



## **DEPARTMENT OF THE INTERIOR**

### **National Park Service**

#### **36 CFR Part 7**

**Docket ID: NPS-2018-0004; NPS-PERI-25774; [PPMWPERS0 PPMPSPD1ZYM0000]**

**RIN 1024-AE41**

### **Special Regulations, Areas of the National Park System, Pea Ridge National Military Park; Bicycles**

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

**ACTION:** Final rule.

**SUMMARY:** The National Park Service promulgates special regulations for Pea Ridge National Military Park to allow bicycle use on two multi-use trails located within the park. One trail will be approximately 0.55 miles in length and the other will be approximately 1.17 miles in length. Both trails will require trail construction activities to accommodate bicycles and are therefore considered new trails that will be opened to bicycles. National Park Service regulations require promulgation of a special regulation to designate new trails for bicycle use off park roads and outside developed areas.

**DATES:** This rule is effective on October 25, 2018.

**ADDRESSES:** The comments received on the proposed rule and an economic analysis are available on [www.regulations.gov](http://www.regulations.gov) in Docket ID: NPS-2018-0004.

**FOR FURTHER INFORMATION CONTACT:** Lee Terzis, NPS Denver Service Center Transportation Division, 1155 E Pearl St. Monticello, FL 32344. Phone (850) 997-9972. Email: [lee\\_terzis@nps.gov](mailto:lee_terzis@nps.gov).

**SUPPLEMENTARY INFORMATION:**

## **Background**

Pea Ridge National Military Park (the park), established in 1956 and opened to the public in 1963, preserves and commemorates the site of the March 1862 Civil War battle that helped Union forces maintain physical and political control of the State of Missouri. Administered by the National Park Service (NPS), the 4,300-acre battlefield is situated in the foothills of the Ozark Mountains 10 miles north of Rogers, Arkansas, just off of U.S. Highway 62. The park is divided into two sections: the main portion of the park is located north of U.S. Highway 62 and encompasses a majority of the historic battleground. The main portion consists of a dedicated series of soft surface trails for equestrians and pedestrians, as well as the tour road, which bicyclists share with vehicle users. The second, smaller portion is located to the south of U.S. Highway 62 along the bluffs of Little Sugar Creek and contains the Federal Trenches of the Union troops. This non-contiguous section is currently accessible from a small parking lot along Sugar Creek Road, which intersects with US Highway 62, with a trail leading to the trenches.

The park contains a portion of the northern route of the Trail of Tears that is one of the few places the Trail of Tears passes through Arkansas. Eleven Cherokee Removal contingents used this route from 1837 to 1839. Through the park, the Trail of Tears generally followed the route of Telegraph Road, which is eligible for the National Register of Historic Places.

## **Road and Trail System in the Park**

The park contains an existing road and trail system (including the Federal Trenches trail) that provides pedestrians, hikers, bicyclists, and equestrians with interpretive and recreational opportunities. This system consists of a total of 32 miles of trail, including 7.6 miles of asphalt trail, 13.9 miles of off-road hiking trail, and 10.8 miles of horse trail. Bicycles are allowed on roads but not on trails within the park.

The area surrounding the park – including local communities such as Pea Ridge, Garfield, Bentonville, Rogers, Springdale, and Fayetteville – has experienced dynamic population growth in recent years. Increased visitation to the park has created a need to improve the existing road and trail system to better accommodate travel through the park by various methods (e.g., automobile, pedestrian, equestrian, bicycle). In addition to enhancing interpretive and recreational opportunities, an improved road and trail system will generate operational efficiencies. There are opportunities to combine trails or locate trails adjacent to other trail types or facilities (e.g., water, restrooms, phones) to maximize the efficiency of performing park maintenance. By removing duplicative trails and infrastructure, the NPS can reduce overall maintenance costs.

### **Trail Plan / Environmental Assessment**

In November 2017, the NPS published the Pea Ridge National Military Park Trail Master Plan / Environmental Assessment (EA). The EA evaluates two action alternatives that are designed to improve visitor access to the park's historical and interpretive sites while avoiding or minimizing impacts to these sites by consolidating and restructuring the existing trail network. These alternatives also seek to improve multi-modal trail connections within the park while linking to a regional trail network outside of the park. Under both action alternatives, the NPS would expand and enhance opportunities for pedestrian trail interpretation, construct additional trailheads, modify trail loops for simplicity and interpretive value, construct additional ADA-accessible trails, install signage for the Trail of Tears, improve multi-use trails, and improve equestrian trails to avoid erosion-prone areas. These actions will meet the increasing recreational needs of the area while protecting the cultural and natural resources within the park.

The EA identifies one of the action alternatives as the NPS preferred alternative. This

alternative would allow bicycle use on two multi-use trails that would require trail construction activities. The first would be a 0.55-mile trail from U.S. Highway 62 to the visitor center. The second would be a 1.17-mile trail from Arkansas Highway 72 to the Sugar Creek Greenway on the western edge of the park. Bicycles would also be allowed on Ford Road, which is closed to motor vehicle use by the public, but open to motor vehicle use for administrative purposes. Bicycles would also be allowed on segments of the Tour Road, which is paved and open to motor vehicle use by the public.

With respect to the bike trails, the EA evaluates (i) the suitability of the trails for bicycle use; and (ii) life cycle maintenance costs, safety considerations, methods to prevent or minimize user conflict, and methods to protect natural and cultural resources and mitigate impacts associated with bicycle use on the trails. After a public review period, the Regional Director of the Midwest Region signed a Finding of No Significant Impact (FONSI) in June 2018 that identified the preferred alternative (Alternative 3) in the EA as the selected action. At the same time, the Regional Director signed a written determination that bicycle use on the two trails is consistent with the protection of the park area's natural, scenic, and aesthetic values; safety considerations and management objectives; and will not disturb wildlife or park resources.

The EA, FONSI and written determination, which contain a full description of the purpose and need for taking action, scoping, the alternatives considered, maps, and the environmental impacts associated with the project, may be viewed on the park's planning website at <http://parkplanning.nps.gov/peri>, by clicking on the link entitled "Trail Master Plan/ Environmental Assessment" and then clicking on the link entitled "Document List."

### **Final Rule**

This rule implements the selected action in the FONSI and authorizes the Superintendent

to designate bicycle use on the two trails described above. In order to accommodate bicycles, both trails will require construction activities that will be conducted in accordance with sustainable trail design principles and guidelines. NPS regulations at 36 CFR 4.30 require a special rule to designate these trails for bicycles use because they are located outside of developed areas. Bicycle use will not be authorized by the Superintendent until the trail construction activities are completed.

The rule adds a new section 7.95 to 36 CFR Part 7—Special Regulations, Areas of the National Park System for the park. The rule requires the Superintendent to notify the public of trail designation for bicycle use and identify the designation on maps available in the office of the Superintendent and other places convenient to the public. The rule authorizes the Superintendent to establish closures, conditions, or restrictions for bicycle use on designated trails in accordance with 36 CFR 4.30. After notifying the public, the Superintendent may take these actions for reasons of public health and safety, natural and cultural resource protection, and other management activities and objectives.

### **Summary of Public Comments**

The NPS published a proposed rule in the Federal Register on March 13, 2018 (83 FR 11650). The NPS accepted comments on the proposed rule through the mail, hand delivery, and through the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). Comments were accepted through May 15, 2018. A summary of the pertinent issues raised in the comments and NPS responses are provided below. After considering the public comments and after additional review, the NPS did not make any changes to the rule.

*1. Comment:* One commenter suggested that the trails should be experienced in ways – such as hiking and walking – that are less destructive to the environment and more conducive to their short length.

*NPS Response:* The NPS determined in the FONSI that bicycle use on the trails will not have a significant impact on the environment. A more detailed discussion of the environmental impacts of bicycle use on these trails can be found in the EA, FONSI, and written determination. With respect to the length of the trails, the segments of trail within the park will connect to the regional trail network identified in the Northwest Arkansas Regional Bicycle and Pedestrian Master Plan. The length of the larger network of trails is conducive to bicycling, as are the segments within the park that the NPS expects will be used by bicyclists as a new way of experiencing the historical and cultural resources within the park. The rolling topography of the park will lengthen the amount of time it will take a visitor to travel by bicycle, making the trails more conducive to this form of transportation.

2. *Comment:* One commenter asked the NPS to provide evidence for the statement in the proposed rule that population growth in the areas surrounding the park support the need for providing increased recreational opportunities such as bicycling.

*NPS Response:* U.S. Census Bureau data from 2016 show that the Northwest Arkansas metro area accounted for most of the state's population growth in the previous five years. The Northwest Arkansas Council's recent analysis of new U.S. Census Bureau population estimates indicate the region will be listed in the Top 100 largest metropolitan areas by 2019. More information can be found online at <http://www.nwacouncil.org/news/2018/3/22/analysis-northwest-bentonville-fayetteville-arkansas-census-top-100-population>.

3. *Comment:* One commenter requested more information about the construction activities that the NPS will undertake to accommodate bicycles on the trails. In particular, the commenter raised concerns about impacts to soil in erosion-prone areas. This commenter also asked for more information about the sustainable trail design principles and guidelines that will

govern the construction activities.

*NPS Response:* The trail alignments identified in the EA primarily use established road beds that have suitable soil compaction for bicycle use. The selected action includes the removal of redundant trail alignments and relocation of existing pedestrian and equestrian trails that are currently experiencing extensive erosion in order to minimize impacts to natural and cultural resources. The EA identifies applicable mitigation measures to minimize impacts caused by construction activities. Section 9.2.2 of NPS Management Policies (2006) requires that all trails be carefully situated, designed and managed to protect park resources. The NPS will design and construct the trails to avoid or minimize disturbance to sensitive resources and will incorporate design techniques to reduce the likelihood and presence of social trailing.

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

#### **Regulatory Planning and Review(Executive Orders 12866 and 13563)**

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs 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. The

NPS has developed this rule in a manner consistent with these requirements.

### **Reducing Regulation and Controlling Regulatory Costs (Executive Order 13771)**

Enabling regulations are considered deregulatory under guidance implementing E.O. 13771 (M-17-21). This rule authorizes the Superintendent to allow a recreational activity for the public to enjoy and experience certain areas within the National Park System that would otherwise be prohibited.

### **Regulatory Flexibility Act**

This rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This certification is based on information contained in the economic analyses found in the report entitled “Benefit-Cost and Regulatory Flexibility Threshold Analyses: Bicycle Trails at Pea Ridge National Military Park” which is available on [www.regulations.gov](http://www.regulations.gov) in Docket ID: NPS-2018-0004.

### **Small Business Regulatory Enforcement Fairness Act**

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. 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**

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 Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

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

This rule does not effect a taking of private property or otherwise have takings implications under Executive Order 12630. A takings implication assessment is not required.

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

Under the criteria in section 1 of Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism summary impact statement. This rule only affects use of federally-administered lands and waters. It 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. 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 and Department Policy)**

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. The NPS has evaluated this

rule under the criteria in Executive Order 13175 and under the Department's tribal consultation policy and has determined that tribal consultation is not required because the rule will have no substantial direct effect on federally recognized Indian tribes.

Nevertheless, the NPS recognizes that the park contains significant archeological sites and the Trail of Tears, which are considered very important to the following tribes: Absentee Shawnee Tribe, Cherokee Nation of Oklahoma, Jena Band of the Choctaw Indians, The Osage Nation, Shawnee Tribe of Oklahoma, Quapaw Tribe of Oklahoma, United Keetoowah Band of Cherokee Indians, The Chickasaw Nation, Caddo Nation, and the Muscogee (Creek) Nation. The park consulted with these tribes throughout the development of the EA and incorporated comments by adjusting trails to mitigate or avoid impacts to these areas of interest.

#### **Paperwork Reduction Act**

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act is not required. The NPS may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

#### **National Environmental Policy Act**

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required because the NPS reached a Finding of No Significant Impact. A copy of the EA and FONSI can be found online at <http://parkplanning.nps.gov/peri>, by clicking on the link entitled "Trail Master Plan/ Environmental Assessment" and then clicking on the link entitled "Document List."

#### **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.

### **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 amends 36 CFR part 7 as set forth below:

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

1. The authority citation for part 7 continues to read as follows:

**Authority:** 54 U.S.C. 100101, 100751, 320102; Sec. 7.96 also issued under D.C. Code 10-137 and D.C. Code 50-2201.07.

2. Add § 7.95 to read as follows:

#### **§ 7.95 Pea Ridge National Military Park.**

(a) *Bicycle use.* (1) The Superintendent may designate all or portions of the following trails as open to bicycle use:

(i) A trail from U.S. Highway 62 to the visitor center (approximately 0.55 miles).

(ii) A trail from Arkansas Highway 72 to the Sugar Creek Greenway on the western edge of the park (approximately 1.17 miles).

(2) A map showing trails open to bicycle use will be available at park visitor centers and posted on the park website. The Superintendent will provide notice of all bicycle route designations in accordance with § 1.7 of this chapter. The Superintendent may limit, restrict, or impose conditions on bicycle use, or close any trail to bicycle use, or terminate such conditions, closures, limits, or restrictions in accordance with § 4.30 of this chapter.

(b) [Reserved]

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Andrea Travnicek,  
Principal Deputy Assistant Secretary - Water and Science,  
Exercising the Authority of the Assistant Secretary  
for Fish and Wildlife and Parks.

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