

**FISH AND WILDLIFE SERVICE
REAL PROPERTY**

Real Property

Part 340 Real Property Management

Chapter 1 Real Property Acquisition Authorities and Responsibilities

340 FW 1

1.1 What is the purpose of this chapter? This chapter describes the authorities governing, and the responsibilities related to, the U.S. Fish and Wildlife Service's (Service) real property acquisition activities (Parts 340 to 343 of the Fish and Wildlife Service Manual).

1.2 What are the authorities for the chapters in Parts 340 to 343?

A. The statutes in Table 1-1 are the principal laws that relate to our real property acquisition activities (see Exhibit 1 for short descriptions).

Table 1-1: Authorities for Real Property Acquisition			
Authority	Citation	Authority	Citation
Agricultural Credit Act of 1987	12 U.S.C. 2001 to 2279aa-14	Land and Water Conservation Fund Act of 1965	16 U.S.C. 460l-4-460l-11
Alaska National Interest Lands Conservation Act (ANILCA)	16 U.S.C. 3101-3233	Lea Act	16 U.S.C. 695-695(c)
Alaska Native Claims Settlement Act	43 U.S.C. 1601-1624	Migratory Bird Conservation Act	16 U.S.C. 715-715r
Bankhead-Jones Farm Tenant Act	7 U.S.C. 1000-1013	Migratory Bird Hunting and Conservation Stamp Act (Duck Stamp Act)	16 U.S.C. 718a-718k
Colorado River Storage Project Act	43 U.S.C. 620-620o	Migratory Bird Treaty Act of 1918	16 U.S.C. 703-711
Emergency Wetlands Resources Act of 1986	16 U.S.C. 3901-3932	Mineral Leasing Act for Acquired Lands of 1947	30 U.S.C. 351-360
Endangered Species Act (ESA)	16 U.S.C. 1531-1543	Mineral Leasing Act of 1920	30 U.S.C. 181 et seq.
Federal Land Policy and Management Act (FLPMA)	43 U.S.C. 1701-1785	National Wildlife Refuge System Administration Act	16 U.S.C. 668dd-668ee
Federal Land Transaction Facilitation Act	43 U.S.C. 2301-2306	National Wildlife Refuge System Improvement Act of 1997	P.L. 105-57
Federal Property and Administrative Services Act of 1949	40 U.S.C. 101 et seq.	North American Wetlands Conservation Act	16 U.S.C. 4401-4412
Federal-Aid Highway Act of 1968	23 U.S.C. 101 et seq.	Omnibus Public Land Management Act of 2009	P.L. 111-11
Fish and Wildlife Act of 1956	16 U.S.C. 742a-754d	Refuge Recreation Act	16 U.S.C. 460k-460k-4
Fish and Wildlife Conservation Act (Nongame Act)	16 U.S.C. 2901-2912	Refuge Revenue Sharing Act	16 U.S.C. 715s
Fish and Wildlife Coordination Act	16 U.S.C. 661-667e	Transfer of Certain Real Property for Wildlife Conservation Purposes Act	16 U.S.C. 667b-667d
Fish and Wildlife Improvement Act of 1978	16 U.S.C. 742f	Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970	42 U.S.C. 4601-4655
Food Security Act of 1985 (Farm Bill)	P.L. 99-198	Wetlands Loan Act	16 U.S.C. 715k-3-715k-5

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Table 1-1: Authorities for Real Property Acquisition

Authority	Citation	Authority	Citation
Game Range Act (amendment to the National Wildlife Refuge System Administration Act)	P.L. 94-223	Wilderness Act of 1964	16 U.S.C. 1131-1136

B. In addition to Exhibit 1, you can find more information about these laws in the “[Digest of Federal Resource Laws of Interest to the U.S. Fish and Wildlife Service](#),” which is available online, or by reading the actual laws.

1.3 What is real property? Real property means any interest in land, including improvements, structures, fixtures, and appurtenances under the Service’s control (see 41 CFR 101-47.103-12 for a full definition).

1.4 What are the responsibilities of Service employees for real property acquisition?

A. The **Director** approves policy and oversees all Service programs, including activities relating to the acquisition of real property.

B. The **Chief – National Wildlife Refuge System (NWRS)** has the overall responsibility for real property acquisition activities.

C. Regional Directors:

(1) Must ensure that their staff follow the policies in Parts 340 through 343, and

(2) May approve Regional policies to supplement the Service Manual in accordance with 010 FW 1.

D. The **Chief, Division of Realty**, is in the NWRS program in Headquarters and is responsible for (also see section 1.5):

(1) Developing the policy and procedures that implement the laws and regulations for real property acquisition, and

(2) Ensuring we accomplish our real property acquisition activities in accordance with the legislation, regulations, policies, and procedures governing these activities.

E. Regional Realty Officers must conduct realty activities in accordance with the policies, authorities, and guidelines in the Service Manual.

1.5 What delegations of authority are in place for each Regional Realty Officer to conduct activities related to land acquisition within their respective Regions?

A. As stated in 033 FW 13, the Director has delegated the authority to manage performance of the appraisal and pre-and post-land acquisition functions to Regional Directors (see 42 U.S.C. 4651 et seq., 033 FW 13, and Parts 340-343 of the Service Manual), except for those he/she reserves.

B. The Regional Directors have redelegated this authority to Regional Realty Officers or designated Acting Regional Realty Officers. These functions include, but are not limited to:

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(1) Approval of just compensation. Regional Realty Officers may approve the offer of just compensation to a landowner for acquisition of real property or an interest in real property. They may not redelegate this authority.

(2) Entering into contracts for acquisition of lands. Regional Realty Officers may enter into contracts for acquisition of real property or interests in real property whenever we are acquiring the property or interest in real property for administration under an act of Congress. This authority includes accepting agreements for the purchase of lands or interest in lands, donations of land or interests in lands (see 212 FW 8 for limitations), and land exchanges on behalf of the United States (see 342 FW 5 for limitations), within approved acquisition boundaries. They may not redelegate this authority.

(3) Performing relocation assistance functions. Regional Realty Officers may perform the relocation assistance functions in 42 U.S.C. 4621 et seq. They may redelegate this authority to qualified Realty staff, as appropriate.

(4) Performing and authorizing activities related to reimbursements and payments to landowners. Regional Realty Officers may perform and authorize the activities relating to reimbursement and payment of allowances to owners and tenants as a result of the acquisition of real property or interests in real property for Federal or federally-assisted programs (see Uniform Act, 42 U.S.C. 4601 et seq.). They may redelegate the authority to perform these activities to qualified Realty staff except for the actual final approval of reimbursement and payment of allowances.

(5) Preparing and signing waiver valuations. Regional Realty Officers may prepare a waiver valuation and sign the associated Statement of Just Compensation, as described in 49 CFR 24.102. They may redelegate the authority to prepare waiver valuations to qualified Realty staff, as appropriate, but they may not redelegate the authority to sign waiver valuations. The Regional Realty Officer must ensure that the waiver valuation and the Statement of Just Compensation are in the proper format and sign the waiver valuation.

(6) Exceeding appraised value. Regional Realty Officers may enter into contracts in which the purchase agreement for the real property or interest in real property exceeds the appraised value within the limitations in 033 FW 13.

(7) Acquiring lands under the Migratory Bird Conservation Act. Regional Realty Officers may acquire lands for national wildlife refuges under the Migratory Bird Conservation Act after the Migratory Bird Conservation Commission has approved the proposed acquisition.

(8) Activities pertaining to water rights. Regional Realty Officers are authorized to, in accordance with Part 403 of the Service Manual, initiate, prosecute, acquire, and perfect water rights in the name of the United States under the provisions of State law and in conformity with applicable interstate agreements. They may also take any other steps, including litigation, that will help protect, secure, and maintain the water rights. Regional Realty Officers may redelegate this authority to qualified Realty staff.

(9) Limitations. Certain activities are not redelegated to the Regional Realty Officers. Such activities include, but are not limited to, certain minor land acquisitions reserved for the Regional Director (see 033 FW 13.3D), including:

(a) Acquisitions of land outside of an approved acquisition boundary, and

(b) Additions to the NWRS under a memorandum of understanding, cooperative agreement, or similar agreement.

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1.6 What are the main duties of the Division of Realty?

A. The Division of Realty supports the acquisition of Service lands using the Migratory Bird Conservation Fund, the Land and Water Conservation Fund, and other funding sources.

(1) The Chief, Division of Realty, is the Secretary to the Migratory Bird Conservation Commission (MBCC). He/she provides staff to support the MBCC.

(2) The Service's Chief Cartographer, Chief Surveyor, and other Realty staff make up the Division of Realty.

B. The Division of Realty's activities include, but are not limited to:

(1) Developing and implementing national guidance for our land acquisition program;

(2) Coordinating with our other offices on regulations affecting the acquisition, control, and disposition of lands;

(3) Providing information to the public on national and Regional land acquisition issues; and

(4) Reviewing and analyzing legislation relevant to our land acquisition activities.

1.7 What are the most important regulations, Directives, and other policies that guide our realty activities? Although the Service Manual is the primary source of policy and procedural guidance for our realty activities, the CFR, the Interior Property Management Directives, the Departmental Manual, and Regional Directives may also address these activities.

A. CFR. The CFR is an annual codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the Federal Government.

(1) Title 50 contains land use management regulations for rights-of-way, mineral operations, and revenue sharing.

(2) Title 43 contains regulations pertaining to the Secretary of the Interior and to the public lands.

(3) Title 41, Chapter 101, contains the Federal Property Management Regulations, and Chapter 102 contains the Federal Management Regulation.

(4) If you find any conflicts pertaining to our realty activities between the CFR and the Service Manual, bring these conflicts to the attention of the Chief, Division of Realty.

B. Interior Property Management Directives. As needed, the Secretary of the Interior issues Interior Property Management Directives to:

(1) Supplement the Federal Property Management Regulations, and

(2) Implement other property management policies and regulations of the Office of Management and Budget and the General Services Administration.

C. Departmental Manual. Part 602 of the Departmental Manual contains policies pertaining to land acquisition, exchange, and disposal.

(1) Chapter 1 addresses appraisals of real property.

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(2) Chapter 2 addresses pre-acquisition environmental site assessments.

D. Regional Directives. Regional Directors may issue Directives to supplement Service Manual chapters.

(1) We only use Regional Directives when additional guidance is required to address a situation unique to that Region.

(2) Regional Directives may be more restrictive than the Service Manual, but they must not contradict the Manual.

(3) Regional Directors must give a copy of each Regional Directive related to realty to the Chief, Division of Realty, at Headquarters.

/sgd/ Stephen Guertin
DEPUTY DIRECTOR

Date: February 12, 2015