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Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

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DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024-AD10

Special Regulations, Areas of the National Park System; Saguaro National Park, Designated Bicycle Routes

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service (NPS) has proposed this rule to designate a route where bicycles may be used off road in Saguaro National Park. This rule is necessary because the NPS regulations for bicycle use off park roads in units of the National Park System require that a special regulation be promulgated in order to allow use on trails outside of developed park areas.

DATES: Comments must be received by May 6, 2003.

ADDRESSES: Comments may be sent to the Superintendent, Saguaro National Park, 3693 South Old Spanish Trail, Tucson, AZ 85730-5601 E-mail: SAGU_Cactus_Forest_Trail@nps.gov. Fax: (520) 733-5183.

FOR FURTHER INFORMATION CONTACT: Kym Hall, Regulations Program Manager, National Park Service, 1849 C Street, NW., Room 7248, Washington, DC 20240. Phone number: (202) 208-4206. E-mail: Kym_Hall@nps.gov.

SUPPLEMENTARY INFORMATION:

Description of Saguaro National Park

Saguaro National Park is an important national resource visited by approximately 755,618 people annually. The gross area acreage is 91,445.96 (Federal: 87,156.17; Nonfederal: 4,289.79) of which 71,400 acres are designated wilderness. Giant saguaro cacti, unique to the Sonoran Desert, sometimes reach a height of 50 feet in this cactus forest, which covers the valley floor and the slopes of the Rincon and Tucson Mountains. The Cactus Forest Trail is a multi-use trail (5.3 miles long) that originates at the northern boundary of the park and eventually bisects the Cactus Forest Loop Drive. The segment of the Cactus

Forest Trail within the loop drive is 2.5 miles long. Cactus Forest Loop Drive, an 8 mile paved loop road located in the western portion of the Rincon Mountain District, originates from the main entrance and visitor center and is the only paved road in the park. The Cactus Forest Trail is designed along the natural topography and vegetation of the area and meanders through a relatively even elevation with rolling hills and gentle peaks. The trail is lined with a variety and abundance of desert trees and shrubs.

Legislation and Purposes of Saguaro National Park

Saguaro National Park was initially reserved as a national monument on March 1, 1933 (Proclamation No. 2032, 47 Stat. 2557), and transferred from the Forest Service, U.S. Dept. of Agriculture, to the National Park Service on August 10, 1933. This area was of outstanding scientific interest because of the exceptional growth of various species of cacti, including the so-called giant saguaro cactus. Proclamation 3439 (November 16, 1961), enlarged the boundaries of the Saguaro National Monument to include certain lands within the Tucson Mountains containing a remarkable display of relatively undisturbed lower Sonoran desert vegetation, including a spectacular saguaro stand. Public Law 94-567 (October 1976) designated parts of Saguaro National Monument as a wilderness area, known as the Saguaro Wilderness.

On January 3, 1991 Congress passed the "Saguaro National Monument Expansion Act of 1991" to authorize the addition of approximately 3,540 acres to the Rincon unit of Saguaro National Monument in order to protect, preserve, and interpret the monument's resources, and to provide for education and benefit to the public. Under the Saguaro National Park Establishment Act of 1994, Saguaro National Monument was given full recognition and statutory protection and renamed a National Park. See 16 U.S.C. 410ZZ.

Management Plans

Saguaro National Park General Management Plan (GMP) was completed in 1988. The GMP envisions the Rincon Mountain District as a main attraction for the first-time visitors, with the focus on the Saguaro forest and the lower Sonoran desert. Suggested frontcountry recreational uses include " * * * biking, jogging, picnicking, sunset watching, and horseback riding", while the " * * * backcountry wilderness would continue to be used primarily by hikers and horseback riders." In the 1988 plan,

the Cactus Forest trail is located in the frontcountry natural zone with a historic zone overlay. The management emphasis of the natural zone is the conservation of natural resources and processes. The plan states that "In certain locations, uses are allowed that do not adversely affect these resources and processes."

The park's trail plan for the Cactus Forest section of the Rincon Mountain District was completed in 1991. In addition to hiking and equestrian use, the plan proposed that the Cactus Forest Trail inside the Cactus Forest Loop Road be open to bicycle use for a one-year trial period. The plan also proposed the monitoring program designed to evaluate the environmental and social impacts of mountain bike use on the trail. The park adopted the plan's proposal and the trial period was extended for more than 10 years. The monitoring plan results indicated, overall, that any adverse impacts associated with bicycle use was negligible.

Since 1992, bicyclists, pedestrians, and equestrians were allowed to use the portion of the Cactus Forest Trail within the paved loop drive area. Recently, it was brought to the Park's attention that National Park Service regulations appear to require promulgation of a special regulation to permit bicycle use along the 2.5-mile section of the Cactus Forest Trail. In reviewing the actions leading to the opening of this trail for mountain bike use over ten years ago, the Park discovered that the requirements in the regulation governing bicycle use had not been followed. While the trail is located in the frontcountry as identified in the GMP, the area is designated a natural zone. Under the servicewide regulations, because the trail is not in a developed area or special use zone the park is required by 36 CFR 4.30(b) to adopt a special regulation to designate a route for bicycle use. In part the regulations state that:

Routes may only be designated for bicycle use based on a written determination that such use is consistent with the protection of a park area's natural, scenic and aesthetic values, safety considerations and management objectives and will not disturb wildlife or park resources. Except for routes designated in developed areas and special use zones, routes designated for bicycle use shall be promulgated as special regulations. (36 CFR 4.30)

Based on the criteria in the regulations, and the fact that the trail was not identified as being in a developed zone in the GMP in 1988, the Park determined that it did not then have the authority to allow such use on

the trail. On April 15, 2002, the park closed the Cactus Forest Trail to bicycle use and initiated an Environmental Assessment and the special regulation process. In addition, the park will be addressing the bicycle use issue in a comprehensive way through the new GMP process that began in September 2002. The new GMP is scheduled to be complete in approximately 2–3 years. Apart from this proposed rule, in the meantime, bicycles are allowed to use paved and unpaved roads in the park pursuant to 36 CFR 4.30(a).

History of Bicycle Use

In the early 1990's the NPS was in the process of preparing a trails management plan for the Cactus Forest section of the park. During the planning process, public scoping revealed that some members of the local community and the visiting public were interested in mountain bike trails in the park. Based on this information, the NPS analyzed the appropriateness of establishing mountain bike trails. As noted above, the park opened that portion of the trail inside the Cactus Forest Loop Road to mountain bike use for a one-year trial period. The park monitored the trail for resource and social impacts by implementing a monitoring plan that included sixteen photo-points along the trail. Park staff monitored these locations on a monthly basis.

The park recorded approximately 1,200 bicyclists, or nearly 50% of all trail users, on the trail between May 1, 1992 and June 30, 1993. There were no major incidents or accidents during the trial period. At the end of the one-year period, the park concluded that monitoring data revealed little measurable resource impact caused by bicycle use and the decision was made to keep the Cactus Forest Trail inside the loop road open to bicycle use. The park continued to monitor the trail for resource damage at the designated monitoring points, performed patrols, and engaged in informal contact with visitors using the trail. Continued use of that trail by bicyclists had been authorized by the Superintendent's Compendium since that time. Until bicycle use was prohibited in April 2002, the trail continued to be a popular trail for mountain biking. Much of the trail follows an old two-track road that was allowed to revegetate and become a trail. About half the use of the trail is by hikers and equestrians.

Impacts

Soils: Reinstating mountain bike use would likely result in added visitation on the trail. This type of use would

impact soils differently than hiking and equestrian use. Some monitoring points show that soil erosion and loss has been exacerbated by the "cupping" of the cross-section of the trail that is caused by repeated use in the center of the trail. At times, multiple uses occurring on the trail have resulted in beneficial impacts by redistributing soils across the trail. Soils may be distributed from the center of the trail to the sides by cyclists, and then loosened and redistributed in the center of the trail by horses and hikers. Park staff would continue to maintain the trail depending on available staffing and funding levels. With proper trail repair and maintenance, the overall effect of added visitation on soils would be of minor intensity.

Vegetation: Mountain bike use would contribute to a greater amount of disturbance of vegetation from riders dismounting from their bikes onto the side of the trail to yield to another trail user or to push their bike uphill. Vegetation that is affected is typically located in steeper slopes or where the trail curves and is lost through repeated trampling. Impacts from the added use would be of minor intensity. Trail repair and rehabilitation may offset some of the impacts associated with trailside vegetation loss. Trailside re-vegetation efforts could help to restore the natural scene, as well as contribute to a more defined trail path.

Wildlife: Wildlife would be frightened or displaced by the presence of visitors. However, given the higher speeds that mountain bicycles may reach on the trail, there may be a greater tendency for cyclists to encounter and frighten wildlife. There may also be a greater tendency for mountain bikers to run over smaller vertebrates such as snakes on the trail. These factors, along with an anticipated increase in the amount of use on the trail are expected to result in more individual wildlife species being frightened and displaced from the immediate area. Overall, the impacts of this use on wildlife would be of minor intensity.

Archeological resources: Reinstating bicycle use on the Cactus Forest Trail would not have any additional impacts on archeological resources or historic structures. As with any increase in visitation, however, there is a greater possibility that cultural resources could be discovered and/or damaged. Bicycle use off the trail would not be permitted and it is anticipated that visitors would remain on the trail; therefore, impacts to archeological resources and historic structures would be negligible.

Visitor conflicts: Bicyclists would view the opportunity for an off-road experience in the park as beneficial.

However, some hikers and equestrians would feel as though their ability to experience park resources along the trail is diminished if they see mountain bike use as incompatible with their desired experience. Some hikers and equestrians may choose to use the trail less or avoid the trail completely. However, the multi-use orientation of the trail would be likely to have no more than minor impacts on a hiker or equestrian's ability to experience the park. This is because a number and variety of other trails in the Cactus Forest area are open to hiking and equestrian use only.

Visitor safety: There would be a greater potential for visitor accidents under this proposed rule in comparison to no bicycle use. Mountain bikes traveling at higher speeds could inadvertently collide with other recreationists, regardless of their mode of travel. Horses may be frightened by bicyclists and their response may result in a number of unsafe situations. Given the past record of incidents on this trail, however, reinstating mountain bike use would not be considered an unsafe use if recreationists continued to abide by the recommended trail etiquette/rules. Overall impacts to visitor safety would be negligible to minor in intensity.

Threatened species: According to the U.S. Fish and Wildlife Service's October 2001 list of listed, proposed and candidate species for the area, there are seven species of concern, including four federally listed species (Mexican spotted owl, cactus ferruginous pygmy-owl, lesser long-nosed bat, Gila topminnow), one delisted species (American peregrine falcon), and two species proposed for listing (Chiricahua leopard frog, Goodding Onion) that are known to or might occur in the Rincon Mountain District where the Cactus Forest Trail is located.

The Goodding onion has not been recorded in the Rincon Mountains. The Cactus Forest Trail is in the same watershed as a drainage that could potentially be used to restock Gila topminnow. However, the Cactus Forest Trail is well below and disjunct from that drainage, and activities on the Cactus Forest Trail would have no impact on that drainage or affect its potential to reintroduce this fish. Despite surveys throughout the Rincon Mountains by Saguro and other NPS biological staff, Chiricahua leopard frogs have never been recorded in Saguro National Park. Furthermore, the proposed action will not affect potential habitat for this frog, which requires surface water above 3,000' elevation.

The Cactus Forest Trail is located over a mile from the known Lesser long-

nosed bat roost, and neither the trail, nor any of the activities proposed to occur on it, would be expected to disturb bats (which forage after dark), or saguaros or agaves, upon which the bats forage. Cactus ferruginous pygmy-owls (cfpo) have not been confirmed to occur in the Park since 1995; however, they probably inhabit, and may breed, in the low (<4000') elevations of the Rincon Mountain District of the Park. Within the last 20 years, two possible detections of this species occurred within a half-mile of the Cactus Forest Trail. Based on the descriptions of recently occupied territories, it does not appear that human presence, particularly established presence, is a deterrent to owl occupancy of a site.

American peregrine falcons are known to occur in the Rincon Mountain District, and may forage and perch around the project area in the non-breeding season. Peregrines may be affected by and try to avoid human activities on the Cactus Forest Trail; however, hiking, riding or biking on an established trail would be expected to have negligible to minor impacts on these birds. Five Mexican spotted owl protected activity centers lie within the Rincon Mountain District above 7000' elevation. Designated critical habitat for the owl does not include the Cactus Forest Trail, nor is the project area suitable habitat for the owls.

Authorizing Bicycle Use

The proposed rule would open the approximately 2.5 mile section of the Cactus Forest Trail located within the Cactus Forest Drive loop to mountain biking on a permanent basis. The park would continue to monitor and mitigate the environmental impacts of mountain bike use through the use of volunteer organizations and local interest groups to ensure that the trail is maintained in good condition and issues of concern are immediately brought to the attention of the park management staff.

Public Comments

Saguaro National Park conducted initial internal scoping with appropriate park staff, internal scoping was conducted by an interdisciplinary team of Saguaro National Park, and planning professionals of the National Park Service, Intermountain Support Office in Denver. Teams members conducted a field trip on July 11, 2002 to discuss purpose and need; important resource topics; past, present, and possible mitigation measure of the proposed action. Affiliated Native American tribes were contacted by letter dated July 12, 2002 to solicit any interests or concerns with the proposed action. External

scoping was through a public scoping letter dated August 2002 and mailed to interested and affected parties. A press release was mailed to local newspapers.

Compliance With Other Laws

Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of \$100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, Local, or tribal governments or communities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. Actions taken under this rule will not interfere with other agencies or local government plans, policies, or controls. This is an agency specific rule. The Pima County Parks and Recreation Department supports the establishment of this rule.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. This rule will have no effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. No grants or other forms of monetary supplements are involved.

(4) This rule does not raise novel legal or policy issues. This rule simply implements the servicewide bicycle regulation with respect to a specific route in Saguaro National Park.

Regulatory Flexibility Act

The Department of the Interior certifies that this document 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.*)

There are no businesses in the surrounding area economically dependent on continued mountain bike use on this trail. The park does not have any mountain bike rental concessioners and the users are mainly private individuals using the trail for recreational purposes.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

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.

Takings (Executive Order 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. A taking implications assessment is not required. No taking of personal property will occur as a result of this rule.

Federalism (Executive Order 13132)

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This proposed rule only effects use of NPS administered lands and waters. It has no outside effects on other areas and only allows use within a small portion of the park.

Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This regulation does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is not required. An OMB form 83-I is not required.

National Environmental Policy Act

The National Park Service has analyzed this rule in accordance with the criteria of the National Environmental Policy Act and has prepared an Environmental Assessment (EA). A copy of the EA is available by contacting the Superintendent, Saguaro National Park, 3693 South Old Spanish Trail, Tucson, Arizona 85730-5601. The EA may also be viewed via the Internet at <http://www.nps.gov/sagu/CactusTrailEA.pdf>.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, "Government to Government Relations with Native American Tribal Governments" (59 FR 22951) and 512 DM 2:

We have evaluated potential effects on federally recognized Indian tribes and have determined that there are no potential effects. Affiliated Native American tribes were contacted by letter dated July 12, 2002 to solicit any interests or concerns with the proposed action. Two tribes responded; the Tohono O'odham and the Hopi Tribes. Both tribes expressed concern that archeological resources be surveyed for impacts from this proposed bicycle use. The NPS has determined that the archeological resources will not sustain adverse impacts and have indicated this in writing to the tribes.

Clarity of Rule

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to read if it were divided into more (but shorter) sections? (A "section" appears in bold type and is preceded by the symbol "§" and a numbered heading; for example § 7.11 Saguaro National Park.) (5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposed rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW, Washington, DC 20240. You may also e-mail the comments to this address: Exsec@ios.doi.gov.

Drafting Information: The primary authors of this regulation were Delpha Maunders, National Park Service Santa Fe, Kym Hall, NPS Regulations Program Manager, and Sarah Craighead, Superintendent, Saguaro National Park.

Public Participation: If you wish to comment, you may submit your comments by any one of several

methods. You may mail comments to Superintendent, Saguaro National Park, 3693 South Old Spanish Trail, Tucson, Arizona 85730-5601. Fax: (520) 733-5153. You may also comment via the Internet to SAGU_Cactus_Forest_Trail@nps.gov. Please also include "Attn: Bicycle Rule" in the subject line and your name and return address in the body of your Internet message. Finally, you may hand deliver comments to Superintendent, Saguaro National Park, 3693 South Old Spanish Trail, Tucson, Arizona. Our practice is to make comments, including names and addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

List of Subjects in 36 CFR Part 7

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

We propose 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, 460(q), 462(k); Sec. 7.96 also issued under D.C. Code 8-137 (1981) and D.C. Code 40-721 (1981).

1. Add § 7.11 to read as follows:

§ 7.11 Saguaro National Park

(a) Bicycles. That portion of the Cactus Forest Trail inside the Cactus Forest Drive is open to non-motorized bicycle use.

(b) [Reserved].

Dated: February 3, 2003.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 03-5501 Filed 3-6-03; 8:45 am]

BILLING CODE 4310-70-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 245-0375b; FRL-7446-2]

Revisions to the California State Implementation Plan, Antelope Valley Air Pollution Control District, Imperial County Air Pollution Control District, and Monterey Bay Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Antelope Valley Air Pollution Control District (AVAPCD), Imperial County Air Pollution Control District (ICAPCD), and Monterey Bay Unified Air Pollution Control District (MBUAPCD) portions of the California State Implementation Plan (SIP). These revisions concern definitions, circumvention, emergency episodes, and volatile organic compound (VOC) emissions from organic solvents. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by April 7, 2003.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

California Air Resources Board,
Stationary Source Division, Rule
Evaluation Section, 1001 "I" Street,
Sacramento, CA 95814.

Antelope Valley Air Quality
Management District, 43301 Division
St., Ste. 206, Lancaster, CA 93535-
4649.

Imperial County Air Pollution Control
District, 150 South 9th Street, El
Centro, CA 92243-2801.

Monterey Bay Unified Air Pollution
Control District, 24580 Silver Cloud
Ct., Monterey, CA 93940-6536.

A copy of the rule may also be available via the Internet at <http://www.arb.ca.gov/drdb/drdbtxt.htm>. Please be advised that this is not an EPA Web site and may not contain the same version of the rule that was submitted to EPA.