserts any right or privilege to review, comment upon, or edit any film recorded by a news organization under a permit issued to them under these rules.

Comment 26: The provision in 43 CFR 5.3(c) that news coverage is subject to time, place, and manner restrictions if warranted to maintain order and ensure the safety of the public and the media, and to protect natural and cultural resources, is vague and vests unfettered discretion in the hands of the interpreting official.

Response: We have expanded § 5.3(c) in the proposed regulation and renumbered it as § 5.4. Management of news-gathering activities would be implemented only to ensure the safety of the public and the media, to maintain order, and to protect natural and cultural resources. There is a long legal tradition of allowing time, place, and manner restrictions to satisfy an overriding government interest. Restrictions will be the least restrictive necessary to protect government interests.

Comment 27: A commenter suggested that a registration program be instituted instead of a permitting process. Registration would provide the necessary information so that agencies would be aware of the activity while it was happening and also provide a way to locate any violators later should that be necessary.

Response: Public Law 106–206 requires permits in some circumstances. In addition, the primary purpose of a permit is to establish terms and conditions necessary to protect natural and cultural resources and minimize the potential conflict with other visitors. Applicants sign the permit acknowledging the permit conditions and agreeing to abide by them. The goal of the Federal agencies is first and foremost to protect natural and cultural resources. Locating a violator after the fact does not satisfy that goal.

Comment 28: The proposed regulation is too broad and gives the DOI agencies too much power to restrict access to certain areas by documentary filmmakers, sound recordists, and photographers. These proposed rules could be used to censor information, or to hide the effects of activities in certain areas, such as logging or drilling.

Response: The regulation in 43 CFR 5.5 lists seven specific grounds for denial of a permit request. The decision to approve or deny a request for a commercial filming or still photography permit will not be based on content. Paragraphs (a)–(c) are mandated by Public Law 106–206, paragraph (d) is required by the National Park Service Organic Act and ''National Park Service Management Policies 2006'', paragraph (e) is required by the National Wildlife Refuge System Administration Act, and paragraph (f) is based on Section 302(b) of FLPMA, 43 U.S.C. 1732(b)). Paragraph (g) states that no permit may be issued that violates any law, including the Wilderness Act, (16 U.S.C. 1131–1136).

Federal land managers may not arbitrarily exclude filmmakers or still photographers from specific areas. The reason for the denial of a permit request should be communicated to the applicant in writing and be properly documented in the administrative record.

Comment 29: Commenters were concerned about the potential for censorship, stating that granting permits based on the content of the material and the intended use of the product are open to abuse and create uncertainty and confusion.

Response: The decision to approve or deny a request for a commercial filming permit or still photography permit is not based on the content of the material. Applications for commercial filming activities and still photography are evaluated on the potential impact the activity may have on cultural and natural resources, on other visitors, on agency operations, and on the health and safety of visitors, permittee staff and agency employees. The agencies may not issue permits that authorize an illegal activity or activities likely to cause resource damage

Comment 30: One commenter requested that the rule adopt the definition of a representative of the news media found in 43 CFR 2.3, the regulation governing the DOI Freedom of Information Act procedures.

Response: We agree with the comment and have added the definition. The agencies have also added a definition of news-gathering activities based on the definition found in the Freedom of Information Act (FOIA) (5 U.S.C. 552 (a)(4)(A)(ii)), and the implementing regulations at 43 CFR 2.3 that defines ''news'' as ''. . . information that is about current events or that is (or would be) of current interest to the public . . . .'' FOIA defines news for the purpose of identifying those individuals or organizations that qualify for a waiver of or a reduction in fees.

We acknowledge that gathering and dissemination of news should be afforded the widest possible range of access. However, we have a Congressional mandate to carry out the missions assigned to us, which includes mitigating damage to the cultural and natural resources that we manage. In carrying out this mandate, we may require permits for news-gathering activities when the agency manager feels that a permit is needed to ensure the protection of the agency resources and there is sufficient time is issue the permit without impeding the new-gathering activities.

The agency manager will not require a permit if doing so would impede the news-gathering activity. When a permit is not issued, the news-gathering activity is subject to oral instructions from agency personnel in order to protect cultural and natural resources and to maintain order and ensure the safety of the public, agency personnel, and media representatives.

The terms and conditions of a permit for news-gathering activities will be only those necessary to protect agency cultural and natural resources; to maintain order; and to ensure the safety of the public, agency personnel, and the media. Restrictions will be the least restrictive necessary to protect these government interests. Further, permits will be issued without any cost.

Requests for permits will be processed expeditiously. Permit applications will be evaluated for, and permit conditions imposed based on, potential impacts on cultural and natural resources, as well as potential risks to members of the public, media representatives and agency personnel. The project content will not be a factor in approving the permit, though activities that violate Federal or other applicable law are prohibited.

Changes From the Proposed Rules

Title 43—Public Lands: Interior

The title of the 43 CFR Part 5 was edited to include language from Public Law 106–206.

Section 5.1 What does this subpart cover?

This section was not changed.

Former § 5.2 How are the terms defined in this subpart?

The definitions are now located in § 5.12 at the end of the subpart. The definition of commercial filming was expanded, and definitions of ''news-gathering activities'', ''model'', and ''sets and props'' were added.

Section 5.3 How do I apply for a filming permit?

This new section makes it easier for readers to locate information on how to apply for a permit.

Former § 5.3 When do I need a permit for commercial filming or still photography?

This section has been renumbered as § 5.2. The section was edited to clarify the DOI's position that still photography does not require a permit unless certain criteria are met, which are included in § 5.2(b). We believe that most still photography occurring on departmental lands covered by this regulation will not require a permit. We moved § 5.3(c) in the proposed rule containing permit requirements for news-gathering activities to a new section at § 5.4.

Section 5.4 When is a permit required for news-gathering activities?

This is a new section. We acknowledge that news-gathering activities should have the widest possible access. While allowing access, we must carry out our Congressional mandates, which include minimizing damage to cultural and natural resources that we manage. In carrying out this mandate, we may require permits for news-gathering activities, but permit terms and conditions will be only those necessary to protect agency cultural and natural resources, to maintain order, and to ensure the safety of the public, agency personnel, and the media. The more numerous the crew and the more equipment involved in the news-gathering activity; the more likely the land manager will be to require a permit. Permits will be issued without any cost to the permit holder.

If the news story is such that the requirement for a permit would interfere with the ability of the entity to gather the required footage or photographs, then the permit requirement will be waived, but the activity is still subject to the oral instructions of the agency representative in order to protect cultural and natural resources and to maintain order and ensure the safety of the public, agency personnel, and the media.

Section 5.5 When will an agency deny a permit for commercial filming or still photography?

The section was renumbered from § 5.4 in the proposed regulation. In paragraph (d) the words ''unacceptable impacts'' were added to conform to current National Park Service policy. Paragraph (g) was amended to add a reference to the Wilderness Act (16 U.S.C. 1131–1136).

Section 5.6 What type of permit conditions may the agency impose?

This section was renumbered from § 5.5 in the proposed regulation.

Section 5.7 What are my liability and bonding requirements as a permit holder?

This section was renumbered from § 5.6 in the proposed regulation. The section was edited to show that the agency may accept either a bond or a security.

Section 5.8 What expenses will I incur?

This section was renumbered from § 5.7 in the proposed regulation.

Section 5.9 How long will it take to process my request?

This section was renumbered from section § 5.8 in the proposed regulation. The section was edited to encourage early consultation between the agency and the applicant.

Section 5.10 Can I appeal a decision not to issue a permit?

This is a new section. In most cases decisions to appeal a denial of a permit request may be appealed to the next higher level of management authority, with the specific process and contact information available from the site manager.

Section 5.11 Information Collection

This section was added to address requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Section 5.12 How are terms defined in this subpart?

This section was § 5.2 in the draft regulation. In response to comments received, the definition of commercial filming was expanded, and definitions of news gathering activities, model and sets and props were added.

Sections 5.15 Through 5.18

These sections were not changed. No comments were received on these sections.

Title 50—Wildlife and Fisheries

Section 27.71 Commercial Filming and Still Photography and Audio Recording

The title of this section was changed to better reflect the content of the regulation and to use language from Public Law 106–206. The language from the draft regulation was edited and designated paragraph (a). Paragraph (b) specifically addresses comments received on audio recording, paragraph (c) allows for the enforcement of the regulation, paragraph (d) applies the location fee schedule for still photography to audio recording permits, and paragraph (e) authorizes the use of the cost recovery provisions of Public Law 106–206 and 31 U.S.C. 9701 by the U.S. Fish and Wildlife Service. Paragraph (f) addresses requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Compliance With Other Laws, Executive Orders, and Department Policy

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is significant because it will raise novel legal or policy issues, but it is not economically significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act (RFA)

DOI conducted an economic analysis under the RFA (5 U.S.C. 601 *et seq.*) of the economic effect on small entities of charging location fees for commercial filming and still photography activities conducted on Federal lands managed by several DOI agencies. The economic analysis was conducted using a draft location fee schedule that is being published separately in the **Federal Register** for public comment. We expect no increase in costs or prices for consumers or the Federal government or geographic regions, and only minor increases for individual industries and State and local governments and agencies.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the SBREFA. This rule:

a. Does not have an annual effect on the economy of $100 million or more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act (UMRA)

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*), is not required.

Takings (Executive Order 12630)

Under the criteria in section 2 of Executive Order 12630, this rule does not have significant takings implications. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism summary impact statement. A Federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written

in clear language and contain clear legal standards.

Consultation With Indian Tribes (Executive Order 13175 and Department Policy)

The DOI strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on federally recognized Indian tribes and that consultation under the Department's tribal consultation policy is not required.

Paperwork Reduction Act (PRA)

This regulation requires individuals, entities, and companies wishing to do commercial filming and certain still photography activities on public lands to obtain a permit from the agency managing the public land. The permit holder is also responsible for reimbursing the agency for costs incurred and to pay a land use fee. The mechanics of applying for the permit and the forms involved are not addressed in this regulation, but are addressed in existing agency regulations and internal guidance. These existing information collections have the required OMB approval under the PRA.

The NPS uses application forms NPS 10–931 (Film—Short Form) and NPS 10–932 (Film—Long Form). Both forms are assigned OMB Control Number 1024–0026. BLM uses OMB-approved BLM Form 2920–1 (Land Use Application and Permit), which is assigned OMB Control Number 1004–0009. The FWS currently uses two application forms for commercial filming and still photography: FWS Form 1383–C (Permit Application Form: National Wildlife Refuge System Commercial Activities Special Use) and FWS Form 1383–G (Permit Application Form: National Wildlife Refuge System General Special Use). OMB has reviewed and approved both of these forms and assigned OMB Control No. 1018–0102, which expires June 30, 2014. These regulations do not contain additional information collection requirements that OMB must approve under the Paperwork Reduction Act of 1995, (44 U.S.C. 3501 *et seq.*). We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act (NEPA)

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the NEPA Act of 1969 is not required because the rule is covered by a categorical exclusion. This rule is excluded from the requirement to prepare a detailed statement because its environmental effects are too broad to lend themselves to meaningful analysis and will later be subject to the NEPA process. (For further information see 43 CFR 46.210(i)). We have also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

The location fee authorized by Public Law 106–206 and governed by this regulation is a fee collected for the use of Federal land through a permit issued by the responsible agency for a commercial filming or still photography activity. Any analysis required by NEPA, as well as the National Historic Preservation Act, would be conducted in conjunction with the permitting process and would evaluate the impact of the requested activity on the resource.

Effects on the Energy Supply (Executive Order 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

List of Subjects

36 CFR Part 5

Alcohol and alcoholic beverages, Business and industry, Civil rights, Equal employment opportunity, Motion pictures, National Parks, Recordings, Still photography, Transportation.

43 CFR Part 5

Motion pictures, Still photography, Television.

50 CFR Part 27

Wildlife refuges.

For the reasons set forth in the preamble, we amend 36 CFR Part 5, 43 CFR Part 5, and 50 CFR Part 27 as follows:

Title 36—Parks, Forests, and Public Property

CHAPTER I—NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

PART 5—COMMERCIAL AND PRIVATE OPERATIONS

■ 1. The authority citation for part 5 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 17j–2, 462.

■ 2. Section 5.5 is revised to read as follows:

§ 5.5 Commercial filming, still photography, and audio recording.

(a) Commercial filming and still photography activities are subject to the provisions of 43 CFR part 5, subpart A. Failure to comply with any provision of 43 CFR part 5 is a violation of this section.

(b) Audio recording does not require a permit unless:

(1) It takes place at location(s) where or when members of the public are generally not allowed;

(2) It uses equipment that requires mechanical transport;

(3) It uses equipment that requires an external power source other than a battery pack; or

(4) The agency would incur additional administrative costs to provide management and oversight of the permitted activity to:

(i) Avoid unacceptable impacts and impairment to resources or values; or

(ii) Minimize health or safety risks to the visiting public.

(c) Cost recovery charges associated with processing the permit request and monitoring the permitted activity will be collected.

(d) The location fee schedule for still photography conducted under a permit issued under 43 CFR part 5 applies to audio recording permits issued under this part.

(e) *Information collection.* The Office of Management and Budget (OMB) has approved the information collection requirements associated with National Park Service commercial filming permits and assigned OMB Control Number 1024–0026. Your response is required to obtain or retain a benefit. We may not collect or sponsor and you are not required to respond to an information collection unless it displays a currently valid OMB control number. You may send comments on this information collection requirement to the Information Collection Clearance Officer, National Park Service, 1849 C Street, Washington, DC 20240.

Title 43—Public Lands: Interior

Subtitle A—Office of the Secretary of the Interior

■ 3. Part 5 is revised to read as follows:

PART 5—COMMERCIAL FILMING AND SIMILAR PROJECTS AND STILL PHOTOGRAPHY ON CERTAIN AREAS UNDER DEPARTMENT JURISDICTION

Subpart A—Areas Administered by the National Park Service, the Bureau of Land Management, and the U.S. Fish and Wildlife Service

Sec.
5.1 What does this subpart cover?
5.2 When do I need a permit for commercial filming or still photography?
5.3 How do I apply for a permit?
5.4 When is a permit required for news-gathering activities?
5.5 When will an agency deny a permit for commercial filming or still photography?
5.6 What type of permit conditions may the agency impose?
5.7 What are my liability and bonding requirements as a permit holder?
5.8 What expenses will I incur?
5.9 How long will it take to process my request?
5.10 Can I appeal a decision not to issue a permit?
5.11 Information collection.
5.12 How are terms defined in this subpart?

Subpart B—Areas Administered by the Bureau of Indian Affairs

5.15 When must I ask permission from individual Indians to conduct filming and photography?
5.16 When must I ask permission from Indian groups and communities?
5.17 When must I get a lease or permit?
5.18 What wages must I pay to Indian employees?

Authority: 5 U.S.C. 301; 16 U.S.C. 1–3, 3a, 668dd–ee, 715i, 460*l*–6d; 25 U.S.C. 2; 31 U.S.C. 9701; 43 U.S.C. 1701, 1732–1734, 1740.

§ 5.1 What does this subpart cover?

This subpart covers commercial filming and still photography activities on lands and waters administered by the National Park Service, the Bureau of Land Management, and the U.S. Fish and Wildlife Service.

§ 5.2 When do I need a permit for commercial filming or still photography?

(a) All commercial filming requires a permit.

(b) Still photography does not require a permit unless:

(1) It uses a model, set, or prop as defined in § 5.12; or

(2) The agency determines a permit is necessary because:

(i) It takes place at a location where or when members of the public are not allowed; or

(ii) The agency would incur costs for providing on-site management and oversight to protect agency resources or minimize visitor use conflicts.

(c) Visitors do not require a permit for filming or still photography activities unless the filming is commercial filming as defined in § 5.12 or the still photography activity involves one of the criteria listed in § 5.2 (b).

§ 5.3 How do I apply for a permit?

For information on application procedures and to obtain a permit application, contact the site manager at the location at which you seek to conduct commercial filming or still photography activities.

§ 5.4 When is a permit required for news-gathering activities?

(a) *Permit requirements.* News-gathering activities involving filming, videography, or still photography do not require a permit unless:

(1) We determine a permit is necessary to protect natural and cultural resources, to avoid visitor use conflicts, to ensure public safety or authorize entrance into a closed area; and

(2) Obtaining a permit will not interfere with the ability to gather the news.

(b) *Terms and conditions.* All permits issued under this section will include only terms and conditions necessary to maintain order, ensure the safety of the public and the media, and protect natural and cultural resources.

(c) *Exemptions.* A permit issued for news-gathering activities is not subject to location fees or cost recovery charges.

§ 5.5 When will an agency deny a permit for commercial filming or still photography?

We will deny a permit authorizing commercial filming or still photography if we determine that it is likely that the activity would:

(a) Cause resource damage;

(b) Unreasonably disrupt or conflict with the public's use and enjoyment of the site;

(c) Pose health or safety risks to the public;

(d) Result in unacceptable impacts or impairment to National Park Service resources or values;

(e) Be inappropriate or incompatible with the purpose of the Fish and Wildlife Service refuge;

(f) Cause unnecessary or undue degradation of Bureau of Land Management lands; or

(g) Violate the Wilderness Act (16 U.S.C. 1131–1136) or any other applicable Federal, State, or local law or regulation.

§ 5.6 What type of permit conditions may the agency impose?

(a) We may impose permit conditions including, but not limited to, conditions intended to:

(1) Protect the site's values, purposes, and resources, and public health and safety; and

(2) Prevent unreasonable disruption of the public's use and enjoyment.

(b) We may revoke your permit if you violate a permit condition.

§ 5.7 What are my liability and bonding requirements as a permit holder?

(a) *Liability.* In accepting a permit, you agree to be fully liable for any damage or injury incurred in connection with the permitted activity, and to indemnify and hold harmless the United States of America as a result of your actions. We may require you to obtain property damage, personal injury, commercial liability or public liability insurance in an amount sufficient to protect the United States from liability or other claims arising from activities under the permit. The insurance policy must name the United States of America as an additional insured.

(b) *Bond.* You are responsible for all response, repair and restoration if your activity causes damage to an area. We may also require you to provide a bond or other security sufficient to secure any obligations you may have under the permit and applicable laws and regulations, including the cost of repair, reclamation, or restoration of the area. The amount of the bond or security must be in an amount sufficient to provide full payment for the costs of response and restoration, reclamation, or rehabilitation of the lands in the event that you fail to adequately repair, reclaim, or restore the area as directed by the agency. If the amount of the bond or other security is inadequate to cover cost of the repair, reclamation, or restoration of the damaged lands or resources you will also be responsible for the additional amount.

§ 5.8 What expenses will I incur?

You must pay us a location fee and reimburse us for expenses that we incur, as required in this section.

(a) *Location fee.* (1) For commercial filming and still photography permits, we will require a reasonable location fee that provides a fair return to the United States.

(2) The location fee charged is in lieu of any entrance or other special use fees. However, the location fee is in addition to any cost recovery amount assessed in paragraph (b) of this section and represents a fee for the use of Federal

lands and facilities and does not include any cost recovery.

(3) We will assess location fees in accordance with a fee schedule, which we will publish in the **Federal Register** and also make available on the internet and at agency field offices. The location fee does not include any cost recovery.

(b) *Cost recovery.* You must reimburse us for actual costs incurred in processing your request and administering your permit. We will base cost recovery charges upon our direct and indirect expenses including, but not limited to, administrative costs for application processing, preproduction meetings and other activities, on-site monitoring of permitted activities, and any site restoration.

§ 5.9 How long will it take to process my request?

We will process applications for commercial filming and still photography permits in a timely manner. Processing times will vary depending on the complexity of the proposed activity. A pre-application meeting with agency personnel is encouraged and may assist us in processing your request for a permit more quickly. For information on application procedures contact the appropriate agency field office.

§ 5.10 Can I appeal a decision not to issue a permit?

Yes. If your request for a permit is denied, the site manager issuing the denial will inform you of how and where to appeal.

§ 5.11 Information collection.

The information collection requirements contained in this subpart have been approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3501 *et seq.,* and assigned the following OMB clearance numbers: 1024–0026 for the National Park Service, 1004–0009 for the Bureau of Land Management and 1018–0102 for the Fish and Wildlife Service. This information is being collected to provide land managers data necessary to issue permits for commercial filming or still photography permits on Federal lands. This information will be used to grant administrative benefits. The obligation to respond is required in order to obtain a benefit. You may send comments on this information collection requirement to the Departmental Information Collection Clearance Officer, U.S. Department of the Interior, 1849 C Street NW., MS3530, Washington, DC 20240.

§ 5.12 How are terms defined in this subpart?

The following definitions apply to this subpart:

Agency, we, our, or us means the National Park Service, the Bureau of Land Management, and the U.S. Fish and Wildlife Service, as appropriate.

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.

Cost recovery means the money that an agency collects as reimbursement for actual costs it incurred to permit a particular activity, including but not limited to, accepting and processing a permit application and monitoring the permitted commercial filming or still photography activity.

Location fee means a land or facility use fee similar to rent that provides a fair return to the United States for the use of Federal lands or facilities when used for:

(1) Commercial filming activities or similar projects; and

(2) Still photography activities where a permit is required.

Model means a person or object that serves as the subject for commercial filming or still photography for the purpose of promoting the sale or use of a product or service. Models include, but are not limited to, individuals, animals, or inanimate objects, such as vehicles, boats, articles of clothing, and food and beverage products, placed on agency lands so that they may be filmed or photographed to promote the sale or use of a product or service. For the purposes of this part, portrait subjects such as wedding parties and high school graduates are not considered models, if the image will not be used to promote or sell a product or service.

News means information that is about current events or that would be of current interest to the public, gathered by news-media entities for dissemination to the public. Examples of news-media entities include, but are not limited to, television or radio stations broadcasting to the general public and publishers of periodicals (but only if such entities qualify as disseminators of ''news'') who make their products available for purchase by or subscription by or free distribution to the general public.

(1) As methods of news delivery evolve (for example, the adoption of the electronic dissemination of newspapers through telecommunications services), these alternative media will be considered to be news-media entities.

(2) A freelance journalist is regarded as working for a news-media entity if the journalist can demonstrate a solid basis for expecting publication through that entity, even if the journalist is not actually employed by the entity. A contract would present a solid basis for such an expectation; we may also consider the past publication record of the requester in making such a determination.

News-gathering activities means filming, videography, and still photography activities carried out by a representative of the news media.

Permit means a written authorization to engage in uses or activities that are otherwise prohibited or restricted.

Representative of the news media means any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.

Resource damage means harm to the land or its natural or cultural resources that cannot reasonably be mitigated or reclaimed.

Sets and props means items constructed or placed on agency lands to facilitate commercial filming or still photography including, but not limited to, backdrops, generators, microphones, stages, lighting banks, camera tracks, vehicles specifically designed to accommodate camera or recording equipment, rope and pulley systems, and 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. The use of a camera on a tripod, without the use of any other equipment, is not considered a prop.

Still photography means the capturing of a still image on film or in a digital format.

Videography means the process of capturing moving images on electronic media, e.g., video tape, hard disk or solid state storage.

Subpart B—Areas Administered by the Bureau of Indian Affairs

§ 5.15 When must I ask permission from individual Indians to conduct filming and photography?

Anyone who desires to go on to the land of an Indian to make pictures, television productions, or soundtracks

is expected to observe the ordinary courtesy of first obtaining permission from the Indian and of observing any conditions attached to this permission.

§ 5.16 When must I ask permission from Indian groups and communities?

Anyone who desires to take pictures, including motion pictures, or to make a television production or a soundtrack of Indian communities, churches, kivas, plazas, or ceremonies performed in these places, must:

(a) Obtain prior permission from the proper officials of the place or community; and

(b) Scrupulously observe any limitations imposed by the officials who grant the permission.

§ 5.17 When must I get a lease or permit?

If filming pictures or making a television production or a soundtrack requires the actual use of Indian lands, you must obtain a lease or permit under 25 CFR part 162.

§ 5.18 What wages must I pay to Indian employees?

Any motion picture or television producer who obtains a lease or permit for the use of Indian land under 25 CFR part 162 must pay a fair and reasonable wage to any Indian employed in connection with the production.

Title 50—Wildlife and Fisheries

SUBCHAPTER C—THE NATIONAL WILDLIFE REFUGE SYSTEM

PART 27—PROHIBITED ACTS

■ 4. The authority citation for part 27 is revised to read as follows:

Authority: 5 U.S.C. 685, 752, 690d; 16 U.S.C. 460k, 460*l*–6d, 664, 668dd, 685, 690d, 715i, 715s, 725; 43 U.S.C. 315a.

■ 5. The heading for subpart G is revised to read as follows:

Subpart G—Disturbing Violations: Filming, Photography, and Light and Sound Equipment

■ 6. Section 27.71 is revised to read as follows:

§ 27.71 Commercial filming and still photography and audio recording.

(a) We authorize commercial filming and still photography on national wildlife refuges under the provisions of 43 CFR part 5.

(b) Audio recording does not require a permit unless:

(1) It takes place at location(s) where or when members of the public are not allowed;

(2) It uses equipment that cannot be carried or held by one person;

(3) It uses equipment that requires an external power source; or

(4) We would incur additional administrative costs to provide management and oversight of the permitted activity to:

(i) Avoid unacceptable impacts and impairment to wildlife or resource values;

(ii) Minimize health or safety risks to the visiting public

(c) Failure to comply with any provision of 43 CFR part 5 is a violation of this section.

(d) The location fee schedule for still photography conducted according to a permit issued under 43 CFR part 5 will apply to audio recording permits issued under this part.

(e) We will collect and retain cost recovery charges associated with processing permit requests and monitoring the permitted activities.

(f) *Information collection.* A Federal agency may not conduct or sponsor and you are not required to respond to a collection of information, unless it displays a currently valid Office of Management and Budget (OMB) control number. The information collection requirements contained in this section have been approved by the OMB under 44 U.S.C. 3501 *et seq.* and assigned control number 1018–0102. The information is being collected to provide agency managers data necessary to issue permits and grant administrative benefits. The obligation to respond is required to obtain or retain a benefit. You may send comments on this information collection requirement to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 1849 C Street NW., Mailstop 2042–PDM, Washington, DC 20240.

David J. Hayes,

Deputy Secretary of the Interior.

[FR Doc. 2013–20441 Filed 8–21–13; 8:45 am]

BILLING CODE 4312–EJ–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

47 CFR Part 300

[Docket Number: 130809702–3702–01]

RIN 0660–AA27

Revision to the Manual of Regulations and Procedures for Federal Radio Frequency Management

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: The National Telecommunications and Information Administration (NTIA) is making certain changes to its regulations, which relate to the public availability of the Manual of Regulations and Procedures for Federal Radio Frequency Management (NTIA Manual). Specifically, NTIA is releasing a new edition of the NTIA Manual, which Federal agencies must comply with when requesting use of radio frequency spectrum.

DATES: This regulation is effective on August 22, 2013. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of August 22, 2013.

ADDRESSES: A reference copy of the NTIA Manual, including all revisions in effect, is available in the Office of Spectrum Management, 1401 Constitution Avenue NW., Room 1087, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: William Mitchell, Office of Spectrum Management at (202) 482–8124 or *wmitchell@ntia.doc.gov*.

SUPPLEMENTARY INFORMATION:

Background

NTIA authorizes the U.S. Government's use of radio frequency spectrum. 47 U.S.C. 902(b)(2)(A). As part of this authority, NTIA developed the NTIA Manual to provide further guidance to applicable federal agencies. The NTIA Manual is the compilation of policies and procedures that govern the use of the radio frequency spectrum by the U.S. Government. Federal government agencies are required to follow these policies and procedures in their use of spectrum.

Part 300 of title 47 of the Code of Federal Regulations provides information about the process by which NTIA regularly revises the NTIA Manual and makes public this document and all revisions. Federal agencies are required to comply with the specifications in the NTIA Manual when requesting frequency assignments. *See* 47 U.S.C. 901 *et seq.,* Executive Order 12046 (March 27, 1978), 43 FR 13349, 3 CFR 1978 Comp. at 158.

This rule updates section 300.1(b) of title 47 of the Code of Federal Regulations to specify the edition of the NTIA Manual that federal agencies must comply with when requesting frequency assignments. In particular, this rule amends § 300.1(b) by replacing ''2008 edition of the NTIA Manual, as revised through May 2012'' with ''2013 Edition