

**Comments on
Proposed NPS Firearm Regulations
Submitted by
Public Employees for Environmental Responsibility (PEER)
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1. The Proposal Undermines the National Park System.

The Department of the Interior (DOI) proposes to weaken regulations at 36 CFR 2.4 governing firearms within the national park system. Public Employees for Environmental Responsibility (PEER) opposes the proposal and urges the Department to retain the existing regulation.

In the long history of NPS general regulations, beginning in 1936, this proposed rule might well represent the first undertaking to weaken a rule that applies system-wide. PEER is not aware of any other rulemaking that sought to lessen existing rules so categorically and across the board.

The Centennial of the National Park System is approaching. It would not be a fitting Centennial legacy for DOI to seek the repeal of rules that have protected the park system for nearly a century.

2. DOI Offers No Compelling Justification.

Other than a reference to conformance with state policies, DOI proposes this weakening of rules without marshalling a need or even adducing valid reasons. The proposed regulation appears to be a rulemaking in search of a reason.

In fact, other than the desires of this proposal's true sponsors, the National Rifle Association, there is no reason to weaken the current rule. The proposal will not make parks safer for visitors. Nor will it better protect park wildlife.

3. The Proposal is at Variance with Decades of NPS History.

The current regulation at 36 CFR 2.4, adopted in 1983, does not violate the Second Amendment. The regulation at 36 CFR 2.4 does not prohibit the possession of firearms. The regulation requires only that, when not in use for authorized hunting, firearms be unloaded and unavailable for ready use.

The NPS adopted the regulation at 36 CFR 2.4 to reduce the illegal take of wildlife. The NPS adopted the first regulation restricting the ready availability of firearms in 1936 and repeated that principle in ALL subsequent rulemakings, i.e. 1941, 1966. The proposed rulemaking is an unjustified departure from this long history.

4. One Set of Rules Should Govern Firearms.

The proposed rule ignores that the national park system is a single system, governed by a single mission and principles. The proposed rule would substitute the laws of fifty states for a single rule.

The NPS has adopted the approach of using State laws to govern motor vehicles (e.g. 36 CFR 4.2). But the operation of motor vehicles, while a matter of public safety, is not fundamental to the conservation of park resources. (Nor are motor vehicles often used as an intentional instrument of poaching.) Most poaching occurs with a firearm. Conservation of wildlife, among other things, lies at the very core of the NPS mission.

In short, state firearm laws do not serve the NPS mission. The NPS firearm rules beginning in 1936 are not about firearms *per se* but about their potential use within the parks. From the very beginning, few ideas have reverberated more consistently throughout the national park system history than the parks as strict sanctuaries for wildlife.

In lieu of a single, straightforward rule on firearms, the proposal would apply a hodge-podge of State laws. State gun laws were written without ANY concern for the objective of conserving national park system wildlife. The present rule should be retained because it serves the NPS mission.

5. The NPS Firearms Rule Aims at Impeding Poaching.

Throughout its administrative history, the NPS has never held that 36 CFR Part 2 should punish only the illegal take of wildlife with firearms. Until this proposal emerged, the NPS has also quite firmly governed the availability of weapons to reduce opportunities to poach. The NPS approach has been correct and proper for the last seven decades.

NPS Rangers are few, and the miles of roads and acres in the park system are many. Park wildlife is often unafraid of people. Parks contain some of the most spectacular trophy specimens. Parks are places where poaching occurs and is most rewarding (to the poacher). The proposal removes one of the regulatory tools which Rangers possess to safeguard park wildlife. The present regulation prohibits the possession of a loaded and readily available firearm, as a *prima facie* violation. A Ranger may exercise discretion to educate, admonish or cite when encountering a person in violation. Such intervention is preventative in nature in that it seeks to reduce poaching.

6. The NPS Violates NEPA.

PEER recognizes that conserving park wildlife is not the motive or reason behind State firearm laws. But PEER is most disturbed that conserving park wildlife appears to be absent from the minds who wrote and proposed this rule. The Department and the NPS ignore that wildlife protection is embedded in both the history and rationale of current NPS rules. Yet, the DOI has failed to comply with the requirements of the National Environmental Policy Act (NEPA).

Moreover, in its *Federal Register* notice DOI admits the proposal will have effects on “visitor safety [and] resource protection” and states that:

“We are currently working to determine the appropriate level of NEPA assessment and documentation that will be required for the promulgation of this regulation.”

Notwithstanding this partial disclaimer, this proposal is unquestionably a significant federal action with obvious environmental implications. But neither the DOI nor the NPS Director has prepared an environmental assessment (EA) as required by NEPA, despite the fact that the proposal has admitted effect on the quality of the human environment.

Instead the DOI and NPS pretend that the proposal is simply a revision of a bothersome rule about firearms. The NPS has prepared EAs for considerably less portentous proposed rulemakings. The failure to comply with NEPA makes these proposed rules subject upon adoption to immediate challenge and judicial annulment.

Conclusion.

PEER advises the Department and the NPS to abandon the proposed rule.

In lieu of so doing, PEER requests that the NPS prepare an EA that assesses the effect of the proposed rule on the quality of the human environment. That EA must analyze, factually and with current data, the incidence of poaching in the parks with firearms, the incidence of general firearm violation under 36 CFR 2.4, and how the proposal may affect such conduct.

PEER looks forward to reviewing and commenting on that environmental assessment.

Cordially,

Jeff Ruch
Executive Director

PEER also attaches for your information a history of NPS general firearm regulations from the current rule in 1983 back to the first system-wide rulemaking in 1936.