

Order 7400.9S, signed October 3, 2008, and effective October 31, 2008, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in this Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority for the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes additional controlled airspace at Reno/Tahoe International Airport, Reno, NV.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the FAA Order 7400.9S, Airspace Designations and Reporting Points, signed October 3, 2008, and effective October 31, 2008, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP NV E5 Reno, NV [Modify]

Reno/Tahoe International Airport, NV
(Lat. 39°29'57" N., long. 119°46'06" W.)
Mustang VORTAC

(Lat. 39°29'57" N., long. 119°46'05" W.)

That airspace extending upward from 700 feet above the surface beginning at lat. 40°00'20" N., long. 120°00'04" W., thence clockwise via the 32.0-mile radius of the Reno/Tahoe International Airport to lat. 40°01'31" N. long. 119°40'01" W.; to lat. 39°49'35" N. long. 119°34'05" W.; thence clockwise via the 21.7-mile radius to lat. 39°25'12" N. long. 119°18'45" W.; to lat. 39°13'00" W. long. 119°47'04" W.; to lat. 39°08'20" N. long. 119°47'04" W.; to lat. 39°10'20" N. long. 120°00'04" W., to the point of beginning. That airspace extending upward from 1,200 feet above the surface within a 39.1-mile radius of the Mustang VORTAC excluding the area east of long. 119°00'04" W., and west of long. 120°19'04" W., and that airspace northwest of the Reno/Tahoe International Airport extending from the 39.1-mile radius bounded on the northeast by the southwest edge of V-452 and on the west by long. 120°19'04" W. That airspace extending upward from 13,100 feet MSL beginning at lat. 38°54'56" N., long. 119°22'47" W., thence clockwise via the 39.1-mile radius to the eastern edge of V-165, thence southbound along the eastern edge of V-165 to the northern edge of V-244, thence eastbound to lat. 38°04'00" N., long. 119°15'24" W.; to the point of beginning. That airspace extending upward from 12,300 feet MSL beginning at lat. 38°52'20" N., long. 119°35'44" W.; to lat. 38°52'20" N., long. 119°47'54" W.; to lat. 38°28'00" N., long. 119°52'44" W.; to lat. 38°01'30" N., long. 119°51'34" W.; to lat. 38°01'00" N., long. 119°38'04" W.; to lat. 38°27'30" N., long. 119°33'44" W., to the point of beginning.

* * * * *

Issued in Seattle, Washington, on December 1, 2008.

Kevin Nolan,

Acting Manager, Operations Support Group,
Western Service Area.

[FR Doc. E8-30017 Filed 12-17-08; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 4

RIN 1024-AD72

Vehicles and Traffic Safety

AGENCY: National Park Service, Interior.

ACTION: Proposed Rule.

SUMMARY: This rule proposes to amend current regulations for designating bicycle use on National Park Service (NPS) lands. The proposed rule authorizes park superintendents to open existing trails to bicycle use within park units in accordance with appropriate park plans and compliance documents under the National Environmental Policy Act (NEPA), the National Historic Preservation Act, the NPS Organic Act, and the park's enabling legislation, and other applicable law. The proposed rule continues to require promulgation of a special regulation to build a new trail for bicycle use outside developed areas, or to open an existing trail to bicycle use if such action triggers one of the existing regulatory criteria requiring rulemaking in Section 1.5 of Title 36 of the Code of Federal Regulations.

DATES: Comments must be received by February 17, 2009.

ADDRESSES: You may submit comments, identified by the number 1024-AD72, by any of the following methods:

—Federal rulemaking portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

—Mail: National Park Service, Attn. Regulations Program Manager, 1849 C St., NW., MS-3122, Washington, DC 20240.

All submissions received must include the agency name and RIN 1024-AD72. For additional information see "Public Participation" under **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: Philip Selleck, Regulations Program Manager, 1849 C St., NW., Washington, DC 20240, (202) 208-4206.

SUPPLEMENTARY INFORMATION:

Background

Current regulations provide for the use of bicycles on park roads, parking areas and routes designated for bicycle use. A special regulation, specific to the individual park, must be adopted if bicycles are to be used in areas outside developed areas and special use zones. The NPS promulgated the current bicycle use regulation in 1987 and adopted the special regulation

requirement as a way of ensuring maximum public input on decisions to allow bicycle use outside developed areas.

Promulgation of special regulations requires various types of analyses and approval by the NPS Director and the Assistant Secretary for Fish and Wildlife and Parks, a process that takes more than two years on average. The proposed rule achieves a primary benefit of the special regulations process, notice and public comment, while eliminating the other steps of rulemaking deemed unnecessary in certain circumstances for designating areas for bicycle use.

For existing trails, the proposed rule provides for public notice and participation but does not require the promulgation of special regulations unless the trail designation has the type of significant effect that triggers rulemaking under the NPS' general regulation governing public use in units of the National Park System (*see* 36 CFR 1.5(b)). The NPS would continue to require the promulgation of special regulations for bicycle trails outside developed areas involving new trail construction.

As a general matter, the proposed rule provides park superintendents with a more efficient and effective way to determine whether opening existing trails to bicycles would be appropriate in the park unit they manage. The NPS Management Policies emphasize that "(t)he Service must ensure that [park] uses are appropriate to the park in which they occur," and establish a process for determining whether a particular use is appropriate in a park unit. *See* NPS Management Policies 2006, p. 97 and ¶ 8.1.2.

Whether or not bicycle use is an appropriate activity in a unit of the National Park System should be considered through an individual park planning process that involves environmental compliance and input from the public. In addition, any particular trail use should be considered as part of a comprehensive plan for trail use in a park area. Parks that don't currently address bicycle use in existing planning documents could accomplish this comprehensive plan as either a specific plan for bicycle use in the park or as part of another plan, such as a recreation use plan.

The planning process can help determine, for example, if opportunities for bicycling will offer the potential to increase overall visitation, generate new youth interest in parks, or expand appreciation for our national parks. Proper planning with public participation also provides the

opportunity to consider a range of alternatives to avoid or minimize impacts on natural, historic and cultural resources and reduce conflicts with other user groups. No matter what type of planning is conducted, "(i)n its role as steward of park resources, the National Park Service must ensure that park uses that are allowed would not cause impairment of, or unacceptable impacts on, park resources and values." NPS Management Policies 2006 ¶ 1.5.

In addition to the park planning activities described above, the intent of the proposed rule is to take advantage of the public outreach aspects of the NEPA process. The proposed rule does this by requiring, at a minimum, preparation of an Environmental Assessment (EA) for any decision to open existing hiking or horse trails to bicycles. In other words, the proposed rule precludes use of any applicable "categorical exclusions" from NEPA analysis for opening trails to bicycle use. Further, the proposed rule requires a minimum of 30 days for public comment on EAs on bicycle use. The proposed rule also requires that the notice requesting public comment be published in the **Federal Register**, in addition to any other manner of notice used by the park, consistent with the public participation objectives set out in the Management Policies. "Where there is strong public interest in a particular use, opportunities for civic engagement and cooperative conservation should be factored into the decision-making process." NPS Management Policies 2006 ¶ 1.4.3.1. By adopting these requirements, the proposed rule would meet the broad public participation objectives of the NPS without the requirement for a special regulation.

In addition, the proposed rule requires **Federal Register** notice of the superintendent's determination that 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. If the determination itself is not published in full, then the notice should include information on where to view the determination, or how to obtain a copy of the determination. This **Federal Register** notice must provide the public a 30-day period to give the public an opportunity to consider and comment on the determination prior to action by the park to open any trails for bicycle use. This comment period would be particularly important when there is a period of time between the public comment period for the EA or EIS and the decision to designate a trail for

bicycle use. It would allow for public comment on the decision to implement the earlier planning process. However, if there is significant change or new information since the completion of the planning and NEPA documents, then the NPS will have to consider the need to supplement or revise the documents.

An area of particular concern for park managers involves the designation of "new trails" in park areas. In the 1987 rulemaking on bicycle use, NPS decided to limit the authority of the superintendent to designate bicycle use without notice and comment rulemaking to designations within developed areas of the park, "which are land management and use categories established pursuant to a park area's Statement for Management and General Management Plan. Developed areas include lands within development and historic zones; these areas are generally impacted to a certain degree by structures, facilities or other improvements which reflect the fact the primary purpose or management objective for the use these lands is other than the preservation of their natural resources." 52 FR 10670, 10681 (Apr. 2, 1987). There is a similar definition for developed areas found in the NPS general regulations at 36 CFR 1.4.

In contrast, the 1987 rulemaking described the designation process outside of developed areas:

The NPS has determined that the designation of a bicycle route outside of such developed areas, in areas whose primary purpose and land uses are related more to the preservation of natural resources and values, would have a much greater potential to result in adverse resource impacts or visitor use conflicts. This paragraph therefore provides for a much more stringent decision-making process for such a proposal by requiring a formal rulemaking. Such a process will provide for a thorough review of all environmental and visitor use considerations and assure the superintendent of having had the benefit of public review and comment before making a decision on any proposed designation. 52 FR at 10681.

The proposed rule continues this approach for new trails designated outside developed areas in any unit of the National Park System, i.e. special regulations would still be required for the construction of new bicycle trails outside developed areas.

The proposed rule would not affect other existing statutory or regulatory protections for the preservation and enhancement of park resources and visitor experiences. For example, the proposed rule would not affect the statutory ban on bicycles in wilderness areas. In addition, special regulations would still be required when an action to open existing trails to bicycles would

result in the degree of change or controversy described in 36 CFR 1.5(b).

A new section has been added to address the issue of bicycle use on administrative roads. The proposed rule clarifies that administrative roads that are closed to motor vehicle use by park visitors are also closed to bicycle use unless designated open by the superintendent. The superintendent may find it necessary to impose certain limits or restrictions on the use in order to provide for safety considerations, to avoid visitor use conflicts, or to protect park resources and values. The proposed rule also clarifies that the superintendent has authority to close any area designated as open for bicycle use, not just park roads and parking areas.

Finally, the proposed rule eliminates the term "special use zone" because this term is no longer used in NPS planning documents and as a result has created confusion in interpreting its meaning within the context of this regulation. For purposes of park planning the term "special use zone" meant "non-federal lands within the exterior boundaries of a park area * * * used for non-park purposes but over which the NPS exerts some degree of administrative control." 52 FR at 10681. For example, the NPS has authority to enter into a written agreement with a landowner within the boundaries of a park area to administer the non-federal lands for public recreation purposes. Because the NPS no longer uses the term "special use zones" for planning purposes, and NPS regulations now make clear to which lands its regulations apply (see 36 CFR 1.2), the proposed rule deletes the term "special use zones."

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 (OMB) under Executive Order 12866.

(1) This rule would not have an effect of \$100 million or more on the economy. It would 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 would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(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.

(4) This rule does not raise novel legal or policy issues.

Regulatory Flexibility Act

The Department of the Interior certifies that this document would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This certification is based on information contained in the report titled, "Benefit-Cost/Unfunded Mandates Act Analysis Small business and Regulatory Flexibility Act Analysis" (U.S. Department of the Interior, Office of Policy Analysis, Office of the Secretary).

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. 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.

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.

Federalism (Executive Order 13132)

In accordance with Executive Order 13132, the rule does not require the preparation of a federalism assessment.

Civil Justice Reform (Executive Order 12988)

This regulation meets the applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform.

Paperwork Reduction Act

This regulation does not require an information collection under the Paperwork Reduction Act.

National Environmental Policy Act

The NPS is performing the NEPA analysis for this rule concurrently with the process of accepting comments

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.

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 are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Public Participation

You may submit comments online at: <http://www.regulations.gov>. Follow the instructions for submitting comments. You may also mail or hand deliver comments to: Mail: National Park Service, Attn. Regulations Program Manager, 1849 C St., NW., MS-3122, Washington, DC 20240.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. 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 4

National Parks.

For the reasons stated in the preamble we propose to amend 36 CFR Part 4 as follows:

PART 4—VEHICLES AND TRAFFIC SAFETY

1. The authority for part 4 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).

2. Section 4.30 is revised to read as follows:

§ 4.30 Bicycles

(a) *Park roads.* The use of a bicycle is permitted on park roads and in parking areas that are otherwise open for motor vehicle use by the general public.

(b) *Existing trails.* Except when rulemaking publication in the **Federal Register** is required by § 1.5(b) of this Chapter, a hiking or horse trail that currently exists on the ground and does not require any construction or significant modification to accommodate bicycles may be designated for bicycle use only if:

(1) The park has or will complete a park planning document addressing bicycle use on existing trails in the park; and

(2) The park has completed either an environmental assessment (EA) or an environmental impact statement (EIS) evaluating bicycle use. In addition to the requirements otherwise applicable to the preparation of an EA or EIS, the park will publish a notice in the **Federal Register** providing the public at least thirty (30) days for review and comment on an EA issued under this section; and

(3) A written determination is signed by the superintendent stating that the addition of bicycle use on existing hiking or horse trails is consistent with the protection of the park area's natural, scenic and aesthetic values, safety considerations and management objectives and will not disturb wildlife or park resources. The park will publish in the **Federal Register** a notice of the determination and provide at least thirty (30) days for public review and comment before implementing that decision for bicycle use.

(c) *New Trails.* Trails that do not exist on the ground, and therefore would require trail construction activities (such as clearing brush, cutting trees, excavation, or surface treatment), may be developed and designated for bicycle use only after:

(1) The park has completed the requirements set forth in paragraphs (b)(1) and (2) of this section; and

(2)(i) For new trails located outside of a park's developed areas, as identified in the relevant park plan, the park has promulgated a special regulation authorizing bicycle use; or

(ii) For new trails located within a park's developed areas, as identified in the relevant park plan, the park has completed the requirements set forth in paragraph (b)(3) of this section.

(d) *Administrative roads.*

Administrative roads closed to motor vehicle use by the public, but open to motor vehicles use for administrative purposes, may be designated for bicycle use by the superintendent pursuant to the criteria and procedures of §§ 1.5 and 1.7 of this chapter.

(e) *Closures.* A superintendent may close any park roads, parking areas, administrative roads, existing trails, or new trails to bicycle use pursuant to the criteria and procedures of §§ 1.5 and 1.7 of this chapter.

Dated: December 9, 2008.

Lyle Laverty,

Assistant Secretary, Fish and Wildlife and Parks.

[FWS Doc. E8–29892 Filed 12–17–08; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FWS–R6–ES–2008–0122; MO 9221050083–B2]

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To Change the Listing Status of the Canada Lynx

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to revise the listing of the Canada lynx (*Lynx canadensis*) as threatened under the Endangered Species Act of 1973, as amended (Act), to include New Mexico. We find that the petition presents substantial scientific or commercial information indicating that changing the listing status of the contiguous United States Distinct Population Segment of Canada lynx to include New Mexico may be warranted. Therefore, with the publication of this notice, we are initiating a further review in response to the petition, and we will issue a 12-month finding to determine if the petitioned action is warranted. To

ensure that our review is comprehensive, we are soliciting feedback from the public regarding this species.

DATES: To allow us adequate time to conduct this review, we request that we receive information on or before February 17, 2009.

ADDRESSES: You may submit information by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS–R6–ES–2008–0088; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203. We will not accept e-mail or faxes. We will post all information provided to us at <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Information Solicited section below for more details).

ADDRESSES: This finding is available on the Internet at <http://www.regulations.gov>. Supporting documentation we used in preparing this finding is available for public inspection, by appointment, during normal business hours at the Montana Ecological Services Field Office, 585 Shepard Way, Helena, MT 59601. Please submit any new information, materials, comments, or questions concerning this finding to the above address.

FOR FURTHER INFORMATION CONTACT:

Mark Wilson, Field Supervisor, Montana Ecological Services Field Office (see **ADDRESSES** section), telephone 406–449–5225. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Information Solicited

When we make a finding that a petition presents substantial information to indicate that listing a species may be warranted, or in this case, to revise the listing of a species, we are required to promptly commence further review. To ensure that the review is complete and based on the best available scientific and commercial information, we are soliciting information from the public, other concerned governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties concerning the status of the lynx. We are seeking information regarding the species' historical and current status and distribution, its