

106TH CONGRESS  
2D SESSION

# H. R. 5264

To establish the Rocky Flats National Wildlife Refuge in Colorado, and  
for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 21, 2000

Mr. UDALL of Colorado (for himself, Ms. DEGETTE, Mr. TANCREDO, Mr. SCHAFFER, Mr. HEFLEY, and Mr. MCINNIS) introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To establish the Rocky Flats National Wildlife Refuge in  
Colorado, 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.**

4 This Act may be cited as the “Rocky Flats National  
5 Wildlife Refuge Act of 2000”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—The Congress finds the following:

1           (1) The Federal Government, through the  
2 Atomic Energy Commission, acquired Rocky Flats in  
3 1951 and began operations there in 1952. The site  
4 remains a Department of Energy facility. Since  
5 1992, the mission of Rocky Flats has changed from  
6 the production of nuclear weapons components to  
7 cleanup and closure in a manner that is safe, envi-  
8 ronmentally and socially responsible, physically se-  
9 cure, and cost-effective.

10           (2) The site has generally remained undisturbed  
11 since its acquisition by the Federal Government.

12           (3) The State of Colorado is experiencing in-  
13 creasing growth and development, especially in the  
14 metropolitan Denver Front Range area in the vicin-  
15 ity of Rocky Flats. This growth and development re-  
16 duces the amount of open space and thereby dimin-  
17 ishes for many metropolitan Denver communities the  
18 vistas of the striking Front Range mountain back-  
19 drop.

20           (4) Some areas of the site currently contain  
21 contamination and will require further remediation.  
22 The national interest requires that the ongoing  
23 cleanup and closure of the entire site be completed  
24 safely, effectively, and without unnecessary delay  
25 and that the site thereafter be retained by the

1 United States and managed so as to preserve its  
2 value for open space and wildlife habitat.

3 (5) Rocky Flats provides habitat for many wild-  
4 life species, including a number of threatened species  
5 and endangered species, and is marked by the pres-  
6 ence of rare xeric tallgrass prairie plant commu-  
7 nities. Establishing the site as a unit of the National  
8 Wildlife Refuge System will promote the preserva-  
9 tion and enhancement of these resources for present  
10 and future generations.

11 (b) PURPOSE.—The purpose of this Act is to provide  
12 for the establishment of Rocky Flats as a national wildlife  
13 refuge while creating a process for public input on refuge  
14 management and ensuring that the site is thoroughly and  
15 completely cleaned up.

16 **SEC. 3. DEFINITIONS.**

17 In this Act:

18 (1) CLEANUP AND CLOSURE.—The term  
19 “cleanup and closure” means the remedial actions  
20 and decommissioning activities being undertaken at  
21 Rocky Flats by the Department of Energy under the  
22 1996 Rocky Flats Cleanup Agreement, the closure  
23 plans and baselines, and any other relevant docu-  
24 ments or requirements.

1           (2) COALITION.—The term “Coalition” means  
2 the Rocky Flats Coalition of Local Governments es-  
3 tablished by the Intergovernmental Agreement,  
4 dated February 16, 1999, among—

5                   (A) the city of Arvada, Colorado;

6                   (B) the city of Boulder, Colorado;

7                   (C) the city of Broomfield, Colorado;

8                   (D) the city of Westminster, Colorado;

9                   (E) the town of Superior, Colorado;

10                  (F) Boulder County, Colorado;

11                  (G) Jefferson County, Colorado.

12           (3) HAZARDOUS SUBSTANCE.—The term “haz-  
13 arduous substance” has the meaning given the term  
14 under section 101 of the Comprehensive Environ-  
15 mental Response, Compensation, and Liability Act  
16 of 1980 (42 U.S.C. 9601).

17           (4) POLLUTANT OR CONTAMINANT.—The term  
18 “pollutant or contaminant” has the meaning given  
19 the term under section 101 of the Comprehensive  
20 Environmental Response, Compensation, and Liabil-  
21 ity Act of 1980 (42 U.S.C. 9601).

22           (5) REFUGE.—The term “refuge” means the  
23 Rocky Flats National Wildlife Refuge established  
24 under section 7.

1           (6) RESPONSE ACTION.—The term “response  
2           action” has the meaning given the term “response”  
3           under section 101 of the Comprehensive Environ-  
4           mental Response, Compensation, and Liability Act  
5           of 1980 (42 U.S.C. 9601) or any other similar pro-  
6           vision under State law.

7           (7) RFCA.—The term “RFCA” means the  
8           Rocky Flats Cleanup Agreement, an intergovern-  
9           mental agreement, dated July 19, 1996, among—

10                   (A) the Department of Energy;

11                   (B) the Environmental Protection Agency;

12                   and

13                   (C) the Department of Public Health and  
14                   Environment of the State of Colorado.

15           (8) ROCKY FLATS.—The term “Rocky Flats”  
16           means the Rocky Flats Environmental Technology  
17           Site, Colorado, a defense nuclear facility, as depicted  
18           on the map entitled “Rocky Flats Environmental  
19           Technology Site”, dated July 15, 1998.

20           (9) ROCKY FLATS TRUSTEES.—The term  
21           “Rocky Flats Trustees” means the Federal and  
22           State of Colorado entities that have been identified  
23           as trustees for the Rocky Flats under section  
24           107(f)(2) of the Comprehensive, Environmental Re-

1 sponse, Compensation, and Liability Act of 1980 (42  
2 U.S.C. 9607(f)(1)).

3 (10) SECRETARY.—The term “Secretary”  
4 means the Secretary of Energy.

5 **SEC. 4. FUTURE OWNERSHIP AND MANAGEMENT.**

6 (a) FEDERAL OWNERSHIP.—Unless the Congress  
7 provides otherwise in an Act enacted after the date of the  
8 enactment of this Act, all right, title, and interest of the  
9 United States, held on or acquired after the date of the  
10 enactment of this Act, to lands within the boundaries of  
11 Rocky Flats shall be retained by the United States.

12 (b) LINDSAY RANCH.—The structures that comprise  
13 the former Lindsay Ranch homestead site in the Rock  
14 Creek Reserve area of the buffer zone as depicted on the  
15 map referred to in section 3(8) shall be permanently pre-  
16 served and maintained in accordance with the National  
17 Historic Preservation Act (16 U.S.C. 470 et seq.).

18 (c) PROHIBITION AGAINST ANNEXATION.—The Sec-  
19 retary of the Interior shall not allow the annexation of  
20 land within the refuge by any unit of local government.

21 (d) PROHIBITION AGAINST THROUGH ROADS.—Ex-  
22 cept as provided in subsection (e), no public road shall  
23 be constructed through Rocky Flats.

24 (e) TRANSPORTATION RIGHT-OF-WAY.—

25 (1) IN GENERAL.—

1           (A) AVAILABILITY OF LAND.—On submis-  
2           sion of an application meeting each of the con-  
3           ditions specified in paragraph (2), the Secretary  
4           and the Secretary of the Interior may make  
5           available land along the eastern boundary of  
6           Rocky Flats for the sole purpose of transpor-  
7           tation improvements along Indiana Street.

8           (B) BOUNDARIES.—Land made available  
9           under this paragraph may not extend more  
10          than 150 feet from the west edge of the Indiana  
11          Street right-of-way, as that right-of-way exists  
12          as of the date of enactment of this Act.

13          (C) EASEMENT OR SALE.—Land may be  
14          made available under this paragraph by ease-  
15          ment or sale to 1 or more appropriate entities.

16          (D) COMPLIANCE WITH APPLICABLE  
17          LAW.—Any action under this paragraph shall  
18          be taken in compliance with applicable law.

19          (2) CONDITIONS.—An application for land  
20          under this subsection may be submitted by any  
21          county, city, or other political subdivision of the  
22          State of Colorado and shall include documentation  
23          demonstrating that—

1 (A) the transportation project is compat-  
2 ible with the management of Rocky Flats as a  
3 wildlife refuge; and

4 (B) the transportation project is included  
5 in the Regional Transportation Plan of the  
6 Metropolitan Planning Organization for the  
7 Denver metropolitan area designated under 49  
8 U.S.C. 5303 et seq.

9 **SEC. 5. TRANSFER OF MANAGEMENT RESPONSIBILITIES**  
10 **AND JURISDICTION OVER ROCKY FLATS.**

11 (a) IN GENERAL.—

12 (1) MEMORANDUM OF UNDERSTANDING.—No  
13 later than one year after the date of enactment of  
14 this Act, the Secretary and the Secretary of the In-  
15 terior shall publish in the Federal Register a draft  
16 Memorandum of Understanding under which the  
17 Secretary shall transfer to the Secretary of the Inte-  
18 rior administrative jurisdiction over Rocky Flats.  
19 This memorandum of understanding shall provide  
20 for the timing of the transfer, the division of respon-  
21 sibilities between the Secretary and the Secretary of  
22 the Interior for the period ending on the date of the  
23 transfer, and an appropriate allocation of costs and  
24 personnel to the Secretary of the Interior, except  
25 that the Memorandum of Understanding shall not

1 result in any reduction in funds available to the Sec-  
2 retary for cleanup and closure of Rocky Flats. No  
3 later than 18 months after the date of enactment of  
4 this Act, the Secretary and Secretary of the Interior  
5 shall finalize and implement this memorandum of  
6 understanding.

7 (2) EXCLUSIONS.—The transfer under para-  
8 graph (1) shall not include any property or facility  
9 over which the Secretary retains jurisdiction, author-  
10 ity, and control under subsection (b)(1).

11 (3) CONDITION.—The transfer under paragraph  
12 (1) shall occur no later than 10 business days fol-  
13 lowing the signing by the Environmental Protection  
14 Agency’s Regional Administrator for Region VIII of  
15 the Final On-site Record of Decision for Rocky  
16 Flats.

17 (4) COST; IMPROVEMENTS.—The transfer—

18 (A) shall be completed without cost to the  
19 Secretary of the Interior; and

20 (B) may include such buildings or other  
21 improvements as the Secretary of the Interior  
22 may request in writing for refuge management  
23 purposes.

24 (b) PROPERTY AND FACILITIES EXCLUDED FROM  
25 TRANSFERS.—

1           (1) IN GENERAL.—The Secretary shall retain  
2 jurisdiction, authority, and control over all real prop-  
3 erty and facilities at Rocky Flats that are to be used  
4 for—

5                   (A) any necessary and appropriate long-  
6 term operation and maintenance facilities to  
7 intercept, treat, and control a hazardous sub-  
8 stance, pollutant, radionuclide, or other con-  
9 taminants; or

10                   (B) any other purpose related to a re-  
11 sponse action or any other action that is re-  
12 quired to be carried out at Rocky Flats.

13           (2) CONSULTATION.—The Secretary shall con-  
14 sult with the Environmental Protection Agency and  
15 the State of Colorado on the identification and man-  
16 agement of all property to be retained under this  
17 subsection to ensure the continuing effectiveness of  
18 response actions. The Secretary shall consult with  
19 the Secretary of the Interior on the management of  
20 the retained property to minimize any conflict be-  
21 tween management of property transferred to the  
22 Secretary of the Interior and that retained by the  
23 Secretary for response actions. However, in the case  
24 of any such conflict, implementation and mainte-  
25 nance of the response action shall take priority.

1           (3) ACCESS.—As a condition of the transfer  
2           under subsection (a), the Secretary shall be provided  
3           such easements and access as may be reasonably re-  
4           quired to carry out any obligation or address any  
5           other liability.

6           (c) ADMINISTRATION.—

7           (1) IN GENERAL.—On completion of the trans-  
8           fer under subsection (a), the Secretary of the Inte-  
9           rior shall administer Rocky Flats in accordance with  
10          this Act subject to—

11           (A) any response action or institutional  
12           control at Rocky Flats carried out by or under  
13           the authority of the Secretary under the Com-  
14           prehensive Environmental Response, Compensa-  
15           tion, and Liability Act of 1980 (42 U.S.C. 9601  
16           et seq.); and

17           (B) any other action required under any  
18           other Federal or State law to be carried out by  
19           or under the authority of the Secretary.

20          (2) CONFLICT.—In case of any conflict between  
21          management of Rocky Flats by the Secretary of the  
22          Interior and the conduct of any response action or  
23          other action described in subparagraph (A) or (B) of  
24          paragraph (1), the response action or other action  
25          shall take priority.



1 ability with respect to Rocky Flats under the RFCA  
2 or any applicable Federal or State law. Nothing in  
3 this Act impairs or alters any provision of the  
4 RFCA.

5 (2) DEGREE OF CLEANUP.—Except as provided  
6 in paragraph (3), nothing in this Act shall be con-  
7 strued to affect the degree of cleanup and closure at  
8 Rocky Flats required under the RFCA or any Fed-  
9 eral or State law.

10 (3) LEVEL OF CLEANUP.—(A) The require-  
11 ments of this Act for establishment and manage-  
12 ment of Rocky Flats as a national wildlife refuge  
13 shall not affect the level of cleanup and closure.

14 (B) The Secretary is required to conduct clean-  
15 up and closure of Rocky Flats to the levels hereafter  
16 established for soil, water, and other media following  
17 a thorough review by the parties to the RFCA and  
18 the public of the appropriateness of the interim lev-  
19 els in the RFCA.

20 (4) FEDERAL OBLIGATION TO CONTROL CON-  
21 TAMINATION.—Nothing in this Act, and no actions  
22 taken under this Act, shall affect any long-term obli-  
23 gation of the United States for funding, construc-  
24 tion, monitoring, or operation and maintenance of  
25 any necessary and appropriate intercept and treat-

1       ment facilities or any other measures to control con-  
2       tamination.

3       (c) PAYMENT OF RESPONSE ACTION COSTS.—Noth-  
4       ing in this Act affects the obligation of a Federal depart-  
5       ment or agency that had or has operations at Rocky Flats  
6       resulting in the release or threatened release of a haz-  
7       ardous substance, pollutant, or contaminant to pay the  
8       costs of response actions carried out to abate the release  
9       of, or clean up, the hazardous substance, pollutant, or con-  
10      taminant.

11      (d) CONSULTATION.—In carrying out a response ac-  
12      tion at Rocky Flats, the Secretary shall consult with the  
13      Secretary of the Interior to ensure that the response ac-  
14      tion is carried out in a manner that, to the maximum ex-  
15      tent practicable, furthers the purposes of the refuge.

16      **SEC. 7. ROCKY FLATS NATIONAL WILDLIFE REFUGE.**

17      (a) ESTABLISHMENT.—Not later than 30 days after  
18      the transfer of jurisdiction under section 5(a)(3), the Sec-  
19      retary of the Interior shall establish at Rocky Flats a na-  
20      tional wildlife refuge to be known as the “Rocky Flats Na-  
21      tional Wildlife Refuge”.

22      (b) COMPOSITION.—The refuge shall consist of the  
23      real property transferred under section 5(a)(1).

1 (c) NOTICE.—The Secretary of the Interior shall pub-  
2 lish in the Federal Register a notice of the establishment  
3 of the refuge.

4 (d) ADMINISTRATION AND PURPOSES.—

5 (1) IN GENERAL.—The Secretary of the Inte-  
6 rior shall manage the refuge in accordance with all  
7 applicable provisions of law, including this Act and  
8 the National Wildlife Refuge System Administration  
9 Act of 1966 (16 U.S.C. 668dd et seq.), including the  
10 purposes specified in that Act.

11 (2) PURPOSES.—To the extent consistent with  
12 applicable provisions of law, the refuge shall be man-  
13 aged for the purposes of—

14 (A) restoring and preserving native eco-  
15 systems;

16 (B) providing habitat for and population  
17 management of native plants and migratory  
18 and resident wildlife;

19 (C) conserving threatened species and en-  
20 dangered species (including species that are  
21 candidates for listing under the Endangered  
22 Species Act of 1973);

23 (D) providing opportunities for compatible  
24 environmental scientific research; and

1           (E) providing the public with opportunities  
2           for compatible outdoor recreational and edu-  
3           cational activities.

4 **SEC. 8. PUBLIC INVOLVEMENT.**

5       (a) IN GENERAL.—

6           (1) ESTABLISHMENT OF PROCESS.—Not later  
7           than 90 days after the date of enactment of this  
8           Act, in developing plans for the management of fish  
9           and wildlife and public use of the refuge, the Sec-  
10          retary of the Interior, in consultation with the Sec-  
11          retary, the members of the Coalition, the Governor  
12          of the State of Colorado, and the Rocky Flats trust-  
13          ees, shall establish a process for involvement of the  
14          public and local communities to accomplish the pur-  
15          poses and objectives of this section.

16          (2) OTHER PARTICIPANTS.—In addition to the  
17          entities identified in paragraph (1), the public in-  
18          volvement process shall include the opportunity for  
19          direct involvement of entities not presently members  
20          of the Coalition, including the Rocky Flats Citizens'  
21          Advisory Board and the cities in Colorado of Thorn-  
22          ton, Northglenn, Golden, Louisville, and Lafayette.

23          (3) DISSOLUTION OF THE COALITION.—In the  
24          event that the Coalition dissolves, or any Coalition  
25          member chooses to leave the Coalition during the

1 public involvement process outlined in this section,  
2 the public involvement process under this section  
3 shall continue and an opportunity shall be provided  
4 to each entity comprising the Coalition on Sep-  
5 tember 1, 2000, for direct involvement in the public-  
6 participation process.

7 (4) PURPOSES.—The public involvement proc-  
8 ess developed under paragraph (1) shall provide  
9 input and make recommendations to the Secretary  
10 and the Secretary of the Interior on the following:

11 (A) The long-term management of the ref-  
12 uge consistent with the refuge purposes identi-  
13 fied in section 7(d) of this Act and the National  
14 Wildlife Refuge System Administration Act of  
15 1966 (16 U.S.C. 668dd et seq.).

16 (B) The identification of any land referred  
17 to in section 4(e) that could be made available  
18 for transportation purposes.

19 (C) The potential for leasing any land on  
20 Rocky Flats for the National Renewable Energy  
21 Laboratory to carry out projects related to the  
22 National Wind Technology Center.

23 (D) The characteristics and configuration  
24 of any perimeter fencing that may be necessary,

1 appropriate or compatible for cleanup and clo-  
2 sure, refuge, or other purposes.

3 (E) The feasibility of locating, and poten-  
4 tial location for, a visitor and education center  
5 at the refuge.

6 (F) The establishment of a Rocky Flats  
7 museum described in section 10.

8 (G) Any other issues relevant to the site.

9 (5) REPORT.—Not later than 2 years after the  
10 date of enactment of this Act, the Secretary of the  
11 Interior shall submit to the Congress a report out-  
12 lining the conclusions of the public involvement proc-  
13 ess and, to the degree that any input or rec-  
14 ommendations from the public involvement process  
15 were not accepted, clearly stating the reasons for not  
16 accepting such input or recommendations.

17 **SEC. 9. PROPERTY RIGHTS.**

18 (a) IN GENERAL.—Except as provided in subsection  
19 (c), nothing in this Act limits any valid, existing property  
20 rights at Rocky Flats which are owned by any party. Such  
21 property rights include, but are not limited to—

22 (1) mineral rights;

23 (2) water rights and easements related thereto;

24 and

25 (3) facilities and rights-of-way for utilities.

1           (b) ACCESS.—Except as provided in subsection (c),  
2 nothing in this Act shall affect any right of an owner of  
3 property rights described in subsection (a) to access to the  
4 owner's property.

5           (c) REASONABLE CONDITIONS.—The Secretary or  
6 Secretary of the Interior may impose such reasonable con-  
7 ditions on access to the property rights referred to in this  
8 section as may be necessary and appropriate for the clean-  
9 up and closure of Rocky Flats and for the management  
10 of the refuge. Nothing in this Act shall affect any other  
11 applicable Federal, State, or local law or regulation related  
12 to the use, development, and management of property  
13 rights described in subsection (a). Nothing in this sub-  
14 section shall preclude the exercise of any existing access  
15 right necessary to perfect or maintain an existing water  
16 right.

17           (d) PURCHASE OF MINERAL RIGHTS.—The Sec-  
18 retary shall seek to acquire any and all mineral rights at  
19 Rocky Flats through donation or through purchase or ex-  
20 change for fair market value from willing sellers. The Sec-  
21 retary or the Secretary of the Interior is authorized to use  
22 funds specifically provided by the Congress to acquire such  
23 mineral rights, but no funds appropriated for cleanup and  
24 closure of Rocky Flats may be used for such acquisition.

1 (e) UTILITY EXTENSION.—The Secretary or the Sec-  
2 retary of the Interior may allow not more than one exten-  
3 sion from an existing utility right-of-way on Rocky Flats,  
4 if necessary. Such extension, if any, shall be subject to  
5 the conditions in subsection (c).

6 **SEC. 10. ROCKY FLATS MUSEUM.**

7 (a) IN GENERAL.—In order to commemorate the con-  
8 tribution that Rocky Flats and its worker force provided  
9 to the winning of the cold war and the impact it has had  
10 on the nearby communities and the State of Colorado, the  
11 Secretary is authorized to establish a Rocky Flats Mu-  
12 seum.

13 (b) LOCATION.—The Rocky Flats Museum to be es-  
14 tablished under subsection (a) shall be located in the city  
15 of Arvada, unless after compliance with subsection (c) the  
16 Secretary determines otherwise.

17 (c) STUDY.—The Secretary shall consult with the city  
18 of Arvada, other local communities, and the Colorado  
19 State Historical Society on the development of the mu-  
20 seum, its siting, and any other issues relevant to its devel-  
21 opment and construction.

22 (d) REPORT.—Not later than 3 years after the date  
23 of enactment of this Act, the Secretary, in coordination  
24 with the city of Arvada, Colorado, shall submit a report  
25 to the Congress regarding the costs associated with the

1 construction of the museum and any other relevant issues  
2 to its construction and development.

3 **SEC. 11. FUNDING.**

4       Beginning at the time of submission of the first Pres-  
5 idential budget proposal submitted under section 1105(a)  
6 of title 31, United States Code, after the date of enact-  
7 ment of this Act, the Secretary and the Secretary of the  
8 Interior shall annually inform the Committee on Appro-  
9 priations and the Committee on Resources of the House  
10 of Representatives and appropriate Committees of the  
11 Senate as to the costs incurred in implementing this Act  
12 during the preceding fiscal year and the funds required  
13 to implement this Act during the current and subsequent  
14 fiscal years.

○