

**APPENDIX B
PARK-SPECIFIC SPECIAL MANDATES
AND COMMITMENTS**



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APPENDIX B: PARK-SPECIFIC SPECIAL MANDATES AND COMMITMENTS

This section provides an overview of the laws and policies that are applicable to the management of the Chattahoochee River National Recreation Area. The following is a summary of key information on laws and regulations that have been enacted to manage the impact of activities along the Chattahoochee River corridor.

LEGISLATION

The Act of August 15, 1978 (Public Law 95-344) established the Chattahoochee River National Recreation Area and its boundaries, providing for the preservation and the protection of the natural, scenic, recreational, and historical values of the river. As created in the act, the recreation area consists of the river and its bed together with lands, waters, and interests therein, along the 48-mile corridor from Buford Dam to Peachtree Creek. The Act of October 30, 1984 (Public Law 98-568) increased the park size from 6,300 acres to 6,800 acres. The Secretary of the Interior may make minor revisions to the boundary map to facilitate access to the recreation area.

In 1999, a bill was passed that approved addition of approximately 3,200 acres to the existing 6,800 acre park, totaling an authorized 10,000 acres. Parcels within the new areas are currently being acquired by the National Park Service as they are negotiated with property owners. However, under this legislation, the National Park Service can only acquire land from willing sellers.

EROSION AND SEDIMENTATION ACT

The State of Georgia Erosion and Sedimentation Act (OCGA 12-7-1) provides a mechanism for controlling erosion and sedimentation from land-disturbing activities by establishing a permit process. To receive a permit, an applicant must submit an erosion and sedimentation control plan which incorporates best management practices. Local governments, with oversight by the Georgia Environmental Protection Division and the area Soil and Water Conservation District, are primarily responsible for implementing the act. State law directs local governments to enact erosion and sedimentation ordinances, granting the local government the authority to issue permits for land-disturbing activities. Stream buffer zone requirements under the Erosion and Sedimentation Act state that land-disturbing activities shall not be conducted within:

- 25 feet of any state waters. Construction of drainage structures are allowed in the buffer zone and a variance may be granted by the director of the Environmental Protection Division; and
- 100 feet of trout streams. Variance may be granted by the director of the Environmental Protection Division.

Cobb County has adopted more stringent minimum requirements for the control of erosion and sedimentation. As established in the Official Code of Cobb County, in addition to the 25-foot buffer for any state waters, land disturbing activities shall not be conducted within:

- 50 feet of the banks of any stream in Cobb County, as defined on the Cobb County Stream Buffer Map dated June 8, 1999, where total watershed area intercepted is less than or equal to 5 square miles;
- 75 feet of the banks of any stream in Cobb County where total watershed area intercepted is equal to 5 square miles and less than or equal to 10 square miles;
- 100 feet of the banks of any stream in Cobb County where total watershed area intercepted is greater than 10 square miles; and
- 200 feet of the banks of Nickajack Creek, from Church Road downstream to its confluence with Mill Creek and from Buckner Road downstream to its confluence with the Chattahoochee River.

Cobb County also requires that developers complete BMP training before they can receive a land-disturbing permit.

AQUATIC PLANT CONTROL ACT

The State of Georgia Aquatic Plant Control Act (HB 196) prohibits the importation, transportation, cultivation, or introduction of noxious, non-indigenous aquatic plants into the state and its waters. The act regulates any aquatic plant which is not native to the state of Georgia and that certain characteristics, such as massive productivity, choking density, or an obstructive nature, which render it detrimental, obnoxious, or unwanted in a particular location. The Aquatic Plant Control Act also regulates the seeds or reproductive parts of an aquatic plant which has the potential to hinder the growth of beneficial aquatic plants that may interfere with irrigation, navigation, or recreation, or affect the public welfare or the natural resources of the state of Georgia.

The following aquatic plants are designated as listed non-indigenous aquatic plants:

SCIENTIFIC NAME	COMMON NAME
<i>Alternanthera philoxeroides</i>	Alligator weed
<i>Egeria densa</i>	Brazilian Elodea
<i>Elodea canadensis</i>	Elodea
<i>Hydrilla verticillata</i>	Hydrilla
<i>Ipomoea aquatica</i>	Water spinach
<i>Limnophila sessiliflora</i>	Ambulla
<i>Lythrum salicaria</i>	Purple loosestrife
<i>Myriophyllum spicatum</i>	Eurasian watermilfoil
<i>Pistia stratiotes</i>	Water lettuce
<i>Salvinia molesta</i>	Giant salvinia
<i>Schinus terebinthifolius</i>	Brazilian pepper
<i>Eichhornia crassipes</i>	Water hyacinth
<i>Zizaniopsis miliacea</i>	Giant cutgrass
<i>Trapa natans</i>	Water chestnut

METROPOLITAN RIVER PROTECTION ACT

The Metropolitan River Protection Act (OCGA 12-5-440) was enacted in 1973 in recognition of both the value of the Chattahoochee River as a resource and its vulnerability to impacts from urban development. The act created a protection corridor encompassing all land within 2,000 feet of either bank of the Chattahoochee River for the 48 miles between Buford Dam and Peachtree Creek. In 1998, the Georgia General Assembly amended the act, extending the corridor another 36 miles to the downstream limits of the Atlanta Region in Fulton and Douglas Counties. The following local jurisdictions have land in the corridor: Cobb, Fulton, Gwinnett, Forsyth, and Douglas counties and the cities of Atlanta, Roswell, Berkeley Lake, Duluth, Suwanee, and Sugar Hill.

The Metropolitan River Protection Act directed the Atlanta Regional Commission to develop the Chattahoochee Corridor Plan establishing several criteria to minimize the impact of development of land along the river. The Metropolitan River Protection Act and the Chattahoochee Corridor Plan require that all land-disturbing activity within the protected corridor be reviewed and approved before the activity begins. The Atlanta Regional Commission is responsible for reviewing applications for land-disturbing activities and determining whether they are consistent with the Corridor Plan. Local governments then issue approvals based on commission findings, monitor development

activities, and enforce the act if required. The Atlanta Regional Commission monitors local implementation and enforcement of the act. In Forsyth County, reviews are conducted and local implementation monitored by the Georgia Mountains Regional Development Center.

All land-disturbing activities must be consistent with the corridor plan. The corridor plan establishes three sets of standards:

Vulnerability Standards: All land in the corridor is in one of six vulnerability categories (A-F) based on the land's susceptibility to development impacts. Vulnerability categories limit development by restricting the percentage of an area that can be disturbed and the percentage that can be converted to impervious surfaces. Percentages range from 90 percent maximum land disturbance and 75 percent maximum impervious surface in the least restrictive category (A) to 10 percent maximum land disturbance and 2 percent impervious surface in the most restrictive category (F).

Buffer Zone Standards: Buffer zone standards require an undisturbed, natural vegetative buffer within 50 feet of the Chattahoochee River and prohibit all impervious surfaces within 150 feet of the river. Natural vegetative buffers are also required within 35 feet of designated tributaries (those shown as blue lines on 1:24,000 scale USGS topographic maps).

Floodplain Standards: Fill in the river's 100-year floodplain must be balanced with an equal volume of cut so that there is not a reduction in flood storage. Obstruction of flood flow is prohibited in this area. Within the river's 500-year floodplain, building height is limited to 35 feet above the existing grade.

TRIBUTARY BUFFER ORDINANCES

The Metropolitan River Protection Act was amended in 1983 to require adoption of tributary buffer ordinances by jurisdictions that are outside of the corridor but have streams tributary to the corridor portion of the Chattahoochee River. Outside the corridor, tributary buffer ordinances are locally adopted and administered, with the width determined by individual jurisdiction. Buffer widths must be at least 25 feet, the minimum buffer for state waters under the Erosion and Sedimentation Act. Some localities have established larger buffers, such as:

South Fulton County has adopted the "South Fulton County Tributary Protection Ordinance," which requires that a 75-foot natural vegetative buffer be maintained on each side of all tributaries in unincorporated Fulton County south of the corporate city limits of Atlanta. An additional 25 feet of impervious surface setback shall be maintained adjacent to and outside of all required natural vegetative buffers.

North Fulton County has established the "Unified Stream Buffer Protection Ordinance," which requires that a 50-foot natural vegetative buffer be maintained on each side of all tributaries in North Fulton County. An additional 25 feet of impervious surface setback shall be maintained adjacent to and outside of all required natural vegetative buffers.

The official code of Cobb County requires that land-disturbing activities not be constructed within 50 to 200 feet of the banks of any stream in Cobb County.

Forsyth County requires a 50-foot natural vegetative buffer and a 75-foot impervious surface setback.

The city of Roswell has adopted a Chattahoochee Tributary Map that establishes tributary protection areas, requiring a minimum buffer of 50 feet with a 100-foot buffer along Big Creek and its tributaries.

The city of Alpharetta requires a 100-foot vegetative buffer and a 150-foot impervious surface setback.

PROTECTION OF WATER SUPPLY WATERSHEDS

A water supply watershed is an area of land within the drainage basin upstream of a public drinking water intake. To help protect surface water supplies, the Georgia Planning Act of 1989 (OCGA 12-2-8)

directs steps to protect the quality and quantity of water available from watersheds used for public water supply. Minimum criteria for the protection of water supply watersheds have been established in the Environmental Protection Division's Rules for Environmental Planning Criteria (Chapter 391-3-16).

Criteria for protection of surface water supplies require buffer zones and setbacks around streams and a maximum impervious surface density. The specific standards to be applied depend on the distance from the water intake and the size of the watershed. For streams within seven miles upstream of the water supply intake, a 100-foot vegetative buffer is required with a 150-foot impervious surface setback. Outside a seven-mile radius upstream of the water supply intake, the buffer and impervious surface setback requirements are 50 feet and 75 feet, respectively. There also must be an overall impervious surface density of 25 percent or less.

Forsyth County and the cities of Roswell and Alpharetta are all located in the Big Creek water supply watershed. Forsyth County is located outside the seven-mile radius upstream of the surface water intake, thus requiring a 50-foot natural vegetative buffer, a 75-foot impervious surface setback, and an overall impervious surface density of 25 percent or less. Alpharetta and Roswell are located within seven miles of the surface water intake, and thus require a 100-foot vegetative buffer, a 150-foot impervious surface setback, and an overall impervious surface density of 25 percent or less.

STORMWATER MANAGEMENT

Stormwater management programs are implemented at both state and local levels. At the state level, the Environmental Protection Division has implemented a permit program that relies on the National Pollutant Elimination System to regulate discharge of stormwater to streams and rivers. Phase I of the program applies to medium and large municipal separate storm sewer systems, construction activity disturbing five acres of land or greater, and eleven categories of industrial activity. Large and medium systems are defined by populations greater than 250,000 and populations between 100,000 and 250,000 respectively. Metropolitan Atlanta fits the definition of a large municipal system, and permit requirements apply to Fulton and Gwinnett counties and all incorporated cities. Phase II of the program requires additional operators of small municipal separate storm sewer systems (serving populations of at 10,000 with a population density of 1000 people per square mile) and operators of small construction sites (1 to 5 acres) to be covered by National Pollutant Elimination System permits.

State permit requirements include development of local stormwater management programs to control the quantity and quality of stormwater release. Stormwater management ordinances are adopted by local governments to provide for implementation and enforcement of their stormwater management program. Ordinances generally require the use of BMPs and submittal and approval of stormwater management plans for new developments. A number of municipalities, like Gwinnett County, require that controls be included to maintain runoff from a developed site at the same level as before development. This is usually accomplished through detention and retention structures that store excess runoff and release it slowly, thus allowing sediment to settle and not increasing downstream flooding.

TOTAL MAXIMUM DAILY LOAD

Under Section 303 (d) of the Clean Water Act, states are required to develop lists of streams and water bodies that do not meet ambient water quality standards. The resulting inventory of impaired streams, called the 303 (d) list, is updated every two years by states and is the basis for decisions related to restoring water quality. The law requires that the states establish priority rankings for waters on the lists and develop total maximum daily loads for these waters. A total maximum daily load is a calculation of the maximum amount of a pollutant that a waterbody can receive and continue to meet its designated use.

Based on an evaluation of the states' implementation of their Clean Water Act 303 (d) responsibilities, the U.S. Environmental Protection Agency developed changes and improvements to the total maximum daily load regulations. On July 13, 2000, the agency issued a final total maximum daily load rule that will improve current regulations. Congress has required the U.S. Environmental Protection Agency (delegated to the Environmental Protection Division) to establish total maximum daily loads for the Chattahoochee River basin by 2002, under the current total maximum daily load regulation.

SERVICEWIDE LAWS AND POLICIES

This section summarizes the most appropriate of the legal and administrative mandates that apply to managing all units of the national park service. These are measures that the National Park Service must strive to meet, regardless of the alternative selected for the long-term management of the Chattahoochee National Recreation Area. The body of laws and executive orders that guide park management, with their legal citations, are identified in Appendix A.

The National Park Service Organic Act and the Redwood Act Amendment to the National Park Service General Authorities Act

One of the most important statutory directives for the National Park Service (NPS) is provided by the interrelations of the NPS Organic Act of 1916 and the Redwood Act Amendment to the NPS General Authorities Act of 1970. The Organic Act mandates that the National Park Service "shall promote and regulate the use of Federal areas known as national parks, monuments, and reservations by such means and measures as conform to the fundamental purpose of said parks, monuments, and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations."

The General Authorities Act amends the Organic Act to broaden the types of areas that are included in the national park system, such as national seashores, recreation areas, and parkways. The Redwood Act further amends the General Authorities Act to reassert system-wide the high standard of protection set forth in the Organic Act. In the Redwood Act, "Congress further reaffirms, declares, and directs that the promotion and regulation of the various areas of the Nation Park System shall be consistent with and founded in the purpose established by the first section of the Act of August 25, 1916, to the common benefit of all the people of the United States. The authorization of activities shall be construed and the protection, management, and administration of these areas shall be conducted in light of the high public value and integrity on the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established, except as may have been or shall be directly and specifically provided by Congress."

Both the Organic Act and the General Authorities Act, as amended by the Redwood Act, define a single standard for the management of the park service: to safeguard the units of the national park system, conserving resources and values for enjoyment of all people of the United States and prohibiting impairment. Director's Order 55, Interpreting the National Park Service Organic Act, serves as the NPS interpretation of the meaning of the Organic Act and the General Authorities Act, as amended.

National Historic Preservation Act

The National Historic Preservation Act of 1966 authorized the Secretary of the Interior to "expand and maintain a national register of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, and culture." Section 106 of the act requires federal agencies to consider the effects of their undertakings on National Register properties and to allow the Advisory Council on Historic Preservation "a reasonable opportunity to comment" on such

undertakings. The National Register of Historic Places was expanded from the original roster of historic landmarks and areas of the National Park System to a comprehensive inventory of historic properties nationwide. National Park Service actions affecting properties listed on the National Register of Historic Places are subject to review by state historic preservation officers and the Advisory Council.

Section 110 requires among other things that the park to "establish a preservation program to protect and preserve historic properties in consultation with others" and that this program ensure "that historic properties under the jurisdiction or control of [the National park Service], are identified, evaluated, and nominated to the National Register." Further, Section 110 requires "that such properties under the jurisdiction or control of [the park] as are listed in or may be eligible for the National Register are managed and maintained in a way that considers the preservation of their historic, archaeological, architectural, and cultural values in compliance with section 106 of this Act and gives special consideration to the preservation of such values in the case of properties designated as having National significance." Section 112 requires that studies or other actions taken with regards to historic properties be done by personnel or contractors who meet appropriate professional qualifications standards developed by the Secretary of the Interior. It also requires that the park maintain data from historic properties studies in an appropriate database available to prospective researchers.

National Environmental Policy Act

The National Environmental Policy Act of 1969 states as policy that federal agencies must assess the environmental impacts of any proposed action that they fund, support, permit, or implement. It specifically directs federal agencies to document the environmental impact of the proposed action, any adverse environmental effects which cannot be avoided should the proposed action be implemented, and alternatives to the proposed action.

The act also established the Council on Environmental Quality, which is charged with the implementation and oversight of the National Environmental Policy Act. The Council on Environmental Quality subsequently developed the legal requirements (40 Code of Federal Regulations 1500-1508) that all federal agencies must follow in evaluating the environmental effects of proposed actions. These procedures involve three levels of documentation: categorical exclusions; environmental assessments; and environmental impact statements. In the National Park Service, construction activities, natural or cultural resource management projects, and park plans trigger the majority of National Environmental Policy Act documents. The National Environmental Policy Act enables the National Park Service to integrate compliance with other legal mandates and provides a format for public involvement. Director's Order 12 sets forth the policy and procedures by which the service will comply with the National Environmental Policy Act.

Clean Air Act

The Clean Air Act provides a legal framework for the National Park Service to preserve and protect parks' air quality related values. The act establishes national ambient air quality standards for certain criteria pollutants. Major provisions of the act are intended to set a goal for cleaner air by setting national primary and secondary ambient air quality standards. Primary standards define levels of air quality necessary to protect public health, while secondary standards define levels necessary to protect public welfare from any known or anticipated adverse effects of a pollutant.

Under the Clean Air Act, the U.S. Environmental Protection Agency is required to set new source performance standards, based on best-demonstrated technology and to establish national emission standards for hazardous air pollutants. The U.S. Environmental Protection Agency is also required to develop programs for prevention of significant deterioration of air quality in attainment areas. Air

pollution permits in attainment areas mandate installation of pollution controls that represent the best available control technology.

The Clean Air Act also requires states to develop and submit a state implementation plan for achieving national ambient air quality standards within each state. The state implementation plan must establish state air quality control regions and specify emission limits, schedules, and timetables for compliance from both stationary and mobile sources. The Clean Air Act requires federal facilities to comply with state air pollution requirements. The Clean Air Act reinforces the NPS Organic Act role as a protector of natural and cultural resources within the national park system. Under the Clean Air Act, the National Park Service is responsible for protecting air quality within park unit boundaries, and for taking appropriate action to do so, when reviewing emission sources within and outside of the park system.

Clean Water Act

The Federal Water Pollution Control Act of 1972, as amended by the Clean Water Act and the Water Quality Act of 1987, forms the legal framework to support maintenance and restoration of water quality. The Clean Water Act establishes the National Pollutant Discharge Elimination System as the regulatory mechanism to achieve water quality goals by regulating pollutant discharge to navigable streams, lakes, and rivers. Through standards promulgated by individual states, the Clean Water Act requires the NPS to protect its water resources from point and nonpoint sources of pollution. Many NPS construction activities are regulated by the Clean Water Act under stormwater permitting requirements.

Endangered Species Act

The Endangered Species Act of 1973, amended in 1982 and 1987, is intended to prevent the further decline of endangered and threatened plant and animal species and to help in the restoration of populations of these species and their habitats. The Endangered Species Act, jointly administered by the Department of Commerce and the Department of the Interior, requires that each federal agency consult with the U.S. Fish and Wildlife Service to determine whether endangered or threatened species are known to exist or have critical habitats on or in the vicinity of the site of a proposed action.

Section 7(c) of the Endangered Species Act authorizes the U.S. Fish and Wildlife Service to review proposed major federal actions to assess the potential impacts to listed species. In accordance with Section 7 (c), the National Park Service, in consultation with the U.S. Fish and Wildlife Service, must identify and promote the conservation of all federally listed species and their critical habitat within park boundaries.

Executive Orders on Wetlands and Floodplains

Executive Order 11988, Floodplain Management (May 24, 1977), requires federal agencies to evaluate the potential effects of actions in floodplains to avoid adversely impacting floodplains wherever possible. Executive Order 11988 also requires federal agencies to ensure that planning programs and budget requests reflect consideration of flood hazards and floodplain management, including the restoration and preservation of such land areas as natural undeveloped floodplains, and to prescribe procedures to implement the policies and procedures of this executive order.

Executive Order 11990, Protection of Wetlands (May 24, 1977), requires federal agencies to take action to avoid adversely impacting wetlands wherever possible, to minimize wetlands destruction, and to preserve procedures to implement the policies and procedures of this executive order. It is the intent of these executive orders that, wherever possible, federal agencies implement the floodplains/wetlands requirements through existing procedures, such as those internal procedures established to

implement National Environmental Policy Act. The National Park Service often integrates compliance with the executive orders with other legal mandates, such as National Environmental Policy Act.

Wilderness Act

The Wilderness Act of 1964 established the National Wilderness Preservation System, composed of federal lands designated as wilderness areas. Wilderness areas are to be administered “for the use and enjoyment of the American people in such a manner as will leave them unimpaired for future use and enjoyment as wilderness.” The law states that “the designation of any area of any park, monument, or other unit of the national park system as a wilderness area shall in no manner lower the standards evolved for the use and preservation of such park, monument, or other unit of the national park system.”

Except as specifically provided by law, permanent roads are prohibited within any wilderness area. Except as needed for administrative purposes, temporary roads or use of motorized vehicles or equipment are forbidden within any wilderness area. The following exceptions are permitted: where the use of motorboats is already established, it may be permitted to continue subject to management restrictions; all wheelchairs, including motorized wheelchairs, are allowed in NPS wilderness areas; measures necessary to control fire, insects, and diseases may be taken; and certain mining activities are permitted.

Management Policies 2006

This is an update to the 2001 Management Policies. The policies are derived from the laws that have been enacted to establish and govern the NPS and the National Park System. This document serves as the basic, Servicewide policy manual used by park superintendents and other NPS managers to guide their decision-making. The manual prescribes policies which enable the NPS to preserve park resources and values unimpaired for the enjoyment of future generations, as required by law. The policies have been updated to keep pace with new laws that have been enacted, changes in technology and American demographics, and new understandings of the kinds of actions that are required to best protect the natural and cultural resources of the parks. The policies stress the importance of: using the parks for educational purposes; demonstrating environmental leadership in the parks; managing park facilities and resources in ways that will sustain them for future generations of Americans to enjoy; and working with partners to help accomplish the NPS mission. The new Management Policies is available on the NPS World Wide Web site at <http://www.nps.gov/policy/MP2006.pdf>.

Director’s Order #12 (NPS 2001b)

Director’s Order #12 describes the policy and procedures by which the National Park Service will comply with the National Environmental Policy Act. The Council on Environmental Quality, part of the Executive Office of the President, is the “caretaker” of National Environmental Policy Act. The National Park Service is required to abide by all National Environmental Policy Act regulations (40 Code of Federal Regulations 1500-1508) and any other procedures and requirements imposed by other higher authorities, such as the Department of the Interior.

Director’s Order #24

Director’s Order #24: Museum Collections Management Director’s Order 24 lays the foundation by which the National Park Service meets its responsibilities toward museum collections. This Director’s Order provides policy guidance, standards, and requirements for preserving, protecting, documenting, and providing access to, and use of, National Park Service museum collections.

Director's Order #28 (NPS 1998e)

Director's Order #28, issued pursuant to 16 United States Code (1 through 4), addresses cultural resource management. The National Park Service will protect and manage cultural resources in its custody through effective research, planning, and stewardship and in accordance with the policies and principles contained in the National Park Service Management Policies 2006.

Director's Order #28A

Director's Order #28A: Archeology provides a management framework for planning, reviewing, and undertaking archeological activities and other activities that may affect archeological resources within the National Park System.

Ban on Personal Watercraft

Personal watercraft use is a relatively new recreational activity that has been observed in approximately 32 of the 87 units of the national park system that allow motorized boating. The NPS is proposing regulations that will prohibit personal watercraft in units of the national park system unless the NPS determines that such use is appropriate for a specific unit based on that unit's enabling legislation, resources and values, other visitor uses, and overall management objectives.

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