

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1675

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

MAY 18, 1995

Mr. YOUNG of Alaska (for himself, Mr. DINGELL, Mr. HANSEN, Mr. BREWSTER, Mr. DOOLITTLE, Mr. TAUZIN, Mr. PETE GEREN of Texas, Mr. GALLEGLY, Mr. HAYES, Mr. CALVERT, Mr. ORTIZ, Mrs. LINCOLN, Mr. HAYWORTH, Mr. CREMEANS, Mrs. CUBIN, Mr. COOLEY, Mr. SHADEGG, Mr. WATTS of Oklahoma, and Mr. THORNBERRY) 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 Improvement Act of 1995”.

6 (b) REFERENCES.—Whenever in this Act an amend-  
7 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. 688dd et seq.).

5 **SEC. 2. DEFINITIONS.**

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

8 **“SEC. 5. DEFINITIONS.**

9 “For purposes of this Act:

10 “(1) The term ‘compatible use’ means a use  
11 that will not have a materially detrimental effect on  
12 the fulfillment of the purposes of a refuge or the  
13 purposes of the System specified in section 4(a)(3),  
14 as determined by sound resource management, and  
15 based on reliable scientific information.

16 “(2) The terms ‘conserving’, ‘conservation’,  
17 ‘manage’, ‘managing’, and ‘management’, when used  
18 with respect to fish and wildlife, mean to use, in ac-  
19 cordance with applicable Federal and State laws,  
20 methods and procedures associated with modern sci-  
21 entific resource programs including protection, re-  
22 search, census, law enforcement, habitat manage-  
23 ment, propagation, live trapping and transplan-  
24 tation, and regulated taking.

1           “(3) The term ‘Director’ means the Director of  
2 the United States Fish and Wildlife Service.

3           “(4) The terms ‘fish’, ‘wildlife’, and ‘fish and  
4 wildlife’ mean any wild member of the animal king-  
5 dom whether alive or dead, and regardless of wheth-  
6 er the member was bred, hatched, or born in cap-  
7 tivity, including a part, product, egg, or offspring of  
8 the member.

9           “(5) The term ‘person’ means any individual,  
10 partnership, corporation or association.

11           “(6) The term ‘plant’ means any member of the  
12 plant kingdom in a wild, unconfined state, including  
13 any plant community, seed, root, or other part of a  
14 plant.

15           “(7) The terms ‘purposes of the refuge’ and  
16 ‘purposes of each refuge’ mean the purposes speci-  
17 fied in or derived from the law, proclamation, execu-  
18 tive order, agreement, public land order, donation  
19 document, or administrative memorandum establish-  
20 ing, authorizing, or expanding a refuge, refuge unit,  
21 or refuge subunit.

22           “(8) The term ‘refuge’ means a designated area  
23 of land, water, or an interest in land or water within  
24 the System, but does not include navigational ser-  
25 vitudes.

1           “(9) The term ‘Secretary’ means the Secretary  
2 of the Interior.

3           “(10) The terms ‘State’ and ‘United States’  
4 mean the several States of the United States, Puerto  
5 Rico, American Samoa, the Virgin Islands, and  
6 Guam.

7           “(11) The term ‘System’ means the National  
8 Wildlife Refuge System designated under section  
9 4(a)(1).

10           “(12) The terms ‘take’, ‘taking’, or ‘taken’  
11 mean to pursue, hunt, shoot, capture, collect, or kill,  
12 or to attempt to pursue, hunt, shoot, capture, col-  
13 lect, or kill.”.

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

17 **SEC. 3. MISSION AND PURPOSES OF THE SYSTEM.**

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

19           (1) by redesignating paragraphs (2) and (3) as  
20 paragraphs (5) and (6), respectively;

21           (2) in clause (i) of paragraph (6) (as so redesi-  
22 gnated), by striking “paragraph (2)” and inserting  
23 “paragraph (5)”; and

24           (3) by inserting after paragraph (1) the follow-  
25 ing new paragraphs:

1       “(2) The overall mission of the System is to conserve  
2 and manage fish, wildlife, and plants and their habitats  
3 within the System for the benefit of present and future  
4 generations of the people of the United States.

5       “(3) The purposes of the System are equally—

6           “(A) to provide a national network of lands and  
7 waters designed to conserve and manage fish, wild-  
8 life, and plants and their habitats;

9           “(B) to conserve, manage, and where appro-  
10 priate restore fish and wildlife populations, plant  
11 communities, and refuge habitats within the System;

12           “(C) to conserve and manage migratory birds,  
13 anadromous or interjurisdictional fish species, and  
14 marine mammals within the System;

15           “(D) to provide opportunities as appropriate for  
16 fish- and wildlife-dependent recreation, including  
17 fishing and hunting, wildlife observation, and envi-  
18 ronmental education;

19           “(E) to preserve, restore, and recover fish, wild-  
20 life, and plants within the System that are listed or  
21 are candidates for threatened species or endangered  
22 species under section 4 of the Endangered Species  
23 Act of 1973 (16 U.S.C. 1533) and the habitats on  
24 which these species depend; and

1           “(F) to fulfill as appropriate international trea-  
2           ty obligations of the United States with respect to  
3           fish, wildlife, and plants, and their habitats.”.

4 **SEC. 4. ADMINISTRATION OF THE SYSTEM.**

5           (a) ADMINISTRATION, GENERALLY.—Section 4(a)  
6 (16 U.S.C. 668dd(a)) (as amended by section 3 of this  
7 Act) is further amended by inserting after new paragraph  
8 (3) the following new paragraph:

9           “(4) In administering the System, the Secretary  
10          shall—

11                   “(A) ensure that the mission and purposes  
12                   of the System described in paragraphs (2) and  
13                   (3), respectively, and the purposes of each ref-  
14                   uge are carried out, except that if a conflict ex-  
15                   ists between the purposes of a refuge and any  
16                   purpose of the System, the conflict shall be re-  
17                   solved in a manner that first protects the pur-  
18                   poses of the refuge, and, to the extent prac-  
19                   ticable, that also achieves the purposes of the  
20                   System;

21                   “(B) provide for conservation of fish and  
22                   wildlife and their habitats within the System by  
23                   ensuring effective coordination, interaction, and  
24                   cooperation with owners of land adjoining ref-  
25                   uges and the fish and wildlife agency of the

1 States in which the units of the System are lo-  
2 cated;

3 “(C) assist in the maintenance of adequate  
4 water quantity and water quality to fulfill the  
5 purposes of the System and the purposes of  
6 each refuge;

7 “(D) acquire under State law through pur-  
8 chase, exchange, or donation water rights that  
9 are needed for refuge purposes; and

10 “(E) plan, propose, and direct appropriate  
11 expansion of the System in the manner that is  
12 best designed to accomplish the purposes of the  
13 System and the purposes of each refuge and to  
14 complement efforts of States and other Federal  
15 agencies to conserve fish and wildlife and their  
16 habitats.”.

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

19 (1) in the matter preceding paragraph (1) by  
20 striking “authorized—” and inserting “authorized to  
21 take the following actions:”;

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

24 (3) in paragraph (2)—

1 (A) by striking “to accept” and inserting  
2 “Accept”; and

3 (B) by striking “, and” and inserting a pe-  
4 riod;

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

7 (5) by adding at the end the following new  
8 paragraph:

9 “(4) Enter into cooperative agreements with  
10 State fish and wildlife agencies, pursuant to stand-  
11 ards established by the Director, for the manage-  
12 ment of all or parts of a unit or units within the  
13 System consistent with this Act.”.

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

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

17 “(3)(A)(i) On and after the date that is 3 years  
18 after the date of the enactment of the National  
19 Wildlife Refuge Improvement Act of 1995, the Sec-  
20 retary shall not initiate or permit a new use of a ref-  
21 uge or expand, renew, or extend an existing use of  
22 a refuge, unless the Secretary has determined that  
23 the use is compatible with the purposes of the refuge  
24 and the purposes of the System specified in sub-  
25 section (a)(3).

1           “(ii) On lands added to the System after the  
2           date of the enactment of the National Wildlife Ref-  
3           uge Improvement Act of 1995 existing uses of any  
4           refuge, including fishing and hunting, shall be per-  
5           mitted to continue on an interim basis until the Sec-  
6           retary determines that these uses are not compatible  
7           with the purposes of the refuge or with the purposes  
8           of the System specified in subsection (a)(3) or are  
9           otherwise inconsistent with this Act.

10           “(iii) The Secretary shall permit fishing and  
11           hunting on a refuge if the Secretary determines that  
12           the activities are consistent with the principles of  
13           sound fish and wildlife management, are compatible  
14           with the purposes of the refuge and the purposes of  
15           the System specified in subsection (a)(3), and are  
16           consistent with public safety. No other determina-  
17           tions or findings, except the determination of con-  
18           sistency with State laws and regulations provided for  
19           in subsection (m), are required to be made for fish-  
20           ing and hunting to occur. The Secretary may make  
21           the determination referred to in this paragraph for  
22           a refuge concurrently with the development of a con-  
23           servation plan for the refuge under subsection (e).

24           “(B) Not later than 24 months after the date  
25           of the enactment of the National Wildlife Refuge

1 Improvement Act of 1995, the Secretary shall issue  
2 final regulations establishing the process for deter-  
3 mining a compatible use under subparagraph (A)  
4 that—

5 “(i) designate the refuge officer responsible  
6 for making initial compatibility determinations;

7 “(ii) require an estimate of the timeframe,  
8 location, manner, and purpose of each use;

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

11 “(iv) require that compatibility determina-  
12 tions be made in writing;

13 “(v) provide for the expedited consider-  
14 ation of uses that will likely have no materially  
15 detrimental effect on the fulfillment of the pur-  
16 poses of a refuge or the purposes of the System  
17 specified in subsection (a)(3);

18 “(vi) provide for the elimination or modi-  
19 fication of any use as expeditiously as prac-  
20 ticable after a determination is made that the  
21 use is not compatible;

22 “(vii) require, after an opportunity for  
23 public comment, reevaluation of each existing  
24 use, other than those uses specified in clause  
25 (viii), when conditions under which the use is

1 permitted change significantly or when there is  
2 significant new information regarding the ef-  
3 fects of the use, but not less frequently than  
4 once every 4 years, to ensure that the use re-  
5 mains compatible with the purposes of the ref-  
6 uge and the purposes of the System specified in  
7 subsection (a)(3);

8 “(viii) require reevaluation of each fish and  
9 wildlife-dependent recreational use when condi-  
10 tions under which the use is permitted change  
11 significantly or when there is significant new in-  
12 formation regarding the effects of the use, but  
13 not less frequently than in conjunction with  
14 each preparation or revision of a conservation  
15 plan under subsection (e) or at least every 15  
16 years;

17 “(ix) provide an opportunity for public re-  
18 view and comment on each evaluation of a use,  
19 unless an opportunity for public review and  
20 comment on the evaluation of the use has al-  
21 ready been provided during the development or  
22 revision of a conservation plan for the refuge  
23 under subsection (e) or has otherwise been pro-  
24 vided during routine, periodic determinations of

1 compatibility for fish- and wildlife-dependent  
2 recreational uses; and

3 “(x) provide that when managed in accord-  
4 ance with principles of sound fish and wildlife  
5 management, fishing and hunting in a refuge  
6 are generally compatible with the conservation  
7 of fish and wildlife and plants and their habi-  
8 tats and have no materially detrimental effect  
9 on the fulfillment of the purposes of the refuge  
10 and the purposes of the System.

11 “(4) The provisions of this Act relating to de-  
12 terminations of the compatibility of a use shall not  
13 apply to—

14 “(A) overflights within the airspace of a  
15 refuge, except as otherwise provided by law or  
16 a memorandum of understanding with the Sec-  
17 retary;

18 “(B)(i) a Federal navigation or commu-  
19 nication aid that exists on any refuge on the  
20 date of the enactment of the National Wildlife  
21 Refuge Improvement Act of 1995 or on lands  
22 at the time the lands are added to the System;  
23 or

24 “(ii) the routine maintenance of estab-  
25 lished access to, and replacement of, such an

1 aid, if replacement of the aid has no greater im-  
2 pact on wildlife resources than the original aid  
3 and utilizes no more land;

4 “(C) a highway right-of-way in existence  
5 within any refuge on the date of enactment of  
6 the National Wildlife Refuge Improvement Act  
7 of 1995 and routine maintenance of the right-  
8 of-way, if to the maximum extent practicable  
9 the right-of-way is managed and maintained so  
10 as to be compatible with the purposes of the  
11 refuge; and

12 “(D) activities authorized, funded, or con-  
13 ducted by a Federal agency (other than the  
14 United States Fish and Wildlife Service) which  
15 has primary jurisdiction over the refuge or a  
16 portion of the refuge, if the management of  
17 those activities is in accordance with a memo-  
18 randum of understanding between the Secretary  
19 and the head of the Federal agency with pri-  
20 mary jurisdiction over the refuge governing the  
21 use of the refuge.”.

22 **SEC. 6. REFUGE CONSERVATION PLANNING PROGRAM.**

23 (a) IN GENERAL.—Section 4 (16 U.S.C. 668dd) is  
24 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 with fish and wildlife conservation plans of  
20 the State in which the refuge is located; and

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

1       “(B) The Secretary shall prepare a comprehensive  
2 conservation plan under this subsection for each refuges  
3 within 15 years after the date of enactment of the Na-  
4 tional Wildlife Refuge Improvement Act of 1995.

5       “(C)(i) The Secretary shall manage each refuge or  
6 planning unit under plans in effect on the date of enact-  
7 ment of the National Wildlife Refuge Improvement Act of  
8 1995, 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 and the purposes of the System  
5 applicable to those refuges;

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

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

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

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

18           “(F) the opportunities for fish- and wildlife-de-  
19 pendent recreation, including fishing and hunting,  
20 environmental education, interpretation of the re-  
21 sources and values of the planning unit, and other  
22 uses that may contribute to refuge management.

23           “(3) In preparing each comprehensive conservation  
24 plan under this subsection, and any revision to such a  
25 plan, the Secretary, acting through the Director, shall, to

1 the maximum extent practicable and consistent with this  
2 Act—

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

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

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

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

1 **SEC. 7. EMERGENCY POWER; STATE AUTHORITY; WATER**  
2 **RIGHTS; COORDINATION; AUTHORIZATION OF**  
3 **APPROPRIATIONS.**

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

6 “(k) Notwithstanding any other provision of this Act  
7 the Secretary may temporarily suspend, allow, or initiate  
8 any activity in a refuge in the System in the event of any  
9 emergency that constitutes an imminent danger to the  
10 health and safety of the public or any fish or wildlife popu-  
11 lation.

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 primary authority, jurisdiction, or responsibility of  
18 the several States to manage, control, or regulate fish and  
19 resident 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 and regulations.

24 “(n)(1) Nothing in this Act shall create a reserved  
25 water right, express or implied, in the United States for  
26 any purpose. This Act does not affect any Federal or State

1 law in existence on the date of the enactment of this Act  
2 regarding water quality or water quantity.

3 “(2) Adjudication of water rights, if any, that may  
4 exist appurtenant to refuge units shall be pursued initially  
5 in available State administrative or judicial forums.

6 “(o) Coordination with State fish and wildlife agency  
7 personnel or with personnel of other affected State agen-  
8 cies pursuant to this Act shall not be subject to the Fed-  
9 eral Advisory Committee Act.”.

10 **SEC. 8. CONFORMING AMENDMENT.**

11 Section 4(a)(3)(i) (16 U.S.C. 668dd(a)(3)(i)) is  
12 amended by striking “paragraph (2)” and inserting “para-  
13 graph (5)”.

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