



4310-EJ

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

[NPS-NCR-28341; PPNCNAMAS0, PPMSPD1ZYM0000]

RIN 1024-AE59

National Capital Region; Event at the Washington Monument

AGENCY: National Park Service, Interior.

ACTION: Temporary rule.

SUMMARY: The National Park Service is temporarily revising a regulation for the National Capital Region. This revision will allow the projection of government-selected film footage and associated imagery of the Apollo 11 Mission onto the Washington Monument for an official celebration of the fiftieth anniversary of the Apollo 11 lunar landing. This revision will allow for the event within a restricted zone at the Washington Monument from July 16 to July 20, 2019. The revision to the regulations will last long enough to allow for the setup and take-down of equipment related to the event, from July 12 through July 23.

DATES: Effective July 12, 2019 through 11:59 EDT on July 23, 2019.

FOR FURTHER INFORMATION CONTACT: Jeffrey Reinbold, Superintendent, National Mall and Memorial Parks, (202) 245-4661, NAMA_Superintendent@nps.gov.

SUPPLEMENTARY INFORMATION:

Background.

The Washington Monument is located on the National Mall and honors our Nation's first President. Completed in 1884 through a combination of military and civilian efforts, the

Monument stood taller than any structure in the world. It has become an indelible symbol of the Nation and its capital.

On July 20, 1969, the Nation reached even farther into the sky when the Apollo 11 Mission, another combination of military and civilian efforts, succeeded in landing the first humans on the surface of the moon. On June 18, 2019, in anticipation of the fiftieth anniversary of this momentous event, Congress passed H.J. Res. 60, a joint resolution that “requests the Secretary of the Interior to authorize unique and one-time arrangements for the display of NASA and Smithsonian artifacts, digital content, film footage, and associated historic audio and imagery, in and around the vicinity of the National Mall, including projected onto the surface of the Washington Monument for five nights of public display during the period beginning on July 16, 2019 and ending on July 20, 2019”. H.J. Res. 60. To effectuate this resolution, the National Aeronautics and Space Administration (NASA), the Smithsonian National Air and Space Museum, and the Department of the Interior (DOI) now seek to express the Nation’s continued admiration of American courage, sacrifice, and vision that has led this Nation from its founding to the unimaginable new heights reached by Apollo 11.

In response to H.J. Res 60, the Secretary of the Interior has directed the National Park Service (NPS), from July 16 through July 20, 2019, to allow a once-in-a-lifetime commemorative event to project film footage and associated imagery of the Apollo 11 Mission onto the façade of the Washington Monument. The film footage and imagery will be selected and provided by NASA and the Smithsonian National Air and Space Museum.

Due to ongoing renovations, traditional public use and enjoyment of the Washington Monument will continue to be limited through August 2019. This commemorative event will enhance the public’s experience and enjoyment of the Washington Monument, even when

required to remain outside the renovation's construction zone barriers.

Temporary rule.

Under an existing regulation at 36 CFR 7.96(g)(3)(ii)(A), the Washington Monument is surrounded by a restricted zone which consists of the area enclosed within the inner circle that surrounds the Monument's base. The restricted zone includes the sides of the Washington Monument itself, on which film footage and associated imagery of the Apollo 11 Mission would be projected. Demonstrations and special events are not allowed within the restricted zone, except for the official annual commemorative Washington birthday ceremony. This restricted zone is similar to restricted zones at the Lincoln Memorial, Thomas Jefferson Memorial, and Vietnam Veterans Memorial, where demonstrations and special events also are prohibited by NPS regulations. These restricted zones are intended to maintain the memorials in an atmosphere of calm, tranquility, and reverence, as well as protect legitimate security and park value interests. 41 FR 12880 (1976) (Final Rule).

There has always been a regulatory exception for the restricted zone at the Washington Monument that allows for the official annual commemorative Washington birthday celebration. Because Congress has passed a joint resolution requesting that the Secretary of the Interior hold a singular event to celebrate the tenacity of the American spirit represented by the moon landing, and to hold it specifically at the Washington Monument with images projected on its surface, and because there is no operational impact to the Washington Monument, the NPS will temporarily revise its regulations to allow for this unique, one-time use. This temporary rule establishes an exception to the prohibition on demonstrations and special events within the restricted area of the Washington Monument that will allow for the Apollo 11 event. This temporary rule will be effective on July 12, 2019 and expire on July 23, 2019, to allow for the setup and take-down of

equipment related to the event. The official commemorative event will begin on July 16, 2019 and end on July 20, 2019. After the temporary rule expires on July 23, 2019, the NPS regulation at 36 CFR 7.96(g)(3)(ii)(A) will revert to its former wording.

Compliance with Other Laws, Executive Orders and Department Policy.

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

Executive Order (E.O.) 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.

E.O. 13563 reaffirms the principles of E.O. 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. E.O. 13563 further emphasizes 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).

Enabling regulations are considered deregulatory under guidance implementing E.O. 13771 (M-17-21). This rule allows a special event to take place that would otherwise be prohibited.

Administrative Procedure Act.

Because this temporary rule is necessary to carry out the request of Congress to begin the

official Apollo 11 celebration on July 16, 2019, and because of the limited time remaining before setup will need to begin to meet that deadline, 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 July 16, 2019. 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.*).

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 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 the public is 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 §7.96(g)(3)(ii)(A), add the words “and for the projection of government-selected film footage and associated imagery for an official event commemorating the Apollo 11 Mission” after the word “ceremony”.

Karen Budd-Falen,
Deputy Solicitor for Parks and Wildlife,
exercising the authority of Assistant Secretary
for Fish and Wildlife and Parks.
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