

Union Calendar No. 442

112TH CONGRESS
2D SESSION

H. R. 2834

[Report No. 112-609, Part I]

To recognize the heritage of recreational fishing, hunting, and shooting on Federal public lands and ensure continued opportunities for these activities.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 2, 2011

Mr. BENISHEK (for himself, Mr. BOREN, Mr. YOUNG of Alaska, and Mr. KELLY) introduced the following bill

SEPTEMBER 6, 2011

Referred to the Committee on Natural Resources, and in addition to the Committee on Agriculture, 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

JULY 19, 2012

Additional sponsors: Mr. COFFMAN of Colorado, Mr. COLE, Mr. HUIZENGA of Michigan, Mr. BARLETTA, Mr. POSEY, Mr. SIMPSON, Mr. GIBBS, Mr. HULTGREN, Ms. JENKINS, Mr. POMPEO, Mr. LATTA, Mr. McCOTTER, Mr. WITTMAN, Mr. SHUSTER, Mr. THORNBERRY, Mr. SENSENBRENNER, Mr. AUSTIN SCOTT of Georgia, Mr. HUELSKAMP, Mr. ROE of Tennessee, Mr. KLINE, Mr. WALBERG, Mr. KINGSTON, Mr. SCHILLING, Mr. HECK, Mr. AMODEI, Mrs. MILLER of Michigan, Mr. HARRIS, Mr. AUSTRIA, Mrs. ELLMERS, Mr. ROSS of Arkansas, Mr. McCLINTOCK, Mr. LATHAM, Ms. BUERKLE, Mr. FLAKE, Mr. ROKITA, Mr. MARCHANT, Mr. NUGENT, Mr. BUCHANAN, Mr. REHBERG, Mrs. ADAMS, Mr. HANNA, Mr. BROUN of Georgia, Mr. CRAVAACK, Mr. PALAZZO, Mr. DUNCAN of South Carolina, Mr. STIVERS, Mr. CALVERT, Mr. GOSAR, Mr. MILLER of Florida, Mr. McINTYRE, Mr. SCHWEIKERT, Mr. WESTMORELAND, Mr. MANZULLO, Mr. HUNTER, and Mr. CANSECO

JULY 19, 2012

Reported from the Committee on Natural Resources with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

JULY 19, 2012

The Committee on Agriculture discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on September 2, 2011]

A BILL

To recognize the heritage of recreational fishing, hunting, and shooting on Federal public lands and ensure continued opportunities for these activities.

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 “Recreational Fishing*
5 *and Hunting Heritage and Opportunities Act”.*

6 **SEC. 2. FINDINGS.**

7 *Congress finds that—*

8 *(1) recreational fishing and hunting are impor-*
9 *tant and traditional activities in which millions of*
10 *Americans participate;*

11 *(2) recreational anglers and hunters have been*
12 *and continue to be among the foremost supporters of*
13 *sound fish and wildlife management and conservation*
14 *in the United States;*

15 *(3) recreational fishing and hunting are environ-*
16 *mentally acceptable and beneficial activities that*
17 *occur and can be provided on Federal public lands*
18 *and waters without adverse effects on other uses or*
19 *users;*

20 *(4) recreational anglers, hunters, and sporting*
21 *organizations provide direct assistance to fish and*
22 *wildlife managers and enforcement officers of the Fed-*
23 *eral Government as well as State and local govern-*
24 *ments by investing volunteer time and effort to fish*
25 *and wildlife conservation;*

1 (5) recreational anglers, hunters, and the associ-
2 ated industries have generated billions of dollars of
3 critical funding for fish and wildlife conservation, re-
4 search, and management by providing revenues from
5 purchases of fishing and hunting licenses, permits,
6 and stamps, as well as excise taxes on fishing, hunt-
7 ing, and shooting equipment that have generated bil-
8 lions of dollars of critical funding for fish and wild-
9 life conservation, research, and management;

10 (6) recreational shooting is also an important
11 and traditional activity in which millions of Ameri-
12 cans participate, safe recreational shooting is a valid
13 use of Federal public lands, including the establish-
14 ment of safe and convenient shooting ranges on such
15 lands and participation in recreational shooting helps
16 recruit and retain hunters and contributes to wildlife
17 conservation;

18 (7) opportunities to recreationally fish, hunt,
19 and shoot are declining, which depresses participation
20 in these traditional activities, and depressed partici-
21 pation adversely impacts fish and wildlife conserva-
22 tion and funding for important conservation efforts;
23 and

24 (8) the public interest would be served, and our
25 citizens' fish and wildlife resources benefitted, by ac-

1 *tion to ensure that opportunities are facilitated to en-*
2 *gage in fishing and hunting on Federal public land*
3 *as recognized by Executive Order 12962, relating to*
4 *recreational fisheries, and Executive Order 13443, re-*
5 *lating to facilitation of hunting heritage and wildlife*
6 *conservation.*

7 **SEC. 3. DEFINITION.**

8 *In this Act:*

9 (1) *FEDERAL PUBLIC LAND.*—

10 (A) *IN GENERAL.*—*Except as provided in*
11 *subparagraph (B), the term “Federal public*
12 *land” means any land or water that is—*

13 (i) *owned by the United States; and*

14 (ii) *managed by a Federal agency (in-*
15 *cluding the Department of the Interior and*
16 *the Forest Service) for purposes that include*
17 *the conservation of natural resources.*

18 (B) *EXCLUSION.*—*The term “Federal public*
19 *land” does not include any land or water held*
20 *in trust for the benefit of Indians or other Native*
21 *Americans.*

22 (2) *HUNTING.*—

23 (A) *IN GENERAL.*—*Except as provided in*
24 *subparagraph (B), the term “hunting” means*

1 *use of a firearm, bow, or other authorized means*
2 *in the lawful—*

3 *(i) pursuit, shooting, capture, collec-*
4 *tion, trapping, or killing of wildlife;*

5 *(ii) attempt to pursue, shoot, capture,*
6 *collect, trap, or kill wildlife; or*

7 *(iii) the training of hunting dogs in-*
8 *cluding field trials.*

9 *(B) EXCLUSION.—The term “hunting” does*
10 *not include the use of skilled volunteers to cull*
11 *excess animals (as defined by other Federal law,*
12 *including laws applicable to the National Park*
13 *System).*

14 *(3) RECREATIONAL FISHING.—The term “rec-*
15 *reational fishing” means the lawful—*

16 *(A) pursuit, capture, collection, or killing of*
17 *fish; or*

18 *(B) attempt to capture, collect, or kill fish.*

19 *(4) RECREATIONAL SHOOTING.—The term “rec-*
20 *reational shooting” means any form of sport, train-*
21 *ing, competition, or pastime, whether formal or infor-*
22 *mal, that involves the discharge of a rifle, handgun,*
23 *or shotgun, or the use of a bow and arrow.*

1 **SEC. 4. RECREATIONAL FISHING, HUNTING, AND SHOOT-**
2 **ING.**

3 (a) *IN GENERAL.*—Subject to valid existing rights and
4 subsection (g), and cooperation with the respective State
5 and fish and wildlife agency, Federal public land manage-
6 ment officials shall exercise their authority under existing
7 law, including provisions regarding land use planning, to
8 facilitate use of and access to Federal public lands and
9 waters for fishing, sport hunting, and recreational shooting
10 except as limited by—

11 (1) *statutory authority that authorizes action or*
12 *withholding action for reasons of national security,*
13 *public safety, or resource conservation;*

14 (2) *any other Federal statute that specifically*
15 *precludes recreational fishing, hunting, or shooting on*
16 *specific Federal public lands, waters, or units thereof;*
17 *and*

18 (3) *discretionary limitations on recreational*
19 *fishing, hunting, and shooting determined to be nec-*
20 *essary and reasonable as supported by the best sci-*
21 *entific evidence and advanced through a transparent*
22 *public process.*

23 (b) *MANAGEMENT.*—Consistent with subsection (a), the
24 head of each Federal public land management agency shall
25 exercise its land management discretion—

1 (1) *in a manner that supports and facilitates*
2 *recreational fishing, hunting, and shooting opportuni-*
3 *ties;*

4 (2) *to the extent authorized under applicable*
5 *State law; and*

6 (3) *in accordance with applicable Federal law.*

7 (c) *PLANNING.—*

8 (1) *EFFECTS OF PLANS AND ACTIVITIES.—*

9 (A) *EVALUATION OF EFFECTS ON OPPORTU-*
10 *NITIES TO ENGAGE IN RECREATIONAL FISHING,*
11 *HUNTING, OR SHOOTING.—Federal public land*
12 *planning documents, including land resources*
13 *management plans, resource management plans,*
14 *travel management plans, general management*
15 *plans, and comprehensive conservation plans,*
16 *shall include a specific evaluation of the effects*
17 *of such plans on opportunities to engage in rec-*
18 *reational fishing, hunting, or shooting.*

19 (B) *NOT MAJOR FEDERAL ACTION.—No ac-*
20 *tion taken under this section, other than an ac-*
21 *tion under subsection (d)(2) or (g), or under sec-*
22 *tion 4 of the National Wildlife Refuge System*
23 *Administration Act of 1966 (16 U.S.C. 668dd),*
24 *either individually or cumulatively with other*
25 *actions involving Federal public lands, shall be*

1 *considered to be a major Federal action signifi-*
2 *cantly affecting the quality of the human envi-*
3 *ronment, and no additional identification, anal-*
4 *ysis, or consideration of environmental effects,*
5 *including cumulative effects, is necessary or re-*
6 *quired.*

7 (C) *OTHER ACTIVITY NOT CONSIDERED.—*
8 *Federal public land management officials are*
9 *not required to consider the existence or avail-*
10 *ability of recreational fishing, hunting, or shoot-*
11 *ing opportunities on adjacent or nearby public*
12 *or private lands in the planning for or deter-*
13 *mination of which Federal public lands are open*
14 *for these activities or in the setting of levels of*
15 *use for these activities on Federal public lands,*
16 *unless the combination or coordination of such*
17 *opportunities would enhance the recreational*
18 *fishing, hunting, or shooting opportunities avail-*
19 *able to the public.*

20 (2) *USE OF VOLUNTEERS.—If hunting is prohib-*
21 *ited by law, all Federal public land planning docu-*
22 *ments listed in paragraph (1)(A) of an agency shall,*
23 *after appropriate coordination with State fish and*
24 *wildlife agency, allow the participation of skilled vol-*
25 *unteers in the culling and other management of wild-*

1 *life populations on Federal public lands unless the*
2 *head of the agency demonstrates, based on the best sci-*
3 *entific data available or applicable Federal statutes,*
4 *why skilled volunteers shall not be used to control*
5 *overpopulations of wildlife on the land that is the*
6 *subject of the planning documents.*

7 *(d) BUREAU OF LAND MANAGEMENT AND FOREST*
8 *SERVICE LANDS.—*

9 *(1) LANDS OPEN.—Lands under the jurisdiction*
10 *of the Bureau of Land Management and the Forest*
11 *Service, including lands designated as wilderness or*
12 *administratively classified as wilderness eligible or*
13 *suitable and primitive or semi-primitive areas but ex-*
14 *cluding lands on the Outer Continental Shelf, shall be*
15 *open to recreational fishing, hunting, and shooting*
16 *unless the managing Federal agency acts to close*
17 *lands to such activity. Lands may be subject to clo-*
18 *sures or restrictions if determined by the head of the*
19 *agency to be necessary and reasonable and supported*
20 *by facts and evidence, for purposes including resource*
21 *conservation, public safety, energy or mineral produc-*
22 *tion, energy generation or transmission infrastruc-*
23 *ture, water supply facilities, protection of other per-*
24 *mittees, protection of private property rights or inter-*
25 *ests, national security, or compliance with other law.*

1 (2) *SHOOTING RANGES.*—

2 (A) *IN GENERAL.*—*The head of each Federal*
3 *agency shall use his or her authorities in a man-*
4 *ner consistent with this Act, and other applicable*
5 *law, to—*

6 (i) *lease or permit use of lands of the*
7 *agency for shooting ranges; and*

8 (ii) *designate specific lands of the*
9 *agency for recreational shooting activities.*

10 (B) *LIMITATION ON LIABILITY.*—*Any des-*
11 *ignation under subparagraph (A)(ii) shall not*
12 *subject the United States to any civil action or*
13 *claim for monetary damages for injury or loss of*
14 *property or personal injury or death caused by*
15 *any activity occurring at or on such designated*
16 *lands.*

17 (e) *NECESSITY IN WILDERNESS AREAS.*—

18 (1) *The provision of opportunities for hunting,*
19 *fishing and recreational shooting, and the conserva-*
20 *tion of fish and wildlife to provide sustainable use*
21 *recreational opportunities on designated wilderness*
22 *areas on Federal public lands shall constitute meas-*
23 *ures necessary to meet the minimum requirements for*
24 *the administration of the wilderness area.*

1 (2) *The phrase “within and supplemental to”*
2 *Wilderness purposes, as originally enacted in section*
3 *4(c) of Public Law 88–577, means that any require-*
4 *ments imposed by that Act shall be implemented only*
5 *insofar as they do not prevent Federal public land*
6 *management officials and State fish and wildlife offi-*
7 *cial from carrying out and facilitating the original*
8 *or primary purposes for which the Federal public*
9 *lands or Federal public land unit was established.*
10 *Such phrase is not intended to authorize or facilitate*
11 *commodity development, use, or extraction, motorized*
12 *recreation access, or comparable non-hunting, fishing*
13 *and trapping activities.*

14 (f) *REPORT.—Not later than October 1 of every other*
15 *year, beginning with the second October 1 after the date*
16 *of enactment of this Act, the head of each Federal agency*
17 *who has authority to manage Federal public land on which*
18 *fishing, hunting, or recreational shooting occurs shall sub-*
19 *mit to the Committee on Natural Resources of the House*
20 *of Representatives and the Committee on Energy and Nat-*
21 *ural Resources of the Senate a report that describes—*

22 (1) *any Federal public land administered by the*
23 *agency head that was closed to recreational fishing,*
24 *sport hunting, or shooting at any time during the*
25 *preceding year; and*

1 (2) *the reason for the closure.*

2 (g) *CLOSURES OR SIGNIFICANT RESTRICTIONS OF 640*
3 *OR MORE ACRES.—*

4 (1) *IN GENERAL.—Other than closures estab-*
5 *lished or prescribed by land planning actions referred*
6 *to in subsection (d) or emergency closures described in*
7 *paragraph (3) of this subsection, a permanent or tem-*
8 *porary withdrawal, change of classification, or change*
9 *of management status of Federal public land or water*
10 *that effectively closes or significantly restricts 640 or*
11 *more contiguous acres of Federal public land or water*
12 *to access or use for fishing or hunting or activities re-*
13 *lated to fishing and hunting (or both) shall take effect*
14 *only if, before the date of withdrawal or change, the*
15 *head of the Federal agency that has jurisdiction over*
16 *the Federal public land or water—*

17 (A) *publishes appropriate notice of the*
18 *withdrawal or change, respectively;*

19 (B) *demonstrates that coordination has oc-*
20 *curred with a State fish and wildlife agency;*
21 *and*

22 (C) *submits to the Committee on Natural*
23 *Resources of the House of Representatives and*
24 *the Committee on Energy and Natural Resources*

1 *of the Senate written notice of the withdrawal or*
2 *change, respectively.*

3 (2) *AGGREGATE OR CUMULATIVE EFFECTS.—If*
4 *the aggregate or cumulative effect of separate with-*
5 *drawals or changes effectively closes or significantly*
6 *restricts 1280 or more acres of land or water, such*
7 *withdrawals and changes shall be treated as a single*
8 *withdrawal or change for purposes of paragraph (1).*

9 (3) *EMERGENCY CLOSURES.—Nothing in this*
10 *Act prohibits a Federal land management agency*
11 *from establishing or implementing emergency closures*
12 *or restrictions of the smallest practicable area to pro-*
13 *vide for public safety, resource conservation, national*
14 *security, or other purposes authorized by law. Such*
15 *an emergency closure shall terminate after a reason-*
16 *able period of time unless converted to a permanent*
17 *closure consistent with this Act.*

18 (h) *AREAS NOT AFFECTED.—*

19 (1) *IN GENERAL.—Nothing in this Act requires*
20 *the opening of national park or national monuments*
21 *under the jurisdiction of the National Park Service to*
22 *hunting or recreational shooting.*

23 (2) *NATIONAL WILDLIFE REFUGE SYSTEM.—*
24 *Nothing in this Act is intended to amend or modify*
25 *the provisions of the National Wildlife Refuge System*

1 *Administration Act of 1966 (16 U.S.C. 668dd et seq.),*
2 *except as expressly provided herein.*

3 *(i) NO PRIORITY.—Nothing in this Act requires a Fed-*
4 *eral agency to give preference to recreational fishing, hunt-*
5 *ing, or shooting over other uses of Federal public land or*
6 *over land or water management priorities established by*
7 *Federal law.*

8 *(j) CONSULTATION WITH COUNCILS.—In fulfilling the*
9 *duties set forth in this Act, the heads of Federal agencies*
10 *shall consult with respective advisory councils as established*
11 *in Executive Orders 12962 and 13443.*

12 *(k) AUTHORITY OF THE STATES.—*

13 *(1) IN GENERAL.—Nothing in this Act shall be*
14 *construed as interfering with, diminishing, or con-*
15 *flicting with the authority, jurisdiction, or responsi-*
16 *bility of any State to manage, control, or regulate fish*
17 *and wildlife under State law (including regulations)*
18 *on land or water within the State, including on Fed-*
19 *eral public land.*

20 *(2) FEDERAL LICENSES.—Nothing in this Act*
21 *authorizes the head of a Federal agency head to re-*
22 *quire a license, fee, or permit to fish, hunt, or trap*
23 *on land or water in a State, including on Federal*
24 *public land in the States, except that this paragraph*
25 *shall not affect the Migratory Bird Stamp require-*

- 1 *ment set forth in the Migratory Bird Hunting and*
- 2 *Conservation Stamp Act (16 U.S.C. 718 et seq.).*

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[Report No. 112-609, Part I]

A BILL

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Reported from the Committee on Natural Resources with
an amendment

JULY 19, 2012

The Committee on Agriculture discharged: committed to the Committee of the Whole House on the State of the Union and ordered to be printed