CODE OF FEDERAL REGULATIONS
TITLE 36, CHAPTER 1

2014 Compendium of Designations, Closures, Request Requirements, and other restrictions imposed under the discretionary authority of the Superintendent

In accordance with regulations and the delegated authority provided in Title 36, Code of Federal Regulations, Chapter 1, Parts 1 through 7, authorized by Title 16, United States Code, Section 3, the following regulatory provisions are established for the proper management, protection, government and public use of the portions of Cumberland Gap National Historical Park 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, and include the justifications and reasoning behind the use of the Superintendent's discretionary authority in setting forth the various closures, designations, etc., as listed in the Compendium required in Section 1.7(b).

Authorized by Sula Jacobs, Superintendent — Date 7/28/14

SECTION 1.5 CLOSURES AND PUBLIC USE LIMITS

(a) (1) -- **VISITOR CENTER**

Hours: The Visitor Center will be open 8:00 a.m. to 5:00 p.m. daily. The Visitor Center will be closed on Christmas Day.

Parking Lot: The Visitor Center parking lot will be open from 6:00 a.m. to 10:00 p.m. daily.

(a) (1) -- **BARTLETT PARK**

Parking Lot: Bartlett Park Picnic Area will be open from 6:00 a.m. to 10:00 p.m. daily. The picnic area will be closed to visitor use between 10:00 p.m. and 6:00 a.m.

(a)(1) **-GATE CLOSURES**

The Pinnacle, Sugar Run Picnic Area, Iron Furnace, Thomas Walker Parking Lot, Daniel Boone Parking Lot, Civic Park, and Wilderness Road Picnic Area will open at 8:00 a.m. and close at dark. Any gated areas may be closed during periods of bad weather for public safety.

> *"Those areas of the park which will be closed do not contain any facilities which are normally used at night, and have vandalism and/or visitor safety concerns (e.g. falling hazards) that require limited access and use after dark."*

(a)(2) **-USE RESTRICTIONS**

Bicycles
Bicycles are permitted on:

- All paved roads and trails
- Shillalah Creek Road to the upper Hensley gate
- Boone and Colson Trails
- The designated bicycle path from Tiprell Road to Lincoln Memorial University
- Greenway Trail inside Little Tunnel.

> *"Restricting vehicle access on unpaved roads reduces the damage to cultural, historical, and natural resources of the park."*

Horses
Horses are *not* permitted on:

- White Rocks Foot Trail
- Sand Cave Trail
- Hensley Settlement
- Lewis Hollow Trail
- Honey Tree Spur Trail
- Greenleaf Nature Trail

- Harlan Road
- Boone Trail
- All trails West of Sugar Run Trail and Ridge Trail intersection
- Wilderness Road Campground
- All picnic areas
- All other developed areas and paved roads.

"The closure of certain parts of the Park to horses is due to either the high concentration of visitors on foot or to narrow trails and paved roads which pose hazards to horse traffic."

Unmanned Aircraft

Launch, landing, or operating unmanned aircraft is prohibited within the Cumberland Gap National Historical Park is prohibited except as approved in writing by the Superintendent.

The term "unmanned aircraft" means a device that is used or intended to be used for flight in the air without the possibility of direct human intervention from within or on the device, and the associated operational elements and components that are required for the pilot or system operator in command to operate or control the device (such as cameras, sensors, communication links). This term includes all types of devices that meet this definition (e.g., model airplanes, quadcopters, drones) that are used for any purpose, including recreation or commerce.

The use of unmanned aircraft within the National Historical Park *"has the potential to cause unacceptable impacts such as harming visitors, interfering with rescue operations, causing excessive noise, impacting viewsheds, and disturbing wildlife." The compendium closures required to implement this interim policy are necessary to maintain public health and safety in units of the National Park System and to protect park resources and values until the NPS can determine whether specific uses f unmanned aircraft on lands and waters administered by the NPS are appropriate and will not cause unacceptable impacts on park resources and values. This closure by the superintendent implements Section 1.5 of NPS Management Policies 2006, which provides that a new form of park use may be allowed within a park only after a determination has been made in the professional judgment of the superintendent that it will not results in unacceptable impacts on park resources and values. When proposed park uses and the protection of park resources and values come into conflict, the protection of resources and values must be predominant.*

Other

Pedestrians and bicycles are not permitted to travel through the Cumberland Gap Tunnel except by issuance of a special use permit.

"Due to the close confines and the large amount of traffic, travel within the tunnel by persons on foot or bicycle would be extremely dangerous."

Creating a trail or walkway to shortcut between portions of a designated trail or adjacent trails is prohibited.

"Short cutting on the trail system causes loss of vegetation resulting in severe erosion."

Rock climbing, free climbing, bouldering or rappelling is prohibited without a special use permit.

"Climbing activity can cause considerable damage to the natural and cultural resources, and interfere with the intended visitor experience. Several park cliffs harbor rare, unusual, or sensitive species, and the physical impact of climbing has the potential for irreversible damage in the unique microenvironment. At cultural sites, the presence of the activity, combined with resource damage caused by chalk and rubber residue, also creates an aesthetic conflict with the intent of the park historic district."

Hang Gliding requires a permit and will only be allowed at White Rocks.

"Due to the requirements to successfully launch Hang Gliders, White Rocks is the only area within the park that meets these requirements."

Use of unpaved roads by motorized vehicles is restricted to authorized vehicles.

"For traffic safety on remote mountain roads, travel on unpaved road by anything other than authorized vehicles is prohibited."

Use of the WRCG dumping station is limited to visitors who have paid the camping fee.

"The cost of campground facilities is supported by ."

All fishing within the park is closed for the proper management of aquatic resources, except for the portion of Yellow Creek running through the park from Fern Lake to Middlesboro. That portion of Yellow Creek is open to "catch & release" fishing by youth aged 15 or under.

"Dramatic declines in the number of fish have required closing almost all portions of park streams to protect the remaining populations. Because of low stream flow during the warm summer months, fish tend to gather in deeper pools. To allow unrestricted fishing would mean total elimination of catchable size fish.

Additionally, Davis Branch is currently listed as a location for a federally listed threatened species, the Black Side Dace. Martin's Fork and Shillalah Creek are showing stress due to acidification, with a dramatic drop in fish populations that causes concern for the remaining species."

DESIGNATED SPECIAL USE ACTIVITIES AND AREAS

Permits are required for special park uses and all requests for Special Use Permits must be made in writing to the Superintendent at least 14 days prior to the proposed event. For permit requests write or apply at the Visitor Center:

Superintendent
Cumberland Gap National Historical Park
91 Bartlett Park Road
Middlesboro, KY 40965

"The requirement for a special use permit and a 14 day advance written request is to allow park management sufficient time to consider the application and to plan and prepare for approved events."

A signed special use permit is required for entry into all caves excluding Sand Cave or the developed portion of Gap Cave. Entrance to Gap Cave is by National Park Service tour or for administrative purposes only.

"Restrictions on the entry of caves are necessary to protect valuable cave resources which, in the case of Big Saltpeter, includes the Indiana bat which is on the Federal endangered species list. Limiting human access is also a component o the park's written plan to minimize the spread of White Nose Syndrome."

Picnic shelters can be reserved for a fee at the Visitor Center. Use of unreserved picnic shelters is on a first come first served basis.

Firewood

The possession of any firewood originating from any location outside of Lee County, VA, the county in which the park campground is located, is prohibited. In the event that the USDA or Virginia State Forestry Department puts quarantine on wood from Lee County, VA due to an identified nonnative insect infestation. All wood originating from outside the immediate area of the campground will be prohibited.

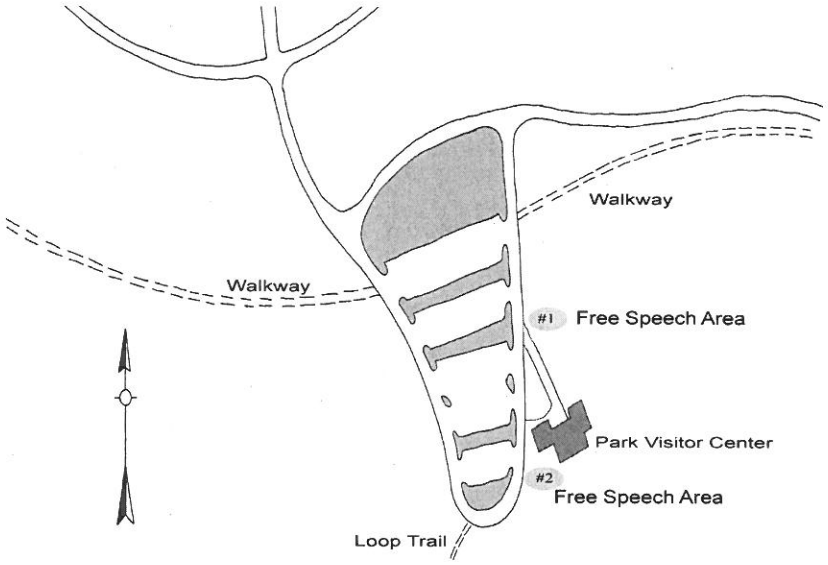
Firewood in violation of the above shall be burned immediately by the camper in established fire rings. Failure to comply with this action may result in citation and/ or seizure of the firewood.

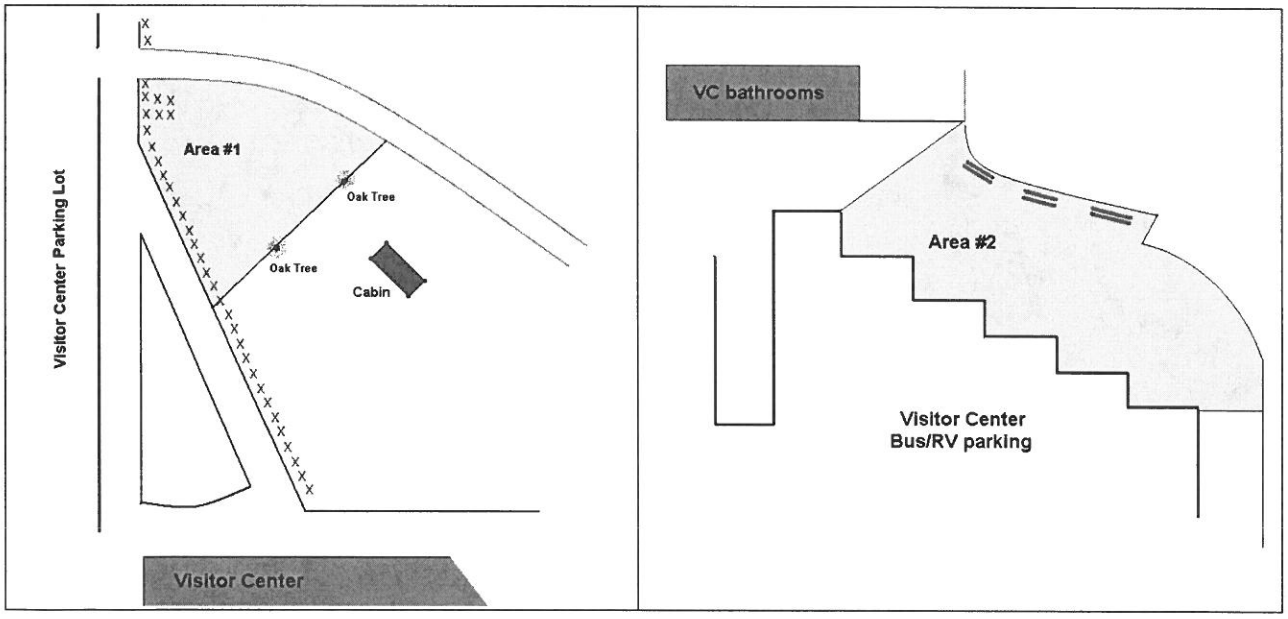
Cumberland Gap NHP considers firewood to be any wood cut, sold or intended for use as firewood, including chips, limbs, branches, etc. with or without bark. Kiln-dried, finished and cut lumber or lumber scraps from which the bark has been removed during milling process and like that purchased from a hardware store or discarded at construction sites, is not considered firewood.

Exception: Heat treated firewood properly labeled with a USDA APHIS seal, or a recognized state forestry department seal, is considered safe to move across jurisdictional boundaries and may be allowed in the park.

This closure is intended to prevent the introduction of exotic insects or diseases into the Cumberland Gap National Historical Park. Exotic insects such as the emerald ash borer, asian longhorn beetle and hemlock woolly adelgid have killed hundreds of millions of trees throughout parts of the U.S. that have already been infested. The USDA has documented that may harmful species can be transported in firewood.

All public assemblies, meetings, or demonstrations are subject to 36 CFR regulations, and are limited to one of the First Amendment/Free Speech areas identified below. Groups of up to 25 people are not required to obtain a permit, and will have access to the First Amendment/Free Speech areas on a "first come, first served" basis. Groups larger than 25, or groups wishing to confirm availability of the First Amendment area, are required to obtain a Special Use Permit. Maps indicating areas designated for exercise of First Amendment Rights are available at the Visitor Center.





SECTION 1.6 PERMITS

(c) The following activities require permits:

- Collecting (research specimens)
- Special Events
- Public Assemblies
- Sale or distribution of printed matter
- Display of commercial notices or advertisements
- Business operations
- Commercial Photography
- Cave Research
- Backcountry Camping
- Rappelling
- Entry into all caves except Sand Cave or Gap Cave.

"These permits are only those required by 36 CFR, Parts 1 through 7."

SECTION 2.1 PRESERVATION OF NATURAL, CULTURAL AND ARCHAEOLOGICAL RESOURCES

(a)(4) Down and dead wood may be used for firewood and or fuel at any designated campsite in the park.

"This provides protection for live trees, and helps limit the amount of imported wood that may be infected with exotic species."

(c)(1) The following fruits and nuts may be gathered within the boundaries of Cumberland Gap National Historical Park for **personal use only**.

- Blackberries
- Blueberries
- Mulberries
- Huckleberries
- Plums
- Strawberries
- Persimmons
- Pawpaws
- Hickory nuts
- Walnuts
- Pine cones
- Acorns
- Apples
- Morel mushrooms

"The natural fruits and nuts are plentiful in the park and have historically been picked by visitors and animals alike. If monitoring shows that removal of the fruits and nuts is adversely affecting the ecosystem, this relaxation of Section 2.1(c)(1) will be terminated."

SECTION 2.2 WILDLIFE PROTECTION

(d) Wildlife, lawfully taken in lands outside of Federal property in accord with hunting regulations, may be transported through the park provided that the route used is the only feasible route available and the transporting vehicle does not stop or deviate from its route through the park.

"Because of the configuration of the park and the fact that access to private lands is by trail or road through portions of the park, it is sometimes necessary that game legally taken outside the park be transported through the park. The prohibition on stopping or diverting from the route facilitates the adequate management of poaching activities."

(e) The use of artificial lights for the purpose of viewing wildlife within the park is prohibited.

"The prohibition of the use of artificial lights to view wildlife is for the protection of wildlife and public, and facilitates the adequate management of poaching activities."

SECTION 2.3 FISHING

See section 1.5(a)(2)

SECTION 2.10 CAMPING AND FOOD STORAGE

(b)(9) Camping is limited to designated camping areas. Camping within the Park is limited to 14 days within any 21 day period.

"Camping has been restricted to specific areas in order to minimize conditions brought on by unrestricted use, such as uncontrolled fires, fires in caves, litter, body waste, and stream contamination.

The establishment of the fourteen day camping limit is to prevent permanent or semi-permanent camps within the park in areas which were not designed for long-term camping and to allow the use of the areas by other visitors.

The establishment of a camp within the park as a base for the purpose of hunting wildlife outside of the park is prohibited.

"The prohibition of camping within the park for the purpose of hunting outside the park is for the protection of the wildlife and public, and facilitates the adequate management of poaching activities."

Wilderness Road Campground
A limit of 2 vehicles per campsite, or 4 tents per campsite, or 8 people per campsite will be the maximum allowed at the Wilderness Road campground.

> *"This 2 vehicle/8 person/4 tent limit is established to prevent over crowding of the limited parking spaces available at the camping sites."*

Backcountry Campsites
A limit of 12 people will be the maximum allowed at the White Rocks, Chadwell Gap, and Gibson Gap backcountry campsites.

A limit of 25 people will be the maximum allowed at the Martin's Fork campsite, in addition to a maximum of 6 people at the Martin's Fork cabin.

A limit of 20 people will be the maximum allowed at the Hensley Horse camp.

> *"Limits on backcountry campsite use are required to prevent overcrowding and resource damage."*

(d) At all campsites, all "garbage, food, and equipment used to cook or store food must be kept sealed in a vehicle, or in a camping unit that is constructed of solid, non-pliable material, or suspended at least 10 feet above the ground and 4 feet horizontally from a post, tree trunk or other object."

> *"Food storage regulations are established to prevent bears from finding food in the established backcountry campsites, which directly affects the safety of both the visitors and the bears. 36 CFR 4.10(d) specifies that the superintendent may designate areas where, and how, food storage is controlled. Hard sided boxes or hanging systems are supplied in all designated camping areas."*

SECTION 2.13 FIRES

(a)(1) Fires are permitted only in receptacles designed for such use.

> *"It is necessary to restrict fires to government provided grills or designated areas to prevent uncontrolled fires and an excessive number of fire pits."*

SECTION 2.15 PETS

(a)(5) In all Park public use areas visitors must dispose of pet excrement in trash receptacles or remove it into the woodline at least 15 feet from any public use area.

Pet excrement disposal conditions are established for the following areas: all picnic areas, all

parking lots, lawn and shrubbery areas around the Visitor Center, and all camping areas.

"Since there are many wooded areas where the visitor is allowed to take leashed pets the owner is responsible for ensuring that pet excrement does not pose as a sanitation problem or inconvenience for other visitors or the management at the area."

SECTION 2.16 HORSES AND PACK ANIMALS

(g) Horses or pack animals will be tied in such a manner as to prevent damage to vegetation.

See section 1.5 Use Restrictions for approved trail use by horses.

"The establishment of this section is to prevent damage to Park resources."

SECTION 2.20 SKATING, SKATEBOARDS, AND SIMILAR DEVICES

The use of Segways, non-motorized roller skates, skateboards and roller blades, and similar devices will be allowed on the paved section of the Bike Trail from the park entrance at Middlesboro to the Bartlett Park road. These devices are not allowed on the paved roads utilized by motor vehicles. All motorized, non-licensed transportation devices except those necessary for handicapped access or those necessary for administrative purposes are prohibited. Use of any motorized devices for handicapped access on unpaved trails requires a special use permit. Use of a Segway or other gyroscopically stabilized, battery-powered, personal transportation device for handicapped access on paved surfaces or in facilities requires a special use permit, except as noted above.

"The establishment of this section is to allow the safe enjoyment of skating activities, and to provide for use of non-motorized devices for handicap access."

SECTION 2.21 SMOKING

(a) All public buildings are closed to smoking except those areas designated open in accordance with Cumberland Gap NHP Smoking Policy. That policy is hereby adopted and made part of these orders.

Smoking is prohibited in all historic structures.

"Due to determination by the Surgeon General that smoking poses health hazards, this section is for the safety of both visitors and employees.

Due to the lack of smoke detectors and the dryness of aged wood used in construction, this section is for fire and health safety of the visitors."

SECTION 2.35 ALCOHOLIC BEVERAGES

(a)(3)(I) The consumption of an alcoholic beverage is prohibited except in housing, established picnic areas, and front country and backcountry campsites as identified in the current Cumberland Gap NHP Trail Map and the official Cumberland Gap Folder. The Superintendent may authorize the possession and consumption of alcoholic beverages as part of a special event or pursuant to a special use permit.

> *"To insure safety and litter control, and due to the large numbers of visitors at Cumberland Gap NHP, the consumption of alcoholic beverages is restricted to designated areas."*

SECTION 4.11 LOAD, WEIGHT AND SIZE LIMITS

(b)(1) Motor vehicles hauling or carrying class 1 explosives as defined by the International Hazardous Materials Classification System are prohibited from entering or traveling through the Cumberland Gap Tunnel on U.S. highway 25E.

> *"Due to the design, length of the tunnel portals and the high volume of traffic utilizing the tunnel, to allow vehicles transporting explosives within the tunnel would create a hazard beyond that which could be safely dealt with and in the event of a mishap would endanger the lives of motorists and tunnel workers."*

Motor vehicles hauling or carrying hazardous materials, or placarded as carriers of hazardous materials, which are classified as class 2 through 9 as defined by the International Hazardous Materials Classification System are prohibited from entering or traveling through the Cumberland Gap Tunnel on U.S. highway 25E without an escort by an official, unless otherwise directed by the tunnel operators.

> *"To allow vehicles transporting hazardous materials within the tunnel unescorted or without proper direction could, in the event of a mishap, create a situation that would endanger the lives of other motorists."*

Vehicles in excess of 20 feet in length or pulling trailers are prohibited beyond the Pinnacle gate.

> *"The Pinnacle road is extremely narrow and has very steep hairpin curves. Vehicles in excess of 20 feet or pulling trailers cannot safely negotiate this road."*

Vehicles hauling or towing loads in excess of 8 feet 6 inches wide are prohibited from entering the Cumberland Gap Tunnel without an escort.

> *"Due to the narrow confines of the tunnel, to allow loads in excess of 8 feet 6 inches wide within the tunnel unescorted would be unsafe for other motorists traveling through the tunnel."*

SECTION 4.21(b) DESIGNATED SPEED LIMITS

"Due to winding roads, steep grades, pedestrian traffic, and the hazardous conditions caused by weather, park speed limits are reduced on these roads to promote safe travel inside the park."

The following speed limits apply to the roads inside the park:

1. Tiprell Road and Wilderness Road to the campground – 25 MPH
2. State Hwy #988 – 25 MPH for 2 miles from the Visitor Center, then 35 MPH for the remaining 2 miles between that point and the park boundary.
3. Pinnacle Road – 20 MPH
4. Bartlett Park Road – 20 MPH
5. Visitor Center area – 15 MPH
6. US Hwy 58: 45 MPH for that portion of the Hwy within Tennessee, 55 MPH for that portion of the Hwy within Virginia.
7. US Hwy 25E: During times of inclement weather, or other unsafe road conditions Cumberland Gap Tunnel Authority staff will change the variable messages signs to read either 25 MPH, or 35 MPH, at the discretion of the Tunnel Authority staff, or at the request of the on-duty NPS Patrol Ranger.

   In preparation for a temporary road closure to allow the tunnel to clear for hazardous materials carrying vehicles the variable message signs on Hwy 25E on approach to the Cumberland Gap Tunnel will read 35 MPH. After a temporary closure for hazardous materials passing through the tunnel the variable message signs will read 35 MPH until traffic congestion is relieved enough to allow normal flow of traffic on the Hwy.

   During lane closures, or tunnel bore closures when flow of traffic is reduced to one lane of travel in one direction, the speed limit will be reduced to 25MPH, and the variable message signs on Hwy 25E on approach to the Cumberland Gap Tunnel will read 25 MPH.