

APPENDIX F:
WILDERNESS REGULATIONS, RESTRICTIONS,
AND PERMIT CONDITIONS

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WILDERNESS REGULATIONS, RESTRICTIONS, AND PERMIT CONDITIONS

The majority of the wilderness in Sequoia and Kings Canyon National Parks is under exclusive federal jurisdiction. There are a few relatively small areas of concurrent jurisdiction, primarily in the Mineral King Valley and around Chimney Rock. In areas of exclusive jurisdiction (also known as Special Maritime and Territorial Jurisdiction) the federal government has primary responsibility for the enforcement of laws and regulations. State and local authorities retain some jurisdiction (for instance, over civil processes), and may assist the federal government under some circumstances. The regulations and laws that apply come from the United States Code (USC) and the Code of Federal Regulations (CFR); these laws are enforced exclusively by the federal government by commissioned National Park Service (NPS) Law Enforcement Rangers. In areas of concurrent jurisdiction, both the federal government and state of California have authority and both state and federal law apply.

The Wilderness Act governs agency management of wilderness. While it prohibits particular actions and uses, it does not set forth specific regulations or laws governing public activities. Laws governing the public in wilderness include those found in United States Code (USC), principally Title 16, Conservation; and Title 18, Crimes and Criminal Procedure. A number of other laws potentially apply to federal lands under wilderness designation, such as Title 21, Food and Drugs. Where a federal law does not exist, non-conflicting state laws may be adopted as federal law under 18 USC Section 13.

Wilderness regulations are ultimately designed to protect people, natural and cultural resources and wilderness character. The majority of the regulations enforced in the wilderness of Sequoia and Kings Canyon National Parks are contained in Title 36 of the Code of Federal Regulations (36 CFR). The regulations in 36 CFR apply to all National Park System units nationwide, unless otherwise specified, and protect all units of the system in a consistent manner. Adoption of regulations, and changes to existing regulations, goes through established federal rule-making procedures, including an opportunity for public comment prior to the final rule adoption. Prohibitions on certain activities (such as bicycle use on trails and possession of pets) contained in CFR and applicable to all parks cannot be waived by individual park units; changes must go through the federal rule-making process.

Park units may promulgate local, park-specific regulations in order to meet specific regulatory needs not addressed by the general regulations in 36 CFR. These special park regulations are found in Part 7 of 36 CFR. As with other regulations, park-specific regulations must go through the federal rule-making process. Parks may also establish restrictions under the authority of 36 CFR Section 1.5, which are published annually (commonly referred to as the “Superintendent’s Compendium”) in accordance with the requirements in 36 CFR Section 1.7. This authority to establish temporary restrictions is beneficial for situations where regulatory requirements may change, such as meadow restrictions which frequently change from year to year based on usage and environmental conditions.

Public compliance with wilderness regulations and restrictions is achieved through pre-trip education and information efforts, educational contacts in the wilderness, verbal and written warnings for violations of rules and regulation, and citations for violations. Arrest is possible for significant crimes and violations in wilderness, but is historically rare. Pre-trip education is one of the most important factors in achieving compliance with wilderness regulations and takes many forms, such as web-based information, publications and guidebooks, and in-person education during the permitting process.

Compliance with regulations is checked and monitored by park rangers assigned to patrol duties. Park rangers patrolling wilderness may be either non-commissioned rangers or commissioned law enforcement

rangers with arrest authority. Non-commissioned rangers will address minor violations by further educating the users regarding the regulation and purpose of the regulation. Non-commissioned rangers will also provide informal warnings to users violating regulations. Rangers with law enforcement authority will also address minor violations with education and warnings; more significant violations or repeat violations may result in a violation notice.

The level of enforcement for any particular violation of regulations is generally based on the egregiousness of the particular violation. Relatively few violations result in a violation notice, and most are addressed through educational efforts and warnings. The foundation of regulation compliance and enforcement will be education for wilderness users during the in-person permit issuing process. The regulations, and purpose of the regulations, will be thoroughly explained when park staff help users with pre-trip planning and when the permit is issued.

Enforcement of laws and regulations in parks is a means to ensure public safety, protect users' experience, and prevent conflicts. Enforcement is also an important means to protect wilderness resources and preserve wilderness character.

TITLE 36 CODE OF FEDERAL REGULATIONS

Title 36 of the Code of Federal Regulations (36 CFR) Parts 1 – 199 are the primary regulations enforced in the wilderness, and throughout parks. These regulations apply to National Park Service units generally and are not specific to wilderness. Some sections of 36 CFR allow for adoption of local state codes. Violations of 36 CFR regulations are misdemeanors. Penalties (fines) are not retained by the park, and are deposited to the U.S. Treasury.

36 CFR Part 1, General Provisions. Part 1, establishes scope, definitions, penalties and authorities of the regulations contained in 36 CFR. Section 1.5 gives the superintendent authority to establish special restrictions and conditions of use within a park unit. This authority is used to establish the wilderness permit requirement along with permit conditions.

Permit conditions, and a variety of other special public use conditions, are established in the Superintendent's Compendium and reviewed and approved annually. The conditions of the wilderness permit are listed on the annual Minimum Impact Restriction sheet issued with each wilderness permit (see excerpts from wilderness trip planner in next section). These conditions are intended to guide wilderness visitors in the proper use of wilderness in a manner that is consistent with maintaining wilderness character. The conditions have the force of regulation, and are used to govern activities prohibited by the Wilderness Act, and for which no stand-alone regulation exists, such as the use of a generator.

36 CFR Part 2, Resource Protection and Public Use and Recreation. Part 2 is the mainstay in providing regulatory protection for park resources and governing human activities within National Parks. The enforcement of these regulations provides direct protection to the park's wildlife, plants, cultural resources, geologic resources, and ecosystems, which protects the natural quality of wilderness character. Other regulations within Part 2 govern human behavior and regulate noise, aircraft landings, pets, property, memorializing and residing. These regulations protect the unconfined recreation and undeveloped qualities of wilderness.

36 CFR Part 3, Boating and Water Use Activities. Part 3 regulates boating, swimming and other water activities. There is limited applicability to these regulations in the Sequoia and Kings Canyon Wilderness but these regulations would apply to white water boating, boating on lakes and restricting swimming activities if there were closures.

36 CFR Part 4, Vehicles and Traffic Safety. Part 4 is designed to regulate motor vehicle traffic in National Parks and has very limited applicability in the Sequoia and Kings Canyon wilderness areas. Off-road motor vehicle use in wilderness would be prohibited under 36 CFR section 4.10. While portions of roads are within wilderness (the Oriole Lake and Milk Ranch roads), the roads are closed to public use. Authorized private land owners in the Oriole Lake area, and limited administrative use (subject to a Minimum Requirements Analysis), are the only permitted uses.

36 CFR Part 5, Commercial and Private Operations. Part 5 regulations govern business operations in the National Parks. The enforcement of these regulations in the Sequoia and Kings Canyon wilderness are primarily related to individuals conducting unauthorized business in the wilderness in violation of 36 CFR 5.3.

36 CFR Part 7 Special Regulations, Areas of the National Park System. Part 7 establishes particular regulations for individual park units. 36 CFR 7.8 applies to Sequoia and Kings Canyon National Parks, it has limited applicability to wilderness, although 36 CFR 7.8(a) confines pets to frontcountry areas and 36 CFR 7.8(b) may be used to regulate fishing.

CIVIL PENALTIES FOR RESOURCE DAMAGE

In addition to criminal penalties for violations of park laws and regulations, any violation resulting in significant damage to park resources may be subject to civil penalties. The Park System Resource Protection Act (codified in 16 USC 19jj) allows for civil penalties related to resource damage. Revenue from penalties may be used for restoration and rehabilitation of damaged lands. In addition to 19jj, courts may also independently impose restitution fees during criminal proceedings. These funds are typically payable directly to parks for restoration or rehabilitation of damaged lands.

WILDERNESS PERMIT CONDITIONS AND LEAVE NO TRACE[®]

Wilderness permits are required for all overnight travel. By acquiring the permit, the visitor has agreed to comply with the restrictions contained within the permit. Failure to abide by the specific conditions set forth in the permit constitutes a violation of 36 CFR 1.6(g)(2). These conditions are generally communicated to the public through annual printed material (and available on the parks' website) often titled Minimum Impact Restrictions and Stock Use and Grazing Restrictions and other topic specific handouts. Wilderness permit conditions and requirements have integrated Leave No Trace[®] concepts. Leave No Trace[®] is a national education program that promotes the responsible enjoyment and active stewardship of the outdoors (www.lnt.org). The NPS is one of many partners encouraging everyone to practice the seven principles of Leave No Trace[®].

Examples of Leave No Trace[®] for the Sierra Nevada and wilderness permit conditions include:

Plan Ahead and Prepare. Know the restrictions, regulations, and special concerns for the area you will visit. Prepare for extreme weather, hazards, and emergencies. Visit in small groups when possible. Select terrain, mileage, and elevation changes that match the skills and abilities of your group. Carry appropriate food, clothing, equipment, and water. Ensure you have the essentials. Repackage food to minimize waste.

Travel and Camp on Durable Surfaces. Never camp on vegetation, especially meadows. Camp on locations on bare ground, such as established sites, rock, gravel, or snow. Avoid camping beneath dead trees or overhanging dead branches. Protect riparian areas by camping at least 100 ft. from water where terrain permits. Campsites must always be at least 25 ft. from water (36 CFR 2.10(a)(3)). Good campsites are found, not made. "Improvements" such as rock walls, trenches, or bough beds are prohibited (36 CFR

2.10(a)(5)). Building new fire rings is prohibited. Short-cutting trails is prohibited. Stay on trails to reduce erosion and preserve vegetation. Do not build rock cairns or other trail markers.

Dispose of Waste Properly. Pack out all trash, leftover food, and litter. Inspect your campsite and rest areas for trash or spilled foods. Deposit solid human waste in cat holes dug 6 to 8 inches deep at least 100 ft. from water, campsites, and trails. Cover and disguise the cat hole when finished. Pack out toilet paper and hygiene products. Bring plastic baggies solely for this purpose. Never wash yourself, dishes, or clothes directly in a water source. Carry water for these purposes at least 100 ft. away from streams and lakes. Scatter strained dishwater.

Leave What You Find. Preserve the past. Do not take or disturb cultural or historic artifacts. Leave rocks, plants and other natural objects as you find them (36 CFR 2.1). Avoid introducing or transporting non-native species - brush off your boots and clean your trekking poles before and after your trip.

Minimize Campfire Impacts. Campfires can cause lasting impacts. You create the least impact if you use only a stove for cooking and forego the campfire. Where fires are permitted, use established fire rings. Do not build new ones or enlarge existing ones. Keep fires small. Only use dead wood from the ground that can be broken by hand. Always attend the fire. Completely extinguish campfires by drowning with water (not dirt) and stirring until all heat is gone. Do not place aluminum foil (foil does not burn), cans or plastic (when burned it emits toxic fumes) in fires. Thoroughly sift through the ashes with a stick and remove unburned trash and pack it out.

Respect Wildlife. Observe wildlife from a distance. Do not follow, disturb, or approach them. Never feed animals (36 CFR 2.2). Feeding wildlife damages their health, alters natural behaviors, and exposes them to predators. Protect wildlife and your food by storing food and trash securely.

Be Considerate of Other Visitors. Respect other visitors and protect the quality of their experience. Be courteous. Yield to other users on the trail. Take breaks and camp away from trails and other visitors. Let nature's sounds prevail. Avoid loud voices and noises (36 CFR 2.12 and 36 CFR 2.34).

Leave No Trace[®] (LNT) guidelines ensure the general preservation of wilderness character and resources. There are specific situations, however, that necessitate more stringent restrictions than the LNT guidelines. These parks will on occasion implement restrictions that are more rigorous than the general LNT guidelines, specifically as conditions of wilderness permits.

TEMPORARY VARIANCES

Variances to selected restrictions could be made for party size, access, campfire limits, meadow opening dates, number of stock per trip, number of nights per area, number of stock per area, etc., depending on special, compelling circumstances. Such variances may be granted in rare case-by-case instances to accommodate special visitor needs where the effects on wilderness character, park resources, and other visitors would be within acceptable limits. Short-term or one-time-only variances proposed by visitors would be individually considered by the superintendent, and, if approved would likely be subject to special conditions. Requests for variances should be made in writing at least four weeks in advance to provide adequate time for consideration.

PUBLIC INFORMATION

A variety of means are used to convey regulatory information to the general public. The park's website, as well as the national NPS website, provides information about regulations, restrictions, temporary closures, public use limits, and special announcements. Park-produced handouts and press releases are

also used to communicate regulatory information to the public. Wilderness-specific information is made available to visitors through a variety of means. The Wilderness Trip Planner, produced by the park and updated periodically, provides a wealth of information to help users plan their trip. This includes general safety information, recommendations on minimizing the environmental impact of their actions (including the Leave No Trace[®] program), and regulatory information.

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