

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

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

#### Authorizing Bicycle Use

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

#### Public Comments

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

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

#### Compliance With Other Laws

##### *Regulatory Planning and Review (Executive Order 12866)*

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

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

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

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

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

##### *Regulatory Flexibility Act*

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*)

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

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

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

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

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

##### *Unfunded Mandates Reform Act*

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector.

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

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

##### *Federalism (Executive Order 13132)*

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

##### *Civil Justice Reform (Executive Order 12988)*

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

##### *Paperwork Reduction Act*

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

##### *National Environmental Policy Act*

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