

## A Brief History of National Park Service Regulations on Firearms

### 1. The Current NPS Regulation on Firearms

The National Park Service (NPS) promulgated the current regulation on weapons on June 30, 1983 as part of a thorough revision of NPS rules (48 Federal Register (FR) 30252-30296). The current regulation is found at 36 CFR 2.4. The current regulation defines “weapons” to include “firearms.” 36 CFR 1.4.

In general, the current regulation prohibits the possession of weapons in parks but provides several significant exceptions. One of the most significant exceptions allows the possession of weapons in vehicles or in temporary lodging if the weapon is temporarily inoperable or is packed, cased or stored. Thus the current NPS rule does not impose a general ban on the possession of weapons or firearms.

The current regulations is:

- (a)(1) Except as otherwise provided in this section...the following are prohibited:
  - (i) possession of a weapon, trap or net
  - (2) Weapons, traps or nets may be carried...:
    - (i) At designated times and locations in park areas where:
      - (A) The taking of wildlife is authorized by law...
        - (ii) When used for target practice...pursuant to special regulations.
        - ....
        - (iii) Within a residential dwelling.
  - (3) Traps, nets and unloaded weapons may be possessed within a temporary lodging or mechanical mode of conveyance when such implements are rendered temporarily inoperable or are packed, cased or stored in a manner that will prevent their ready use.

The NPS stated in the proposed rulemaking of March 17, 1982 that “[T]he proposed regulations have been designed to ensure public safety and provide maximum protection of natural resources by limiting the opportunity for unauthorized use of weapons...” 47 FR 11602

The NPS explains the broad exceptions in the proposed rule by saying “...[T]he proposed regulations (at 2.4) recognize that the travelling public often possesses property that is unrelated to their visit to a party (*sic*) area. Accordingly the regulations provide that properly stored, unloaded weapons may be possessed within or upon a mode of transportation, or within a temporary lodging such as a motel room or tent.” 47 FR 11602

In the Final rulemaking of June 30, 1983, the NPS responded to several commenters who requested “...that this section (2.4) be revised to prohibit the carrying of weapons or guns in park areas where hunting is not permitted.” The NPS rejected the requests, stating “[T]he Service has determined that it is not feasible to prohibit the possession of weapons

in all situations, and a total prohibition would be unenforceable. The regulation, therefore, allows the possession of unloaded weapons within residential dwellings and temporary lodgings, such as a motel room, and within or upon a mechanical mode of transportation.” 48 FR 30256.

## **2. The 1966 Firearms Regulation**

Prior to the 1983 regulations, the NPS last adopted system-wide regulations in 1966. The regulations of 1966 contained a provision on the possession of weapons at 36 CFR section 2.11. Under the 1966 regulations, the NPS prohibited the possession of firearms, traps, nets, and weapons in “natural and historical areas” of the national park system. “In recreational areas the above referenced items may be used or possessed in accordance with applicable Federal, State or local law.” 47 FR 11602

The 1966 regulation states:

2.11. Firearms, traps, and other weapons.

(a) In natural and historical areas and national parkways the use of...firearms...is prohibited. The possession of such objects or implements is prohibited unless they are unload (sic) and adequately cased, or broken down or otherwise packed in such a way as to prevent their use while in the park areas....

(b) In recreational areas (except national parkways) the use or possession of all firearms shall conform with all applicable Federal, State and local laws...The possession of loaded firearms...in developed, populated, or concentrated use areas is prohibited.

NPS 1966 regulations prohibited the possession of weapons and firearms. The 1983 regulations liberalized the conditions for the possession of firearms by establishing exceptions that did not exist in 1966. On the other hand, the 1983 regulations tightened the condition for the possession of firearms by eliminating the different standard for recreational areas. But, in the final analysis, the 1966 regulations used very similar language as the current rule at 36 CFR 2.4(a)(3), in that firearms may be possessed in parks as long as such firearms are unloaded, cased, broken down or packed away.

The NPS rules of 1966 reflected the NPS organization of the national park system into three kinds of areas: “natural, historical and recreational.” This division was laid out in a memo to the NPS Director from Secretary of the Interior Udall of July 10, 1964. The NPS rules of 1966 reflected this division, no place more prominently than designating recreational areas as generally open to harvesting of some natural resources (such as rock-hounding), hunting and trapping and, thus the possession of weapons.

After the enactment of several laws in the 1970’s including the General Authorities Act of 1970, as amended by the Redwood National Park Expansion Act of 1978, (16 U.S.C. 1a-1) the NPS promulgated the current regulations to erase the distinctions between natural, historical and recreational areas. See 48 FR 30252. In lieu of the distinction, the current regulations now allow consumptive take of natural resources only where

authorized in the enabling act. Analogously, the 1983 regulations erased the difference between natural/historical and recreational parks regarding possession of weapons.

### **3. Firearms Regulations of 1941**

The NPS regulations of 1941 contained a provision on firearms at 36 CFR 2.11. The regulations states:

#### *2.11 Firearms, etc.*

(a) Firearms...are prohibited within the parks and monuments, except upon written permission of the superintendent. Visitors entering or traveling through the parks and monuments to places beyond shall, at entrance, report, and, if required to do so, surrender all such objects in their possession to the first park or monument officer, and, in proper cases, may obtain his written permission to carry them through the park or monument *sealed*. Failure to obtain such written permission shall be deemed a violation of this section. (Emphasis added)

The 1941 NPS regulation was more restrictive on firearms than any of the successive rules. But one thing the 1941 regulation shares in common with the rules of 1966 and 1983 is that guns may still be possessed in parks but ONLY if *sealed*, i.e. rendered temporarily unusable. Unlike the successive regulations, the 1941 rules required an NPS-issued written permit to possess the sealed firearm while in the park or monument.

Note that the 1941 regulation defines “parks” and “monuments” to include national military parks, national battlefield parks, national historical parks, national parkways, Boulder Dam recreation area national historic sites, and battlefield sites and miscellaneous memorials. 36 CFR 2.1 (1941)

### **4. Firearms Regulations of 1936**

On June 18, 1936, Secretary of the Interior Harold Ickes promulgated the first set of general NPS regulations ever adopted under the Organic Act of 1916 (16 U.S.C. 3). The first NPS regulations say this about firearms:

8. *Firearms, etc.* - Firearms...are prohibited within the parks and monuments, except upon written permission of the superintendent or custodian. Visitors entering or traveling through the parks and monuments to places beyond shall, at entrance, report, and, if required to do so, surrender all such objects in their possession to the first park or monument officer, and, in proper cases, may obtain his written permission to carry them through the park or monument *sealed*. Failure to obtain such written permission shall be deemed a violation of this regulation. (Emphasis added)

The 1936 regulations permitted possession of a firearm in a park upon the issuance of a NPS permit, and then only if the firearm were “sealed.”