

BEFORE THE UNITED STATES ARMY, CORPS OF ENGINEERS

**Subgroup to the DoD Regulatory)
Reform Task Force,) Docket # COE-2017-0004
Review of Existing Rules)**

COMMENTS OF GEORGIACARRY.ORG, INC.

Introduction

On February 24, 2017, the President signed Executive Order 13777, “Enforcing the Regulatory Reform Agenda, which established a federal policy to alleviate unnecessary regulatory burdens on the American People. The Order directs agencies to establish a regulatory reform task force to evaluate existing regulations and make recommendations to the agency head regarding their repeal, replacement, or modification. Pursuant to that Order, the United States Army, Corps of Engineers Subgroup announced a request for comments on a range of Corps of Engineers regulations being reviewed, including 36 CFR § 327, Rules and Regulations Governing Public Use of Water Resource Development Projects Administered by the Chief of Engineers. GeorigaCarry.Org, Inc. (hereafter GCO) respectfully requests on behalf of its members that the United States Corps of Engineers repeal 36 CFR § 327.13 to the extent it prohibits law abiding citizens from carrying loaded firearms on Corps property.

Interest of GCO

GCO is a grass roots organization in Georgia whose mission is to foster the rights of its members to keep and bear arms. GCO has several thousand members, mostly in Georgia but also in other states and some foreign countries.

The Regulation

The regulation in question is essentially a blanket prohibition on carrying loaded firearms on Corps of Engineers property. There are a few exceptions, most notably for hunting and with permission from a District Commander. GCO believes that the regulation is detrimental to the rights of citizens to provide for their own safety and security by being overbroad and encompassing a variety of areas traditionally open to carrying in similar circumstances. GCO recognizes that the Corps of Engineers plainly has an interest in preventing the carrying of firearms in sensitive locations such as dam powerhouses and federal buildings. Narrowly tailored restrictions on these sensitive areas are almost all universally on the books in other forms, or could be accomplished

with a much more tailored, narrow, and focused regulation. Lastly, the regulation is outdated and not in keeping with modern firearms carry laws in many jurisdictions.

Various Characters of Corps Property

Open Areas

Corps of Engineers property encompasses large swaths of wilderness, open land, and open waterways for which there is simply no compelling reason to restrict the carrying of firearms. In fact, most of these areas are open for hunting during appropriate seasons of the year. If the use of firearms for the purposes of hunting is appropriate to a particular area, there can be no serious argument that the presence of a gun for personal protection poses an inappropriate risk of stray gunfire or other danger. On the contrary, many of these large open areas are used by citizens for recreation in rather isolated conditions, in which the need for personal protection is particularly acute given the isolation and lack of law enforcement. Clearly citizens may need to protect themselves from both aggressive or ill wildlife as well as criminal people who intend them harm. Many of these open areas are practically indistinguishable from adjacent or surrounding undeveloped properties held by the States, the Bureau of Land Management, the Park Service, and other entities which cannot or do not prohibit carry on their property.

The carrying of firearms in these undeveloped areas is well-regulated by the states. Repealing this overbroad federal regulation will simply return these lands to purely state and local regulation where firearms are concerned, in keeping with the politics and mores of each jurisdiction.

Waterways

The regulation's blanket prohibition of carrying firearms on Corps property encompasses many large waterways such as the large lakes here in Georgia wherein people recreate on and in their own private property. Whether or not one can legally carry a firearm on your own boat for personal protection on a lake in Georgia effectively depends on whether the lake is owned by the Corps or a private entity. There is no rational reason why a firearm on a boat on Lake Lanier should be illegal, while that same firearm on Lake Oconee is not. Again, the overbreadth of the regulation encompasses much territory which is not at all sensitive, nor typically regulated beyond the general state and local laws.

Many boats on the Corps of Engineers are used, at least temporarily, as homes for people during their recreation. The many houseboats and cabin cruisers on the Corps lakes are vacation homes to their owners and guests. These homes should be afforded the same status as their occupant's permanent homes, wherein the United States Supreme Court has declared that the right to carry a firearm is at its zenith.

Parks

The Corps of Engineers lands encompass many of the nation's most-used parks. These parks are often leased and run by various and state and local governmental entities for the benefit of their citizens. States have varying regulations concerning the carrying of firearms in state parks. For instance, in Georgia, the carrying of firearms by Weapons Carry License holders is perfectly legal in state parks, including in the buildings. Thus, there are plenty of state parks in Georgia where the carrying of firearms is legal under state law and illegal under the Corps' regulation. In some cases this leads to almost absurd results. Large state parks at the major lakes in Georgia encompass land owned by the state, and land owned by the Corps and leased to the state. Ordinary citizens have no way at all to tell where such ownership starts and stops. An RV with a gun inside parked in some places at Tugaloo State Park on Lake Hartwell is perfectly legal, and illegal in others. This type of administrative and legal chaos has no basis in public safety and frustrates citizens who actually seek to follow the law.

As a practical matter, this regulation is nearly unenforceable in such circumstances. Federal law enforcement is simply not going to station itself at a state park boat ramp, waiting for a pickup with a bass boat attached to drive low enough towards the boat ramp to be on Corps property, and then approach the occupants in hopes of finding contraband guns. Those same guns would then stop being contraband after the boat is launched and the truck is parked high enough on the hill to be off of Corps land. Similarly, no one practically expects RVs and campers to be firearm free once they are moved from private property or a US National Park where the gun inside is legal, to Corps owned park land where it is not. Not only are overbroad regulations such as this not practically enforced, but absurd regulations such as this generate contempt or disregard for the law among even the most well-intentioned of citizens.

Developed areas with adjacent private property

Corps of Engineers' property encompasses many areas of adjacent private property development with Shoreline Use Permits issued by the Corps. The classic example of this is a lake house. Where the private property ends and the Corps' property begins is an often invisible property line, sparsely marked by hashed trees in some select locations. Adjacent homeowners with a dock on a lake or river can clearly carry a firearm on their own property, but if they walk down to their dock with a gun, they are committing a federal crime (except if it's hunting season and they are licensed for that). The Corps' regulation coverage of areas such as this simply infringes upon the rights of citizen for no legitimate purpose.

Corps of Engineers Facilities

Clearly the Corps has an interest in being able to prevent the carrying of firearms into its own physical facilities. The powerhouse at a local dam is one obvious example. The Corps' office and administration buildings would be another. These locations are already covered by federal criminal codes preventing the carrying of firearms into

federal buildings. With a careful study of the laws and the Corps property during a rulemaking period, such other specialized areas as these which are not currently covered by other laws could be identified and governed by a replacement, very narrowly tailored, Corps of Engineers regulation.

Practical Concerns

The current regulation also raises other practical concerns. For instance, the District Commanders are currently empowered to issue permission to carry firearms to individuals who apply. Should the Corps choose a policy position which generally allows this but not repeal the regulations, the presence of the current regulation creates a large administrative load for the Corps' District Offices for which they are ill-prepared and understaffed.

As a matter of practice, federal law enforcement officials are not generally present in the vast bulk of the Corps' land, making enforcement of the current regulation difficult. State law enforcement officers are not generally authorized to enforce federal laws; however, some are deputized for federal enforcement. Still others play dual roles for subject areas like game regulations, but have no authority or experience in non-hunting Corps regulations. Further still, the Corps regulations do not prohibit the carrying of unloaded firearms. How exactly officers are supposed to develop reasonable articulable suspicion that a given firearm is loaded is completely unclear? Enforcement of this regulation is thus problematic and sparsely applied at best.

Plainly there are many other state and federal laws on the books to cover other types of crimes that may be committed with firearms such aggravated assault and the like. Given that unjustified threatening or violent behavior with or without a firearm is prohibited by core criminal statutes in all places, the Corps regulation is rarely used and superfluous in criminal matters such as this.

Conclusion

The current Corps of Engineers Regulation prohibiting the carrying of firearms on all Corps property except with specific permission or while hunting is overbroad, outdated, and practically problematic. GCO recommends that this regulation should be repealed, thereby allowing the applicable state and federal firearms laws to govern. If the complete repeal were to leave some sensitive or critical Corps facilities unregulated, then a narrowly tailored regulation addressing just those areas should replace the current blanket prohibition.

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