



# National Press Photographers Association

1100 M&T Center • 3 Fountain Plaza • Buffalo, NY 14203  
Phone: 716.566.1484 • Fax: 716.608.1509  
[lawyer@nppa.org](mailto:lawyer@nppa.org)

## **Via Email**

February 4, 2015

Fairfax County Park Authority  
Public Information Office  
12055 Government Center Parkway, Suite 927  
Fairfax, VA 22035-1118

### **RE: Proposed Photography Permits & Fees**

To the Fairfax County Park Authority Board:

The undersigned news organizations, photographers' organizations and First Amendment advocacy groups wish to express our strong objections to the Fairfax County Park Authority's (FCPA) proposed permit and fee structure and the abridgments they would impose on the First Amendment rights of citizens and visual journalists.

Your proposed rules create an unnecessary and burdensome distinction between amateur and professional photographers. Whether the images being made and recorded are for journalism, weddings or any other type of photography/filming (hereinafter "photography"), distinguishing between professional photographers and amateurs who are doing precisely the same things, at the same times, and in the same places, is arbitrary, capricious and unconstitutional. As we have noted in comments regarding federal legislation governing photography on U.S. Park lands – the focus should be on whether the activity places an unusual burden on the land resource. It is also important to note that most major municipalities in the U.S. where photography occurs, have adopted a similar approach to the one we are recommending that protects the constitutional rights of all parties.

Our opposition to the currently proposed language that "all professional photographers are required to obtain a professional photography permit" and that "with the permit you will have a scheduled use of the park area, avoiding conflicts with other groups and events" is based upon its being overly broad and vague while at the same time imposing a time-table for such activity. Additionally, the 5 day permit processing period proposed for FCPA approval creates a potential prior restraint on photography of all types.

We believe that the proper question to ask is whether the photography creates any unusual impact on the land. If the activity presents no more impact on the land than that of the general public, then it should be exempt from permit and fee requirements. A permit should only be required if the photography takes place at locations where members of the public are not allowed, or if the photography substantially impedes public access to areas where the public is normally allowed -- and then only when the photography is clearly commercial in nature. If the primary

purpose is to inform the public, then no permit or fee should be required – and unless the photography is clearly commercial, the default is that it should be considered informational.

Unfettered access is necessary in coverage of the important public policy issues that arise in the conservation and use of public park resources. Journalists should be free to report to the public on public issues from public lands at any time. That protection should extend not only to individuals traditionally identified as newsgatherers, but also for freelance visual journalists and members of the public who may use cameras on a speculative basis to photograph or film activities on public lands without having an assured media outlet for their work.

Therefore, we strongly urge the FCPA to revise its proposed rules accordingly to craft an unambiguously worded policy that protects not only park resources but our First Amendment guarantees.

Thank you very much for your time and attention in this matter. We look forward to your response.

Sincerely,

*Mickey H. Osterreicher*

Mickey H. Osterreicher  
NPPA General Counsel

*On behalf of:*

American Photographic Artists  
American Society of Media Photographers  
American Society of News Editors  
Associated Press Media Editors  
Association of Alternative Newsmedia  
Graphic Artists Guild  
North American Nature Photography Association  
PACA Digital Media Licensing Association  
Radio Television Digital News Association  
Reporters Committee for Freedom of the Press  
Society of Environmental Journalists  
Society of Professional Journalists  
White House News Photographers Association