

Appendix F Regulations

Air Quality:

The Clean Air Act of 1970, (42 US Code [USC], Sections 7401 et seq.) regulates air emissions from area, stationary, and mobile sources. Under this law, National Ambient Air Quality Standards (NAAQS) are established for each state by the EPA in order to protect public health and the environment (EPA 2003).

Noise:

43 Code of Federal Regulations (CFR), Part 423.39 puts forth standards on vessels on Reclamation waters, including requirements for safety equipment, effective exhaust mufflers, and maintenance of vessels.

Geological Resources:

The Alquist-Priolo Earthquake Fault Zoning Act of 1972 was passed to mitigate the hazard of surface faulting to structures for human occupancy. The act's main purpose is to prevent the construction of buildings used for human occupancy on the surface trace of active faults.

Water Resources:

Federal Laws and Statutes

The Clean Water Act of 1987, as amended (33 USC, Section 1251) establishes objectives to restore and maintain the chemical, physical, and biological integrity of the nation's water;

The Federal Water Pollution Control Act (33 USC, Section 1323) requires the Federal land manager to comply with all Federal, state, and local requirements, administrative authority, processes, and sanctions regarding the control and abatement of water pollution in the same manner and to the same extent as any nongovernmental entity;

The Safe Drinking Water Act (42 USC, Section 201) is designed to make the nation's waters drinkable and swimmable. Amendments in 1996 establish a direct connection between safe drinking water and watershed protection and management;

The Watershed Protection and Flood Control Act of 1954, as amended, directs the Federal government to cooperate with states and their political subdivisions, soil or water conservation districts, flood prevention or control districts, and other local public agencies to prevent erosion or flood water and sediment damage;

Executive Order 11738 directs each Federal agency to enforce the Clean Air Act and the Clean Water Act in the procurement of goods, materials, and services;

Executive Order 11988, Floodplain Management, as amended by Executive Order 12148, directs each Federal agency to take action to avoid the long- and short-term adverse impacts associated with the occupancy and modification of floodplains. Agencies are further required to avoid direct or indirect support of floodplain development whenever there is a practicable alternative;

Executive Order 11990, Protection of Wetlands, directs Federal agencies to minimize the destruction, loss, or degradation of wetlands and to preserve and enhance the natural and beneficial value of wetlands in carrying out programs affecting land use;

Executive Order 12088, Federal Compliance with Pollution Control Standards, requires all Federal agencies to comply with local standards and limitations relating to water quality. As a wastewater management agency, each Federal agency is bound to recognize and adopt the policies, goals, and standards of approved Section 208 area-wide water quality management plans in regard to those Federal lands under its jurisdiction. Each agency also must implement plan standards to the maximum extent feasible in its own planning process and management activities;

Cultural Resources

Federal Laws and Statutes

An Act for the Preservation of American Antiquities [Antiquities Act of 1906] (PL 59-209; 34 Stat. 225; 16 USC, Sections 432 and 433) made it unlawful for any person to appropriate, excavate, injure, or destroy any historic or prehistoric ruin or monument, or any object of antiquity, situated on lands owned or controlled by the Government of the United States.

Historic Sites Act of 1935 (PL 74-292; 49 Stat. 666; 16 USC, Section 461) declares a national policy to identify and preserve nationally significant “historic sites, buildings, objects and antiquities.” It authorizes the National Historic Landmarks program and provides the foundation for the National Register of Historic Places authorized in the National Historic Preservation Act of 1966. Regulations implementing the National Historic Landmarks Program are at 36 CFR Part 65.

National Historic Preservation Act of 1966 and amendments (PL 89-665; 80 Stat. 915; 16 USC, Section 470) creates the National Register of Historic Places and extends protection to historic places of state and local as well as national significance. It establishes the Advisory Council on Historic Preservation, State Historic Preservation Officers, Tribal Preservation Officers, and a preservation grants-in-aid program. Section 106 directs Federal agencies to take into account effects of their actions (“undertakings”) on properties in or eligible for the National Register.

National Environmental Policy Act of 1969 (PL 91-190; 83 Stat. 852; 42 USC, Section 4321) states that it is the Federal government's continuing responsibility to use all practicable means to preserve important historic, cultural, and natural aspects of our national heritage. It instructs Federal agencies to prepare environmental impact statements for each major Federal action having an effect on the environment.

American Indian Religious Freedom Act of 1978 (PL 95-341; 92 Stat. 469; 42 USC, Section 1996) states that "it shall be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites".

Archaeological Resources Protection Act (ARPA) of 1979 [PL 96-95; 93 Stat. 721; 16 USC, Sections 470(aa)-470(mm)], as amended (PL 100-555; PL 100-588) expands the protections provided by the Antiquities Act of 1906 in protecting archaeological resources and sites located on public and Indian lands. ARPA has felony-level penalties for excavating, removing, damaging, altering, or defacing any archaeological resource more than 100 years of age, on public or Indian lands, unless authorized by a permit.

Native American Graves Protection and Repatriation Act of 1990 (PL 101-601; 25 USC, Sections 3000-3013; 104 Stat. 3048-3058) provides for disposition of cultural items from Federal or tribal lands. The ownership or control of Native American cultural items that are excavated or discovered on Federal or tribal lands after 1990 is determined by a custody hierarchy set out in the statute.

Curation of Federally-Owned and Administered Archeological Collections (36 CFR, Part 79) establishes definitions, standards, procedures, and guidelines to be followed by Federal agencies to preserve collections of prehistoric and historic material remains and associated records.

Determinations of Eligibility for Inclusion in the National Register (36 CFR, Part 63) was developed to assist Federal agencies in identifying and evaluating the eligibility of properties for inclusion in the National Register.

National Register of Historic Places (36 CFR, Part 60) describes the criteria for eligibility for inclusion of properties in the NRHP.

Protection of Historic Properties (36 CFR, Part 800) describes the Section 106 Process.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments (65 FR 67249) was issued to establish regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications. When implementing such policies, agencies shall consult with tribal officials as to the need for Federal standards and any alternatives that limit their scope or otherwise preserve the prerogatives and authority of Indian tribes.

Government-to-Government Relations with Native American Tribal Governments (Memorandum signed by President Clinton; April 29, 1994) (61 FR 42255) directs Federal agencies to consult, to the greatest extent practicable and to the extent permitted by law, with tribal governments prior to taking actions that affect Federally recognized tribal governments. Federal agencies must assess the impact of Federal government plans, projects, programs, and activities on tribal trust resources and assure that tribal government rights and concerns are considered during such development.

Executive Order 11593, Protection and Enhancement of the Cultural Environment (36 FR 8921), directs Federal agencies to inventory cultural properties under their jurisdiction, to nominate to the National Register all Federally owned properties that meet the criteria, to use due caution until the inventory and nomination processes are completed, and to assure that Federal plans and programs contribute to preservation and enhancement of non-Federal properties.

Executive Order 13007, Indian Sacred Sites (61 FR 26771) directs Federal agencies in managing Federal lands to 1) accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners; and 2) avoid adversely affecting the physical integrity of such sacred sites.

Executive Order 13287, Preserve America 2003 (68 FR 10635), directs Federal agencies to improve their management of historic properties and to foster heritage tourism in partnership with local communities.

Biological Resources:

Federal Laws and Statutes

Fish and Wildlife Coordination Act of 1934 requires consultation with USFWS and state agencies whenever the waters or channels of a body of water are modified by a department or agency of the U.S, with a view to the conservation of wildlife resources. It provides that land, water and interests may be acquired by Federal construction agencies for wildlife conservation and development.

Federal Endangered Species Act of 1973 provides a program for the conservation of threatened and endangered plants and animals and the habitats in which they are found. It is designed to protect critically imperiled species from extinction due to "the consequences of economic growth and development untempered by adequate concern and conservation".

US Migratory Bird Treaty Act of 1918 and amendments establishes a Federal prohibition, unless permitted by regulations, to "pursue, hunt, take, capture, kill, attempt to take, capture or kill, possess, ... any migratory bird . . . or any part, nest, or egg of any such bird." An amendment was passed in 1972 to include owls, hawks, and other birds of prey.

Bald Eagle Protection Act of 1940 provides for the protection of the bald eagle and the golden eagle by prohibiting, except under certain specified conditions, the taking, possession and commerce of such birds.

Federal Noxious Weed Act of 1974 provides for the control and management of nonindigenous weeds that injure or have the potential to injure the interests of agriculture and commerce, wildlife resources, or the public health. Under this Act, the Secretary of Agriculture was given the authority to designate plants as noxious weeds, and inspect, seize and destroy products, and to quarantine areas, if necessary to prevent the spread of such weeds.

Executive Order 13112 Invasive Species (64 FR 2793), signed in 1999, directs Federal agencies to prevent the introduction of invasive species and provide for their control and to minimize the economic, ecological, and human health impacts that invasive species cause. To do this, the EO established the National Invasive Species Council; currently there are 13 Departments and Agencies on the Council.

Transportation:

Federal Laws and Statutes

Federal-Aid Highway Act of 1958, 1962, 1966, 1968, and 1973, as amended;

Highway Safety Act of 1966, as amended;

Architectural Barriers Act of 1968, as amended;

Surface Transportation Act of 1978 and 1982, as amended.

Executive Order 11644 (37 FR 2877), as amended by Executive Order 11989 (42 FR 26959h), requires Federal agencies to adopt rules regulating OHV use on public lands and to adopt a designation process and designation criteria to protect land resources and promote public safety. The stated underlying authority for issuance of the orders is NEPA (42 USC, Section 4321).

Public Safety:

Federal Laws and Statutes

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended (42 USC, Sections 9601 et seq.), also known as Superfund, is primarily intended to address risks posed to human health and welfare or the environment resulting from releases or potential releases of hazardous substances. Other key acts related to CERCLA include the following:

Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) amends CERCLA/SARA (42 USC, Section 11001) and adds sections 120 and 121 dealing with Federal facilities;

Community Environmental Response Facilitation Act of 1992 (CERFA) amends CERCLA Section 120(h) (42 USC, Section 9620);

Pollution Prevention Act of 1990 (42 USC, Section 13101);

Resource Conservation and Recovery Act of 1976, as amended (42 USC, Sections 6901 et seq.);

Toxic Substances Control Act of 1976 (15 USC, Sections 2601 et seq.);

Federal Insecticide, Fungicide, and Rodenticide Act of 1975 (7 USC, Sections 136 et seq.);

Transportation Safety Act of 1974; Hazardous Materials Transportation Act amendments of 1976 and 1990 (49 USC, Sections 1801 et seq.);

Executive Order 11514, Protection and Enhancement of Environmental Quality, March 5, 1970;

National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR, Part 300);

Occupational Safety and Health Act of 1970, as amended;

Lead-based Paint Poisoning Prevention Act, as amended;

Socioeconomics and Environmental Justice:

Federal Laws and Statutes

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations requires that Federal Agencies make achieving environmental justice part of its mission 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.

Americans with Disabilities Act of 1990 [“ADA”], as Amended prohibits discrimination on the basis of disability in employment, State and local government, public accommodations, commercial facilities, transportation.