

CHAPTER 5.0 COMPLIANCE WITH APPLICABLE LAWS, REGULATIONS AND POLICIES

The following laws, regulations and policies were considered in the preparation of this GMP/EIS. NPS may undertake future compliance measures to meet the requirements of these laws and regulations during implementation of the plan.

NATIONAL PARK SERVICE ORGANIC ACT OF 1916 (16 USC §§ 1-4, 39 STAT. 535)

The Organic Act established the NPS and directs the agency to, "... promote and regulate the use of the Federal areas known as national parks, monuments, and reservations... by such means and measures as conform to the fundamental purpose of the said parks, monuments and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wild life 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." Importantly, for all planning processes in the park system, the Organic Act provides a fundamental standard for management – that park resources should remain "unimpaired" for the enjoyment of future generations.

ENDANGERED SPECIES ACT OF 1973, AS AMENDED (16 USC § 1531 ET SEQ.)

The purpose of this act is to provide protection for animal and plant species that are currently in danger of extinction (endangered) and those that may become so in the foreseeable future (threatened). Section 7 requires all federal agencies to ensure that their activities do not have adverse impacts on the continued existence of threatened or endangered species or on designated areas (critical habitats) that are important in conserving those species. Thus, the NPS is required to fully integrate endangered species conservation planning into park system management.

There are no known federally listed threatened or endangered species in Great Falls Park or within the immediately surrounding area. Therefore, the law is not applicable to the recommendations in the GMP/EIS. In the future, if NPS action is likely to affect a federally listed threatened or endangered species, the park would consult with the U.S. Fish and Wildlife Service Agencies for their review of that action.

NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (NEPA; 42 USC § 4321 ET SEQ.) AND NPS DIRECTORS ORDER #12 (DO-12)

This act sets forth the federal policy to preserve important historic, cultural, and natural aspects of our national heritage. NEPA directs federal agencies to use a systematic, interdisciplinary approach that integrates natural and social sciences in planning and decision making that may impact the human environment. NEPA also created the Council on Environmental Quality (CEQ) that provides guidance on implementing NEPA. In accordance with CEQ guidelines, which require federal agencies to "implement procedures to make the NEPA process more useful to agency decision-makers and the public," the NPS prepared DO-12 as its NEPA policy handbook.

The GMP/EIS for Great Falls Park was prepared pursuant to NEPA and its implementing regulations and guidelines, including DO-12. Implementation of the GMP/EIS will require continued adherence to NEPA. Projects that are identified in the GMP/EIS may require further environmental review in accordance with NEPA before they can be implemented.

NEPA, CEQ, and DO-12 describe the process a proposed federal action such as this plan must follow. Amongst the steps, an agency is required to follow a structured format for public involvement during the preparation of the plan. As described under Section 6.1 (Planning Process and Public Involvement) of this document, the park conducted scoping at the onset of preparing the plan, published three newsletters, conducted two open houses, and released a Draft GMP/EIS for public comments for more than 60 days. Thirty days after the issuance of the Final GMP/EIS, the park intends to prepare and issue a Record of Decision concluding the NEPA process for the Great Falls Park GMP/EIS.

NATIONAL HISTORIC PRESERVATION ACT OF 1966, AS AMENDED (16 USC § 470, ET SEQ.)

This act establishes as federal policy that the historical and cultural foundations of the nation's heritage be preserved. The National Historic Preservation Act (NHPA) is applicable to the preparation of the GMP/EIS since the section of the Patowmack Canal within the park is a designated National Historic Landmark. Further, several features associated with the canal are listed or eligible for listing in the National Register of Historic Places, as discussed in Section 3.2.3 (Historic Resources) of this Plan. National Register eligible or listed properties and national historic landmarks are afforded special protection by the NHPA which requires federal agencies that have direct or indirect jurisdiction over undertakings to take into account the effect of those undertakings on such properties. The NHPA was taken into consideration during the preparation of the GMP/EIS for Great Falls Park.

Section 106 of the NHPA provides the Advisory Council on Historic Preservation and the State Historic Preservation Officer (SHPO) an opportunity to comment on the undertaking. The NPS provided a review copy of the Draft GMP/EIS and will further consult with the Virginia SHPO prior to undertaking any steps that could directly or indirectly affect any historic resources within the Great Falls Park.

CLEAN WATER ACT (CWA) OF 1977; RIVERS AND HARBORS ACT; EXECUTIVE ORDER 11988 (FLOODPLAIN MANAGEMENT) AND 11990 (PROTECTION OF WETLANDS); CHESAPEAKE BAY AGREEMENTS OF 1983 AND 1987; NPS MANAGEMENT POLICIES

The NPS and all NPS permitted actions are required to comply with Federal regulations, agreements, and policies that seek to avoid polluting surface and ground water, protect floodplains and wetlands, and improve water quality and aquatic species. Executive Order 11988 requires all Federal agencies to avoid construction within the 100-year floodplain unless no other practical alternative exists. Executive Order 11990 requires Federal agencies to avoid, where possible, impacts on wetlands.

Under the Preferred Alternative, the park would replace the maintenance facility with a new operations facility. The existing maintenance facility borders the western edge of the Potomac

River's 100-year floodplain, with a portion of the facility possibly within the floodplain. In accordance with DO #77-2 (Floodplain Management), the park would undertake a detailed study of this site to identify the extent of the floodplain to ensure that replacement facility does not exceed the potential area of the floodplain that may be covered by the existing maintenance facility. If portions of the replacement facility are found to be located within the 100-year floodplain, the park will prepare a Statement of Findings consistent with the DO #77-2.

Also under the Preferred Alternative, the NPS would prepare a Trails Management Plan (TMP). The purpose of the TMP would be to ensure that horseback riding, hiking, and mountain biking activities, as well as access to key areas for other activities such as climbing or interpretation, continue on designated trails in the park, but in a manner that is consistent with NPS's responsibility of protecting park resources. An evaluation of potential impacts from these activities on the park's sensitive natural resources including wetland areas will be conducted as part of the TMP.

AMERICAN HERITAGE RIVER ACT

The Potomac River is designated as an American Heritage River. The entire Potomac River Basin is included in the designation area. The action plan for the Potomac River involves dozens of communities and is aimed at three broad goals: continued improvement in water quality and environmental restoration along with development of effective flood control plans; promotion of the region's rich historical heritage and recreational opportunities; and involvement of citizens at local levels. The action plan is designed to improve communication and planning among the river's diverse communities and interests. The proposed activities associated with the alternatives discussed in the GMP/EIS generally support the goals of the Potomac River action plan for the American Heritage River initiative.

AMERICANS WITH DISABILITIES ACT OF 1990 (PL 101-336, 104 STAT. 327)

All new programs and facilities developed will be as accessible as possible to visitors with disabilities in keeping with the Americans with Disabilities Act (ADA). The park recently upgraded the overlook areas in accordance with requirements of the ADA. Within the GMP/EIS, the park proposes to upgrade one of the access ramps to the visitor center to comply with ADA.

NATIONAL PARK SERVICE CONCESSIONS MANAGEMENT IMPROVEMENT ACT OF 1998 (PUB. L. 105- 391, CODIFIED AT SCATTERED SECTIONS IN THE U.S. CODE)

This act provides the requirements under which commercial visitor services are authorized in units of the National Park System. According to Section 402(b), "development of public accommodations, facilities and services in units of the National Park System shall be limited to those accommodations, facilities and services that (1) are necessary and appropriate for public use and enjoyment of the unit of the national park system in which they are located; and (2) are consistent to the highest practicable degree with the preservation and conservation of the resources and values of the unit."

NATIONAL PARK SERVICE MANAGEMENT POLICIES 2006

The Management Policies (2006) are “the basic Service-wide policy document of the National Park Service.” Some of the underlying principles adhered to in the preparation of the policies include the following:

- “Comply with current laws, regulations and executive orders;
- Prevent impairment of park resources and values;
- Ensure that conservation will be predominant when there is a conflict between the protection of resources and their use;
- Reflect NPS goals and a commitment to cooperative conservation and civic engagement;
- Employ a tone that leaves no room for misunderstanding the National Park Service’s commitment to the public’s appropriate use and enjoyment, including education and interpretation, of park resources, while preventing unacceptable impacts; and
- Pass on to future generations natural, cultural, and physical resources that meet desired conditions better than they do today, along with improved opportunities for enjoyment.”