

107TH CONGRESS  
1ST SESSION

# S. 425

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

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IN THE SENATE OF THE UNITED STATES

MARCH 1, 2001

Mr. ALLARD (for himself and Mr. CAMPBELL) introduced the following bill; which was read twice and referred to the Committee on Armed Services

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## A BILL

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

1       *Be it enacted by the Senate and House of Representa-  
2       tives of the United States of America in Congress assembled,*

**3 SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Rocky Flats National  
5       Wildlife Refuge Act of 2001”.

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

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

8           (1) The Federal Government, through the  
9       Atomic Energy Commission, acquired the Rocky  
10       Flats site in 1951 and began operations there in

1       1952. The site remains a Department of Energy fa-  
2       cility. Since 1992, the mission of the Rocky Flats  
3       site has changed from the production of nuclear  
4       weapons components to cleanup and closure in a  
5       manner that is safe, environmentally and socially re-  
6       sponsible, physically secure, and cost-effective.

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

9               (3) The State of Colorado is experiencing in-  
10       creasing growth and development, especially in the  
11       metropolitan Denver Front Range area in the vicin-  
12       ity of the Rocky Flats site. That growth and devel-  
13       opment reduces the amount of open space and there-  
14       by diminishes for many metropolitan Denver com-  
15       munities the vistas of the striking Front Range  
16       mountain backdrop.

17               (4) Some areas of the site contain contamina-  
18       tion and will require further remediation. The na-  
19       tional interest requires that the ongoing cleanup and  
20       closure of the entire site be completed safely, effec-  
21       tively, and without unnecessary delay and that the  
22       site thereafter be retained by the United States and  
23       managed so as to preserve the value of the site for  
24       open space and wildlife habitat.

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

## 14 SEC. 3. DEFINITIONS.

15 In this Act:

23 (2) COALITION.—The term “Coalition” means  
24 the Rocky Flats Coalition of Local Governments es-

1       tablished by the Intergovernmental Agreement,  
2       dated February 16, 1999, among—

- 3               (A) the city of Arvada, Colorado;
- 4               (B) the city of Boulder, Colorado;
- 5               (C) the city of Broomfield, Colorado;
- 6               (D) the city of Westminster, Colorado;
- 7               (E) the town of Superior, Colorado;
- 8               (F) Boulder County, Colorado; and
- 9               (G) Jefferson County, Colorado.

10               (3) HAZARDOUS SUBSTANCE.—The term “hazardous substance” has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

15               (4) POLLUTANT OR CONTAMINANT.—The term “pollutant or contaminant” has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

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

23               (6) RESPONSE ACTION.—The term “response action” has the meaning given the term “response” in section 101 of the Comprehensive Environmental

1 Response, Compensation, and Liability Act of 1980  
2 (42 U.S.C. 9601) or any similar requirement under  
3 State law.

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

7 (A) the Department of Energy;  
8 (B) the Environmental Protection Agency;

9 and

10 (C) the Department of Public Health and  
11 Environment of the State of Colorado.

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

17 (9) ROCKY FLATS TRUSTEES.—The term  
18 “Rocky Flats Trustees” means the Federal and  
19 State of Colorado entities that have been identified  
20 as trustees for Rocky Flats under section 107(f)(2)  
21 of the Comprehensive Environmental Response,  
22 Compensation, and Liability Act of 1980 (42 U.S.C.  
23 9607(f)(2)).

24 (10) SECRETARY.—The term “Secretary”  
25 means the Secretary of Energy.

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

2 (a) **FEDERAL OWNERSHIP.**—Unless Congress pro-  
3 vides otherwise in an Act enacted after the date of enact-  
4 ment of this Act, all right, title, and interest of the United  
5 States, held on or acquired after the date of enactment  
6 of this Act, to land within the boundaries of Rocky Flats  
7 shall be retained by the United States.

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

14 (c) **PROHIBITION ON ANNEXATION.**—The Secretary  
15 of the Interior shall not allow the annexation of land with-  
16 in the refuge by any unit of local government.

17 (d) **PROHIBITION ON THROUGH ROADS.**—Except as  
18 provided in subsection (e), no public road shall be con-  
19 structed through Rocky Flats.

20 (e) **TRANSPORTATION RIGHT-OF-WAY.**—

21 (1) **IN GENERAL.**—

22 (A) **AVAILABILITY OF LAND.**—On submis-  
23 sion of an application meeting each of the con-  
24 ditions specified in paragraph (2), the Secretary  
25 and the Secretary of the Interior shall make  
26 available land along the eastern boundary of

1                   Rocky Flats for the sole purpose of transpor-  
2                   tation improvements along Indiana Street.

3                   (B) BOUNDARIES.—Land made available  
4                   under this paragraph may not extend more  
5                   than 300 feet from the west edge of the Indiana  
6                   Street right-of-way, as that right-of-way exists  
7                   as of the date of enactment of this Act.

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

11                   (D) COMPLIANCE WITH APPLICABLE  
12                   LAW.—Any action under this paragraph shall  
13                   be taken in compliance with applicable law.

14                   (2) CONDITIONS.—An application for land  
15                   under this subsection may be submitted by any  
16                   county, city, or other political subdivision of the  
17                   State of Colorado and shall include documentation  
18                   demonstrating that—

19                   (A) the transportation project is con-  
20                   structed so as to minimize adverse effects on  
21                   the management of Rocky Flats as a wildlife  
22                   refuge; and

23                   (B) the transportation project is included  
24                   in the Regional Transportation Plan of the  
25                   Metropolitan Planning Organization designated

1 for the Denver metropolitan area under section  
2 5303 of title 49, United States Code.

3 **SEC. 5. TRANSFER OF MANAGEMENT RESPONSIBILITIES**  
4 **AND JURISDICTION OVER ROCKY FLATS.**

5 (a) IN GENERAL.—

6 (1) MEMORANDUM OF UNDERSTANDING.—

7 (A) IN GENERAL.—Not later than 1 year  
8 after the date of enactment of this Act, the Sec-  
9 retary and the Secretary of the Interior shall  
10 publish in the Federal Register a draft memo-  
11 randum of understanding under which the Sec-  
12 retary shall transfer to the Secretary of the In-  
13 terior administrative jurisdiction over Rocky  
14 Flats.

15 (B) REQUIRED ELEMENTS.—

16 (i) IN GENERAL.—Subject to clause  
17 (ii), the memorandum of understanding  
18 shall—

19 (I) provide for the timing of the  
20 transfer;

21 (II) provide for the division of re-  
22 sponsibilities between the Secretary  
23 and the Secretary of the Interior for  
24 the period ending on the date of the  
25 transfer; and

1 (III) provide an appropriate allo-  
2 cation of costs and personnel to the  
3 Secretary of the Interior.

4 (ii) NO REDUCTION IN FUNDS.—The  
5 memorandum of understanding shall not  
6 result in any reduction in funds available  
7 to the Secretary for cleanup and closure of  
8 Rocky Flats.

9 (C) DEADLINE.—Not later than 18  
10 months after the date of enactment of this Act,  
11 the Secretary and Secretary of the Interior  
12 shall finalize and implement the memorandum  
13 of understanding.

21 (A) not earlier than the date on which the  
22 Regional Administrator for Region VIII of the  
23 Environmental Protection Agency signs the  
24 Final On-site Record of Decision for Rocky  
25 Flats; but

1 (B) not later than 10 business days after  
2 that date.

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

6 (B) may include such buildings or other  
7 improvements as the Secretary of the Interior  
8 may request in writing for refuge management  
9 purposes.

10 (b) PROPERTY AND FACILITIES EXCLUDED FROM  
11 TRANSFERS.—

21 (B) any other purpose relating to a re-  
22 sponse action or any other action that is re-  
23 quired to be carried out at Rocky Flats.

## 24 (2) CONSULTATION.—

8 (B) MANAGEMENT OF PROPERTY.—

9 (i) IN GENERAL.—The Secretary shall  
10 consult with the Secretary of the Interior  
11 on the management of the retained prop-  
12 erty to minimize any conflict between the  
13 management of property transferred to the  
14 Secretary of the Interior and property re-  
15 tained by the Secretary for response ac-  
16 tions.

17 (ii) CONFLICT.—In the case of any  
18 such conflict, implementation and mainte-  
19 nance of the response action shall take pri-  
20 ority.

1 (c) ADMINISTRATION.—

12 (B) any other action required under any  
13 other Federal or State law to be carried out by  
14 or under the authority of the Secretary.

4 (A) the Comprehensive Environmental Re-  
5 sponse, Compensation, and Liability Act of  
6 1980 (42 U.S.C. 9601 et seq.); or

7 (B) any other applicable law.

## 8 SEC. 6. CONTINUATION OF ENVIRONMENTAL CLEANUP

9 AND CLOSURE.

10 (a) ONGOING CLEANUP AND CLOSURE.—

19 (b) RULES OF CONSTRUCTION.—

20 (1) No RELIEF FROM OBLIGATIONS UNDER  
21 OTHER LAW.—

22 (A) IN GENERAL.—Nothing in this Act,  
23 and no action taken under this Act, relieves the  
24 Secretary, the Administrator of the Environ-  
25 mental Protection Agency, or any other person

1                   from any obligation or other liability with re-  
2                   spect to Rocky Flats under the RFCA or any  
3                   applicable Federal or State law.

4                   (B) NO EFFECT ON RFCA.—Nothing in  
5                   this Act impairs or alters any provision of the  
6                   RFCA.

7                   (2) REQUIRED CLEANUP LEVELS.—

8                   (A) IN GENERAL.—Except as provided in  
9                   subparagraph (B), nothing in this Act affects  
10                  the level of cleanup and closure at Rocky Flats  
11                  required under the RFCA or any Federal or  
12                  State law.

13                  (B) NO EFFECT FROM ESTABLISHMENT AS  
14                  NATIONAL WILDLIFE REFUGE.—

15                  (i) IN GENERAL.—The requirements  
16                  of this Act for establishment and manage-  
17                  ment of Rocky Flats as a national wildlife  
18                  refuge shall not affect the level of cleanup  
19                  and closure.

20                  (ii) CLEANUP LEVELS.—The Sec-  
21                  retary is required to conduct cleanup and  
22                  closure of Rocky Flats to the levels here-  
23                  after established for soil, water, and other  
24                  media, following a thorough review, by the  
25                  parties to the RFCA and the public (in-

15 (c) PAYMENT OF RESPONSE ACTION COSTS.—Nothing in this Act affects the obligation of a Federal department or agency that had or has operations at Rocky Flats resulting in the release or threatened release of a hazardous substance or pollutant or contaminant to pay the costs of response actions carried out to abate the release of, or clean up, the hazardous substance or pollutant or contaminant.

23 (d) CONSULTATION.—In carrying out a response ac-  
24 tion at Rocky Flats, the Secretary shall consult with the

1 Secretary of the Interior to ensure that the response ac-  
2 tion is carried out in a manner that—

3 (1) does not impair the attainment of the goals

4 of the response action; but

5 (2) minimizes, to the maximum extent prac-  
6 ticable, adverse effects of the response action on the  
7 refuge.

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

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

14 (b) COMPOSITION.—The refuge shall consist of the  
15 real property subject to the transfer of jurisdiction under  
16 section 5(a)(1).

17 (c) NOTICE.—The Secretary of the Interior shall pub-  
18 lish in the Federal Register a notice of the establishment  
19 of the refuge.

20 (d) ADMINISTRATION AND PURPOSES.—

21 (1) IN GENERAL.—The Secretary of the Inte-  
22 rior shall manage the refuge in accordance with ap-  
23 plicable law, including this Act, the National Wildlife  
24 Refuge System Administration Act of 1966 (16

1       U.S.C. 668dd et seq.), and the purposes specified in  
2       that Act.

3                   (2) SPECIFIC MANAGEMENT PURPOSES.—To  
4       the extent consistent with applicable law, the refuge  
5       shall be managed for the purposes of—

6                   (A) restoring and preserving native eco-  
7       systems;

8                   (B) providing habitat for, and population  
9       management of, native plants and migratory  
10      and resident wildlife;

11                  (C) conserving threatened and endangered  
12      species (including species that are candidates  
13      for listing under the Endangered Species Act of  
14      1973 (16 U.S.C. 1531 et seq.));

15                  (D) providing opportunities for compatible,  
16      wildlife-dependent environmental scientific re-  
17      search; and

18                  (E) providing the public with opportunities  
19      for compatible outdoor recreational and edu-  
20      cational activities.

21 **SEC. 8. PUBLIC INVOLVEMENT.**

22                  (a) ESTABLISHMENT OF PROCESS.—Not later than  
23      90 days after the date of enactment of this Act, in devel-  
24      oping plans for the management of fish and wildlife and  
25      public use of the refuge, the Secretary of the Interior, in

1 consultation with the Secretary, the members of the Coalition,  
2 the Governor of the State of Colorado, and the Rocky  
3 Flats Trustees, shall establish a process for involvement  
4 of the public and local communities in accomplishing the  
5 purposes and objectives of this section.

6 (b) OTHER PARTICIPANTS.—In addition to the entities  
7 specified in subsection (a), the public involvement  
8 process shall include the opportunity for direct involvement  
9 of entities not members of the Coalition as of the  
10 date of enactment of this Act, including the Rocky Flats  
11 Citizens' Advisory Board and the cities of Thornton,  
12 Northglenn, Golden, Louisville, and Lafayette, Colorado.

13 (c) DISSOLUTION OF COALITION.—If the Coalition  
14 dissolves, or if any Coalition member elects to leave the  
15 Coalition during the public involvement process under this  
16 section—

17 (1) the public involvement process under this  
18 section shall continue; and

19 (2) an opportunity shall be provided to each entity  
20 that is a member of the Coalition as of September 1, 2000,  
21 for direct involvement in the public involvement process.

23 (d) PURPOSES.—The public involvement process  
24 under this section shall provide input and make rec-

1 commendations to the Secretary and the Secretary of the  
2 Interior on the following:

3 (1) The long-term management of the refuge  
4 consistent with the purposes of the refuge described  
5 in section 7(d) and in the National Wildlife Refuge  
6 System Administration Act of 1966 (16 U.S.C.  
7 668dd et seq.).

8 (2) The identification of any land described in  
9 section 4(e) that could be made available for trans-  
10 portation purposes.

11 (3) The potential for leasing any land in Rocky  
12 Flats for the National Renewable Energy Labora-  
13 tory to carry out projects relating to the National  
14 Wind Technology Center.

15 (4) The characteristics and configuration of any  
16 perimeter fencing that may be appropriate or com-  
17 patible for cleanup and closure, refuge, or other pur-  
18 poses.

19 (5) The feasibility of locating, and the potential  
20 location for, a visitor and education center at the  
21 refuge.

22 (6) The establishment of a Rocky Flats mu-  
23 seum described in section 10.

24 (7) Any other issues relating to Rocky Flats.

1       (e) REPORT.—Not later than 3 years after the date  
2 of enactment of this Act, the Secretary of the Interior  
3 shall submit to the Committee on Armed Services of the  
4 Senate and the appropriate committee of the House of  
5 Representatives a report that—

6               (1) outlines the conclusions reached through the  
7 public involvement process; and

8               (2) to the extent that any input or rec-  
9 ommendation from the public involvement process is  
10 not accepted, clearly states the reasons why the  
11 input or recommendation is not accepted.

12 **SEC. 9. PROPERTY RIGHTS.**

13       (a) IN GENERAL.—Except as provided in subsection  
14 (c), nothing in this Act limits any valid, existing property  
15 right at Rocky Flats that is owned by any person or entity,  
16 including, but not limited to—

17               (1) any mineral right;

18               (2) any water right or related easement; and

19               (3) any facility or right-of-way for a utility.

20       (b) ACCESS.—Except as provided in subsection (c),  
21 nothing in this Act affects any right of an owner of a prop-  
22 erty right described in subsection (a) to access the owner's  
23 property.

24       (c) REASONABLE CONDITIONS.—

17 (d) PURCHASE OF MINERAL RIGHTS.—

22 (2) FUNDING.—The Secretary and the Sec-  
23 retary of the Interior—

(A) may use for the purchase of mineral rights under paragraph (1) funds specifically provided by Congress; but

4 (B) shall not use for such purchase funds  
5 appropriated by Congress for the cleanup and  
6 closure of Rocky Flats.

7 (e) UTILITY EXTENSION.—

12 (2) CONDITIONS.—An extension under para-  
13 graph (1) shall be subject to the conditions specified  
14 in subsection (c).

15 (f) EASEMENT SURVEYS.—

23 (2) LIMITATION ON CONDITIONS.—An activity  
24 carried out under paragraph (1) shall be subject  
25 only to such conditions as are imposed—

6 (B) by the Secretary of the Interior, on or  
7 after the date on which the transfer of manage-  
8 ment responsibilities under section 5(a)(3) is  
9 completed, to minimize adverse effects on the  
10 management of the refuge.

## 11 SEC. 10. ROCKY FLATS MUSEUM.

12 (a) MUSEUM.—In order to commemorate the con-  
13 tribution that Rocky Flats and its worker force provided  
14 to the winning of the Cold War and the impact that the  
15 contribution has had on the nearby communities and the  
16 State of Colorado, the Secretary may establish a Rocky  
17 Flats Museum.

18 (b) LOCATION.—The Rocky Flats Museum shall be  
19 located in the city of Arvada, Colorado, unless, after con-  
20 sultation under subsection (c), the Secretary determines  
21 otherwise.

22 (c) CONSULTATION.—The Secretary shall consult  
23 with the city of Arvada, other local communities, and the  
24 Colorado State Historical Society on—

25 (1) the development of the museum:

## 12 SEC. 11. REPORT ON FUNDING.

13 At the time of submission of the first budget of the  
14 United States Government submitted by the President  
15 under section 1105 of title 31, United States Code, after  
16 the date of enactment of this Act, and annually thereafter,  
17 the Secretary and the Secretary of the Interior shall report  
18 to the Committee on Armed Services and the Committee  
19 on Appropriations of the Senate and the appropriate com-  
20 mittees of the House of Representatives on—

