

United States Department of the Interior

NATIONAL PARK SERVICE
Golden Gate National Recreation Area
Fort Mason, San Francisco, California 94123

IN REPLY REFER TO:
W34 (GOGA-VRPCR)

Memorandum

To: Frank Dean, General Superintendent

From: Kevin Cochary, Chief Ranger

Subject: Interim Compendium Amendment for Commercial Dog Walking

Summary:

GGNRA and the Presidio Trust wish to establish a public use limit and permit requirement for persons who are walking four or more dogs at one time for consideration (commercial dog walker) on lands under the administrative jurisdiction of the National Park Service in Marin County and the City and County of San Francisco, and the Presidio of San Francisco (Area B, Presidio Trust) where dog walking is allowed. Permits will allow a maximum of 6 dogs per dog walker, and require a business license and proof of liability insurance and approved dog-handling training through existing training courses. Permit holders must abide by all NPS and Presidio Trust regulations. This includes NPS regulation 36 CFR 2.15(a), which requires that dogs be restrained by a leash no longer than 6 feet in length in sites that are not open to voice control dog walking per the 1979 Pet Policy; and Presidio Trust regulation 36 CFR 1002.15. GGNRA would implement a permit system for the GGNRA, and the Presidio Trust would honor those permits on lands administered by the Trust. The annual permit cost would be a \$75.00 application fee and \$300 per person for a non-transferrable badge.

This use limit would be an interim action for both GGNRA and the Presidio Trust, and would remain in effect in GGNRA until a final special regulation for dog walking, including commercial dog walking, is promulgated. That final special regulation is anticipated in late 2015.

Should the Superintendent of GGNRA approve this interim public use limit and permit system, an amendment to GGNRA's Compendium would be completed. Should the Presidio Trust Executive Director approve this interim public use limit and permit system, an interim rule would be promulgated through publication in the Federal Register.

Recommended Regulatory Action

I recommend that you exercise the discretionary authority delegated to you under 36 C.F.R. Section 1.6 to adopt an interim compendium amendment that would require that any person walking more than three dogs at one time for consideration (commercial dog walker) in any Marin or San Francisco site of Golden Gate National Recreation Area (GGNRA) where dog walking is allowed, must first obtain a permit from the park.

The proposed text of the Compendium amendment is as follows:

PART 1 – General Provisions

36 CFR § 1.6 Permits

□ COMMERCIAL DOG WALKING

- (a) The walking of more than six dogs at one time by any one person for consideration (commercial dog walking) is prohibited within San Francisco County and Marin County sites administered by Golden Gate National Recreation Area (GGNRA).
- (b) The walking of more than three dogs, with a limit of six dogs, at one time by any one person for consideration (commercial dog walking) within San Francisco County and Marin County sites administered by GGNRA, where dog walking is otherwise allowed, is hereby authorized provided that:
 - i. That person has a valid commercial dog walking permit issued by GGNRA;
 - ii. The walking of more than three dogs, with a limit of six dogs, is done pursuant to the conditions of that permit; and
 - iii. The commercial dog walker badge issued to the permittee by GGNRA shall be visibly displayed at all times as directed in the permit while the permittee is engaging in commercial dog walking activities, and shall be provided upon request to any person authorized to enforce this provision.

If approved, this Compendium amendment would remain in effect until the final special regulation for dog walking in GGNRA is promulgated, which is anticipated in late 2015.

Justification

Adjacent Jurisdictions: This proposed public use limit and permit requirement is a direct response to commercial dog walking permit programs enacted in 2013 by the San Francisco Board of Supervisors and the Town of Tiburon in Marin County. These permit programs limit the number of dogs per commercial dog walker to 8 or 6 dogs, respectively. Given the extremely broad geographical reach (parks, open spaces, Port of San Francisco lands, and San Francisco Public Utility Commission properties) of the City and County of San Francisco's ordinance, coupled with the effect of the Town of

Tiburon's ordinance, the National Park Service (NPS) reasonably anticipates that a number of commercial dog walkers who use the areas in San Francisco and Tiburon that would cause them to fall under these ordinances, will instead walk their dogs in GGNRA areas in San Francisco and Marin Counties that are already heavily used by dog walkers, including commercial dog walkers. The San Francisco ordinance on commercial dog walking went into effect July 1, 2013, with a 120 day grace period to November 1, 2013, to allow completion of permit training requirements. As of March 11, 2014, 163 commercial dog walking permits had been issued by San Francisco's Animal Care and Control. The Town of Tiburon's permit program went into effect July 19, 2013; as of March 12, two permits had been issued by the City of Tiburon.

The San Francisco ordinance is anticipated to have a noticeable impact, particularly at Fort Funston and Crissy Field, the two sites most regularly used by dog walkers. Crissy Field already receives very high visitor use (approximately 3.2 million in 2009), including from individual and commercial dog walkers. GGNRA staff estimate that there are generally ten to fifteen commercial dog walkers per day (fewer on weekends than weekdays), and typically at least three present, with at least four to eight dogs each, at any given time of the day. A 2011 visitor use study found that 24% of visitors at Crissy Field were dog walkers. That same study found that at Fort Funston, where the average number of dogs walked at the site each day is 1,600, an average of 62% of daily visitors were dog walkers (66% on weekdays and 57% on weekends). On weekends, 3.1% of dogs at Fort Funston are walked in groups larger than 6, accounting for 10 dog walker visits. However, on weekdays, 34.7% of dogs were in groups larger than 6, accounting for approximately 127 dog walker visits. Of that group 19.4% of dogs were in groups larger than 8 (approximately 61 dog walker visits). The study notes: "At Fort Funston, many visitors were observed with large groups of dogs. While some of these visitors may be individuals who own multiple dogs, most are likely professional dog walkers."

Marin County Parks and Open Space began requiring permits for commercial dog walkers on Open Space lands in 2002; the permits allowed a maximum of 6 dogs per walker. Currently, certain GGNRA-managed sites in southern Marin, particularly Alta Trail above Marin City, are used by commercial dog walkers with more than six dogs per person. The Alta Trail, an easily accessible GGNRA site in close proximity to the town of Tiburon, is regularly used by commercial dog walkers who have an average of ten dogs each. GGNRA staff have often experienced up to 50 off-leash dogs at one time at that site. Because of the ease of access and parking, Alta Trail is likely to be an alternative for those commercial dog walkers who would otherwise use Tiburon open space areas where there is now a permit requirement and limit of 6 dogs per walker.

Safety and Visitor Experience: In heavily used areas, especially areas popular with multiple user groups, limiting the number of dogs per dog walker for this interim period would lessen the potential for conflict between user groups by allowing better control by dog walkers. Additionally, a limit on the number of dogs would address the safety and visitor experience concerns of other users, including private dog walkers, who have been displaced from areas heavily used by commercial dog walkers where large groups of dogs are not always well controlled. Numerous comments on the draft Dog Management Plan/EIS and visitor

complaints received by park staff have voiced safety and visitor experience concerns about large groups of dogs that are not adequately supervised. Additional control made possible by limiting the number of dogs walked at one time by commercial dog walkers would also address park employee concerns about working outdoors in areas heavily used by commercial dog walkers.

Establish Control and Regulations: Research and interviews conducted as part of GGNRA's dog management planning project indicate that there are now at least 100 commercial dog walking businesses in the City and County of San Francisco. There are also commercial dog walkers who operate without a business license. Commercial dog walkers include individual dog walkers, as well as companies with several employees. There is at least one association for commercial dog walkers in San Francisco, the San Francisco Professional Dog Walkers Association (Prodog). In a July 14, 2013, San Francisco Chronicle article about San Francisco's new commercial dog walking ordinance, a spokesperson for ProDog estimated that there might be as many as 300 commercial dog walkers in San Francisco. In San Francisco, the GGNRA sites most often used by commercial dog walkers are Fort Funston, Crissy Field and Fort Mason, but commercial dog walkers are also seen at Baker Beach and Ocean Beach. Commercial dog walkers typically bring between four and ten dogs, or more, at a time to GGNRA sites and spend about one hour, twice a day, in the park.

Without this interim action, commercial dog walkers would be able to continue walking unlimited number of dogs in GGNRA sites where dog walking is currently allowed until the NPS completed the GGNRA dog management planning process, which addresses both commercial and recreational dog walking. The dog management plan and its accompanying environmental impact statement (EIS) are well underway. In 2014, following review and consideration of public comment on the draft plan/SEIS, the NPS will develop and seek public comment on a proposed rule that codifies the dog management plan's regulatory elements in the Code of Federal Regulations. A final rule is not anticipated until 2015. When that rule is in place, the GGNRA interim compendium amendment for commercial dog walking will expire.

Basis of the Interim Permit Six Dog Limit

The maximum number of dogs per commercial dog walker in this proposed interim compendium amendment was drawn from the permit conditions developed in the dog management planning process. The permit conditions - including the number of dogs allowed per dog walker - proposed in the preferred alternative of the draft Dog Management Plan/Environmental Impact Statement (draft plan/EIS) and the draft Dog Management Plan/Supplemental Environmental Impact Statement (draft plan/SEIS), were developed initially by the GGNRA Negotiated Rulemaking Committee for dog management (2006-2007), and, as one of the Committee's consensus agreements, were incorporated in the preferred alternative of the 2011 draft Dog Management Plan/EIS, and the 2013 draft Dog Management Plan/Supplemental EIS. During the public comment period on the draft Plan/EIS, the NPS received multiple comments regarding the appropriate number of dogs allowed per dog walker. Some commenters expressed support for limiting the number at six dogs with strict guidelines. Other commenters, including some dog walkers, expressed

concern that public health and safety would be adversely impacted by allowing more than three dogs per dog walker, with some noting that four or more dogs could be hard to control. Some commercial dog walkers noted the potential economic impacts to their businesses of limiting the number of dogs to a maximum of six, while other commenters requested that commercial dog walking not be allowed at all.

In proposing alternatives for the maximum number of dogs per walker in the draft plan/EIS, the NPS was concerned first and foremost with visitor experience and safety, as well as resource protection, key objectives of the plan. The NPS questioned whether a dog walker could consistently control more than six dogs in areas open to voice control, of particular concern in an NPS area where there is a primary mandate of resource protection and a secondary mandate of visitor (not commercial) experience. The NPS was unable to find literature supporting the idea that more than six dogs would provide both visitor experience and safety, and resource protection. Based on public comment, input from the GGNRA Negotiated Rulemaking Committee for dog management, park staff observations, research on national and international best practices and law enforcement experience, the NPS believes that allowing more than six dogs total could negatively impact visitor experience and visitor and employee safety.

The preferred alternative proposed in GGNRA's draft Plan/EIS and SEIS would require that commercial and private dog walkers with more than three dogs obtain a permit; the permit would limit the number of dogs per walker to a maximum of six, and permits would be issued for only seven park sites, all of which are in either Marin or San Francisco counties. This interim public use limit is similar in that it would impose a maximum of 6 dogs per dog walker for the protection of visitor experience, visitor and employee safety and resources, however, it would only address commercial dog walkers, and would not limit them to only seven sites. Rather, all GGNRA sites open to dog walking in San Francisco and Marin would be available for commercial dog walkers under this interim action.

Applicable Law and Policy:

NPS regulations allow superintendents to implement public use limits to protect park resources, equitably allocate use of areas, protect public health and safety, and avoid conflicts among user groups. Public use limits may be adopted following a written determination and publication of the use limitation in the park's Compendium. In addition, under 36 CFR § 1.6, Permits, the National Park Service may adopt a permit system to implement a public use limit enacted under 36 CFR §1.5.

This proposed interim proposed use limit is consistent with NPS Management Policies, which allow the issuance of permits for special park uses that provide a benefit to an individual, group or organization rather than the public at large; that require authorization and some degree of management control to protect resources and the public interest and that are not prohibited by law or regulation. In that commercial dog walking is not a visitor-serving use, a permit is the proper authorizing mechanism rather than a commercial use authorization, which is intended to benefit the visiting public at large. This interim action allows continued access by commercial dog walkers to all GGNRA

Marin and San Francisco sites open to dog walking, but in a manner that is protective of other park users. Use of the most popular dog walking sites in GGNRA is already heavy – additional unregulated use could aggravate issues among dog walkers both commercial and private, as well as impact or displace other users. Finally, the 1979 GGNRA Citizen’s Advisory Commission Pet Policy did not address commercial dog walking, thus this interim action is not inconsistent with that policy.

This interim action is not of a nature, magnitude or duration such that it would result in a significant alternation of the public use patterns of the park. The expected duration of this proposed interim action is approximately two years, when the NPS intends to replace it with a special regulation published in the Code of Federal Regulations that will govern dog walking, including commercial dog walking, in GGNRA. The final special regulation will be based on the alternative selected in the Record of Decision for the GGNRA dog management Plan. Further, the scope of this proposed interim action is limited, applying only to GGNRA lands in San Francisco and Marin counties where dog walking is allowed; GGNRA lands in San Mateo County would not be affected. In addition, this proposed action would only affect commercial dog walkers; private dog walkers would not be affected. Commercial dog walkers are a subset of the dog walking that occurs on GGNRA lands, and only a portion of commercial dog walkers handle more than 6 dogs at one time. More importantly, the proposed action does not ban commercial dog walking. It allows the use to continue, with the requirement of a permit for those with more than 3 dogs, and a limit of 6 dogs, in San Francisco and Marin GGNRA sites.

This interim action would not adversely affect the natural, aesthetic or cultural values of park lands in Marin and San Francisco counties. Because this interim action limits the number of dogs per commercial dog walker, it potentially allows greater control of dogs, particularly in areas where dogs are currently allowed under voice control. Thus, this action would not adversely affect, and may even have a beneficial effect, on natural, aesthetic and cultural values of park lands, by reducing the potential for multiple, large groups of dogs in park sites.

Adoption of the proposed action would not require a long-term or significant modification in the park’s resource management objectives since it is an interim action and the park anticipates that it would be replaced by a final regulation in approximately two years. The proposed action is also not inconsistent with the park’s resource management objectives and broadly follows the goals and objectives of the GGNRA dog management draft Plan/EIS and SEIS, both of which considered the park’s resource management objectives in developing the range of alternatives. This proposed action is also consistent with natural resource goals of the updated GGNRA General Management Plan, particularly the goal of maintaining the integrity and diversity of natural resources and systems and mitigating the effects of urban pressures.

The proposed interim restriction is not highly controversial. Multiple jurisdictions in the Bay Area, including the City and County of San Francisco, the Town of Tiburon, and Marin County Parks and Open Space, have recognized the need to impose reasonable restrictions on commercial dog walking and have done so; the most recent actions were in

July of this year. The interim action proposed here was initially proposed by the commercial dog walking representative to the GGNRA Negotiated Rulemaking Committee, and was further developed, with much public review, throughout the GGNRA dog management planning effort. Finally, this action is similar to the approach that is currently being used by the adjacent jurisdictions mentioned previously.

This interim action is also the minimum necessary action at this time; narrowly tailored to address the anticipated increase in commercial dog walking that is expected to result from the adoption of local ordinances regulating commercial dog walkers in San Francisco and Tiburon. Without this interim action, it is reasonably expected that GGNRA lands in San Francisco and Marin Counties could see an increase in the amount of commercial dog walkers with large groups of dogs, which in turn would affect the use and enjoyment of park lands by other visitors, including other dog walkers.

Special Park Use: This action is considered a special park use (NPS 2006 Management Policies 8.6). A special park use is an activity that takes place in a park area, and that

- Provides a benefit to an individual, group, or organization, rather than the public at large;
- Requires written authorization and some degree of NPS management to protect park resources and the public interest;
- Is not prohibited by law or regulation;
- Is not initiated, sponsored, or conducted by the NPS; and
- Is not managed under a concession contract, a recreation activity for which the NPS charges a fee, or a lease.

Furthermore, this action, when implemented with the permit terms and conditions:

- Will not create an unacceptable impact on park resources or values;
- Is not contrary to the purposes for which the park was established;
- Would not unreasonably disrupt the atmosphere of peace and tranquility of wilderness, natural, historic, or commemorative locations within the park;
- Would not unreasonably interfere with interpretive programs, visitor activities, visitor services, or NPS administrative activities;
- Would not substantially interfere with the operation of public facilities or the services of NPS concessioners or contractors;
- Would not create an unsafe or unhealthy environment for other visitors or employees;
- Would not result in conflict with other existing uses.

Finally, this interim action is not expected to displace commercial dog walkers to adjacent lands managed by other agencies. Both the Town of Tiburon and the Marin County Parks and Open Space District already have similar restrictions on commercial dog walking. In San Francisco, there may be some commercial dog walkers who prefer to use City and County of San Francisco lands, in that they would be allowed an additional 2 dogs per walker under the San Francisco permit. However, that difference is not

expected to result in a significant amount of displacement from GGNRA lands to San Francisco-managed sites. There would also be no displacement onto Presidio Trust (Trust) lands as a result of this action, in that the Trust will be proposing to institute a similar interim restriction on Trust lands, intended to be enacted in concert with the GGNRA interim restriction under the GGNRA permit system.

NEPA Compliance:

The Handbook for NPS Director’s Order 12 contains a listing of Categorical Exclusions. Section 3.4 A(5) of the Director’s Order 12 Handbook provides that “Issuances, extensions, renewals, reissuances or minor modifications of concession contracts or permits not entailing new construction or new environmental impact as a result of concession operations.” may be categorically excluded under NEPA.

This compendium amendment requiring permits with a limit of 6 dogs per dog walker for commercial dog walking within GGNRA Marin and San Francisco sites that are open to dog walking would result in minor changes to commercial dog walking activities in the park. The park has prepared all the appropriate Categorical Exclusion screening forms, which are available for review. These forms disclose that the actions would result in no measurable adverse environmental effects. Furthermore, no exceptional circumstances or conditions exist that would make use of a Categorical Exclusion inappropriate. As such, we believe that a Categorical Exclusion under NEPA is the appropriate form of NEPA compliance for this regulatory provision.

Public Notice:

The park will provide public notice as described in 36 C.F.R. Section 1.7., specifically through community outreach, outreach to dog walking organizations, brochures and the Park’s website.

Concurrence:

(signed original on file)
General Superintendent, Golden Gate NRA

Date