

## **CHAPTER 6 COMPLIANCE WITH FEDERAL OR STATE REGULATIONS**

This act establishes standards for design/construction or alteration of buildings to ensure that physically disabled persons have ready access to and use of such buildings. The act excludes historic structures from the standards until they are altered. All development proposed must be consistent with this act.

### **National Park Service Enabling Legislation**

#### **Public Law 81-787, 1950.**

This law established Grand Teton National Park as a 310,521 acre entity that includes portions of both the Teton Range and Jackson Hole. The legislation designated and opened rights-of-way over and across federal lands within the exterior boundary of the Park, for the movement of persons and property to and from national forests and State and private lands adjacent to the Park. The rights of residents and others legally occupying and using lands within the Park in 1950 were also specified in the law. The grazing rights protected by this law have expired, but are preserved by Public Law 105-81 (1997), the Open Space Study Act.

#### **1916 Organic Act, August 25, 1916 (National Park Service Organic Act), PL 64-235, 16 USC §1 et seq. As amended.**

On August 15, 1916, Congress created the National Park Service with the National Park Service Organic Act. This act, as reaffirmed and amended in 1970 and 1978, establishes a broad framework of policy for the administration of national parks:

“The Service thus established shall promote and regulate the use of the Federal areas known as National Parks, Monuments, and Reservations... by such means and measures as to conform to the fundamental purpose of the said Parks, Monuments, and

Reservations, which purpose is to conserve the scenery and the natural and historic objects and

the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.”

### **General Legislation and Regulations**

#### **National Environmental Policy Act (NEPA) of 1970, PL 91-190, 83 Stat. 852, 42 USC §4341 et seq.**

The NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment. Regulations implementing NEPA are set forth by the Council on Environmental Quality.

#### **Council on Environmental Quality Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (NEPA) (40 CFR Parts 1500-1508).**

The Council on Environmental Quality regulations for implementing the National Environmental Policy Act (NEPA) establish the process by which federal agencies fulfill their obligations under the NEPA process. The Council on Environmental Quality regulations ascertain the requirements for environmental assessments and environmental impact statements that document the NEPA process. The Council on Environmental Quality regulations also define such key terms as “cumulative impact,” “mitigation” and “significantly” to ensure consistent application of these terms in environmental documents. This environmental impact statement was prepared as directed in the Council on Environmental Quality regulations.

#### **Americans with Disabilities Act, PL 101-336, 104 Stat. 327, 42 USC §12101.**

This act states that all new construction and programs will be accessible to individuals with disabilities. Additionally, National Park Service Special Directive 83-3 states that accessibility will be proportional to the degree of development (i.e., areas of intense development such as visitor centers, museums, drive-in campgrounds, etc., will be entirely accessible, and areas of lesser development such as backcountry trails and walk-in campgrounds may have fewer accessibil-



ity features). All development proposed must be consistent with this act.

**Architectural Barriers Act of 1968, PL 90-480, 82 Stat. 718, 42 USC §4151 et seq.**

This act establishes standards for design/construction or alteration of buildings to ensure that physically disabled persons have ready access to and use of such buildings. The act excludes historic structures from the standards until they are altered. All development proposed must be consistent with this act.

## **Natural Resources Legislation**

**Clean Air Act, as amended, PL Chapter 360, 69 Stat. 322, 42 USC §7401 et seq.**

Section 118 of the Clean Air Act requires all federal facilities to comply with existing federal, state, and local air pollution control laws and regulations.

**Federal Water Pollution Control Act (commonly referred to as the Clean Water Act) of 1977 (33 USC 1251 et seq.).**

The Clean Water Act provides for the restoration and maintenance of the physical, chemical, and biological integrity of the nation's waters. Section 404 of the act prohibits the discharge of fill material into navigable water of the United States, including wetlands, except as permitted under separate regulations by the U.S. Army Corps of Engineers and U.S. Environmental Protection Agency. The placement of fill in wetlands should be avoided if there are practicable alternatives. Compliance with Section 401 and 404 of the Clean Water Act will be completed as necessary prior to any new construction proposed in this plan.

**Clean Water Act Amendments of 1987.**

The 1987 amendments to the act required that the Environmental Protection Agency establish regulations for the issuance of municipal and industrial stormwater discharge permits as part of the National Pollutant Discharge Elimination System. The final Environmental Protection Agency regulations were published in November 1990. These regulations apply to any construction activities that disturb more than five acres of land.

**Endangered Species Act of 1973, as amended, PL 93-205, 87 Stat. 884, 16 USC §1531 et seq.**

The Endangered Species Act protects threatened and endangered species, as listed by the U.S. Fish and Wildlife Service, from unauthorized take, and directs federal agencies to ensure that their actions do not jeopardize the continued existence of such species. Section 7 of the act defines federal agency responsibilities for consultation with the U.S. Fish and Wildlife Service and requires preparation of a Biological Assessment to identify any threatened or endangered species that is likely to be affected by the proposed action. The National Park Service initiated and maintained formal consultation with the U.S. Fish and Wildlife Service throughout the planning process.

## **Cultural Resources Legislation**

**Antiquities Act of 1906, PL 59-209, 34 Stat. 225, 16 USC §432 and 43 CFR 3.**

This act provides for the protection of historic or prehistoric remains, "or any antiquity," on federal lands. It protects historic monuments and ruins on public lands. It was superseded by the Archeological Resources Protection Act (1979) as an alternative federal tool for prosecution of antiquities violations in the National Park System.

**Archeological Resources Protection Act of 1979, PL 96-95, 93 Stat. 712, 16 USC §470aa et seq. and 43 CFR 7, subparts A and B, 36 CFR.**

This act secures the protection of archeological resources on public or Indian lands and fosters increased cooperation and exchange of information between private, government, and the professional community in order to facilitate the enforcement and education of present and future generations. It regulates excavation and collection on public and Indian lands. It requires notification of Indian tribes who may consider a site of religious or cultural importance prior to issuing a permit. The act was amended in 1988 to require the development of plans for surveying public lands for archeological resources and systems for reporting incidents of suspected violations.



**National Historic Preservation Act of 1966, as amended, PL 89-665, 80 Stat. 915, 16 USC§470 et seq. and 36 CFR 18, 60, 61, 63, 68, 79, 800.**

The National Historic Preservation Act requires agencies to take into account the effects of their actions on properties listed in or eligible for listing in the National Register of Historic Places. The Advisory Council on Historic Preservation has developed implementing regulations (36 CFR 800), which allow agencies to develop agreements for consideration of these historic properties.

**American Indian Religious Freedom Act, PL 95-341, 92 Stat. 469, 42 USC §1996.**

This act declares policy to protect and preserve the inherent and constitutional right of the American Indian, Eskimo, Aleut, and Native Hawaiian people to believe, express, and exercise their traditional religions. It provides that religious concerns should be accommodated or addressed under NEPA or other appropriate statutes.

**Native American Grave Protection and Repatriation Act, PL 101-601, 104 Stat. 3049, 25 USC §3001-3013.**

This act assigns ownership or control of Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony that are excavated or discovered on federal lands or tribal lands to lineal descendants or culturally affiliated Native American groups.

## **Executive Orders**

### **Executive Order 11593:**

Protection and Enhancement of the Cultural Environment. This Executive Order instructs all federal agencies to support the preservation of cultural properties. It directs them to identify and nominate cultural properties under their jurisdiction to the National Register of Historic Places 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.”

### **Executive Order 11988:**

Floodplain Management. This Executive Order requires federal agencies to avoid, to the extent possible, adverse impacts associated with the oc-

cupancy and modification of floodplains, and to avoid development in floodplains whenever there is a practical alternative. If a proposed action is found to be in the applicable regulatory floodplain, the agency shall prepare a floodplain assessment, known as a Statement of Findings.

### **Executive Order 11990:**

Protection of Wetlands. This Executive Order established the protection of wetlands and riparian systems as the official policy of the federal government. It requires all federal agencies to consider wetland protection as an important part of their policies and take action to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands. Should adverse impacts on wetlands be identified, a Wetland Statement of Findings would be prepared and included in subsequent compliance (such as an environmental assessment or environmental impact statement) for the specific project. Also, consultation with the U.S. Army Corps of Engineers will be conducted prior to construction activities that have the potential to affect wetlands.

### **Presidential Executive Order 12902:**

Energy Efficiency and Water Conservation. This Executive Order directs each agency involved in the construction of a new facility to design and construct it to use energy efficiently, conserve water, and employ renewable energy technologies. The requirements of this Executive Order would be met during the design phase for any new facilities proposed.

### **Executive Order No. 13112:**

Invasive Species. This Executive Order prevents the introduction of invasive species and directs federal agencies to not authorize, fund, or carry out actions that it believes are likely to cause or promote the introduction or spread of invasive species. Actions proposed in the plan include measures to prevent the introduction and spread of invasive species.

## **Department of the Interior – Director’s Orders**

Director’s Orders provide guidance for implementing certain aspects of National Park Service

policy. Copies of those that have been completed may be obtained by contacting the NPS Office of Policy or by accessing the National Park Service web site at [www.nps.gov/refdesk/DOrders/](http://www.nps.gov/refdesk/DOrders/).

The following Director's Orders may be relevant to the planning process:

- 1 The Directives System
- 2 Park Planning
- 9 Law Enforcement Program
- 16A Reasonable Accommodation for Applicants and Employees with Disabilities
- 17 National Park Service Tourism
- 18 Wildland Fire Management
- 20 Agreements
- 21 Donations and Fundraising
- 28 Cultural Resource Management
- 32 Cooperating Associations
- 41 Wilderness Preservation & Management
- 50B Occupational Safety and Health
- 77-1 Wetland Protection
- 83 Public Health National Park Service Guidelines
- NPS-12 National Environmental Policy Act Guidelines
- NPS-77 Natural Resources Management Guidelines

## **Future Regulatory Compliance Necessary to Implement the Project**

The following is a list of additional studies that will need to be completed to implement the

project once an alternative has been selected and preliminary design has been initiated.

Archeological surveys of areas where improvements are proposed will be needed to determine whether sites are eligible for listing in the National Register of Historic Places.

Hydraulic analysis for all bridge locations will be necessary as part of preliminary design and to determine the need for further permitting.

A wetland survey will be performed once an alternative has been selected to provide more accurate locations of wetlands and open water habitats within the project area. Wetlands would be delineated by qualified National Park Service staff or certified wetland specialists, and marked prior to construction work. It is the intent of the NPS to avoid wetlands during construction, using cantilevered bridge crossings wherever possible. However, should potential adverse impacts on wetlands be identified, a Wetland Statement of Findings would be prepared and included in subsequent compliance (such as an environmental assessment or environmental impact statement) for the specific project.

A rare plant survey would be conducted once an alternative has been selected and will provide more accurate locations of rare plants within the project area. This survey would be completed by qualified National Park Service staff or certified specialists, and marked prior to construction work.