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DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 2

[Docket ID: NPS-2018-0003; NPS-WASO-25595; PPWOVPADU0/PPMPRLE1Y.Y00000]

RIN 1024-AE44

Transporting Bows and Crossbows Across National Park System Units

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The National Park Service allows individuals to carry or possess an unloaded bow or crossbow within the National Park System when accessing otherwise inaccessible lands or waters contiguous to a park area when other means of access are otherwise impracticable or impossible.

DATES: This rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The comments received on the proposed rule and an economic analysis are available on www.regulations.gov in Docket ID: NPS-2018-0003.

FOR FURTHER INFORMATION CONTACT: Jay Calhoun, NPS Regulations Program, 1849 C Street NW, Washington, DC 20240. Phone: (202) 513-7112. Email: waso_regulations@nps.gov.

SUPPLEMENTARY INFORMATION:

Background

National Park Service (NPS) regulations at 36 CFR 2.4(b)(3) allow bows and crossbows

that are not ready for immediate use to be possessed by individuals in NPS-administered areas within a mechanical mode of conveyance. This provides regulatory relief for transient individuals passing through park areas in vehicles and other forms of mechanical transport. This rule extends this relief to individuals transporting unloaded bows and crossbows on foot or horseback when accessing otherwise inaccessible lands or waters contiguous to a park area when other means of access are otherwise impracticable or impossible. Possessing bows and crossbows in this manner is subject to applicable state laws and is not allowed if the individual is otherwise prohibited by law from possessing a bow or crossbow.

This rule recognizes and addresses the difficulties faced by some individuals attempting to access private property or other lands and waters adjacent to NPS-administered areas. In some cases, the use of mechanical transport to access these adjacent lands and waters is impracticable. As a result, individuals must traverse NPS areas on foot or horseback to reach these lands and waters but under existing regulations cannot do so with bows and crossbows without first obtaining a permit from the park Superintendent. This rule removes the permit requirement in order to carry or possess bows or crossbows for this purpose. This rule does not change the regulations in 36 CFR part 2 governing the use of a bow or crossbow in park areas.

Summary of and Responses to Public Comments on the Proposed Rule

The NPS published the proposed rule on March 2, 2018 (83 FR 8959), with request for public comment through the Federal eRulemaking portal at www.regulations.gov, or by mail or hand delivery. The 60-day comment period ended on May 1, 2018. The NPS received 40 comments, 34 of which supported the proposed rule and did not request any changes. Other comments were not in favor of the proposed rule or were in favor but suggested changes. A summary of these comments and NPS responses is provided below. After taking the public

comments into consideration, the NPS has not made any changes in the final rule.

1. Comment. Several commenters expressed concern that the rule will cause individuals to use bows and crossbows illegally, either within the National Park System or on adjacent lands where hunting is not allowed. These commenters are concerned that this illegal activity will adversely impact threatened or endangered wildlife.

NPS Response: This rule does not change NPS regulations governing the use of weapons, including bows and crossbows, within the National Park System. Illegal hunting will remain illegal in the same manner that it was before this rule. Unfortunately illegal hunting and trapping does occur. NPS law enforcement staff work alone and with state and local partners to identify illegal activity and prosecute offenders according to the law. The NPS does not believe that individuals who are willing to hunt and trap illegally will be emboldened by this rule. These individuals are unlikely to have requested a permit from the NPS prior to bringing bows and crossbows into NPS areas in order to hunt or trap illegally. Existing NPS regulations allow individuals to travel through NPS lands with bows and crossbows in a motor vehicle. The NPS does not believe that a person who is willing to engage in illegal hunting would be deterred from doing so by existing regulation, which requires motorized transport of his or her bow or crossbow, especially when NPS regulations allow individuals to carry firearms within the National Park System outside of a motor vehicle without needing to obtain a permit.

2. Comment. Several commenters were concerned that this rule would result in individuals leaving bows, crossbows, and related equipment, such as arrows and quivers, behind on NPS lands.

NPS Response: The NPS has no reason to believe that individuals would intentionally leave this type of equipment behind in NPS areas. NPS regulations at 36 CFR 2.22 prohibit

abandoning property.

3. *Comment.* One commenter supported removing the permit requirement, but suggested that the NPS also remove the requirement that an individual must be accessing otherwise “inaccessible” lands or waters. This commenter also suggested that the NPS change the requirement that “other means of access are otherwise impracticable or impossible” to “impracticable or less convenient.”

NPS Response: The language limiting possession to situations when individuals are “accessing otherwise inaccessible lands or waters contiguous to a park area when other means of access are otherwise impracticable or impossible” has been part of NPS regulations concerning permits to carry weapons since 1983 (48 FR 30282, June 30, 1983). This language helps ensure that individuals transport bows and crossbows through NPS lands for legitimate purposes, such as accessing private property or other public lands that cannot be accessed another way – either through the National Park System in a motor vehicle or through a non-NPS area.

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 in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of Executive Order 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. Executive Order 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. The NPS has developed this rule in a manner consistent with these requirements.

Reducing Regulation and Controlling Regulatory Costs (Executive Order 13771)

This rule is an E.O. 13771 deregulatory action because it imposes less than zero costs by removing a regulatory permit requirement that imposes unnecessary costs upon individuals seeking to safely access remote lands and waters. The costs associated with the requirement to obtain a permit before transporting a bow or crossbow across NPS lands or waters outside of a mechanical conveyance are eliminated.

Regulatory Flexibility Act

This rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This certification is based on information contained in the economic analyses found in the report entitled “Benefit-Cost and Regulatory Flexibility Analyses: Cost-Benefit and Regulatory Flexibility Analyses: Transporting Bows and Crossbows Across National Park System Units” that is available to the public on regulations.gov in Docket ID: NPS-2018-0003.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. 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 (2 U.S.C. 1531 *et seq.*)

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. It addresses public use of national park lands, and imposes no requirements on other agencies or governments. A statement containing the information required by the Unfunded Mandates Reform Act is not required.

Takings (Executive Order 12630)

This rule does not effect a taking of private property or otherwise have takings implications under Executive Order 12630. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism summary impact statement. This rule only affects use of federally-administered lands and waters. It has no outside effects on other areas. A Federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 12988. 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 Department of the Interior 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. The NPS has evaluated this rule under the criteria in Executive Order 13175 and under the Department's tribal consultation policy and has determined that tribal consultation is not required because the rule will have no substantial direct effect on federally recognized Indian tribes.

Paperwork Reduction Act

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act is not required. The NPS 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

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because the NPS intends to categorically exclude this rule under 516 DM 12.5(A)(10). This rule modifies existing NPS regulations in a manner that does not increase public use or introduce non-compatible uses to the extent of compromising the nature and character of the National Park System or causing physical damage to it. The rule does not conflict with adjacent ownerships or lands uses, or cause a nuisance to adjacent owners or occupants. 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.

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 in 36 CFR Part 2

National parks, Reporting and Recordkeeping requirements.

In consideration of the foregoing, the National Park Service amends 36 CFR part 2 as set forth below:

PART 2—RESOURCE PROTECTION, PUBLIC USE AND RECREATION

1. The authority citation for part 2 continues to read as follows:

Authority: 54 U.S.C. 100101, 100751, 320102.

2. Amend § 2.4 as follows:

- a. Redesignate paragraph (b)(3) as paragraph (b)(3)(i).
- b. Add a new paragraph (b)(3)(ii).
- c. Revise paragraph (e) introductory text.

The addition and revision read as follows:

§ 2.4 Weapons, traps and nets.

* * * * *

(b) * * *

(3) * * *

(ii) An individual may carry or possess an unloaded bow or crossbow when accessing otherwise inaccessible lands or waters contiguous to a park area when other means of access are otherwise impracticable or impossible if:

(A) The individual is not otherwise prohibited by law from possessing the bow or crossbow; and

(B) The possession of the bow or crossbow is in compliance with the law of the State in which the park area is located.

* * * * *

(e) The superintendent may issue a permit to carry or possess a weapon that is not otherwise authorized, a trap, or a net under the following circumstances:

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Andrea Travnicek,
Principal Deputy Assistant Secretary - Water and Science,
Exercising the Authority of the Assistant Secretary
for Fish and Wildlife and Parks.
[FR Doc. 2018-20093 Filed: 9/17/2018 8:45 am; Publication Date: 9/18/2018]