

# Appendix C

## *Legal Mandates*

### LEGAL POLICY AND ADMINISTRATIVE GUIDELINES

This section outlines current legal, policy, and administrative guidelines for the management of national wildlife refuges. It begins with the more general considerations such as laws and executive orders for the Service, and moves toward those guidelines that apply specifically to the Lower Suwannee and Cedar Keys National Wildlife Refuges.

This unit also includes sections dealing with specially designated sites such as historical landmarks and archaeological sites, all of which carry with them specific direction by law and/or policy. In addition, consideration is given to guidance prompted by other formal and informal natural resource planning and research efforts.

All the legal, policy, and administrative guidelines provide the framework within which management activities are proposed and developed. These guidances also provide the framework for the enhancement of cooperation between the two refuges and other surrounding jurisdictions in the ecosystem.

### *Legal Mandates*

Administration of the refuges takes into account a myriad of bills passed by the United States Congress and signed into law by the President of the United States. These statutes are considered to be the law of the land as are Executive Orders promulgated by the President. The following is a list of most of the pertinent statutes establishing legal parameters and policy direction to the National Wildlife Refuge System. For those laws that provide special guidance and have strong implications relevant to the Service or the refuges, legal summaries are also included. Many of the summaries have been taken from *The Evolution of National Wildlife Law* by Michael J. Bean.<sup>1</sup> For the bulk of applicable laws and other mandates, legal summaries are available upon request.

Congressional Acts, Treaties, and other Legal Acts that Relate to Administration of the National Wildlife Refuge System:

1. Lacey Act of 1900, as amended (16 U.S.C. 701).
2. Antiquities Act of 1906 (16 U.S.C. 431).
3. Migratory Bird Treaty Act of 1918 (16 U.S.C. 703-711) and 1978 (40 Stat. 755).
4. Migratory Bird Conservation Act, (1929) as amended. (16 U.S.C. 715-715s).
5. Migratory Bird Hunting Stamp Act of 1934, (U.S.C 718-718h).
6. Fish and Wildlife Coordination Act, (1934) as amended (16 U.S.C. 661-666).
7. Historic Sites Act of 1935 (16 U.S.C. 461).

<sup>1</sup> Bean, Michael J., 1983. *The Evolution of National Wildlife Law*, Praeger Publishers, New York.

8. Convention Between the United States of America and the Mexican States for the Protection of Migratory Birds and Game Mammals, (1936) (50 Sta. 1311).
9. Convention of Nature Protection and Wildlife Preservation in the Western Hemisphere, 1940 (56 Stat. 1354).
10. Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742-742j).
11. Refuge Recreation Act, as amended, (Public Law 87-714.76 Sta. 653; 16 U.S.C. 460k-4) September 28, 1962.
12. Refuge Revenue Sharing Act of 1964, (16 U.S.C. 715s) as amended (P.L. 95-469, approved 10-17-78).
13. Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460L-4 to 460L-11), and as amended through 1987.
14. National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee).
15. National Historic Preservation Act of 1966 (16 U.S.C. 470).
16. National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321-4347).
17. Protection and Enhancement of Environmental Quality Executive Order of 1970 (Executive Order 11514, dated March 5, 1970).
18. Environmental Education Act of 1975 (20 U.S.C. 1531-1536).
19. Use of Off-Road Vehicles on the Public Lands Executive Order of 1972, as amended (Executive Order 11644, dated February 8, 1972, as amended by Executive Order 11989, dated May 24, 1977).
20. Endangered Species Act of 1973 (16 U.S.C. 1531-1543 87 Stat. 884) P.L. 93-205). The Endangered Species Act as amended by Public Law 97-304, The Endangered Species Act Amendments of 1982, dated February 1983.
21. Floodplain Management Executive Order of 1977 (Executive Order 11988, dated May 24, 1977). Wetlands Preservation Executive Order of 1977 (Executive Order 11988, dated May 24, 1977).
22. The Archaeological Resource Protection Act of 1979 (P.L. 96-95, 93 Sta. 721, dated October 1979). (16 U.S.C. 470aa - 47011).
23. Fish and Wildlife Conservation Act of 1980 (P.L. 96-366, dated September 29, 1980). (“Nongame Act”) (16 U.S.C. 2901-2911; 94 Stat. 1322).
24. Administrative Procedures Act (5 U.S.C. 551-559, 701-706, 1305, 3105, 3344, 4301, 5362, 7521; 60 Stat. 237), as amended (P.L. 79-404, as amended).
25. Bald Eagle Protection Act of 1940 (16 U.S.C. 668-668d; 54 Stat.), as amended.
26. Canadian United States Migratory Bird Treaty (Convention Between the United States and Great Britain (for Canada for the Protection of Migratory Birds. (39 Stat. 1702; TS 628), as amended.
27. Clean Air Act (42 U.S.C. 1857-1857f; 69 Stat. 322), as amended.
28. Convention on Wetlands of International Importance Especially as Waterfowl Habitats (I.L.M. 11:963-976, September 1972).
29. Cooperative Research and Training Units Act (16 U.S.C. 753a-753b, 74 Stat. 733), as amended. P.L. 86-686).
30. Federal Aid in Fish Restoration Act (16 U.S.C. 777-777k, 64 Stat. 430).
31. Federal Aid in Wildlife Restoration Act (16 U.S.C. 669-669i; 50 Stat. 917), as amended.
32. Federal Environmental Pesticide Control Act of 1972 (7 U.S.C. 136-136y; 86 Stat. 975), as amended.

33. Federal Land Policy Management Act of 1976 (43 U.S.C. 1701-1771, and other U.S.C. sections; 90 Stat. 2743). Public Law 94-579, October 1976.
34. Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471-535, and other U.S.C. sections; 63 Stat. 378), as amended.
35. Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251-1265, 1281-1292, 1311-1328, 1341-1345, 1361-1376, and other U.S.C. titles; 86 Stat. 816), as amended.
36. Fish and Wildlife Improvement Act of 1978 (16 U.S.C. 7421; 92 Stat. 3110) P.L. 95-616, November 1978.
37. Flood Control Act of 1944 (16 U.S.C. 460d, 825s and various sections of title 33 and 43 U.S.C.; 58 Stat. 887), as amended and supplemented.
38. Freedom of Information Act (5 U.S.C. 552; 88 Stat. 1561).
39. Refuge Trespass Act (18 U.S.C. 41; Stat 686).
40. Transfer of Certain Real Property for Wildlife Conservation Purposes Act of May 1948, (16 U.S.C. 667b-667d; 62 Stat. 240), as amended.
41. Water Resources Planning Act (42 U.S.C., 1962-1962a-3; 79 Stat. 244), as amended.
42. Waterfowl Depredations Prevention Act (7 U.S.C. 442-445; 70Stat. 492), as amended.
43. Clean Water Act of 1972, Section 404.
44. The Food Security Act of 1985 (Farm Bill).
45. Native American Graves protection and Repatriation Act of 1990
46. Management and General Public Use of the National Wildlife Refuge System (Executive Order 12996, April 1996). This executive order redefines the mission of the National Wildlife Refuge System and sets out four guiding principles for the management and general public use of the system.
47. National Wildlife Refuge System Improvement Act of 1997 (H.R. 1420, 105th Congress). This law is the first “organic” act for the National Wildlife Refuge System. The Act amends portions of the National Wildlife Refuge System Administration Act and the Refuge Recreation Act, and reiterates into law Executive Order 12996.

### **Service-Wide Policy Directions**

Since the early 1900s, the Service mission and purpose have evolved, while adhering to a fundamental national commitment to threatened and endangered wildlife ranging from the endangered bison to migratory birds of all types. The earliest national wildlife refuges and preserves are examples of this. Pelican Island National Wildlife Refuge, the first refuge, was established in 1903 for the protection of colonial nesting birds such as the snowy egret and the endangered brown pelican. The National Bison Range was instituted for the endangered bison in 1906. Malheur National Wildlife Refuge was established in Oregon in 1908 to benefit all migratory birds with emphasis on colonial nesting species on Malheur Lake. It was not until the 1930s that the focus of refuge programs began to shift toward protection of migratory waterfowl (i.e., ducks and geese). As a result of drought conditions in the 1930s, waterfowl populations became severely depleted. The special emphasis of the Service (then called the Bureau of Sport Fishery and Wildlife ) during the next several decades was on the restoration of critically depleted migratory waterfowl populations.

The passage of the Endangered Species Act of 1973 refocused the activities of the Service as well as other governmental agencies. This Act mandated

the conservation of threatened and endangered species of fish, wildlife, and plants, both through federal action and by encouraging the establishment of state programs. In the late 1970s, the Bureau of Sport Fishery and Wildlife was renamed the U.S. Fish and Wildlife Service to broaden its scope of wildlife conservation responsibilities to include endangered species, as well as game and nongame species. A myriad of other conservation-oriented laws followed, including the Fish and Wildlife Conservation Act of 1980, which emphasized the conservation of nongame species.

Until recently, the Service had no “organic” act to focus upon for the purposes of generating an agency mission. The agency mission has always been derived in consideration of the various laws (as listed in Section 2 of this Unit) and treaties that collectively outlined public policy concerning wildlife conservation. The Department of the Interior Manual states:

“The U.S. Fish and Wildlife Service is responsible for conserving, enhancing, and protecting fish and wildlife and their habitats for the continuing benefit of people through Federal programs relating to wild birds, endangered species, certain marine mammals, inland sport fisheries, and specific fishery and wildlife research activities.”<sup>2</sup>

The National Wildlife Refuge System is the only existing system of federally owned lands managed chiefly for the conservation of wildlife. The System mission is a derivative of the Service mission. This mission was most recently revised by the President of the United States in Executive Order 12996 to reflect the importance of conserving natural resources for the benefit of present and future generations of people. The Executive Order states:

“The mission of the National Wildlife Refuge System is to preserve a national network of lands and waters for the conservation and management of fish, wildlife, and plant resources of the United States for the benefit of present and future generations.”

The Executive Order continues by specifying broad guiding principles describing a level of responsibility and concern for the nation’s wildlife resources for the ultimate benefit of the people. These principles are as follows:

**Public Use:** The Refuge System provides important opportunities for compatible wildlife-dependent recreational activities involving hunting, fishing, wildlife observation and photography, and environmental education and interpretation.

**Habitat:** Fish and wildlife will not prosper without high-quality habitat, and without fish and wildlife, traditional uses of refuges cannot be sustained. The Refuge System will continue to conserve and enhance the quality and diversity of fish and wildlife habitat within refuges.

**Partnerships:** America’s sportsmen and sportswomen were the first partners who insisted on protecting valuable wildlife habitat within wildlife refuges. Conservation partnerships with other Federal agencies, State agencies, Tribes, organizations, industry, and the general public can make significant contributions to the growth and management of the Refuge System.

**Public Involvement:** The public should be given a full and open opportunity to participate in decisions regarding acquisition and management of our National Wildlife Refuges.

<sup>2</sup> Departmental Manual 142 DM 1.1.