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A.J. North
Regulations Program
National Park Service
1849 C Street NW., MS-2355
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Re: Regulation Identifier Number (RIN) 1024-AE06, National Park Service

The Board of Directors at Psychiatric Service Dog Partners recognizes and sincerely appreciates the general need for the National Park Service to strike a balance between citizen access and wildlife preservation in United States parks. As a group that both advocates for persons with disabilities and gives voice to the needs of their psychiatric service dogs, we are particularly sympathetic to this balancing of interests between humans and animals.

We applaud the National Park Service for volunteering “to align its regulations with the ADA and make NPS facilities, programs, and services accessible to and usable by as many people as possible, including those with disabilities.” In concert with this goal, we are writing to share our findings regarding proposed rule 1024-AE06, “Special Regulations; Pets and Service Animals: Olympic National Park and Isle Royale National Park”. Our findings pertain to four issues, in three subsections of § 2.15:

- 1) *Demonstration of Control*—§ 2.15(b)(2)
- 2) *Allowable Prohibitions to Service Dog Access*—§ 2.15(b)(5)
- 3) *Healthcare Certification Requirements*—§ 2.15(b)(5)
- 4) *Access of Service Dogs in Training*—§ 2.15(c)

1) *Demonstration of Control*—§ 2.15(b)(2)

§ 2.15(b)(2):

A service animal must be controlled at all times with a harness, leash, or other tether, unless the restraint device would interfere with the service animal's safe, effective performance of work or tasks or the individual's disability prevents using these devices. In those cases, the disabled individual must be able to recall the service animal to his or her side promptly using voice, signals, or other effective means of control. This must be demonstrated when requested by an authorized person.

There are two cases in which the Americans with Disabilities Act allows a service dog handler not to be physically connected to the service dog, and these are also provided for in § 2.15(b)(2) above. These exceptions are reasonable, but both the ADA and § 2.15(b)(2) leave a theoretical gap in which a disabled handler seems to be permitted to let their dog wander, not remaining at their side when it is unnecessary to work at a distance. This gap is quite unfortunate, and while we appreciate the attempt

to account for that gap in § 2.15(b)(2), we suggest that its attempt approaches the gap from the wrong direction.

§ 2.15(b)(2) requires that a disabled individual who requires their dog to work off-leash not only be able to recall their service dog to their side promptly, but also to demonstrate this if an authorized person so requests. We wholeheartedly agree that any service dog that is (necessarily) performing work off-leash should have an extremely reliable recall—if not to the disabled person, then to the handler, who may be distinct in some cases (please note: “service animal handler” may be more appropriate than “disabled individual” in § 2.15(b)(2)). However, the disabled community has good reason to oppose generally any requirement that puts a burden of demonstration on them, as is placed on them with the § 2.15(b)(2) recall demonstration provision.

Such a burden of demonstration is not in concert with the ADA, as it may serve as a basis for harassment, intended or not. Moreover, it is usually baldly obvious whether the service dog is under control—and within a reasonable, supervised distance from the handler. Finally, § 2.15(b)(3) allows that an individual may be asked to remove a service animal if “The animal is out of control and the animal’s handler does not take effective action to control it;”. An unsupervised, wandering service dog is not under handler control, and so there is already a more general provision under which the handler could be asked to gain control of a service dog that is unreasonably at a distance.

So instead of a provision for a demonstration request, we recommend that the NPS start from a presumption of handler control, once it is established by traditional means that the dog is a service dog. To close the ADA’s theoretical gap from the other direction, we propose the following language, in which the second and third sentences of § 2.15(b)(2) are modified:

A service animal must be controlled at all times with a harness, leash, or other tether, unless the restraint device would interfere with the service animal’s safe, effective performance of work or tasks or the individual’s disability prevents using these devices. In those cases, the service animal handler must be able to recall the service animal to the individual’s side promptly using voice, signals, or other effective means of control. When not immediately performing work or tasks directly related to the individual’s disability, the service animal must not wander from the individual, but must remain within a distance and location that easily allows handler supervision of the service animal.

Psychiatric Service Dog Partners’ suggested wording addresses the ‘wandering service animal’ theoretical gap, yet is not nearly as likely to elicit an up-in-arms response from the disability community.

2) Allowable Prohibitions to Service Dog Access—§ 2.15(b)(5)

§ 2.15(b)(5):

(5) Upon determining that the use of service animals in a specific area poses a threat to the health or safety of people or wildlife, the superintendent may require proof of current vaccinations, impose additional conditions or restrictions, or close the area to service animals. Any area closed to service animals must be closed to pets. In determining whether the use of service animals poses a threat under this paragraph, the superintendent must:

(i) Make a written determination based on objective evidence evaluating the nature, probability, duration, and severity of the threat; and

(ii) Explain in the written determination why less restrictive measures will not suffice.

We understand and respect that the nature of some operations precludes the use of service dogs in part or all of those operations. Just as zoos may reasonably restrict access to particular exhibits containing animals that may be unduly stressed upon sensing a service dog, the National Park Service may also observe particular situations in which service dog access must be restricted for the

welfare of non-human park inhabitants.

We consider that such NPS restrictions would be due to valid concerns about a specific disease-vector that service dog access would facilitate significantly more than that disease-vector would otherwise be promulgated. It may also be the case that there are certain especially sensitive wildlife populations that evidence reasonably demonstrates would be harmed by the mere transient presence of a healthy dog and its scent.

Psychiatric Service Dog Partners fully supports restrictions to service dog access in the cases described, noting that our rights to access extend only so far as they do not unduly conflict with the National Park Service's right to wildlife preservation. Likewise, PSDP supports the NPS proposal that any access restriction is accompanied by "a written determination based on objective evidence of the threat that explains why a less restrictive measure will not suffice." Such a written determination should be made public at park entrances, and if possible, online in places easy accessed by prospective park visitors.

Our only other worry here is that placing unchecked power with each area superintendent may lead to undue restrictions on access for disabled persons who rely on service dogs. While we would like to trust all superintendents as individuals, we cannot expect the group to have a complete absence of superintendents whose zeal in protecting wildlife outstrips their expertise in relevant, specific disease-vectors. This kind of imbalance can catalyze the erection of an undue barrier to service dog users' access.

In place of giving each area superintendent carte blanche to determine whether "the nature, probability, duration, and severity of the threat" merits the restriction of service dog use, we propose a two-tiered system, with the National Park Service (Regulations Program) overseeing the administration of restrictions to service dog access.

In those rare cases in which there is a non-emergency need, for example, to reduce the likelihood of the introduction of a specific wildlife-harming contagion, the superintendent should be required to have a restriction approved by an NPS office before establishing or enforcing restrictions. Such approval would be for a determinate period of time, in proportion to the expected duration of the danger to wildlife, and would be renewable.

In even rarer cases in which there is a specific wildlife-endangering emergency that arises and is reasonably expected to be appropriately linked to service dogs, the area superintendent should have the power to create temporary restrictions to service dog access. Such restrictions should require a posted, dated notice at park entrances ahead of any access denial, and should not be allowed to extend beyond the maximum turnaround time for non-emergency NPS restriction approval. An emergency restriction would not be renewable, since restrictions that are suspected of requiring greater duration would merit an application for non-emergency restrictions.

The oversight and local power provided by this two-tiered, pragmatic restriction system is expected to come at negligible cost. According to the National Park Service, there are 401 areas in the national park system. If there were an initial six-month call for restriction requests before the new regulations were to take effect, it is difficult to imagine that subsequent requests would be frequent, or would require much research by the national office, especially if superintendents are required to provide their own objective evidence specific to their proposed restrictions, as already required by the planned regulation. Our proposed restriction approval system therefore satisfies citizens' worries about lack of oversight, appears to have negligible cost beyond that already in the proposed rule, and grants park superintendents limited emergency powers as may be needed in the course of wildlife protection.

3) *Healthcare Certification Requirements*—§ 2.15(b)(5)

§ 2.15(b)(5):

(5) Upon determining that the use of service animals in a specific area poses a threat to the health or safety of people or wildlife, the superintendent may require proof of current

vaccinations, impose additional conditions or restrictions, or close the area to service animals. Any area closed to service animals must be closed to pets. In determining whether the use of service animals poses a threat under this paragraph, the superintendent must:

- (i) Make a written determination based on objective evidence evaluating the nature, probability, duration, and severity of the threat; and*
- (ii) Explain in the written determination why less restrictive measures will not suffice.*

Our concern here is that instead of a few superintendents in threatened areas issuing targeted and necessary requirements, it may become a default practice to burden service dog users with mark-missing paperwork requirements across the majority of NPS areas. This would be contrary to ADA reasoning, which is that a person with a disability should be able to engage in life as much as possible like those without disabilities—e.g., by stopping off for an unplanned visit to a national park while out for a drive, simply because there was an eye-catching sign. Absent a particular cause for NPS action, we remain adamantly opposed to another demonstration burden with § 2.15(b)(5), as we were with § 2.15(b)(2) above. Not only might an individual forget the requested healthcare certification, but some certifications require costly and time-consuming veterinarian appointments merely to obtain a piece of paper regarding previous healthcare actions (if something beyond a bill printout were required).

We can gain more insight from the NPS background to § 2.15(b)(5):

After consultation with the U.S. Public Health Service's Wildlife Health Branch on the serious potential for disease transmission between service animals and wildlife, the NPS has determined that a superintendent may use this authority to require individuals wishing to bring a service animal into an area where the service animal is likely to pose a threat to the health of wildlife to demonstrate proof of the service animal's current vaccinations for diseases such as, but not limited to, rabies, distemper, parvovirus, and adenovirus, and proof of current treatment for intestinal parasites and heart worms[...]. An individual could demonstrate proof by showing a copy of a veterinarian bill for the required vaccines and treatments, a state-issued rabies tag, and/or a state health certificate, provided that the state vaccination requirements for the state health certificate mirror those established by the superintendent.

To reiterate our position, PSDP completely agrees with measures that necessarily restrict or impede service dog access in order to duly protect wildlife. Our concern lies with respecting the rights and dignity of persons with disabilities, and in finding the just balance between these values and wildlife protection, where there is room to weigh in on the issue.

Although we can speak to certain points here, we find ourselves limited in our ability to touch upon all of the worries expressed by the National Park Service in the quoted paragraph above. Unfortunately, since our Board of Directors was unable to find any targeted public resources to corroborate “the serious potential for disease transmission between service animals and wildlife” that the NPS mentions discussing with the U.S. Public Health Service's Wildlife Health Branch, we are unable to address any specific concerns regarding an incidence or type of disease risk under NPS jurisdiction.

Nonetheless, we are still able to address concerns pertaining to the balance of disability accessibility and wildlife protection, including the measures the NPS suggests. In addition to the potential burdens mentioned earlier—not being able to stop off for an unplanned NPS area visit, and the extraneous financial and temporal expense of certain vet certificates—it bears mentioning that some dogs have negative reactions to particular vaccinations. Their owners tend to employ veterinarian-approved titer-testing to make sure their dog maintains sufficient antibodies, instead of harming their dog with unnecessary further vaccinations. This testing is more targeted than aggressive, blind vaccination schedules, but it also comes at greater expense.

Instead of imposing a (hopeful) one-size-fits-all demonstration burden on service dog users, Psychiatric Service Dog Partners suggests the National Park Service operate on a presumption of good service animal health, unless there is a very specific concern in an NPS area. We believe we

have conveyed why healthcare certification should not be required. Beyond this even, in order to illustrate why we believe a blanket multi-part vaccination requirement would not be worthwhile in achieving the wildlife protection goal, we will review each treatment/disease mentioned. This is to determine how likely to protect wildlife specific treatment requirements would be.

Our basis for an “extremely unlikely” determination in cases below, regarding the likelihood of a service animal both having one of the conditions and passing it to a wildlife population in which the condition does not antecedently exist, is whether that likelihood is significantly more than would exist under regulations totally prohibiting service dog access. This includes the chance that people will sneak pets in, and that they bring in diseases on their shoes, merely from walking around the local dog park the day before.

Rabies

Rabies is transmitted through saliva, most often through bites. Since we presume and have impending regulations to ensure that service dogs are under control, it seems extremely unlikely that service dogs would transmit rabies to the wildlife.

http://www.cdc.gov/rabies/transmission/index.html?s_cid=cs_521

Distemper

According to the ASPCA, distemper “is passed from dog to dog through direct contact with fresh urine, blood or saliva. Sneezing, coughing and sharing food and water bowls are all possible ways for the virus to be passed on.”

<http://www.asPCA.org/pet-care/dog-care/distemper>

The Michigan Department of Natural Resources similarly details the transmission:

Transmission occurs via an aerosol-droplet route, direct contact, or possibly by contact with contaminated objects. It is uncertain whether carrier or unapparent infections exist. The virus is shed in the feces and urine of infected individuals and some evidence exists for transplacental transmission. The usual route of infection is through the upper respiratory tract, following inhalation of infective virus.

http://www.michigan.gov/dnr/0,1607,7-153-10370_12150_12220-26505--,00.html

Ronald Hines, DVM, PhD claims that “Distemper virus is easy to kill with disinfectants, sunlight or heat.” Together, these resources make it seem that distemper cannot survive long outside the body, and that transmission to wildlife is about as likely as a service dog being taken out on duty with distemper symptoms, then coughing on a susceptible member of the wildlife population—extremely unlikely.

<http://www.2ndchance.info/dogdistemper.htm>

Parvovirus & Adenovirus

The ASPCA is again helpful with a page on parvovirus:

Parvovirus is extremely contagious and can be transmitted by any person, animal or object that comes in contact with an infected dog's feces. Highly resistant, the virus can live in the environment for months, and may survive on inanimate objects such as food bowls, shoes, clothes, carpet and floors. It is common for an unvaccinated dog to contract parvovirus from the streets, especially in urban areas where there are many dogs.

Any disease that can easily survive on shoes is much more likely to be transmitted by the almost 300 million pairs of shoes that tread on NPS ground each year, than by the perhaps four-digit number of

service animal visitors. This renders the probability of a parvovirus impact of service dogs as extremely unlikely to be significant, especially when one considers that service dog owners are presumed to be fastidious in their dog waste management.

<http://www.aspca.org/pet-care/dog-care/parvovirus>

This determination seems to hold for adenovirus, as well. Consider this entry from the comprehensive pet health library on “PetWave”:

The CAV-1 virus is transmitted between dogs by direct oral or nasal contact with the body secretions from an infected dog, such as urine, feces, saliva and nasal discharge. Exposure to urine seems to be the most common route of infection in dogs. Some external parasites can carry CAV-1. The virus also can be transmitted on fomites, which are inanimate objects or items such as bedding, feces, leashes and shoes, although this mode of transmission is much less common than direct oronasal contact.

Adenovirus can be transmitted if a service dog sneezes directly in the face of a member of the wildlife population, or if someone brings it in on their shoes. Again, it is extremely unlikely a service dog would transmit this virus to the wildlife population.

<http://www.petwave.com/Dogs/Health/Infectious-Hepatitis/Causes.aspx>

When we respectfully presume that service dog handlers conduct appropriate waste disposal, general concerns about intestinal parasites and heartworms also seem to disappear. This is not merely an exercise in disease-vector education, but is meant to illustrate how unlikely it is that requiring blanket healthcare certifications would do anything other than give a false sense of security while unduly burdening persons with disabilities. Whereas “the NPS has determined that a superintendent may use this authority to require individuals wishing to bring a service animal into an area where the service animal is likely to pose a threat to the health of wildlife”, we find that the common healthcare certifications mentioned do not touch on any of the rare situations in which a service animal is actually likely to pose a threat to wildlife.

We hope to have made it enduringly clear that concerns about disease transmission from service animals to wildlife must be targeted and well-reasoned. Psychiatric Service Dog Partners consequently recommends that § 2.15(b)(5) contain language specifically limiting the powers of superintendents, restricting them from requiring blanket healthcare certifications that only serve as a barrier to access. We would rather see appropriate total prohibitions on service animals in very select locations than see regulations lacking in promise in the access vs. protection balancing act. As with our previous comment on § 2.15(b)(5), “2) Allowable Prohibitions to Service Dog Access—§ 2.15(b)(5)”, we prefer that a central NPS office have oversight over superintendents' proposed impediments to service animal access, ensuring that such proposals do not create unnecessary burdens for the disabled.

4) Access of Service Dogs in Training—§ 2.15(c)

§ 2.15(c): “Service animals in training. Service animals in training are regulated as pets under the conditions in paragraph (a) of this section.”

It seems to us that § 2.15(c) contradicts General Services Administration Facilities Management regulation §102-74.425, held by the service dog community for years now to grant access to a service dog in training on federal property, as long as it is accompanied by the disabled user. Regulation §102-74.425 reads:

What is the policy concerning dogs and other animals on Federal property?

No person may bring dogs or other animals on Federal property for other than official purposes. However, a disabled person may bring a seeing-eye dog, a guide dog, or other animal assisting or being trained to assist that individual.

Setting aside concerns about authority, we advise that it would be inadvisable to impinge on these broad rights without good reason. We do not see a particular reason for the NPS to actively restrict the access of service dogs in training to that of pets. To inform the issue, we reproduce here a section from our organization's answers to common questions (FAQ) involving the law, in particular about service dogs in training:

We typically consider a dog to be a service dog in training only after it has undergone socialization, housebreaking, basic obedience training, and training to the point at which it could pass the American Kennel Club's Canine Good Citizen test. If the dog remains a good candidate for service work after this point, and there is a plan being executed for the dog to be trained for good public behavior and to help deal with someone's disability, the dog can be considered a service dog in training. Generally, we do not consider it good practice to call a dog a "service dog in training" before this point, even if the plan is for the dog to become a service dog.

<http://www.psychdogpartners.org/resources/frequently-asked-questions/laws>

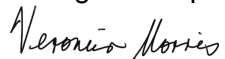
As this shows, our standards reflect that the public should expect behavior from service dogs in training that falls within fairly acceptable parameters. That said, others may (inappropriately, in our view) call very young, untrained puppies "service dogs in training". We would normally consider such puppies as merely "service dog prospects", but this is just to illustrate the variation in terminological application.

We offer the careful recommendation that the NPS consider not defining a service dog in training, but instead make it clear that a service dog in training that "has undergone socialization, housebreaking, [and] basic obedience training" is welcome wherever a service dog is.

Regarding the comments so far submitted by others, we generally agree with the recommendations offered by John Ensminger, Esq. and J. Lawrence Thomas, PhD in their document posted April 28th, in the sections "Distinguishing Psychiatric Service Animals from Emotional Support Animals" and "Proof of Certification, Training, or Licensing". We also find compelling much of what Joanne Shortell has to say in her comment posted June 9th.

The Board of Directors of Psychiatric Service Dog Partners sincerely thanks the employees of the National Park Service for their dedication to the preservation of our national parks and wildlife. We earnestly hope we have been of assistance in helping you to balance access expansion with wildlife protection, for we look forward to "America's Best Idea" living on and thriving in perpetuity.

With great respect,



Veronica Morris, PhD
President, Board of Directors
on behalf of the PSDP Board of Directors

Psychiatric Service Dogs Partners' purpose is to promote the mental health of people using service dogs for psychiatric disabilities by educating, advocating, providing expertise, facilitating peer support, and promoting responsible service dog training and handling.

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