

105TH CONGRESS  
1ST Session

**H. R. 1420**

**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.

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## 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 System Improvement Act of  
4 1997”.

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

11 **SEC. 2. FINDINGS.**

12 The Congress finds the following:

13 (1) The National Wildlife Refuge System is  
14 comprised of over 92,000,000 acres of Federal lands  
15 that have been incorporated within 509 individual  
16 units located in all 50 States and the territories of  
17 the United States.

18 (2) The System was created to conserve fish,  
19 wildlife, and plants and their habitats and this con-  
20 servation mission has been facilitated by providing  
21 Americans opportunities to participate in compatible  
22 wildlife-dependent recreation, including fishing and  
23 hunting, on System lands and to better appreciate  
24 the value of and need for fish and wildlife conserva-  
25 tion.

1           (3) The System serves a pivotal role in the con-  
2           servation of migratory birds, anadromous and inter-  
3           jurisdictional fish, marine mammals, endangered and  
4           threatened species, and the habitats on which these  
5           species depend.

6           (4) The System assists in the fulfillment of im-  
7           portant international treaty obligations of the Unit-  
8           ed States with regard to fish, wildlife, and plants  
9           and their habitats.

10          (5) The System includes lands purchased not  
11          only through the use of tax dollars but also through  
12          the proceeds from sales of Duck Stamps and na-  
13          tional wildlife refuge entrance fees. It is a System  
14          that is financially supported by those benefiting  
15          from and utilizing it.

16          (6) When managed in accordance with prin-  
17          ciples of sound fish and wildlife management and  
18          administration, fishing, hunting, wildlife observation,  
19          and environmental education in national wildlife ref-  
20          uges have been and are expected to continue to be  
21          generally compatible uses.

22          (7) On March 25, 1996, the President issued  
23          Executive Order 12996, which recognized “compat-  
24          ible wildlife-dependent recreational uses involving  
25          hunting, fishing, wildlife observation and photog-

1 raphy, and environmental education and interpreta-  
2 tion as priority public uses of the Refuge System”.

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

6 **SEC. 3. DEFINITIONS.**

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

9 **“SEC. 5. DEFINITIONS.**

10 “For purposes of this Act:

11 “(1) The term ‘compatible use’ means a use of  
12 a refuge that, in the sound professional judgment of  
13 the Director, will not materially interfere with or de-  
14 tract from the fulfillment of the mission of the Sys-  
15 tem or the purposes of the refuge.

16 “(2) The terms ‘wildlife-dependent recreation’  
17 and ‘wildlife-dependent recreational use’ mean a use  
18 of a refuge involving hunting, fishing, wildlife obser-  
19 vation and photography, or environmental education  
20 and interpretation.

21 “(3) The term ‘sound professional judgment’  
22 means a finding, determination, or decision that is  
23 consistent with principles of sound fish and wildlife  
24 management and administration, available science

1 and resources, and adherence to the requirements of  
2 this Act and other applicable laws.

3 “(4) The terms ‘conserving’, ‘conservation’,  
4 ‘manage’, ‘managing’, and ‘management’, mean to  
5 sustain and, where appropriate, restore and enhance,  
6 healthy populations of fish, wildlife, and plants uti-  
7 lizing, in accordance with applicable Federal and  
8 State laws, methods and procedures associated with  
9 modern scientific resource programs. Such methods  
10 and procedures include, consistent with the provi-  
11 sions of this Act, protection, research, census, law  
12 enforcement, habitat management, propagation, live  
13 trapping and transplantation, and regulated taking.

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

17 “(A) by cooperative agreement between the  
18 United States Fish and Wildlife Service and a  
19 State agency having control over wildlife re-  
20 sources pursuant to section 4 of the Fish and  
21 Wildlife Coordination Act (16 U.S.C. 664); or

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

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

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

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

12          “(9) 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          “(10) 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          “(11) 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 Coordina-  
 2 tion Areas.

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

5 “(13) 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 territories and possessions of the United  
 9 States.

10 “(14) The term ‘System’ means the National  
 11 Wildlife Refuge System designated under section  
 12 4(a)(1).

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

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

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

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

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

1           (2) in clause (i) of paragraph (6) (as so redesign-  
2           nated), by striking “paragraph (2)” and inserting  
3           “paragraph (5)”; and

4           (3) by inserting after paragraph (1) the follow-  
5           ing new paragraph:

6           “(2) The mission of the System is to administer a  
7           national network of lands and waters for the conservation,  
8           management, and where appropriate, restoration of the  
9           fish, wildlife, and plant resources and their habitats within  
10          the United States for the benefit of present and future  
11          generations of Americans.”.

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

13          (a) ADMINISTRATION GENERALLY.—Section 4(a) (16  
14          U.S.C. 668dd(a)), as amended by section 4 of this Act,  
15          is further amended by inserting after new paragraph (2)  
16          the following new paragraphs:

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

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

22                 “(B) compatible wildlife-dependent recreation is  
23                 a legitimate and appropriate general public use of  
24                 the System, directly related to the mission of the  
25                 System and the purposes of many refuges, and

1 which generally fosters refuge management and  
2 through which the American public can develop an  
3 appreciation for fish and wildlife;

4 “(C) compatible wildlife-dependent recreational  
5 uses are the priority general public uses of the Sys-  
6 tem and shall receive priority consideration in refuge  
7 planning and management; and

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

13 “(4) In administering the System, the Secretary  
14 shall—

15 “(A) provide for the conservation of fish, wild-  
16 life, and plants, and their habitats within the Sys-  
17 tem;

18 “(B) ensure that the biological integrity, diver-  
19 sity, and environmental health of the System are  
20 maintained for the benefit of present and future  
21 generations of Americans;

22 “(C) plan and direct the continued growth of  
23 the System in a manner that is best designed to ac-  
24 complish the mission of the System, to contribute to  
25 the conservation of the ecosystems of the United

1 States, to complement efforts of States and other  
2 Federal agencies to conserve fish and wildlife and  
3 their habitats, and to increase support for the Sys-  
4 tem and participation from conservation partners  
5 and the public;

6 “(D) ensure that the mission of the System de-  
7 scribed in paragraph (2) and the purposes of each  
8 refuge are carried out, except that if a conflict exists  
9 between the purposes of a refuge and the mission of  
10 the System, the conflict shall be resolved in a man-  
11 ner that first protects the purposes of the refuge,  
12 and, to the extent practicable, that also achieves the  
13 mission of the System;

14 “(E) ensure effective coordination, interaction,  
15 and cooperation with owners of land adjoining ref-  
16 uges and the fish and wildlife agency of the States  
17 in which the units of the System are located;

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

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

23 “(H) recognize compatible wildlife-dependent  
24 recreational uses as the priority general public uses

1 of the System through which the American public  
2 can develop an appreciation for fish and wildlife;

3 “(I) ensure that opportunities are provided  
4 within the System for compatible wildlife-dependent  
5 recreational uses;

6 “(J) ensure that priority general public uses of  
7 the System receive enhanced consideration over  
8 other general public uses in planning and manage-  
9 ment within the System;

10 “(K) provide increased opportunities for fami-  
11 lies to experience compatible wildlife-dependent  
12 recreation, particularly opportunities for parents and  
13 their children to safely engage in traditional outdoor  
14 activities, such as fishing and hunting;

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; and

20 “(M) ensure timely and effective cooperation  
21 and collaboration with Federal agencies and State  
22 fish and wildlife agencies during the course of ac-  
23 quiring and managing refuges.”.

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

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

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

6           (3) in paragraph (2)—

7                 (A) by striking “to accept” and inserting  
8                 “Accept”; and

9                 (B) by striking “, and” and inserting a pe-  
10           riod;

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

13           (5) by adding at the end the following new  
14           paragraphs:

15                 “(4) Subject to standards established by and  
16           the overall management oversight of the Director,  
17           and consistent with standards established by this  
18           Act, to enter into cooperative agreements with State  
19           fish and wildlife agencies for the management of  
20           programs on a refuge.

21                 “(5) Issue regulations to carry out this Act.”.

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

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

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

9       “(ii) On lands added to the System after March 25,  
10      1996, the Secretary shall identify, prior to acquisition,  
11      withdrawal, transfer, reclassification, or donation of any  
12      such lands, existing compatible wildlife-dependent rec-  
13      reational uses that the Secretary determines shall be per-  
14      mitted to continue on an interim basis pending completion  
15      of the comprehensive conservation plan for the refuge.

16      “(iii) Wildlife-dependent recreational uses may be au-  
17      thorized on a refuge when they are compatible and not  
18      inconsistent with public safety. Except for consideration  
19      of consistency with State laws and regulations as provided  
20      for in subsection (m), no other determinations or findings  
21      are required to be made by the refuge official under this  
22      Act or the Refuge Recreation Act for wildlife-dependent  
23      recreation to occur.

24      “(iv) Compatibility determinations in existence on the  
25      date of enactment of the National Wildlife Refuge System

1 Improvement Act of 1997 shall remain in effect until and  
2 unless modified.

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

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

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

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

15 “(iv) require that compatibility determinations  
16 be made in writing;

17 “(v) provide for the expedited consideration of  
18 uses that will likely have no detrimental effect on  
19 the fulfillment of the purposes of a refuge or the  
20 mission of the System;

21 “(vi) provide for the elimination or modification  
22 of any use as expeditiously as practicable after a de-  
23 termination is made that the use is not a compatible  
24 use;

1           “(vii) require, after an opportunity for public  
2       comment, reevaluation of each existing use, other  
3       than those uses specified in clause (viii), if condi-  
4       tions under which the use is permitted change sig-  
5       nificantly or if there is significant new information  
6       regarding the effects of the use, but not less fre-  
7       quently than once every 10 years, to ensure that the  
8       use remains a compatible use;

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

18          “(ix) provide an opportunity for public review  
19      and comment on each evaluation of a use, unless an  
20      opportunity for public review and comment on the  
21      evaluation of the use has already been provided dur-  
22      ing the development or revision of a conservation  
23      plan for the refuge under subsection (e) or has oth-  
24      erwise been provided during routine, periodic deter-

1       minations of compatibility for wildlife-dependent rec-  
2       reational uses.

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

5               “(A) overflights above a refuge; and

6               “(B) activities authorized, funded, or conducted  
7       by a Federal agency (other than the United States  
8       Fish and Wildlife Service) which has primary juris-  
9       diction over a refuge or a portion of a refuge, if the  
10      management of those activities is in accordance with  
11      a memorandum of understanding between the Sec-  
12      retary or the Director and the head of the Federal  
13      agency with primary jurisdiction over the refuge gov-  
14      erning the use of the refuge.”.

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

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

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

20               (2) by inserting after subsection (d) the follow-  
21      ing new subsection:

22       “(e)(1)(A) Except with respect to refuge lands in  
23      Alaska (which shall be governed by the refuge planning  
24      provisions of the Alaska National Interest Lands Con-

1 servation Act (16 U.S.C. 3101 et seq.)), the Secretary  
2 shall—

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

7 “(ii) publish a notice of opportunity for public  
8 comment in the Federal Register on each proposed  
9 conservation plan;

10 “(iii) issue a final conservation plan for each  
11 planning unit consistent with the provisions of this  
12 Act and, to the extent practicable, consistent with  
13 fish and wildlife conservation plans of the State in  
14 which the refuge is located; and

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

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

23 “(C) The Secretary shall manage each refuge or plan-  
24 ning unit under plans in effect on the date of enactment  
25 of the National Wildlife Refuge System Improvement Act

1 of 1997, to the extent such plans are consistent with this  
2 Act, until such plans are revised or superseded by new  
3 comprehensive conservation plans issued under this sub-  
4 section.

5 “(D) Uses or activities consistent with this Act may  
6 occur on any refuge or planning unit before existing plans  
7 are revised or new comprehensive conservation plans are  
8 issued under this subsection.

9 “(E) Upon completion of a comprehensive conserva-  
10 tion plan under this subsection for a refuge or planning  
11 unit, the Secretary shall manage the refuge or planning  
12 unit in a manner consistent with the plan and shall revise  
13 the plan at any time if the Secretary determines that con-  
14 ditions that affect the refuge or planning unit have  
15 changed significantly.

16 “(2) In developing each comprehensive conservation  
17 plan under this subsection for a planning unit, the Sec-  
18 retary, acting through the Director, shall identify and de-  
19 scribe—

20 “(A) the purposes of each refuge comprising  
21 the planning unit;

22 “(B) the distribution, migration patterns, and  
23 abundance of fish, wildlife, and plant populations  
24 and related habitats within the planning unit;

1           “(C) the archaeological and cultural values of  
2           the planning unit;

3           “(D) such areas within the planning unit that  
4           are suitable for use as administrative sites or visitor  
5           facilities;

6           “(E) significant problems that may adversely  
7           affect the populations and habitats of fish, wildlife,  
8           and plants within the planning unit and the actions  
9           necessary to correct or mitigate such problems; and

10          “(F) opportunities for compatible wildlife-de-  
11          pendent recreational uses.

12          “(3) In preparing each comprehensive conservation  
13          plan under this subsection, and any revision to such a  
14          plan, the Secretary, acting through the Director, shall, to  
15          the maximum extent practicable and consistent with this  
16          Act—

17               “(A) consult with adjoining Federal, State,  
18               local, and private landowners and affected State con-  
19               servation agencies; and

20               “(B) coordinate the development of the con-  
21               servation plan or revision with relevant State con-  
22               servation plans for fish and wildlife and their habi-  
23               tats.

24          “(4)(A) In accordance with subparagraph (B), the  
25          Secretary shall develop and implement a process to ensure

1 an opportunity for active public involvement in the prepa-  
2 ration and revision of comprehensive conservation plans  
3 under this subsection. At a minimum, the Secretary shall  
4 require that publication of any final plan shall include a  
5 summary of the comments made by States, owners of ad-  
6 jacent or potentially affected land, local governments, and  
7 any other affected persons, and a statement of the dispo-  
8 sition of concerns expressed in those comments.

9 “(B) Prior to the adoption of each comprehensive  
10 conservation plan under this subsection, the Secretary  
11 shall issue public notice of the draft proposed plan, make  
12 copies of the plan available at the affected field and re-  
13 gional offices of the United States Fish and Wildlife Serv-  
14 ice, and provide opportunity for public comment.”.

15 **SEC. 8. EMERGENCY POWER; STATE AUTHORITY; WATER**  
16 **RIGHTS; COORDINATION.**

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

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

1       “(l) Nothing in this Act shall be construed to author-  
2     ize the Secretary to control or regulate hunting or fishing  
3     of fish and resident wildlife on lands or waters that are  
4     not within the System.

5       “(m) Nothing in this Act shall be construed as affect-  
6     ing the authority, jurisdiction, or responsibility of the sev-  
7     eral States to manage, control, or regulate fish and resi-  
8     dent wildlife under State law or regulations in any area  
9     within the System. Regulations permitting hunting or fish-  
10    ing of fish and resident wildlife within the System shall  
11    be, to the extent practicable, consistent with State fish and  
12    wildlife laws, regulations, and management plans.

13       “(n)(1) Nothing in this Act shall—

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

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

19           “(C) affect any Federal or State law in exist-  
20       ence on the date of the enactment of the National  
21       Wildlife Refuge System Improvement Act of 1997  
22       regarding water quality or water quantity.

23       “(2) Nothing in this Act shall diminish or affect the  
24     ability to join the United States in the adjudication of

1 rights to the use of water pursuant to the McCarran Act  
2 (43 U.S.C. 666).

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

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

9 **SEC. 9. STATUTORY CONSTRUCTION WITH RESPECT TO**  
10 **ALASKA.**

11 (a) IN GENERAL.—Nothing in this Act is intended  
12 to affect—

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

17 (2) the provisions of section 102 of the Alaska  
18 National Interest Lands Conservation Act, the juris-  
19 diction over subsistence uses in Alaska, or any asser-  
20 tion of subsistence uses in Alaska in the Federal  
21 courts; and

22 (3) the manner in which section 810 of the  
23 Alaska National Interest Lands Conservation Act is  
24 implemented in national wildlife refuges in Alaska.

1       (b) CONFLICTS OF LAWS.—If any conflict arises be-  
2 tween any provision of this Act and any provision of the  
3 Alaska National Interest Lands Conservation Act, then  
4 the provision in the Alaska National Interest Lands Con-  
5 servation Act shall prevail.

Passed the House of Representatives June 3, 1997.

Attest:

*Clerk.*