

104TH CONGRESS
2D SESSION

H. R. 1675

IN THE SENATE OF THE UNITED STATES

APRIL 25, 1996

Received; read twice and referred to the Committee on Environment and
Public Works

AN ACT

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,*

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

2 (a) SHORT TITLE.—This Act may be cited as the
3 “National Wildlife Refuge Improvement Act of 1996”.

4 (b) REFERENCES.—Whenever in this Act an amend-
5 ment or repeal is expressed in terms of an amendment
6 to, or repeal of, a section or other provision, the reference
7 shall be considered to be made to a section or provision
8 of the National Wildlife Refuge System Administration
9 Act of 1966 (16 U.S.C. 668dd et seq.).

10 **SEC. 2. FINDINGS.**

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

12 (1) The National Wildlife Refuge System is
13 comprised of over 91,000,000 acres of Federal lands
14 that have been incorporated within 508 individual
15 units located in all 50 States and our territories.

16 (2) The System was created to conserve fish,
17 wildlife, and other habitats and this conservation
18 mission has been facilitated by providing Americans
19 opportunities to participate in wildlife-dependent
20 recreation, including fishing and hunting, on System
21 lands and to better appreciate the value of and need
22 for fish and wildlife conservation.

23 (3) The System is comprised of lands purchased
24 not only through the use of tax dollars but also
25 through the sale of Duck Stamps and refuge en-

1 trance fees. It is a System paid for by those utilizing
2 it.

3 (4) On March 25, 1996, the President issued
4 Executive Order 12996 which recognized “wildlife-
5 dependent recreational activities involving hunting,
6 fishing, wildlife observation and photography, and
7 environmental education and interpretation as prior-
8 ity general public uses of the Refuge System”.

9 (5) Executive Order 12996 is a positive step in
10 the right direction and will serve as the foundation
11 for the permanent statutory changes made by this
12 Act.

13 **SEC. 3. DEFINITIONS.**

14 (a) IN GENERAL.—Section 5 (16 U.S.C. 668ee)—

15 (1) is redesignated as section 4; and

16 (2) as so redesignated is amended to read as
17 follows:

18 **“SEC. 4. DEFINITIONS.**

19 “For purposes of this Act:

20 “(1) The term ‘compatible use’ means a use
21 that will not materially interfere with or detract
22 from the fulfillment of the purposes of a refuge or
23 the overall mission and purposes of the System spec-
24 ified in sections 4(a)(2) and (3), respectively, as de-

1 terminated by sound resource management, and based
2 on reliable scientific information.

3 “(2) The terms ‘conserving’, ‘conservation’,
4 ‘manage’, ‘managing’, and ‘management’, when used
5 with respect to fish and wildlife, mean to use, in ac-
6 cordance with applicable Federal and State laws,
7 methods and procedures associated with modern sci-
8 entific resource programs including protection, re-
9 search, census, law enforcement, habitat manage-
10 ment, propagation, live trapping and transplan-
11 tation, and regulated taking.

12 “(3) The term ‘Coordination Area’ means a
13 wildlife management area that is acquired by the
14 Federal Government and subsequently made avail-
15 able to a State—

16 “(A) by cooperative agreement between the
17 United States Fish and Wildlife Service and the
18 State fish and game agency pursuant to the
19 Fish and Wildlife Coordination Act (16 U.S.C.
20 661–666c); or

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

24 “(4) The term ‘Director’ means the Director of
25 the United States Fish and Wildlife Service.

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

7 “(6) The term ‘hunt’ and ‘hunting’ do not in-
8 clude any taking of the American alligator (*Alligator*
9 *mississippiensis*) or its eggs.

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

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

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

23 “(10) The term ‘refuge’ means a designated
24 area of land, water, or an interest in land or water

1 within the System, but does not include navigational
2 servitudes, or Coordination Areas.

3 “(11) The term ‘Secretary’ means the Secretary
4 of the Interior.

5 “(12) The terms ‘State’ and ‘United States’
6 mean the several States of the United States, Puerto
7 Rico, American Samoa, the Virgin Islands, Guam,
8 and the insular possessions of the United States.

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

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

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

19 **SEC. 4. MISSION AND PURPOSES OF THE SYSTEM.**

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

21 (1) by redesignating paragraphs (2) and (3) as
22 paragraphs (5) and (6), respectively;

23 (2) in clause (i) of paragraph (6) (as so redesign-
24 ated), by striking “paragraph (2)” and inserting
25 “paragraph (5)”; and

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

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

7 “(3) The purposes of the System are—

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

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

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

17 “(D) to provide opportunities for compatible
18 uses of refuges consisting of fish- and wildlife-de-
19 pendent recreation, including fishing and hunting,
20 wildlife observation, and environmental education;

21 “(E) to preserve, restore, and recover fish, wild-
22 life, and plants within the System that are listed or
23 are candidates for threatened species or endangered
24 species under section 4 of the Endangered Species

1 Act of 1973 (16 U.S.C. 1533) and the habitats on
2 which these species depend; and

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

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

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

11 “(4) In administering the System, the Secretary
12 shall—

13 “(A) ensure that the mission and purposes of
14 the System described in paragraphs (2) and (3), re-
15 spectively, and the purposes of each refuge are car-
16 ried out, except that if a conflict exists between the
17 purposes of a refuge and any purpose of the System,
18 the conflict shall be resolved in a manner that first
19 protects the purposes of the refuge, and, to the ex-
20 tent practicable, that also achieves the purposes of
21 the System;

22 “(B) provide for conservation of fish and wild-
23 life and their habitats within the System;

24 “(C) ensure effective coordination, interaction,
25 and cooperation with owners of land adjoining ref-

1 uges and the fish and wildlife agency of the States
2 in which the units of the System are located;

3 “(D) assist in the maintenance of adequate
4 water quantity and water quality to fulfill the pur-
5 poses of the System and the purposes of each ref-
6 uge;

7 “(E) acquire under State law through purchase,
8 exchange, or donation water rights that are needed
9 for refuge purposes;

10 “(F) plan, propose, and direct appropriate ex-
11 pansion of the System in the manner that is best de-
12 signed to accomplish the purposes of the System and
13 the purposes of each refuge and to complement ef-
14 forts of States and other Federal agencies to con-
15 serve fish and wildlife and their habitats;

16 “(G) recognize compatible uses of refuges con-
17 sisting of wildlife-dependent recreational activities
18 involving hunting, fishing, wildlife observation and
19 photography, and environmental education and in-
20 terpretation as priority general public uses of the
21 System through which the American public can de-
22 velop an appreciation for fish and wildlife;

23 “(H) provide expanded opportunities for these
24 priority public uses within the System when they are

1 compatible and consistent with sound principles of
2 fish and wildlife management;

3 “(I) ensure that such priority public uses re-
4 ceive enhanced attention in planning and manage-
5 ment within the System;

6 “(J) provide increased opportunities for families
7 to experience wildlife-dependent recreation, particu-
8 larly opportunities for parents and their children to
9 safely engage in traditional outdoor activities, such
10 as fishing and hunting;

11 “(K) ensure that the biological integrity and en-
12 vironmental health of the System is maintained for
13 the benefit of present and future generations of
14 Americans;

15 “(L) continue, consistent with existing laws and
16 interagency agreements, authorized or permitted
17 uses of units of the System by other Federal agen-
18 cies, including those necessary to facilitate military
19 preparedness;

20 “(M) plan and direct the continued growth of
21 the System in a manner that is best designed to ac-
22 complish the mission of the System, to contribute to
23 the conservation of the ecosystems of the United
24 States, and to increase support for the System and

1 participation from conservation partners and the
2 public;

3 “(N) ensure timely and effective cooperation
4 and collaboration with Federal agencies and State
5 fish and wildlife agencies during the course of ac-
6 quiring and managing refuges;

7 “(O) ensure appropriate public involvement op-
8 portunities will be provided in conjunction with ref-
9 uge planning and management activities; and

10 “(P) identify, prior to acquisition, existing wild-
11 life-dependent compatible uses of new refuge lands
12 that shall be permitted to continue on an interim
13 basis pending completion of comprehensive plan-
14 ning.”.

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

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

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

22 (3) in paragraph (2)—

23 (A) by striking “to accept” and inserting
24 “Accept”; and

1 (B) by striking “, and” and inserting a pe-
2 riod;

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

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

7 “(4) Subject to standards established by and
8 the overall management oversight of the Director,
9 and consistent with standards established by this
10 Act, enter into cooperative agreements with State
11 fish and wildlife agencies and other entities for the
12 management of programs on, or parts of, a refuge.”.

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

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

16 “(3)(A)(i) Except as provided in clause (ii), on
17 and after the date that is 3 years after the date of
18 the enactment of the National Wildlife Refuge Im-
19 provement Act of 1996, the Secretary shall not initi-
20 ate or permit a new use of a refuge or expand,
21 renew, or extend an existing use of a refuge, unless
22 the Secretary has determined that the use is a com-
23 patible use.

24 “(ii) On lands added to the System after the
25 date of the enactment of the National Wildlife Ref-

1 uge Improvement Act of 1996, any existing fish or
2 wildlife-dependent use of a refuge, including fishing,
3 hunting, wildlife observation, and environmental
4 education, shall be permitted to continue on an in-
5 terim basis unless the Secretary determines that the
6 use is not a compatible use.

7 “(iii) The Secretary shall permit fishing and
8 hunting on a refuge if the Secretary determines that
9 the activities are consistent with the principles of
10 sound fish and wildlife management, are compatible
11 uses (consistent with the purposes of the System
12 under subsection (a)(3)), and are consistent with
13 public safety. No other determinations or findings,
14 except the determination of consistency with State
15 laws and regulations provided for in subsection (m),
16 are required to be made for fishing and hunting to
17 occur. The Secretary may make the determination
18 referred to in this paragraph for a refuge concur-
19 rently with the development of a conservation plan
20 for the refuge under subsection (e).

21 “(iv) A new use of a Coordination Area first
22 made available to a State after the date of enact-
23 ment of the National Wildlife Refuge Improvement
24 Act of 1996 may not be initiated or permitted unless

1 the Secretary determines that the use is a compat-
2 ible use.

3 “(B) Not later than 24 months after the date
4 of the enactment of the National Wildlife Refuge
5 Improvement Act of 1996, the Secretary shall issue
6 final regulations establishing the process for deter-
7 mining under subparagraph (A) whether a use of a
8 refuge is a compatible use, that—

9 “(i) designate the refuge officer responsible
10 for making initial compatibility determinations;

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

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

15 “(iv) require that compatibility determina-
16 tions be made in writing and consider the best
17 professional judgment of the refuge officer des-
18 ignated under clause (i);

19 “(v) provide for the expedited consider-
20 ation of uses that will likely have no detrimen-
21 tal effect on the fulfillment of the purposes of
22 a refuge or the purposes of the System specified
23 in subsection (a)(3);

24 “(vi) provide for the elimination or modi-
25 fication of any use as expeditiously as prac-

1 ticable after a determination is made that the
2 use is not a compatible use;

3 “(vii) require, after an opportunity for
4 public comment, reevaluation of each existing
5 use, other than those uses specified in clause
6 (viii), when conditions under which the use is
7 permitted change significantly or when there is
8 significant new information regarding the ef-
9 fects of the use, but not less frequently than
10 once every 10 years, to ensure that the use re-
11 mains a compatible use;

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

22 “(ix) provide an opportunity for public re-
23 view and comment on each evaluation of a use,
24 unless an opportunity for public review and
25 comment on the evaluation of the use has al-

1 ready been provided during the development or
2 revision of a conservation plan for the refuge
3 under subsection (e) or has otherwise been pro-
4 vided during routine, periodic determinations of
5 compatibility for fish- and wildlife-dependent
6 recreational uses; and

7 “(x) provide that when managed in accord-
8 ance with principles of sound fish and wildlife
9 management, fishing, hunting, wildlife observa-
10 tion, and environmental education in a refuge
11 are generally compatible uses.

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

15 “(A) overflights above a refuge; and

16 “(B) activities authorized, funded, or con-
17 ducted by a Federal agency (other than the
18 United States Fish and Wildlife Service) which
19 has primary jurisdiction over the refuge or a
20 portion of the refuge, if the management of
21 those activities is in accordance with a memo-
22 randum of understanding between the Secretary
23 or the Director and the head of the Federal
24 agency with primary jurisdiction over the refuge
25 governing the use of the refuge.

1 “(5) Overflights above a refuge may be gov-
2 erned by any memorandum of understanding entered
3 into by the Secretary that applies to the refuge.”.

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

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

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

9 (2) by inserting after subsection (d) the follow-
10 ing new subsection:

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

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

20 “(ii) publish a notice of opportunity for public
21 comment in the Federal Register on each proposed
22 conservation plan;

23 “(iii) issue a final conservation plan for each
24 planning unit consistent with the provisions of this
25 Act and, to the extent practicable, consistent with

1 fish and wildlife conservation plans of the State in
2 which the refuge is located; and

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

7 “(B) The Secretary shall prepare a comprehensive
8 conservation plan under this subsection for each refuge
9 within 15 years after the date of enactment of the Na-
10 tional Wildlife Refuge Improvement Act of 1996.

11 “(C) The Secretary shall manage each refuge or plan-
12 ning unit under plans in effect on the date of enactment
13 of the National Wildlife Refuge Improvement Act of 1996,
14 to the extent such plans are consistent with this Act, until
15 such plans are revised or superseded by new comprehen-
16 sive conservation plans issued under this subsection.

17 “(D) Uses or activities consistent with this Act may
18 occur on any refuge or planning unit before existing plans
19 are revised or new comprehensive conservation plans are
20 issued under this subsection.

21 “(E) Upon completion of a comprehensive conserva-
22 tion plan under this subsection for a refuge or planning
23 unit, the Secretary shall manage the refuge or planning
24 unit in a manner consistent with the plan and shall revise
25 the plan at any time if the Secretary determines that con-

1 ditions that affect the refuge or planning unit have
2 changed significantly.

3 “(2) In developing each comprehensive conservation
4 plan under this subsection for a planning unit, the Sec-
5 retary, acting through the Director, shall identify and de-
6 scribe—

7 “(A) the purposes of each refuge comprising
8 the planning unit and the purposes of the System
9 applicable to those refuges;

10 “(B) the distribution, migration patterns, and
11 abundance of fish, wildlife, and plant populations
12 and related habitats within the planning unit;

13 “(C) the archaeological and cultural values of
14 the planning unit;

15 “(D) such areas within the planning unit that
16 are suitable for use as administrative sites or visitor
17 facilities;

18 “(E) significant problems that may adversely
19 affect the populations and habitats of fish, wildlife,
20 and plants within the planning unit and the actions
21 necessary to correct or mitigate such problems; and

22 “(F) the opportunities for fish- and wildlife-de-
23 pendent recreation, including fishing and hunting,
24 wildlife observation, environmental education, inter-
25 pretation of the resources and values of the planning

1 unit, and other uses that may contribute to refuge
2 management.

3 “(3) In preparing each comprehensive conservation
4 plan under this subsection, and any revision to such a
5 plan, the Secretary, acting through the Director, shall, to
6 the maximum extent practicable and consistent with this
7 Act—

8 “(A) consult with adjoining Federal, State,
9 local, and private landowners and affected State con-
10 servation agencies; and

11 “(B) coordinate the development of the con-
12 servation plan or revision of the plan with relevant
13 State conservation plans for fish and wildlife and
14 their habitats.

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

1 “(B) Prior to the adoption of each comprehensive
2 conservation plan under this subsection, the Secretary
3 shall issue public notice of the draft proposed plan, make
4 copies of the plan available at the affected field and re-
5 gional offices of the United States Fish and Wildlife Serv-
6 ice, and provide opportunity for public comment.”.

7 **SEC. 8. EMERGENCY POWER; PRESIDENTIAL EXEMPTION;**
8 **STATE AUTHORITY; WATER RIGHTS; COORDI-**
9 **NATION.**

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

13 “(k) Notwithstanding any other provision of this Act
14 the Secretary may temporarily suspend, allow, or initiate
15 any activity in a refuge in the System in the event of any
16 emergency that constitutes an imminent danger to the
17 health and safety of the public or any fish or wildlife popu-
18 lation, including any activity to control or eradicate sea
19 lampreys, zebra mussels, or any other aquatic nuisance
20 species (as that term is defined in section 1003 of the
21 Nonindigenous Aquatic Nuisance Prevention and Control
22 Act of 1990 (16 U.S.C. 4702)).

23 “(l)(1) The President may exempt from any provision
24 of this Act any activity conducted by the Department of

1 Defense on a refuge within the System if the President
2 finds that—

3 “(A) the activity is in the paramount interest of
4 the United States for reasons of national security;
5 and

6 “(B) there is no feasible and prudent alter-
7 native location on public lands for the activity.

8 “(2) After the President authorizes an exemption
9 under paragraph (1), the Secretary of Defense shall un-
10 dertake, with the concurrence of the Secretary of the Inte-
11 rior, appropriate steps to mitigate the effect of the ex-
12 empted activity on the refuge.

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

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

25 “(o)(1) Nothing in this Act shall—

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

3 “(B) affect any water right in existence on the
4 date of enactment of the National Wildlife Refuge
5 Improvement Act of 1996; or

6 “(C) affect any Federal or State law in exist-
7 ence on the date of the enactment of the National
8 Wildlife Refuge Improvement Act of 1996 regarding
9 water quality or water quantity.

10 “(2) Nothing in this Act shall diminish or affect the
11 ability to join the United States in the adjudication of
12 rights to the use of water pursuant to the McCarran Act
13 (43 U.S.C. 666).

14 “(p) Coordination with State fish and wildlife agency
15 personnel or with personnel of other affected State agen-
16 cies pursuant to this Act shall not be subject to the Fed-
17 eral Advisory Committee Act.

18 “(q) Nothing in this Act shall be construed as requir-
19 ing or prohibiting fishing or hunting on any particular ref-
20 uge except pursuant to a determination by the Secretary
21 in accordance with this Act.”.

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

24 **SEC. 9. STATUTORY CONSTRUCTION.**

25 Nothing in this Act is intended to affect—

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

5 (2) the provisions of section 102 of the Alaska
6 National Interest Lands Conservation Act, the juris-
7 diction over subsistence uses in Alaska, or any asser-
8 tion of subsistence uses in the Federal courts; and

9 (3) the manner in which section 810 of the
10 Alaska National Interest Lands Conservation Act is
11 implemented in refuges in Alaska, and the deter-
12 mination of compatible use as it relates to subsist-
13 ence uses in these refuges.

14 **SEC. 10. NEW REFUGES.**

15 Notwithstanding any other provision of law, no
16 funds may be expended from the Land and Water Con-
17 servation Fund established by Public Law 88–578, for the
18 creation of a new refuge having a total area greater than
19 500 acres or the expansion of a new refuge of any acreage
20 that would result in the new refuge having a total of more
21 than 500 acres within the National Wildlife Refuge Sys-
22 tem without specific authorization of Congress pursuant
23 to a recommendation of the United States Fish and Wild-
24 life Service, to create or expand that new refuge. For pur-

1 poses of this section, a new refuge is a refuge created after
2 the date of enactment of this Act.

3 **SEC. 11. REORGANIZATIONAL TECHNICAL AMENDMENTS.**

4 (a) REORGANIZATIONAL AMENDMENTS.—The Act of
5 October 15, 1966 (16 U.S.C. 668dd et seq.) is amended—

6 (1) by adding before section 4 the following new
7 section:

8 **“SECTION 1. SHORT TITLE.**

9 “This Act may be cited as the ‘National Wildlife Ref-
10 uge System Administration Act of 1966’.”;

11 (2) by striking sections 6, 7, 8, 9, and 10; and

12 (3) in section 4 (16 U.S.C. 668dd), as in effect
13 immediately before the enactment of this Act—

14 (A) by redesignating that section as sec-
15 tion 2;

16 (B) by striking “SEC. 4.”; and

17 (C) by inserting before and immediately
18 above the text of the section the following new
19 heading:

20 **“SEC. 4. NATIONAL WILDLIFE REFUGE SYSTEM.”.**

21 (b) CONFORMING AMENDMENT.—Section 12(f) of the
22 Act of December 5, 1969 (83 Stat. 283) is repealed.

23 (c) REFERENCES.—Any reference in any law, regula-
24 tion, or other document of the United States to section
25 4 of the National Wildlife Refuge System Administration

1 Act of 1966 is deemed to refer to section 2 of that Act,
 2 as redesignated by subsection (a)(4) of this section.

3 **SEC. 12. AUTHORITY OF SECRETARY OF THE INTERIOR TO**
 4 **ACCEPT STATE DONATIONS OF STATE EM-**
 5 **PLOYEE SERVICES DURING GOVERNMENT**
 6 **BUDGETARY SHUTDOWN.**

7 After section 2 of the Act, as redesignated by section
 8 11(a)(3) of this Act, add the following new section:

9 **“SEC. 3. AUTHORITY OF SECRETARY OF THE INTERIOR TO**
 10 **ACCEPT STATE DONATIONS OF STATE EM-**
 11 **PLOYEE SERVICES DURING GOVERNMENT**
 12 **BUDGETARY SHUTDOWN.**

13 “(a) IN GENERAL.—The Secretary shall accept from
 14 any qualified State donations of services of State employ-
 15 ees to perform in a refuge, in a period of Government
 16 budgetary shutdown, fish- and wildlife-dependent recre-
 17 ation management functions otherwise authorized to be
 18 performed by Department of Interior personnel.

19 “(b) LIMITATIONS.—An employee of a State may
 20 perform functions under this section only—

21 “(1) within areas of a refuge that are located
 22 in the State; and

23 “(2) in accordance with an agreement entered
 24 into by the Secretary and the Governor of the State
 25 under subsection (c).

1 “(c) AGREEMENTS.—

2 “(1) IN GENERAL.—For purposes of this sec-
3 tion, the Secretary may enter into an agreement in
4 accordance with this subsection with the Governor of
5 any State in which is located any part of a refuge.

6 “(2) TERMS CONDITIONS.—An agreement
7 under this subsection shall—

8 “(A) contain provisions to ensure resource
9 and visitor protection acceptable under the
10 standards of the United States Fish and Wild-
11 life Service;

12 “(B) require that each individual perform-
13 ing functions under the agreement shall have—

14 “(i) adequate safety training;

15 “(ii) knowledge of the terrain in which
16 the individual will perform those functions;
17 and

18 “(iii) knowledge of and adherence to
19 Federal regulations relating to those func-
20 tions; and

21 “(C) specify other terms and conditions
22 under which a State employee may perform
23 such functions.

24 “(d) EXCLUSION FROM TREATMENT AS FEDERAL
25 EMPLOYEES.—A State employee who performs functions

1 under this section shall not be treated as a Federal em-
2 ployee for purposes of any Federal law relating to pay or
3 benefits for Federal employees.

4 “(e) ANTI-DEFICIENCY ACT NOT APPLICABLE.—
5 Section 1341(a) of title 31, United States Code, shall not
6 apply with respect to the acceptance of services of, and
7 the performance of functions by, State employees under
8 this section.

9 “(f) DEFINITIONS.—In this section—

10 “(1) the term ‘Government budgetary shut-
11 down’ means a period during which there are no
12 amounts available for the operation of the System,
13 because of—

14 “(A) a failure to enact an annual appro-
15 priations bill for the period for the Department
16 of the Interior; and

17 “(B) a failure to enact a bill (or joint reso-
18 lution) continuing the availability of appropria-
19 tions for the Department of the Interior for a
20 temporary period pending the enactment of
21 such an annual appropriations bill; and

1 “(2) the term ‘qualified State’ means a State
2 that has entered into an agreement with the Sec-
3 retary in accordance with subsection (c).”.

Passed the House of Representatives April 24, 1996.

Attest:

ROBIN H. CARLE,

Clerk.