

National Recreation Area System Legislative Language Comparison in the 2016 and 2017 Versions of the Proposed “Recreation Not Red-Tape Act”

The text in left and middle columns comes from the Senate versions of the bills (the respective House versions are identical). Senator Ron Wyden (D-OR) is the author of legislative language. In 2016, the House counterpart was sponsored by Rep. Earl Blumenauer (D-3rd-OR) and co-sponsored by Reps. Susan Bonamici (D-1st-OR) and Jared Polis (D-2nd-CO). In 2017, Rep. Rod Bishop (R-1st-UT), Chair of the Committee on Natural Resources of the U.S. House of Representatives, is the only sponsor.

<i>Wyden-Blumenauer* Language</i>	<i>Wyden-Bishop** Language</i>	<i>Analysis and Commentary</i>
S.2706 , H.R.4790 ; 114 th Congress (2015-16)	S.1633 , H.R.3400 ; 115 th Congress (2017-18)	Wyden-Blumenauer good. Wyden-Bishop bad.
SEC. 306. NATIONAL RECREATION AREA SYSTEM.	SEC. 305. NATIONAL RECREATION AREA SYSTEM.	The different numbers are inconsequential. <u>Underlined text</u> is my emphasis and is not in the original.
<p>(a) DECLARATION OF POLICY.—It is the policy of the United States that—</p> <p>(1) certain natural landscapes be conserved and managed for sustainable outdoor recreational and other benefits for the people of the United States; and</p> <p>(2) in addition to protecting landscapes for the ecological, intrinsic, historic, or scientific value, certain landscapes should be protected and managed primarily for the social, <u>spiritual</u>, and health benefits the landscapes provide for people through outdoor recreation, for the specific and meaningful experiences made possible by unique and specific landscapes, and for the contributions these landscapes make in support of the outdoor recreation economy.</p> <p>(b) PURPOSE.—The purpose of this section is to establish a National Recreation Area System—</p> <p>(1) to recognize areas that possess remarkable recreational values;</p> <p>(2) to recognize that land with remarkable recreational values may also possess other important values that underpin the remarkable recreation values, including, at a minimum—</p> <p>(A) ecological and <u>watershed</u> values;</p> <p>(B) historical and cultural values;</p> <p>(C) scenic value;</p> <p>(D) fish and wildlife values; and</p> <p>(E) geological, archeological, and paleontological</p>	<p>(a) DECLARATION OF POLICY; EFFECT OF SECTION.—</p> <p>(1) DECLARATION OF POLICY.—It is the policy of the United States that—</p> <p>(A) certain natural landscapes possess remarkable recreational values and should be managed for sustainable outdoor recreational and other benefits for the people of the United States;</p> <p>(B) the remarkable recreational values described in subparagraph (A) may include—</p> <p>(i) areas offering existing or prospective recreation opportunities;</p> <p>(ii) areas that play, or have the potential to play, a role in addressing high or unmet demand for recreational opportunities;</p> <p>(iii) areas that play an important role in supporting the outdoor recreation economy;</p> <p>(iv) areas with <u>unique</u> ecological, geological, <u>hydrological</u>, scenic, cultural, or historic features or attributes that accommodate a variety of outdoor recreation activities; and</p> <p>(v) areas with <u>high</u> fish and wildlife values;</p> <p>(C) in addition to other uses of Federal land, certain landscapes should be protected and managed primarily for the recreational, social, and health benefits people receive from the landscapes through outdoor recreation, for the specific and meaningful experiences made possible by unique and varied landscapes, and for the contributions those landscapes make in support</p>	<p>Wyden-Bishop merges and waters down two sections from Wyden-Blumenauer. Wyden-Blumenauer states clear “purposes” (lands to be “conserved and managed”), while Wyden-Bishop is more vague (lands to be “managed” for recreational and “other” benefits. Words matter. Wyden-Bishop is materially weaker than Wyden-Blumenauer.</p>

<p>values;</p> <p>(3) to manage System units for—</p> <p>(A) the benefit and recreational enjoyment of present and future generations; and</p> <p>(B) conservation and restoration of the important values described in paragraph (2);</p> <p>(4) to highlight that recreation contributes significantly to the economy, particularly in rural and gateway communities;</p> <p>(5) to ensure the protection of public land for the benefit of a variety of recreational pursuits where appropriate, including both motorized and nonmotorized uses;</p> <p>(6) to recognize that recreation goals and conservation goals can both be achieved in the management of public land; and</p> <p>(7) to provide access to sustainable recreation opportunities and enhance public enjoyment of public land.</p>	<p>of the outdoor recreation economy; and</p> <p>(D) in addition to land identified as National Recreation Areas, the Secretaries should continue to promote recreation on other Federal land in accordance with applicable land management plans.</p> <p>(2) EFFECT OF SECTION.—Nothing in this section diminishes the importance of prioritizing recreation on Federal land located outside of a National Recreation Area.</p>	
<p>(c) DEFINITIONS.—In this section:</p> <p>(1) SECRETARY.—The term “Secretary” means—</p> <p>(A) the Secretary of the Interior, acting through the Director of the Bureau of Land Management with respect to land administered by the Bureau of Land Management; or</p> <p>(B) the Secretary of Agriculture, acting through the Chief of the Forest Service, with respect to National Forest System land.</p> <p>(2) SYSTEM.—The term “System” means the National Recreation Area System established by subsection (d).</p> <p>(3) SYSTEM UNIT.—The term “System unit” means a System unit designated pursuant to subsection (d).</p>	<p>(b) DEFINITIONS.—In this section:</p> <p>(1) NATURAL FEATURE.—The term “<u>natural feature</u>” means a <u>healthy</u> ecological, geological, hydrological, scenic, cultural, or historic feature or attribute of a specific area.</p> <p>(2) SECRETARY.—The term “Secretary” means—</p> <p>(A) the Secretary of the Interior, acting through the Director of the Bureau of Land Management with respect to land administered by the Bureau of Land Management; and</p> <p>(B) the Secretary of Agriculture, acting through the Chief of the Forest Service, with respect to National Forest System land.</p> <p>(3) SYSTEM.—The term “System” means the National Recreation Area System established by subsection (c).</p> <p>(4) SYSTEM UNIT.—The term “System unit” means a System unit designated pursuant to subsection (c).</p>	<p>The definitions are identical, save for “natural feature,” which is used in subsection (a) of Wyden-Bishop (above).</p> <p>The modifier “healthy” appears to modify not only ecological, but the other natural features as well. I have trouble imaging unhealthy versions of such natural features, save for those that are grazed by domestic livestock, logged for commercial timber, or mined.</p>
<p>(d) COMPOSITION.—There is established a National Recreation Area System, to be comprised of—</p> <p>(1) National Recreation Areas described in subsection (i); and</p> <p>(2) the System units designated by Congress on or after the date of enactment of this Act.</p>	<p>(c) COMPOSITION.—There is established a National Recreation Area System, to be comprised of</p> <p>(1) existing National Recreation Areas described in subsection (g); and</p> <p>(2) new System units designated by Congress on or after the date of enactment of this Act.</p>	<p>Different language to the same effect.</p>
<p>(e) ADMINISTRATION.—</p> <p>(1) IN GENERAL.—The Secretary shall manage</p>	<p>(d) ADMINISTRATION.—</p> <p>(1) IN GENERAL.—The Secretary shall manage each</p>	<p>A close reading of the language generally reveals that the Wyden-Bishop</p>

<p>each System unit in a manner that <u>enhances the remarkable recreational and other important values</u> of the System unit, consistent with subsection (a), and provides for the enjoyment by this and future generations.</p> <p>(2) STATE, TRIBAL, AND LOCAL INVOLVEMENT.—Each State, tribal, and local government is encouraged to cooperate in the planning and administration of System units that include or adjoin land under the jurisdiction of the State, tribal, or local government.</p> <p>(3) FISH AND WILDLIFE.—</p> <p>(A) IN GENERAL.—Nothing in this section affects the jurisdiction or responsibilities of a State with respect to fish and wildlife in a System unit.</p> <p>(B) APPLICABLE LAW.—</p> <p>(i) IN GENERAL.—Except as provided in clause (ii), hunting and fishing shall be permitted on System units under applicable Federal and State laws (including regulations).</p> <p>(ii) EXCEPTION.—The Secretary—</p> <p>(I) <u>may designate zones in which and time periods during which no hunting shall be permitted for reasons of public safety</u>, administration, or public use and enjoyment; and</p> <p>(II) in carrying out subclause (I), shall issue appropriate regulations after consultation with the wildlife agency of each State affected.</p> <p>(4) OTHER LAND MANAGEMENT DESIGNATIONS.—</p> <p>(A) WILDERNESS AREAS.—</p> <p>(i) IN GENERAL.—Any portion of a wilderness area that is located within the System unit shall be administered in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.).</p> <p>(ii) APPLICATION.—In carrying out clause (i), in the event of any conflict between the Wilderness Act (16 U.S.C. 1131 et seq.) and this section, the more restrictive provision shall apply.</p> <p>(B) WILD AND SCENIC RIVERS.—</p> <p>(i) IN GENERAL.—Any portion of a wild and scenic river that is located within the System unit shall be administered in accordance with the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.) and this section.</p>	<p>System unit in a manner that <u>maximizes the protection and enhancement of the remarkable recreational values</u> of the System unit (including natural features that support the recreation experiences) consistent with subsection (a)(1)(C), and provides for enjoyment by current and future generations.</p> <p>(2) STATE, TRIBAL, AND LOCAL INVOLVEMENT.—The Secretary shall consult and work, to the maximum extent practicable, with States, political subdivisions of States, affected Indian tribes, adjacent landowners, and the public in the planning and administration of System units.</p> <p>(3) FISH AND WILDLIFE.—</p> <p>(A) IN GENERAL.—Nothing in this section affects the jurisdiction or responsibilities of a State with respect to fish and wildlife in a System unit in the State.</p> <p>(B) ADMINISTRATION.—Hunting, fishing, and motorized recreation (including boating) may be allowed on System units if permitted under applicable Federal and State laws (including regulations) and conducted in accordance with the applicable land management plans.</p> <p>(4) WATER RIGHTS.—Nothing in this section affects any valid or vested water right in existence on the date of enactment of this Act.</p>	<p>version downplays conservation.</p> <p>The Wyden-Bishop version anticipates no underlying wilderness, wild and scenic rivers, or national trails as complementary to an overarching NRA status.</p>
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<p>(ii) APPLICATION.—In carrying out clause (i), in the event of any conflict between the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.) and this section, the more restrictive provision shall apply.</p> <p>(C) NATIONAL SCENIC AND HISTORIC TRAILS.—</p> <p>(i) IN GENERAL.—Any portion of a National Scenic or Historic Trail that is located within the System unit shall be administered in accordance with the National Trails System Act (16 U.S.C. 1241 et seq.).</p> <p>(ii) APPLICATION.—In carrying out clause (i), in the event of any conflict between the National Trails System Act (16 U.S.C. 1241 et seq.) and this section, the more restrictive provision shall apply.</p> <p>(5) WATER RIGHTS.—Nothing in this section affects any valid or vested water right in existence on the date of enactment of this Act.</p>		
<p>(f) COMPONENTS OF NATIONAL RECREATION AREA SYSTEM.—</p> <p>(1) MAP; LEGAL DESCRIPTION.—</p> <p>(A) IN GENERAL.—For System units established on or after the date of enactment of this Act, as soon as practicable after the date of designation of a System unit, the Secretary shall prepare a map and legal description of the System unit.</p> <p>(B) FORCE OF LAW.—The map and legal description filed under subparagraph (A) shall have the same force and effect as if included in this section, except that the Secretary may correct typographical errors in the map and legal description.</p> <p>(C) PUBLIC AVAILABILITY.—The map and legal description filed under subparagraph (A) shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management and Forest Service.</p> <p>(2) COMPREHENSIVE MANAGEMENT PLAN.—</p> <p>(A) IN GENERAL.—The Secretaries shall prepare a comprehensive management plan for each System unit within the jurisdiction of the Secretaries that is designated by Congress after the date of enactment of this Act to provide for the protection and enjoyment of the remarkable recreational and other important values of the System unit.</p> <p>(B) TIMING.—A comprehensive management plan</p>	<p>(e) COMPONENTS OF NATIONAL RECREATION AREA SYSTEM.—</p> <p>(1) MAP; LEGAL DESCRIPTION.—</p> <p>(A) IN GENERAL.—For System units established on or after the date of enactment of this Act, as soon as practicable after the date of designation of a System unit, the Secretary shall prepare a map and legal description of the System unit.</p> <p>(B) FORCE OF LAW.—The map and legal description filed under subparagraph (A) shall have the same force and effect as if included in this section, except that the Secretary may correct typographical errors in the map and legal description.</p> <p>(C) PUBLIC AVAILABILITY.—The map and legal description filed under subparagraph (A) shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management and the Forest Service.</p> <p>(2) COMPREHENSIVE MANAGEMENT PLAN.—</p> <p>(A) IN GENERAL.—The Secretaries shall prepare a comprehensive management plan for each System unit within the jurisdiction of the Secretaries that is designated by Congress after the date of enactment of this Act—</p> <p>(i) to maximize the protection and enjoyment of the remarkable recreational values of the System unit; and</p> <p>(ii) to protect the natural features of the System unit that support recreation.</p>	<p>Subsection (1) are identical provisions.</p> <p>Subsection (2) in Wyden-Bishop is substantially different and weaker than in Wyden-Blumenauer. Wyden-Bishop would require that existing NRAs be managed pursuant to this NRA System Act. The result could be lesser protection as specific NRA statutes sometimes contain stronger provisions than Wyden-Bishop.</p>

<p>described in subparagraph (A)—</p> <p>(i) shall be prepared, and regularly reviewed and updated, as a part of the regular land management planning process of the applicable agency; and</p> <p>(ii) unless the planning cycle of the applicable agency coincides with the designation of the System unit, shall be initially completed not later than 3 years after the date of designation of the System unit as part of the revision of plans of the applicable agency.</p> <p>(C) REQUIREMENTS.—A comprehensive management plan prepared under subparagraph (A) shall—</p> <p>(i) identify the existing, and to the extent practicable, prospective remarkable recreational and other important values of the System unit;</p> <p>(ii) ensure the System unit is managed to protect and enhance purposes for which the System unit was established;</p> <p>(iii) ensure the System unit is managed to protect and enhance the resources that make the area suitable for designation under subsection (d)(2) in accordance with subsection (a);</p> <p>(iv) be coordinated with resource management planning for affected adjacent Federal land; and</p> <p>(v) be prepared in consultation with States, political subdivisions of the State, affected Indian tribes, and the public.</p> <p>(D) NOTICE.—The Secretary shall publish in the Federal Register notice of the completion and availability of a plan prepared under this paragraph.</p> <p>(E) UPDATE.—The Secretary shall periodically review and update applicable management plans prepared under this paragraph to address the values described in paragraphs (1) and (2) of subsection (b).</p>	<p>(B) TIMING.—</p> <p>(i) IN GENERAL.—Except as provided in clause (ii), a comprehensive management plan described in subparagraph (A) shall be completed by not later than 3 years after the date of designation of the System unit, subject to the availability of funds and resources.</p> <p>(ii) INADEQUATE FUNDS AND RESOURCES.—If funds and resources are not available in accordance with clause (i), the applicable agency may complete the plan as part of the regular management plan revisions of the agency.</p> <p>(C) REVIEW.—A comprehensive management plan described in subparagraph (A) shall be regularly reviewed and updated as part of the regular land management planning process of the applicable agency.</p> <p>(D) MANAGEMENT BY SECRETARY.—The Secretary shall manage each National Recreation Area in accordance with the management plan for the National Recreation Area in effect at the time of the designation, to the extent the plan is consistent with this Act and the Act designating the National Recreation Area, until the plan is revised or superseded by a new comprehensive management plan issued in accordance with this subsection.</p> <p>(E) REQUIREMENTS.—A comprehensive management plan prepared under subparagraph (A) shall—</p> <p>(i) identify the existing, and to the extent practicable, prospective remarkable recreational and other important values of the System unit;</p> <p>(ii) ensure the System unit is managed to protect and enhance purposes for which the System unit was established;</p> <p>(iii) ensure the System unit is managed to protect and enhance the resources that make the area suitable for designation under subsection (c)(2) in accordance with subsection (a);</p> <p>(iv) be coordinated with resource management planning for affected adjacent Federal land;</p> <p>(v) be prepared— (I) in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) or section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a), as applicable; and</p>	
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	<p>(II) in consultation with States, political subdivisions of States, affected Indian tribes, adjacent landowners, and the public; and (vi) designate a sustainable road and trail network, consistent with subsection (a) and the purposes for which the System was established.</p> <p>(F) NOTICE.—The Secretary shall publish in the Federal Register notice of the completion and availability of a plan prepared under this paragraph.</p>	
<p>(g) POTENTIAL ADDITIONS TO NATIONAL RECREATION AREA SYSTEM.—</p> <p>(1) ELIGIBLE AREA.—An area eligible for inclusion in the System is an area that possesses 1 or more of the values described in paragraphs (1) and (2) of subsection (b).</p> <p>(2) POTENTIAL ADDITIONS.—In carrying out the land management planning process, the Secretary shall—</p> <p>(A) identify eligible areas that possess remarkable recreational and other important values described in paragraphs (1) and (2) of subsection (b);</p> <p>(B) develop and maintain a list of eligible areas as potential additions to the System; and</p> <p>(C) consider recommendations by the Governor of an affected State or territory for potential additions to the System.</p>	<p>(f) POTENTIAL ADDITIONS TO NATIONAL RECREATION AREA SYSTEM.—</p> <p>(1) ELIGIBLE AREA.—An area eligible for inclusion in the System is an area that possesses one or more of the remarkable recreational values described in subsection (a)(1)(B).</p> <p>(2) POTENTIAL ADDITIONS.—In carrying out the land management planning process, the Secretary shall—</p> <p>(A) identify eligible areas that possess remarkable recreational values described in subsection (a)(1)(B);</p> <p>(B) develop and maintain a list of eligible areas as potential additions to the System;</p> <p>(C) ensure that relevant land management plans support the recreational values of areas identified as potential additions to the System; and</p> <p>(D) consider input from the Governor of, political subdivisions of, and affected Indian tribes located in, the State in which the eligible areas are located.</p>	<p>Wyden-Bishop would diminish the role of the governor of a state as compared to Wyden-Blumenauer. The former would require the agency to consider recommendations by the governor for potential additions, while the latter would only require input from the governor. In Wyden-Bishop, the federal agencies (which are generally hostile to NRAs before they are designated by Congress) would be the sole determiner of what is eligible as an NRA.</p> <p>Wyden-Bishop would give undue weight to counties (which are more likely to be hostile to NRAs).</p>
<p>(h) WITHDRAWALS.—Subject to valid existing rights, any land designated as a System unit under this section is withdrawn from all forms of—</p> <p>(1) entry, appropriation, or disposal under the public land laws;</p> <p>(2) location, entry, and patent under the mining laws; and</p> <p>(3) disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.</p>		<p>The Wyden-Bishop version would allow national recreation areas to be strip-mined for coal, fracked for oil and gas, and/or doused with cyanide to obtain gold. Well, those would be unique recreational experiences.</p>
<p>(i) EXISTING NATIONAL RECREATION AREAS.—Each National Recreation Area established as of the date of enactment of this Act and administered by the Secretary of Agriculture, acting through the Chief of the Forest Service, or the Secretary of the Interior, acting through the Director of the Bureau of Land Management, before the date of enactment of this Act shall be—</p> <p>(1) deemed to be a unit of the System; and</p>	<p>(g) EXISTING NATIONAL RECREATION AREAS.—Each National Recreation Area that is under the jurisdiction of the Forest Service or the Bureau of Land Management and that was established before the date of enactment of this Act shall be—</p> <p>(1) deemed to be a unit of the System; and</p> <p>(2) notwithstanding subsection (d)—</p> <p>(A) administered under the law pertaining to the applicable System unit; and</p>	<p>The provisions are effectively identical.</p>

(2) notwithstanding subsection (e), administered under law pertaining to that System unit.	(B) managed in accordance with the purposes set forth in the original designation of the National Recreation Area.	
(j) STANDARD FEES.—In accordance with sections 803 through 808 of the Consolidated Appropriations Act, 2005 (16 U.S.C. 6802–6807), the Secretary may establish a standard amenity fee at each of the areas within the National Recreation Area System that are managed by the Bureau of Land Management or the Forest Service, if— (1) the purpose of the fee is to enhance visitor services and stewardship of the recreation area; and (2) the establishment of a fee is not prohibited by other Federal law.	(h) STANDARD FEES.—In accordance with sections 803 through 808 of the Consolidated Appropriations Act, 2005 (16 U.S.C. 6802–6807), the Secretary may establish a standard amenity fee at each National Recreation Area designated after the date of enactment of this Act that is managed by the Bureau of Land Management or the Forest Service, if— (1) the purpose of the fee is to enhance visitor services and stewardship of the recreation area; and (2) the establishment of a fee is not prohibited by other Federal law.	Identical provision.
(k) COMPLIANCE WITH EXISTING LAWS.—Nothing in this section modifies any obligation— (1) of the Secretary to prepare or implement a land use plan in accordance with section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) or section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604); (2) under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); (3) under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); or (4) under any other applicable law.	(i) COMPLIANCE WITH EXISTING LAWS.—Nothing in this section modifies any obligation— (1) of the Secretary to prepare or implement a land use plan in accordance with section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) or section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604); (2) under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); (3) under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); or (4) under any other applicable law.	Identical provision.
(l) CONFLICT WITH OTHER LAWS.—In the case of a conflict between the provisions of this section and <u>other law</u> , the more restrictive provisions shall apply.	(j) APPLICABILITY OF OTHER LAND MANAGEMENT DESIGNATIONS.—Nothing in this section affects— (1) <u>any other land or water management designation</u> under any other provision of law; or (2) any obligation to comply with a requirement applicable to such a designation.	In the case of conflict, Wyden-Blumenauer would have the law with the most restrictive provision to apply. Wyden-Bishop narrows the “other law” to just “other land or water management designation[s].”
(m) NATIVE AMERICAN TREATY RIGHTS.—Nothing in this section alters, modifies, enlarges, diminishes, or abrogates the treaty rights of any Indian tribe, including any off-reservation reserved rights.	(k) NATIVE AMERICAN TREATY RIGHTS.—Nothing in this section alters, modifies, enlarges, diminishes, or abrogates the treaty rights of any Indian tribe, including any off-reservation reserved rights.	Identical provision.
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