

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF THE INTERIOR

### National Park Service

#### 36 CFR Part 7

[NPS-CUVA-13806; PXXCUVA0012]

RIN 1024-AE18

#### Special Regulations; Areas of the National Park System, Cuyahoga Valley National Park, Bicycling

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

**ACTION:** Proposed rule.

**SUMMARY:** Through the preparation of a Final Trail Management Plan, the National Park Service proposed to expand recreational bicycling opportunities in Cuyahoga Valley National Park. The Final Trail Management Plan evaluated approximately 10 miles of new, single-track, off-road bicycle trails in undeveloped regions of the park; 3.1 miles of new cross-country trails; and 1.35 miles of new connector, multi-use trails for bicycle use. The National Park Service general regulation pertaining to bicycles requires promulgation of a special regulation to authorize bicycle use on new trails constructed outside of developed areas.

**DATES:** Comments must be received by December 15, 2014.

**ADDRESSES:** You may submit comments, identified by the Regulation Identifier Number (RIN) 1024-AE18, by any of the following methods:

- *Electronically:* Follow the instructions for submitting comments online at the Federal rulemaking portal: <http://www.regulations.gov>.

- *Hard copy:* Mail or hand deliver to: Superintendent, Cuyahoga Valley National Park, 15610 Vaughn Road, Brecksville, OH 44141.

We will only accept comments as noted above. We will not accept comments via email, fax, or any other methods.

**FOR FURTHER INFORMATION CONTACT:** Chris Ryan, Chief Ranger, Cuyahoga Valley National Park, 440-546-5940.

## SUPPLEMENTARY INFORMATION:

### Background

#### *Legislation and Purposes of Cuyahoga Valley National Park*

On December 27, 1974, President Gerald Ford signed Public Law 93-555 creating Cuyahoga Valley National Recreation Area for the purpose of “preserving and protecting for public use and enjoyment, the historic, scenic, natural, and recreational values of the Cuyahoga River and the adjacent lands of the Cuyahoga Valley and for the purpose of providing for the maintenance of needed recreational open space necessary to the urban environment.” In 2000, Congress redesignated Cuyahoga Valley National Recreation Area as Cuyahoga Valley National Park (CVNP or Park) with the passage of the Department of the Interior and Related Agencies Appropriations Act (Pub. L. 106-291).

Cuyahoga Valley National Park is an important national resource within a predominantly metropolitan region, where the Park is visited by approximately 2,500,000 people annually. Located in Cuyahoga and Summit Counties, Ohio, and situated between the cities of Cleveland and Akron, CVNP includes approximately 30,000 acres of land, with 18,000 acres under the ownership of the National Park Service (NPS). The Park contains significant resources, including the Cuyahoga River Valley and its associated ecological functions, rich cultural resources and landscapes, and a variety of recreational and outdoor use opportunities.

In the 1930’s the Cuyahoga Valley provided a respite for urban dwellers from Cleveland and Akron. During this time period, private estates in the Cuyahoga Valley had established trails and carriage roads for their private recreational enjoyment, including places like the Old Carriage trail area and the Wetmore trails. Over the years, these lands and other park lands were incorporated into the Cleveland Metroparks and Summit Metro Parks that are now part of what is designated as CVNP. Two significant trail corridors accelerated the recreational connections to the Valley: the conversion of an abandoned railroad bed to the Bike and Hike Trail in 1970 and the construction of the Towpath Trail in the late 1980’s and early 1990’s. Many of the trails from

the earliest days of Cuyahoga Valley as a recreation destination remain today for visitors to enjoy and share the experience that has remained for over a century.

The Park’s General Management Plan/Environmental Impact Statement (GMP) confirms the purpose, significance, and special mandates of the Park. According to the Park’s GMP, one of the significant purposes of CVNP is to “[preserve] a landscape reminiscent of simpler times, a place where recreation can be a gradual process of perceiving and appreciating the roots of our contemporary existence.” The GMP also provides direction for park management during land acquisition and provides a framework for NPS managers to use when making decisions about how to conserve the Park’s resources and manage visitor uses in the Park. Resource preservation for compatible recreational use is the overall concept for management and development of the Park.

#### *Current Status of Trails and Associated Facilities*

Regional recreational trail networks have blossomed across Northeastern Ohio, increasing demands for additional trail connections, new trail uses, and expanded recreational opportunities. Today, the Park contains approximately 175 miles of trails, approximately 97 miles of which are managed by the NPS. The NPS trail system consists of three long-distance trails—the Towpath Trail, Buckeye Trail and Valley Bridle Trail—and eleven smaller localized trail systems with separate access points. The park currently has one limited community connector through the Old Carriage Trail connector trail in the northern portion of the park and has some portions of the primary roadways improved for bike use. Metropark partners provide five additional trail systems within their units inside CVNP, and another trail, the Buckeye Trail, is managed by the Buckeye Trail Association. Currently, the Park provides access to all its trails through 25 trailheads and from the four primary Visitor Contact Centers.

These trails provide for various uses, including 34 miles for hiking and trail running only, 22 miles for multipurpose biking and hiking, 17 miles for cross-country skiing, and 35 miles for equestrian riding. Nonetheless, requests

for new trail uses to meet the needs of growing user groups have become more frequent in recent years. Technologies exist today (such as personal mobility devices) that provide new means to enjoy trails. Walk-in camping is a desired amenity that recently was approved for the first time in the park. Trail running is increasing in popularity, and biking has grown into a major recreational activity within the Cuyahoga Valley.

*2009 Comprehensive Trails Management Plan*

In 1985, the Park’s first Trail Management Plan was developed as the primary document to initiate many trails in the Park. The 1985 Trail Plan identified 105 miles of existing trails and proposed and evaluated 115 miles of new trail. An additional 46 miles of trails were identified for future consideration but were not evaluated in the 1985 Trail Plan. In 2009, CVNP initiated the development of a Comprehensive Trails Management Plan/Environmental Impact Statement (2009 Plan/EIS) to guide the expansion, restoration, management, operations, and use of the trail system and its associated amenities over the next 15 years, while keeping with the purpose, mission, and significance of the Park. Some trails proposed in the 1985 Trail Plan but not yet implemented were considered as part of the 2009 Plan/EIS.

The goals of the 2009 Plan/EIS were to develop a trail network that:

- Provides experiences for a variety of trail users;
- shares the historic, scenic, natural and recreational significance of the Park;
- minimizes impacts to the park’s historic, scenic, natural and recreational resources;
- can be sustained; and
- engages cooperative partnerships that contribute to the success of the Park’s trail network.

The Park conducted internal scoping with Park staff, regional park district

partners, and the Conservancy for Cuyahoga Valley National Park and external scoping, including the mailing and distribution of four separate newsletters, nine public meetings, and a 60-day public comment period. As a result of this process, eight alternatives, including a “No Action Alternative,” for the Park’s Trail Management Plan were developed.

The 2009 Plan/EIS was completed in 2013. The Record of Decision (ROD), signed by the NPS Midwest Regional Director on August 8, 2013, identifies Alternative 5 as the Preferred Alternative for implementation. Under this Alternative, approximately 14.5 miles of new bicycle trails could be constructed in undeveloped regions of the park and authorized by special regulations for bicycle use. The Alternative also considers that approximately eight additional miles of existing trail or roadways could be authorized for bicycle use in the future. The construction and authorization of all trails for bicycle use will be conditional on funding and the implementation of the Sustainable Trail Guidelines, described in detail in Appendix C of the 2009 Plan/EIS.

Due to the age and conceptual nature of the 1977 GMP, a 2013 Foundation Plan was developed for the Park that identifies active recreation and implementation of the 2009 Plan/EIS as an objective to meet its goals. The 2009 Plan/EIS and ROD may be viewed online at <http://parkplanning.nps.gov/cuyahogatrailplan>.

*Construction and Management of the Bicycle Trails*

Many of the proposed bicycle trails have not yet been built and would not be immediately open for use. An Implementation Strategy Plan is under development to prioritize trail projects and assemble the additional planning, funding, staffing, project management, and monitoring that will be needed to accomplish them successfully. The Trails Forever Program, administered by

the Park in partnership with the Conservancy for Cuyahoga Valley National Park, will be a critical component in the development, implementation, and sustainability of the trails in the Park. The Trails Forever Program will advance its role in the coming years as a primary component for Trail Plan funding and will work with Park Staff to annually prioritize trail projects. As part of the initial implementation phase of the Trail Plan, the Park will evaluate the Trails Forever program for staffing, program coordination, and program direction to ensure its future success and its alignment with the goals of the Trail Plan.

Volunteers for trail work at the Park will continue to be a vital component of trail stewardship in the Park. Management and coordination of volunteers will continue through the joint Volunteer Program office of the Park and the Conservancy for Cuyahoga Valley National Park. The use of Park staff and the existing volunteer trail groups to monitor and mitigate the environmental impacts of bicycle use on these trails will ensure that the trails are maintained in good condition and that any issues of concern are immediately brought to the attention of Park management. In addition, the Park will continue to update its Sign Plan and upgrade park and trail signs accordingly. As trail signs are updated, trail accessibility information for each trail will be made available to the public.

**Proposed Rule**

The proposed rule complies with the general requirement of 36 CFR 4.30, which requires a special regulation to designate new bicycle routes off park roads and outside of developed areas. To provide users with additional recreational bicycling opportunities, this proposed rule would authorize the Superintendent to designate any of the following trails as routes for bicycle use:

Trail name	Approximate length	Surface type	Usage type	Description
East Rim .....	10 miles .....	Natural surface .....	Off-road, single-track bicycle.	Approximately ten miles of a loop system trail of varying distances along the east central portion of the Park, north of Old Akron-Peninsula Road and south of Brandywine Falls trailhead, near the Krecjic Restoration Site.
High Meadow Trail. ....	3.1 miles .....	Natural surface .....	Cross-country .....	Located west of Blue Hen Falls, near the existing Kurowski fields and linking to the existing Buckeye Trail.
Old Carriage Connector Trail.	0.35 miles .....	Crushed gravel .....	Multi-purpose .....	Extension of existing Old Carriage Road connector to existing Bike and Hike Trail.

Trail name	Approximate length	Surface type	Usage type	Description
Highland Connector Trail.	1.0 miles .....	Crushed gravel .....	Multi-purpose .....	New connector from existing Bike and Hike Trail to existing Towpath Trail on south side of Highland Road, extending on the north side of Highland Road from Towpath to the Vaughn overflow parking area.

After trail construction is completed, but before a trail is designated for bicycle use, the Superintendent would be required to issue a written determination that the route is open for public use and that such bicycle use is consistent with the 2013 park plan for bicycle use, including implementation of the park's sustainable trail guidelines with monitoring and mitigation through adaptive management. This would ensure that bicycle use remains consistent with the protection of the park area's natural, scenic and aesthetic values, safety considerations and management objectives, and will not disturb wildlife or park resources. No additional NEPA compliance would be necessary beyond the 2013 EIS/ROD, and the written determination would be added into the park's administrative file for the trail project. The Superintendent would provide notice of such designation through one or more of the public notice procedures outlined in 36 CFR 1.7.

The proposed rule would also authorize the Superintendent to impose closures or restrictions for bicycle use on designated routes after taking into consideration public health and safety, resource protection, and other management activities and objectives, provided public notice is given under 36 CFR 1.7.

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

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

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 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. E.O. 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 certification is based on information contained in the report titled, "Cost-Benefit and Regulatory Flexibility Analyses: Proposed Regulations to Designate Bicycle Routes in Cuyahoga Valley National Park" that is available for review at <http://parkplanning.nps.gov/cuyahogatrailplan>.

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

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

- a. Does not have an annual effect on the economy of \$100 million or more.
- b. Would 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.

The current and anticipated users of bicycle routes in CUVA are predominantly individuals engaged in recreational activities. There are no businesses in the surrounding area that would be adversely affected by bicycle use of these trails. Although the park does not have any bicycle rental concessioners, there is a bicycle rental facility adjacent to the park that provides bike rentals that are used within CUVA.

##### *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. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

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

This rule does not affect a taking of private property or otherwise have taking implications under Executive Order 12630. A taking implications assessment is not required because this rule will not deny any private property owner of beneficial uses of their land, nor will it significantly reduce their land's value.

##### *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. 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 in 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. Affiliated Native American tribes were contacted by letters sent in June, 2012 and May, 2013 to solicit any interests or concerns with the proposed action. No responses were received by the Park.

*Paperwork Reduction Act (PRA)*

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget under the PRA is not required.

*National Environmental Policy Act (NEPA)*

We have prepared an environmental impact statement and have determined that this rule will not have a significant effect on the quality of the human environment under the NEPA of 1969. The Plan/EIS for the Park and ROD that included an evaluation of bicycling within the proposed areas may be viewed online at <http://parkplanning.nps.gov/cuyahogatrailplan>.

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

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

**Clarity of This Regulation**

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

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

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

**Drafting Information**

The primary authors of this regulation are Lynn Garrity, Outdoor Recreation Planner, Cuyahoga Valley National Park, and C. Rose Wilkinson and A.J. North, NPS Regulations Program, Washington, DC.

**Public Participation**

It is the policy of NPS, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested parties may submit written comments, suggestions, or objections regarding this proposed rule only as noted at the beginning of this rule. We will not accept comments by fax, email, or any other methods.

**Public Availability of Comments**

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

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

National Parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the NPS proposes to amend 36 CFR part 7 as set forth below:

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

- 1. The authority for Part 7 continues to read as follows:

**Authority:** 16 U.S.C. 1, 3, 9a, 462(k); Sec. 7.96 also issued under 36 U.S.C. 501–511, D.C. Code 10–137 (2001) and D.C. Code 50–2201 (2001).

- 2. Amend § 7.17 to revise the section heading and add paragraph (b) to read as follows:

**§ 7.17 Cuyahoga Valley National Park.**

- (a) \* \* \*
- (b) *Bicycles.* (1) The Superintendent may designate routes or portions of routes for bicycle use on the following trails:
  - (i) East Rim (approximately 10 miles);
  - (ii) High Meadow Trail (approximately 3.1 miles);
  - (iii) Old Carriage Connector Trail (approximately 0.35 miles); and
  - (iv) Highland Connector Trail (approximately 1.0 mile).

(2) After trail construction is complete:

(i) To designate a bicycle route, the Superintendent must make a written determination that:

- (A) The route is open for public use; and
- (B) Bicycle use is consistent with the protection of the park area’s natural,

scenic and aesthetic values, safety considerations, and management objectives, and will not disturb wildlife or park resources.

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

(3) The Superintendent may open or close designated 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: September 26, 2014.

**Michael Bean,**

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

[FR Doc. 2014–24324 Filed 10–10–14; 8:45 am]

**BILLING CODE 4310–EJ–P**

**DEPARTMENT OF DEFENSE**

**Department of the Army, Corps of Engineers**

**33 CFR Part 328**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 110, 112 116, 117, 122, 230, 232, 300, 302, and 401**

[EPA–HQ–OW–2011–0880; FRL–9917–90–OW]

RIN 2040–AF30

**Extension of Comment Period for the Definition of “Waters of the United States” Under the Clean Water Act Proposed Rule and Notice of Availability**

**AGENCY:** U.S. Army Corps of Engineers (Corps), Department of the Army, Department of Defense; and Environmental Protection Agency (EPA).

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) are extending the comment period for the proposed rule “Definition of ‘Waters of the United States’ Under the Clean