



BILLING CODE 4312-52

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

[NPS-CHAT-DTS#37160; PPSEGUI00 PPMPSAS1Z.Y00000]

RIN 1024-AE80

Chattahoochee River National Recreation Area; Bicycling

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service proposes to amend the special regulations for Chattahoochee River National Recreation Area to allow for bicycle use on approximately 20.6 miles of trails.

DATES: Comments on the proposed rule must be received by 11:59 PM EDT on **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by Regulation Identifier Number (RIN) 1024-AE80, by either of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal:

<https://www.regulations.gov>. Follow the instructions for submitting comments.

(2) *By hard copy:* Mail to: Superintendent, Chattahoochee River National Recreation Area, 1978 Island Ford Parkway, Sandy Springs, Georgia 30350.

Document Availability: The Chattahoochee River National Recreation Area

Comprehensive Trails Management Plan / Environmental Assessment (EA), Finding of No Significant Impact (FONSI), and related project documents provide information and context for this proposed rule and are available online at

<https://parkplanning.nps.gov/chat> by clicking the link entitled “Comprehensive Trails Management Plan” and then clicking the link entitled “Document List.”

Instructions: Comments will not be accepted by fax, email, or in any way other than those specified above. All submissions received must include the words “National Park Service” or “NPS” and must include the docket number or RIN (1024-AE80) for this rulemaking. Comments received may be posted without change to <https://www.regulations.gov>, including any personal information provided.

Docket: For access to the docket to view comments received, go to <https://www.regulations.gov> and search for “1024-AE80.”

FOR FURTHER INFORMATION CONTACT: Beth Wheeler, Chief of Planning, Resources and Education, Chattahoochee River National Recreation Area; (678)-538-1321; beth_wheeler@nps.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. In compliance with the Providing Accountability Through Transparency Act of 2023, the plain language summary of the proposal is available on [Regulations.gov](https://www.regulations.gov) in the docket for this rulemaking.

SUPPLEMENTARY INFORMATION:

Background.

Purpose and Management Authority for the Recreation Area.

The Chattahoochee River is one of the oldest and most stable river channels in North America. It begins as a tiny stream in northern Georgia, passes through the suburbs north of Atlanta, and flows 430 miles to its confluence with the Flint River at the Florida border. In 1978, the United States Congress established Chattahoochee River National Recreation Area by finding that the values of a 48-mile segment of the river and its adjoining lands in the State of Georgia, from Buford Dam downstream to Peachtree Creek, are of special national significance and “should be preserved and protected from developments and uses which would substantially impair or destroy them.” 16 U.S.C. 460ii. Congress stated that the Recreational Area shall consist of “the river and its bed together with the lands, waters, and interests therein.” 16 U.S.C. 460ii.

In 1984, Congress amended the Recreation Area’s enabling legislation by stating that the corridor located within 2,000 feet of each bank along the 48-mile river segment was “an area of national concern.” This amendment increased the size of the Recreation Area from 6,300 acres to 6,800 acres. A subsequent amendment, passed in 1999, expanded the authorized boundary of the Recreation Area to include an additional 3,200 acres and provided funding to support the acquisition of land-based linear corridors to link existing units of the Recreation Area and protect other open spaces of the Chattahoochee River corridor.

The National Park Service (NPS) manages the Recreational Area as a unit of the National Park System. In addition to the enabling legislation described above, the NPS manages the Recreation Area pursuant to the NPS Organic Act of 1916, which gives the

NPS broad authority to regulate the use of the lands and waters within System units. See 54 U.S.C. 100101; 100751(a).

Bicycle Use in the Recreation Area.

The Recreation Area is located within the Atlanta metropolitan area and is a valuable outdoor recreation resource for local residents as well as visitors from the rest of the United States and around the world. The Recreation Area's 48-mile stretch of river and 15 land units provide an ecological oasis within a densely populated region and contain more than 950 species of plants and a diverse assemblage of wildlife. Its green space and extensive trail network offer abundant opportunities for visitors to explore the riverbanks, historic sites, rolling forests, grassy meadows, and rocky bluffs. The usually clear, cold, and slow-moving river supports a variety of water-based recreational activities such as floating, paddling, rafting, boating, wading, and fishing.

Bicycling is a popular form of recreation in and around the Recreation Area. Bicycles are allowed on roads and in parking areas that are open to public motor vehicle traffic; on an administrative road in the Cochran Shoals unit, the Fitness Loop, which also serves as a part of the trail system; and on a subset of trails. The total trail system is extensive, containing approximately 67 miles of designated trails in 12 of the 15 land units in the Recreation Area. Bicycle use occurs on approximately 11.6 miles of multi-use trails in the Vickery Creek, Gold Branch, Cochran Shoals, and Palisades units. Bicycle routes are designated in special regulations for the Recreation Area at 36 CFR 7.90 and in the Superintendent's compendium, which is a written compilation of designations, closures, permit requirements and visitor use restrictions imposed under the discretionary authority of the Superintendent, as required by 36 CFR 1.7(b). The

Superintendent's compendium is available on the Recreation Area's website (<https://www.nps.gov/chat>).

Electric bicycles, which are defined in NPS regulations as two- or three-wheeled cycles with fully operable pedals and electric motors of not more than 750 watts that meet the requirements of one of three classes (36 CFR 1.4), are allowed in the Recreation Area where traditional bicycles are allowed.

Comprehensive Trails Management Plan and Environmental Assessment.

In March 2021, the NPS published and sought public input on a Preliminary Trails Management Plan to help inform the development of the EA and guide the development of a more cohesive trail system within the Recreation Area. Following the public scoping period, in April 2022, the NPS published the EA which analyzes the potential environmental impacts of no-action and action alternatives. Under the action alternative, which is the NPS's preferred alternative, the total mileage of designated trails available for public use in the Recreation Area would increase substantially, and the NPS would improve the quality and sustainability of the trails to better serve visitors and achieve greater resource stewardship. The NPS would add approximately 32 miles of trails to the trail system, resulting in a 48% net increase in trail mileage, for a total of 99.3 miles. The NPS would allow bicycle use on 20.6 total miles of trail, an increase of approximately 9 miles. The NPS would continue to allow bicycle use on existing trails in four units of the Recreation Area. With the support of NPS partners, the NPS would construct a new, natural surface multi-use trail that would expand bicycle use in the Cochran Shoals unit, and construct new, hardened surface multi-use trails in the Settles Bridge, McGinnis Ferry, Suwanee Creek, Abbotts Bridge, and Jones Bridge units.

New multi-use trails would be designed and situated so that in the future they could connect to a proposed 100-mile regional Chattahoochee Riverlands greenway project. Many of the new trails would be constructed on previously disturbed corridors, such as utility corridors or remnant roadbeds, to minimize new disturbance and protect historic resources. Trail width would vary by location but would not exceed 10 feet. Trails would be constructed using permeable materials to protect water quality and prevent erosion. In wet locations, special structures, such as boardwalks, would be built to limit trail widening from visitors routing around puddles and mud, which tramples trailside vegetation.

In addition to evaluating the potential impacts of trail construction and modification activities, the EA also evaluated the potential impacts of allowing bicycles on the new trails. The EA and associated written determination evaluate the suitability of each trail surface and soil conditions for accommodating bicycle use; and 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. The EA contains a full description of the purpose and need for taking action, the alternatives considered, maps of the affected areas, and the environmental impacts associated with the project. The EA evaluates site-specific 60-foot-wide trail corridors. The NPS will determine final trail alignments within those corridors in consultation with NPS natural and cultural resources specialists, which could result in minor adjustments to the trail locations shown on the maps in the EA. If the NPS needs to align a trail outside of an identified corridor, it would conduct additional environmental

review of the alignment to avoid or minimize impacts to sensitive resources and would document the change as an amendment to the EA.

The NPS accepted public comments on the EA for 30 days. In January 2023 following a recommendation by the Superintendent of the Recreation Area, the Regional Director for Interior Region 2, South Atlantic – Gulf, signed the FONSI that identified the preferred alternative in the EA as the selected alternative. As stated in the FONSI, the NPS believes the selected alternative will improve the sustainability of the trail system, better protect the resources of the Recreation Area, and improve the visitor experience by facilitating circulation and less visitor conflicts through an expanded trail network. Implementation of the selected alternative will provide new opportunities for visitors to enjoy and be inspired by the Recreation Area.

Proposed Rule.

The proposed rule would amend paragraph (a) in 36 CFR 7.90, which contains the special regulations for the Recreation Area. The rule would authorize the Superintendent to designate approximately 20.6 miles of trails for bicycle use in nine units of the Recreation Area. The NPS also proposes to change the paragraph structure and replace a specific web address as the location of maps showing bicycle routes with a general statement that maps will be available at visitor centers and on the Recreation Area’s website. The regulatory text includes formal trail names if they exist to make wayfinding easier. Lastly, the proposed rule would remove an unnecessary provision in the current paragraph (a)(4)(ii) that provides the Superintendent with a specific, discretionary authority to close the trails in the Johnson Ferry South and Cochran Shoals units to mitigate soil erosion and water quality impacts from bicycle use after a rain event.

Providing this specific authority is unnecessary because the proposed rule, similar to the existing regulations, would authorize the Superintendent to limit, restrict, or impose conditions on bicycle use, or close any trail to bicycle use, or terminate such conditions, closures, limits, or restrictions after taking into consideration public health and safety, resource protection, and other management activities and objectives, as stated in 36 CFR 4.30(f). Further, as a practical matter, the redevelopment of the trail system would restore poorly designed trails to natural conditions in the Cochran Shoals unit and would position new trails on the landscape in that unit to improve physical sustainability, manage water, and limit erosion. There is no existing or planned bicycle use in the Johnson Ferry South unit.

NPS regulations at 36 CFR 4.30(i) give superintendents the discretionary authority to allow electric bicycles on park roads, parking areas, and administrative roads and trails that are open to traditional bicycles. Currently, the Superintendent allows electric bicycles on all existing bicycle trails. When new trails are constructed under the selected alternative, the Superintendent also could designate those trails as open to some or all classes of electric bicycles. If, in the future, the Superintendent determines that electric bicycles or certain classes of electric bicycles should no longer be allowed on any road, parking area, or trail, or that conditions for use should change, the Superintendent could make such changes by updating the Superintendent's compendium and providing adequate public notice under 36 CFR 1.7.

Compliance with NPS Bicycle Regulations.

The EA constitutes the planning document and evaluates the criteria required by the NPS's general bicycle regulations at 36 CFR 4.30. The no action alternative evaluates

the impacts of continued bicycle use on existing trails; and the action alternative evaluates the impacts of bicycle use on the new trails that will be constructed. This proposed rule would authorize the Superintendent to allow bicycles on all trails where bicycles would be allowed under the selected alternative. This includes existing trails that do not require construction or significant modification and new trails that will be constructed. Although NPS regulations do not require special regulations to allow bicycles on existing trails that do not require any construction or significant modification, identifying all of the trails in the special regulations would make it easier for visitors to understand where bicycles are allowed. The other approach would result in some trails designated in the special regulations and others in the Superintendent's compendium.

The Superintendent of the Recreation Area has signed a written determination that bicycle use on all of the trails that would be designated in this rule is consistent with the protection of the Recreation Area's natural, scenic, and aesthetic values; safety considerations; management objectives; and will not disturb wildlife or Recreation Area resources, as required by 36 CFR 4.30. This written determination is available on the Recreation Area's planning website at the URL listed in the **ADDRESSES** section. The NPS is not publishing the written determination separately in the Federal Register but welcomes comments on the written determination during the public comment period for this proposed rule.

Compliance with Other Laws, Executive Orders and Department Policy.

Regulatory Planning and Review (Executive Orders 12866 and 13563 and 14094)

Executive Order 12866, as amended by Executive Order 14094, provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and

Budget will review all significant rules. OIRA has determined that the proposed rule is not significant.

Executive Order 14094 amends Executive Order 12866 and reaffirms the principles of Executive Order 12866 and Executive Order 13563 and states that regulatory analysis should facilitate agency efforts to develop regulations that serve the public interest, advance statutory objectives, and be consistent with Executive Order 12866, Executive Order 13563, and the Presidential Memorandum of January 20, 2021 (Modernizing Regulatory Review). Regulatory analysis, as practicable and appropriate, shall recognize distributive impacts and equity, to the extent permitted by law.

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. Executive Order 13563 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 proposed rule in a manner consistent with these requirements.

Regulatory Flexibility Act

This rulemaking would 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 “Cost-Benefit and Regulatory Flexibility Threshold Analyses: Proposed Special Regulations to Designate New Trails for Bicycle Use at Chattahoochee River National Recreation Area.” The report may be viewed on the Recreation Area’s planning website at the URL listed under the **ADDRESSES** section.

Congressional Review Act (CRA)

This rulemaking is not a major rule under 5 U.S.C. 804(2). 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 rulemaking 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 rulemaking 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 rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism summary impact statement. This proposed rule only affects use of federally administered lands and waters. It has no direct effects on other areas. A federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This rulemaking 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 rulemaking under the criteria in Executive Order 13175 and under the Department's Tribal consultation policy and have determined that Tribal consultation is not required because the rule will have no substantial direct effect on federally recognized Indian Tribes. Nevertheless, in support of the Department of the Interior and NPS commitment for government-to-government consultation, during the EA process, the NPS sent notification letters to Tribal partners to invite participation in

the planning process. The Tribes are the Absentee Shawnee Tribe, Alabama-Coushatta Tribe of Texas, Alabama-Quassarte Tribal Town, Cherokee Nation, Coushatta Tribe of Louisiana, Eastern band of Cherokee Indians, Kialegee Tribal Town, Muskogee (Creek) Nation, Poarch Band of Creek Indians, Seminole Nation of Oklahoma, Seminole Tribe of Florida, Shawnee Tribe, Thlopthlocco Tribal Town, and United Keetoowah Band of Cherokee Indians of Oklahoma. Additionally, the park has executed a programmatic agreement in coordination with consulting parties, including the State historic preservation office and affiliated Tribes, which describes historic identification actions as well as minimization and avoidance practices should it be determined that a proposed implementation action may impact a historic property. Additional information about Tribal coordination and the programmatic agreement is published in the FONSI.

Paperwork Reduction Act

This rulemaking 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

The NPS has prepared the EA to determine whether this rulemaking will have a significant impact on the quality of the human environment under the National Environmental Policy Act of 1969. This rulemaking would not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the NEPA is not required because of the FONSI. A copy of the EA and FONSI can be found online at the URL listed in **ADDRESSES**.

Effects on the Energy Supply (Executive Order 13211)

This rulemaking is not a significant energy action under the definition in Executive Order 13211; the rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy, and the rule has not otherwise been designated by the Administrator of OIRA as a significant energy action. A Statement of Energy Effects is not required.

Clarity of this rule.

The NPS is required by Executive Orders 12866 (section 1(b)(12)) and 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 the NPS publishes 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 the NPS has not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help the NPS revise the rule, your comments should be as specific as possible. For example, you should identify 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.

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 of this document.

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.

List of Subjects in 36 CFR Part 7

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

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. Amend § 7.90 by revising paragraph (a) to read as follows:

§ 7.90 Chattahoochee River National Recreation Area.

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

(i) The multi-use trail in the Abbotts Bridge unit (approximately 2 miles).

(ii) The Fitness Loop in the Cochran Shoals unit (approximately 2.7 miles).

- (iii) The multi-use trails in the Sope Creek Area of the Cochran Shoals unit (approximately 9.1 miles).
- (iv) The Lower Roswell Trail in the Gold Branch unit (approximately 0.5 miles).
- (v) The multi-use trail in the Jones Bridge unit (approximately 1.4 miles).
- (vi) The multi-use trail in the McGinnis Ferry unit (approximately 1.4 miles).
- (vii) The Rottenwood Creek Trail in the Palisades unit (approximately 1.6 miles).
- (viii) The multi-use trail in the Settles Bridge unit (approximately 1.6 miles).
- (ix) The multi-use trail in the Suwanee Creek unit (approximately 0.2 miles).
- (x) The Roswell Riverwalk Trail in the Vickery Creek unit (approximately 0.1 miles).

(2) A map showing trails open to bicycle use will be available at Recreation Area visitor centers and posted on the Recreation Area website. The Superintendent will provide notice of all trails designated for bicycle use in accordance with § 1.7 of this chapter.

(3) 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. A violation of any such condition, closure, limit, or restriction is prohibited.

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Shannon A. Estenoz,

Assistant Secretary for Fish and Wildlife and Parks.

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