

Appendix A: Governing Mandates

The National Park Service is directed to address user capacity, resource protection, and public enjoyment of park resources through a number of pieces of legislation, as well as guiding regulations and policies. This appendix briefly describes some of the major laws, regulations, policies, and programs that address user capacity and the protection and enhancement of park resources and visitor experiences.

Wild and Scenic Rivers Act

Section 4(d)(1) of the Wild and Scenic Rivers Act specifies that “For rivers designated on or after January 1, 1986, the Federal agency charged with the administration of each component of the National Wild and Scenic Rivers System shall prepare a comprehensive management plan for such river segment to provide for the protection of the river values. The plan shall address resource protection, development of lands and facilities, user capacities, and other management practices necessary or desirable to achieve the purposes of this Act.”

The Merced River Plan, as revised by this document, is the comprehensive management plan for the Merced River. User capacities are addressed through the management elements of the Merced River Plan (such as river classification, Outstandingly Remarkable Values, the River Protection Overlay, and management zoning) and the action alternative selected as a part of this planning process.

Interagency (Secretarial) Guidelines on the Wild and Scenic Rivers Act

The 1982 Interagency Guidelines on the Wild and Scenic Rivers Act (also referred to as Secretarial Guidelines) provide guidelines on the evaluation, classification, and management of rivers designated as Wild and Scenic within the U.S. Departments of Agriculture and the Interior. The section of the guidelines on management of Wild and Scenic Rivers addresses carrying capacity and public use, as well as development of facilities and other management issues. The guidelines define user capacity as “the quantity of recreation use which an area can sustain without adverse impact on the Outstandingly Remarkable Values and free-flowing character of the river area, the quality of recreation experience, and public health and safety.” The guidelines also state that each component of the Wild and Scenic Rivers System will be managed to protect and enhance the values for which the river was designated, while providing for public recreation and resource uses that do not adversely impact or degrade those values. Thus, user capacity management is directed to address the quantity and mixture of recreation and other public uses that can be permitted without adverse impacts on the resource values.

Wilderness Act

The Wilderness Act (Public Law 88-577 [16 USC 1131-1136]) originated out of a national concern over trends affecting roadless areas in national forests. It was also applied to lands in the National Park System because of concerns about the erosion of roadless blocks within national park units. The Wilderness Act was a zoning system to establish that certain blocks of land would be

maintained permanently as wild lands free of roads, resorts, or other significant humanmade intrusions.

The Wilderness Act supplements the National Park Service’s basic statutory authority. It serves as a permanent zoning device, with national legal sanction, determining where roads and structures will not intrude.

A large segment of the Merced Wild and Scenic River flows through designated Wilderness. The Wilderness Act of 1964 and the California Wilderness Act of 1984 provide guidance for management within designated Wilderness. The purpose of the Wilderness Act of 1964 is to secure the benefits of an enduring resource of wilderness for present and future generations. Wilderness is defined in the Act as an area managed to preserve its natural conditions, which is affected primarily by the forces of nature, and which has outstanding opportunities for solitude and an unconfined type of recreation. These goals complement the intent of the Wild and Scenic Rivers Act as it applies to the areas of the Merced River corridor classified as Wild. The California Wilderness Act established 704,624 acres of designated Wilderness and 927 acres of potential Wilderness additions within Yosemite National Park. Most of the Merced River in Yosemite National Park flows through designated Wilderness, which is managed under the 1989 *Wilderness Management Plan*. The Merced River Plan’s management approach to wild river segments complements the *Yosemite Wilderness Management Plan*, which includes public use limits for Yosemite’s designated Wilderness areas. All of the action alternatives in this document would continue the existing Wilderness Management Program for Yosemite National Park, which includes a trailhead quota system for overnight visitors and a Wilderness Impacts Monitoring System (WIMS) to track and address use-related impacts in wilderness areas, and would supplement these existing programs with a VERP management program.

1978 National Parks and Recreation Act

The 1978 National Parks and Recreation Act (Public Law 95-625) requires all park units to have a general management plan that addresses four items: (1) measures for the preservation of the area’s resources, (2) type and intensity of development for public enjoyment, (3) visitor carrying capacity and implementation commitments, and (4) proposed boundary modifications with explanations as to as to why they are required.

The 1980 *General Management Plan* developed visitor capacity goals for developed areas of Yosemite National Park. This Revised Merced River Plan/SEIS will amend and supplement the *General Management Plan* regarding user capacity policies for the Merced River corridor.

16 USC Section 1a-7

This statute requires units within the National Park System to prepare general management plans. In particular, such plans are required to include “indications of types and general intensities of development (including visitor circulation and transportation patterns, systems and modes) associated with public enjoyment and use of the area, including general locations, timing of implementation and anticipated costs.” These plans are also required to present “identification of and implementation commitments for visitor carrying capacities for all areas of the unit.”

The Merced River Plan amended parts of the park's 1980 *General Management Plan*. How this Revised Merced River Plan/SEIS amends the 1980 *General Management Plan* is summarized at the end of each alternative in *Chapter V: Environmental Consequences*. Elements of each of these plans provide direction for implementation of the user capacity management program for the Merced River corridor.

CFR (Title 36)

The Code of Federal Regulations (CFR) is the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government. It is divided into 50 titles that represent broad areas subject to federal regulation. Each volume of the CFR is updated once each calendar year and is issued on a quarterly basis.

Title 36, Chapter 1 part 2 (36 CFR 2) contains the regulations that pertain to resource protection, public use, and recreation within national parks. These regulations “provide for the proper use, management, government, and protection of persons, property, and natural and cultural resources under the jurisdiction of the National Park Service. These regulations will be utilized to fulfill the statutory purposes of units of the National Park System: to conserve scenery, natural and historic objects, and wildlife, and to provide for the enjoyment of those same resources in a manner that will leave them unimpaired for the enjoyment of future generations.”

36 CFR 2 establishes protection measures for natural and cultural resources (e.g., food storage, wildlife protection, preservation of archeological resources, etc.) and dictates the allowed public uses within a national park (e.g., campfires, picnicking, winter activities, livestock use, special events, etc.).

Regulations pertaining to the El Portal Administrative Site are specifically contained within 36 CFR 34.

The regulations in 36 CFR will be used by the National Park Service as one of the tools to manage and restrict visitor use within the 81 miles of the Merced River corridor in Yosemite National Park.

National Park Service Management Policies

The National Park Service has several sources of detailed written guidance to help managers make day-to-day decisions. The primary source of guidance is the 2001 edition of *Management Policies*. The issue of user capacities is addressed in Chapter 8: Use of Parks. In particular, it states:

8.2.1 Visitor Carrying Capacity Visitor carrying capacity is the type and level of visitor use that can be accommodated while sustaining the desired resource and visitor experience conditions in the park. By identifying and staying within carrying capacities, superintendents can prevent park uses that may unacceptably impact the resources and values for which the parks were established. For all zones, districts, or other logical management divisions within a park, superintendents will identify visitor carrying capacities for managing public use. Superintendents will also identify ways to monitor for, and address, unacceptable impacts to park resources and visitor experiences.

When making decisions about carrying capacity, superintendents must utilize the best available natural and social science and other information, and maintain a comprehensive

administrative record relating to their decisions. The decision making process should be based on desired resource conditions and visitor experiences for the area; quality indicators and standards that define the desired resource conditions and visitor experiences; and other factors that will lead to logical conclusions and the protection of park resources and values. The level of analysis necessary to make decisions about carrying capacities is commensurate with the potential impacts or consequences of the decisions. The greater the potential for significant impacts or consequences to park resources and values (or the opportunities to enjoy them), the greater the level of study and analysis needed to support the decisions.

The general management planning process will determine the desired resource and visitor experience conditions that are the foundation for carrying capacity analysis and decision making. If a general management plan is not current or complete, or if more detailed decision-making is required, a carrying capacity planning process, such as the Visitor Experience and Resource Protection (VERP) framework, should be applied in an implementation plan or an amendment to an existing plan. If the time frame for making decisions is insufficient to allow the application of a carrying capacity planning process, then superintendents must make decisions based on the best available scientific and other information. In either case, such planning must be accompanied by appropriate environmental impact analysis, in accordance with Director's Order #12.

As use changes over time, superintendents must continue to decide if management actions are needed to keep use at acceptable and sustainable levels. If indicators and standards have been prescribed for an impact, the acceptable level is the prescribed standard. If indicators and standards do not exist, the superintendent must determine how much impact can be tolerated before management intervention is required.

If and when park uses reach a level at which they must be limited or curtailed, the preferred choice will be to continue uses that best meet the criteria listed in section 8.2 for preferred uses, and to limit or curtail those that least meet those criteria.

(See Decision-making Requirements to Avoid Impairments 1.4.7; General Management Planning 2.3.1; Carrying Capacity 5.3.1.6; Management of Recreational Use 8.2.2.1. Also see Director's Order #2: Park Planning)

This management policy also guides the park in ways to manage visitor use:

8.2.2 Recreational Activities The National Park Service will encourage, allow, or not allow recreational activities according to the criteria listed in section 8.2. Examples of recreational activities that may be encouraged or allowed include, but are not limited to, boating, camping, bicycling, fishing, hiking, horseback riding and packing, outdoor sports, picnicking, scuba diving, crosscountry skiing, caving, mountain and rock climbing, and swimming. However, not all of these activities will be appropriate or allowable in all parks; that determination must be made on the basis of park-specific planning. Service-wide regulations addressing aircraft use, off-road bicycling, hang gliding, off-road vehicle use, personal watercraft, and snowmobiling require that special, park-specific regulations be developed before these uses may be allowed in parks.

The Service will monitor new or changing patterns of use or trends in recreational activities, and assess their potential impacts on park resources. A new form of recreational activity will not be allowed within a park until after an environmental analysis has determined that it will not result in unacceptable impacts on park resources. Restrictions placed on recreational uses that have been found to be appropriate will be limited to the minimum necessary to protect park resources and values, and promote visitor safety and enjoyment.

8.2.2.1 Management of Recreational Use Superintendents will develop and implement visitor use management plans and take management actions, as appropriate, to ensure that recreational uses and activities within the park are consistent with its authorizing legislation or proclamation and do not cause unacceptable impacts to park resources or values. Depending on local park needs and circumstances, these plans may be prepared as coordinated activity-specific documents (such as river use plan, backcountry use plan, wilderness management plan, off-road vehicle use plan, winter use plan); as action plan components of a resource management plan or general management plan; or as a single integrated plan that addresses a broad spectrum of recreational activities. Regardless of their format or complexity, visitor use management plans will (1) contain specific, measurable management objectives related to the activity or activities being addressed; (2) be periodically reviewed and updated; and (3) be consistent with the carrying capacity decisions made in the general management plan.

The Service will seek consistency in recreation management policies and procedures on both a Service-wide and interagency basis to the extent practicable. However, because of differences in the enabling legislation and resources of individual parks, and differences in the missions of the Service and other federal agencies, an activity that is entirely appropriate when conducted in one location may be inappropriate when conducted in another. The Service will consider a park's purposes and the effects on park resources and visitors when determining the appropriateness of a specific recreational activity.

Superintendents will consider a wide range of techniques in managing recreational use to avoid adverse impacts on park resources and values, or desired visitor experiences. Examples of appropriate techniques include visitor information and education programs; separation of conflicting uses by time or location; "hardening" sites; modifying maintenance practices; and permit and reservation systems. Superintendents may also use their discretionary authority to impose local restrictions, public use limits, and closures, and designate areas for a specific use or activity (see 36 CFR 1.5). Any restriction of appropriate recreational uses will be limited to what is necessary to protect park resources and values, to promote visitor safety and enjoyment, or to meet park management needs. To the extent practicable, public use limits established by the Service will be based on the results of scientific research and other available support data. However, an activity will be restricted or prohibited when, in the judgment of the superintendent, its occurrence, continuation, or expansion would (1) violate the criteria listed in section 8.2, or (2) conflict with the findings of a carrying capacity analysis, and there is no reasonable alternative that would avoid or satisfactorily mitigate the violation or conflict.

(See Park Planning Processes 2.3; Wilderness Management Planning 6.3.4.2; General Policy 6.4.1; Carrying Capacity 8.2.1; Commercial Visitor Services 8.2.2.2; River Use 8.2.2.3, Backcountry Use 8.2.2.4; fishing 8.2.2.5; Hunting and Trapping 8.2.2.6; Off-road Vehicle Use 8.2.3.1; Snowmobiles 8.2.3.2; Visitor Safety 8.2.5.1; Native American Use 8.5; Special Park Uses 8.6; Collecting Natural Products 8.8. Also see Director's Order #2: Park Planning, and #12: Conservation Planning and Environmental Impact Analysis)

Guidance from the *Management Policies* will be used by the park in making decisions about when and how to take management actions to address visitor use in the Merced River corridor. For example, this guidance will be used to inform management actions that may grow out of Yosemite's VERP program.

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