

# Appendix F: Compliance Requirements and Authorizing Legislation



## Appendix F: Compliance Requirements

The following pages contain the full text of the Detroit River IWR Establishment Act, a Memorandum of Understanding between the Department of the Interior and United States Coast Guard, and a list of laws and orders that guide Refuge management.

Public Law 107-91 Detroit River International Wildlife Refuge Establishment Act

One Hundred Seventh Congress of the United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Wednesday, the third day of January, two thousand and one

An Act

To provide for the establishment of the Detroit River International Wildlife Refuge in the State of Michigan, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

### SECTION 1. SHORT TITLE.

This Act may be cited as the “Detroit River International Wildlife Refuge Establishment Act”.

### SEC. 2. FINDINGS.

The Congress finds the following:

1. The Detroit River, one of North America’s greatest rivers, was created some 14,000 years ago during the retreat of the Wisconsin Glacier.
2. The present river channel, established when falling water levels permitted erosion of the Lake Plain and moraines, is a connecting channel linking the Upper and Lower Great Lakes, as well as linking the United States to Canada.
3. The Lower Detroit River ecosystem is diverse with a number of distinct channels, numerous shoals that support dense stands of aquatic plants, and many islands. These nationally and internationally significant habitats and ecological features attract as many as 29 species of waterfowl and 65 kinds of fish.
4. The Detroit River is a major migration corridor for fish, butterflies, raptors, and other birds, in addition to waterfowl. Over 300 species of birds have been documented in the Detroit-Windsor area, of which about 150 species breed in the immediate area.
5. Because the Great Lakes are situated at the intersection of the Atlantic and Mississippi Flyways, the Detroit River is an important waterfowl migration corridor. 3,000,000 ducks, geese, swans, and coots migrate annually through the Great Lakes region.
6. The importance of this corridor is recognized in the Canada-United States North American Waterfowl Management Plan that has identified the Detroit River as part of one of 34 Waterfowl Habitat Areas of Major Concern in the United States and Canada.
7. Some 300,000 diving ducks stop in the Lower Detroit River on their fall migration from Canada to the east and south each year to rest and feed in beds of water celery found in the region.

8. The international importance of the Lower Detroit River area is manifested in the United States congressional designation of the 460-acre Wyandotte National Wildlife Refuge.
9. Canada's Canard River Marsh Complex is an internationally significant waterfowl staging area which is one of the main resting and feeding areas for canvasbacks migrating from their nesting grounds in the Canadian prairies to the East Coast. Many over-winter in the area as well.
10. The diversity of biota and habitats in the Lower Detroit River ecosystem provides substantial benefits to the over 5,000,000 people who live in the vicinity. The Lower Detroit River has an international reputation for duck hunting. On an economic basis, retail sales related to waterfowl hunting in Michigan were estimated in 1991 to be \$20,100,000. During the same year birding, photography, and other nonconsumptive uses of waterfowl contributed an additional \$192,800,000 in Michigan.
11. More than 1,000,000 pleasure boats are registered in Michigan and about half of those are used on the Detroit River and Lake St. Clair, in part to fish for the estimated 10,000,000 walleye that migrate to the Detroit River each spring from Lake Erie to spawn. These walleye have helped create an internationally renowned sport fishery estimated to bring in \$1,000,000 to the economy of communities along the lower Detroit River each spring.
12. All of these natural resource values and socioeconomic benefits were acclaimed when the Detroit River was designated an American Heritage River in 1998. The Detroit River is also a Canadian Heritage River, making it the first international heritage river system in the world.
13. The Detroit River has lost over 95 percent of its coastal wetland habitats and despite increased awareness and supporting science of their importance, habitats continue to be destroyed and degraded.
14. Protection of remaining wildlife habitats and enhancement of degraded wildlife habitats are essential to sustain the quality of life enjoyed by so many living along the Detroit River corridor.

### SEC. 3. DEFINITIONS.

For purposes of this Act:

1. The term "Refuge" means the Detroit River International Wildlife Refuge established by section 5.
2. The term "Secretary" means the Secretary of the Interior.
3. The term "Detroit River" means those lands and waters within the area described in section 5(a).

### SEC. 4. PURPOSES.

The purposes for which the Refuge is established and shall be managed are as follows:

1. To protect the remaining high-quality fish and wildlife habitats of the Detroit River before they are lost to further development and to restore and enhance degraded wildlife habitats associated with the Detroit River.
2. To assist in international efforts to conserve, enhance, and restore the native aquatic and terrestrial community characteristics of the Detroit River (including associated fish, wildlife, and plant species) both in the United States and Canada.
3. To facilitate partnerships among the United States Fish and Wildlife Service, Canadian national and provincial authorities, State and local governments, local communities in the United States and in Canada, conservation organizations, and other non-Federal entities to promote public awareness of the resources of the Detroit River.

SEC. 5. ESTABLISHMENT OF REFUGE.

- (a) BOUNDARIES. – There is hereby established the Detroit River International Wildlife Refuge, consisting of the lands and waters owned or managed by the Secretary pursuant to this Act in the State of Michigan within the area extending from the point in Michigan directly across the river from northernmost point of Ojibway Shores to the southern boundary of the Sterling State Park, as depicted upon a map entitled “Detroit River International Wildlife Refuge Proposed”, dated July 31, 2001, which shall be available for inspection in appropriate offices of the United States Fish and Wildlife Service.
- (b) EXISTING REFUGE LANDS. – The Wyandotte National Wildlife Refuge is hereby included within, and shall be a part of, the Detroit River International Wildlife Refuge. All references to the Wyandotte National Wildlife Refuge shall hereafter be treated as references to the Detroit River International Wildlife Refuge.
- (c) BOUNDARY REVISIONS. – The Secretary may make such revisions of the boundaries of the Refuge as may be appropriate to carry out the purposes of the Refuge or to facilitate the acquisition of property within the Refuge.
- (d) ACQUISITION. – The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange the lands and waters, or interests therein (including conservation easements), within the boundaries of the Refuge.
- (e) TRANSFERS FROM OTHER AGENCIES. – Any Federal property located within the boundaries of the Refuge which is under the administrative jurisdiction of another department or agency of the United States may, with the concurrence of the head of administering department or agency, be transferred without consideration to the administrative jurisdiction of the Secretary for the purposes of this Act.
- (f) STUDY OF ASSOCIATED AREA. – The Secretary (acting through the Director of the United States Fish and Wildlife Service) shall conduct a study of fish and wildlife habitat and aquatic and terrestrial communities of the north reach of the Detroit River, from the northernmost point of Ojibway Shores north to the mouth of Lake St. Clair, for potential inclusion in the Refuge. Not later than 18 months after the date of the enactment of the Act, the Secretary shall complete such study and submit a report containing the results thereof to the Congress.

SEC. 6. ADMINISTRATION.

- (a) IN GENERAL. – The Secretary shall administer all federally owned lands, waters, and interests therein that are within the boundaries of the Refuge in accordance with the National Wildlife Refuge System Administration Act (16 U.S.C. 668dd et seq.) and this Act. The Secretary may use such additional statutory authority as may be available for the conservation of fish and wildlife, and H. R. 1230—4 the provision of fish and wildlife dependent recreational opportunities as the Secretary considers appropriate to carry out the purposes of this Act.
- (b) PRIORITY USES. – In providing opportunities for compatible fish and wildlife dependent recreation, the Secretary, in accordance with paragraphs (3) and (4) of section 4(a) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)), shall ensure that hunting, fishing, wildlife observation and photography, and environmental education and interpretation are the priority public uses of the Refuge.
- (c) COOPERATIVE AGREEMENTS REGARDING NONFEDERAL LANDS. – The Secretary is authorized to enter into cooperative agreements with the State of Michigan, or any political subdivision thereof, and with any other person or entity for the management in a manner consistent with this Act of lands that are owned by such State, subdivision, or other person or entity and located within the boundaries of the

Refuge and to promote public awareness of the resources of the Detroit River International Wildlife Refuge and encourage public participation in the conservation of those resources.

- (d) USE OF EXISTING GREENWAY AUTHORITY. – The Secretary shall encourage the State of Michigan to use existing authorities under the Transportation Equity Act for the 21st Century (TEA– 21) to provide funding for acquisition and development of trails within the boundaries of the Refuge.

#### SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of the Interior –

- (1) such sums as may be necessary for the acquisition of lands and waters within the Refuge;
- (2) such sums as may be necessary for the development, operation, and maintenance of the Refuge; and
- (3) such sums as may be necessary to carry out the study under section 5(f).

Speaker of the House of Representatives. Vice President of the United States and President of the Senate.

#### Transcription of Memorandum of Understanding between Department of Interior and United States Coast Guard:

WHEREAS, under date of 13 November 1843, the President of the United States of America did execute an Executive Order wherein the islands known as Grassy and Mamajuda (also known as Mammajuda or Mammy Juda) situated in the Detroit River, Wayne County, Michigan, were reserved from the Public Domain for lighthouse purposes and,

WHEREAS, the Congress of the United States on 3 August 1961 did enact Public Law 87-119 wherein Grassy and Mamajuda Islands were established and designated as the Wyandotte National Wildlife Refuge, to be administered by the Secretary of the Interior in accordance with laws and regulations relating to national wildlife refuges and,

WHEREAS, the Commandant of the United States Coast Guard has accomplished the administrative transfer of Grassy and Mamajuda Islands to the Department of the Interior, Bureau of Sport Fisheries and Wildlife, pursuant to Public Law 87-119 and,

WHEREAS, the United States Coast Guard has a continuous need for the lighted aids to navigation presently located on the two Islands and designated the Grassy Island Light (LL 821), the Grassy Island North Channel Range Front and Rear Lights (LL 847 and LL 849), the Mamajuda Light (LL 817), THEREFORE,

IT IS MUTUALLY UNDERSTOOD AND AGREED THAT, the United States Coast Guard shall:

- (a) have the right and privilege in perpetuity to operate and maintain aids to navigation on Grassy and Mamajuda Islands,
- (b) have the right and privilege of ingress and egress for purposes incident to the servicing and maintaining of the aids to navigation, and

- (c) have the right and privilege to relocate the aids to navigation as changing marine traffic patterns in the Detroit River dictate.

IT IS FURTHER UNDERSTOOD AND AGREED THAT, the Director, Bureau of Sport Fisheries and Wildlife, Department of the Interior, shall ensure full protection of the United States Coast Guard's interests in its aids to navigation in any permit, license, or lease for use of any part of, or all, of Grassy and Mamajuda Islands by other Federal agencies, by State, municipal, or local governments, or by private individuals or concerns.

Signed July 31, 1964 by Bureau of Sport Fisheries and Wildlife and August 18, 1964 by United States Coast Guard.

## Compliance Requirements

*Rivers and Harbor Act (1899) (33 U.S.C. 403):* Section 10 of this Act requires the authorization by the U.S. Army Corps of Engineers prior to any work in, on, over, or under a navigable water of the United States.

*Antiquities Act (1906):* Authorizes the scientific investigation of antiquities on Federal land and provides penalties for unauthorized removal of objects taken or collected without a permit.

*Migratory Bird Treaty Act (1918):* Designates the protection of migratory birds as a Federal responsibility. This Act enables the setting of seasons, and other regulations including the closing of areas, Federal or non-Federal, to the hunting of migratory birds.

*Migratory Bird Conservation Act (1929):* Establishes procedures for acquisition by purchase, rental, or gift of areas approved by the Migratory Bird Conservation Commission.

*Fish and Wildlife Coordination Act (1934), as amended:* Requires that the Fish and Wildlife Service and State fish and wildlife agencies be consulted whenever water is to be impounded, diverted or modified under a Federal permit or license. The Service and State agency recommend measures to prevent the loss of biological resources, or to mitigate or compensate for the damage. The project proponent must take biological resource values into account and adopt justifiable protection measures to obtain maximum overall project benefits. A 1958 amendment added provisions to recognize the vital contribution of wildlife resources to the Nation and to require equal consideration and coordination of wildlife conservation with other water resources development programs. It also authorized the Secretary of Interior to provide public fishing areas and accept donations of lands and funds.

*Migratory Bird Hunting and Conservation Stamp Act (1934):* Authorized the opening of part of a refuge to waterfowl hunting.

*Historic Sites, Buildings and Antiquities Act (1935), as amended:* Declares it a national policy to preserve historic sites and objects of national significance, including those located on refuges. Provides procedures for designation, acquisition, administration, and protection of such sites.

*Refuge Revenue Sharing Act (1935), as amended:* Requires revenue sharing provisions to all feehold ownerships that are administered solely or primarily by the Secretary through the Service.

*Bald and Golden Eagle Protection Act, 1940*

*Transfer of Certain Real Property for Wildlife Conservation Purposes Act (1948):* Provides that upon a determination by the Administrator of the General Services Administration, real property no longer needed by a Federal agency can be transferred without reimbursement to the Secretary of Interior if the land has particular value for migratory birds, or to a State agency for other wildlife conservation purposes.

*Federal Records Act (1950):* Directs the preservation of evidence of the government's organization, functions, policies, decisions, operations, and activities, as well as basic historical and other information.

*Fish and Wildlife Act (1956):* Established a comprehensive national fish and wildlife policy and broadened the authority for acquisition and development of refuges.

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*Detroit River International Wildlife Refuge / Comprehensive Conservation Plan*

*Refuge Recreation Act (1962)*: Allows the use of refuges for recreation when such uses are compatible with the refuge's primary purposes and when sufficient funds are available to manage the uses.

*Wilderness Act (1964), as amended*: Directed the Secretary of Interior, within 10 years, to review every roadless area of 5,000 or more acres and every roadless island (regardless of size) within National Wildlife Refuge and National Park Systems and to recommend to the President the suitability of each such area or island for inclusion in the National Wilderness Preservation System, with final decisions made by Congress. The Secretary of Agriculture was directed to study and recommend suitable areas in the National Forest System.

*Land and Water Conservation Fund Act (1965)*: Uses the receipts from the sale of surplus Federal land, outer continental shelf oil and gas sales, and other sources for land acquisition under several authorities.

*National Wildlife Refuge System Administration Act (1966), as amended by the National Wildlife Refuge System Improvement Act (1997)* 16 U.S.C. 668dd668ee. (*Refuge Administration Act*): Defines the National Wildlife Refuge System and authorizes the Secretary to permit any use of a refuge provided such use is compatible with the major purposes for which the refuge was established. The Refuge Improvement Act clearly defines a unifying mission for the Refuge System; establishes the legitimacy and appropriateness of the six priority public uses (hunting, fishing, wildlife observation and photography, or environmental education and interpretation); establishes a formal process for determining compatibility; established the responsibilities of the Secretary of Interior for managing and protecting the System; and requires a Comprehensive Conservation Plan for each refuge by the year 2012. This Act amended portions of the Refuge Recreation Act and National Wildlife Refuge System Administration Act of 1966.

*National Historic Preservation Act (1966), as amended*: Establishes as policy that the Federal Government is to provide leadership in the preservation of the nation's prehistoric and historic resources.

*Architectural Barriers Act (1968)*: Requires federally owned, leased, or funded buildings and facilities to be accessible to persons with disabilities.

*National Environmental Policy Act (1969)*: Requires the disclosure of the environmental impacts of any major Federal action significantly affecting the quality of the human environment.

*Uniform Relocation and Assistance and Real Property Acquisition Policies Act (1970), as amended*: Provides for uniform and equitable treatment of persons who sell their homes, businesses, or farms to the Service. The Act requires that any purchase offer be no less than the fair market value of the property.

Clean Air Act, 1970

*Endangered Species Act (1973)*: Requires all Federal agencies to carry out programs for the conservation of endangered and threatened species.

*Rehabilitation Act (1973)*: Requires programmatic accessibility in addition to physical accessibility for all facilities and programs funded by the Federal government to ensure that anybody can participate in any program.

*Archaeological and Historic Preservation Act (1974)*: Directs the preservation of historic and archaeological data in Federal construction projects.

*Fishery (Magnuson) Conservation and Management Act, 1976*

*Clean Water Act (1977)*: Requires consultation with the Corps of Engineers (404 permits) for major wetland modifications.

*Surface Mining Control and Reclamation Act (1977) as amended (Public Law 95-87) (SMCRA)*: Regulates surface mining activities and reclamation of coal-mined lands. Further regulates the coal industry by designating certain areas as unsuitable for coal mining operations.

*Executive Order 11988 (1977)*: Each Federal agency shall provide leadership and take action to reduce the risk of flood loss and minimize the impact of floods on human safety, and preserve the natural and beneficial values served by the floodplains.

*Executive Order 11990*: Executive Order 11990 directs Federal agencies to (1) minimize destruction, loss, or degradation of wetlands and (2) preserve and enhance the natural and beneficial values of wetlands when a practical alternative exists.

*Executive Order 12372 (Intergovernmental Review of Federal Programs)*: Directs the Service to send copies of the Environmental Assessment to State Planning Agencies for review.

*Executive Order 11644, Use of Off-Road Vehicles on Public Land*

*Executive Order 12962, Recreational Fisheries*

*Executive Order 13084, Consultation/Coordination with Tribal Governments*

*Executive Order 11987, Exotic Organisms*

*American Indian Religious Freedom Act (1978)*: Directs agencies to consult with native traditional religious leaders to determine appropriate policy changes necessary to protect and preserve Native American religious cultural rights and practices.

*Fish and Wildlife Improvement Act (1978)*: Improves the administration of fish and wildlife programs and amends several earlier laws including the Refuge Recreation Act, the National Wildlife Refuge System Administration Act, and the Fish and Wildlife Act of 1956. It authorizes the Secretary to accept gifts and bequests of real and personal property on behalf of the United States. It also authorizes the use of volunteers on Service projects and appropriations to carry out a volunteer program.

*Archaeological Resources Protection Act (1979), as amended*: Protects materials of archaeological interest from unauthorized removal or destruction and requires Federal managers to develop plans and schedules to locate archaeological resources.

*Federal Farmland Protection Policy Act (1981), as amended*: Minimizes the extent to which Federal programs contribute to the unnecessary and irreversible conversion of farmland to nonagricultural uses.

*Emergency Wetlands Resources Act (1986)*: Promotes the conservation of migratory waterfowl and offsets or prevents the serious loss of wetlands by the acquisition of wetlands and other essential habitats.

*Federal Noxious Weed Act (1990)*: Requires the use of integrated management systems to control or contain undesirable plant species, and an interdisciplinary approach with the cooperation of other Federal and State agencies.

*Native American Graves Protection and Repatriation Act (1990)*: Requires Federal agencies and museums to inventory, determine ownership of, and repatriate cultural items under their control or possession.

*Americans With Disabilities Act (1992)*: Prohibits discrimination in public accommodations and services.

*Executive Order 12898 (1994)*: Establishes environmental justice as a Federal government priority and directs all Federal agencies to make environmental justice part of their mission. Environmental justice calls for fair distribution of environmental hazards.

*Executive Order 12996 Management and General Public Use of the National Wildlife Refuge System (1996)*: Defines the mission, purpose, and priority public uses of the National Wildlife Refuge System. It also presents four principles to guide management of the System.

*Executive Order 13007 Indian Sacred Sites (1996)*: Directs Federal land management agencies to accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners, avoid adversely affecting the physical integrity of such sacred sites, and where appropriate, maintain the confidentiality of sacred sites.

*National Wildlife Refuge System Improvement Act (1997)*: Considered the “Organic Act of the National Wildlife Refuge System. Defines the mission of the System, designates priority wildlife-dependent public uses, and calls for comprehensive refuge planning.

*National Wildlife Refuge System Volunteer and Community Partnership Enhancement Act (1998)*: Amends the Fish and Wildlife Act of 1956 to promote volunteer programs and community partnerships for the benefit of national wildlife refuges, and for other purposes.

*National Trails System Act*: Assigns responsibility to the Secretary of Interior and thus the Service to protect the historic and recreational values of congressionally designated National Historic Trail sites.

