
KEMMERER
PROPOSED RESOURCE MANAGEMENT PLAN AND
FINAL ENVIRONMENTAL IMPACT STATEMENT

Appendix P

Relevant Statutes, Limitations, and Guidelines

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Numerous federal and state laws and applicable regulations, policies, and actions could impact the alternatives analyzed in this EIS. This section describes select authorities that apply to the selection and implementation of alternatives identified in this EIS. This is not an exhaustive list of relevant statutes, limitations, and guidelines; many statutes apply across multiple programs.

Environmental Policy

NEPA requires the preparation of EISs for major federal actions that may significantly affect the human environment. It requires systematic, interdisciplinary planning to ensure the integrated use of natural and social sciences and environmental design when making decisions about major federal actions that could affect the environment. The procedures required under NEPA are implemented through the CEQ regulations at 40 CFR 1500.

An Executive Order (EO) regarding federal compliance with pollution control standards (EO 12088) requires that federal agencies comply with applicable pollution control standards. NEPA also requires the BLM to “... promote efforts which will prevent or eliminate damage to the environment ...” and to “... attain the widest range of beneficial uses...without degradation, risk to health and safety, or other undesirable and unintended consequences...” (NEPA [42 USC § 4321 et seq.], as amended).

An EO regarding protection and enhancement of environmental quality (EO 11514, as amended by EO 11991) establishes the policy for federal agencies to provide leadership in environmental protection and enhancement.

Land Use and Natural Resources Management

FLPMA provides for public lands to be generally retained in federal ownership for periodic and systematic inventory of the public lands and their resources; for a review of existing withdrawals and classifications; for establishing comprehensive rules and regulations for administering public lands statutes after considering the views of the general public; for adjudication procedures that assure adequate third party participation, objective administrative review of decisions, and expeditious decision making; for multiple-use management on a sustained yield basis; for protection of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; for preservation and protection of certain public lands in their natural condition, where appropriate; for providing food and habitat for fish and wildlife and domestic animals, for providing outdoor recreation and human occupancy and use; for receiving fair market value for the use of the public lands and their resources; for establishing uniform procedures for any disposal, acquisition, or exchange; for protecting ACECs; for recognizing the Nation’s need for domestic sources of mineral, food, timber, and fiber from the public lands, including implementing the Mining and Mineral Policy Act of 1970; and for payments to compensate states and local governments for burdens created as a result of the immunity of federal lands from state and local taxation. The general land management regulations are provided in 43 CFR 2000, Subchapter B.

The Taylor Grazing Act of 1934, as amended (43 USC 315), provides authorization to the Secretary of the Interior to establish grazing districts from any part of the public domain of the United States (exclusive of Alaska) which, in the Secretary’s opinion, are chiefly valuable for grazing and raising forage crops; could regulate and administer grazing use of all public lands; and could improve the public rangelands. Regulations for grazing permits and leases are provided in 43 CFR 4100.

The Public Rangelands Improvement Act of 1978 (43 USC 1901, et seq.) provides for the improvement of range conditions on public rangelands, research on wild horse and burro population dynamics, and other range management practices.

The Federal Noxious Weed Act of 1974, as amended (7 USC 2814), provides for establishing and funding of an undesirable plant management program, completing and implementing cooperative agreements with state agencies, and establishing integrated management systems to control undesirable plant species.

The Wilderness Act of 1964 (16 USC 1131, et seq.) provides for the designation and preservation of wilderness areas.

EO 11987 (Exotic Organisms), signed May 24, 1977, requires federal agencies, to the extent permitted by law, to restrict the introduction of exotic species into the natural ecosystems on lands and waters owned or leased by the United States; to encourage states, local governments, and private citizens to prevent the introduction of exotic species into natural ecosystems of the United States; to restrict the importation and introduction of exotic species into any natural ecosystems as a result of activities they undertake, fund, or authorize; and to restrict the use of federal funds, programs, or authorities to export native species for introduction into ecosystems outside the United States where they do not occur naturally.

EO 13112 (Invasive Species), signed on February 3, 1999, prevents the introduction of invasive species and provides for their control, as well as to minimize the economic, ecological, and human health impacts that invasive species cause. Under this EO, federal agencies whose actions may affect the status of invasive species shall (1) identify such actions; (2) use relevant programs and authorities to prevent, control, monitor, and research such species; and (3) not authorize, fund, or carry out actions that are believed to likely cause or promote the introduction or spread of invasive species in the United States or elsewhere.

EO 12548 provides for establishment of appropriate fees for the grazing of domestic livestock on public rangelands and directs that the fees shall not be less than \$1.35 per animal unit month.

Minerals

The General Mining Law of 1872, as amended (30 USC 22 (21), et seq.), provides for locating and patenting mining claims where a discovery has been made for locatable minerals on public lands in specified states. Regulations for staking and maintenance of claims on BLM-administered lands are listed in 43 CFR 3800.

The Mineral Leasing Act of 1920, as amended (30 USC 181, et seq.), provides for the leasing of deposits of coal, phosphate, sodium, potassium, oil, oil shale, gilsonite (including all vein-type solid hydrocarbons), or gas, and lands containing such deposits owned by the United States, including those in national forests, but excluding those acquired under other acts subsequent to February 25, 1920, and those lands within the national petroleum and oil shale reserves. Regulations for onshore oil and gas leasing are provided in 43 CFR 3100.

The Federal Coal Leasing Amendments Act of 1976 requires competitive leasing of coal on public lands and mandates a broad spectrum of coal operations requirements for lease management. Coal leasing regulations for BLM-administered lands are provided in 43 CFR 3400.

The Materials Act of 1947 (30 USC 601 et seq.) authorizes the disposal of vegetative materials, such as timber or other forest products, and mineral materials, such as sand, stone, or gravel, on public lands of the United States. The sales of forest products are governed by the regulations in 43 CFR 5400, while the regulations for the sale and free use of mineral materials are in 43 CFR 3600.

The Energy Policy Act of 2005 was signed into law on August 8, 2005. The act established a comprehensive, long-range energy policy. It provides incentives for traditional energy production, as well as newer, more efficient energy technologies and conservation attempts to combat growing energy challenges. It also provides tax incentives and loan guarantees for energy production of various types.

Air Quality

The Clean Air Act (CAA) of 1990, as amended (42 USC 7401, 7642) established objectives to protect air quality, maintain federal- and state-designated air quality standards, and abide by the requirements of the state implementation plans. The Regional Haze Regulations were developed by the U.S. Environmental Protection Agency (EPA) in response to the CAA Amendments of 1990. They are intended to maintain visibility on the least impaired days and improve visibility on the most impaired days in mandatory Federal Class I areas across the United States, so that visibility in these areas is returned to natural conditions by the year 2064. These regulations require states to submit a regional haze state implementation plan and progress reports to demonstrate reasonable progress toward the 2064 goal. Wyoming Air Quality Standards and Regulations specify the requirements for air permitting and monitoring to implement CAA and state ambient air quality standards.

Water Quality

The Clean Water Act of 1987, as amended (33 USC 1251), established objectives to restore and maintain the chemical, physical, and biological integrity of the Nation's water. The act also requires permits for point source discharges to navigable waters of the United States and the protection of wetlands. It also includes monitoring and research provisions for protection of ambient water quality.

Wyoming Water Quality Regulations implement permitting and monitoring requirements for the National Pollutant Discharge Elimination System, operation of injection wells, storm water permitting, groundwater protection requirements, prevention and response requirements for spills, and salinity standards and criteria for the Colorado River basin.

Protection of Wetlands (EO 11990) requires federal agencies to take action to minimize the destruction, loss, or degradation of wetlands and to preserve and enhance the natural and beneficial values of wetlands.

Floodplain Management (EO 11988) provides for the restoration and preservation of national and beneficial floodplain values, as well as enhancement of the natural and beneficial values of wetlands in carrying out programs affecting land use.

Cultural Resources

The Historic Sites Act (16 USC 461 et seq.) declares national policy to identify and preserve historic sites, buildings, and objects, of national significance, thereby providing a foundation for the National Register of Historic Places (NRHP).

The National Historic Preservation Act of 1966, as amended (16 USC 470 et seq.), expands protection of historic and archeological properties to include those of national, state, and local significance. It also directs federal agencies to consider the effects of proposed actions on properties eligible for or included in the NRHP.

The Archaeological Resources Protection Act of 1979, as amended (16 USC 470cc, 470ee), requires permits for the excavation or removal of federally administered archeological resources, encourages increased cooperation among federal agencies and private individuals, provides stringent criminal and civil penalties for violations, and requires federal agencies to identify important resources vulnerable to looting and to develop a tracking system for violations.

The Native American Graves Protection and Repatriation Act of 1990 (32 USC 3001 et seq.) provides a process for federal agencies to return certain Native American cultural items (e.g., human remains, funerary objects, sacred objects, and objects of cultural patrimony) to lineal descendants and culturally affiliated Native American tribes.

The National Trails System Act of 1968, as amended (16 USC 1241 et seq.), establishes a national trails system and provides that federal rights in abandoned railroads may be retained for trail or recreation purposes.

Protection and Enhancement of the Cultural Environment (EO 11593) directs federal agencies to locate, inventory, nominate, and protect federally owned cultural resources eligible for the NRHP and to ensure that their plans and programs contribute to preservation and enhancement of nonfederally owned resources.

The Programmatic Agreement among the Bureau of Land Management, Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers Regarding the Manner in which BLM will Meet its Responsibilities Under the National Historic Preservation Act (National Programmatic Agreement [NPA]) expresses how the BLM will meet its responsibilities under Sections 106, 110 and 111 (a) of the National Historic Preservation Act (NHPA) through the implementation of mechanisms agreed to in the NPA. *The State Protocol Between The Wyoming Bureau of Land Management and The Wyoming State Historic Preservation Officer* (Protocol) describes the manner in which the Wyoming State Historic Preservation Officer and the BLM will interact and cooperate under that NPA.

Hazardous Materials

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (42 USC 9601-9673), provides for liability, risk assessment, compensation, emergency response, and cleanup (including the cleanup of inactive sites) for hazardous substances. The Act requires federal agencies to report sites where hazardous wastes are or have been stored, treated, or disposed, and requires responsible parties to clean up releases of hazardous substances.

The Resource Conservation and Recovery Act, as amended by the Federal Facility Compliance Act of 1992 (42 USC 6901-6992), authorizes the EPA to manage hazardous wastes on active disposal operations. The Act waives sovereign immunity for federal agencies with respect to federal, state, and local solid and hazardous waste laws and regulations. Federal agencies may be subject to civil and administrative penalties for violations and to cost assessments for the administration of enforcement.

The Emergency Planning and Community Right-To-Know Act of 1986 (42 USC 11001-1050) requires the private sector and federal, state, local, and tribal governments to inventory chemicals and chemical products, to report those in excess of threshold planning quantities, to inventory emergency response equipment, to provide annual reports and support to local and state emergency response organizations, and to maintain liaisons with the local and state emergency response organizations and the public.

Forest Resources

The Healthy Forests Restoration Act of 2003 (16 USC 6501 et seq.) contains provisions to expedite and streamline the preparation and implementation of hazardous fuel reduction and forest restoration projects on specific types of at-risk federal lands to increase and improve forest and rangeland health and to prevent the damage caused by catastrophic wildfires.

The Materials Act of 1947 authorizes the disposal of vegetative materials, such as timber or other forest products, and mineral materials, such as sand, stone, or gravel, on public lands of the United States. The sales of forest products are governed by the regulations in 43 CFR 5400, while the regulations for the sale and free use of mineral materials are in 43 CFR 3600.

Wildlife

The ESA of 1973, as amended (16 USC 1531 et seq.), directs federal agencies to ensure that their actions do not jeopardize the continued existence of threatened and endangered species or their critical habitat, and that through their authority they help bring about the recovery of such species.

The Bald Eagle Protection Act of 1940 (16 USC 668), amended in 1962 to include the golden eagle, prohibits the taking or possession of and commerce in bald and golden eagles, with limited exceptions.

The Fish and Wildlife Coordination Act of 1958 (16 USC 661 et seq.) provides that whenever the waters or channels of a body of water are modified by a department or agency of the United States, the department or agency will first consult with the USFWS and with the head of the agency exercising administration over the wildlife resources of the state where construction will occur, with a view to the conservation of wildlife resources.

The Fish and Wildlife Improvement Act of 1978 (16 USC 7421) authorizes the Secretary of the Interior and the Secretary of Commerce to assist in the training of state fish and wildlife enforcement personnel, to cooperate with other federal or state agencies to enforce fish and wildlife laws, and to use appropriations to pay for rewards and undercover operations.

The Fish and Wildlife Conservation Act of 1980, as amended (16 USC 2901-2912), commonly known as the Nongame Act, recognizing that nongame fish and wildlife possess ecological, educational, aesthetic, cultural, recreational, economic, or scientific value, encourages states to develop conservation plans to restore and maintain fish and wildlife populations. The states may be reimbursed for a percentage of the costs of developing, revising, or implementing conservation plans approved by the Secretary of the Interior. Amendments adopted in 1988 and 1989 also direct the Secretary to undertake certain activities to research and conserve migratory nongame birds.

The Migratory Bird Treaty Act of 1918 (16 USC et seq.) manages and protects migratory bird species through consultation with state and local governments and protection of land and water resources necessary for the conservation of migratory birds. Under the Act, taking, killing, or possessing migratory birds is unlawful.

The Sikes Act of 1960 (16 USC 670a-670o), as amended, Public Law (Pub. L.) 86-797, provides for cooperation by the USDI and the U.S. Department of Defense with state agencies in the planning, development, and maintenance of fish and wildlife resources on military reservations throughout the United States. Pub. L. 93-452, signed in 1974, authorized conservation and rehabilitation programs on BLM lands. Pub. L. 97-396, approved in 1982, provided for the inclusion of endangered plants in conservation programs developed for BLM lands. It also distinguished between “cooperative plans” with states and “Cooperative Agreements” under federal law, and clarified section 209 concerning purchases and contracts for property and services from states.

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