

103D CONGRESS
1ST SESSION

S. 823

To amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 27 (legislative day, APRIL 19), 1993

Mr. GRAHAM (for himself, Mr. KOHL, Mr. DODD, Mr. SARBANES, Mr. WOFFORD, Mr. FEINGOLD, Mr. AKAKA, Mr. BUMPERS, Mr. LEAHY, Mr. DASCHLE, and Mr. SIMON) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; REFERENCES.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “National Wildlife Refuge System Management and Policy
6 Act of 1993”.

7 (b) REFERENCES.—Whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment

1 to, or repeal of, a section or other provision, the reference
2 shall be considered to be made to a section or provision
3 of the National Wildlife Refuge System Administration
4 Act of 1966 (16 U.S.C. 668dd et seq.)

5 **SEC. 2. FINDINGS AND PURPOSES.**

6 (a) FINDINGS.—Congress finds and declares that—

7 (1) the National Wildlife Refuge System (re-
8 ferred to in this section as the “System”) was estab-
9 lished under the National Wildlife Refuge System
10 Administration Act of 1966 (16 U.S.C. 668dd et
11 seq.);

12 (2) the National Wildlife Refuge System Ad-
13 ministration Act of 1966 consolidates the authorities
14 related to lands, waters, and interests in the lands
15 and waters administered by the Secretary of the In-
16 terior (referred to in this section as the “Sec-
17 retary”), for the purpose of conservation of fish and
18 wildlife;

19 (3) the System provides opportunities for indi-
20 viduals to participate in wildlife-oriented recreation,
21 and to learn, understand, and appreciate the value
22 of and need for conserving fish and wildlife, wild
23 lands, and naturally productive ecological commu-
24 nities, types, and systems;

1 (4) the System is the only complex of Federal
2 lands devoted primarily to preserving, restoring, and
3 managing fish and wildlife and the habitats of fish
4 and wildlife;

5 (5) National Wildlife Refuges provide habitat
6 for many endangered and threatened species, and
7 for species that may become endangered or threat-
8 ened, as well as for other fish, wildlife, and plants;

9 (6) the well-being and abundance of the fish,
10 wildlife, and plants would be diminished without the
11 protected habitat;

12 (7) activities are occurring on a significant
13 number of National Wildlife Refuges that result in
14 harm to the fish and wildlife resources the System
15 was designed to conserve; and

16 (8) improvements are needed in the administra-
17 tion and management of the System to ensure that
18 sound and effective conservation programs for the
19 System are developed, implemented, and enforced.

20 (b) PURPOSES.—The purposes of this Act are as
21 follows:

22 (1) To reaffirm the provisions of the Act com-
23 monly known as the Refuge Recreation Act (16
24 U.S.C. 460k et seq.) that authorize the Secretary to
25 permit compatible fish and wildlife-oriented public

1 recreation, such as hunting, fishing, and wildlife ob-
2 servation on refuges.

3 (2) To improve the administration and manage-
4 ment of the System.

5 (3) To establish purposes for the System.

6 (4) To improve the compatibility determination
7 process for National Wildlife Refuges.

8 (5) To establish comprehensive planning for the
9 System and individual wildlife refuges of the System.

10 (6) To provide for interagency coordination in
11 maintaining refuge resources.

12 **SEC. 3. DEFINITIONS.**

13 Section 5 (16 U.S.C. 668ee) is amended—

14 (1) by redesignating subsections (a) through (c)
15 as subsections (g) through (i), respectively; and

16 (2) by inserting the following new subsections
17 before subsection (g) (as so redesignated):

18 “(a) The term ‘Director’ as used in this Act means
19 the Director of the United States Fish and Wildlife
20 Service.

21 “(b) The terms ‘fish’, ‘wildlife’ and ‘fish and wildlife’
22 as used in this Act mean any native member of the animal
23 kingdom in a wild, unconfined state, including the parts,
24 products, or eggs of the animals.

1 “(c) The term ‘plant’ as used in this Act means any
2 native member of the plant kingdom in a wild, unconfined
3 state. The term shall include any plant community, seed,
4 root, or other part thereof.

5 “(d) The term ‘refuge’ as used in this Act means a
6 unit of the National Wildlife Refuge System, except that
7 the term shall not include State-managed wildlife manage-
8 ment areas (commonly known as ‘coordination areas’).

9 “(e) The term ‘Secretary’ as used in this Act means
10 the Secretary of the Interior (except as the context implies
11 otherwise).

12 “(f) The term ‘System’ as used in this Act means
13 the National Wildlife Refuge System.”.

14 **SEC. 4. PURPOSES AND ADMINISTRATION OF THE SYSTEM.**

15 Section 4(a) (16 U.S.C. 668dd(a)) is amended—

16 (1) by redesignating paragraphs (2) and (3) as
17 paragraphs (5) and (6), respectively;

18 (2) in paragraph (6), as so redesignated, by
19 striking “paragraph (2)” and inserting “paragraph
20 (5)”; and

21 (3) by inserting after paragraph (1) the follow-
22 ing new paragraphs:

23 “(2) The purposes of the System are as follows:

24 “(A) To provide a national network of lands
25 and waters with respect to which the size, variety,

1 and location are designed to protect the wealth of
2 fish, wildlife, and plants of this Nation and their
3 habitats for present and future generations.

4 “(B) To provide healthy, naturally productive,
5 and enduring food, water, and shelter to fish, wild-
6 life, and plant communities and to ensure naturally
7 diverse, healthy, and abundant populations of fish,
8 wildlife, and plant species in perpetuity.

9 “(C) To serve in the fulfillment of international
10 treaty obligations of the United States with respect
11 to fish, wildlife, and plants, and their habitats.

12 “(3) If the Secretary finds that a conflict exists be-
13 tween any purpose set forth in the law or order that estab-
14 lished a refuge and any purpose set forth in paragraph
15 (2), the Secretary shall resolve the conflict in a manner
16 that fulfills the purpose set forth in the law or order that
17 established the refuge, and, to the extent possible, achieves
18 all of the purposes set forth in paragraph (2).

19 “(4) In the administration of the System for the pur-
20 poses described in paragraph (2), the Secretary, acting
21 through the Director, shall—

22 “(A) ensure that the purposes of the System
23 described in paragraph (2) and the purposes of each
24 refuge are carried out;

1 “(B) protect the System and the components of
2 the System from threats to the ecological integrity
3 of the System and components;

4 “(C) to the extent authorized by law, ensure
5 adequate water quantity and water quality to fulfill
6 the purposes of the System and of each refuge; and

7 “(D) plan, propose, and direct the expansion of
8 the System in a manner best designed to—

9 “(i) accomplish the purposes of the System
10 and of each refuge in the System;

11 “(ii) protect and aid recovery of any spe-
12 cies listed as endangered or threatened (and
13 any species that is a candidate for the listing);
14 and

15 “(iii) conserve other fish, wildlife, and
16 plants, the habitats of the fish, wildlife, and
17 plants, and other elements of natural diver-
18 sity.”.

19 **SEC. 5. COMPATIBILITY STANDARDS AND PROCEDURES.**

20 Section 4(d) (16 U.S.C. 668dd(d)), is amended by
21 adding at the end the following new paragraphs:

22 “(3) Except as provided in paragraph (5), the Sec-
23 retary shall not initiate or permit a new use of a refuge
24 or expand, renew, or extend an existing use unless the Sec-
25 retary finds, in consultation with the Director, pursuant

1 to paragraph (5), that the use is compatible with the pur-
2 poses of the System and of the refuge. The Secretary shall
3 make no determination of compatibility under this sub-
4 paragraph, nor initiate a proposed new use or permit a
5 proposed, continued, or expanded use, unless the Sec-
6 retary—

7 “(A) states the time, location, manner, and pur-
8 pose of the use;

9 “(B) evaluates the direct, indirect, and cumu-
10 lative biological, ecological, and other effects that the
11 Secretary determines to be appropriate for the use;

12 “(C) makes a determination, on the basis of the
13 evaluation required under subparagraph (B) that the
14 use will contribute to the fulfillment of the purposes
15 of the System and the refuge or will not have a det-
16 rimental effect upon fulfillment of the purposes of
17 the System or the refuge; and

18 “(D) makes a determination that funds are
19 available for the development, operation, and main-
20 tenance of the use.

21 “(4) Unless the Secretary, in consultation with the
22 Director, determines that there is sufficient information
23 available to make a reasoned judgment that a proposed,
24 continued, or expanded use of a refuge is compatible with

1 the purposes of the System and the refuge, the Secretary
2 shall not permit the use.

3 “(5)(A) Except as provided in subparagraph (B), any
4 use of refuge system lands in effect on the date of enact-
5 ment of this subparagraph, that, before such date, was
6 determined to be compatible under this section or the Act
7 entitled ‘An Act to assure continued fish and wildlife bene-
8 fits from the national fish and wildlife conservation areas
9 by authorizing their appropriate incidental or secondary
10 use for public recreation to the extent that such use is
11 compatible with the primary purposes of such areas, and
12 for other purposes’ (commonly known as the ‘Refuge
13 Recreation Act’) (16 U.S.C. 460k et seq.), may be contin-
14 ued pursuant to the terms and conditions of any special-
15 use permits, and applicable law, for the period of time
16 specified in the permit.

17 “(B) Not later than 5 years after the date of enact-
18 ment of this subparagraph, any use described in subpara-
19 graph (A) shall cease. Any permit for the use shall be re-
20 voked unless the Secretary, in consultation with the Direc-
21 tor of the United States Fish and Wildlife Service, makes
22 a determination, pursuant to the procedures established
23 under this section, that the use is compatible with the pur-
24 poses of the System and the refuge.

1 “(6) The Secretary shall, acting through the Direc-
2 tor, by regulation, establish and maintain a formal process
3 governing determinations of whether an existing or pro-
4 posed new use in a refuge is compatible or incompatible
5 with the purposes of the System and the refuge. The regu-
6 lations shall provide for the expedited consideration of
7 uses that the Secretary considers to have little or no ad-
8 verse effects on the purposes of the System or a refuge,
9 and shall—

10 “(A) designate the refuge officer initially re-
11 sponsible for compatibility and incompatibility deter-
12 minations;

13 “(B) describe the biological, ecological, and
14 other criteria to be used in making the determina-
15 tions;

16 “(C) require that the determinations be made
17 in writing and based on the best available scientific
18 information;

19 “(D) establish procedures that ensure an oppor-
20 tunity for public review and comment with respect to
21 the determinations;

22 “(E) designate the officer who shall hear and
23 rule on appeals from initial determinations; and

24 “(F) provide for the reevaluation of a compat-
25 ibility determination on a periodic basis or whenever

1 the conditions under which the use is permitted
2 change.

3 “(7) Except as provided in paragraph (8), the head
4 of each Federal agency that, with respect to a refuge, has
5 an equivalent or secondary jurisdiction with the Depart-
6 ment of the Interior, or that conducts activities within any
7 refuge, shall, in consultation with the Secretary, ensure
8 that any actions authorized, funded, or carried out in
9 whole or in part by the agency will not impair the re-
10 sources of the refuge or be incompatible with the purposes
11 of either the System or the refuge (unless the action is
12 specifically authorized by law).

13 “(8) The President may find, on a case-by-case basis,
14 that, with respect to a refuge, it is in the paramount inter-
15 est of the United States to exempt the head of a Federal
16 agency described in paragraph (7) from carrying out the
17 requirements of paragraph (7).”.

18 **SEC. 6. SYSTEM CONSERVATION PLANNING PROGRAM.**

19 (a) IN GENERAL.—Section 4 (16 U.S.C. 668dd) is
20 amended—

21 (1) by redesignating subsections (e) through (i)
22 as subsections (g) through (k), respectively; and

23 (2) by inserting after subsection (d) the follow-
24 ing new subsections:

1 “(e)(1) Not later than September 30, 1994, the Sec-
2 retary shall prepare, and subsequently revise not less fre-
3 quently than every 10 years after the date of preparation,
4 a comprehensive plan for the System.

5 “(2) The plan described in paragraph (1) shall in-
6 clude—

7 “(A) relevant elements of recovery plans re-
8 quired under section 4(f), of the Endangered Species
9 Act of 1973 (16 U.S.C. 1533(f));

10 “(B) relevant summaries and compilations of
11 refuge plans developed under this section and the
12 relevant elements of migratory bird management
13 plans;

14 “(C) a strategy and standards for maintaining
15 healthy and abundant wildlife populations in the
16 System and in each refuge ecotype or ecosystem (in-
17 cluding the protection of zones for dispersal, migra-
18 tion, and other fish and wildlife movements, and the
19 conservation of species designated as candidates for
20 listing pursuant to section 4 of the Endangered
21 Species Act of 1973 (16 U.S.C. 1533));

22 “(D) strategies, developed cooperatively with
23 agencies administering other Federal or State land
24 systems, to enhance wildlife protection on national
25 wildlife refuges and other land systems which collec-

1 tively form a national network of wildlife habitats;
2 and

3 “(E) a plan and program for the acquisition of
4 lands and waters, including water rights, necessary
5 to achieve the purposes of the System and each
6 refuge.

7 “(f)(1) Except with respect to refuge lands in Alaska
8 (which shall be governed by refuge planning provisions of
9 the Alaska National Interest Lands Conservation Act (16
10 U.S.C. 3101 et seq.)), the Secretary shall prepare, and
11 subsequently revise not less frequently than every 15 years
12 after the date of preparation, a comprehensive conserva-
13 tion plan (referred to in this subsection as a ‘plan’) for
14 each refuge or ecologically related complex of refuges (re-
15 ferred to in this subsection as a ‘planning unit’) in the
16 System. The Secretary shall revise any plan at any time
17 thereafter on a determination that conditions that affect
18 a planning unit have changed significantly.

19 “(2) In developing each plan under this subsection,
20 the Secretary shall identify and describe—

21 “(A) the purposes of the refuge and the pur-
22 poses of the System applicable to the refuge or the
23 individual refuges of the planning unit;

24 “(B) fish, wildlife, and plant populations and
25 habitats of the planning unit (including at the time

1 of the development of the plan, current, historical,
2 and potentially restorable populations and habitats)
3 and the seasonal (and other) dependence of migra-
4 tory fish and wildlife species on the habitats and re-
5 sources of interrelated units of the System;

6 “(C) archeological, cultural, ecological, geologi-
7 cal, historical, paleontological, physiographic, and
8 wilderness values of the planning unit;

9 “(D) areas within the planning unit that are
10 suitable for use as administrative sites or visitor fa-
11 cilities or for visitor services;

12 “(E) significant problems, including water
13 quantity and quality needs (within or without the
14 boundaries of the refuge or complex) that may ad-
15 versely affect the natural diversity, communities,
16 health, or abundance of populations or habitats of
17 fish, wildlife, and plants;

18 “(F) existing boundaries of each refuge in the
19 planning unit in relation to ecosystem boundaries
20 and wildlife dispersal and migration patterns; and

21 “(G) specific strategies, developed cooperatively
22 with the heads of agencies administering other Fed-
23 eral and State lands, to enhance wildlife protection
24 in the planning unit, and, to the extent practicable,

1 on other Federal and State lands proximate to the
2 planning unit.

3 “(3) Each plan under this subsection shall—

4 “(A) designate each area within the planning
5 unit according to the archeological, cultural,
6 ecological, geological, historical, paleontological,
7 physiographic, and wilderness values of the area;

8 “(B) specify the uses within each of the areas
9 referred to in subparagraph (A) that may be com-
10 patible with the purposes of the refuge and the Sys-
11 tem and the funds and personnel that may be re-
12 quired to administer the uses;

13 “(C) specify programs for achieving the pur-
14 poses described in paragraph (2)(A) and for conserv-
15 ing, restoring, and maintaining the resources and
16 values identified and described under subparagraphs
17 (B) and (C) of paragraph (2);

18 “(D) specify the approaches to be taken to
19 avoid or overcome the problems identified in para-
20 graph (2)(E) and estimate resource commitments re-
21 quired to implement the approaches;

22 “(E) specify opportunities that may be provided
23 within the planning unit for compatible fish and
24 wildlife related recreation, ecological research, envi-

1 ronmental education, and interpretation of refuge re-
2 sources and values;

3 “(F) except with respect to Alaska refuges
4 studied pursuant to section 1317 of the Alaska Na-
5 tional Interest Lands Conservation Act (16 U.S.C.
6 3205), review the suitability for designation as wil-
7 derness refuge lands not previously studied for des-
8 ignation as wilderness or designated as wilderness,
9 and recommend to the President and Congress des-
10 ignation for the lands in accordance with subsections
11 (c) and (d) of section 3 of the Wilderness Act (16
12 U.S.C. 1132 (c) and (d), respectively), including—

13 “(i) islands and areas of 200 acres or more
14 immediately adjacent to wilderness areas (as
15 designated at the time of the review);

16 “(ii) lands recommended (before the time
17 of the review) for inclusion in the Wilderness
18 Preservation System; and

19 “(iii) proposed land acquisitions by the De-
20 partment of the Interior that the Secretary de-
21 termines will, over time, be of an area of ap-
22 proximately 5,000 contiguous acres; and

23 “(G) identify the funds and personnel necessary
24 to implement the strategies and administer the uses
25 identified in this section.

1 “(4) In preparing each plan under this subsection,
2 and any revision of the plan, the Secretary shall consult
3 with such heads of Federal agencies and State depart-
4 ments and agencies as the Secretary determines to be ap-
5 propriate.

6 “(5) Prior to the adoption of a plan under this sub-
7 section, the Secretary shall issue public notice of the draft
8 proposed plan in the Federal Register, make copies of the
9 plan available at each regional office of the United States
10 Fish and Wildlife Service, and provide opportunity for
11 public comment.

12 “(6)(A) By not later than 4 years after the date of
13 enactment of this subsection, the Secretary shall, pursuant
14 to this subsection, prepare and submit to the appropriate
15 committees of Congress, plans for not less than one-third
16 of the refuges in existence on the date of enactment of
17 this subsection.

18 “(B) By not later than 7 years after the date of en-
19 actment of this subsection, the Secretary shall, pursuant
20 to this subsection, prepare and submit to the appropriate
21 committees of Congress, plans for not less than two-thirds
22 of the refuges in existence on the date of enactment of
23 this subsection.

24 “(C) By not later than 10 years after the date of
25 enactment of this subsection, the Secretary shall, pursuant

1 to this subsection, prepare and submit to the appropriate
2 committees of Congress, plans for each refuge in existence
3 on the date of enactment of this subsection.

4 “(D) With respect to any refuge established after the
5 date of enactment of this subsection, the Secretary shall
6 prepare a plan for the refuge not later than 2 years after
7 the date of the establishment of the refuge.”.

8 **SEC. 7. ADMINISTRATION.**

9 The Secretary of the Interior shall manage the ref-
10 uges in the National Wildlife Refuge System in a manner
11 consistent with any refuge conservation plans developed
12 under section 4 of the National Wildlife Refuge System
13 Administration Act of 1966 (16 U.S.C. 668dd), as
14 amended by this Act.

15 **SEC. 8. REGULATIONS.**

16 Except as otherwise required in this Act, the Sec-
17 retary of the Interior shall—

18 (1) not later than 1 year after the date of en-
19 actment of this Act, propose regulations to carry out
20 this Act and the amendments made by this Act; and

21 (2) not later than 18 months after the date of
22 enactment of this Act, promulgate final regulations
23 to carry out this Act and the amendments made by
24 this Act.

1 **SEC. 9. CONFORMING AMENDMENT.**

2 Section 4 (16 U.S.C. 668dd) is amended by striking
3 “Secretary of the Interior” each place it appears and in-
4 serting “Secretary”.

5 **SEC. 10. EMERGENCY POWER.**

6 The Secretary of the Interior is authorized to suspend
7 any activity conducted in any refuge in the National Wild-
8 life Refuge System in the event of an emergency that con-
9 stitutes an imminent danger to the health and safety of
10 any wildlife population, or refuge, or to public health and
11 safety.

12 **SEC. 11. STATUTORY CONSTRUCTION.**

13 Except as specifically provided in this Act or the
14 amendments made by this Act, nothing in this Act or the
15 amendments made by this Act shall be construed so as
16 to alter or otherwise affect the act commonly known as
17 the Refuge Recreation Act of 1962 (16 U.S.C. 460k et
18 seq.), the National Wildlife Refuge System Administration
19 Act of 1966 (16 U.S.C. 668dd et seq.), the Alaska Na-
20 tional Interest Lands Conservation Act (16 U.S.C. 3101
21 et seq.), or any other law or order establishing individual
22 refuges in effect on the date of enactment of this Act.

23 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

24 There are authorized to be appropriated such sums
25 as may be necessary to carry out this Act and the amend-
26 ments made by this Act.



S 823 IS—2