



DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

[NPS-NCR-37822; PPNCWHHOA1, PPMPSAS1Z.T00000, 244P103601]

RIN 1024-AE89

National Capital Region; Event at President's Park

AGENCY: National Park Service, Interior.

ACTION: Temporary rule.

SUMMARY: The National Park Service is temporarily revising regulations for the National Capital Region. This revision will allow the Society of the First Infantry Division to hold an official dedication ceremony at the First Division Monument in Washington, DC, which is located in an area otherwise closed to demonstrations and special events. The ceremony, including setup and takedown, will last for no longer than three days, and occur between May 22 and May 29, 2024.

DATES: Effective May 22, 2024 through 11:59 p.m. EDT on May 29, 2024.

FOR FURTHER INFORMATION CONTACT: John Stanwich, National Park Service Liaison to the White House, (202) 219-0322, john_stanwich@nps.gov.

SUPPLEMENTARY INFORMATION:

Background.

The First Infantry Division Monument is located in President's Park, south of State Place Northwest, between 17th Street Northwest and West Executive Avenue Northwest in Washington, DC, United States. The Society of the First Infantry Division conceived this Monument to honor the valiant efforts of First Division soldiers killed in action in World War I. The Monument was dedicated in 1924 by President Calvin Coolidge with 5,516 names inscribed. The primary feature of the Monument is a Milford granite column from Massachusetts, one of

the largest pieces ever taken from a quarry in the United States. Standing atop the pillar is a 15-foot-tall, gilded bronze figure of Victory. Later additions to the Monument commemorate the lives of First Infantry Division soldiers killed in action in subsequent wars. The World War II addition is located on the terrace west of the column and was dedicated in 1957. This memorial commemorates the 4,325 First Infantry Division soldiers who died in that conflict, as well as the sacrifices of other units attached to the First Infantry Division during the war. The Vietnam War addition is located on the terrace east of the column and was dedicated in 1977. This memorial commemorates the 3,079 First Infantry Division soldiers who died in that conflict, as well as the service and sacrifices of other units as well. The Desert Storm plaque on the eastern edge of the rectangular flower bed, directly opposite the Vietnam War memorial, was dedicated in 1995. This memorial commemorates the lives of 27 soldiers who died while serving in the Desert Storm operation in Saudi Arabia and Iraq, including the names of members of the Third Brigade of the Second Armored Division, which was attached to the First Infantry Division during the war.

While designing the Desert Storm plaque, the Society of the First Infantry Division developed a long-term plan for future additions to the Monument. Their concept distinguishes between memorials for "limited actions," comparable to Desert Storm, and major conflicts with greater fatalities, such as the then-existing memorials for the three wars. The Society suggested smaller blocks of granite placed around the edge of the flower beds on the east and west sides of the terrace for limited actions. For larger conflicts, the Society suggested memorials along the outside edge of the footprint, replacing the hedge, comparable in size and form to the World War II and Vietnam War memorials.

On January 1, 2021, Congress authorized modifications to the Monument, including the construction of and placement of plaques, to honor the dead of the First Infantry Division in Operation Desert Storm, Operation Iraqi Freedom, Operation New Dawn, and Operation Enduring Freedom. Public Law 116–283—section 1083(a). The statute required the Department

of the Army, in collaboration with the Secretary of Defense, to provide to the Society with a list of names to be added to the Monument. Department of the Army policy requires an official campaign to end before the names of soldiers killed in that campaign may be added to the monument. The Iraqi Freedom, New Dawn, and Enduring Freedom campaigns have ended. The Commanding General, First Infantry Division has authorized the Society to add to the Monument the names of 631 soldiers who died during these campaigns, consistent with the Society's long-term plan to allow the Monument to evolve with the history of the First Infantry Division. There will be 439 soldiers named for Operation Iraqi Freedom and Operation New Dawn in Iraq. There will be 192 soldiers named for Operation Enduring Freedom in Afghanistan. The additions to the Monument will include bronze plaques situated on stone plinths that include a dedication, operation, units, and name and rank of each soldier. In addition to adding new plaques for Operations Iraqi Freedom, New Dawn, and Enduring Freedom, the existing plaque for Operation Desert storm, which looks temporary, will be replaced with a new plaque co-located with the others.

The Society intends to hold an official dedication ceremony at the Monument that will last no longer than three days, including setup and takedown of equipment, between May 22 and May 29, 2024. The ceremony will include the official dedication of the plaques and a celebration of the 100th Anniversary of the Monument.

Temporary rule.

The Monument is located within an area that is part of the White House and President's Park, which serves as a private residence and office of the President, a military installation, a museum, a public park, and a national shrine. Given these multiple roles and functions, numerous Federal agencies, including the National Park Service (NPS), Executive Office of the President, U.S. Secret Service, and General Services Administration, work in collaboration to administer and manage this area. Congress established the White House and President's Park as a unit of the National Park System in 1961, and for this reason NPS regulations apply to

activities within the park, including activities that occur at the First Division Monument.

NPS regulations at 36 CFR 7.96(g)(3)(i) prohibit demonstrations and special events at the Monument site. The NPS promulgated these regulations in 1970 at the request of the U.S. Secret Service for security reasons explained in a letter from the Secret Service Director to the Department of the Interior dated June 25, 1970. See 35 FR 11485, 11491 (July 17, 1970). The long-standing prohibition on events and demonstrations helps to ensure the security of the adjacent White House complex, and the safety of its occupants and the public.

Remaining cognizant of these security and safety concerns, the NPS intends to allow the Society to conduct the ceremony described above, as a special event at the Monument site, in recognition of the service and ultimate sacrifice paid by the soldiers to be named. The Society expects approximately 100 participants, including members of Gold Star Families and active servicemembers, and related equipment and facilities such as chairs, sound amplification, and portable restrooms. The NPS referred the request to hold the event to the U.S. Secret Service for its security-based judgment, and has received their concurrence that this singular event may take place at during the time frame indicated above. The NPS will manage the event through the issuance of a special use permit under 36 CFR 2.50, with appropriate terms and conditions.

In order to allow for the event, this rule will temporarily revise NPS regulations at 36 CFR 7.96(g)(3)(i) to allow for this event to occur at the Monument site as an exception to the general prohibition on demonstrations and special events. The rule will be effective on May 22, 2024, and expire on May 29, 2024, to create a period of time that the three-day event may occur, including time for setup and takedown of equipment related to the event. The date of the event has not yet been determined, but it will occur sometime within the stated period of time. After the temporary rule expires on May 29, 2024, NPS regulations at 36 CFR 7.96(g)(3)(i) will revert to their former wording.

Compliance with Other Laws, Executive Orders and Department Policy.

Regulatory Planning and Review (Executive Orders 12866 and 13563 and 14094)

Executive Order 12866, as amended by Executive Order 14094, provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that the rule is not significant.

Executive Order 14094 amends Executive Order 12866 and reaffirms the principles of Executive Order 12866 and Executive Order 13563 and states that regulatory analysis should facilitate agency efforts to develop regulations that serve the public interest, advance statutory objectives, and be consistent with Executive Order 12866, Executive Order 13563, and the Presidential Memorandum of January 20, 2021 (Modernizing Regulatory Review). Regulatory analysis, as practicable and appropriate, shall recognize distributive impacts and equity, to the extent permitted by law.

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. Executive Order 13563 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.

Administrative Procedure Act.

Because setup for the dedication ceremony has been approved to begin as soon as May 22, 2024, at the request of the Society, and as approved by the Department of the Army and the U.S. Secret Service, there is limited time to authorize this event. For this reason, the NPS is publishing this temporary rule as a final rule. In accordance with the requirements of the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)), the NPS has determined that publishing a proposed rule would be impractical because of the short time period available. The NPS also

believes that publishing this temporary rule 30 days before it becomes effective would be impractical because of the limited time remaining before May 22, 2024. A 30-day delay in this instance would be unnecessary and contrary to the public interest. Therefore, under the Administrative Procedure Act (5 U.S.C. 553(d)(3)), the NPS has determined that this temporary rule will be effective on the date published in the *Federal Register*.

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.*).

Congressional Review Act (CRA)

This rulemaking is not a major rule under 5 U.S.C. 804(2). 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 E.O. 12630. A takings implication assessment is not required.

Federalism (Executive Order 13132).

Under the criteria in section 1 of E.O. 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 E.O. 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 E.O. 13175 and under the Department's Tribal consultation policy and has determined that Tribal consultation is not required because the rule will not have a 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 of 1969 (NEPA).

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the NEPA is not required because the rule is

covered by a categorical exclusion. NPS Handbook 2015 section 3.3.A.8. 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 the 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 7

District of Columbia, National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service amends 36 CFR part 7 as set forth below:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority citation for part 7 continues to read as follows:

Authority: 54 U.S.C. 100101, 100751, 320102; Sec. 7.96 also issued under D.C. Code 10-137 and D.C. Code 50-2201.07.

§ 7.96 [Amended]

2. In the last sentence of § 7.96(g)(3)(i), add the words “, and except for an official dedication ceremony at the First Infantry Division Monument to last no more than three days, including setup and takedown of equipment, between May 22 and May 29, 2024” after the word “Park”.

Shannon A. Estenoz,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2024-10836 Filed: 5/16/2024 8:45 am; Publication Date: 5/17/2024]