

Appendix J. Habitat laws (Source: EPA 1994).

The Clean Water Act (CWA) 33 U.S.C. s/s 121 et seq. (1977):

The Clean Water Act is a 1977 amendment to the Federal Water Pollution Control Act of 1972, which set the basic structure for regulating discharges of pollutants to waters of the United States. This law gave EPA the authority to set effluent standards on an industry-by-industry basis (technology-based) and continued the requirements to set water quality standards for all contaminants in surface waters. The CWA makes it unlawful for any person to discharge any pollutant from a point source into navigable waters unless a permit (NPDES) is obtained under the Act. The 1977 amendments focused on toxic pollutants. In 1987, the CWA was reauthorized and again focused on toxic substances, authorized citizen suit provisions, and funded sewage treatment plants (POTWs) under the Construction Grants Program. The CWA provides for the delegation by EPA of many permitting, administrative, and enforcement aspects of the law to state governments. In states with the authority to implement CWA programs, EPA still retains oversight responsibilities.

The comprehensive environmental response, compensation, and liability act (CERCLA or Superfund) 42 U.S.C. s/s 9601 et seq. (1980)

CERCLA (pronounced SERK-la) provides a federal “Superfund” to clean up uncontrolled or abandoned hazardous waste sites as well as accidents, spills, and other emergency releases of pollutants and contaminants into the environment. Through the Act, EPA was given power to seek out those parties responsible for any release and assure their cooperation in the cleanup. EPA cleans up orphan sites when potentially responsible parties (PRPs) cannot be identified or located, or when they fail to act. Through various enforcement tools, EPA obtains private party cleanup through orders, consent decrees, and other small party settlements. EPA also recovers costs from financially viable individuals and companies once a response action has been completed. EPA is authorized to implement the Act in all 50 states and U.S. territories. Superfund site identification, monitoring, and response activities in states are coordinated through the state environmental protection or waste management agencies.

The emergency planning & community right-to-know act (EPCRA) 42 U.S.C. 11011 et seq. (1986):

Also known as Title III of SARA, EPCRA was enacted by Congress as the national legislation on community safety. This law was designed to help local communities protect public health, safety, and the environment from chemical hazards. To implement EPCRA, Congress required each state to appoint a State Emergency Response Commission (SERC). The SERCs were required to divide their states into Emergency Planning Districts and to name a Local Emergency Planning Committee (LEPC) for each district. Broad representation by fire fighters, health officials, government and media representatives, community groups, industrial facilities, and emergency managers ensures that all necessary elements of the planning process are represented.

The endangered species act 7 U.S.C. 136; 16 U.S.C. 460 et seq. (1973):

The Endangered Species Act provides a program for the conservation of threatened and endangered plants and animals and the habitats in which they are found. The U.S. Fish and Wildlife Service (FWS) of the Department of Interior maintains the list of 632

endangered species (326 are plants) and 190 threatened species (78 are plants). Species include birds, insects, fish, reptiles, mammals, crustaceans, flowers, grasses, and trees. Anyone can petition FWS to include a species on this list or to prevent some activity, such as logging, mining, or dam building. The law prohibits any action, administrative or real, that results in a “taking” of a listed species, or adversely affects habitat. Likewise, import, export, interstate, and foreign commerce of listed species are all prohibited. EPA’s decision to register a pesticide is based in part on the risk of adverse effects on endangered species as well as environmental fate (how a pesticide will effect habitat). Under FIFRA, EPA can issue emergency sus-pensions of certain pesticides to cancel or restrict their use if an endangered species will be adversely affected. Under a new program, EPA, FWS, and USDA are distributing hun-dreds of county bulletins which include habi-tat maps, pesticide use limitations, and other actions required to protect listed species. In addition, we are enforcing regulations under various treaties, including the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The U.S. and 70 other nations have established procedures to regulate the import and export of imperiled species and their habitat. The Fish and Wildlife Service works with U.S. Customs agents to stop the illegal trade of species, including the Black Rhino, African elephants, tropical birds and fish, orchids, and various corals.

The federal insecticide, fungicide and rodenticide act (FIFRA) 7 U.S.C. s/s 135 et seq. (1972):

The primary focus of FIFRA was to provide federal control of pesticide distribution, sale, and use. EPA was given authority under FIFRA not only to study the consequences of pesticide usage but also to require users (farmers, utility companies, and others) to register when purchasing pesticides. Through later amendments to the law, users also must take exams for certification as applicators of pesticides. All pesticides used in the U.S. must be registered (licensed) by EPA. Registration assures that pesticides will be properly labeled and that, if used in accordance with specifica-tions, will not cause unreasonable harm to the environment.

The (federal) freedom of information act (FOIA) U.S.C. s/s 552 (1966):

The Freedom of Information Act provides specifically that “any person” can make requests for government information. Citizens who make requests are not required to identify themselves or explain why they want the infor-mation they have requested. The position of Congress in passing FOIA was that the work-ings of government are “for and by the people” and that the benefits of government informa-tion should be made available to everyone. All branches of the federal government must adhere to the provisions of FOIA with certain restrictions for work in progress (early drafts), enforcement confidential information, classified documents, and national security information.

The national environmental policy act (NEPA) 42 U.S.C. s/s 4321 et seq. (1969):

The National Environmental Policy Act was one of the first laws ever written that estab-lishes the broad national framework for pro-tecting our environment. NEPA’s basic policy is to assure that all branches of government give proper consideration to the environment prior to undertaking any major federal action which significantly affects the environment. NEPA requirements are invoked when airports, build-ings, military complexes, highways, parkland purchases, and other such federal activities are proposed. Environmental

Assessments (EAs) and Environmental Impact Statements (EISs), which are assessments of the likelihood of impacts from alternative courses of action, are required from all federal agencies and are the most visible NEPA requirements.

The occupational safety and health act 29 U.S.C. 61 et seq. (1970):

Congress passed the Occupational and Safety Health Act to ensure worker and workplace safety. Their goal was to make sure employers provide their workers a place of employment free from recognized hazards to safety and health, such as exposure to toxic chemicals, excessive noise levels, mechanical dangers, heat or cold stress, or unsanitary conditions. In order to establish standards for workplace health and safety, the Act also created the National Institute for Occupational Safety and Health (NIOSH) as the research institution for the Occupational Safety and Health Administration (OSHA). OSHA is a division of the U.S. Department of Labor which over-see the administration of the Act and enforces federal standards in all 50 states.

The pollution prevention act 42 U.S.C. 13101 and 13102, s/s 6602 et seq. (1990):

The Pollution Prevention Act focused industry, government, and public attention on reducing the amount of pollution produced through cost-effective changes in production, operation, and raw materials use. Opportunities for source reduction are often not realized because existing regulations, and the industrial resources required for compliance, focus on treatment and disposal. Source reduction is fundamentally different and more desirable than waste management or pollution control. Pollution prevention also includes other practices that increase efficiency in the use of energy, water, or other natural resources, and protect our resource base through conservation. Practices include recycling, source reduction, and sustainable agriculture.

The resource conservation and recovery act (RCRA) 42 U.S.C. s/s 321 et seq. (1976)

RCRA (pronounced “rick-rah”) gave EPA the authority to control hazardous waste from “cradle-to-grave.” This includes the generation, transportation, treatment, storage, and disposal of hazardous waste. RCRA also set forth a framework for the management of non-hazardous solid wastes. The 1986 amendments to RCRA enabled EPA to address environmental problems that could result from underground tanks storing petroleum and other hazardous substances. RCRA focuses only on active and future facilities and does not address abandoned or historical sites (see CERCLA). HSWA (pronounced “hiss-wa”) - The federal Hazardous and Solid Waste Amendments. The 1984 amendments to RCRA which required phasing out land disposal of hazardous waste. Some of the other mandates of this strict law include increased enforcement authority for EPA, more stringent hazardous waste management standards, and a comprehensive underground storage tank program.

The safe drinking water act (SDWA) 43 U.S.C. s/s 300f et seq. (1974):

The Safe Drinking Water Act was established to protect the quality of drinking water in the U.S. This law focuses on all waters actually or potentially designated for drinking use, whether from above ground or underground sources. The Act authorized EPA to establish safe standards of purity and required all owners or operators of public water systems to comply with primary (health-related) standards. State governments, which assume this power from EPA, also encourage attainment of secondary standards (nuisance-related).

The superfund amendments and reauthorization act (SARA) 42 U.S.C. 9601 et seq. (1986)

The Superfund Amendments and Reauthorization Act of 1986 reauthorized CERCLA to continue cleanup activities around the country. Several site-specific amendments, definitions, clarifications, and technical requirements were added to the legislation, including additional enforcement authorities. Title III of SARA also authorized the Emergency Planning and Community Right-to-Know Act (EPCRA). The Toxic Substances Control Act (TSCA) 15 U.S.C. s/s 2601 et seq. (1976) The Toxic Substances Control Act of 1976 was enacted by Congress to test, regulate, and screen all chemicals produced or imported into the U.S. Many thousands of chemicals and their compounds are developed each year with unknown toxic or dangerous characteristics. To prevent tragic consequences, TSCA requires that any chemical that reaches the consumer market place be tested for possible toxic effects prior to commercial manufacture. Any existing chemical that poses health and environmental hazards is tracked and reported under TSCA. Procedures also are authorized for corrective action under TSCA in cases of cleanup of toxic materials contamination. TSCA supplements other federal statutes, including the Clean Air Act and the Toxic Release Inventory under EPCRA.