U. S. Department of the Interior **National Park Service** **Superintendent's Compendium** of Designations, Closures, Permit Requirements and Other Restrictions Imposed Under Discretionary Authority Approved: Rebecca L. Harriett 5/7/2013 Rebecca L. Harriett Date Superintendent	**Harpers Ferry National Historical Park**	P.O. Box 65 Harpers Ferry, WV 25425 (304) 535-6224 phone (304) 535-6244 fax

In accordance with regulations and the delegated authority provided in Title 36, Code of Federal Regulations (36 CFR), Chapter 1, Parts 1-7, authorized by Title 16 United States Code, Section 3, the following regulatory provisions are established for the proper management, protection, and government and public use of those portions of HARPERS FERRY NATIONAL HISTORICAL PARK (HAFE) under the jurisdiction of the National Park Service. Unless otherwise stated, these regulatory provisions apply in addition to the requirements contained in 36 CFR, Chapter 1, Parts 1-7.

I. VISITING HOURS, PUBLIC USE LIMITS, CLOSURES, AND AREA DESIGNATIONS FOR SPECIFIC USE OR ACTIVITIES

36 CFR §1.5 (a)(1) Closures and Restrictions

The following closures and restrictions are established for all or portion(s) of the park to all public use or to a certain use or activity:

1. Inflatable Devices

To prevent the derogation of the values and purposes for which the park was established, the following park areas are closed to the possession of inflatable devices (inner-tubes, air mattresses, etc.), boats, canoes, kayaks, etc.:

Those portions of the park including the Goodloe E. Byron Memorial Pedestrian Walkway, the Potomac River shoreline from the upstream CSX Railroad Bridge to "The Point" (confluence of the Shenandoah and Potomac Rivers) and upstream along the Shenandoah River to the Rt. 340 Bridge. This area includes the lower town historic area and Virginius Island between the Shenandoah River and Shenandoah Street; continues above the Rt. 340 Bridge to include the

finally, includes the park entrance road from the Rt. 340 Bridge to the Cavalier Heights parking area.

Exception: There is established a river access corridor to provide access to the Shenandoah River for river recreation purposes. The corridor extends from the parking area at the end of Shenandoah Street (intersection with Rt. 340) to the upstream side of the Rt. 340 bridge. For the purpose of this regulation the River access corridor shall be defined as an area extending 50 yards on either side of the trail leading from the parking lot to the river shore.

These areas are identified on maps available for viewing at park headquarters, the ranger station and the river access parking area.

DETERMINATION: See page 10.

2. Picnicking

To enhance both the historic and natural landscapes and to reduce the adverse impact to historic resources, *picnicking is permitted only in the following areas*:

a) Cavalier Heights Picnic Area
b) Maryland Heights
c) Loudoun Heights
d) River Access

Picnicking is prohibited in all other areas of Harpers Ferry National Historical Park, including the following:

a) The historic lower town area of the park - including "The Point", Arsenal Square, "The Green", and the Hamilton Street area.
b) Virginius Island
c) Jefferson Rock area
d) Bolivar Heights, the Union Skirmish Line, and Jackson's Right Flank
e) Potoma Wayside
f) Murphy Farm
g) School House Ridge – North and South

For the purposes of this section picnicking is defined as more than the mere possession or consumption of food at these locations. It may include such activities as the spreading of blankets or ground covers, setting up tables and/or chairs, cooking of food on portable grills or other cooking devices, storage of food in coolers or other containers, or other similar social activities.

DETERMINATION: See page 11.

3. Time of Closure

To provide for public safety and to protect park resources, all park areas, except the following, are closed from Sunset to Sunrise.

a) Bolivar Heights (open only to through traffic)
b) Historic Lower Town Harpers Ferry, including the Train Station
c) The Appalachian Trail corridor (closed to overnight camping)

DETERMINATION: See page 13.

4. Fishing

The "Goodloe E. Byron Memorial Pedestrian Walkway" is closed to fishing activity.

DETERMINATION: See page 15.

5. Bicycling

A. The downhill portion of Shoreline Drive is closed to the use of bicycles when park shuttle buses are operating.

DETERMINATION: See page 16.

B. "Administrative Use Only" Road* on Virginius Island and "Administrative Use Only" Road* (Military Road) on Maryland Heights is closed to the use of bicycles. * All other locations on Virginius Island and Maryland Heights are closed to the use of bicycles by 36 CFR § 4.30(a), therefore no Superintendent's Compendium closure is required for these locations.

DETERMINATION: See page 17.

6. Commercial Buses

Private and commercial buses are prohibited from loading or unloading passengers in the lower town area of the park without permission from the Superintendent.

DETERMINATION: See page 18.

7. John Brown's Cave

The underground area known as "John Brown's Cave" is closed to all public access.

DETERMINATION: See page 19.

8. Jefferson Rock

To provide for public safety and to protect park resources, Jefferson Rock and the small, rectangular area of land around it (its supporting rock outcrop), are closed to public use. The area of closure is identified by two descriptive signs at the entrance of the Jefferson Rock area as accessed from two points along the Jefferson Rock Trail.

DETERMINATION: See page 20.

II. 36 CFR §1.6 – ACTIVITIES THAT REQUIRE A SPECIAL USE PERMIT

(f) The following is a compilation of those activities for which a special use permit from the Superintendent is required:

36 CFR REGULATION OF ACTIVITY

§2.4(d) Carry or possess a weapon, trap, or net

§2.5(a) Specimen collection (Take plant, fish, wildlife, rocks or minerals)

2.10(a) Camping (see also §2.10 of this Compendium)

§2.12(a)(2) Operating a chain saw in developed areas

§ 2.12(a)(3) Operation of any type of portable motor or engine, or device powered by a portable motor or engine in non-developed areas

§ 2.12 (a)(4) Operation of a public address system in connection with a public gathering or special event for which a permit has been issued pursuant to §2.50 or §2.51

§2.17(a)(3) Delivery or retrieval of a person or object by parachute, helicopter or other airborne means

§2.37 Soliciting or demanding gifts, money goods or services §2.38(a) Use, possess, store, transport explosives, blasting agents

§2.38(b) Using or possessing fireworks

§2.50(a) Conduct a sports event, pageant, regatta, public spectator attraction, entertainment, ceremony, and similar events

§2.51(a) Public assemblies, meetings, gatherings, demonstrations, parades and other public expressions of views

§2.52(a) Sale or distribution of printer matter that is not solely commercial advertising

§2.60(b) Livestock use

§2.61(a) Residing on federal lands

§2.62(b) Memorialization

§5.1 Advertisements - (Display, posting or distribution.)

§5.3 Engaging in or soliciting any business (requires a permit, contract or other written agreement with the United States, or must be pursuant to special regulations).

§5.5(a) Commercial filming of motion pictures or television involving the use of professional casts, settings or crews, other than bona fide newsreel or news television

§5.5(b) Still photography of vehicles, or other articles of commerce or models for the purpose of commercial advertising §5.6(c) Use of commercial vehicles on park area roads (The superintendent shall issue a permit to access private lands within or adjacent to the park when access is otherwise not available)

§5.7 Construction of buildings, facilities, trails, roads, boat docks, path, structure, etc.

§6.9(a) Operation of a solid waste disposal site

§14.6 Rights-Of-Way

DETERMINATION: See page 21.

III. GENERAL REGULATIONS

36 CFR §2.1 – PRESERVATION OF NATURAL, CULTURAL AND ARCHEOLOGICAL RESOURCES

(c)(1), (c)(2): Collection of Natural Products

All edible nuts, berries, and mushrooms growing on park property, as well as unoccupied seashells, may be gathered by hand for personal use or consumption, not to exceed one U.S. quart per person per day.

DETERMINATION: See page 21.

36 CFR §2.2 - WILDLIFE PROTECTION

(e) Artificial Lights

The use of artificial lighting to view wildlife is prohibited within the boundary of Harpers Ferry National Historical Park.

DETERMINATION: See page 21.

36 CFR §2.3 – FISHING

(a) West Virginia, Maryland, and Virginia State fishing laws permit the taking of frogs and crayfish. However, ***the taking of frogs and crayfish is prohibited within Harpers Ferry National Historical Park.***

DETERMINATION: See page 22.

36 CFR §2.15 – PETS

(a)(1) Structures or areas closed to the possession of pets by the Superintendent:

• Possessing a pet(s) is prohibited in all structures and all non-developed areas of the park except on the listed designated trails. This section does not apply to guide dogs accompanying visually impaired persons, hearing ear dogs accompanying hearing impaired persons, or dogs used by authorized Federal, State and local law enforcement officers in the performance of their official duties.

Designated Trail Names in Non-Developed Areas

1. Appalachian Trail including spurs
2. Military Road Trail
3. Overlook Cliff Trail
4. Stone Fort Loop Trail
5. Elk Run Trail
6. Bolivar Heights Loop Trail
7. Nash Farm Trail
8. Old Furnace Road Trail
9. Quarters 92 Trail
10. Cavalier Heights Trail
11. Virginius Island Loop Trail
12. Shenandoah River Access Corridor Trail
13. Orange Trail
14. Loudoun Heights Trail
15. Lower Armory Grounds Loop Trail
16. Potoma Wayside River Access Trail

DETERMINATION: See page 22.

(a)(3) Pets may be left tied to an object under the following conditions:

• A pet(s) may be left tied to trees, picnic tables, or other non-movable objects in developed areas of the park as long as they are under the direct supervision of their owner and no damage is

inflicted on private or Government property by the tied pet(s). Such a pet(s) must be tied with a leash that shall not exceed six feet in length. Such a pet(s) will not be allowed to make unreasonable noise as described in 36 CFR §2.15(a)(4).

DETERMINATION: See page 23.

(a)(5) Pet excrement must be bagged and deposited in a trash receptacle.

DETERMINATION: See page 23.

(e) Pets may be kept by Park residents under the following conditions:

• Pets kept by park residents at Government residences may only allow such pets to be unrestrained within the curtilage of that residence.
• Cost for the repair of damage caused by pets to Government residences, other than normal wear-and-tear, will be borne by the assigned park employee residing in the residence.

DETERMINATION: See Appendix page 23.

36 CFR §2.21 – SMOKING

(a) The following portions of the park, or all or portions of buildings, structures or facilities are closed to smoking:

Smoking is prohibited within all structures located in Harpers Ferry National Historical Park.

Smoking is also prohibited:
1. Outside of any park structure not built of brick, stone, or some other nonflammable surface within 10 feet of the structure.
2. Within 25 feet of the park Maintenance Area above ground fuel tanks or portable fuel tanks.
3. Within any Government vehicle or within 25 feet of any Government vehicle while fueling.

DETERMINATION: See Appendix page 23.

36 CFR §2.22 – PROPERTY

(a)(2) Unattended Motor Vehicles

Locations and/or conditions where leaving property unattended longer than 24 hours is permitted:

1. Motor vehicles may be left parked in legal parking spaces in the Train Station parking area longer than 24 hours by train passengers or Appalachian Trail hikers when advance notice is given by the vehicle owner to the Superintendent or the Chief Ranger and is approved. During the approval process a removal date will always be established, generally not to exceed 30 days from the first 24-hour period.

2. Motor vehicles may be left parked in legal parking spaces in the Cavalier Heights parking area longer than 24 hours when advance notice is given by the vehicle owner to the Superintendent or the Chief Ranger and is approved. During the approval process a removal date will always be established, generally not to exceed 30 days from the first 24-hour period.

DETERMINATION: See page 23.

36 CFR §2.35 – ALCOHOLIC BEVERAGES AND CONTROLLED SUBSTANCES

(a)(3)(i) Possession and Consumption of Alcoholic Beverages

All public use areas or portions thereof or public facilities are closed to the consumption of alcoholic beverages and/or to the possession of a bottle, can, or other receptacle containing an alcoholic beverage that is open, or that has been opened, or whose seal is broken or the contents of which have been partially removed, except by special use permit.

DETERMINATION: See page 24.

36 CFR §2.51 – PUBLIC ASSEMBLIES, MEETINGS

(e) All areas of the park are available for public assemblies, pursuant to a permit signed by the Superintendent. Permit application approvals or denials as they relate to specific park locations will be decided on a case-by-case basis using the regulatory criteria found at 36 CFR §2.51(c)(1), (c)(2), (c)(3), (e)(1), (e)(2), (e)(3), (e)(4), and (e)(5).

36 CFR §2.52 – SALE OR DISTRIBUTION OF PRINTED MATTER

(e) All areas of the park are available for the sale or distribution of printed matter that is not solely commercial, pursuant to a permit signed by the Superintendent. Permit application approvals or denials as they relate to specific park locations will be decided on a case-by-case basis using the regulatory criteria found at 36 CFR §2.52(c)(1), (c)(2), (c)(3), (c)(4), (c)(5), (e)(1), (e)(2), (e)(3), (e)(4), and (e)(5).

36 CFR §2.62 – MEMORIALIZATION

(b) A permit is required for the scattering of ashes from cremated human remains in the following areas, and/or according to the following terms and conditions:

1. Shenandoah River shore line at the Point
2. Potomac River shore line at Potoma Wayside
3. Wooded area of the Wildlife Sanctuary between the Nash Farm and Quarters 92.
4. In the adjacent vegetation at the Jefferson Rock area.

5. The scattering of human ashes from cremation is permitted only in the four numbered areas and only in such quantity so as to not interfere with visitor use and proper sanitation.

DETERMINATION: See page 25.

36 CFR §4.10 – TRAVEL ON PARK ROADS AND ROUTES

(a) Park roads, open for travel by motor vehicle to the public, are those indicated in the following publication:
• "Harpers Ferry National Historical Park" Unigrid Brochure

DETERMINATION: See page 25.

APPENDIX I

I. VISITING HOURS, PUBLIC USE LIMITS, CLOSURES, AND AREA DESIGNATIONS FOR SPECIFIC USE OR ACTIVITIES

1. Inflatable Devices

DETERMINATION:

This closure for the possession of flotation devices is necessary for the protection of scenic values, the protection of natural and cultural resources, the implementation of management responsibilities, the equitable allocation and use of facilities, and to avoid a conflict among visitor use activities. Less restrictive measures will not suffice because of the potential threat to irreplaceable cultural resources.

The national significance of Harpers Ferry National Historical Park lies in the historic events that occurred at Harpers Ferry and in the cultural and natural resources associated with those events (refer to the Statement for Management, Harpers Ferry NHP, 1985.) Park values and enjoyment of park resources are inescapably linked to the park's cultural landscapes, historic structures, museum objects, and archeological resources as defined by Title 16 United States Code § 450bb.

Harpers Ferry National Historical Park was established to commemorate significant historical events occurring here prior to, during and shortly following the Civil War. It is a place of learning through on-site exhibits, museums, ranger-led interpretive programs and self-guided tours. The cultural, archaeological, historical, and natural resources within the park's boundaries are to be preserved for the enjoyment of the park visitor within that preservation context. Due to the significant number of archaeological resources and cultural landscapes located within the park, recreational activities not conducive to the study and interpretation of this historic and natural scene are restricted.

The historic lower town of Harpers Ferry National Historical Park represents a 19th century commercial district developed around water powered industry (including the U.S. Armory and Hall Rifle Works), engulfed in civil war and then destroyed by nature. It has been restored to its mid-19th century appearance (during the time of John Brown's Raid).

Virginius Island is among the most important 19th century industrial sites in North America. The park Development Concept Plan calls for the stabilization of the factory ruins and the establishment of an interpretive trail. These resources date from the time of George Washington and cover two centuries. The River Access parking area and River Access corridor are located at the upstream end of Virginius Island.

This closure relates to modern day recreational activities that have real and potential impacts to park resources and park values. Participants in these modern day recreational activities impair park values by imposing non-period visual conditions on cultural landscapes. Recreational use on the Shenandoah River adjacent to the Lower Town and Virginius Island has had an adverse impact on the areas cultural resources. Activities such as sunbathing, picnicking, camping,

campfire building, and random river access associated with recreational river use have contributed to the dismantling of historic walls and
foundations, and the creation of unnecessary and unsightly footpaths, as well as litter and sanitation problems. These activities create visitor use conflicts such as visitor complaints of women's dresses or expensive clothing coming in contact with wet seats on park buses, of being brushed by recreationists' inner-tubes covered with wet sand or mud on narrow lower town sidewalks, and of restrooms made un-presentable to the public by river recreationists bathing in sinks and rinsing off sand in the lower town public restrooms.

This closure is not of a nature, magnitude and duration that will result in a "significant alteration in the public use pattern" because recreational river users are provided ample areas for boating and river recreational access outside the park.

As such, this closure does not constitute impairment to park resources and values and will not adversely affect the park's natural, aesthetic, or cultural values. It does not require significant modification to the resource management objectives. It is also not of a highly controversial nature because recreational river users are provided alternate avenues of access. Accordingly, the National Park Service determines that publication, as rulemaking in the Federal Register is unwarranted under 36 CFR 1.5(c). This is consistent with the legal opinion of the Office of the Solicitor and past judicial adjudication [Spiegel v. Babbitt, 855 F.Supp. 402 (D.D.C.1994)].

Pursuant to 36 CFR 1.7, notice of this closure will be made by regulatory information in the park's written interpretive materials for distribution to the public, by field contacts, and through the park's website. Finally, pursuant to 36 CFR 1.5(c), this determination is available to the public upon request.

2. Picnicking

DETERMINATION:

This restriction from picnicking in specified areas of the park is necessary for the protection of scenic values, the protection of natural and cultural resources, the implementation of management responsibilities, the equitable allocation and use of facilities, and to avoid a conflict among visitor use activities. Less restrictive measures will not suffice because of the potential threat to irreplaceable cultural resources and physical site limitations. The national significance of Harpers Ferry National Historical Park lies in the historic events that occurred at Harpers Ferry and in the cultural and natural resources associated with those events (refer to the Statement for Management, Harpers Ferry NHP, 1985.) Park values and enjoyment of park resources are inescapably linked to the park's cultural landscapes, historic structures, museum objects, and archeological resources as defined by Title 16 United States Code § 450bb.

Harpers Ferry National Historical Park was established to commemorate significant historical events occurring here prior to, during and shortly following the Civil War. It is a place of learning through on-site exhibits, museums, ranger-led interpretive programs and self-guided tours. The cultural, archaeological, historical, and natural resources within the park's boundaries are to be preserved for the enjoyment of the park visitor within that preservation context. Due to

the significant number of archaeological resources and cultural landscapes located within the park, recreational activities not conducive to the study and interpretation of this historic and natural scene are restricted.

The historic lower town of Harpers Ferry National Historical Park represents a 19th century commercial district developed around water powered industry (including the U.S. Armory and Hall Rifle Works), engulfed in civil war and then destroyed by nature. It has been restored to its mid-19th century appearance (during the time of John Brown's Raid).

Virginius Island is among the most important 19th century industrial sites in North America. The park Development Concept Plan calls for the stabilization of the factory ruins and the establishment of an interpretive trail. These resources date from the time of George Washington and cover two centuries

Jefferson Rock has been a landmark of national significance since Thomas Jefferson's proclamation "The view is worth a trip across the Atlantic." Jefferson Rock is part of a cultural landscape that preserves this historic view and scene.

Bolivar Heights, the Union Skirmish Line, and Jackson's Right Flank are the sites of "Stonewall Jackson's Great Victory" resulting in the surrender of 12,500 Federal forces under the command of Col. Dixon Mills September 13th, 1862. School House Ridge, North and South, is the site were Jackson's 14,000-man column occupied School House Ridge, sealing the trap on the surrounded Federal garrison. The areas were also a primary line of defense during the Shenandoah Valley campaign of 1864. These cultural landscapes are maintained as interpretive sites with associated trails and wayside exhibits. Remains of civil war era trenches and artillery emplacements are some of the best preserved in the area.

Potoma Wayside is established as a designated take-out point for river boaters. This is a small area with an extremely limited visitor use carrying capacity. Additional recreational use beyond boating take-out would adversely impact the cultural and natural resources due to overcrowding and conflicting needs of different user groups.

In 1895 historic John Brown's Fort was rebuilt on the Murphy Farm. In subsequent years the site was visited by several prominent groups such as the 1896 Colored Women's League and the 1906 Niagara Movement, forerunners of the Civil Rights movement in the United States. During the Niagara Movement pilgrimage participants removed their socks and shoes before treading on what they believe to be the hallowed ground of John Brown's Fort. The values associated with this cultural landscape are still strong today making most recreational activities at the site inappropriate.

This restriction relates to a modern day recreational activity that has real and potential impacts to park resources and park values. Participants in this modern day recreational activity impair park values by imposing non-period visual conditions on cultural landscapes. Activities such as picnicking have contributed to the dismantling of historic walls and foundations and the creation of unnecessary and unsightly footpaths, as well as litter and sanitation problems.

This restriction is not of a nature, magnitude and duration that will result in a "significant alteration in the public use pattern" because picnickers are provided a designated area outside of the park's cultural landscapes at Cavalier Heights or outside park boundaries.

As such, this restriction does not constitute impairment to park resources and values and will not adversely affect the park's natural, aesthetic, or cultural values. It does not require significant modification to the resource management objectives. It is also not of a highly controversial nature because picnickers are provided a designated location for their activity. Accordingly, the National Park Service determines that publication, as rulemaking in the Federal Register is unwarranted under 36 CFR 1.5(c). This is consistent with the legal opinion of the Office of the Solicitor and past judicial adjudication [Spiegel v. Babbitt, 855 F.Supp. 402 (D.D.C.1994)].

Pursuant to 36 CFR 1.7, notice of this restriction will be made by on-site regulatory signage, field contacts, written regulatory information in the park's interpretive materials, and/or through the park's website. Finally, pursuant to 36 CFR 1.5(c), this determination is available to the public upon request.

3. Time of Closure

DETERMINATION:

All areas of the park except the three areas specifically noted will be closed to all public access from Sunset to Sunrise. These closures are necessary for the maintenance of public safety, the protection of scenic values, and the protection of natural and cultural resources. Less restrictive measures will not suffice because of the potential threat to irreplaceable cultural resources. These closures protect park resources and processes from physical disturbance, damage, and/or removal at times when park staff is either limited or absent. They also help prevent accidents that could result in serious personal injury and/or property damage.

The national significance of Harpers Ferry National Historical Park lies in the historic events that occurred at Harpers Ferry and in the cultural and natural resources associated with those events (refer to the Statement for Management, Harpers Ferry NHP, 1985.) Park values and enjoyment of park resources are inescapably linked to the park's cultural landscapes, historic structures, museum objects, and archeological resources as defined by Title 16 United States Code § 450bb.

Harpers Ferry National Historical Park was established to commemorate significant historical events occurring here prior to, during and shortly following the Civil War. It is a place of learning through on-site exhibits, museums, ranger-led interpretive programs and self-guided tours. The cultural, archaeological, historical, and natural resources within the park's boundaries are to be preserved for the enjoyment of the park visitor within that preservation context. Due to the significant number of archaeological resources and cultural landscapes located within the park, recreational activities not conducive to the study and interpretation of this historic and natural scene are restricted.

These closures protect park resources and processes from physical disturbance, damage, and/or removal at times when park staff is either limited or absent. They also help prevent accidents that could result in personal injury and/or property damage.

Bolivar Heights, the Union Skirmish Line, and Jackson's Right Flank are the sites of "Stonewall Jackson's Great Victory" resulting in the surrender of 12,500 Federal forces under the command of Col. Dixon Mills September 13th, 1862. The areas were also a primary line of defense during the Shenandoah Valley campaign of 1864. These cultural landscapes are maintained as interpretive sites with associated trails and wayside exhibits. Remains of civil war era trenches and artillery emplacements are some of the best preserved in the area.

The area from the Potomac Edison power plant upstream to Dam #3 includes the historic Armory Canal and the upstream portion of the remains of the U.S. Armory at Harpers Ferry. This area is managed as a "Day Use" area for the purpose of interpreting this cultural landscape. Prior to acquisition by the National Park Service, unrestricted recreational use occurred along this area presenting a threat to cultural resources. Managing this area as a day use area allows for the establishment of an interpretive trail along the Armory Canal for special educational/interpretive tours as called for in the Development Concept Plan.

The River Access parking area and River Access corridor are located at the upstream end of Virginius Island and provide access to the island and its cultural resources. Virginius Island is among the most important 19th century industrial sites in North America. The park Development Concept Plan calls for the stabilization of the factory ruins and the establishment of an interpretive trail. These resources date from the time of George Washington and cover two centuries.

Potoma Wayside is established as a designated take-out point for river boaters. This is a small area with an extremely limited visitor use carrying capacity. Unregulated use after dark is a real and potential threat to the cultural and natural resources due to its proximity to a major highway and a convenience store selling alcoholic beverages, tobacco products, etc.

In 1895 historic John Brown's Fort was rebuilt on the Murphy Farm. In subsequent years the site was visited by several prominent groups such as the 1896 Colored Women's League and the 1906 Niagara Movement, forerunners of the Civil Rights movement in the United States. During the Niagara Movement pilgrimage participants removed their socks and shoes before treading on what they believe to be the hallowed ground of John Brown's Fort. The values associated with this cultural landscape are still strong today making most recreational activities at the site inappropriate.

Activities such as partying, camping, campfire building, and random river access associated with after dark use have contributed to the disturbance and removal of historic objects and archeological resources, vandalism to government property, the creation of unnecessary and unsightly footpaths, and litter and sanitation problems.

This closure is not of a nature, magnitude and duration that will result in a "significant alteration in the public use pattern" because park visitors are provided ample times for enjoyment during

daylight hours when the cultural landscapes can be seen, the park's facilities are open, and park interpretive staff are working to answer questions and relay historic significance to the public.

As such, this closure does not constitute impairment to park resources and values and will not adversely affect the park's natural, aesthetic, or cultural values. It does not require significant modification to the resource management objectives. It is also not of a highly controversial nature because few visitors interested in the park's cultural resources would attempt to access these locations after dark. Accordingly, the National Park Service determines that publication, as rulemaking in the Federal Register is unwarranted under 36
CFR 1.5(c). This is consistent with the legal opinion of the Office of the Solicitor and past judicial adjudication [Spiegel v. Babbitt, 855 F.Supp. 402 (D.D.C.1994)].

Pursuant to 36 CFR 1.7, notice of this closure will be made by on-site regulatory signage, field contacts, written regulatory information in the park's interpretive materials, and/or through the park's website. Finally, pursuant to 36 CFR 1.5(c), this determination is available to the public upon request.

4. Fishing

DETERMINATION:

This closure to fishing from the Goodloe E. Byron Memorial Pedestrian Walkway is necessary for the protection of scenic values, the protection of natural and cultural resources, the implementation of management responsibilities, the maintenance of public safety, and the safe and equitable allocation and use of facilities to avoid a conflict among visitor activities. Less restrictive measures will not suffice because of the potential threat to irreplaceable cultural resources.

The national significance of Harpers Ferry National Historical Park lies in the historic events that occurred at Harpers Ferry and in the cultural and natural resources associated with those events (refer to the Statement for Management, Harpers Ferry NHP, 1985.) Park values and enjoyment of park resources are inescapably linked to the park's cultural landscapes, historic structures, museum objects, and archeological resources as defined by Title 16 United States Code § 450bb.

Harpers Ferry National Historical Park was established to commemorate significant historical events occurring here prior to, during and shortly following the Civil War. It is a place of learning through on-site exhibits, museums, ranger-led interpretive programs and self-guided tours. The cultural, archaeological, historical, and natural resources within the park's boundaries are to be preserved for the enjoyment of the park visitor within that preservation context. Due to the significant number of archaeological resources and cultural landscapes located within the park, recreational activities not conducive to the study and interpretation of this historic and natural scene are restricted.

The Goodloe E. Byron Memorial Pedestrian Walkway was constructed to reroute the Appalachian Trail through the historic town of Harpers Ferry. This narrow walkway runs adjacent to the railroad bridge and allows for foot traffic only. Located immediately below the

walkway, on the downstream side are the archaeological ruins of the bridge piers of the historic Bowman Bridge. Recreational activities from the walkway potentially threaten those features and may have adverse effects on the safety of recreational river users below.

This closure is not of a nature, magnitude and duration that will result in a "significant alteration in the public use pattern" because park visitors are provided with numerous locations for fishing both inside and outside the park.

As such, this closure does not constitute impairment to park resources and values and will not adversely affect the park's natural, aesthetic, or cultural values. It does not require significant modification to the resource management objectives. It is also not of a highly controversial nature. Accordingly, the National Park Service determines that publication, as rulemaking in the Federal Register is unwarranted under 36 CFR 1.5(c). This is consistent with the legal opinion of the Office of the Solicitor and past judicial adjudication [Spiegel v. Babbitt, 855 F.Supp. 402 (D.D.C.1994)].

Pursuant to 36 CFR 1.7, notice of this closure will be made by on-site regulatory signage, field contacts, written regulatory information in the park's interpretive materials, and through the park's website. Finally, pursuant to 36 CFR 1.5(c), this determination is available to the public upon request.

5. Bicycling

A. DETERMINATION:

This closure to the use of bicycles on the downhill portion of Shoreline Drive is necessary for the maintenance of public safety, implementation of management responsibilities, the safe and equitable allocation and use of facilities, and to avoid a conflict among visitor use activities. Less restrictive measures will not suffice because of the potential threat to visitor safety which has been measured by previous accidents including a fatality.

Shoreline Drive was opened for use in January of 1990. During the hours of operation of the Park Shuttle Buses the downhill portion of Shoreline Drive is closed to vehicle travel. (Approximately 7 a.m. – 7 p.m. daily). Under both federal and state law bicycles are classified as vehicles and must obey traffic laws and regulations. This is a narrow and steep road with no safety provisions for downhill bike travel. The lack of road shoulders and poor visibility present a safety hazard for downhill bike travel. Until a designated (and separate) bike trail is established other avenues of access by bicycle are available.

This closure is not of a nature, magnitude and duration that will result in a "significant alteration in the public use pattern" because bicyclists are provided ample areas for bicycling and bicycle access without using the downhill side of Shoreline Drive. The nearby C&O Canal National Historical Park offers hundreds of miles of designated bicycle trails in a National Park System setting more appropriate for their use.

As such, this closure does not constitute impairment to park resources and values and will not adversely affect the park's natural, aesthetic, or cultural values. It does not require significant modification to the resource management objectives. It is also not of a highly controversial nature. Accordingly, the National Park Service determines that publication, as rulemaking in the Federal Register is unwarranted under 36 CFR 1.5(c). This is consistent with the legal opinion of the Office of the Solicitor and past judicial adjudication [Spiegel v. Babbitt, 855 F.Supp. 402 (D.D.C.1994)].

Pursuant to 36 CFR 1.7, notice of this closure will be made by on-site regulatory signage, field contacts, written regulatory information in the park's interpretive materials, and/or through the park's website. Finally, pursuant to 36 CFR 1.5(c), this determination is available to the public upon request.

B. DETERMINATION:

This closure to the use of bicycles on the "Administrative Use Only" Roads on Virginius Island and Maryland Heights is necessary for the protection of scenic values, the protection of natural and cultural resources, aid to scientific research, the implementation of management responsibilities, the safe and equitable allocation and use of facilities, and to avoid a conflict among visitor use activities. Less restrictive measures will not suffice because of the potential threat to irreplaceable cultural resources.

The national significance of Harpers Ferry National Historical Park lies in the historic events that occurred at Harpers Ferry and in the cultural and natural resources associated with those events (refer to the Statement for Management, Harpers Ferry NHP, 1985.) Park values and enjoyment of park resources are inescapably linked to the park's cultural landscapes, historic structures, museum objects, and archeological resources as defined by Title 16 United States Code § 450bb.

Harpers Ferry National Historical Park was established to commemorate significant historical events occurring here prior to, during and shortly following the Civil War. It is a place of learning through on-site exhibits, museums, ranger-led interpretive programs and self-guided tours. The cultural, archaeological, historical, and natural resources within the park's boundaries are to be preserved for the enjoyment of the park visitor within that preservation context. Due to the significant number of archaeological resources and cultural landscapes located within the park, recreational activities not conducive to the study and interpretation of this historic and natural scene are restricted.

Virginius Island is among the most important 19th century industrial sites in North America. The park Development Concept Plan calls for the stabilization of the factory ruins and the establishment of an interpretive trail. These resources date from the time of George Washington and cover two centuries.

Recreational use on the Shenandoah and Potomac Rivers adjacent to the Lower Town and Virginius Island has had an adverse impact on the areas cultural resources. Activities such as bicycling have contributed to the dismantling of historic walls and foundations, rapid access to

aid in quick removal of archeological resources without detection, as well as litter and sanitation problems.

This closure is not of a nature, magnitude and duration that will result in a "significant alteration in the public use pattern" because park visitors are provided with numerous locations for bicycling both inside and outside the park. The nearby C&O Canal National Historical Park offers hundreds of miles of designated bicycle trails in a National Park System setting more appropriate for their use.

As such, this closure does not constitute impairment to park resources and values and will not adversely affect the park's natural, aesthetic, or cultural values. It does not require significant modification to the resource management objectives. It is also not of a highly controversial nature. Accordingly, the National Park Service determines that publication, as rulemaking in the Federal Register is unwarranted under 36 CFR 1.5(c). This is consistent with the legal opinion of the Office of the Solicitor and past judicial adjudication [Spiegel v. Babbitt, 855 F.Supp. 402 (D.D.C.1994)].

Pursuant to 36 CFR 1.7, notice of this closure will be made by on-site regulatory signage, field contacts, written regulatory information in the park's interpretive materials, and/or through the park's website. Finally, pursuant to 36 CFR 1.5(c), this determination is available to the public upon request.

6. Commercial Buses

DETERMINATION:

This restriction to the loading or unloading of passengers from private or commercial buses in the lower town area of the park without the permission of the Superintendent is necessary for the maintenance of public safety, implementation of management responsibilities, the safe and equitable allocation and use of facilities, and to avoid a conflict among visitor use activities. Less restrictive measures will not suffice because of the potential threat to visitor safety and the potential for disruption to equitable allocation and use of facilities.

The national significance of Harpers Ferry National Historical Park lies in the historic events that occurred at Harpers Ferry and in the cultural and natural resources associated with those events (refer to the Statement for Management, Harpers Ferry NHP, 1985.) Park values and enjoyment of park resources are inescapably linked to the park's cultural landscapes, historic structures, museum objects, and archeological resources as defined by Title 16 United States Code § 450bb.

The historic lower town of Harpers Ferry National Historical Park represents a 19th century commercial district developed around water powered industry (including the U.S. Armory and Hall Rifle Works), engulfed in civil war and then destroyed by nature. It has been restored to its mid-19th century appearance (during the time of John Brown's Raid).

This restriction relates to modern day recreational activities that have real and potential impacts to park resources and park values. Participants in these modern day recreational activities impair

park values by imposing non-period visual conditions on cultural landscapes. Passengers loaded/unloaded at this location may obstruct traffic and create hazards, may adversely impact visitors correctly using the park's parking and shuttle system, and may intentionally or unintentionally slip past the park's Congressionally mandated fee system which would be inequitable to other users.

This restriction is not of a nature, magnitude and duration that will result in a "significant alteration in the public use pattern" because buses are allowed to load and unload at the Cavalier Heights Visitor Center parking lot and a shuttle to the lower town area is provided.

As such, this restriction does not constitute impairment to park resources and values and will not adversely affect the park's natural, aesthetic, or cultural values. It does not require significant modification to the resource management objectives. It is also not of a highly controversial nature. Accordingly, the National Park Service determines that publication, as rulemaking in the Federal Register is unwarranted under 36 CFR 1.5(c). This is consistent with the legal opinion of the Office of the Solicitor and past judicial adjudication [Spiegel v. Babbitt, 855 F.Supp. 402 (D.D.C.1994)].

Pursuant to 36 CFR 1.7, notice of this restriction will be made by regulatory information in the park's written interpretive materials for distribution to the public, by field contacts, and through the park's website. Finally, pursuant to 36 CFR 1.5(c), this determination is available to the public upon request.

7. John Brown's Cave

DETERMINATION:

This closure to all public access at the portion of the park known as the John Brown's Cave is necessary for the protection of natural resources, the maintenance of public safety, the implementation of management responsibilities, and as an aid to scientific research. Less restrictive measures will not suffice because of the potential threat to irreplaceable natural resources.

The national significance of Harpers Ferry National Historical Park lies in the historic events that occurred at Harpers Ferry and in the cultural and natural resources associated with those events (refer to the Statement for Management, Harpers Ferry NHP, 1985). John Brown's Cave may or may not have been used during Brown's raid on the federal arsenal in 1859. Modern day users access the cave through an entrance that starts on private property, but after approximately 15-feet they enter the park. The private landowner has attempted to block the cave's entrance without complete success. Users damage fragile cave formations once in the cave. On occasion some users are unprepared for cave conditions and become lost and/or injured. These unimproved cave conditions create a potential safety threat to users and rescuers and an unacceptable financial burden to the Government for the cost of rescues.

This closure is not of a nature, magnitude and duration that will result in a "significant alteration in the public use pattern" because this area is remote and not easily accessible by the public.

As such, this closure does not constitute impairment to park resources and values and will not adversely affect the park's natural, aesthetic, or cultural values. It does not require significant modification to the resource management objectives. It is also not of a highly controversial nature because of the remote location and difficult public access. Accordingly, the National Park Service determines that publication, as rulemaking in the Federal Register is unwarranted under 36 CFR 1.5(c). This is consistent with the legal opinion of the Office of the Solicitor and past judicial adjudication [Spiegel v. Babbitt, 855 F.Supp. 402 (D.D.C.1994)].

Pursuant to 36 CFR 1.7, notice of this closure will be made by on-site regulatory signage, field contacts, written regulatory information in the park's interpretive materials, and/or through the park's website. Finally, pursuant to 36 CFR 1.5(c), this determination is available to the public upon request.

8. Jefferson Rock

DETERMINATION:

This closure to all public access at the portion of the park known as Jefferson's Rock is necessary for the protection of natural resources, the maintenance of public safety, the implementation of management responsibilities, and as an aid to scientific research. Less restrictive measures will not suffice because of the potential threat to irreplaceable natural resources.

The national significance of Harpers Ferry National Historical Park lies in the historic events that occurred at Harpers Ferry and in the cultural and natural resources associated with those events (refer to the Statement for Management, Harpers Ferry NHP, 1985). In 1783 Thomas Jefferson visited Harpers Ferry and later wrote a physical description of the scene from standing on what is now known as "Jefferson's Rock." Geologic measurements indicate the rock has become unstable, creating a safety risk for anyone climbing on the rock. Due to the historic significance of the rock in this historic location, this closure removes additional human-caused threats that may accelerate the rock's eventual failure and downhill slide.

This closure is not of a nature, magnitude and duration that will result in a "significant alteration in the public use pattern" because this area is small with similar viewing opportunities in the immediate vicinity.

As such, this closure does not constitute impairment to park resources and values and will not adversely affect the park's natural, aesthetic, or cultural values. It does not require significant modification to the resource management objectives. It is also not of a highly controversial nature because of the small area size and adjacent viewing opportunities. Accordingly, the National Park Service determines that publication, as rulemaking in the Federal Register is unwarranted under 36 CFR 1.5(c). This is consistent with the legal opinion of the Office of the Solicitor and past judicial adjudication [Spiegel v. Babbitt, 855 F.Supp. 402 (D.D.C.1994)].

Pursuant to 36 CFR 1.7, notice of this closure will be made by on-site regulatory signage, field contacts, written regulatory information in the park's interpretive materials, and/or through the park's website. Finally, pursuant to 36 CFR 1.5(c), this determination is available to the public upon request.

II. 36 CFR §1.6 – ACTIVITIES THAT REQUIRE A SPECIAL USE PERMIT

DETERMINATION:

Title 16 United States Code § 1 directs the National Park Service to "regulate the use of Federal areas known as national parks……" Title 16 United States Code § 3 directs the Secretary of the Interior to "make and publish such rules and regulations…..necessary or proper for the use and management of the parks,……under jurisdiction of the National Park Service…." Title 36 Code of Federal Regulations meets these statutory requirements (in part) and identifies the above listed activities as those to be regulated by a permit issued by the superintendent.

III. GENERAL REGULATIONS

36 CFR §2.1 – PRESERVATION OF NATURAL, CULTURAL AND ARCHEOLOGICAL RESOURCES

(c)(1), (c)(2): Collection of Natural Products

DETERMINATION:

Historically visitors have enjoyed collecting berries and edible mushrooms for personal consumption within HAFE. These native natural resources are renewable and in abundant supply. The collecting of plant fruits is not of a nature, magnitude and duration that will result in a "significant alteration in the public use pattern" because these berries and edible mushrooms are a sustainable and renewable natural resource and are available in the park in an abundant supply.

As such, their removal in the quantities specified does not constitute impairment to park resources and values and will not adversely affect the park's natural, aesthetic or cultural values. It does not require significant modification to the park's resource management objectives.

36 CFR §2.2 - WILDLIFE PROTECTION

DETERMINATION:

Harpers Ferry National Historical Park has a history of wildlife being illegally taken adjacent to roads. The park may be losing a significant gene pool with these takings. Taking these animals with the aid of the use of artificial light is one method suspected by park staff. Preventing this method of viewing wildlife makes detecting wildlife violations more successful, it makes criminal cases stronger in court, and it prevents wildlife disturbance while feeding, mating, and other activities that are necessary for them to survive.

36 CFR §2.3 – FISHING

DETERMINATION:

These State laws are conflicting with Title 36 Code of Federal Regulations and are, therefore, not adopted as part of 36 CFR § 2.3(a).

36 CFR §2.15 – PETS

(a)(1) Structures or areas closed to the possession of pets by the Superintendent:

DETERMINATION:

This use restriction to possessing a pet(s) in all structures and non-developed areas of the park except on the listed designated trails is necessary for the protection of natural resources, the maintenance of public safety, and the implementation of management responsibilities. Less restrictive measures will not suffice because of the potential threat to irreplaceable natural resources and to public safety.

The national significance of Harpers Ferry National Historical Park lies in the historic events that occurred at Harpers Ferry and in the cultural and natural resources associated with those events (refer to the Statement for Management, Harpers Ferry NHP, 1985). Pets may kill or injure wildlife (a natural resource) due to their predatory instincts. Wildlife is more frequently found in the park's non-developed areas. Prohibiting pets in non-developed areas protects wildlife.

This use restriction is not of a nature, magnitude and duration that will result in a "significant alteration in the public use pattern" because of the purpose of the park as defined in Title 16 United States Code § 450bb. Harpers Ferry National Historical Park was established to commemorate significant historical events occurring here prior to, during and shortly following the Civil War. It is a place of learning through on-site exhibits, museums, ranger-led interpretive programs and self-guided tours. The cultural, archaeological, historical, and natural resources within the park's boundaries are to be preserved for the enjoyment of the park visitor within that preservation context. Due to the significant number of natural resources, archaeological resources, and cultural landscapes located within the park, recreational activities not conducive to the study and interpretation of this historic and natural scene are restricted.

As such, this use restriction does not constitute impairment to park resources and values and will not adversely affect the park's natural, aesthetic, or cultural values. It does not require significant modification to the resource management objectives. It is also not of a highly controversial nature because of the small number of affected users. Accordingly, the National Park Service determines that publication, as rulemaking in the Federal Register is unwarranted under 36 CFR 1.5(c). This is consistent with the legal opinion of the Office of the Solicitor and past judicial adjudication [Spiegel v. Babbitt, 855 F.Supp. 402 (D.D.C.1994)].

Pursuant to 36 CFR 1.7, notice of this use restriction will be made by on-site regulatory signage, field contacts, written regulatory information in the park's interpretive materials, and/or through the park's website. Finally, pursuant to 36 CFR 1.5(c), this determination is available to the public upon request.

(a)(3) Pets may be left tied to an object under the following conditions:

DETERMINATION:

Visitors may wish to tie their pets up for short periods of time to gain park information, talk with friends, or meet sanitary needs. All of these purposes either enhance or are neutral to the park's mission and significance. Outside temperatures are often too high for such visitors to safely leave a pet inside their vehicle.

(a)(5) Pet excrement must be bagged and deposited in a trash receptacle.

DETERMINATION:

The requirement that pet excrement must be bagged and deposited in a trash receptacle is for the maintenance of public health and safety. Less restrictive measures will not suffice because of the potential sanitary and health threat to the public.

(e) Pets may be kept by Park residents under the following conditions:

DETERMINATION:

Government employees assigned to park housing in which pets are permitted must meet conditions that protect park resources and Government property. These conditions should not be overly burdensome to the employee as a tenant, and they should be identified in the park's Housing Management Plan.

36 CFR §2.21 – SMOKING

DETERMINATION:

Prohibiting smoking within and near structures protects employees, visitors, and the structures themselves from potential fire and smoke hazards. Prohibiting smoking within Government vehicles protects employees, visitors, and the vehicles themselves from potential fire and smoke hazards. Prohibiting smoking near fuel and fuel containers protects employees, visitors, and Government property from potential fire and smoke hazards.

36 CFR §2.22 – PROPERTY

(a)(2) Unattended Motor Vehicles

DETERMINATION:

The Train Station parking area is used by MARC commuters and AMTRAK passengers to board trains. In some cases their trips will last for more than 24 hours and it may be unreasonable for them to be required to remove their parked vehicle.

Some park users such as Appalachian Trail hikers may choose to start a multi-day trip from the park and have no way to remove their vehicle after 24 hours.

A small number of legally parked vehicles at these two locations left greater than 24 hours, if pre-approved, will not interfere with visitor safety, orderly management of the park area, or present a threat to park resources.

36 CFR §2.35 – ALCOHOLIC BEVERAGES AND CONTROLLED SUBSTANCES

(a)(3)(i) Possession and Consumption of Alcoholic Beverages

DETERMINATION:

This closure for the consumption of an alcoholic beverage or the possession of an open container of an alcoholic beverage is necessary because such uses would be inappropriate considering other uses of these locations and the purposes for which they are maintained or established pursuant to Title 16 United States Code § 450bb. Less restrictive measures will not suffice because of the potential threat to irreplaceable cultural resources and public safety.

The national significance of Harpers Ferry National Historical Park lies in the historic events that occurred at Harpers Ferry and in the cultural and natural resources associated with those events (refer to the Statement for Management, Harpers Ferry NHP, 1985.) Park values and enjoyment of park resources are inescapably linked to the park's cultural landscapes, historic structures, museum objects, and archeological resources as defined by Title 16 United States Code § 450bb.

Harpers Ferry National Historical Park was established to commemorate significant historical events occurring here prior to, during and shortly following the Civil War. It is a place of learning through on-site exhibits, museums, ranger-led interpretive programs and self-guided tours. The cultural, archaeological, historical, and natural resources within the park's boundaries are to be preserved for the enjoyment of the park visitor within that preservation context. Due to the significant number of archaeological resources and cultural landscapes located within the park, recreational activities not conducive to the study and interpretation of this historic and natural scene are restricted.

This closure is not of a nature, magnitude and duration that will result in a "significant alteration in the public use pattern" because consumption of alcoholic beverages can readily be carried out

in nearby areas outside the park. In fact the modern town of Harpers Ferry is adjacent to the park and has many locations and businesses where the consumption and/or possession of alcoholic beverages is appropriate.

As such, this closure does not constitute impairment to park resources and values and will not adversely affect the park's natural, aesthetic, or cultural values. It does not require significant modification to the resource management objectives. It is also not of a highly controversial nature because those wishing to consume alcoholic beverages have extensive opportunities to engage in these activities immediately adjacent to the closed areas of the park. Accordingly, the National Park Service determines that publication, as rulemaking in the Federal Register is unwarranted under 36 CFR 1.5(c). This is consistent with the legal opinion of the Office of the Solicitor and past judicial adjudication [Spiegel v. Babbitt, 855 F.Supp. 402 (D.D.C.1994)].

Pursuant to 36 CFR 1.7, notice of this closure will be made by regulatory information in the park's written interpretive materials for distribution to the public, by field contacts, and through the park's website. Finally, pursuant to 36 CFR 1.5(c), this determination is available to the public upon request.

36 CFR §2.62 – MEMORIALIZATION

DETERMINATION:

Memorialization in the specified locations and conditions only is necessary for the protection of scenic values, the protection of natural and cultural resources, the implementation of management responsibilities, the equitable allocation and use of facilities, and to avoid a conflict among visitor use activities. Less restrictive measures will not suffice because of the potential threat to public safety and health, irreplaceable cultural and natural resources, and park scenic values.

36 CFR §4.10 – TRAVEL ON PARK ROADS AND ROUTES

DETERMINATION:

Public travel by motor vehicle on specified roads only is necessary for the protection of scenic values, the protection of natural and cultural resources, the implementation of management responsibilities, the equitable allocation and use of facilities, and to avoid a conflict among visitor use activities. Less restrictive measures will not suffice because of the potential threat to public safety and health, irreplaceable cultural and natural resources, and park scenic values.

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