

DEPARTMENT OF THE INTERIOR**National Park Service****36 CFR Part 7****RIN 1024-AD12****New River Gorge National River
Hunting Regulation****AGENCY:** National Park Service (NPS), Interior.**ACTION:** Interim final rule.

SUMMARY: The National Park Service (NPS) is promulgating this interim final rule to authorize the continuation of hunting as it presently exists at New River Gorge National River (the park) in West Virginia. The park's 1978 enabling legislation gives the NPS discretionary authority to permit hunting in the park. An NPS regulation adopted in 1983 requires us to adopt an individual, or special, regulation for parks that have been authorized by Congress to permit hunting as a discretionary activity. This rulemaking creates such a regulation for the park. The rule assimilates the existing West Virginia State hunting program and applicable laws. The adoption of this rule will result in no changes to the way hunting has taken place since the park was authorized in 1978. The NPS is publishing this rule without a prior proposal because we believe this action is not controversial and we do not expect any significant opposition to this procedural action.

DATES: Effective: September 25, 2003. There is no deadline for sending comments on this interim final rule.

ADDRESSES: Comments should be sent to the Superintendent by mail to National Park Service, Park Headquarters, New River Gorge NR, P.O. Box 246, Glen Jean, West Virginia 25846; or by e-mail to neri_hunting@nps.gov; or by fax to (304) 465-6559.

FOR FURTHER INFORMATION CONTACT: Gary Hartley, Chief Ranger, National Park Service, New River Gorge NR, P.O. Box 246, Glen Jean, West Virginia, 25846. Telephone: (304) 465-0508. Fax: (304) 465-6559. Email: neri_hunting@nps.gov

SUPPLEMENTARY INFORMATION:**Background***A. Why Is This Rule Necessary?*

Congress specifies the appropriate uses for units of the national park system as they are created. Of the 388 units of the national park system, 57 allow hunting and 331 do not. Congress specifically authorized hunting as a discretionary activity when it authorized the New River Gorge National River in 1978. Hunting has

been a popular recreational and subsistence pastime since then, managed by the park in consultation with, and under the laws of, the State of West Virginia.

Part 2 of the NPS general regulations (36 CFR Part 2) concerns resource protection, public use and recreation. As amended in 1983, Section 2.2(b)(2) requires that, in cases where Congress has authorized (but not mandated) hunting within the boundaries of a national park area, the park superintendent must determine that the activity is consistent with public safety and enjoyment, and sound resource management principles for that particular park. With publication of this special regulation the park will be in compliance with that requirement.

B. Where Does This Rule Apply?

This rule applies only to hunting on lands within the boundaries of New River Gorge National River. The two other national park system units in West Virginia (*i.e.*, Gauley River National Recreation Area and Bluestone National Scenic River) are mandated to allow hunting and do not require a special regulation in order for it to occur.

C. What Decisions Has the NPS Made in This Rule?

This rule:

(1) Puts into regulation what has been occurring in practice since before the park was authorized in 1978.

(2) Assures compliance with NPS general regulations concerning hunting.

(3) Specifies that hunting, where allowed, will be conducted in accordance with the laws of the State of West Virginia.

(4) Does not add new Federal requirements to the State hunting regulation for the New River Gorge National River.

(5) Continues to allow the Superintendent to exercise discretion in how lands within the park boundary are managed.

D. Why Does the NPS Want To Allow Hunting To Continue at New River Gorge National River?

(1) Hunting has a long tradition and a popular following within West Virginia. Some residents depend on hunting as a source of food for themselves and their families.

(2) The park General Management Plan, adopted in 1982, had wide public input. At that time, a determination was made that hunting was an appropriate activity and consistent with the purposes of the park. If public comments on this rule raise issues about the appropriateness of hunting, they

will be considered during the development of a new General Management Plan, scheduled to begin this Fall.

(3) Hunting has occurred for the past two decades without significant safety problems and has not had unacceptable impacts on other visitor or management activities.

(4) Hunting has not caused unacceptable impacts to hunted species nor to other species in the park.

E. What Is the Effect of This Interim Final Rule?

This rule allows hunting to continue in the park. We do not expect the addition of this Part 7 regulation to change hunting within the park in any substantive way. The regulation does not impose any new requirements, such as a separate permit, license, or fee, nor does it affect West Virginia's authority to otherwise regulate hunting practices. It satisfies the requirement for the park to have a special regulation that recognizes hunting as an activity allowed within the park's boundaries.

F. Why Wasn't There a Proposed Rule Before Today's Interim Final Rule?

The NPS recognizes that new rules are ordinarily afforded a comment period before going into effect. For this interim regulation, however, we have determined under 5 U.S.C. 553(b)(B) and 318 DM 5.3 that it would be unnecessary and contrary to the public interest to delay the effective date to accommodate notice and comment procedures. This decision is based on the following reasons:

(1) This rule simply codifies existing practice. It is necessary in order to comply with an NPS procedural requirement, but it will not result in any substantive changes in the existing hunting or other programs at New River Gorge National River.

(2) No particular public interest in the content of this rule is expected. Though the NPS has received one comment letter alerting it to the procedural need for this rulemaking, neither that letter nor any other source has suggested any public interest in the content of this special regulation. We believe this action is not controversial and do not expect any significant opposition to it.

(3) Delaying implementation of this rule could prevent it from being in place in time for the opening of the regular hunting season in West Virginia. If the lands normally open to hunting within the boundary of the National River are not available for the upcoming hunting season, it will adversely affect a popular and successful hunting program and create confusion as to the status of