



# United States Department of the Interior

NATIONAL PARK SERVICE

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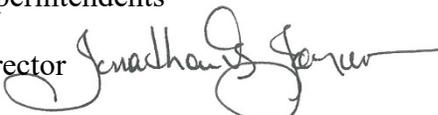
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IN REPLY REFER TO:

## **Policy Memorandum 16-02**

To: National Leadership Council

Attention: Superintendents

From: Director 

Subject: Significant Use Restrictions or Closures of Park Areas to Accommodate Special Events

### **Purpose**

This Policy Memorandum (Memorandum) updates National Park Service (NPS) policies and procedures by requiring park superintendents to obtain their regional director's written concurrence before issuing special park use permits for special events that will require significant restrictions or closures of areas in parks that would otherwise be open to public use. This guidance revises the procedures contained in Director's Order #53: Special Park Uses and is effective immediately.

### **Background**

The National Park System preserves exceptional places—places that contain spectacular scenery, world-renowned natural features, significant cultural resources, or important historic properties. The 1916 NPS Organic Act (codified as amended at [54 USC 100101\(a\) et seq.](#)) directs the NPS to protect these areas in perpetuity for future generations, a duty the NPS takes extremely seriously and against which it measures all of its park-management decisions. The act also directs the NPS to manage parks for the enjoyment of visitors, millions of whom are attracted to the parks by their scenery, wildlife, and diverse recreational opportunities. Those same attributes may, however, lead to inappropriate use or overuse that may negatively impact or even impair a park's natural or cultural resources or may detract from the high-quality experience that visitors expect in a unit of the National Park System. In order to avoid those unintended consequences, we must ensure that park-management decisions related to special events are based on well-informed professional judgment and are made in a consistent manner system-wide.

The variety of requests for special events has grown dramatically over the years, and now routinely includes everything from wedding ceremonies to competitive sporting events. What may be an appropriate activity in one park, however, might not be appropriate in another. See Management Policies (2006) section 1.5 (Appropriate Use of the Parks) and chapter 8 (Use of the Parks). Moreover, different requests to conduct special events in the same park may—and often will—result in different decisions, based on the professional judgment of the park staff

after considering resource impacts, visitor-use patterns, other already-approved special events, and other park-specific variables. Accordingly, in order to ensure public respect for, and trust in, our management decisions, each park must have a clearly defined process for evaluating requests for special park uses—one that is well-documented and transparent to the public, and that is based on consideration of relevant park-specific factors and a consistent application of NPS regulations and policies.

### **Related Regulations and Guidance**

The permitting of special events is governed by specific regulations—[36 CFR 2.50](#) (for most parks nationwide) and [36 CFR 7.96](#) (for certain parks in the National Capital Region). NPS regulations have the force and effect of law and may not be waived. Accordingly, park managers must be thoroughly familiar with the requirements of the applicable regulations and must ensure that all special events in their parks, and all special park use permits issued for those events, conform with the regulatory requirements.

This Memorandum augments other policy guidance currently in effect including Management Policies (2006), particularly [sections 8.6](#) (Special Park Uses), [1.4](#) (Park Management) and [1.5](#) (Appropriate Use of the Parks); [Director’s Order #53: Special Park Uses](#); and [Reference Manual 53](#).

### **Policy**

As a general matter, NPS policy is for areas within a park that are normally open to the public to remain open to the public during the conduct of a special event. Unless expressly stated as a condition of a permit, special park use permits do not authorize the exclusive use of a park area. In some cases, however, normal public use of an area within a park may be incompatible with a proposed special event. When considering an application for a special park use permit, the superintendent should carefully evaluate (1) the magnitude and duration of the interference with, or displacement of, normal public use of an area during the conduct of the special event and its effect on the visitor experience; (2) possible safety concerns for visitors, park staff, and park volunteers; (3) the inconvenience to members of the public who will not be participating in the event and who may not be interested in observing it; and (4) the appearance (and possible criticism) that the permitted event is effectively monopolizing the use of an area within the park. The superintendent must consider the approval criteria identified in NPS regulations and policies (including this Memorandum) in reaching a decision. If the superintendent decides to authorize a special event that will interfere with, or displace, normal public use of an area then the permit must include terms and conditions to manage the event properly, protect park resources and values, and minimize conflict between visitor uses. The terms and conditions may include, or be accompanied by, an order temporarily restricting public use of an area or temporarily closing an area to public use and access. However, restrictions or closures should always be limited to the smallest area and shortest time possible to accommodate the event and manage it properly.

For special events that will result in significant restrictions or closures of areas normally open to the public, such as ticketed events, the superintendent must obtain the regional director’s written concurrence (or, if delegated, the deputy regional director’s concurrence) before issuing the permit. For the purposes of this Memorandum, a restriction or closure is significant when it negatively affects the visitor experience by limiting visitor access to important park resources for an unreasonable period of time, without allowing access to comparable park resources. The

situation is compounded when visitors do not have the opportunity to participate in or observe the special event requiring the restriction or closure. Significant restrictions and closures also include those that substantially impact NPS or concessioner operations.

Concurrence by the regional director is required only for the granting of special event requests that involve significant restrictions or closures; it is not required for denials, unless the superintendent believes the denial will result in significant interest by the public, elected officials or the media, or is required by the regional office. In all cases, parks should develop and maintain complete administrative records for all special event requests, whether the request is approved or denied.

### **Approval Criteria**

The superintendent must review each request for a special event in light of the criteria contained in the park's authorizing legislation or proclamation; in [36 CFR 2.50](#) or [36 CFR 7.96](#), whichever applies; in relevant park planning documents, including park foundation documents; and after considering the kinds of factors discussed in the Policy section of this Memorandum. Park planning and foundation documents, in particular, will help the superintendent identify the important park-specific resources that must be considered in making the decision. Some special event requests will inevitably be deemed inappropriate and must be denied. Others may be denied in part and granted in part, or granted only if the permittee agrees to implement certain mitigation measures. Still others may be granted as requested. The superintendent will continue to exercise signature authority for the park's special park use permits, subject to the regional director's written concurrence for permits that involve significant restrictions or closures.

### **Clarification on For-Profit Involvement**

[Section 8.6.2.1](#) of Management Policies (2006), which addresses certain commercial aspects of special events, should not be interpreted as a blanket prohibition on the approval of special events involving a for-profit entity. Many requests for special events—for example, some sporting events or fishing tournaments—involve planning or management by a for-profit entity. Events involving a for-profit entity that will foster visitor understanding may be considered for approval, provided they allow visitors to attend and observe the event free of charge. On the other hand, events that appear to be primarily for a for-profit entity's material or financial benefit, as opposed to fostering visitor understanding of a park and its resources or increasing visitor enjoyment, should not be permitted.

### **Donations and Participation Fees**

Soliciting donations in a park requires a permit issued pursuant to the regulation found at [36 CFR 2.37](#), and is subject to the guidance found in Director's Order #21: Philanthropic Partnerships. Donations solicited and given within a park must be given freely, and may not be coerced, required, or exchanged for a thing of value. For example, a group may not require a \$10 donation in exchange for a t-shirt. As a matter of policy, permits may be issued for special events that require participants to pay a separate admission or participation fee. However the exchange, whether in the form of a fee or required donation, may not take place within the park.

### **Notification**

Superintendents are encouraged to communicate as early as possible to a potential permittee when there is a high probability that a special park use permit will be denied based on applicable

statutes, regulations, or policies. This possibility should be conveyed to the potential permittee at the earliest possible date so he or she can find an alternative venue or develop and propose mitigation measures that may enable the superintendent to permit the event. If the potential permittee requests the park to continue with review and evaluation of the permit, the superintendent will do so, making sure to fully document the process.

Special events can generate considerable interest on the part of the public, elected officials, and the media. Superintendents are encouraged to notify the regional office as soon as possible about permit applications that have the potential to generate considerable interest.

### **No Precedential Value**

Past approval of similar special events by a park will not have a bearing on the approval process as outlined in this Memorandum. Each request received must be evaluated individually for impacts to park resources and values, and compliance with current statutes, regulations, and policies.

### **Exceptions**

This Memorandum does not apply to park buildings or other park locations that may be made available for private, invitation-only events during hours when those buildings or locations are not normally open to the public.

### **Updated Procedures**

The Associate Director, Visitor and Resource Protection, will ensure that Reference Manual 53—when next updated—reflects the guidance contained in this Memorandum. Similarly, in due course, Management Policies (2006) and Director’s Order #53 will be reviewed to ensure the terms, criteria, and procedures specified therein for evaluating special events are well-defined and result in consistent decision-making across the National Park System.

### **No Third-Party Enforceability**

This Memorandum is intended only to improve internal management of the NPS, and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its departments, agencies, instrumentalities or entities, its officers or employees, or any other person.

This Memorandum will be posted on the Office of Policy’s [InsideNPS](#) and [public](#) websites, and will be incorporated into applicable NPS policies for special events in parks. For questions about this Memorandum, please contact the NPS Office of Special Park Uses at (202) 513-7092.

-----End of Policy Memorandum-----