

## **LAWS, EXECUTIVE ORDERS, REGULATIONS, POLICIES, AND GUIDELINES**

Following are descriptions for some of the laws, executive orders, regulations, and policies that are applicable to the Environmental Assessment.

---

### **Antiquities Act of 1906**

---

Provides for protection of historic, prehistoric, and scientific features on federal lands, with penalties for unauthorized destruction or appropriation of antiquities; authorized the President to proclaim national monuments; authorized scientific investigation of antiquities on federal lands subject to permit and regulations.

---

### **Archaeological and Historic Preservation Act of 1974**

---

(P.L. 93-291; 88 Stat. 174) amended the 1960 Reservoir Salvage Act; provided for the preservation of significant scientific, prehistoric, historic and archeological materials and data that might be lost or destroyed as a result of federally sponsored projects; provided that up to one percent of project costs could be applied to survey, data recovery, analysis, and publication.

---

### **Archaeological Resources Protection Act (ARPA) of 1979**

---

(P.L. 96-95; 93 Stat. 712) defined archaeological resources as any material remains of past human life or activities that are of archaeological interest and at least 100 years old; required federal permits for their excavation or removal and set penalties for violators; provided for preservation and custody of excavated materials, records, and data; provided for confidentiality of archaeological site locations; encouraged cooperation with other parties to improve protection of archaeological resources. Amended in 1988 to require development of plans for surveying public lands for archaeological resources and systems for reporting incidents of suspected violations.

---

### **Clean Air Act**

---

The Clean Air Act of 1963 requires federal land managers to have an affirmative responsibility to protect a park's air quality from adverse air pollution impacts.

---

### **The Endangered Species Act**

---

The Endangered Species Act of 1973, as amended, prohibits federal actions from jeopardizing the existence of federally-listed threatened or endangered species or adversely affecting designated critical habitat. Federal agencies must consult with the U.S. Fish and Wildlife Service to determine the potential for adverse effects. Federal agencies are also responsible for improving the status of listed species.

---

## **Federal Farmland Protection Policy Act**

---

Federal Farmland Protection Policy Act (FPPA) of 1987, requires federal agencies to consider the adverse effects their programs may have on the preservation of farmland, review alternatives that could lessen adverse effects, and ensure that their programs are compatible with private, local and state programs and policies to protect farmland. The purpose of the FPPA is to minimize the extent to which Federal programs contribute to the unnecessary and irreversible conversion of farmland to non-agricultural uses.

---

## **Federal Lands to Parks (FLP) Program.**

---

Federal surplus property is transferred to state and local governments to be used and maintained exclusively, in perpetuity, for public park or recreational purposes (41 CFR 102-75-680). National Park Service is the administrator. Subsequent to the official transfer of the property, if it becomes unsuitable for recreation or if the recipient's needs change to the point where the property cannot be appropriately used for recreation, NPS may authorize a land exchange to assure no net loss of recreational facilities for the public.

---

## **Historic Sites Act of 1935**

---

Historic Sites Act of 1935, declared it a national policy to preserve historic sites, buildings, and objects for public use and authorized the NPS to “restore, reconstruct, rehabilitate, preserve, and maintain historic and prehistoric sites, buildings, objects, and properties of national historical or archaeological significance.”

---

## **Migratory Bird Treaty Act**

---

The Migratory Bird Treaty Act (MBTA) implements international treaties devised to protect migratory birds and any of their parts, eggs, and nests from activities such as hunting, pursuing, capturing, killing, selling, and shipping, unless expressly authorized in the regulations or by permit. As authorized by the MBTA, the USFWS issues permits to qualified applicants for the following types of activities: falconry, raptor propagation, scientific collecting, special purposes (rehabilitation, education, migratory game bird propagation, and salvage), take of depredating birds, taxidermy, and waterfowl sale and disposal. The regulations governing migratory bird permits are in 50 CFR part 13 General Permit Procedures and 50 CFR part 21 Migratory Bird Permits. The State of California has incorporated the protection of birds of prey in Sections 3800, 3513, and 3503.5 of the California Department of Fish and Game (CDFG) Code.

---

## **National Environmental Policy Act of 1969**

---

The National Environmental Policy Act of 1969 (NEPA), as amended, requires detailed and documented environmental analysis of proposed federal actions that may affect the quality of the human environment.

---

## **National Historic Preservation Act**

---

The National Historic Preservation Act (NHPA) of 1966, as amended, declared historic preservation as a national policy and authorized the Secretary of the Interior to expand and maintain a National Register of Historic Places that would include properties of national, state, and local historic significance. The Act recommends that federal agencies proposing action consult with the State Historic Preservation Officer regarding the existence and significance of cultural and historical resource sites.

---

## **National Park Service Organic Act of 1916**

---

The National Park Service Organic Act (or simply "the Organic Act" within the National Park Service, conservationists, etc.) is a United States federal law that established the National Park Service (NPS), an agency of the United States Department of the Interior. The Act was signed into law on August 25, 1916, by President Woodrow Wilson, and is located in Title 16 of the United States Code.

---

## **National Park System General Authorities Act**

---

The National Park Service General Authorities Act of 1970 is an amendment to the National Park Service Organic Act of 1916. The amendment included the following:

"Congress declares that the National Park Service, which began with establishment of Yellowstone National Park in 1872, has since grown to include superlative natural, historic, and recreation areas in every major region of the United States, its territories and island possessions; that these areas, though distinct in character, are united through their inter-related purposes and resources into one national park system as cumulative expressions of a single national heritage; that, individually and collectively, these areas derive increased national dignity and recognition of their superb environmental quality through their inclusion jointly with each other in one national park system preserved and managed for the benefit and inspiration of all the people of the United States; and that it is the purpose of this Act to include all such areas in the System and to clarify the authorities applicable to the system." [1]

By this amendment, the Congress of the United States required the entire National Park System be managed as a whole, and not as constituent parts.

## **Native American Graves Protection and Repatriation Act**

---

The Native American Graves Protection and Repatriation Act (NAGPRA) of 1990. These regulations address the rights of lineal descendants, Indian tribes, and native Hawaiian organizations to Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony. They require federal agencies and institutions that receive federal funds to provide information about Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony to lineal descendants, Indian tribes, and native Hawaiian organizations and, upon presentation of a valid request, dispose of or repatriate these objects to them.

## **Executive Order 11593**

---

Executive Order (EO) 11593 (Protection and Enhancement of the Cultural Environment) instructs all federal agencies to support the preservation of cultural properties and directs them to identify and nominate to the National Register cultural properties under their jurisdiction and to “exercise caution...to assure that any federally-owned property that might qualify for nomination is not inadvertently transferred, sold, demolished, or substantially altered.”

## **EO 11988**

---

EO 11988 directs federal agencies to protect, preserve, and restore the natural resources and functions of floodplains; avoid the long- and short-term environmental effects associated with the occupancy and modification of floodplains; and avoid direct and indirect support of floodplain development and actions that could adversely affect the natural resources and functions of floodplains or increase flood risks.

## **EO 11990**

---

EO 11990 (Protection of Wetlands) directs federal agencies to minimize impacts and mitigate the destruction, loss, or degradation of wetlands; preserve, enhance and restore the natural and beneficial values of wetlands; and avoid direct and indirect support of new construction in wetlands unless there are no practicable alternatives and the proposed action includes all practicable measures to minimize harm to wetlands. NPS policies for implementing EO 11990 are found in Director’s Order 77-1 “Wetland Protection” and the associated Procedural Manual. This order requires that parks assess all direct or indirect impacts, including whether each alternative "supports, encourages, or otherwise facilitates additional wetland development."

## **EO 12898**

---

EO 12898 (Environmental Justice in Minority and Low-Income Populations) directs federal agencies to assess whether their actions have disproportionately high and adverse human health or environmental effects on minority and low-income populations.

---

## **EO 13112**

---

EO 13112 requires that federal agencies act 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.

---

## **EO 13186**

---

EO 13186 (Responsibilities of Federal Agencies to Protect Migratory Birds) directs Federal agencies to avoid taking actions that have a measurable negative effect on migratory bird populations. If such actions are taken, the EO directs agencies “to develop and implement within two years a Memorandum of Understanding with the U.S. Fish and Wildlife Service that shall promote the conservation of migratory bird populations.” This EO also defines migratory bird “species of concern” as “those species listed in the periodic report Migratory Nongame Birds of Management Concern in the United States, priority migratory bird species as documented by established plans [such as Bird Conservation Regions in the North American Bird Conservation Initiative or Partners in Flight physiographic areas], and those species listed in 50 CFR 17.11 [Endangered Species Act]”.

---

## **40 CFR 1500-1508**

---

40 CFR 1500-1508 (Council on Environmental Quality NEPA regulations of 1978) – provides Regulations for Implementing the Procedural Provisions of NEPA.

---

## **43 CFR 3**

---

43 CFR 3 (Antiquities Act) establishes procedures to be followed for permitting the excavation or collection of prehistoric and historic objects on federal lands.

---

## **43 CFR 7**

---

43 CFR 7, Subparts A and B (ARPA, as amended), "Protection of archeological Resources, Uniform Regulations" and "Department of the Interior Supplemental Regulations," provides definitions, standards, and procedures for federal land managers to protect archaeological resources and provides further guidance for Interior bureaus on definitions, permitting procedures, and civil penalty hearings.

---

## **NPS Management Policies**

---

The NPS Management Policies (NPS 2001a) provide general guidance for managing natural resources.