

# APPENDIX A: LAWS AND REGULATIONS

Many procedural and substantive requirements of federal and applicable state and local laws and regulations affect refuge and park establishment, management, and development. The following list identifies the key federal laws and policies that were considered during the planning process or that could affect future refuge and park management.

**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.

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

**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.

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

**Archeological 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.

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

**Bald and Golden Eagle Protection Act (1940):** Prohibits the taking or possession of and commerce in bald and golden eagles, with limited exceptions.

**Clean Air Act of 1977, as amended:** Establishes federal standards for various pollutants from both stationary and mobile sources and provides for the regulation of polluting emissions via state implementation plants. In addition, and of special interest for national wildlife refuges, some amendments are designed to prevent significant deterioration in certain areas where air quality exceeds national standards, and to provide for improved air quality in areas which do not meet federal standards ("non-attainment" areas). Federal facilities are required to comply with air

quality standards to the same extent as nongovernmental entities (42 USC 7418).

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

**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 habitat.

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

**Executive Order No. 11593, "Protection and Enhancement of the Cultural Environment" (1971):** Requires federal agencies to consult with federal and state historic preservation officers if any development activities would affect the archeological or historical sites, in compliance with section 106 of the National Historic Preservation Act of 1966, as amended.

**Executive Order 11987, "Exotic Organisms" (1977):** Requires federal agencies, to the extent permitted by law, to restrict the introduction of exotic species into the natural ecosystems on lands and waters owned or leased by the United States; to encourage states, local governments, and private citizens to prevent the introduction of exotic species into natural ecosystems of the United States; to restrict the importation and introduction of exotic species into any natural U.S. ecosystems as a result of activities they undertake, fund, or authorize; and to restrict the use of federal funds, programs, or authorities to export native species for introduction into ecosystems outside the U.S. where they do not occur naturally.

**Executive Order 11988, "Floodplain Management" (1977):** Requires each federal agency to 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, "Protection of Wetlands" (1977):** Directs all federal agencies to avoid, if possible, adverse impacts to wetlands and to preserve and enhance the natural and beneficial values of wetlands. Each agency shall avoid undertaking or assisting in wetland construction projects unless the

head of the agency determines that there is no practicable alternative to such construction and that the proposed action includes measures to minimize harm. Also, agencies shall provide opportunity for early public review of proposals for construction in wetlands, including those projects not requiring an environmental impact statement.

**Executive Order 12898, "Environmental Justice" (1994):** Provides minority and low-income populations an opportunity to comment on the development and design of reclamation activities. Federal agencies shall make achieving environmental justice part of their missions by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.

**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, to avoid adversely affecting the physical integrity of such sacred sites, and where appropriate, to maintain the confidentiality of sacred sites.

**Executive Order 13084, "Consultation and Coordination with Indian Tribal Governments" (1998):** Requires federal agencies to work with Indian tribes on a government-to-government basis to address issues concerning Indian tribal self-government, trust resources, and Indian tribal treaty and other rights. The United States has a unique legal relationship with Indian tribal governments as set forth in the Constitution of the United States, treaties, statutes, executive orders, and court decisions. Since the formation of the Union, the United States has recognized Indian tribes as domestic dependent nations under its protection. In treaties, our Nation has guaranteed the right of Indian tribes to self-government. As domestic dependent nations, Indian tribes exercise inherent sovereign powers over their members and territory.

**Executive Order 13112, "Invasive Species" (1999):** Directs federal agencies to prevent the introduction of invasive species, control and monitor invasive species, and restore native species and habitats that have been invaded.

**Federal Aid in Wildlife Restoration Act of September 2, 1937, as amended (commonly referred to as the Pittman-Robertson Act):** Provides funds to states for game and non-game wildlife restoration work. Funds from an excise tax on sporting arms and ammunition are appropriated to the Secretary of the Interior

annually and apportioned to states on a formula basis for approved land acquisition, research, development and management projects, and hunter safety programs.

**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.

**Food Security Act of 1985 (Title XII, Public Law 99-198, 99 Stat. 1354; December 23, 1985), as amended:** Authorizes acquisition of easements in real property for a term of not less than 50 years for conservation, recreation, and wildlife purposes.

**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.

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

**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 federal or nonfederal areas to the hunting of migratory birds.

**National Environmental Policy Act (1969):** Requires all federal agencies to examine the impacts upon the environment that their actions might have, to incorporate the best available environmental information, and to use public participation in the planning and implementation of all actions. All federal agencies must integrate NEPA requirements with other planning requirements, and they must prepare appropriate NEPA documentation to facilitate sound environmental decision making. NEPA requires the disclosure of the environmental impacts of any major federal action that affects in a significant way the quality of the human environment.

**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.

**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.

## ADDITIONAL LAWS ONLY AFFECTING THE NATIONAL ELK REFUGE

### **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.

**Fish and Wildlife Coordination Act of March 10, 1934, as amended:** Authorizes the Secretary of the Interior to assist federal, state, and other agencies in development, protection, rearing and stocking fish and wildlife on federal lands, and to study effects of pollution on fish and wildlife. The act also requires consultation with the Fish and Wildlife Service and the wildlife agency of any state wherein the waters of any stream or other water body are proposed to be impounded, diverted, channelized or otherwise controlled or modified by any federal agency, or any private agency under federal permit or license, with a view to preventing loss of, or damage to, wildlife resources in connection with such water resource projects. The act further authorizes federal water resource agencies to acquire lands or interests in connection with water use projects specifically for mitigation and enhancement of fish and wildlife.

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

**Fish and Wildlife Coordination Act (1958):** Allows the Fish and Wildlife Service to enter into agreements with private landowners for wildlife management purposes.

**National Wildlife Refuge System Administration Act of 1966:** Defines the National Wildlife Refuge System and authorizes the Secretary of the Interior to permit any use of a refuge provided such use is compatible with the major purposes for which the refuge was established. This act was amended by the National Wildlife Refuge System Improvement Act of 1997 (see below).

**National Wildlife Refuge System Improvement Act of 1997:** Sets the mission and administrative policy for all refuges in the National Wildlife Refuge System; 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; establishes the responsibilities of the Secretary of the Interior for managing and protecting the system; and requires a comprehensive conservation plan for each refuge by the year 2012.

**Native American Policy (1994):** Articulates the general principles that will guide the U.S. Fish and Wildlife Service's government-to-government relationship with Native American governments in the conservation of fish and wildlife resources. The policy does not suggest recognition of tribal authority that does not exist, nor is the policy used to arbitrate differences in opinion between governmental agencies or judicial findings.

**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.

**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.

**Refuge Revenue Sharing Act of 1935, as amended:** Provides for payments to counties in lieu of taxes, using revenues derived from the sale of products from refuges. Public Law 88-523 (1964) revised this act and required that all revenues received from refuge products, such as animals, timber and minerals, or from leases or other privileges, be deposited in a special Treasury account and net receipts distributed to counties for public schools and roads. Payments to counties were established as: (1) on acquired land, the greatest amount calculated on the basis of 75 cents per acre, three-fourths of 1% of the appraised value, or 25% of the net receipts produced from the land; and (2) on land withdrawn from the public domain, 25% of net receipts and basic payments under Public Law 94-565 (31 USC 1601-1607, 90 Stat. 2662), payment in lieu of taxes on public lands.

**Statute 293 (1912):** Establishes the National Elk Refuge as a winter game (elk) reserve.

**37 Statute 847 (1913):** Sets aside the National Elk Refuge for the establishment and maintenance of a winter elk refuge in the State of Wyoming.

**Executive Order 3596 (1921):** Establishes all lands within the boundaries of the National Elk Refuge as a refuge and breeding ground for birds.

**Executive Order 3741 (1922):** Sets aside the National Elk Refuge as a refuge and breeding grounds for birds.

**Statute 1246 (1927):** Institutes another National Elk Refuge purpose for grazing of, and as a refuge for, American elk and other big game animals.

## **ADDITIONAL LAWS ONLY AFFECTING GRAND TETON NATIONAL PARK**

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**National Park Service Organic Act (39 Stat. 535, 16 USC 1 et seq., as amended, 1916):** Established the National Park Service, and states its basic mission: “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.”

**45 Stat. 1314 (1929):** Established Grand Teton National Park, creating a 96,000-acre park that included the Teton Range and eight glacial lakes at the base of the peaks.

**Presidential Proclamation Number 2578, 57 Stat. 731 (1943):** Established Jackson Hole National Monument, which combined Teton National Forest acreage and other federal properties, including Jackson Lake and a 35,000-acre donation by John D. Rockefeller. The Rockefeller lands continued to be privately held until December 16, 1949.

**Public Law 81-787, 64 Stat. 849 (1950):** Enlarged Grand Teton National Park to its present size by including the lands within Jackson Hole National Monument.

**Public Law 92-404 (1972):** Established John D. Rockefeller, Jr., Memorial Parkway for the purpose of commemorating the many significant contributions

to the cause of conservation in the United States, which have been made by John D. Rockefeller, Jr., and to provide both a symbolic and desirable physical connection between the world's first national park, Yellowstone, and Grand Teton National Park.

**General Authorities Act of 1970, as amended in 1978 by the Redwood amendment (16 USC 1a-1):** States that “the promotion and regulation of the various areas of the National Park System . . . shall be consistent with and founded in the purpose established [in the Organic Act] to the common benefit of all the people of the United States. The authorization of activities shall be construed and the protection, management, and administration of these areas shall be conducted in light of the high public value and integrity of the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established, except as may have been or shall be directly and specifically provided by Congress.”

**112 Statute 3501 (16 USC 5936, 1998):** Requires the Secretary of the Interior to use the results of scientific study when making decisions about park management. Additionally, when making a decision that “may cause a significant adverse effect on a park resource,” the administrative record must reflect how the manager considered the resource studies.