

Appendix D: Applicable Laws and Executive Orders

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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 (1958)

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)

Requires every waterfowl hunter 16 years of age or older to carry a stamp and earmarks proceeds of the Duck Stamps to buy or lease waterfowl habitat. A 1958 amendment authorizes the acquisition of small wetland and pothole areas to be designated as

‘Waterfowl Production Areas,’ which may be acquired without the limitations and requirements of the Migratory Bird Conservation Act.

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 fee-title ownerships that are administered solely or primarily by the Secretary through the Service.

Executive Order No. 7437 (1936)

Establishing Trempealeau Migratory Waterfowl Refuge.

The Bald and Golden Eagle Protection Act of 1940 (16USC 668 et seq.)

Provides protection for Bald and Golden Eagles.

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 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.

Fish and Wildlife Coordination Act of 1958

Requires equal consideration and coordination of wildlife conservation with other water resource development programs.

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) 16 USC 668dd-668ee

Provides for administration, management, and planning for National Wildlife Refuges.

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.

The Clean Water Act of 1972, Section 404 (33 USC1344 et seq.), as amended

Provides for protection of water quality.

Ports and Waterways Safety Act of 1972 (33 USC 1221 et seq.), as amended

Promotes pollution controls for ships.

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.

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 No. 11593, Protection and Enhancement of the Cultural Environment

States that if the Service proposes any development activities that may affect archaeological or historical sites, the Service will consult with federal and State Historic Preservation Officers to comply with Section 106 of the National Historic Preservation Act of 1966, as amended.

Executive Order 11988, Floodplain Management (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, Protection of Wetlands (1977)

Order 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.

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.

Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (PL 96-510; 42 USC 9601, et aeq.) (CERCLA)

Provides mechanism for hazardous waste clean up.

Fish and Wildlife Conservation Act of 1980 (16 USC 661-667e) as amended

Requires the Fish and Wildlife Service to monitor non-game bird species, identify species of management concern, and implement conservation measures to preclude the need for listing under the Endangered Species Act.

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.

U.S. Fish and Wildlife Service Region 3, Regional Director Bulletin (1983)

Changes spelling from wild life to “wildlife” in Refuge name.

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.

Oil Pollution Act of 1990 (PL 101-380; 33 USC 2701, et seq.)

Provides oil pollution policies and protections.

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.

Director’s Order Number 132 (January 18, 2001)

National Wildlife Refuge System Mission, Goals and Purposes. This reiterates the mission of the Refuge System and how it relates to the mission of the Fish and Wildlife Service. Order also provides guidance on the use of goals and purposes in the administration and management of the system.

Americans With Disabilities Act (1992)

Prohibits discrimination in public accommodations and services.

Executive Order 12898, Environmental Justice for Minority Populations (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 12962, Recreational Fisheries (1995)

Federal agencies shall, to the extent permitted by law and where practicable, and in cooperation with states and Tribes, improve the quantity, function, sustainable productivity, and distribution of U.S. aquatic resources for increased recreational fishing opportunities.

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 13006, Locating Federal Facilities On Historic Properties In Our Nation's Central Cities (1996)

Strengthen our Nation's cities by encouraging the location of federal facilities in our central cities.

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) PL 105-57

This Act amended portions of the Refuge Recreation Act and National Wildlife Refuge System Administration Act of 1966. 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.

Migratory Bird Treaty Reform Act (1998)

Public law 105-312 amends the first section and section 2 of the Upper Mississippi River Wild Life and Fish Refuge Act (16 U.S.C. 721,722) by striking “Upper Mississippi River Wild Life and Fish Ref-

uge” each place it appears and inserting “Upper Mississippi River National Wildlife and Fish Refuge.”

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.

Executive Order 13112 Invasive Species (1999)

Directs federal agencies to prevent the introduction of invasive species, control populations of such species, monitor invasive species populations, provide for restoration of native species and habitat conditions in ecosystems that have been invaded, conduct research, promote public education on invasive species and the means to address them, and consult with the Invasive Species Council.

Water Resources Development Act (1999)

Provides for the conservation and development of waterfowl and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, 6 November 2000

Provides a mechanism for establishing regular and meaningful consultation and collaboration with tribal officials in the development of federal policies that have tribal implications.

Executive Order 13186, Responsibilities of Federal Agencies to Protect Migratory Birds, 2001

Instructs Federal agencies to conserve migratory birds by several means, including the incorporation of strategies and recommendation found in Partners in Flight Bird Conservation Plans, the North American Waterfowl Plan, the North American Waterbird Plan, and the United States Shorebird Conservation Plan, into agency management plan and guidance documents.