

Appendix D: Legal and Policy Guidance

Administrative Procedures Act of 1946

Outlines administrative procedures to be followed by federal agencies with respect to identification of information to be made public; publication of material in the *Federal Register*; maintenance of records; attendance and notification requirements for specific meetings and hearings; issuance of licenses; and review of agency actions.

American Indian Religious Freedom Act of 1978

Directs federal agencies to evaluate their policies and procedures, in consultation with native traditional religious leaders, in order to determine changes required to protect and preserve Native American religious cultural rights and practices.

Americans with Disabilities Act of 1990, as amended by the ADA Amendments Act of 2008

Requires that public services be accessible to individuals with disabilities and prohibits discrimination in employment of qualified individuals with disabilities.

Antiquities Act of 1906

Authorizes the president to designate as National Monuments objects or areas of historic or scientific interest on lands owned or controlled by the United States. Requires that a permit be obtained for examination of ruins, excavation of archaeological sites, and the gathering of objects of antiquity on federal lands. Provides penalties for violations.

Archaeological Resources Protection Act of 1979

Largely supplants the resource protection provisions of the Antiquities Act for archaeological items. Establishes detailed requirements for issuance of permits. Protects material of archaeological interest from unauthorized removal or destruction. Establishes civil and criminal penalties for violations, including trafficking in such resources in violation of any provision of federal law. Requires federal managers to develop plans and schedules to locate archaeological resources and to establish public awareness programs regarding the value of archaeological resources to the Nation.

Archeological and Historic Preservation Act of 1960, as amended

Directs the preservation of historic and archaeological data in federal construction projects.

Architectural Barriers Act of 1969

Requires federally owned, leased, or funded buildings and facilities to be accessible to persons with disabilities.

Bald and Golden Eagle Protection Act of 1940, as amended

Prohibits the possession, sale, or transport of any bald or golden eagle, alive or dead, or part, nest, or egg except as permitted by the Secretary of the Interior for scientific or exhibition purposes or for the religious purposes of Indians.

Bankhead-Jones Farm Tenant Act of 1937

Directs the Secretary of Agriculture to develop a program of land conservation and utilization in order to correct maladjustments in land use and thus assist in such things as control of soil erosion, reforestation, preservation of natural resources, and protection of fish and wildlife. Some early refuges and hatcheries were established under authority of this act.

Clean Air Act of 1970

Regulates air emissions from area, stationary, and mobile sources. Requires federal land managers to protect the “air quality and related values” of land under their control. These values include fish, wildlife, and their habitats.

Emergency Wetlands Resources Act of 1986

Authorizes the purchase of wetlands using Land and Water Conservation Fund dollars. Requires the Secretary of the Interior to establish a National Wetlands Priority Conservation Plan and requires the states to include wetlands in their comprehensive outdoor recreation plans. Directs the Secretary, through the U.S. Fish and Wildlife Service, to continue the National Wetlands Inventory; to complete mapping of the contiguous United States; and to produce at ten-year intervals reports to update and improve in the September 1982 "Status and Trends of Wetlands and Deepwater Habitat in the Conterminous United States, 1950s to 1970s."

Endangered Species Act of 1973, as amended

Directs federal agencies to ensure that actions they carry out, authorize, or fund do not jeopardize endangered species or their critical habitat. Provides land acquisition authority.

Environmental Education Act of 1990

Establishes the Office of Environmental Education within the Environmental Protection Agency to develop and administer a federal environmental education program in consultation with other federal natural resource management agencies, including the U.S. Fish and Wildlife Service.

Executive Order 11593: Protection and Enhancement of the Cultural Environment (1971)

States that if the U.S. Fish and Wildlife Service proposes any development activities that may affect the archaeological or historic 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 11644: Use of Off-road Vehicles on the Public Lands (1972)

Establishes policies and procedures to ensure that the use of off-road vehicles on public lands will be controlled and directed to protect the resources of those lands, to promote the safety of all users of those lands, and minimize conflicts among the various uses of those lands. EO 11989 (1977) amends section 2 of EO 11644 and directs agencies to close areas negatively impacted by off-road vehicles.

Executive Order 11988: Floodplain Management (1977)

Prevents federal agencies from contributing to the “adverse impacts associated with occupancy and modification of floodplains” and the “direct or indirect support of floodplain development.” In the course of fulfilling their respective authorities, federal agencies “shall take action to reduce the risk of flood loss, minimize the impact of floods on human safety, health, and welfare, and restore and preserve the natural and beneficial values served by floodplains.

Executive Order 11990: Protection of Wetlands (1977)

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 (1982)

Directs the Service to send copies of the Environmental Assessment to state planning offices for review.

Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (1994)

Establishes environmental justice as a federal government priority and directs all federal agencies to make environmental justice part of their mission by identifying and addressing disproportionately high and adverse human health or environmental effects of its programs and policies, and activities on minority and low-income populations.

Executive Order 12906: Coordinating Geographical Data Acquisition and Access: The National Spatial Data Infrastructure (1994), as amended by Executive Order 13286: Amendment of Executive Orders, and Other Actions, in Connection With the Transfer of Certain Functions to the Secretary of Homeland Security (2003)

Recommends that the executive branch develop, in cooperation with state, local, and tribal governments, and the private sector, a coordinated National Spatial Data Infrastructure to support public and private sector applications of geospatial data, including the National Vegetation Classification System (NVCS).

Executive Order 12962: Recreational Fisheries (1995)

Directs federal agencies to improve recreational fishing opportunities in cooperation with states and tribes.

Executive Order 12996: Management and General Public Use of the National Wildlife Refuge System (1996)

Defines the mission, purpose, and priorities public uses of the National Wildlife Refuge System. Presents four principles to guide System management.

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.

Executive Order 13061: Federal Support of Community Efforts Along American Heritage Rivers (1997)

Establishes the American Heritage Rivers initiative for environmental protection, economic revitalization, and historic and cultural preservation. Directs federal agencies to preserve, protect, and restore rivers and their associated resources important to our history, culture, and natural heritage.

Executive Order 13084: Consultation and Coordination with Indian Tribal Governments (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 13112: Invasive Species (1999)

Directs federal agencies to prevent the introduction of invasive species, detect and respond rapidly to and control populations of such species in a cost effective and environmentally sound manner, accurately monitor invasive species, provide for restoration of native species and habitat conditions, conduct research, and promote public education on invasive species and the means to address them.

Executive Order 13186: Responsibilities of Federal Agencies to Protect Migratory Birds (2001)

Instructs federal agencies to conserve migratory birds by several means, including incorporation of recommendations found in national and continental bird conservation plans into agency management documents.

Executive Order 13443: Facilitation of Hunting Heritage and Wildlife Conservation (2007)

Directs appropriate federal agencies, including the Department of the Interior and the Department of Agriculture, to expand and enhance hunting opportunities and the management of game species and their habitat.

Farmland Protection Policy Act of 1981, as amended

Minimizes the extent to which federal programs contribute to the unnecessary and irreversible conversion of farmland to nonagricultural uses.

Federal Advisory Committee Act of 1972, as amended

Governs the establishment of and procedures for committees that provide advice to the federal government. Advisory committees may be established only if they will serve a necessary, non-duplicative function. Committees must be strictly advisory unless otherwise specified and meetings must be open to the public.

Federal-Aid Highways Act of 1968

Establishes requirements for approval of federal highways through wildlife refuges and other designated areas to preserve the natural beauty of such areas.

Federal Aid in Sport Fish Restoration Act (Dingell-Johnson Act) of 1950

Authorizes the Secretary of the Interior to provide financial assistance for state fish restoration and management plans and projects through excise taxes paid by manufacturers of rods, reels, and other fishing tackle.

Federal Aid in Wildlife Restoration Act (Pittman-Robertson Act) of 1937

Taxes the purchase of ammunition and firearms and earmarks the proceeds to be distributed to the states for wildlife restoration.

Federal Cave Resources Protection Act of 1988

Establishes requirements for management and protection of caves and their resources on federal lands, including allowing the land managing agencies to withhold the location of caves from the public and requiring permits for any removal or collecting activities.

Federal Lands Recreation Enhancement Act (REA) of 2004

Allows the government to charge a fee for recreational use of public lands managed by the U.S. Fish and Wildlife Service and other agencies. Fees paid by visitors to certain federal recreation sites are retained by the collecting site and used to improve the quality of the visitor experiences at those sites.

Federal Noxious Weed Act of 1975, as amended

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.

Federal Records Act of 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.

Federal Water Pollution Control Act of 1948, as frequently amended particularly by the Clean Water Act of 1977

Requires restoration and maintenance of the chemical, physical, and biological integrity of the Nation's waters. Regulates discharge of pollutants, including dredge and fill materials, into waters of the United States. Requires consultation with the U.S. Army Corps of Engineers (404 permits) for major wetland modifications.

Federal Water Project Recreation Act of 1965, as amended

Declares the intent of Congress that recreation and fish and wildlife enhancement be given full consideration as purposes of federal water development projects. Authorizes the use of federal water project funds for land acquisition in order to establish refuges for migratory waterfowl.

Fish and Wildlife Act of 1956, as frequently amended

Establishes a comprehensive national fish and wildlife resources policy with emphasis on the commercial fishing industry, but also public opportunities for recreational use of fish and wildlife resources. Broadens the authority for acquisition and development of refuges. The 1998 amendments modify the powers of the Secretary of the Interior regarding volunteer service, community partnerships, and education programs.

Fish and Wildlife Conservation Act of 1980, as amended

Requires the 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 of 1973.

Fish and Wildlife Coordination Act of 1934, as amended

Requires consultation with the U.S. Fish and Wildlife Service and the state fish and wildlife agencies whenever the "waters of a stream or other body of water are proposed or authorized, permitted or licensed to be impounded, diverted . . . or otherwise controlled or modified" by any agency under federal permit or license. Authorizes use of surplus federal property for wildlife conservation purposes and authorizes the Secretary of the Interior to provide public fishing areas and accept donations of lands and funds.

Fish and Wildlife Improvement Act of 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 of 1966, and the Fish and Wildlife Act of 1956. Authorizes the Secretary of the Interior to accept gifts and bequests of real and personal property on behalf of the United States. Authorizes the use of volunteers on Service projects and appropriations to carry out a volunteer program.

Food Security Act of 1985 (Farm Bill), as amended

Promotes wetland conservation. Establishes "Swampbuster" provisions whereby farmers who convert wetlands for the purpose of planting are ineligible for most farm program subsidies. Establishes the Wetlands Reserve Program to restore and protect wetlands through easements.

Freedom of Information Act of 1966

Requires all federal agencies to make available to the public for inspection and copying administrative staff manuals and staff instructions; official, published and unpublished policy

statements; final orders deciding case adjudication; and other documents. Special exemptions have been reserved for nine categories of privileged material. The act requires the party seeking the information to pay reasonable search and duplication costs.

Geothermal Steam Act of 1970, as amended

Authorizes and governs the lease of geothermal steam and related resources on public lands. Section 15(c) of the act prohibits issuing geothermal leases on virtually all U.S. Fish and Wildlife Service-administered lands.

Historic Sites, Buildings and Antiquities Act of 1935

Popularly known as the Historic Sites Act, as amended in 1965. Establishes 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, including National Historic and Natural Landmarks.

Lacey Act of 1900, as amended

Originally designed to help states protect their native game animals and to safeguard U.S. crop production from harmful foreign species. Prohibits interstate and international transport and commerce of fish, wildlife, or plants taken in violation of domestic or foreign laws. Regulates the introduction of foreign species to the United States.

Land and Water Conservation Fund Act of 1965

Provides funding through receipts from the sale of surplus federal land, appropriations from oil and gas receipts from the outer continental shelf, and other sources for land acquisition under several authorities. Appropriations from the fund may be used for matching grants to states for outdoor recreation projects and for land acquisition by various federal agencies including the Fish and Wildlife Service.

Migratory Bird Conservation Act of 1929, as amended

Establishes procedures for acquisition by purchase, rental, or gift of areas approved by the Migratory Bird Conservation Commission.

Migratory Bird Hunting and Conservation Stamp Act (Duck Stamp Act) of 1934

Requires every waterfowl hunter 16 years of age or older to carry a Duck Stamp and earmarks proceeds 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.

Migratory Bird Treaty Act of 1918

Designates the protection of migratory birds as a federal responsibility. Enables the setting of seasons, closed areas and other regulations related to migratory bird hunting. Makes it unlawful to pursue, hunt, kill, capture, possess, buy, sell, purchase, barter, export, or import any migratory bird, part, nest, egg, or product except as allowed by special regulations. Implements various treaties and conventions between the United States and Canada, Japan, Mexico, and the former Soviet Union for the protection of migratory birds.

Mineral Leasing Act for Acquired Lands of 1947, as amended

Authorizes and governs mineral leasing on acquired public lands.

Minerals Leasing Act of 1920, as amended

Authorizes and governs leasing of public lands for development of deposits of coal, oil, gas, and other hydrocarbons, sulphur, phosphate, potassium, and sodium. Section 185 of this act contains provisions relating to granting rights-of-way over federal lands for pipelines.

Mining Act of 1872, as amended

Authorizes and governs prospecting and mining for the so-called “hardrock” minerals (such as gold and silver) on public lands.

National and Community Service Act of 1990

Authorizes several programs to combat illiteracy and poverty, provide job and education skills, and fulfill environmental needs. Establishes the American Conservation and Youth Service Corps to engage young adults in projects that benefit the public and occur on federal or tribal lands.

National Environmental Policy Act of 1969 (NEPA), as amended

Requires federal agencies to examine the environmental impacts of their actions, incorporate environmental information, and utilize public participation in the planning and implementation of all actions. Federal agencies must integrate NEPA with other planning requirements and must prepare appropriate NEPA documents to facilitate better environmental decision-making.

National Historic Preservation Act of 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. Section 106 requires federal agencies to consider potential impacts of their undertakings on historic properties; Section 110 requires agencies to manage historic properties and document them prior to destruction or damage; Section 101 requires agencies to consider Indian tribal values in historic preservation programs and requires each agency to establish a program to inventory all historic properties on its land.

National Trails System Act of 1968

Assigns responsibility to the Secretary of Interior to protect the historic and recreational values of congressionally designated National Historic Trail sites.

National Wildlife Refuge System Administration Act of 1966 (amended by the National Wildlife Refuge System Improvement Act of 1997)

Defines the National Wildlife Refuge System and addresses the growing need for recreational opportunities by providing a decision framework for allowing appropriate and compatible uses of the Refuge System.

National Wildlife Refuge System Improvement Act of 1997

Amends the National Wildlife Refuge System Administration Act of 1966 and serves as the "organic act" for the NWRS. Defines the mission as focused singularly on wildlife conservation, designates priority wildlife-dependent public uses, and calls for comprehensive conservation planning. Requires the Secretary to maintain the biological integrity, diversity, and environmental health of the Refuge System.

National Wildlife Refuge System Volunteer and Community Partnership Enhancement Act of 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 Wildlife Refuge Volunteer Improvement Act of 2010

Maintains funding authorization for volunteer and community partnership programs. Directs the Service to develop and implement a national strategy for coordination of volunteers within the National Wildlife Refuge System. Requires the Service to provide at least one volunteer coordinator for each Service region to implement the strategy.

Native American Graves Protection and Repatriation Act (NAGPRA) of 1990

Requires federal agencies and museums to inventory, determine ownership of, and repatriate cultural items under their control or possession. Imposes serious delays on a project when human remains or other cultural items are encountered in the absence of a plan.

Neotropical Migratory Bird Conservation Act of 2000

Establishes a matching grants program to fund projects that promote the conservation of neotropical migratory birds in the United States, Latin America, and the Caribbean.

North American Wetlands Conservation Act of 1989

Provides funding and administrative direction for implementation of the North American Waterfowl Management Plan between the United States, Canada, and Mexico. Available funds may be expended for up to 50 percent of the United States' share cost of wetlands conservation projects in Canada, Mexico, or the United States (or 100 percent of the cost of projects on federal lands).

Partnerships for Wildlife Act of 1992

Establishes a Wildlife Conservation and Appreciation Fund to receive appropriated funds and donations from the National Fish and Wildlife Foundation and other private sources to assist the state fish and game agencies in carrying out their responsibilities for conservation of non-game species.

Refuge Recreation Act of 1962, as amended

Requires that any recreational use on areas of the NWRS be "compatible" with the primary purpose(s) for which the area was acquired or established. Requires that sufficient funding be available for the development, operation, and maintenance of recreational uses that are not directly related to the area's primary purpose(s).

Refuge Revenue Sharing Act of 1935

Provides for payments to counties for loss of tax revenue due to the establishment of Service areas. Uses funds derived from the sale of products from refuges.

Rehabilitation Act of 1973, as amended

Prohibits discrimination based on disability under any program or activity receiving federal financial assistance.

Rivers and Harbors Appropriations Act of 1899, as amended

Requires the authorization by the U.S. Army Corps of Engineers (USACE) prior to any work in, on, over, or under navigable waters of the United States. The Fish and Wildlife Coordination Act authorizes the Service to review and comment on the fish and wildlife effects of proposed or permitted activities by the USACE.

Sikes Act of 1960, as amended

Provides for the cooperation by the Departments of the Interior and Defense with state agencies in planning, development, and maintenance of fish and wildlife resources and outdoor recreation facilities on military reservations throughout the U.S.

Surface Mining Control and Reclamation Act of 1977

Regulates surface mining and reclamation of coal-mined lands. Designates certain areas as unsuitable for coal mining operations.

Transfer of Certain Real Property for Wildlife Conservation Purposes Act of 1948

Provides that, upon a determination by General Services Administration, real property no longer needed by a federal agency can be transferred without reimbursement to the Secretary of the Interior if the land has particular value for migratory birds or to a state agency for other wildlife conservation purposes.

Transportation Equity Act for the 21st Century of 1998

Establishes the Refuge Roads Program, requires transportation planning, and provides funding for approved public use roads/trails and associated parking lots, comfort stations, and bicycle/pedestrian facilities.

Treasury and General Government Appropriations Act of 2000

Requires federal agencies to publish guidelines to ensure and maximize the quality, objectivity, utility, and integrity of information that they disseminate to the public (44 U.S.C. 3502).

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970

Provides for uniform and equitable treatment of persons who sell their homes, businesses, or farms to the Service. Requires that any purchase offer be no less than the fair market value of the property.

Water Resources Planning Act of 1965

Establishes the Water Resources Council to review river basin plans with respect to agricultural, urban, energy, industrial, recreational, and fish and wildlife needs. Establishes a grant program to assist states in participating in the development of related comprehensive water and land use plans.

Wild and Scenic Rivers Act of 1968

Establishes a National Wild and Scenic Rivers System and prescribes the methods and standards through which additional rivers may be identified and added to the system. Requires that federal planning for use and development of water and related land resources consider potential wild and scenic rivers.

Wilderness Act of 1964

Establishes the National Wilderness Preservation System. Requires review of roadless areas in national wildlife refuges, national parks and national forests for wilderness suitability. Prescribes the management of new wilderness areas.

Youth Conservation Corps Act of 1970

Establishes a permanent Youth Conservation Corps program within the Departments of the Interior and Agriculture.