

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.

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## 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

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## 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.

○