

### 7. *Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### 8. *Taking of Private Property*

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### 9. *Civil Justice Reform*

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### 10. *Protection of Children*

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

### 11. *Indian Tribal Governments*

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### 12. *Energy Effects*

This action is not a “significant energy action” under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

### 13. *Technical Standards*

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### 14. *Environment*

We have analyzed this rule under Department of Homeland Security

Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishing a temporary safety zone. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

### **PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS**

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T05–0818 to read as follows:

#### **§ 165.T05–0818 Safety Zone for Fireworks Display, Potomac River, National Harbor Access Channel; Oxon Hill, MD.**

(a) *Regulated area.* The following area is a safety zone: All waters of the Potomac River, National Harbor Access Channel, within a 150 yards radius of a fireworks discharge platform in approximate position latitude 38°47′01″ N, longitude 077°01′17″ W, located at Oxon Hill in Prince Georges County, Maryland (NAD 1983).

(b) *Regulations.* The general safety zone regulations found in 33 CFR 165.23 apply to the safety zone created by this temporary § 165.T05–0818.

(1) All vessels and persons are prohibited from entering this zone, except as authorized by the Coast Guard Captain of the Port Baltimore.

(2) Persons or vessels requiring entry into or passage within the zone must

request authorization from the Captain of the Port or his designated representative by telephone at 410–576–2693 or on VHF–FM marine band radio channel 16.

(3) All Coast Guard assets enforcing this safety zone can be contacted on VHF–FM marine band radio channels 13 and 16.

(4) The operator of any vessel within or in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign, and

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign.

(c) *Definitions.* *Captain of the Port Baltimore* means the Commander, Coast Guard Sector Baltimore or any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port to act on his behalf.

*Designated representative* means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Baltimore to assist in enforcing the safety zone described in paragraph (a) of this section.

(d) *Enforcement.* The U.S. Coast Guard may be assisted by Federal, State and local agencies in the patrol and enforcement of the zone.

(e) *Enforcement period.* This section will be enforced from 8:30 p.m. through 11:00 p.m. on September 12, 2012 and, if necessary due to inclement weather, from 8:30 p.m. through 11 p.m. on September 13, 2012.

Dated: August 27, 2012.

**Kevin C. Kiefer,**

*Captain, U.S. Coast Guard, Captain of the Port Baltimore.*

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## **DEPARTMENT OF THE INTERIOR**

### **National Park Service**

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

[NPS–MACA–10037; 5531–SZM]

**RIN 1024–AD80**

### **Special Regulations, Areas of the National Park System; Mammoth Cave National Park, Bicycle Routes**

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

**ACTION:** Final rule.

**SUMMARY:** This rule designates four bicycle routes within Mammoth Cave National Park to address the interest and demand of the visiting public for bicycling opportunities without compromising the National Park Service's mandate "to conserve the scenery and the natural and historic objects and the wild life" in the park. This rule will implement portions of the park's Comprehensive Trail Management Plan and satisfy the requirement of National Park Service general regulations that a special regulation be promulgated to allow off-road bicycle use on routes outside of developed areas. This rule allows bicycle use on a new Connector Trail in the vicinity of Maple Springs; a new Big Hollow Trail in the hilly country of the park north of the Green River; the Mammoth Cave Railroad Bike & Hike Trail; and the White Oak Trail.

**DATES:** The rule is effective October 12, 2012.

**FOR FURTHER INFORMATION CONTACT:** Ken Kern, Management Assistant, Mammoth Cave National Park, National Park Service, P.O. Box 7, Mammoth Cave, Kentucky 42259; phone: (270) 758-2187; email: [Ken\\_Kern@nps.gov](mailto:Ken_Kern@nps.gov)

**SUPPLEMENTARY INFORMATION:**

**Background**

Mammoth Cave National Park (MACA or park) is the core of the largest, most complex, and best known karst area in the world. Karst is a geologic term which refers to areas of irregular limestone in which erosion has produced features such as fissures, sinkholes, underground streams, sinking springs, and caverns. The many types of geologic features present within the extensive cave system are the product of a unique set of conditions found nowhere else. The 365 miles of passageways that have been surveyed and mapped define Mammoth Cave as the longest cave system in the world.

The mission of MACA is to protect and preserve the extensive limestone caverns and associated karst topography, scenic river-ways, original forests, other biological resources, and evidence of past and contemporary ways of life. MACA also strives to educate and enrich the public through scientific study and to provide for the development and sustainable use of recreational resources and opportunities within the park.

**Legislation and Purpose of the Park**

As early as 1905, Members of the Kentucky Congressional delegation suggested Mammoth Cave as a national park. In its April 18, 1926, report to the

Secretary of the Interior, the Southern Appalachian National Park Commission recommended national park status for the Mammoth Cave region for, among other reasons, the:

beautiful and wonderful formations \* \* \* great underground labyrinth \* \* \* of remarkable geological and recreational interest perhaps unparalleled elsewhere \* \* \* [and] thousands of curious sinkholes of varying sizes through which much of the drainage is carried to underground streams, there being few surface brooks or creeks \* \* \*

The Commission also recommended lands above ground in the region of the cave for inclusion in the National Park System because of the:

exceptional opportunity for developing a great national recreational park of outstanding service in the very heart of our Nation's densest population and at a time when the need is increasingly urgent and most inadequately provided for.

The United States Congress saw the value of including surface lands as part of the park. The Senate Committee on Public Lands and Surveys (Report No. 823, May 10, 1926) and the House of Representatives Committee on the Public Lands (Report No. 1178, May 12, 1926) said the park would:

insure a great recreational ground \* \* \* where \* \* \* thousands of our people may find...the most delightful outdoor recreation in \* \* \* traversing the picturesque and rugged hills and valleys and great forests of the region included in the proposed park area.

On May 25, 1926, Congress authorized the establishment of MACA (44 Stat. 635), and on July 1, 1941, MACA was established as a national park. Subsequently, the Great Onyx Cave and Crystal Cave properties were purchased and added to the park on April 7, 1961. The park now comprises 52,830 acres.

**History of Trail Development**

Public interest in outdoor recreation at the Mammoth Cave area has not diminished since the Southern Appalachian National Park Commission issued its report in 1926. Through the years, park managers have responded to changing trends in recreation. The Wild Cave tour began in 1969, and a system of backcountry trails was initiated in the 1970s. In the 1980s, a horse livery on the park boundary began offering guided rides on park trails and canoe and kayak liveries began shuttle services on the Green and Nolin rivers. In 2007, the Mammoth Cave Railroad Bike & Hike Trail was completed, connecting the heart of the park with one of the gateway communities (two other gateway communities have expressed interest in constructing similar trails);

and the 2007 Comprehensive Trail Management Plan calls for bicycle use on certain trails in the park.

The park currently has approximately 85 miles of open trail. All trails are open to hiking, approximately 55 miles of trail are open to horses, approximately 17 miles of trail are open to bicycles, and approximately 2.4 miles of trail accommodate both horses and bicycles.

Shortly after the park was designated in 1941, several short trails were developed in the vicinity of the Mammoth Cave Hotel and Historic cave entrance. Over the years, these trails were improved and expanded into a series of loops which compose the first 6.5 miles of the front-country trail system in the vicinity of the park's visitor center and nearby Green River. Other trails, including trails at Sloans Pond, Turnhole Bend, Sand Cave, and Cedar Sink, were developed as short hikes to park features.

In the early 1970s, the park planned a series of trails in the more than 20,000 acres north of the Green River. In 1974, those trails were officially opened to hiking and horseback riding. The main trails of that 55-mile system followed old and pre-existing dirt roads, with the remaining trails built as connections between those dirt roads to create loops.

In 1999, a local biking club asked park management about the possibility of permitting bicycling on one or more trails in the park. After consideration by the park, approximately 13 miles of trails were opened to bicycling on an experimental basis, while continuing to allow hiking and horseback riding on the same trails.

In February 2005, park officials organized the first Backcountry Summit meeting between MACA, the Bowling Green League of Bicyclists, the Sierra Club, and the Mammoth Cave Equestrian Trail Riders Association. The purpose of this meeting was to provide an avenue of communication between park officials and all user groups regarding improving and maintaining backcountry trails and other backcountry issues.

**Comprehensive Trail Management Plan and Environmental Assessment**

The park developed a Comprehensive Trail Management Plan (CTMP) and Environmental Assessment (EA) in 2007 to ensure protection of park resources and address increasing demand for public use of trails. The purpose of the CTMP was to develop and implement objectives and strategies for the protection, management, and use of trails park-wide for a period of 10 years. The plan identifies designated trails and access points as well as the type of

activity (hiking, biking, horseback riding, or a combination of those activities) for which each trail could be used.

The park staff utilized NPS Management Policies 2006 and the purposes for which the park was established by Congress to develop objectives and ensure the appropriateness of designating trails and the uses allowed for each trail within MACA.

One of the most important concepts incorporated into the CTMP is sustainability. Under the plan, the park will use sustainable material and techniques for trail maintenance, future trail design, and construction projects. The park will use techniques such as maximum grade limits, water bars, and large dips in the trail called grade reversals to minimize or slow erosion from water and use. The park will build bridges and utilize materials such as gravel, landscape timbers, and geotextile to create a more durable trail surface and protect potentially vulnerable trail features.

Because the CTMP proposed actions, such as constructing trails and changing trail alignments, that could have environmental consequences, NPS was required by the National Environmental Policy Act to evaluate the potential environmental impacts of those actions. The associated EA evaluated several alternative proposed actions or variations for a trail plan, including a "no action" alternative that would not change the way the trails were then managed. The draft plan and accompanying EA were prepared after a public meeting on June 29, 2006, and after a public scoping period from June 29, 2006, to July 14, 2006. After the draft plan and accompanying EA were prepared and published, NPS held a second public meeting on February 7, 2008, in conjunction with a 60-day comment period from January 24, 2008, to March 24, 2008.

#### Selected Alternative

On November 14, 2008, the park selected Alternative 4 described in the EA. A Finding of No Significant Impact (FONSI) for the selected alternative was approved on December 17, 2008. The NPS has determined bicycle use to be appropriate for certain trails in MACA, with the incorporation of sustainable design, construction, and maintenance standards and materials. Minimizing trail damage and deterioration and environmental impacts is an essential element of Alternative 4. Under Alternative 4, the Big Hollow Trail will be constructed for bicycle use but will not be open to horses. Bicycle use will

be eliminated on the Sal Hollow, Buffalo, and portions of the Turnhole Bend Trails, which will revert to hiking and horse use only.

Public comment was overwhelmingly in support of Alternative 4 and opposed to the park's preferred alternative, Alternative 5. The primary difference between these two alternatives is that under Alternative 4, the NPS will construct a new trail primarily for bicycle use whereas Alternative 5 called for removal of horses from the existing First Creek Trail in order to allow bicycles on that trail. Creating a new trail for bicycle use and reverting some trails to hiking and horse use only will enhance recreational opportunities for a variety of park users.

The EA is available online at <http://www.nps.gov/maca/parkmgmt/planning.htm>, and the CTMP and FONSI are available online at <http://parkplanning.nps.gov/projectHome.cfm?projectID=17179>, then clicking on the link entitled "Document List."

#### Trails Designated for Bicycle Use

##### Connector Trail

A new Connector Trail will be designed and constructed for the purpose of connecting access points and other areas with trails, including the Maple Springs Group Campground, Maple Springs Trailhead, Mammoth Cave International Center for Science and Learning, Big Hollow Trailhead, and the Raymer Hollow Trailhead. This approximately 1.5 mile Connector Trail will run from the Maple Springs Trailhead to the Raymer Hollow Trailhead, and will be a wide, hardened-gravel trail to withstand heavy, two-way traffic of hikers, bicyclists, and horseback riders. The section of the Connector Trail between Maple Springs Trailhead and the Big Hollow Trailhead will be designated as multiple-use, and the section from the Big Hollow Trailhead to the Raymer Hollow will be restricted to hikers and horses. As part of the Connector Trail development, the existing parking lot at the Maple Springs Trailhead will be improved and expanded. This lot will add parking capacity for the trail system and allow bicyclists, hikers and equestrian access to the horse and hiking trails or Big Hollow Trail without using park roads.

When the Connector Trail is complete, the trailhead and trails at the Good Spring Baptist Church will be eliminated, as access will no longer be needed to the Raymer Hollow Trail. Elimination of these trails and the trailhead will greatly reduce the impact

on and degradation of the Good Spring Baptist Church cultural site.

Currently, the only way for equestrians, bicyclists, and hikers to access trailheads is by using the Maple Springs Loop Road and the Good Spring Church Road, which can be congested with large pickup trucks, horse trailers, and other passenger vehicles. Use of these roadways creates a potential hazard for trail users. The Connector Trail will provide an alternative to using these roads and increase public safety by getting these trail users away from the roads and the potential for collision with vehicles.

##### Big Hollow Trail

The selected alternative (Alternative 4) includes the development of the six-mile-long Big Hollow Trail, which will be constructed east of the Green River Ferry Road-North and on the ridge west of Big Hollow. Bicycling and hiking will be allowed on the Big Hollow Trail, but the trail will be closed to horse use. Public comments on the EA substantially supported construction of this trail for bicycle use.

This new trail increases opportunities for bicycle use without reducing the number of trails accessible to horse use, while maintaining separation of horse and bicycle users. Separation of these activities should improve the recreational experience for user groups and offer bicyclists access to backcountry scenery.

Since the trail will involve new construction, the selected alternative will have more impact on park resources than other alternatives, but we concluded it will not have a significant effect on the environment. Vegetation will be removed on the trail surface, and cleared along the trail margins, and sustainable materials and construction techniques will be used to build the trail, which will help control and minimize surface degradation, erosion, and other effects on surrounding park resources. The Big Hollow Trail will not pass through floodplains, cross streams, or be located near wetlands, and therefore is expected to have no new impacts on water resources.

Vegetation and tree removal identified in the selected alternative will be completed in accordance with the "Biological Opinion for the Effects of the Hazard Tree Removal and Vegetation Management Program to the Indiana Bat at Mammoth Cave National Park, Kentucky" to ensure the activities will be considered "not likely to adversely affect" the species.

To minimize any effect on archeological resources, the park has surveyed areas where ground

disturbance will take place and adjusted trail alignment to avoid adverse impacts.

#### *Mammoth Cave Railroad Bike & Hike Trail*

An environmental assessment for the Mammoth Cave Railroad Bike & Hike Trail was completed in 1999 and amended in 2004. Between 2004 and 2007, the NPS constructed this approximately nine-mile-long, graveled hiking and biking trail. The Mammoth Cave Railroad Bike & Hike Trail follows the general route of a historic railroad bed leading from the visitor center to the park boundary at Park City and receives significant daily use. The trail passes close enough to the campground area to provide hiking and bicycling opportunities for those camping at the park. The trail continues past the campground, through valleys and higher elevations on the ridge-tops, providing the user with a varied ecological view of the park. Several wayside exhibits along the trail recount historic facts regarding the old railroad route, including past events and structures that played a significant role in the history of the area. The Mammoth Cave Railroad Bike & Hike Trail was designed and constructed utilizing modern technology and sustainable design. The eight-foot-wide graveled surface was designed to offer a comparatively easy, family-style bicycle trail as opposed to the single-track, mountain-biking type of experience.

The Mammoth Cave Railroad Bike & Hike Trail will connect to historic Bell's Tavern upon completion of Park City's bike trail. The park has received expressions of interest from the communities of Cave City and Brownsville to construct similar bike trails that could connect with the Mammoth Cave Railroad Bike & Hike Trail. These improvements would provide opportunities for the use of the park and contribute to the "Connecting People to Parks" initiative of the NPS and the President's "America's Great Outdoors" initiative.

#### *White Oak Trail*

The CTMP also identified the 2.4-mile-long White Oak Trail as a multiple-use trail, and this rule will designate it as a trail for bicycle use in addition to hiking and horseback riding. The trail is on an old roadbed and is wide, fairly level, and currently has a relatively low level of use. The flat and wide nature of the trail provides conditions that will tend to minimize user conflicts and support the multiple-use designation. The NPS will continue to occasionally use the White Oak Trail for

administrative vehicle access to backcountry sites for emergency response and to conduct maintenance and monitoring activities.

#### **Notice of Proposed Rulemaking**

On May 17, 2011, NPS published a Notice of Proposed Rulemaking for the designation of bicycle trails at MACA (76 FR 28388). The proposed rule for bicycle use was based upon the selected action (Alternative 4) described in the EA and FONSI. The proposed rule was available for public comment from May 17, 2011, through July 18, 2011.

#### **Summary of and Responses to Public Comments**

Comments were accepted through the mail, hand delivery, and through the Federal eRulemaking Portal: <http://www.regulations.gov>. A total of 21 public comment documents were received during the comment period, two from organizations and the rest from individuals. A summary of comments and NPS responses is provided below.

1. *Comment:* The White Oak Trail needs to remain open to horses in the future.

*Response:* Under the final rule, the NPS will not close the White Oak Trail to equestrians. The White Oak Trail will be a multiple/shared use trail for all backcountry users.

2. *Comment:* Shared use of the White Oak Trail is acceptable due to the low level of trail use. It has been proven that bicyclists can successfully share trails with hikers.

*Response:* The White Oak Trail consists of an administrative road that has a wide, relatively level surface and that receives comparatively little traffic by any users and therefore was determined appropriate for shared use by hikers, bikers, and equestrians.

3. *Comment:* There is no need to open up any new trails in the park's backcountry area north of the river or to allow bicycles on the Big Hollow Trail since there are ample recreation opportunities for families and visitors in the park and for bicyclists to ride.

*Response:* The NPS does not agree with this comment, but does recognize that individuals have a variety of opinions regarding the management and regulation of activities within units of the National Park System. The park undertook a diligent planning process involving the park's trail user groups and stakeholders, obtaining their input in developing the CTMP and the alternatives described in the CTMP. The CTMP identified management objectives and strategies to guide the protection, management, maintenance, and use of

the trails in the park, including the development of new trails such as the Big Hollow Trail. The CTMP identified appropriate types of trail use and determined that bicycle use on designated trails is appropriate. The public interest in this planning process was high, and public input was considered and incorporated into the plan as part of the decision-making process.

4. *Comment:* The park needs to rehabilitate and maintain the existing trails before building any new trails. The money spent on new trails would be better spent maintaining the established trails.

*Response:* To improve trail conditions, the park is implementing other elements of the CTMP that address trail maintenance and sustainability. The park believes it can accomplish these goals concurrently with building the new Big Hollow Trail and Connector Trail.

5. *Comment:* Mountain bicycling is an activity that is in keeping with the mission of the NPS.

*Response:* The NPS has a goal of providing high quality bicycling opportunities for visitors in appropriate areas and in a manner consistent with our stewardship responsibilities. The NPS is committed to identifying and providing opportunities for the public to participate in outdoor recreation to promote health and wellness. NPS Director Jonathan Jarvis unveiled the "Healthy Parks Healthy People US" initiative to highlight the unique role that our nation's national parks play in promoting health and wellness through outdoor recreation activities such as bicycling. The President introduced the "America's Great Outdoors" initiative to reconnect people to the outdoors and promote activities that enhance health and wellness. A key goal of this initiative for federal agencies is to increase and improve recreational access and opportunities. During the CTMP planning process, the park received 2,905 public comments on the plan and only one of those comments stated a concern that the use of mountain bikes on trails in MACA was inconsistent with the mission of the NPS.

6. *Comment:* Significant health benefits can be derived from bicycling and trail users at the park would benefit from enhanced outdoor recreational opportunities and access. Bicycling is a low impact, healthy, safe activity which should be encouraged in our parks. Biking fights obesity and nature deficit disorder, providing additional opportunities to exercise and better quality of life. The First Lady's "Let's

Move!” campaign specifically addresses these problems and biking is a significant part of the solution. Bicycle routes create another method of exercise and opportunity to enjoy the park, create high quality recreational experiences, and add significant value to park resources. Providing biking opportunities will make the Mammoth Cave area more attractive to people who appreciate active types of recreation. Adding mountain bicycling to trails at MACA is the type of action contemplated by the President’s “America’s Great Outdoors” initiative to connect Americans to their natural surroundings through outdoor recreation.

*Response:* The NPS is engaged in a wide-ranging effort to bring the outdoors into the public discussion about public health and to expand opportunities for people seeking a more active lifestyle. As part of this effort, NPS Director Jarvis initiated the “Healthy Parks Healthy People U.S.” program to highlight the unique role that our nation’s national parks play in promoting health and wellness. Studies have shown being in the outdoors and participating in outdoor activities can reduce stress and anxiety, foster mental and physical health, and promote learning and personal growth. The health benefits derived from outdoor physical activities such as bicycling are well documented. Recently, the media has reported that doctors have been writing “Park Prescriptions” which prescribe park visits to get patients outside to exercise and receive the benefits of sun and fresh air. Implementing the final rule will increase and improve recreational opportunities for all trail users and high quality backcountry experiences. Equestrians have access to the Sal Hollow Trail as they requested. Hikers will have access to a backcountry trail which is free of horse impacts and manure. Bicyclists will be able to enjoy the Big Hollow Trail, the White Oak Trail, the Mammoth Cave Railroad Bike & Hike Trail, and the Connector Trail. Providing these recreational opportunities to the public will directly support the First Lady’s “Let’s Move” campaign to specifically address the public health crisis of obesity.

7. *Comment:* Mountain biking has been managed successfully at other NPS units with minimal environmental impact. Other land managing agencies have found ways to manage mountain bicycling on their lands.

*Response:* Several NPS units offer biking on single track trails, and many more allow riding on unpaved or dirt roads, providing numerous examples of successful, well-planned cycling venues

in the National Park System. Scientific studies have shown that the environmental impacts of mountain biking are similar to those of hiking and less than those of other uses. Under the final rule, NPS will manage appropriate use of bicycles on identified trails in accordance with applicable laws, regulations, and policies. Such management will assure protection of the park’s natural, cultural, scenic, wildlife, and aesthetic values while promoting visitor connections with the park, increasing appreciation of park resources, and providing healthy outdoor recreation opportunities.

8. *Comment:* Local bicycle clubs and cyclists provide volunteer support to the park, making an important contribution to maintaining park trails. Local bicycling groups have adopted trails they ride providing volunteer backcountry patrols and maintenance to ensure the trails are environmentally sustainable. Members of the biking community have demonstrated their commitment to preserving and maintaining the resources at MACA. The Sal Hollow Trail is currently the best trail in the park because the local bicycle clubs and cyclists have volunteered over 200 hours of trail maintenance work per year for several years to keep the trail in this condition. Volunteer trail work provides service opportunities for people interested in helping maintain and create sustainable trails.

*Response:* Local bicycling organizations have been participating in volunteer trail projects at the park for many years, thereby demonstrating their commitment to trail stewardship. The conditions of the trails they have been working on are among the best in the park. Park management will continue to work with the Mammoth Cave Backcountry Summit Council as an umbrella organization to coordinate and promote trail-related volunteer activities. Encouraging and supporting continued volunteer participation in trail maintenance activities by all user groups is a key management objective that is vital to establishing sustainable trails and protecting park resources.

9. *Comment:* The CTMP for the park should be fully implemented, as it was developed through sound procedures analyzing a variety of alternatives and included a comprehensive analysis of the impacts of allowing bicycles on the identified trails and examined the potential long term, short term and cumulative impacts of its implementation, following both the letter and spirit of the law. The proposed rule is in keeping with the decisions reached through the CTMP

process. The plan was developed with significant public input drawing on the expertise and desire of a wide array of trail users. The CTMP is environmentally and socially responsible. The plan reflects careful attention to preservation of the park’s historical and natural resources. The park solicited public comment on the options before deciding which option would be best for the park and all user groups. During the CTMP process, the park received only two substantive comments indicating any negative perceptions regarding biking at MACA. Those arguments were founded on the lack of a special regulation, not on the use of bicycles on trails. The exceptionally low comment total and lack of opposition to the actual bicycle use indicates that the substance of the CTMP is relatively non-controversial, requiring only this final procedure to garner broad community support.

*Response:* The park undertook a diligent planning process involving the park’s trail user groups and stakeholders, obtaining their input in developing the CTMP and its alternatives. The plan identified management objectives and strategies to guide the protection, management, maintenance, and use of the trails in the park, including the development of new trails such as the Big Hollow Trail. This plan identified appropriate types of trail use and included the determination that bicycle use on designated trails is appropriate. During civic engagement, the public interest in this planning process was high, and the public’s input was considered and incorporated into the plan as part of the decision making process. This has resulted in broad local support for the CTMP. The CTMP, along with the accompanying EA and FONSI, were completed and approved in December 2008. Completion of this rule-making process will address the concerns that the park does not have a special regulation designating the trails outside of developed areas that were selected in the CTMP for bicycle use.

10. *Comment:* The Organic Act directs the NPS to provide for “enjoyment” of the scenery, wildlife and natural and historic objects conserved by the NPS. The NPS Organic Act does not authorize any and all forms of outdoor recreation under the rubric of “enjoyment.” Mountain bicycling on single-track trails in park backcountry is a highly suspect form of “enjoyment” which may not be consistent with the purpose of national parks and of MACA.

*Response:* The park completed the CTMP, EA, and FONSI in 2008. The CTMP and EA were published for a 60-day review and comment period. During

this civic engagement, the public interest in this planning process was high. The park received 2,905 public comments on the plan and only one of those comments stated a concern that the use of bikes on backcountry trails in MACA was inconsistent with the mission of the NPS. Through the park's planning and monitoring efforts, coupled with the input received from the public, the park determined that bicycling (recreational and mountain biking) is an appropriate use on certain park trails. This final rule specifically designates which trails in the park are open to bicycle use. Big Hollow Trail will be the only single-track trail open to bicycle use in the park. The limitations on bicycle use in 36 CFR 4.30 and this rule allow NPS to manage appropriate use of bicycles on the trails in accordance with applicable laws, regulations, and policies to ensure that the park is protecting natural, cultural, scenic, and wildlife resources while also preserving the aesthetic values of a backcountry experience for all users. The NPS has determined that implementing this special rule at MACA does not constitute a violation of the Organic Act or MACA's enabling legislation.

11. *Comment:* The NPS has decided to construct a mountain bicycle trail in a roadless and undeveloped area of MACA and the unprecedented nature of that decision has created an impact of great significance for the National Park System and the park. This is the first time that the NPS has undertaken construction of a mountain bike trail in any area of the National Park System.

*Response:* The Big Hollow Trail will be located in the area north of the Green River and east of the Green River Ferry Road. This area is not roadless and undeveloped, but rather contains many signs of past human use of the land, including sunken wagon and road traces, fence lines, power line corridors, old fields, reforestation plots, gullies and erosion control check dams, wells, chimneys, and building foundations. The Big Hollow Trail is not exclusively a mountain bike trail. It will be a shared use trail designated for use by hikers and bikers. This trail was designed and will be constructed to sustainable standards to support these uses. The park will be managing the appropriate use of bicycles on the designated trails, including the Big Hollow Trail, in accordance with applicable laws, regulations, and policies to assure the protection of the park's natural, cultural, scenic, wildlife, and aesthetic values. This trail is not the first mountain bike trail constructed in a park area of the National Park System. Currently, there

are several NPS units that have constructed mountain bike trails for riding and many more which allow mountain bike riding on unpaved roads. These trails are excellent examples of providing new opportunities for enjoying park areas in the National Park System. Some of these NPS units have constructed trails with bicycling and hiking as the primary intended uses. Several park units have completed a public process establishing special regulations which designated specific trails as open for bicycle use. Additional park units are currently working through the special regulation process to designate specific trails outside of developed areas for bicycle use. The requirements of 36 CFR 4.30 will still apply to any NPS unit which proposes to designate specific trails outside of developed areas for bicycle use.

12. *Comment:* This rulemaking would establish bicycle use within a natural area that was previously studied for wilderness suitability in the park's Wilderness Study of 1974. The NPS should reassess the roadless tracts of MACA for suitability as wilderness. The special regulation would establish a use which would be required to be displaced (since bicycles are banned in wilderness) should Congress ever designate wilderness in this area.

*Response:* The final rule is consistent with the requirements of the Wilderness Act. A Wilderness Study of the park was completed and a recommendation made that no lands in MACA be added to the National Wilderness Preservation System. There is no statutory requirement that the park reassess the roadless tracts for suitability as wilderness. Although more than 70 years have passed since the establishment of the park, the NPS continues to believe that the area is not suitable for wilderness because numerous signs of past human use of the land (e.g., sunken wagon/road traces, fence lines, power line corridors, old fields, reforestation plots, gullies and erosion control check dams, wells, chimneys, and building foundations) are still apparent in the area where trail development will occur.

13. *Comment:* The Big Hollow Trail would be an asset to the park as well as the Commonwealth of Kentucky. Big Hollow Trail would be a great use of this public land. Big Hollow Trail is definitely a great idea to bring more international attention to the area and to highlight a piece of natural beauty that our country has to offer.

*Response:* We agree that providing these recreational opportunities to the public will broaden the park's appeal with visitors looking for outdoor

recreation activities and high quality backcountry experiences.

#### Changes from the Proposed Rule

Paragraph (c)(2)(ii) of the proposed rule has been deleted because it is duplicative with 36 CFR 4.30(d)(2). Paragraph (c)(2)(iii) of the proposed rule (now paragraph (c)(2)(ii) of the final rule) has been revised to make the speed limit 15 miles per hour or as posted in the park. This gives MACA the flexibility to adjust the speed limit to address visitor safety, health, or resource management concerns. Paragraph (c)(3) has been revised to grant the Superintendent of MACA the authority to open or close designated bicycle routes, or to impose conditions or restrictions for bicycle use after taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives. This authority may be exercised independent of the Superintendent's authority under 36 CFR 1.5 and will provide the park with greater flexibility to respond to the impacts of bicycle use on designated routes. Public notice of any action taken under paragraph (c)(3)(i) must be given pursuant to one or more of the methods set forth in 36 CFR 1.7. Paragraph (c)(3)(ii) was added to clarify that violating a closure, condition, or restriction established by the Superintendent under paragraph (c)(3) is prohibited. After consideration of the public comments, the park has decided that no other changes are necessary to the proposed rule.

#### Compliance With Other Laws and Executive Orders

##### *Regulatory Planning and Review* (Executive Orders 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.*). This conclusion is based on the results of an NPS economic analysis of the effects of the rule, dated November 17, 2009, available for review at: <http://www.nps.gov/maca/parkmgmt/planning.htm>, which incorporated a regulatory flexibility threshold analysis. The rule will reasonably increase park visitation and thereby generate benefits for businesses, including small entities, through increased visitor spending.

#### *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. There are no businesses in the surrounding area economically dependent on continued bicycle use on these trails. The November 2009 NPS economic analysis estimated that the rule will add a benefit to local business in the form of new visitors attracted to the area to use the trails.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions. The rule will not impose restrictions on local businesses in the form of fees, training, record keeping, or other measures that would increase costs. The economic analysis projected a net benefit for the Federal government and a consumer surplus of \$24.02/day for new visitors and \$12.01/day for current visitors.

(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. The rule is internal to NPS operations.

#### *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. This rulemaking addresses only actions that will be taken by the NPS. It will not require any State, local or tribal

government to take any action that is not funded. It is an NPS-specific rule and imposes no requirements on small 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. This rule designates park trails inside the park, and though the trails may connect with trails external to the park, the rule does not require the taking of private land outside the park. 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 rule only effects use of NPS administered lands. It has no effect 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 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. 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. The question was considered as part of the EA, and trails were configured to avoid areas identified as archeological sites, specifically any with known burials. In addition to the EA, past consultation with the tribes has

been important in the identification of concerns or issues of cultural interest.

#### *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 of 1969 (NEPA)*

We have prepared environmental assessments to determine whether this rule would have a significant impact on the quality of the human environment under the 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 we reached a finding of no significant impact (FONSI) for the Mammoth Cave Railroad Bike & Hike Trail and also for the other designated bicycle routes. The environmental assessment and FONSI for the Mammoth Cave Railroad Bike & Hike Trail and the EA for the Comprehensive Trail Management Plan (CTMP) may be reviewed at <http://www.nps.gov/maca/parkmgmt/planning.htm>. The FONSI for the CTMP may be reviewed at <http://parkplanning.nps.gov/projectHome.cfm?projectID=17179>, 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**

National parks, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the National Park Service amends 36 CFR part 7 as follows:

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

■ 1. The authority citation for Part 7 is revised 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, DC Code 10–137 (2001) and DC Code 50–2201.07 (2001).

■ 2. In § 7.36 add paragraph (c) to read as follows:

#### **§ 7.36 Mammoth Cave National Park.**

\* \* \* \* \*

(c) *Bicycles.* (1) The following trails are designated as routes open to bicycle use:



(i) Connector Trail from the Big Hollow Trailhead to the Maple Springs Trailhead;

(ii) Big Hollow Trail;

(iii) Mammoth Cave Railroad Bike & Hike Trail; and

(iv) White Oak Trail.

(2) The following are prohibited:

(i) Possessing a bicycle on routes or trails not designated as open to bicycle use;

(ii) Unless posted otherwise, operating a bicycle in excess of 15 miles per hour on designated routes; and

(iii) Failing to yield the right of way to horses or hikers.

(3) 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, and other management activities and objectives.

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

(ii) Violating a closure, condition, or restriction is prohibited.

Dated: August 30, 2012.

**Rachael Jacobson,**

*Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 2012-22438 Filed 9-11-12; 8:45 am]

BILLING CODE 4310-T3-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2011-0826; FRL-9725-6]

#### Approval and Promulgation of Air Quality Implementation Plans; Michigan; PSD and NSR Regulations

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving specified revisions to Michigan's State Implementation Plan (SIP) that EPA has determined are consistent with the Federal requirements of the prevention of significant deterioration (PSD) construction permit program for the purpose of meeting the requirements of the Clean Air Act (CAA) with regard to new source review (NSR) in Class I areas attaining the National Ambient Air Quality Standards.

**DATES:** This final rule is effective on October 12, 2012.

**ADDRESSES:** EPA has established a docket for this action under Docket ID

No. EPA-R05-OAR-2011-0826. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Constantine Blathras, Environmental Engineer, at (312) 886-0671 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Constantine Blathras, Environmental Engineer, Air Permits Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-0671, [Blathras.Constantine@epa.gov](mailto:Blathras.Constantine@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:  
I. What action is EPA taking?  
II. Statutory and Executive Order Reviews

#### I. What action is EPA taking?

EPA is approving Michigan's request to revise its SIP to add rule R. 336.2816 to be consistent with Federal PSD regulations in 40 CFR 51.166(p), that require state PSD programs to have a mechanism in place to coordinate and consult with Federal land managers of Class I PSD areas. On January 9, 2008, EPA proposed to disapprove R. 336.2816 from Michigan's SIP submittal because it did not provide for such a mechanism. Michigan has now revised R. 336.2816 to be consistent with the Federal requirement.

On March 25, 2010, EPA published a direct final approval to convert a conditional approval of the Michigan PSD SIP to full approval under section 110 of the CAA. In that action, EPA stated that we would be taking a separate action on rule R. 336.2816(2) through (4), (requirements relating to Class I areas). Michigan has now revised R. 336.2816 to be consistent with the Federal requirement.

EPA is not acting on Michigan's request to revise its SIP by adding a

significance level for particulate matter less than 2.5 microns (PM<sub>2.5</sub>). EPA has established a significance threshold to limit the applicability of PSD and NSR regulations to sources with emissions above the significance level. To be consistent with the Federal requirements, Michigan amended R. 336.2801 and R. 336.2901 to add the significance threshold for PM<sub>2.5</sub>. Because Michigan is planning to submit additional state rules as revisions to its SIP for precursors of PM<sub>2.5</sub>, EPA will defer action on this matter.

#### II. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and