

BEFORE THE DEPARTMENT OF THE INTERIOR

Petition for Rule Making

**The Honorable Gale Norton
Secretary of the Interior
Washington, D.C.**

**In the Matter of Amending Park Service }
Rule 36CFR2.4, Weapons in Public Parks } RM _____**

Petitioner, the Virginia Citizens Defense League, Inc. (hereinafter, “Petitioner”), is organized under the laws of Virginia as a non stock corporation. Its purpose, as set forth in its articles of incorporation, is to advance the rights of law-abiding citizens to keep and bear arms for personal protection under both the U.S Constitution and the Constitution of the Commonwealth of Virginia.

Petitioner has been successful in eliminating state and local laws in the Commonwealth of Virginia, which interfere with this fundamental human right, with the ultimate goal of allowing citizens to exercise their rights anywhere within the Commonwealth. Through Petitioner’s efforts, law-abiding citizens may exercise at least some form of these rights in most public places, including Virginia’s state, local, and regional parks.

This petition seeks to extend the right of law abiding citizens to carry handguns for personal protection in National Parks, consistent with state law in which the park is located, by amending the requisite park regulations, 36CFR2.4, in accordance with the amended regulation of exhibit A. Petitioner is joined in this effort by organizations identified in exhibit B having a collective membership exceeding one million American citizens.

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INTRODUCTION

The laws of 47 states recognize the right of law abiding adults to carry firearms for personal protection. These include a minority of states that have no laws against carrying of firearms by any adults, either concealed or openly, a larger majority of states which issue permits granting the privilege to carry a concealed handgun and at least 29 states which allow citizens to carry firearms openly without any permit (see Appendix C). Each state usually has restrictions on where firearms may be carried which vary from state to state and between permit holders and non permit holders.

Most states allow the carrying of firearms for self-defense in state parks as long as permit requirements are observed for that state. In Virginia, the Attorney General has opined that Virginia's statutory regulation (*i.e.* the granting of concealed handgun permits) creates a universal privilege to carry firearms within the Commonwealth, including state parks, unless explicitly restricted by the Virginia General Assembly, which they have not. Under Department of Agriculture regulations, state laws regarding the regulation of firearms have been assimilated into regulations for National Forests, and individuals are allowed to carry firearms as long as state laws in which the forest is located are observed.¹

STATE PARK REGULATIONS

At least 26 states that issue permits to carry a handgun either concealed or openly, allow carrying of firearms in state parks, whereas at least 13 other states do not. States usually vest the authority in their State Park authorities to regulate use of firearms² (as distinguished from possession for personal protection), which Petitioner concedes is proper for both state and National Parks.

DANGERS FACED BY PARK VISITORS

The National Park System has seen an upsurge in violent crime in recent years. As reported by the Executive Director of the United States Park Ranger Lodge of the Fraternal Order of Police, the parks are understaffed and must cope with an increasing number of illegal aliens, drug smugglers, poachers and encroaching urban crime. The Park Ranger Lodge has issued a report, "The Ten Most Dangerous National Parks," underscoring the risks faced by rangers on a daily basis. The report identifies the Shenandoah National Park, which lies in counties where many of Petitioner's members live, as the 7th most dangerous park.³

¹ 36CFR261.8

² Information obtained from <http://www.packing.org>

³ <http://www.rangerfop.com>

THE NEED TO HAVE CONSISTENT STATE AND FEDERAL REGULATION

The existence of different laws regarding the transportation and possession of firearms presents a trap for law-abiding gun owners. While the parks were created to preserve the region's natural beauty, some, such as the George Washington Parkway in Virginia, have become heavily used commuter thoroughfares. Even Virginia's more remote Blue Ridge Parkway is used as a thoroughfare. The George Washington Memorial Parkway runs through a very urbanized area of the country where tens of thousands of automobiles traverse it as a general-purpose highway. Current regulations criminalize the unwary traveler who may not be aware that the highway he is traveling on can suddenly be controlled by the National Park System, with attendant firearm restrictions not otherwise commensurate with the laws of the state that the park is in.

The Department of Agriculture has addressed the problem in its National Forests regulations. Under Department rules, the law of the state in which the forest lies applies to the transportation and possession of firearms. As to the use of firearms, these remain appropriately regulated by the Department of Agriculture.

National Park Service regulations which unreasonably limit the possession and the transportation of firearms to those that are unloaded and locked up, significantly curtails the rights of citizens of most states to possess a firearm for protection, as well as burden commerce generally within the state. While crime statistics for National Parks demonstrate the compelling need for personal protection, the effects on commerce are less visible, but nevertheless burdensome. For major commuting routes, such as the George Washington Parkway in Virginia, all of Virginia's law abiding citizens who legally, openly carry firearms in their automobiles, without a permit, are breaking Park Service regulations. This also applies to any of Virginia's 112,000 concealed handgun permit holders who may be traveling with a concealed handgun. Given that the roadway is used by tens of thousands of Virginians each day, it is statistically certain that many are violating Park Service rules without knowing it.

National parks, state parks and National forests often have common borders. While a back packer in a state park may be legally carrying a handgun for protection, if he enters a National Park, he is faced with no place to legally store the firearm thus making him subject to arrest if he proceeds.

THE ADOPTION OF THE PROPOSED AMENDMENTS
WILL REMOVE THE LEGAL UNCERTAINTIES
FACED BY LAW-ABIDING CITIZENS

The adoption of the proposed rule change will bring the law regarding possession and transportation of handguns in National Parks into agreement with the law of the state in which these facilities are located. No longer will technical, inadvertent violations of law occur as a result of citizens traveling through the system of National Parks.

The rule changes also incorporate relevant portions of 18 USC 922 which restrict firearms possession by certain felons and those convicted of domestic violence.

While state law and federal regulations will be one and the same for the transportation and possession of handguns for personal protection, the National Park Service will retain its ability to control the use of firearms. Thus, hunting and target shooting activities, which may affect the public safety, will remain governed by the National Park Service which they are uniquely qualified to do.

SUMMARY AND REQUEST FOR RULE MAKING

Petitioner requests the National Park Service amend its regulations according to Appendix A. If the National Park Service deems it necessary to publish the proposed rule change in the Federal Register for comments, and/or hold hearings regarding the proposed rule changes, please inform the undersigned of any such determinations or actions on this petition.

Date _____

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cc: Fran P. Mainella
Director of National Park Service

Honorable Virgil Goode,
U.S. House of Representatives

Appendix A – Proposed Regulation

TITLE 36--PARKS, FORESTS, AND PUBLIC PROPERTY

CHAPTER I--NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

PART 2--RESOURCE PROTECTION, PUBLIC USE AND RECREATION--Table of Contents

Sec. 2.4 Weapons, traps and nets.

- (a) (1) Except as otherwise provided in this section and parts 7 special regulations) and 13 (Alaska regulations), the following are prohibited:
 - (i) Possessing a weapon, trap or net
 - (ii) Carrying a weapon, trap or net
 - (iii) Using a weapon, trap or net
 - (2) Weapons, traps or nets may be carried, possessed or used:
 - (i) At designated times and locations in park areas where:
 - (A) The taking of wildlife is authorized by law in accordance with Sec. 2.2 of this chapter;
 - (B) The taking of fish is authorized by law in accordance with Sec. 2.3 of this part.
 - (ii) When used for target practice at designated times and at facilities or locations designed and constructed specifically for this purpose and designated pursuant to special regulations.
 - (iii) Within a residential dwelling. For purposes of this subparagraph only, the term ``residential dwelling'' means a fixed housing structure which is either the principal residence of its occupants, or is occupied on a regular and recurring occupants as an alternate residence or vacation home.
 - (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.
- (b) Carrying or possessing a loaded weapon in a motor vehicle, vessel or other mode of transportation is prohibited, except that carrying or possessing a loaded weapon in a vessel is allowed when such vessel is not being propelled by machinery and is used as a shooting platform in accordance with Federal and State law.
 - (c) ***Except for self-defense, or defense of another, pursuant to the law of the state in which the park is located, the use of a weapon, trap or net in a manner that endangers persons or property is prohibited.***
 - (d) The superintendent may issue a permit to carry or possess a weapon, trap or net under the following circumstances:
 - (1) When necessary to support research activities conducted in accordance with Sec. 2.5.
 - (2) To carry firearms for persons in charge of pack trains or saddle horses for emergency use.
 - (3) For employees, agents or cooperating officials in the

performance of their official duties.

- (4) To provide access to otherwise inaccessible lands or waters contiguous to a park area when other means of access are otherwise impracticable or impossible.

Violation of the terms and conditions of a permit issued pursuant to this paragraph is prohibited and may result in the suspension or revocation of the permit.

- (e) Authorized Federal, State and local law enforcement officers may carry firearms in the performance of their official duties.
- (f) The carrying or possessing of a weapon, trap or net in violation of applicable Federal and State laws is prohibited.
- (g) The regulations contained in this section apply, regardless of land ownership, on all lands and waters within a park area that are under the legislative jurisdiction of the United States.
- (h) ***Notwithstanding any provision of this section, the possession or carrying of a firearm in compliance with Title 18, U.S. Code, Sec. 922(g), and the law of the state in which the park is located shall not violate this section.***

Appendix B – Organizations Signing-On the Petition

Virginia Citizens Defense League, Virginia
Johnstown Rifle and Pistol Club, Pennsylvania
Menohar Sportsmen's Club, Pennsylvania
Grassroots South Carolina, South Carolina
Maryland Shall Issue, Maryland
Washington Arms Collectors, Washington State
Citizens Committee for the Right to Keep and Bear Arms, National
NY State Rifle and Pistol Association, New York
New Jersey Coalition for Self Defense, New Jersey
Gun Owners of Utah, Utah
Hollow-Point Defense, Arizona
Alaska Machine Gun Association, Alaska
Community Association of Firearms Educators, Maryland
Virginia Gun Owners Coalition, Virginia
Genesee Conservation League, New York
Pink Pistols, National
NCGUN, North Carolina
Rocky Mountain Gun Owners, Colorado
Georgia Firearm Owners Defense League, Georgia
Western Missouri Shooters Alliance, Missouri
Virginia Chapter Second Amendment Sisters, Virginia
Gun Owners of America, National
Shooters' Alliance for Firearms Rights, Michigan
Cambria County Federation of Sportsmen's Clubs, Pennsylvania
Montgomery Citizens for a Safer Maryland, Maryland
Grassroots North Carolina, North Carolina
Gateway Civil Liberties Alliance, Missouri

Appendix C – Bearing Arms By State

47 states that allow citizens to carry concealed handguns for self-defense:

Alabama, Alaska⁴, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont⁵, Virginia, Washington, Washington DC, West Virginia, Wyoming

29 states that recognize the right to bear arms openly, without a permit:

Alabama, Alaska, Arizona, Colorado, Delaware, Idaho, Kansas, Kentucky, Louisiana, Maine, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, Ohio, Oregon, Pennsylvania, South Dakota, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming

⁴ Alaska recognizes the right of a person to carry a handgun openly or concealed without a permit

⁵ Vermont recognizes the right of a person to carry a handgun openly or concealed without a permit

Additional Petitioners for Rule Making Before the DOI:

Organization Name: _____

Address: _____

Phone: _____

Email: _____

Number of Members: _____

Representative Name: _____

Representative Signature: _____