

*Question 1: What is the legal basis that allows for the establishment of dual pricing*

Because there are various legal aspects of this question which play a role, I will separate the answer into a few parts and build upon the previous answer.

Firstly, I will discuss the legal authority for an executive agency to determine the prices for national parks, particularly independent of congressional approval. Congress has authorized the Secretary of the Interior and the Secretary of Agriculture to establish and modify recreation fees for Federal recreational lands and waters, which includes National Parks. This has been authorized through the Federal Lands Recreation Enhancement Act (FLREA), which can be found here: <https://uscode.house.gov/view.xhtml?path=/prelim@title16/chapter87&edition=prelim>. This is a law passed by Congress. The Secretary may establish the price as they please as long as the price meets the following criteria:

1. The amount of the recreation fee is commensurate with the benefits and services provided to the visitor.
2. The Secretary must consider the aggregate effect of fees on recreation users and recreation service providers.
3. The Secretary must consider comparable fees charged elsewhere and by other public agencies.
4. The Secretary shall consider the objectives served by the fee.
5. The Secretary shall obtain input from the Recreation Resource Advisory Committee.
6. The Secretary shall consider other criteria as determined appropriate by the Secretary.

There is evidence the Trump administration has sought to meet some of these criteria with the implementation of Executive Order 14314. For example, the increased fees serve the purpose of generating additional funds for the National Parks considering a large amount of necessary maintenance on lands. This reasoning likely meets criteria 1 by improving services to visitors, criteria 2 by having a positive impact on recreation service providers, criteria 4 by having the explicit goal of funding necessary maintenance.

Additionally, the increased fees are stated to be in line with policies of other nations that assess different national park fees for domestic and international visitors. This matches with criteria 3. The analysis of the Trump Administration's Executive Order can be found here: <https://www.congress.gov/crs-product/IF13098>

The logic is virtually the same for the America the Beautiful Pass, which is subject to similar pricing guidelines as above.

In case it is unknown, I shall also explain the authority for Congress to give such power to an executive branch agency, compared to a congressional authority. Congress has historically given certain powers to executive branch agencies for the purpose of carrying out Congress' laws, which is the primary purpose of the executive branch, even though the President has some authority to act with his/her own discretion.

The Supreme Court has generally recognized that Congress has the constitutional authority to shape the federal bureaucracy to enact its will. Congress is authorized to use its Article 1 constitutional lawmaking powers to create federal agencies and design those agencies' operations. Congress specifically enumerates the duties and functions of a given agency through legislation. This analysis can be found here: <https://www.congress.gov/crs-product/R45442>

Now that I have established the legal authority for the Secretary of the Interior to establish prices, I will now look to explain the authority for dual pricing/price discrimination specifically. Currently, the legality of price discrimination based on citizenship status is in a gray area. There are not any laws which prohibit or allow it in this case. Additionally, lobbyists in support of this executive order have acknowledged that congressional legislation is necessary to make certain that price discrimination is legal and cannot be struck down by courts. There statement is here: <https://www.perc.org/2023/12/21/how-international-visitors-can-help-steward-our-national-parks/>

From a judicial standpoint, rather than a legislative one, there is some precedent that the Supreme Court allowed for less favorable treatment of non-citizens through various court rulings. Most relevant to this case, I believe, is Vergara v. Hampton, which upholds that the president has the authority to violate due process rights for non-citizens if that violation is justified by national interests. To understand the relevance of this case specifically, let's first look at the history. In a previous case, Hampton v. Mow Sun Wong, the Civil Service Commission (CSC) had instituted a restriction on non-citizens becoming civil servants. After a complaint was filed that this was unconstitutional, SCOTUS ruled saying the CSC could not implement such restrictions, as matters of international relations, foreigners, and citizenship were matters only authorized to be addressed by Congress and the President according to the Constitution, and therefore, an

agency did not have such power to create a regulation related to these issues. Following this case, President Ford signed an executive order doing the exact same thing that the CSC had tried to do. When a complaint was filed (in Vergara v. Hampton), SCOTUS upheld the executive order stating that the president can impact the civil service due to a previous law, and, more importantly, the President has authority to violate due process rights for non-citizens in the case of creating standards for civil servants-- if the violation is justified by national interests. This demonstrates that, compared to an executive agency, the president has constitutional authority to regulate the benefits and restrictions that non-residents have access to even through executive orders. You can find the analysis here: <https://www.studicata.com/summaries/united-states-court-of-appeals-seventh-circuit/vergara-v-hampton-1978-19f31v>

Therefore, because the Secretary of the Interior was guided to price discriminate based on a presidential executive order, and the presidential executive order stated that the purpose of the order was to fund billions of dollars in maintenance backlog for National Parks, it seems plausible to assume that the judicial precedent could uphold the executive order. To be clear, though, we cannot know for certain if this would hold in court until if/when this executive order is challenged. Until then, these thoughts are merely speculation.

*Question 2: What is the calculation basis/cost estimation used to determine the dual pricing rates?*

The original entrance fee was \$35 (for the major parks) per vehicle per park or \$80 for an annual pass (which covers an entire vehicle and can be used for as many park entrances as desired). These prices remain for American citizens. For non-residents, the price is changing from \$35 per park per vehicle to \$35 per park per vehicle AND a \$100 fee surcharge for each non-resident in the vehicle. The annual pass price is changing from \$80 to \$250 for non-residents, which still covers everyone in the vehicle.

Before explaining the economics behind this decision, I first want to establish some assumptions. If a non-resident looks to minimize cost, they will only choose the \$35 entrance fee + \$100 surcharge (\$135) if they are visiting only one park and only if they are traveling alone or with one other person. The price becomes \$135 if they travel alone, or \$235 if they travel with one other person. Just to demonstrate this, if this person is traveling alone and decides to visit two parks, they would have to pay \$135 per park, because both fees apply per park. This

would cost \$270. It is, obviously, even higher if traveling with one other person (\$470)

On the other hand, under the conditions that a non-resident is traveling alone and goes to more than one park, is traveling with one other person and goes to more than one park, or is traveling with more than one other person and goes to one park (or more), it is beneficial for that person to purchase the \$250 pass, even if they are in a situation where they only go to one park. Essentially, the \$250 annual pass can be considered as a base ticket price in the majority of cases, as most non-residents travel in groups.

The prices chosen, the \$135 and the \$250 are likely based off a report that studied adding surcharges to non-residents entering Yellowstone National Park. You can find the study here: <https://www.perc.org/wp-content/uploads/2025/06/PERC-Newbold-YNP-price-elasticities-20250606.pdf>

To summarize this study, its findings state that adding a surcharge of \$100 for international visitors would increase National Park revenue by 388%. Obviously, this precisely matches the \$100 surcharge mentioned in the Executive Order.

For the \$250, it's not as clear or explicitly stated. The following logic is my speculation. The study also states that the surcharge value where we start to see the shift from inelastic demand to elastic demand is \$233 (which would be a total of \$268 per ticket. \$35 + the \$233 surcharge). In case this meaning is unclear, price elasticity (basically, the amount of people that decide not to purchase something if the price increases by some value) is not linear. If we did assume that price elasticity is linear, the price elasticity for the national parks is so low for non-residents even at \$250 (price elasticity = 0.007), that you wouldn't see large amounts of non-residents deciding to not visit parks until the entrance price equals about \$19,000-20,000. Obviously, this is absurd. So, what one would expect to see is as we increase the price of the entrance fee, there will be a point where many non-residents decide that it is no longer worth the money to go to national parks. This occurs just past the "unit elastic point."

To illustrate this, imagine we increase the price from \$200 to \$225 to \$250 and each time, only a small, steady number of non-residents decide to no longer visit the park for each increase. Next, imagine we raise the price from \$250 to \$275 to \$300 and suddenly there is a rapid increase in the number of non-residents who decide to no longer visit the park for each increase. This is the shift from inelastic demand to elastic demand, and, ideally, we want to create a price that sits right in

the middle of these two phenomena. To maximize revenue, we want to find the "unit elastic point," which is the exact point where visitors shift from going to a national park no matter the price (if this IS still the case, it means you can keep raising the price) to the point where the percentage of visitors deciding to not go to a national park for each additional price accelerates. In summary, to maximize revenues, we want to find the unit elastic price, which is before the point of inflection, but not too far away from this point either.

With this understanding, I already mentioned that the study says that we are starting to see a decrease in visitors more rapidly at around \$268 per entrance fee (note: this is per entrance fee and is NOT the annual pass). Therefore, it feels reasonable to assume that the Secretary of the Interior believes that the unit-elastic point is roughly around \$250 per entrance fee, and therefore also believes this is the revenue maximizing price.

However, this may be confusing because the price per entrance fee is \$135, and the \$250 is an annual pass. Consider that I stated in most situations it is minimizing the cost for non-residents to purchase the annual pass, even if that annual pass is used for a single park. In this way, the price of the annual pass virtually serves as the unit entrance fee price, as many non-residents should buy the annual pass even if they only use it at one park. Therefore, even though there are two different ticket options, the Secretary of the Interior has essentially set the entrance fee price at \$250, which is likely close to the unit elastic point.

To be certain, there is limited data available even to the National Parks Services and Secretary of the Interior, as they have not raised park prices like this before. Therefore, to some extent, this is merely a guessing game for them.