

Appendix C



USFWS

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Laws and Executive Orders Applicable to Chincoteague NWR and Wallops Island CCP

Legal mandates and policies of the U.S. Fish and Wildlife Service (USFWS) govern our planning and management of the National Wildlife Refuge System (Refuge System). A list and brief description of these legal mandates can be found at the “Division of Congressional and Legislative Affairs, USFWS” Web site (<http://www.fws.gov/laws/Lawsdigest.html>). In addition, USFWS has developed policies to guide NWRs planning and management. These policies can be found at the “NWRs Policies Web site” (<http://www.fws.gov/refuges/policiesandbudget/refugepolicies.html>).

All projects and step-down plans described in a CCP will be required to comply with the National Wildlife Refuge System Improvement Act of 1997 and the National Environmental Policy Act (described in Chapter 1 of the CCP), as well as a variety of other Federal regulations, EOs, and legislative acts. A brief description of the laws and EOs applicable to Chincoteague and Wallops Island NWR CCP, as well as a statement indicating how each relates to the CCP, is provided in Table 1.

Table 1. Applicable Laws and Executive Orders

Law, Regulation, or Guideline	Description	Relation to the CCP
Enabling Legislation		
Public Law 89-195 (16 U.S.C. 459f) (1965)	Created the Assateague Island National Seashore and authorized the Secretary of the Department of Interior to acquire all of the right, title, or interest of the Chincoteague-Assateague Bridge and Beach Authority, in the bridge constructed by such Authority across the Assateague Channel, together with all lands or interests therein, roads, parking lots, buildings, or other real or personal property of such Authority, and such right, title, and interest have been acquired by the National Park Service.	The CCP references this law in determining ownership of the Chincoteague-Assateague Bridge and in continuing the recreational beach as referenced above.
16 U.S.C. § 667b, Public Law 80-537, An Act Authorizing the Transfer of Certain Real Property for Wildlife, or other Purposes; and,	Authority under which Wallops Island NWR was established.	The CCP relies on this authority for defining the purpose of the CCP.
16 U.S.C 715-715r, The Migratory Bird Conservation Act, as amended and Established under the authority of the Migratory Bird Conservation Act, as amended.	Authority under which Chincoteague and Wallops Island NWRs were established.	The CCP relies on this authority for defining the purpose of the CCP.

Law, Regulation, or Guideline	Description	Relation to the CCP
Climate Change		
Department of the Interior Secretarial Order 3226	States that there is a consensus in the international community that global climate change is occurring and that it should be addressed in governmental decision-making in the U.S. This Order requires Departmental planning and decision-making to take climate change impacts into account. Additionally, it calls for the incorporation of climate change considerations into long-term planning documents, such as Comprehensive Conservation Plans (CCP).	The CCP identifies addressing climate change as part of its purpose and establishes objectives and strategies that aim to meet this order.
Agency Coordination		
Executive Order 12372, Intergovernmental Review of Federal Programs	Requires that Federal agencies afford other agencies review of documents associated with Federal programs.	Availability of the EIS will be advertised in the Federal Register and copies of the draft CCP/EIS will be sent to Federal, State (including the State Clearinghouse), and local agencies and Tribal governments.
Human Rights		
Executive Order 12898, Environmental Justice	Mandates Federal agencies to achieve environmental justice by identifying and addressing disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.	Implementing the CCP will not have a disproportionately high and adverse human health or environmental effect on minority or low-income populations. The CCP promotes compatible uses of the land that protect the natural resources and provide opportunities for wildlife-dependent recreational uses.

Law, Regulation, or Guideline	Description	Relation to the CCP
Architectural Barriers Act of 1968, as amended (42 U.S.C. §§ 4151 et seq.)	Requires that all new federal buildings and facilities constructed or altered with federal funds since 1968 be accessible to and usable by individuals with disabilities. Also requires that modifications be made to existing buildings and facilities to ensure that individuals with disabilities have equal access to any program or opportunity provided to employees or visitors.	New buildings on the refuge will comply with these requirements. Where appropriate, new trails and outdoor facilities will be designed per the draft accessibility guidelines for outdoor developed areas.
Cultural Resources		
Antiquities Act of 1906	This act authorizes the scientific investigation of antiquities on Federal land. It prohibits and provides penalties for unauthorized search for or collection of artifacts or other objects of scientific interest. The Act also authorizes the President to establish national monuments and cultural areas on Federal lands.	USFWS will continue to comply with this Act under the CCP.
Native American Graves Protection and Repatriation Act of 1990 (PL 101-601; 25 USC 3001 et seq.)(NAGPRA)	Regulations for the treatment of Native American graves, human remains, funeral objects, sacred objects, and other objects of cultural patrimony. Requires consultation with Native American Tribes during Federal project planning.	
Executive Order 11593, Protection and Enhancement of the Cultural Environment	States that if the USFWS proposes any development activities that may affect archaeological or historical sites, the USFWS will consult with Federal and State Historic Preservation Officers to comply with Section 106 of the National Historic Preservation Act of 1966, as amended.	Cultural resources that have been identified will be protected, and steps to avoid any inadvertent impacts to subsurface deposits that have yet to be identified will be taken as required by this Order. The USFWS will continue to comply with this Order under the CCP.
Archaeological Resources Protection Act of 1979 (PL 96-95; 93 STAT 722; 16 USC 470aa-47011), as amended (ARPA)	Protects materials of archeological interest from unauthorized removal or destruction and requires Federal managers to develop plans to locate archaeological resources.	Cultural resources that have been identified will be protected, and steps to avoid any inadvertent impacts to subsurface deposits that have yet to be identified will be taken. The USFWS will continue to comply with this Act under the CCP.

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American Indian Religious Freedom Act 1978 (PL 95-341; 92 STAT 469; 42 USC 1996)	Provides for freedom of Native Americans to believe, express, and exercise their traditional religion, including access to important sites.	The Tribes will be contacted regarding the CCP and will be invited to provide information necessary to protect sacred sites and other resources.
National Historic Preservation Act of 1966 (PL 89-665; 50 STAT 915; 16 USC 470 et seq.; 36 CFR 800), as amended (NHPA)	Requires Federal agencies to consider the effects of any actions or programs on historical properties.	The EIS prepared to accompany the draft CCP addresses the potential effects of the actions proposed in the CCP and includes measure to ensure that no adverse effects to historical properties will occur.
Archaeological and Historic Preservation Act of 1974 (PL 93-291; 88 STAT 174; 16 USC 469)	Provides for the preservation of historical buildings, sites, and objects of national significance.	Potential historical resources have been identified in the CCP and those of national significance will be preserved. The USFWS will continue to comply with this Act under the CCP.
Tribal Coordination		
Executive Order 13175, Consultation and Coordination with Indian Tribal Governments	Requires Federal agencies to implement an accountable process to ensure meaningful and timely input by tribal officials as policies are developed that have tribal implications.	Tribal governments in Virginia were initially consulted prior to publication of the Notice of Intent and have continued to be updated on the progress of the CCP.
Paleontological Resources		
Paleontological Resources Preservation Act of 2009 (P.L. 111-11, Title VI, Subtitle D)	Requires the management and protection of paleontological resources on federal lands using scientific principals and expertise; requires the development of plans for the inventory, monitoring, and scientific and educational use of paleontological resources; addresses the collection and curation of resources; identifies prohibited acts, and establishes criminal and civil penalties.	The potential effects of refuge actions on paleontological resources have been evaluated and there is a low potential for these resources to be present on the refuge. The USFWS will however comply with the provision of this Act as applicable under the CCP.
Biological Resources		

Law, Regulation, or Guideline	Description	Relation to the CCP
Endangered Species Act of 1973 (16 USC 1531 et seq.), as amended (ESA)	Provides for protection of plants, fish, and wildlife that have a designation as threatened or endangered.	An Intra-Service Section 7 has been completed that evaluates the effects of the proposed actions on the refuge's endangered and threatened species.
National Environmental Policy Act of 1969 (42 USC 4321 et seq.) (NEPA)	Requires analysis, public comment, and reporting for environmental impacts of Federal actions.	The public will be notified of the availability of the draft EIS and will be provided with a 60-day period to provide comments.
Fish and Wildlife Act of 1956 (16 USC 742a-743j, not including 742d-742l)	Provides Secretary of Interior with authority to protect and manage fish and wildlife resources.	USFWS will continue to comply with this Act under the CCP.
Fish and Wildlife Conservation Act of 1980 (16 USC 661-667e), as amended	Requires the USFWS to monitor non-game bird species, identify species of management concern, and implement conservation measures to preclude the need for listing under ESA.	The CCP will continue to comply with this Act under the CCP.
Executive Order 13186, Responsibilities of Federal Agencies to Protect Migratory Birds	Instructs Federal agencies to conserve migratory birds by several means, including the incorporation of strategies and recommendations found in Partners in Flight Bird Conservation Plans, the North American Waterfowl Plan, the North American Waterbird Conservation Plan, and the United States Shorebird Conservation Plan, into agency management plans and guidance documents.	The USFWS has incorporated the strategies and recommendations of the listed management plans into the CCP to conserve migratory birds. The USFWS will continue to comply with this Order under the CCP.
Executive Order 13112, Invasive Species	Federal agencies are required to use relevant programs and authorities to prevent, control, monitor, and research invasive species and coordinate complementary, cost-efficient, and effective activities concerning invasive species by relying on existing organizations already in place that address invasive species issues.	The CCP addresses the need to work with others to address invasive species issues on the refuge. In addition, an Integrated Pest Management Plan will be prepared for the refuge in association with the HMP.
Bald and Golden Eagle Protection Act of 1940 (16 USC 668 et seq.)	Provides protection for bald and golden eagles.	

Law, Regulation, or Guideline	Description	Relation to the CCP
Migratory Bird Treaty Act of 1918, as amended (MBTA)	Provides protection for bird species that migrate across state and international boundaries.	The USFWS will continue to comply with this Act under the CCP.
Fish and Wildlife Coordination Act of 1958	Requires equal consideration and coordination of wildlife conservation with other water resource development programs.	The CCP acknowledges the need to coordinate refuge actions with the agencies that maintain reservoirs downstream of the refuge.
Federal Noxious Weed Act of 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.	
Emergency Wetlands Resources Act of 1986	Promotes the conservation of migratory waterfowl and offsets or prevent the serious loss of wetlands by the acquisition of wetlands and other essential habitats.	The CCP includes strategies to protect, restore, and enhance the wetlands that occur on the refuge.
Hazardous Materials		
Oil Pollution Act of 1990 (PL 101-380; 33 USC 2701, et seq.)	Provides oil pollution policies and protections.	The USFWS will continue to comply with this Act under the CCP.
Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (PL 96-510; 42 USC 9601, et seq.) (CERCLA)	Provides mechanism for hazardous waste cleanup.	
Water Quality		
Clean Water Act of 1972, Section 404 (33 USC 1344 et seq.), as amended	Establishes a program to regulate the discharge of dredged or fill material into waters of the United States (U.S.), including wetlands and requires a permit from the U.S. Army Corps of Engineers before dredged or fill material may be discharged into waters of the U.S.	The CCP requires the implementation of best management practices during ground-disturbing activities to minimize siltation and run-off into adjacent wetlands, as well as during the application of pesticides, all to protect water quality.

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Clean Water Act, Section 401	Requires that an applicant for a federal license or permit provide a certification that any discharges will comply with the Act, including water quality standard requirements.	
Land and Water Use		
National Wildlife Refuge System Administration Act of 1966 (16 USC 668dd-668ee), National Wildlife Refuge System Improvement Act of 1997 (PL 105-57)	Administration, management, and planning for National Wildlife Refuges, Amends the National Wildlife Refuge System Administration Act of 1966. Requires development of CCPs for all refuges outside of Alaska.	The USFWS determined that hunting, wildlife observation, photography, environmental education, interpretation, research, and recreational trails are compatible with the purposes for which the refuge was established. Implementation of the CCP will therefore satisfy the intent of this Act.
Executive Order 11990, Protection of Wetlands	Provides for the conservation of the natural and beneficial values of wetlands and their associated habitats.	The CCP includes strategies to protect, restore, and enhance the wetlands that occur on the refuge.
Executive Order 11988, Floodplain Management	Provides for the support, preservation, and enhancement of the natural and beneficial values of floodplains.	Structures, such as trail bridges, that have the potential to influence the movement of floodwater will be designed to take into consideration the hydrology of the site, thus the proposed action is consistent with this Order.
Executive Order 12996, Management and General Public Use of the National Wildlife Refuge System	Directs the Secretary of the Interior to recognize compatible wildlife-dependent recreational activities involving hunting, fishing, wildlife observation and photography, and environmental education/interpretation as priority general public uses on refuges.	The CCP addresses the compatibility of these uses on the refuges.

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Refuge Recreation Act of 1962, as amended	Provides for recreation use that is compatible with the primary purpose of a refuge.	The USFWS determined that hunting, wildlife observation, photography, environmental education, interpretation, and recreational trails are compatible with the purposes for which the refuge was established.
Fish and Wildlife Improvement Act of 1978	Improves administration of fish and wildlife programs and amends earlier laws including Refuge Recreation Act, NWRS Administration Act, and Fish and Wildlife Act of 1956. Authorizes the Secretary to accept gifts or real and personal property on behalf of the U.S. Also authorizes use of volunteers on Service projects and appropriations to carry out a volunteer program.	The CCP acknowledges the continued acquisition of lands within the approved refuge boundary and that some parcels may come into the refuge as a gift or donation. Volunteers will also an important aspect of refuge management.
Coastal Zone Management Act of 1972 (Pub.L. 92-583, 86 Stat. 1280, enacted October 27, 1972, 16 U.S.C. §§ 1451-1464, Chapter 33)	Designates certain undeveloped coastal barrier islands for inclusion in the Coastal Barrier Resources System (System). Areas so designated are ineligible for direct or indirect Federal financial assistance that might support development, including flood insurance, except for emergency life-saving activities. Exceptions for certain activities, such as fish and wildlife research, are provided, and National Wildlife Refuges and other, otherwise protected areas are excluded from the System. The law encourages the conservation of hurricane prone, biologically rich coastal barriers by restricting Federal expenditures that encourage development, such as Federal flood insurance.	The CCP acknowledges the Act and commits to considering climate change when planning or constructing infrastructure, but relevance of the Act's regulations are limited.
Wilderness Act of 1964 (Pub.L. 88-577)	Established the National Wilderness Preservation System and a process for Federal agencies to recommend wilderness areas to Congress.	The CCP commits to maintaining the wilderness character of the proposed wilderness within Chincoteague NWR.
Other		
Executive Order 13443, Facilitation of Hunting Heritage and Wildlife Conservation	Directs Federal agencies, including USFWS, to facilitate the expansion and enhancement of hunting opportunities and the management of game species and their habitat.	The CCP supports continued opportunities for hunting on the refuge.

Law, Regulation, or Guideline	Description	Relation to the CCP
Data Quality Act (DQA) passed through the United States Congress in Section 515 of the Consolidated Appropriations Act, 2001 (Pub.L. 106-554). (Also known as Information Quality Act).	Requires Federal agencies to adhere to guidance and regulation issued by the Office of Management and Budget (OMB) that "provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies".	The CCP commits the refuge to supporting efforts to improve and share data, consistent with USFWS guidance issued in response to this Act.