

# FEDERAL STATUTES AND REGULATIONS GOVERNING FEDERAL LANDS

<b>Constitution</b>	
<b>U.S. Constitution, Article IV, § 3, cl. 2 – Property Clause</b>	
Art. IV, Sec 3, cl. 2	“The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.”
<p>Congress has enacted a statutory framework that authorizes various agencies – most notably, the Department of the Interior (DOI) and the Department of Agriculture (USDA) – to manage federal lands. Federal law generally permits states to use the lands within their borders.</p> <p>Public land is managed by the U.S. Department of Agriculture through its component, the U.S. Forest Service, and the Department of the Interior through its components the Bureau of Land Management (BLM), U.S. Fish and Wildlife Service (FWS), the National Park Service (NPS), the Bureau of Reclamation (BOR), and the Bureau of Indian Affairs (BIA). While much of their authority it derived from the Property Clause of the United States Constitution, the applicable statutory and regulatory framework applicable to each component varies.</p> <p>This table is not intended to be comprehensive in its scope. It is intended to give examples of federal statutes and regulations that address ownership and control of public lands and resources, and enforcement authority on these lands. (The Bureau of Indian Affairs is not included in this table.)</p>	
<b>Federal Statute</b>	
<b>Assimilative Crimes Act</b>	
<p><b>Assimilative Crimes Act</b>, 18 U.S.C. 13, makes state criminal laws applicable to conduct occurring on certain federal lands, provided that federal criminal law does not define an applicable offense for the misconduct committee. Three criteria must be met: 1) the United States has exclusive or concurrent jurisdiction; 2) there is no federal law covering the conduct; and 3) there is an applicable state law. Under the Act, the state law is adopted and used to prosecute the defendant in federal court as a federal offense. The Act <i>does not apply</i>: 1) when there is a federal law that covers the conduct; or 2) to areas of proprietary federal jurisdiction.</p>	
<b>Federal Statutes and Regulations – Public Lands</b>	
<b>Bureau of Land Management</b>	
43 U.S.C. § 1701(a)	<b>Federal Land Policy Management Act (FLPMA)</b> , Pub. L. 94-579. “[I]t is the policy of the United States that—(1) the public lands be retained in Federal ownership, unless as a result of the land use planning procedure provided for in this Act, it is determined that disposal of a particular parcel will serve the national interest . . . “
§ 1733(a)	The Secretary of the Interior is authorized to “issue regulations necessary to implement the provisions of this Act with respect to the management, use, and protection of the public lands, including any property located thereon.”
§1733(c)(1)	The Secretary has discretionary authority to <i>enter into contracts with local law enforcement officials</i> “[w]hen the Secretary determines that assistance is necessary in enforcing Federal laws and regulations relating to the public lands or their resources.”
§ 1733(c)(2)	The Secretary may authorize Federal <i>personnel or appropriate local officials</i> to carry out his law enforcement responsibilities with respect to the public lands and their resources.”

<p>§1733(c)(1)</p> <p>§ 1733(d)</p> <p>See, 43 C.F.R. § 9260.0-3</p> <p>§ 1733(g)</p> <p>See, e.g. 43 C.F.R. §§ 2929.1-2(a), (e), 5511.4</p> <p>43 C.F.R. 2932.57(a)(7)</p> <p>43 C.F.R § 8341.1(d)</p> <p>See, 209 Departmental Manual 7.1</p> <p>See 235 Departmental Manual 1.1(A)</p> <p>See BLM Manual MS-1203 § 1203.4 &amp; App. 1, Subject Code 9260</p>	<p>Congress has provided such <i>personnel</i> with broad authorities: “to carry firearms: execute and serve any warrant or other process issued by a court or officer of competent jurisdiction; make arrests without warrant or process for a misdemeanor he has reasonable grounds to believe is being committed in his presence or view, or for a felony if he has reasonable grounds to believe that the person to be arrested has committed or is committing such felony; search without warrant or process any person, place, or conveyance according to any Federal law or rule of law; and seize without warrant or process any evidentiary item as provided by Federal law.”</p> <p>“In connection with the administration and regulation of the use and occupancy of the public lands, the <i>Secretary is authorized to cooperate with the regulatory and law enforcement officials of any State or political subdivision thereof in the enforcement of the laws or ordinances of such State or subdivision.</i> Such cooperation may include reimbursement to a State or its subdivision for expenditures incurred by it in connection with activities which assist in the administration and regulation of use and occupancy of the public lands.”</p> <p>“The use, occupancy, or development of any portion of the public lands contrary to any regulation of the Secretary or other responsible authority, or contrary to any order issued pursuant to any such regulation, is unlawful and prohibited.”</p> <p>DOI has promulgated various regulations governing the use of BLM lands and subjecting violators to civil and criminal penalties. For example, § 2929.1-2(a), (e), prohibits the unauthorized use, occupancy or development of public lands; and § 5511.4 prohibits the unauthorized taking of timber from public lands.</p> <p>A person must not refuse to leave or disperse, when directed to do so by a BLM law enforcement officer or State or local law enforcement officer, whether the person has acquired a Special Recreation Permit or not.</p> <p>Certain of those regulations incorporate or adopt standards from the law of the state in which the land is located. Section 43 C.F.R § 8341.1(d) prohibits “operat[ing] an off-road vehicle in violation of State laws and regulations relating to use, standards, registration, operation, and inspection of off-road vehicles.”</p> <p>The Secretary of the Interior has assigned the law enforcement duties granted by Congress to the agency’s <i>law enforcement officers</i> through a multi-step delegation. The Assistant Secretary – Land and Minerals Management “is authorized to exercise all the authority of the Secretary.”</p> <p>The Director of BLM is authorized “to exercise the program authority of the Assistant Secretary – Land and Minerals Management with respect to the management of the public domain and acquired land, including all associated functions that relate thereto.”</p> <p>The Director has delegated the responsibility “to enforce Federal laws and regulations relating to the public lands and resources” to BLM <i>law enforcement personnel</i>.</p>
<b>National Park Service (NPS)</b>	
<p>39 Stat. 535</p> <p>16 U.S.C. § 1</p>	<p><b>National Park Service Organic Act</b>, in 1916, established the NPS as a component of the Department of the Interior.</p> <p>“There is created in the Department of the Interior a service to be called the National Park Service, which shall be under the charge of a director who shall be appointed by the President . . . . The service thus established shall promote and regulate the use of</p>

<p>16 U.S.C. § 3</p> <p>16 U.S.C. § 1a-6(b)</p> <p>16 U.S.C. § 1a-6(c)</p> <p>16 U.S.C. § 1a-6(e)</p> <p>See, 36 C.F.R. §§ 2.2, 2.4, 4.2</p>	<p>the Federal areas known as national parks, monuments, and reservations hereinafter specified, except such as are under the jurisdiction of the Secretary of the Army . . . . [The] fundamental 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.”</p> <p>The Secretary of the Interior is authorized to “make and publish such rules and regulations as he may deem necessary or proper for the use and management” of lands under the jurisdiction of the NPS. Violation of such rules is punishable by fine and imprisonment.</p> <p>The Secretary is authorized “to designate . . . <i>certain officers or employees</i> of the Department of the Interior who shall <i>maintain law and order</i> and protect persons and property within areas of the National Park System.” Such individuals are authorized to carry firearms, execute warrants, and make arrests. <i>Id.</i></p> <p>The authorities provided by this subsection shall supplement the law enforcement responsibilities of the National Park Service, and shall not authorize the delegation of law enforcement responsibilities of the agency to State and local governments.</p> <p>“Nothing contained in this Act . . . shall be construed or applied to affect any right of a State or a political subdivision thereof to exercise civil and criminal jurisdiction within the National Park System.” Federal investigative jurisdiction and State civil and criminal jurisdiction are not preempted within the National Park System.</p> <p>The Secretary has promulgated various regulations establishing standards of conduct with the National Park System, including certain regulations that adopt standards from state law. For example, See Section 2.2 protecting wildlife, Section 2.4 restricting the use of weapons and traps, Section 4.2 providing that, unless otherwise specified, “traffic and the use of vehicles within a park area are governed by State law.”</p> <p>To enforce these provisions of federal law, NPS relies on Park Rangers and Special Agents.</p>
<b>Fish and Wildlife Service</b>	
<p>16 U.S.C. §§ 668dd(a)(4), (d)(5)</p> <p>§ 668dd(f)(1)</p> <p>50 C.F.R. §§ 27.31, 27.32(b), 27.42(e)</p> <p>§§ 32.2, 32.5</p>	<p>The <b>Fish and Wildlife Service</b>, established in 1940, is responsible for the conservation and restoration of fish, wildlife, plants, and their habitats throughout the United States. FWS’s enforcement authority is not limited to one particular statute. Instead, FWS is given responsibility for a range of wildlife protection laws. FWS also manages a wide range of refuges and wetlands in the states.</p> <p>FWS is authorized to promulgate regulations governing conduct on lands administered by FWS. For example, the Secretary is required “to provide for the conservation of fish, wildlife, and plants, and their habitats with the” National Wildlife Refuge System (NWRS), and authorized “to issue regulations to carry out this Act.”</p> <p>This section provides that a person who violates these regulations shall be fined or imprisoned, or both.</p> <p>Corresponding regulations that apply standards from state law are: 50 C.F.R. § 27.31 – use of motor vehicles; 50 C.F.R. 27.32(b) – use of boats and watercrafts, 50 C.F.R. 27.42(e) – use, possession, and transport of certain firearms.</p> <p>FWS also enforces regulations governing hunting and fishing on federal lands.</p>

See 16 U.S.C. §§ 668dd(g), 1540(e)	Congress provided <i>agency employees</i> designated by the Secretary with authority to arrest persons who violate the regulations and to execute search warrants. FWS has assigned certain law enforcement functions to various agency employees, including Zone Officers, Federal Wildlife Officers, and Special Agents.
<b>United States Forest Service</b>	
	The <b>Organic Act of 1897 (Sundry Civil Appropriations Act of 1897)</b> provided for the management of national forest reserves by the administration of the Secretary of the Interior. The Authority has been transferred to the Secretary of Agriculture.
16 U.S.C. § 551	The Secretary of Agriculture is to protect the national forests from destruction by fire and other “depredations,” and empowers the Secretary “to make such rules and regulations” as necessary to regulate the occupancy and use of the national forests, and to preserve them from destruction.
	To fulfill statutory responsibilities for the management of the national forests, the U.S. Department of Agriculture (USDA) has promulgated various regulations governing the use of the national forests, including regulations that incorporate or adopt standards from the law of the state in which the National Forest System lands are located, and <i>enforce those standards as federal law.</i>
16 U.S.C. § 551	Violations of the rules and regulations governing the national forests shall be a crime under federal law.
16 U.S.C. § 551a	The Secretary of Agriculture, in connection with the administration and regulation of the use and occupancy of the national forests and national grasslands, is authorized to cooperate with any State or political subdivision thereof, on lands which are within or part of any unit of the national forest system, <i>in the enforcement or supervision of the laws or ordinances of a State</i> or subdivision thereof. Such cooperation <i>may include the reimbursement of a State or its subdivision for expenditures incurred</i> in connection with activities on national forest system lands. This Act [this section] shall not deprive any State or political subdivision thereof of its right to exercise civil and criminal jurisdiction, within or on lands which are a part of the national forest system.
16 U.S.C. § 559	“All persons employed in the Forest Service” are authorized to perform certain law enforcement functions, including “mak[ing] arrests for the violation of the laws and regulations relating to the national forests.”
16 U.S.C. § 559(c)	“The Forest Service is authorized to accept law enforcement designation from any other Federal agency or agency of a State or political subdivision thereof for the purpose of cooperating in the investigation and enforcement of any Federal or State law or ordinance and regulation of any such agency, when such investigation or enforcement is mutually beneficial to the National Forest System and the cooperating agency or jurisdiction, upon entering into a <i>memorandum of understanding or cooperative agreement</i> with such agency or jurisdiction.”
16 U.S.C. § 480	Civil and criminal jurisdiction. “The jurisdiction, both civil and criminal, over persons within national forests shall not be affected or changed by reason of their existence, except so far as the punishment of offenses against the United States therein is concerned; the intent and meaning of this provision being that the State wherein any such national forest is situated shall not, by reason of the establishment thereof, lose its jurisdiction, nor the inhabitants thereof their rights and privileges as citizens, or be absolved from their duties as citizens of the State.”
See 36 C.F.R. §§ 261.8, 261.12	Corresponding regulations that apply standards from state law are:

<p>See Forest Service Manual 5304.5, 5304.6</p>	<p>36 C.F.R. § 261.8 – prohibiting the hunting or trapping of wild animals “to the extent Federal or State law is violated”; § 261.12 – prohibiting vehicle operators from “[v]iolating the load, weight, height, length, or width limitations prescribed by State law”;</p> <p>USDA, by agency <i>policy</i>, has limited such authorities to certain employees, including Special Agents, Law Enforcement Officers, and Forest Protection Officers</p>
<p><b>Bureau of Reclamation</b></p>	
<p>Pub. Law 107-69, 115 Sta. 593, 1(a)</p>	<p>The <b>Bureau of Reclamation</b>, established in 1902, is responsible for administering critical water management projects throughout the Western United States. Among its responsibilities under federal law is the duty to maintain the safety and security of BOR projects, the employees responsible for their managements, and the members of the public engaged in recreation on BOR lands.</p>
<p>See 43 U.S.C. § 373b(a)</p>	<p>The Secretary of the Interior “shall issue regulations necessary to maintain law and order and protect persons and property within Reclamation projects and on Reclamation lands.”</p>
<p>§ 373b(b)</p>	<p>Violations of these regulations shall be subject to fine and imprisonment.</p>
<p>§ 373b(c)(1)</p>	<p>Bureau of Reclamation employees are authorized “to enforce Federal laws and regulations within a Reclamation project or on Reclamation lands.” The Bureau is allowed to “cooperate with any State or local government . . . in the enforcement of laws or ordinances of that State or local government.”</p>
<p>43 C.F.R. §§ 420.11, 423.29, 423.30, 423.38</p>	<p>The Secretary has promulgated various regulations governing conduct on lands managed by BOR, and several of these regulations apply standards from state law. Corresponding regulations that apply standards from state law are:  43 C.F.R. § 420.11 – operation of off-road vehicles; 43 C.F.R. § 423.29 – destruction of natural resources; 43 C.F.R. § 423.30 – unauthorized use or possession of weapons and explosives; 43 C.F.R. § 423.38 – operation of vessels.</p> <p>BOR relies in part on <i>agency employees</i> authorized into enforce such regulations on BOR lands, which law enforcement authority is provided by federal law.</p>
<p>43 U.S.C. § 373b(c)</p>	<p>The Secretary is able to “authorize <i>law enforcement personnel</i> from the Department of the Interior to act as <i>law enforcement officers</i> to enforce Federal law and regulations with a Reclamation project or on Reclamation lands.”</p>
<p>43 U.S.C. § 373b(d)</p>	<p>Congress authorized these <i>law enforcement officers</i> to carry firearms, make arrests, and execute search warrants.</p>

## Additional Resources:

- U.S. National Park Service, Law Enforcement Reference Manual, RM-9 (May 2009).
- U.S. NATIONAL FOREST SERVICE, FOREST SERVICE MANUAL, FSM 5300 – Law Enforcement (Aug. 2013).
- Carolyn M. Landever, *Whose Home on the Range? Equal Footing, the New Federalism and State Jurisdiction on Public Lands*, 47 Fla. L. Rev. 557 (1995).
- Spencer Driscoll, *Utah's Enabling Act and Congress' Enclave Clause Authority: Federalism Implications of a Renewed State Sovereignty Movement*, 2012 B.Y.U. L. Rev. 999 (2012).
- Donald J. Kochan, *Public Lands and the Federal Government's Compact-Based "Duty to Dispose": A Case Study of Utah's H.B. 148 – The Transfer of Public Lands Act*, 2013 B.Y.U. L. Rev. 1133 (2013).
- *United States v. State of Utah*, Case No. 2:13CV00332 (D. Utah 2013). Much of this information was taken directly from the district court pleadings.