



Jacob Hoogland

04/03/2008 09:15 PM EDT

To: Jerry Case/WASO/NPS

cc: Jennifer Lee/WASO/NPS, Bert Frost/WASO/NPS, Mary Foley/Boston/NPS, Karen Taylor-Goodrich/WASO/NPS, Don Coelho/WASO/NPS

Subject: Applicability of CE for Firearms Regulation Revision

Jerry:

As you know, the NPS NEPA procedures provide for a Categorical Exclusion (CE) for some types of modification or revisions to existing regulations. Specifically, the language states that a CE applies in cases of:

"Modifications or revisions to existing regulations, or the promulgation of new regulations for NPS administered areas, provided the modifications, revisions or new regulations do not:

- (a) increase public use to the extent of compromising the nature and character of the area or cause physical damage to it.
- (b) introduce non-compatible uses that might compromise the nature and characteristics of the area or cause physical damage to it.
- (c) conflict with adjacent ownerships or land uses.
- (d) cause a nuisance to adjacent owners or occupants."

In addition to determining whether a CE applies, the NPS must also look to the DOI provisions concerning extraordinary circumstances. The DOI revised the list of extraordinary circumstances in 2004. That listing provides that:

"Extraordinary circumstances exist for individual actions within CXs which may:

- 2.1 Have significant impacts on public health or safety.
- 2.2 Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.
- 2.3 Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].
- 2.4 Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.
- 2.5 Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.
- 2.6 Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.
- 2.7 Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the bureau or office.
- 2.8 Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.

2.9 Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.

2.10 Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).

2.11 Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).

2.12 Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112)."

With the proposed revision to the firearms regulation we are faced with a situation similar to the NPS position in the *Edmonds Institute v. Babbitt*. There the NPS invoked the use of a categorical exclusion in a proposed first time implementation of a "Cooperative Research and Development" agreement. The Court there indicated that it was likely that the extraordinary circumstances would apply and required additional NEPA evaluation in the form of either an EA or an EIS.

As in the *Edmonds* case, the proposed modification to the firearms regulation may result in actions that could trigger many of the extraordinary circumstances described under the DOI's procedures. Because of this, at minimum an Environmental Assessment should be prepared on the proposed revision to the existing firearms regulation.

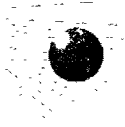
I would be happy to talk with you about this, or provide you additional information.

Thanks


Jake

Jacob J. Hoogland  
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**Kenneth  
Stansell/ARL/R9/FWS/DOI**  
05/14/2008 02:06 PM

To Mark Chase/NWRS/R9/FWS/DOI@FWS  
cc Denise\_Sheehan@fws.gov, Geoff  
Haskett/NWRS/R9/FWS/DOI@FWS, jim\_kurth@fws.gov,  
Michael Schwartz/ARL/R9/FWS/DOI@FWS  
bcc  
Subject Re: Firearms rule 


Looks fine to me, relative to the contract, I don't think the AS is that committed to FS contract, atleast not what I got from him last. I will forward that e-mail. But up to them NPS is paying whatever they do.

Ken

Kenneth B. Stansell  
Deputy Director  
U.S. Fish and Wildlife Service  
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Kenneth\_Stansell@fws.gov

Mark Chase/NWRS/R9/FWS/DOI

**Mark  
Chase/NWRS/R9/FWS/DOI**  
05/14/2008 01:09 PM

To Michael Schwartz/ARL/R9/FWS/DOI@FWS, Geoff  
Haskett/NWRS/R9/FWS/DOI@FWS, jim\_kurth@fws.gov  
cc Denise\_Sheehan@fws.gov, Kenneth\_Stansell@fws.gov  
Subject Re: Firearms rule 

Thank you, Michael,

Good Summary. I have forwarded to Geoff and Jim.

**Michael Schwartz/ARL/R9/FWS/DOI**

05/14/2008 12:48 PM

To Kenneth\_Stansell@fws.gov  
cc Denise\_Sheehan@fws.gov, Mark Chase/NWRS/R9/FWS/DOI@FWS  
Subject Firearms rule

Ken:

Mark Chase and I attended a meeting with David Verhey, NPS, and a bunch of lawyers. This note is a quick summary. Mark, I won't be insulted if you want to add or suggest we didn't hear the same thing.

#### 1. NEPA

The rule was published before they did any NEPA analysis. Last week, I pointed out that this is a procedural flaw. David is trying to determine whether to do an EA, EIS, or categorical exclusion. The last would be a beefed up version. There was no decision. Even an EA will delay the rule considerably.

David may call a meeting to discuss the approach whatever NEPA document the Department decides to do. I suggest that the Service send a NEPA specialist to that meeting. Pat Carter? Leslie Marler?

#### 2. Tribal Consultation

Edith Blackwell spoke about tribal consultation. Nothing definitive but I think the leaning is toward having a few regional meetings with tribes. We could probably have the nearest regional office do whatever we have to do. Mark may be attending them.

Additional item--After the meeting, I verified with Verhey that AS is pretty committed to contracting with FS

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Chief, Division of Policy and Directives Management  
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# United States Department of the Interior

NATIONAL PARK SERVICE  
1849 C Street, N.W.  
Washington, D.C. 20240

IN REPLY REFER TO:  
W46 (2465)

JUL 31 2007

Dr. J.S. McElhinney, III  
3680 Grant Drive Suite D  
Reno, NV 89509-5350

Dear Dr. McElhinney:

Thank you for your May 18, 2007, letter regarding the National Park Service (NPS) firearms regulations. Your letter has been referred to us for response by the offices of Senator Ensign and Reed. We apologize for our delay in responding. However, we wanted to ensure that the issue received the appropriate consideration.

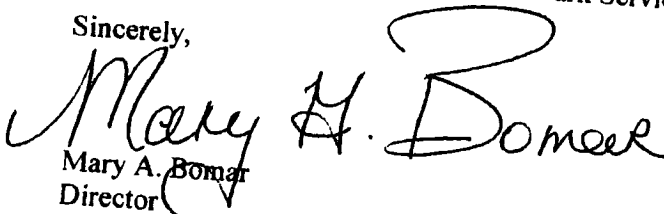
Over the past several months, the National Rifle Association, a local advocacy group, and individuals have asked the NPS to alter its existing firearms regulations in order to allow concealed carrying of firearms within NPS areas. The NPS has met with these organizations on several occasions to listen to their concerns and engage in constructive dialogue about this issue.

Our examination shows that the crime rates in our national park areas are very low. In 2006, there were over 270 million visits to NPS areas and 384 violent crimes recorded by the NPS, including the United States Park Police which focuses the majority of its law enforcement efforts in metropolitan areas such as Washington, D.C., New York City, and San Francisco. While these numbers represent a low probability, we recognize any amount of violent crime in our national parks is a concern.

Additionally, some of these groups and individuals state the need for self-protection from wildlife. With over 1.3 billion visits to NPS areas since 2002, there have been two reported fatalities and 16 serious injuries resulting from encounters with non-domestic animals.

We believe that the regulations provide necessary and consistent enforcement parameters throughout the National Park System. Under current regulations, individuals may legally transport firearms through NPS areas as long as the firearms are not readily accessible and functional. We will monitor this issue closely as part of our continuous examination of policies and regulations to ensure that the interests of the American public and the mission of the National Park Service are being fulfilled as effectively as possible.

Sincerely,

  
Mary A. Bomar  
Director

cc: The Honorable John Ensign, United States Senate  
The Honorable Harry Reid, United States Senate

DOI-2009-01215



# United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240



AUG 22 2008

## Memorandum

To: Director, Fish and Wildlife Service  
Director, National Park Service

From: Assistant Secretary for Fish and Wildlife and Parks

Subject: Update of Firearms Policies

As you know, the Department has developed proposed regulations to update firearms policies on lands managed by the National Park Service (NPS) and United States Fish and Wildlife Service (FWS). We published this proposal in April 2008, and permitted the public to submit comments until June 30, 2008. At the request of two members of Congress, we later re-opened the public comment period for an additional 30 days, which came to a close on August 8, 2008. The FWS informed us that the Department has received over 90,000 comments.

Our objective is to publish a final rule by the first week of October. Mindful of this deadline, we have been meeting regularly with Jerry Case (NPS) and Michael Schwartz (FWS) to manage the regulatory process and to develop a work plan for the comment analysis. We have also discussed the need for additional staff to assist the NPS and FWS with comment analysis.

This proposed rule is one of my top priorities, and I believe that we need to give special attention to completing the comment analysis in an expeditious manner. Accordingly, I have asked my Special Assistant, Robert L. Williams, Jr., to work with the NPS and FWS to complete this task on or before September 12, 2008. Since our office is not in a position to accomplish this task by itself, I also ask that you provide further support by assigning at least two (2) additional employees to assist Mr. Williams as he works with Mr. Case and Mr. Schwartz to meet the stated deadline. Please make this assignment within two working days of this memorandum.

Thank you in advance for your cooperation and support in this matter. Please feel free to contact me directly if you have any questions or concerns.

cc: Deputy Directors

DOI-2009-01350