

105TH CONGRESS
1ST SESSION

H. R. 1420

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 HOUSE OF REPRESENTATIVES

APRIL 23, 1997

Mr. YOUNG of Alaska (for himself, Mr. DINGELL, Mr. SAXTON, Mr. TANNER, and Mr. CUNNINGHAM) introduced the following bill; which was referred to the Committee on Resources

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 Improvement Act of
6 1997”.

7 (b) REFERENCES.—Whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment
9 to, or repeal of, a section or other provision, the reference

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

4 **SEC. 2. FINDINGS.**

5 The Congress finds the following:

6 (1) The National Wildlife Refuge System is
7 comprised of over 92,000,000 acres of Federal lands
8 that have been incorporated within 509 individual
9 units located in all 50 States and our territories.

10 (2) The System was created to conserve fish,
11 wildlife, and plants and their habitats and this con-
12 servation mission has been facilitated by providing
13 Americans opportunities to participate in compatible
14 wildlife-dependent recreation, including fishing and
15 hunting, on System lands and to better appreciate
16 the value of and need for fish and wildlife conserva-
17 tion.

18 (3) The System serves a pivotal role in the con-
19 servation of migratory birds, anadromous and inter-
20 jurisdictional fish, marine mammals, endangered and
21 threatened species, and the habitats on which these
22 species depend.

23 (4) The System assists in the fulfillment of im-
24 portant international treaty obligations of the Unit-

1 ed States with regard to fish, wildlife, and plants
2 and their habitats.

3 (5) The System includes lands purchased not
4 only through the use of tax dollars but also through
5 the sale of Duck Stamps and refuge entrance fees.
6 It is a System that is financially supported by those
7 benefiting from and utilizing it.

8 (6) When managed in accordance with prin-
9 ciples of sound fish and wildlife management and
10 administration, fishing, hunting, wildlife observation,
11 and environmental education in refuges have been
12 and are expected to continue to be generally compat-
13 ible uses.

14 (7) On March 25, 1996, the President issued
15 Executive Order 12996 which recognized “compat-
16 ible wildlife-dependent recreational uses involving
17 hunting, fishing, wildlife observation and photog-
18 raphy, and environmental education and interpreta-
19 tion as priority public uses of the Refuge System”.

20 (8) Executive Order 12996 is a positive step
21 and serves as the foundation for the permanent stat-
22 utory changes made by this Act.

23 **SEC. 3. DEFINITIONS.**

24 (a) IN GENERAL.—Section 5 (16 U.S.C. 668ee) is
25 amended to read as follows:

1 **“SEC. 5. DEFINITIONS.**

2 “For purposes of this Act:

3 “(1) The term ‘compatible use’ means a use
4 that, in the sound professional judgment of the Di-
5 rector, will not materially interfere with or detract
6 from the fulfillment of the mission of the System or
7 the purposes of a refuge.

8 “(2) The terms ‘wildlife-dependent recreation’
9 and ‘wildlife-dependent recreational use’ mean a use
10 of a refuge involving hunting, fishing, wildlife obser-
11 vation and photography, or environmental education
12 and interpretation.

13 “(3) The term ‘sound professional judgment’
14 means a finding, determination, or decision that is
15 consistent with principles of sound fish and wildlife
16 management and administration, available science
17 and resources, and adherence to the requirements of
18 this Act and other applicable laws.

19 “(4) The terms ‘conserving’, ‘conservation’,
20 ‘manage’, ‘managing’, and ‘management’, mean to
21 sustain and, where appropriate, restore and enhance,
22 healthy populations of fish, wildlife, and plants uti-
23 lizing, in accordance with applicable Federal and
24 State laws, methods and procedures associated with
25 modern scientific resource programs. Such methods
26 and procedures include, consistent with the provi-

1 sions of this Act, protection, research, census, law
2 enforcement, habitat management, propagation, live
3 trapping and transplantation, and regulated taking.

4 “(5) The term ‘Coordination Area’ means a
5 wildlife management area that is made available to
6 a State—

7 “(A) by cooperative agreement between the
8 United States Fish and Wildlife Service and the
9 State fish and game agency pursuant to section
10 4 of the Fish and Wildlife Coordination Act (16
11 U.S.C. 664); or

12 “(B) by long-term leases or agreements
13 pursuant to the Bankhead-Jones Farm Tenant
14 Act (50 Stat. 525; 7 U.S.C. 1010 et seq.).

15 “(6) The term ‘Director’ means the Director of
16 the United States Fish and Wildlife Service or his
17 designee.

18 “(7) The terms ‘fish’, ‘wildlife’, and ‘fish and
19 wildlife’ mean any wild member of the animal king-
20 dom whether alive or dead, and regardless of wheth-
21 er the member was bred, hatched, or born in cap-
22 tivity, including a part, product, egg, or offspring of
23 the member.

24 “(8) The term ‘person’ means any individual,
25 partnership, corporation, or association.

1 “(9) The term ‘plant’ means any member of the
2 plant kingdom in a wild, unconfined state, including
3 any plant community, seed, root, or other part of a
4 plant.

5 “(10) The terms ‘purposes of the refuge’ and
6 ‘purposes of each refuge’ mean the purposes speci-
7 fied in or derived from the law, proclamation, execu-
8 tive order, agreement, public land order, donation
9 document, or administrative memorandum establish-
10 ing, authorizing, or expanding a refuge, refuge unit,
11 or refuge subunit.

12 “(11) The term ‘refuge’ means a designated
13 area of land, water, or an interest in land or water
14 within the System, but does not include Coordina-
15 tion Areas.

16 “(12) The term ‘Secretary’ means the Secretary
17 of the Interior.

18 “(13) The terms ‘State’ and ‘United States’
19 mean the several States of the United States, Puerto
20 Rico, American Samoa, the Virgin Islands, Guam,
21 and the insular possessions of the United States.

22 “(14) The term ‘System’ means the National
23 Wildlife Refuge System designated under section
24 4(a)(1).

1 “(15) The terms ‘take’, ‘taking’, and ‘taken’
2 mean to pursue, hunt, shoot, capture, collect, or kill,
3 or to attempt to pursue, hunt, shoot, capture, col-
4 lect, or kill.”.

5 (b) CONFORMING AMENDMENT.—Section 4 (16
6 U.S.C. 668dd) is amended by striking “Secretary of the
7 Interior” each place it appears and inserting “Secretary”.

8 **SEC. 4. MISSION OF THE SYSTEM.**

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

10 (1) by redesignating paragraphs (2) and (3) as
11 paragraphs (5) and (6), respectively;

12 (2) in clause (i) of paragraph (6) (as so redesign-
13 ated), by striking “paragraph (2)” and inserting
14 “paragraph (5)”; and

15 (3) by inserting after paragraph (1) the follow-
16 ing new paragraph:

17 “(2) The mission of the System is to administer a
18 national network of lands and waters for the conservation,
19 management, and where appropriate, restoration of the
20 fish, wildlife and plant resources and their habitats within
21 the United States for the benefit of present and future
22 generations of Americans.”.

23 **SEC. 5. ADMINISTRATION OF THE SYSTEM.**

24 (a) ADMINISTRATION GENERALLY.—Section 4(a) (16
25 U.S.C. 668dd(a)), as amended by section 3 of this Act,

1 is further amended by inserting after new paragraph (2)
2 the following new paragraphs:

3 “(3) With respect to the System, it is the policy of
4 the United States of America that—

5 “(A) each refuge shall be managed to fulfill the
6 mission of the System, as well as the specific pur-
7 poses for which that refuge was established;

8 “(B) compatible wildlife-dependent recreation is
9 a legitimate and appropriate general public use of
10 the System, directly related to the mission of the
11 System and the purposes of many refuges, and
12 which generally fosters refuge management and
13 through which the American public can develop an
14 appreciation for fish and wildlife;

15 “(C) compatible wildlife-dependent recreational
16 uses are the priority general public uses of the Sys-
17 tem and shall receive priority consideration in refuge
18 planning and management;

19 “(D) when the Secretary determines that a pro-
20 posed wildlife-dependent recreational use is a com-
21 patible use within a refuge, that activity should be
22 facilitated, subject to such restrictions or regulations
23 as may be necessary, reasonable and appropriate.

24 “(4) In administering the System, the Secretary
25 shall—

1 “(A) provide for the conservation of fish, wild-
2 life, and plants, and their habitats within the Sys-
3 tem;

4 “(B) ensure that the biological integrity, diver-
5 sity, and environmental health of the System are
6 maintained for the benefit of present and future
7 generations of Americans;

8 “(C) plan and direct the continued growth of
9 the System in a manner that is best designed to ac-
10 complish the mission of the System, to contribute to
11 the conservation of the ecosystems of the United
12 States, to complement efforts of States and other
13 Federal agencies to conserve fish and wildlife and
14 their habitats and to increase support for the Sys-
15 tem and participation from conservation partners
16 and the public;

17 “(D) ensure that the mission of the System de-
18 scribed in paragraph (2) and the purposes of each
19 refuge are carried out, except that if a conflict exists
20 between the purposes of a refuge and the mission of
21 the System, the conflict shall be resolved in a man-
22 ner that first protects the purposes of the refuge,
23 and, to the extent practicable, that also achieves the
24 mission of the System;

1 “(E) ensure effective coordination, interaction,
2 and cooperation with owners of land adjoining ref-
3 uges and the fish and wildlife agency of the States
4 in which the units of the System are located;

5 “(F) assist in the maintenance of adequate
6 water quantity and water quality to fulfill the mis-
7 sion of the System and the purposes of each refuge;

8 “(G) acquire, under State law, water rights that
9 are needed for refuge purposes;

10 “(H) recognize compatible wildlife-dependent
11 recreational uses as the priority general public uses
12 of the System through which the American public
13 can develop an appreciation for fish and wildlife;

14 “(I) ensure that opportunities are provided for
15 compatible wildlife-dependent recreational activities
16 within the System;

17 “(J) ensure that priority general public uses re-
18 ceive enhanced consideration over other general pub-
19 lic uses in planning and management within the Sys-
20 tem;

21 “(K) provide increased opportunities for fami-
22 lies to experience compatible wildlife-dependent
23 recreation, particularly opportunities for parents and
24 their children to safely engage in traditional outdoor
25 activities, such as fishing and hunting;

1 “(L) continue, consistent with existing laws and
2 interagency agreements, authorized or permitted
3 uses of units of the System by other Federal agen-
4 cies, including those necessary to facilitate military
5 preparedness;

6 “(M) ensure timely and effective cooperation
7 and collaboration with Federal agencies and State
8 fish and wildlife agencies during the course of ac-
9 quiring and managing refuges.”.

10 (b) POWERS.—Section 4(b) (16 U.S.C. 668dd(b)) is
11 amended—

12 (1) in the matter preceding paragraph (1) by
13 striking “authorized—” and inserting “authorized to
14 take the following actions:”;

15 (2) in paragraph (1) by striking “to enter” and
16 inserting “Enter”;

17 (3) in paragraph (2)—

18 (A) by striking “to accept” and inserting
19 “Accept”; and

20 (B) by striking “, and” and inserting a pe-
21 riod;

22 (4) in paragraph (3) by striking “to acquire”
23 and inserting “Acquire”; and

24 (5) by adding at the end the following new
25 paragraph:

1 “(4) Subject to standards established by and the
2 overall management oversight of the Director, and consist-
3 ent with standards established by this Act, enter into coop-
4 erative agreements with State fish and wildlife agencies
5 for the management of programs on a refuge.”.

6 **SEC. 6. COMPATIBILITY STANDARDS AND PROCEDURES.**

7 Section 4(d) (16 U.S.C. 668dd(d)) is amended by
8 adding at the end the following new paragraph:

9 “(3)(A)(i) Except as provided in clause (iv), the Sec-
10 retary shall not initiate or permit a new use of a refuge
11 or expand, renew, or extend an existing use of a refuge,
12 unless the Secretary has determined that the use is a com-
13 patible use and that the use is not inconsistent with public
14 safety. The Secretary may make the determinations re-
15 ferred to in this paragraph for a refuge concurrently with
16 development of a conservation plan under subsection (e).

17 “(ii) On lands added to the System after March 25,
18 1996, the Secretary shall identify, prior to acquisition,
19 withdrawal, transfer, reclassification, or donation of any
20 such lands, existing compatible wildlife-dependent uses
21 that the Secretary determines shall be permitted to con-
22 tinue on an interim basis pending completion of the com-
23 prehensive conservation plan for the refuge.

24 “(iii) Wildlife-dependent recreational uses may be au-
25 thorized on a refuge when they are compatible and not

1 inconsistent with public safety. Except for consideration
2 of consistency with State laws and regulations as provided
3 for in subsection (m), no other determinations or findings
4 are required to be made by the refuge official under this
5 Act or the Refuge Recreation Act for wildlife-dependent
6 recreation to occur.

7 “(iv) Compatibility determinations in existence on the
8 date of enactment of this Act shall remain in effect until
9 and unless modified.

10 “(B) Not later than 24 months after the date of the
11 enactment of the National Wildlife Refuge System Im-
12 provement Act of 1997, the Secretary shall issue final reg-
13 ulations establishing the process for determining under
14 subparagraph (A) whether a use of a refuge is a compat-
15 ible use. These regulations shall—

16 “(i) designate the refuge official responsible for
17 making initial compatibility determinations;

18 “(ii) require an estimate of the timeframe, loca-
19 tion, manner, and purpose of each use;

20 “(iii) identify the effects of each use on refuge
21 resources and purposes of each refuge;

22 “(iv) require that compatibility determinations
23 be made in writing;

24 “(v) provide for the expedited consideration of
25 uses that will likely have no detrimental effect on

1 the fulfillment of the purposes of a refuge or the
2 mission of the System;

3 “(vi) provide for the elimination or modification
4 of any use as expeditiously as practicable after a de-
5 termination is made that the use is not a compatible
6 use;

7 “(vii) require, after an opportunity for public
8 comment, reevaluation of each existing use, other
9 than those uses specified in clause (viii), when condi-
10 tions under which the use is permitted change sig-
11 nificantly or when there is significant new informa-
12 tion regarding the effects of the use, but not less
13 frequently than once every 10 years, to ensure that
14 the use remains a compatible use;

15 “(viii) require, after an opportunity for public
16 comment, reevaluation of each compatible wildlife-
17 dependent recreational use when conditions under
18 which the use is permitted change significantly or
19 when there is significant new information regarding
20 the effects of the use, but not less frequently than
21 in conjunction with each preparation or revision of
22 a conservation plan under subsection (e) or at least
23 every 15 years; and

24 “(ix) provide an opportunity for public review
25 and comment on each evaluation of a use, unless an

1 opportunity for public review and comment on the
2 evaluation of the use has already been provided dur-
3 ing the development or revision of a conservation
4 plan for the refuge under subsection (e) or has oth-
5 erwise been provided during routine, periodic deter-
6 minations of compatibility for wildlife-dependent rec-
7 reational uses.

8 “(4) The provisions of this Act relating to determina-
9 tions of the compatibility of a use shall not apply to—

10 “(A) overflights above a refuge; and

11 “(B) activities authorized, funded, or conducted
12 by a Federal agency (other than the United States
13 Fish and Wildlife Service) which has primary juris-
14 diction over the refuge or a portion of the refuge, if
15 the management of those activities is in accordance
16 with a memorandum of understanding between the
17 Secretary or the Director and the head of the Fed-
18 eral agency with primary jurisdiction over the refuge
19 governing the use of the refuge.

20 “(5) Overflights above a refuge may be governed by
21 any memorandum of understanding entered into by the
22 Secretary that applies to the refuge.”.

23 **SEC. 7. REFUGE CONSERVATION PLANNING PROGRAM.**

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

1 (1) by redesignating subsections (e) through (i)
2 as subsections (f) through (j), respectively; and

3 (2) by inserting after subsection (d) the follow-
4 ing new subsection:

5 “(e)(1)(A) Except with respect to refuge lands in
6 Alaska (which shall be governed by the refuge planning
7 provisions of the Alaska National Interest Lands Con-
8 servation Act (16 U.S.C. 3101 et seq.)), the Secretary
9 shall—

10 “(i) propose a comprehensive conservation plan
11 for each refuge or related complex of refuges (re-
12 ferred to in this subsection as a ‘planning unit’) in
13 the System;

14 “(ii) publish a notice of opportunity for public
15 comment in the Federal Register on each proposed
16 conservation plan;

17 “(iii) issue a final conservation plan for each
18 planning unit consistent with the provisions of this
19 Act and, to the extent practicable, consistent with
20 fish and wildlife conservation plans of the State in
21 which the refuge is located; and

22 “(iv) not less frequently than 15 years after the
23 date of issuance of a conservation plan under clause
24 (iii) and every 15 years thereafter, revise the con-
25 servation plan as may be necessary.

1 “(B) The Secretary shall prepare a comprehensive
2 conservation plan under this subsection for each refuge
3 within 15 years after the date of enactment of the Na-
4 tional Wildlife Refuge System Improvement Act of 1997.

5 “(C) The Secretary shall manage each refuge or plan-
6 ning unit under plans in effect on the date of enactment
7 of the National Wildlife Refuge System Improvement Act
8 of 1997, to the extent such plans are consistent with this
9 Act, until such plans are revised or superseded by new
10 comprehensive conservation plans issued under this sub-
11 section.

12 “(D) Uses or activities consistent with this Act may
13 occur on any refuge or planning unit before existing plans
14 are revised or new comprehensive conservation plans are
15 issued under this subsection.

16 “(E) Upon completion of a comprehensive conserva-
17 tion plan under this subsection for a refuge or planning
18 unit, the Secretary shall manage the refuge or planning
19 unit in a manner consistent with the plan and shall revise
20 the plan at any time if the Secretary determines that con-
21 ditions that affect the refuge or planning unit have
22 changed significantly.

23 “(2) In developing each comprehensive conservation
24 plan under this subsection for a planning unit, the Sec-

1 retary, acting through the Director, shall identify and de-
2 scribe—

3 “(A) the purposes of each refuge comprising
4 the planning unit;

5 “(B) the distribution, migration patterns, and
6 abundance of fish, wildlife, and plant populations
7 and related habitats within the planning unit;

8 “(C) the archaeological and cultural values of
9 the planning unit;

10 “(D) such areas within the planning unit that
11 are suitable for use as administrative sites or visitor
12 facilities;

13 “(E) significant problems that may adversely
14 affect the populations and habitats of fish, wildlife,
15 and plants within the planning unit and the actions
16 necessary to correct or mitigate such problems; and

17 “(F) opportunities for compatible wildlife-de-
18 pendent recreation.

19 “(3) In preparing each comprehensive conservation
20 plan under this subsection, and any revision to such a
21 plan, the Secretary, acting through the Director, shall, to
22 the maximum extent practicable and consistent with this
23 Act—

1 “(A) consult with adjoining Federal, State,
2 local, and private landowners and affected State con-
3 servation agencies; and

4 “(B) coordinate the development of the con-
5 servation plan or revision of the plan with relevant
6 State conservation plans for fish and wildlife and
7 their habitats.

8 “(4)(A) In accordance with subparagraph (B), the
9 Secretary shall develop and implement a process to ensure
10 an opportunity for active public involvement in the prepa-
11 ration and revision of comprehensive conservation plans
12 under this subsection. At a minimum, the Secretary shall
13 require that publication of any final plan shall include a
14 summary of the comments made by States, adjacent or
15 potentially affected landowners, local governments, and
16 any other affected parties, together with a statement of
17 the disposition of concerns expressed in those comments.

18 “(B) Prior to the adoption of each comprehensive
19 conservation plan under this subsection, the Secretary
20 shall issue public notice of the draft proposed plan, make
21 copies of the plan available at the affected field and re-
22 gional offices of the United States Fish and Wildlife Serv-
23 ice, and provide opportunity for public comment.”.

1 **SEC. 8. EMERGENCY POWER; PRESIDENTIAL EXEMPTION;**
2 **STATE AUTHORITY; WATER RIGHTS; COORDI-**
3 **NATION.**

4 (a) IN GENERAL.—Section 4 (16 U.S.C. 668dd) is
5 further amended by adding at the end the following new
6 subsections:

7 “(k) Notwithstanding any other provision of this Act
8 the Secretary may temporarily suspend, allow, or initiate
9 any activity in a refuge in the System if the Secretary
10 determines it is necessary to protect the health and safety
11 of the public or any fish or wildlife population.

12 “(l) Nothing in this Act shall be construed to author-
13 ize the Secretary to control or regulate hunting or fishing
14 of fish and resident wildlife on lands or waters not within
15 the System.

16 “(m) Nothing in this Act shall be construed as affect-
17 ing the authority, jurisdiction, or responsibility of the sev-
18 eral States to manage, control, or regulate fish and resi-
19 dent wildlife under State law or regulations in any area
20 within the System. Regulations permitting hunting or fish-
21 ing of fish and resident wildlife within the System shall
22 be, to the extent practicable, consistent with State fish and
23 wildlife laws, regulations, or management plans.

24 “(n)(1) Nothing in this Act shall—

25 “(A) create a reserved water right, express or
26 implied, in the United States for any purpose;

1 “(B) affect any water right in existence on the
2 date of enactment of the National Wildlife Refuge
3 System Improvement Act of 1997; or

4 “(C) affect any Federal or State law in exist-
5 ence on the date of the enactment of the National
6 Wildlife Refuge System Improvement Act of 1997
7 regarding water quality or water quantity.

8 “(2) Nothing in this Act shall diminish or affect the
9 ability to join the United States in the adjudication of
10 rights to the use of water pursuant to the McCarran Act
11 (43 U.S.C. 666).

12 “(o) Coordination with State fish and wildlife agency
13 personnel or with personnel of other affected State agen-
14 cies pursuant to this Act shall not be subject to the Fed-
15 eral Advisory Committee Act (5 U.S.C. App.).”.

16 (b) CONFORMING AMENDMENT.—Section 4(c) (16
17 U.S.C. 668dd(c)) is amended by striking the last sentence.

18 **SEC. 9. STATUTORY CONSTRUCTION.**

19 (a) Nothing in this Act is intended to affect—

20 (1) the provisions for subsistence uses in Alaska
21 set forth in the Alaska National Interest Lands Con-
22 servation Act (Public Law 96–487), including those
23 in titles III and VIII of that Act;

24 (2) the provisions of section 102 of the Alaska
25 National Interest Lands Conservation Act, the juris-

1 diction over subsistence uses in Alaska, or any asser-
2 tion of subsistence uses in the Federal courts; and

3 (3) the manner in which section 810 of the
4 Alaska National Interest Lands Conservation Act is
5 implemented in refuges in Alaska.

6 (b) If any conflict arises between any provision of this
7 Act and any provision of the Alaska National Interest
8 Lands Conservation Act, then the provision in the Alaska
9 National Interest Lands Conservation Act shall prevail.

○