

Relationship between Laws, Regulations & Policies

The NPS can do only those things for which it has been given legal authority (Examples: award concession contracts, provide recreational opportunities, lease historic buildings, purchase air-conditioned vehicles, and purchase safety equipment). If Congress decides that the NPS should be authorized to do something, then a law is enacted to give the NPS that authority.



The NPS must decide if the wording of the law is sufficiently clear to guide management decisions, or if it requires a policy response to interpret the law or to provide more details on how the NPS will fairly and consistently implement the legal authority. Policy response could be in the form of a policy statement or regulation.



If interpretation of the law is necessary, then the NPS examines Congressional intent to ensure that the policy response is consistent with the intent.

If the NPS intends the policy interpretation to have the force & effect of law, then it must promulgate a regulation through “notice and comment” rulemaking & publish it in the Code of Federal Regulations (CFR) (Examples: 36 CFR regulations pertaining to concessions, leasing, camping, wildlife protection or special events). Courts will likely give “deference” to the NPS’s interpretation of the law.



If it is neither necessary nor desirable for the NPS’s policy interpretation to have the force & effect of law, then the Director may promulgate the policy at the servicewide level in *Management Policies* or a Director’s Order, or through less formal mechanisms (if it is judged by the NPS to be sufficient). Although the NPS still has the option to be bound by the policy, it is less likely that the courts will give “deference” to the NPS’s interpretation of the law.



Additional guidance may tier off from a regulation or a servicewide policy (Examples: designated times and places for camping, issuing procedures for controlling invasive plants, prescribing forms to be used for permit applications).

