



**Billing Code 4310-PV**

**DEPARTMENT OF THE INTERIOR**

**National Park Service**

**36 CFR Part 7**

**[NPS-CHATA-10187; 5340-SZM]**

**RIN 1024-AD94**

**Special Regulations; Areas of the National Park System, Chattahoochee River National Recreation Area, Bicycle Routes.**

**AGENCY:** National Park Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The National Park Service proposes to designate certain multi-use pathways in Chattahoochee River National Recreation Area as routes for bicycle use. National Park Service regulations require promulgation of a special regulation to designate routes for bicycle use off park roads and outside developed areas. Several segments of multi-use pathways at Chattahoochee River National Recreation Area have been, or are planned to be, constructed as part of an effort to replace eroded social trails with sustainable trail systems. Allowing bicycling on the new trail system will improve connectivity to regional trail networks, enhance opportunities for non-motorized enjoyment of the park, and encourage the use of alternate transportation by park visitors and staff.

**DATES:** Comments must be received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit your comments, identified by Regulation Identifier Number (RIN) 1024-AD94, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail: Superintendent, Chattahoochee River National Recreation Area, 1978 Island Ford Parkway, Sandy Springs, GA 30350
- Email: [chat\\_superintendent@nps.gov](mailto:chat_superintendent@nps.gov)
- Fax: (770) 399-8087

Instructions: All submissions received must include the agency name and docket number or RIN for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Participation" heading of the SUPPLEMENTARY INFORMATION section of this document.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Rick Slade, Chief of Science and Resource Management, Chattahoochee River National Recreation Area, 1978 Island Ford Parkway, Sandy Springs, GA 30350 (678) 538-1321.

**SUPPLEMENTARY INFORMATION:**

**Background**

In 1973, the State of Georgia enacted the Metropolitan River Protection Act (MRPA) to ensure the protection of the corridor located within 2,000 feet of each bank of the Chattahoochee River, or the corridor located within the 100-year floodplain, whichever is larger. Five years after the enactment of the MRPA, the United States Congress found that the:

natural, scenic, recreation, historic, and other values of a forty-eight mile segment of the Chattahoochee River and certain adjoining lands in the State of Georgia from Buford Dam downstream to Peachtree Creek are of special national significance, and that such values should be preserved and protected from developments and uses which would substantially impair or destroy them. (16 U.S.C. 460ii)

On August 15, 1978, President Jimmy Carter signed legislation creating the Chattahoochee River National Recreation Area (CHAT), a unit of the National Park System consisting of “the river and its bed together with the lands, waters, and interests therein . . . .” (16 U.S.C. 460ii). The National Park Service (NPS) is responsible for management of this significant stretch of Riverside Park.

In 1984, Congress amended the CHAT’s enabling legislation through Public Law 98-568, which declared the corridor located within 2,000 feet of each bank along the 48-mile river segment “an area of national concern.” A subsequent amendment, passed in 1999, expanded the authorized boundary of CHAT and provided funding to support acquisition of land-based linear corridors to link existing units of the recreation area and to ensure that they are managed to standardize acquisition, planning, design, construction, and operation of the linear corridors. The NPS manages the 48-mile stretch of the Chattahoochee River from top-of-bank to top-of-bank, including all adjacent land elements that occur below the high water mark. The NPS also manages over 5,000 acres of park land, including riverside units and upland forested areas with hiking trails and other recreational opportunities.

In September 2009, the NPS completed a General Management Plan/Environmental Impact Statement (GMP/EIS). Consistent with 36 CFR 4.30, the GMP/EIS states that bicycles are prohibited except on roads, parking areas, and designated routes, noting that this regulation is especially important in light of comments received during the GMP/EIS process from some visitors who view the park corridor as an opportunity to promote non-motorized and less

polluting alternatives to automobiles, such as bicycle use. Public comments during the GMP/EIS process also reflected the desire to increase the use of bicycles off-road in the park through development of an interconnected trail system. The final GMP/EIS describes off-road bicycling on trails as an appropriate use in the developed, natural area recreation, and rustic zones.

### **Proposed Rule**

The proposed rule adds a special regulation for CHAT, designating segments of trails outside of developed areas as routes for bicycle use, as required by the general regulation for bicycle use in the National Park System at 36 C.F.R. 4.30. The proposed rule would designate segments of trails in the Vickery Creek, Johnson Ferry South, and Cochran Shoals units as multi-use trails, allowing both pedestrian and bicycle use.

#### *Vickery Creek Unit*

In 2001, the City of Roswell planned and constructed a multi-use paved trail along the Chattahoochee River, a portion of which crosses the Vickery Creek unit of CHAT. Pursuant to the National Environmental Policy Act of 1969 (NEPA), the park completed a Categorical Exclusion in 2001 that determined there would be minimal impacts from the approximately 500-foot segment of paved multi-use trail that crosses a portion of the Vickery Creek unit. This trail was constructed prior to the GMP/EIS and was consistent with former park planning zones.

#### *Johnson Ferry South Unit*

The January 2010 Environmental Assessment Proposed Trail Connection Project (EA) evaluated projects to improve trail connectivity and sustainability within the Bowmans Island West, Johnson Ferry South, and Cochran Shoals park units, including new bicycle access in the Johnson Ferry South and Cochran Shoals units. The selected alternative in the EA for the

Johnson Ferry South unit includes construction of a 0.1 mile segment of new trail to connect the existing multi-use trail on a park administrative road to a planned underpass below the Johnson Ferry Road bridge. The existing trail is located on an old dirt farm roadbed that is currently being used by both pedestrians and bicyclists. The addition of the 0.1 mile trail segment will allow bicyclists and pedestrians to connect to an alternative transportation network both within and beyond the park boundary. The portion of the trail within the park will be approximately 2.2 miles long. The new 0.1 mile trail segment will use sustainable design principles including routing along the terrain contours, sloping the trail surface to allow for runoff during rain events, and a natural trail surface. This trail segment was evaluated by the EA, and in March 2010 the park completed a Finding of No Significant Impact (FONSI) which concluded that the selected alternative for the Johnson Ferry South unit will not have a significant adverse effect on the human environment. The Johnson Ferry South unit is zoned in the GMP/EIS as a rustic zone, which identifies off-road bicycling as an appropriate use.

#### *Cochran Shoals Unit*

The selected alternative in the EA for the Cochran Shoals unit allows pedestrian-only access on a number of trails, but also incorporates a loop-style multi-use trail for both pedestrians and bicyclists. The project will close and revegetate heavily eroded and unsustainable social trails and construct new trail segments to create a sustainable, aesthetically pleasing trail network. The new trail system will use sustainable design principles, including routing along the terrain contours, sloping the trail surface to allow for runoff during rain events, and a natural trail surface. An existing multi-use trail follows an old farm road for 2.4 miles, where off-road bicycling is currently allowed because the trail is on a park administrative road. The final trail plan has 3 miles of hiking-only trails and 6.7 miles of multi-use trails allowing both pedestrians

and bicycles. A public scoping meeting was held on October 29, 2009, and 36 public comments were received, which overwhelmingly supported expanding access for bicycling in the Cochran Shoals unit.

During the EA process, some public comments raised concerns regarding bicyclists and hikers sharing trails in Cochran Shoals, citing safety and erosion issues. Conflicts between pedestrians and bicyclists are primarily caused by the difference in speeds between the users. Bicyclists can often travel at higher speeds, and the speed differential between bicyclists and pedestrians may reduce the communication between the users, startle pedestrians, and increase the odds of conflict. To minimize the potential for conflict, the Cochran Shoals trail network was designed to create a 6.7 mile loop-style system, rather than an out-and-back style trail, thereby reducing traffic and congestion at any given point on the trail. The new loop-style trail also reduces the number of users that could potentially cut through or create unauthorized trails in order to avoid repetitive scenery. In addition, park management will implement directional traffic on the trails in the Johnson Ferry South and Cochran Shoals units to limit bicycle-pedestrian conflicts. The Superintendent will exercise discretion to temporarily close bicycle access to these trails following a rain event to address issues concerning erosion and water quality impacts that were also raised during the EA process.

The FONSI concluded that the selected alternative for the Cochran Shoals unit will not have a significant adverse effect on the human environment. The Cochran Shoals unit is zoned in the GMP/EIS as a natural area recreation zone, which identifies off-road bicycling as an appropriate use.

## **Compliance with Other Laws, Executive Orders and Department Policy**

### **Regulatory Planning and Review (Executive Order 12866 and 13563).**

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

### **Regulatory Flexibility Act (RFA).**

This rule will not have a significant economic effect on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). There are no businesses in the surrounding area economically dependent on bicycle use on these trails. The park does not have any bicycle rental concessioners and the users are mainly private individuals using the trails for recreational purposes. This certification is based on the cost-benefit and regulatory flexibility analysis found in the report entitled “Cost-Benefit and Regulatory Flexibility Analysis: Proposed Regulations for Trail Management in Chattahoochee River National Recreation Area” which can be viewed on the park’s planning website, <http://www.nps.gov/chat/parkmgmt/planning.htm>, then clicking on the link entitled “Chattahoochee River Trail Connection Plan.”

### **Small Business Regulatory Enforcement Fairness Act (SBREFA).**

This rule is not a major rule under 5 U.S.C. 804(2), the SBREFA. This rule:

- (a) Does not have an annual effect on the economy of \$100 million or more.
- (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.
- (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

### **Unfunded Mandates Reform Act (UMRA).**

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. It addresses public use of national park lands, and imposes no requirements on other agencies or governments. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

### **Takings (Executive Order 12630).**

Under the criteria in section 2 of Executive Order 12630, this rule does not have significant takings implications. A takings implication assessment is not required.

### **Federalism (Executive Order 13132).**

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism summary impact statement. This proposed rule only affects use of NPS administered lands and waters and has no outside effects on other areas. A Federalism summary impact statement is not required.

### **Civil Justice Reform (Executive Order 12988).**

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

### **Consultation with Indian tribes (Executive Order 13175)**

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on federally recognized Indian tribes and that consultation under the Department's tribal consultation policy is not required.

Representatives of the tribes potentially affiliated with CHAT were contacted during the preparation of the EA for the project.

### **Paperwork Reduction Act (PRA).**

This rule does not contain information collection requirements, and a submission under the PRA is not required.

### **National Environmental Policy Act (NEPA).**

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the NEPA is not required because (i) the selected action for the Vickery Creek unit is covered by a categorical exclusion and (ii) we

reached a FONSI for the selected actions for the Johnson Ferry South and Cochran Shoals units. We have also determined that this rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis of the selected action for the Vickery Creek unit under NEPA. A copy of the EA and FONSI can be downloaded from the park's planning website, <http://www.nps.gov/chat/parkmgmt/planning.htm>, then clicking on the link entitled "Chattahoochee River Trail Connection Plan."

### **Effects on the Energy Supply (Executive Order 13211)**

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

### **Clarity of this Regulation**

We are required by Executive Orders 12866 (section 1 (b)(12)), 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use common, everyday words and clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the ADDRESSES section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

**Drafting Information:** The primary authors of this regulation were Joel Brumm, Chattahoochee River National Recreation Area, and Jay P. Calhoun, Regulations and Special Park Uses, National Park Service.

### **Public Participation**

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding this proposed rule by one of the methods listed in the ADDRESSES section.

### **Public Availability of Comments**

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment – including your personal identifying information – may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

### **List of Subjects in 36 CFR Part 7**

District of Columbia, National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR Part 7 as set forth below:

### **PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM**

The authority for Part 7 continues to read as follows:

**Authority:** 16 U.S.C. 1, 3, 9a, 462(k); Sec. 7.96 also issued under 36 U.S.C. 501-511, D.C. Code 10-137 (2001) and D.C. Code 50-2201.07 (2001).

1. Add § 7.90 to read as follows:

**§ 7.90 Chattahoochee River National Recreation Area.**

(a) *Bicycling.* (1) *Where may I ride a bicycle within Chattahoochee River National Recreation Area?* The following routes are designated for bicycle use:

(i) The approximately 500-foot-long segment of paved multi-use trail along the Chattahoochee River located within the boundary of the Vickery Creek unit.

(ii) The approximately 2.2-mile-long multi-use trail in the Johnson Ferry South unit that connects to the bridge underpass at Johnson Ferry Road.

(iii) The approximately 6.7-mile-long loop-style multi-use trail in the Cochran Shoals unit.

(2) *Will the routes be identified on the ground?* Yes, the three trails will be posted at trail junctions indicating they are open to bicycle use.

(3) *Where can I find maps depicting routes designated for bicycle use?* Maps depicting designated bicycle routes are available in the office of the Superintendent and online at [www.nps.gov/chat/planyourvisit/bike-maps.htm](http://www.nps.gov/chat/planyourvisit/bike-maps.htm).

(4) *How will the Superintendent manage the designated bicycle routes?* (i) The Superintendent may open or close designated bicycle routes, or portions thereof, or impose conditions or restrictions for bicycle use after taking into consideration public health and safety, natural and cultural resource protection, carrying capacity and other management activities and objectives.

(ii) Following a rain event, the Superintendent may exercise discretion to temporarily close the trails in the Johnson Ferry South and Cochran Shoals units to mitigate soil erosion and water quality impacts from bicycle use.

(iii) The Superintendent will provide public notice of all such actions through one or more of the methods listed in § 1.7 of this chapter.

(iv) Violating a closure or restriction is prohibited.

\_\_\_\_\_ \_June 20,  
2012\_\_\_\_\_

Rachel Jacobson

Acting Assistant Secretary for Fish and Wildlife and Parks

Date

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