

# Appendix A

## Law, regulation & policy relevant to the Upper Deschutes Planning Area

The following is a list of major legal authorities relevant to BLM land use planning. The list is not all-inclusive.

<b>43 CFR 2621</b>	The authority to transfer “in lieu” lands to the State is found in Sections 2275 and 2276 of the Revised Statutes, as amended (43 U.S.C. 851, 852), and guided by regulations found at 43 CFR 2621. See also Oregon Admission Act and Memorandum of Understanding for Indemnity Selections (in this table).
<b>43 CFR 2806.1</b>	Guidance for the designation of right-of-way corridors.
<b>43 CFR 3100, 3200, 3600, and 3800</b>	Regulates onshore oil and gas leasing, geothermal leasing, mineral materials disposal, and mining claims under the general mining laws respectively.
<b>43 CFR 3622</b>	Provides for the non-commercial collection of petrified wood from public lands for personal use.
<b>43 CFR 8365.1-5</b>	Provides for the non-commercial collection of rocks, mineral specimens, and common invertebrate fossils, and semi-precious gemstones from public lands for non-commercial use.
<b>43 CFR Subpart 9212.2(a)</b>	Seasonal fire closures on portions of the Lower Crooked and Middle Deschutes Rivers.
<b>American Indian Religious Freedom Act</b>	42 U.S.C. (1996), establishes a national policy to protect and preserve the right of American Indians to exercise traditional Indian religious beliefs or practices.
<b>Antiquities Act</b>	16 U.S.C. 431-433 protects cultural resources on Federal lands and authorizes the President to designate National Monuments on Federal lands.
<b>Archaeological Resources Protection Act of 1979 (ARPA)</b>	As amended, defines and protects archaeological resources on Federal lands, establishes a permit system for resources over 100 years old, and requires agencies to provide for public education and continuing inventory of Federal lands.
<b>Bald Eagle Protection Act</b>	Provides for the protection of bald and golden eagles.
<b>BLM 8100</b>	Provides management policy and use allocations for the disposition and utilization of agency-managed heritage resources.
<b>BLM Fish and Wildlife 2000</b>	Directs field offices to identify and monitor key wildlife habitats.
<b>BLM H-1601-1</b>	Land Use Planning Handbook.
<b>BLM H-1742-1</b>	Provides direction for emergency fire rehabilitation.
<b>BLM H-8550-1</b>	Provides management in Badlands and Steelhead Falls Wilderness Study Areas under interim rules, until Congress either designates these lands as wilderness or releases them for other purposes.
<b>BLM Manual 6840</b>	Special Status Species Management: Directs conservation and protection of habitats for designated special status species, and other state or federally protected species.
<b>Central Oregon Fire Management Plan</b>	Initial plan completed in 2002, and addresses fire suppression and fuels management on all federal lands for the Deschutes National Forest, the Ochoco National Forest, and the Prineville District BLM. The fire management plan outlines the appropriate management response, including full suppression and modified suppression, throughout the Central Oregon. It also identifies conditions and potential locations for wildland fire use and for prescribed fires, as well as other factors pertaining to fire management in the COFMS (Central Oregon Fire Management Service) area.

<b>Clean Air Act (CAA)</b>	As amended, 42 U.S.C. 7418 requires Federal agencies to comply with all Federal, State and local requirements regarding the control and abatement of air pollution. This includes abiding by the requirements of State Implementation Plans. The CAA requires EPA to set National Ambient Air Quality Standards (NAAQS).
<b>Emergency Fire Rehabilitation Handbook (H-1742-1)</b>	Outlines the process for implementing emergency fire rehabilitation projects following wildland fires and wildland fire use.
<b>Endangered Species Act (ESA)</b>	As amended, 16 U.S.C. 1531 et seq. provides a means whereby the ecosystems upon which endangered and threatened species depend may be conserved, and provides a program for the conservation of such endangered and threatened species (Sec. 1531 (b), Purposes). It requires all Federal agencies to: <ul style="list-style-type: none"> <li>- Seek the conservation of endangered and threatened species and utilize applicable authorities in furtherance of the purposes of the Endangered Species Act (Sec. 1531 (c) (1), Policy).</li> <li>- Avoid jeopardizing the continued existence of any species that is listed or proposed for listing as threatened or endangered or destroying or adversely modifying its designated or proposed critical habitat (Sec. 1536(a), Interagency Cooperation).</li> <li>- Consult (or confer) in accordance with Sec. 7 of the ESA with the Secretary of the Interior, through the Fish and Wildlife Service and/or the National Marine Fisheries Service, to ensure that any Federal action (including land use plans) or activity is not likely to jeopardize the continued existence of any species listed or proposed to be listed under the provisions of the ESA, or result in the destruction or adverse modification of designated or proposed critical habitat (Sec. 1536 (a), Interagency Cooperation, and 50 CFR 402).</li> </ul>
<b>Executive Order 11593</b>	Directs Federal agencies to inventory public lands and to nominate eligible properties to the National Register of Historic Places (1971).
<b>Executive Order 12898 (Environmental Justice in Minority and Low-income Populations)</b>	49 Fed. Reg. 7629 requires that each Federal agency consider the impacts of its programs on minority populations and low income populations.
<b>Executive Order 13007 (Indian Sacred Sites)</b>	61 Fed. Reg. 26771 requires Federal agencies to the extent practicable, permitted by law, and not clearly inconsistent with essential agency functions to: <ul style="list-style-type: none"> <li>- Accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners; and</li> <li>- Avoid adversely affecting the physical integrity of such sacred sites.</li> </ul>
<b>Executive Order 13112 (Invasive Species)</b>	Provides that no Federal agency shall authorize, fund or carry out actions that it believes are likely to cause or promote the introduction or spread of invasive species unless, pursuant to guidelines that it has prescribed, the agency has determined and made public its determination that the benefits of such actions clearly outweigh the potential harm caused by invasive species; and that all feasible and prudent measures to minimize risk or harm will be taken in conjunction with the actions.
<b>Executive Order 13175 (Consultation &amp; Coordination with Indian Tribal Govs.)</b>	Provides, in part, that each Federal agency shall establish regular and meaningful consultation and collaboration with Indian tribal governments in the development of regulatory practices on Federal matters that significantly or uniquely affect their communities.
<b>Executive Order 13287</b>	Directs Federal agencies to efficiently and effectively advance historic preservation objectives in the pursuit of their missions (2003).

<b>Executive Order No. 13186</b>	Directs the bureau to protect, restore, enhance and manage habitat of migratory birds and prevent the loss or degradation of remaining habitats on BLM and to evaluate the effects of actions and agency plans on migratory birds, with emphasis on species of concern.
<b>Executive Order Preserve America</b>	Directs Federal agencies to provide leadership in preserving America's heritage by actively advancing the protection, enhancement, and contemporary use of historic properties owned by the Federal Government, and by promoting intergovernmental cooperation and partnerships for the preservation and use of historic properties (2003).
<b>Federal Cave Resources Protection Act</b>	16 USC 4306 requires federal agencies to identify, protect and maintain significant caves.
<b>Federal Land Policy and Management Act (FLPMA)</b>	<b>Sec. 102 (a) (7) and (8) and 103(c)</b> set the policy of the United States concerning the management of BLM managed lands. <b>Sec. 201</b> requires the Secretary of the Interior (the Secretary) to prepare and maintain an inventory of all BLM managed lands and their resource and other values; and, as funding and workforce are available, to determine the boundaries of the public lands, provide signs and maps to the public, and provide inventory data to State and local governments. <b>Sec. 202 (a)</b> requires the Secretary, with public involvement, to develop, maintain, and when appropriate, revise land use plans that provide by tracts or areas for the use of the BLM managed lands. <b>Sec. 202 (c) (9)</b> requires that land use plans for BLM managed lands be consistent with tribal plans and, to the maximum extent consistent with applicable Federal laws, with State and local plans. <b>Sec. 202 (d)</b> provides that all public lands, regardless of classification, are subject to inclusion in land use plans, and that the Secretary may modify or terminate classifications consistent with land use plans. <b>Sec. 202 (f) and Sec. 309 (e)</b> provide that Federal agencies, State and local governments, and the public be given adequate notice and an opportunity to comment on the formulation of standards and criteria for, and to participate in, the preparation and execution of plans and programs for the management of the public lands. <b>Sec. 302 (a)</b> requires the Secretary to manage the BLM managed lands under the principles of multiple use and sustained yield, in accordance with, when available, land use plans developed under Sec. 202 of FLPMA, except that where a tract of BLM managed lands has been dedicated to specific uses according to any other provisions of law, it shall be managed in accordance with such laws. <b>Sec. 302 (b)</b> recognizes the entry and development rights of mining claimants, while directing the Secretary to prevent unnecessary or undue degradation of the public lands. <b>Sec. 505(a)</b> requires that "... each right-of-way shall contain terms and conditions which will ... minimize damage to the scenic and esthetic values..."
<b>Federal Water Pollution Control Act</b>	33 U.S.C. 1323 requires the Federal land manager to comply with all Federal, State, and local requirements, administrative authority, process, and sanctions regarding the control and abatement of water pollution in the same manner and to the same extent as any non-governmental entity.
<b>Fundamentals of Rangeland Health</b>	43 CFR 4180.1 and associated Standards (43 CFR 4180.2).
<b>General Mining Law</b>	As amended, 30 U.S.C. 21 et seq., allows the location, use, and patenting of mining claims on sites on public domain lands of the United States.
<b>Geothermal Steam Act of 1970</b>	As amended authorizes the BLM to grant leases for geothermal exploration and development on federal public lands open for this purpose.
<b>Healthy Forest Restoration Act</b>	A product of the Healthy Forests Initiative (2003) (see below).
<b>Healthy Forests Initiative</b>	Directs the Department of the Interior (and other agencies) to improve regulatory processes to ensure more timely decisions, greater efficiency, and better results in reducing the risk of catastrophic wildland fires (2002).

<b>IB No. OR-2000-334</b>	Information Bulletin regarding maintaining existing sagebrush-steppe habitats in the existing sage grouse range in order to sustain sage grouse populations and protect options for the future
<b>IM No. OR-95-021</b>	Instruction Memorandum re: Interim Cave Management Policy. Provides guidelines for the protection of cave resources.
<b>La Pine State Park Master Plan (1986)</b>	Provides guidance for management of formerly public domain land conveyed to Oregon Parks and Recreation Department in the mid 1960s within two patents issued under authority of the Recreation and Public Purposes Act. As a condition of the conveyance, BLM retained title to all present and future vegetative resources on these parcels.
<b>Memorandum of Understanding for Indemnity Selections</b>	BLM MOU OR940-9509, between the US Department of Interior, BLM, and the State of Oregon, Division of State Lands, signed July 26, 1995. The MOU followed a 1991 ruling of the U.S. District Court, Civil No. 85-646-MA. See also Oregon Admission Act and 43 CFR 2621 (in this table).
<b>Middle Oregon Treaty</b>	Signed June 25, 1855, ratified March 8, 1859 (12 STAT 963), reserved rights for the Confederated Tribes of Warm Springs to fish, off-reservation, at usual and accustomed stations and to hunt, gather resources, and pasture animals on public lands in common with other citizens of the United States.
<b>Mineral Leasing Act of 1920</b>	As amended, 30 U.S.C. 181 et seq., authorizes the development and conservation of oil and gas resources. The BLM can grant leases for development of deposits of coal, phosphate, potash, sodium, sulfur and other leasable minerals on federal public domain lands open for this purpose and on lands having federal reserved minerals.
<b>Mining and Mineral Policy Act</b>	30 U.S.C. 21a establishes a policy of fostering development of economically stable mining and minerals industries, their orderly and economic development, and studying methods for disposal of waste and reclamation.
<b>Mining Law of 1872</b>	As amended provides guidance for exploring for, discovering, and purchasing locatable mineral deposits on federal lands open to those activities
<b>National Ambient Air Quality Standards</b>	See CAA, above, or <a href="http://www.thecre.com/fedlaw/legal14air/criteria.htm">http://www.thecre.com/fedlaw/legal14air/criteria.htm</a> (July 2005).
<b>National Cultural Programmatic Agreement</b>	1997 agreement.
<b>National Environment Policy Act (NEPA)</b>	As amended, 42 U.S.C. 4321 et seq., requires the consideration and public availability of information regarding the environmental impacts of major Federal actions significantly affecting the quality of the human environment. This includes the consideration of alternatives and mitigation of impacts.
<b>National Historic Preservation Act (NHPA)</b>	As amended, 16 U.S.C. 470, expands protection of historic and archaeological properties to include those of national, State, and local significance and directs Federal agencies to consider the effects of proposed actions on properties eligible for or included in the National Register of Historic Places.
<b>Native American Graves and Repatriation Act (1990)</b>	25 U.S.C. 3001 provides protection of Native American grave sites and associated artifacts.
<b>Onshore Oil and Gas Leasing Reform Act</b>	30 U.S.C. 181 et seq., provides that federal land managers must: <ul style="list-style-type: none"> <li>- Adequately address potential oil and gas resources be in planning documents;</li> <li>- Determine social, economic, and environmental consequences of exploration and development of oil and gas resources; and</li> <li>- Clearly identify any stipulations to be applied to oil and gas leases.</li> </ul>
<b>Oregon Admission Act</b>	Outlines federal obligations related to Oregon becoming a State. See also 43 CFR 2621 and Memorandum of Understanding for Indemnity Selections (in this table).

<b>Oregon Rangeland Handbook, H-1734-2 (and newer versions)</b>	Guides monitoring and evaluation of grazing allotments.
<b>Pacific States Bald Eagle Recovery Plan</b>	Covers the states of Washington, Oregon, Idaho, Montana, Wyoming, California and Nevada (USFWS 1986). The Plan established recovery population goals, habitat management goals, and 47 management (recovery) zones. The High Cascades Zone (zone 11) includes the Upper Deschutes Planning Area. The Pacific States Bald Eagle Recovery Plan described specific criteria for the Pacific Recovery Area (PRA) as necessary for delisting.
<b>Prineville District Integrated Weed Management EA (1994)</b>	Provides guidance for weed Management across Prineville District.
<b>Protocol for 303(d) listed Streams</b>	The BLM will take actions relative to 303(d) listed waterbodies in accordance with the protocol (see details in Appendix E).
<b>Protocol for Managing Cultural Resources</b>	1998 protocol directing management on lands administered by the BLM in Oregon.
<b>Public Rangelands Improvement Act (PRIA)</b>	43 U.S.C. 1901 provides that the public rangelands be managed so that they become as productive as feasible in accordance with management objectives and the land use planning process established pursuant to 43 U.S.C. 1712.
<b>Recreation and Public Purposes Act</b>	As amended, 43 U.S.C. 869 et seq., authorizes the Secretary of the Interior to lease or convey BLM managed lands for recreational and public purposes under specified conditions.
<b>Safe Drinking Water Act</b>	42 U.S.C. 201 is designed to make the Nation's waters "drinkable" as well as "swimable." Amendments establish a direct connection between safe drinking water, watershed protection, and management.
<b>Secretarial Order 3206</b>	(American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act) requires DOI agencies to consult with Indian Tribes when agency actions to protect a listed species, as a result of compliance with ESA, affect or may affect of Indian lands, tribal trust resources, or the exercise of American Indian tribal rights.
<b>Standards for Rangeland Health and Guidelines for Livestock Grazing Mgmt in OR &amp; WA</b>	The Standards meet the requirements and intent of 43 Code of Federal Regulations, Subpart 4180 (Rangeland Health). The Standards direct the BLM to modify or discontinue livestock grazing prior to the start of the next grazing year if livestock are found to be a significant contributing factor to failure to attain a Standard. The Standards address watershed function (upland and riparian), ecological processes, water quality, and habitat for native, T&E and locally important species.
<b>Taylor Grazing Act (TGA)</b>	43 U.S.C. 315, "[T]he Secretary of the Interior is authorized, in his discretion, by order to establish grazing districts or additions thereto... of vacant unappropriated and unreserved lands from any part of the public domain...which in his opinion are chiefly valuable for grazing and raising forage crops[.]..." The Act also provides for the classification of lands for particular uses.
<b>Vegetation Treatment on BLM Lands EIS (1991)</b>	Provides guidance for management of vegetation.
<b>Wild and Scenic Rivers Act</b>	As amended, 16 U.S.C. 1271 et seq., requires the Federal land management agencies to identify river systems and then study them for potential designation as wild, scenic, or recreational rivers.
<b>Wilderness Act</b>	As amended, 16 U.S.C. 1131 et seq., authorizes the President to make recommendations to the Congress for Federal lands to be set aside for preservation as wilderness.

