

108TH CONGRESS  
1ST SESSION

# H. R. 1204

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## AN ACT

To amend the National Wildlife Refuge System Administration Act of 1966 to establish requirements for the award of concessions in the National Wildlife Refuge System, to provide for maintenance and repair of properties located in the System by concessionaires authorized to use such properties, and for other purposes.



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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. LEASES, PERMITS, AND CONTRACTS FOR**  
4                       **BUILDINGS, FACILITIES, AND PROPERTIES IN**  
5                       **THE NATIONAL WILDLIFE REFUGE SYSTEM.**

6       (a) IN GENERAL.—The National Wildlife Refuge  
7       System Administration Act of 1966 (16 U.S.C. 668dd et  
8       seq.) is amended by—

9               (1) striking section 6 (relating to amendments  
10       to other laws, which have executed);

11              (2) redesignating section 5 (16 U.S.C. 668ee)  
12       as section 6; and

13              (3) inserting after section 4 the following:

14       **“SEC. 5. CONCESSION CONTRACTS.**

15       “(a) CONTRACT REQUIREMENT.—(1) The Secretary  
16       shall not authorize a person to use any land or water in  
17       the System for any activity described in subsection (b),  
18       except under a contract that complies with the require-  
19       ments established under subsection (c).

20       “(2) The Secretary may not award a contract re-  
21       quired under this subsection except under a competitive  
22       bidding process.

23       “(3) This subsection does not apply with respect to  
24       any administrative site, visitors facility, or revenue pro-  
25       ducing visitor service mandated or authorized pursuant to

1 section 1306 or 1307 of the Alaska National Interest  
2 Lands Conservation Act (16 U.S.C. 3196, 3197).

3 “(b) COVERED CONCESSION ACTIVITIES.—(1) The  
4 activity referred to in subsection (a) is any commercial ac-  
5 tivity conducted to provide accommodations, facilities, or  
6 services to members of the public who are visiting lands  
7 or waters in the System, for the purpose of providing such  
8 visitors recreational, educational, or interpretive enjoy-  
9 ment of lands or waters in the System.

10 “(2) Such activity does not include—

11 “(A) any activity carried out under a procure-  
12 ment contract, grant agreement, memorandum of  
13 understanding, or cooperative agreements;

14 “(B) the performance of volunteer services;

15 “(C) any activity by a governmental entity;

16 “(D) the operation of a bookstore in a refuge  
17 facility by a national wildlife refuge Friends organi-  
18 zation; and

19 “(E) the performance of any guide or outfitter  
20 services authorized by any permit or other author-  
21 ization issued by the Secretary, including services re-  
22 lated to fishing, hunting, boating, sightseeing, hik-  
23 ing, or camping, except that this subparagraph does  
24 not include the construction, maintenance, or occu-  
25 pancy of significant structures or facilities.

1       “(c) STANDARDIZED CONTRACT.—(1) The Secretary,  
2 acting through the Director, shall issue regulations that  
3 implement this section.

4       “(2) Regulations under this subsection shall author-  
5 ize a contract to use a provision other than those specified,  
6 by the Secretary as part of a standardized contract only  
7 if—

8               “(A) the provision addresses extenuating cir-  
9 cumstances that are specific to a refuge or the con-  
10 tract; and

11              “(B) the provision is approved by the Secretary  
12 in writing.

13       “(3) The Secretary shall require in each contract pro-  
14 visions that require that any activity conducted in the Sys-  
15 tem under the contract—

16              “(A) must be a compatible use; and

17              “(B) must be designed to—

18                      “(i) conserve the natural and cultural re-  
19 sources of the System;

20                      “(ii) facilitate the enjoyment of the lands  
21 and waters of the System by visitors to the Sys-  
22 tem; and

23                      “(iii) enhance such visitors’ knowledge of  
24 the natural resources of the System.

1       “(d) MAINTENANCE AND REPAIR.—(1) Notwith-  
2 standing any other provision of law, the Secretary shall  
3 include, in each contract that authorizes a person to use  
4 any land or water in the System for any activity described  
5 in subsection (b), provisions that—

6               “(A) authorize the person to maintain or repair  
7 any improvement on or in such land or water that  
8 the person is authorized to use for such activity; and

9               “(B) treat costs incurred by the person for such  
10 maintenance or repair as consideration otherwise re-  
11 quired to be paid to the United States for such use.

12       “(2) This subsection does not authorize any mainte-  
13 nance or repair that is not directly related to an activity  
14 described in subsection (b) that is authorized by the con-  
15 tract.

16       “(3) The United States shall retain title to all real  
17 property that is maintained or repaired under this sub-  
18 section.

19       “(e) NO COMPENSABLE INTEREST.—Nothing in this  
20 Act shall be considered to convey to any person any right  
21 to compensation for—

22               “(1) the value of any maintenance activities, re-  
23 pairs, construction, or improvements on or in land  
24 or water in the System; or

1           “(2) buildings, facilities, fixtures, and non-mov-  
2           able equipment that the person is authorized to use  
3           under this Act.

4           “(f) EXPENDITURE OF FEES AND OTHER PAY-  
5           MENTS.—(1) Amounts received by the United States as  
6           fees or other payments required under any agreement,  
7           lease, permit, or contract for use of real property located  
8           in an area in the System, other than lands withdrawn for  
9           Native selection pursuant to the Alaska Native Claims Set-  
10          tlement Act (43 U.S.C. 1601 et seq.) shall be available  
11          to the Secretary for expenditure in accordance with this  
12          subsection, without further appropriation.

13          “(2) Amounts available for expenditure under this  
14          subsection may only be used—

15               “(A) at the refuge or refuge complex with re-  
16               spect to which the amounts were received as fees or  
17               other payments;

18               “(B) to increase the quality of the visitor expe-  
19               rience; and

20               “(C) for purposes of—

21                       “(i) backlogged repair and maintenance  
22                       projects (including projects relating to health  
23                       and safety);

24                       “(ii) interpretation, signage, habitat, or fa-  
25                       cility enhancement; or



1           “(iii) administration of agreements, leases,  
2           permits, and contracts from which such  
3           amounts are derived.

4           “(3) Paragraph (1) shall not affect the application  
5 of the Act of June 15, 1935 (chapter 261; 16 U.S.C.  
6 715s), commonly referred to as the Refuge Revenue Shar-  
7 ing Act, to amounts referred to in paragraph (1) that are  
8 not expended by the Secretary under paragraph (1).”.

9           (b) APPLICATION.—Section 5(a) of the National  
10 Wildlife Refuge System Administration Act of 1966, as  
11 amended by this section, shall apply only with respect to  
12 a concession that is—

13           (1) first awarded after the date of the publica-  
14 tion of regulations under section 5(c) of the National  
15 Wildlife Refuge System Administration Act of 1966,  
16 as amended by this section; or

17           (2) renewed after the end of the 3-year period  
18 beginning on the date of the enactment of this Act.

19           (c) DEADLINE FOR REGULATIONS ESTABLISHING  
20 PROGRAM REQUIREMENTS.—The Secretary of the Inte-  
21 rior shall issue regulations under section 5(c) of the Na-  
22 tional Wildlife Refuge System Administration Act of 1966,  
23 as amended by this section, by not later than 18 months  
24 after the date of the enactment of this Act.

1 (d) COMPREHENSIVE CONSERVATION PLAN RE-  
2 QUIREMENT.—Section 4(e) of the National Wildlife Ref-  
3 uge System Administration Act of 1966 (16 U.S.C.  
4 668dd) is amended by adding at the end the following:

5 “(5) The Secretary shall include, in the comprehen-  
6 sive conservation plan for each refuge under this sub-  
7 section, a description of the activities that may be con-  
8 ducted in the refuge, and the lands, waters, and facilities  
9 of the refuge that may be used, under concession contracts  
10 awarded under section 5(a).”.

11 (e) PRIOR AMENDMENTS NOT AFFECTED.—Nothing  
12 in this section shall be construed to affect any amendment  
13 made by section 6 of the National Wildlife Refuge System  
14 Administration Act of 1966, as in effect before the enact-  
15 ment of this Act, or any provision of law amended by such  
16 section.

17 **SEC. 2. ANNUAL REPORT ON NATIONAL WILDLIFE REFUGE**  
18 **CONCESSIONS.**

19 (a) REPORTING REQUIREMENT.—The National Wild-  
20 life Refuge System Administration Act of 1966 (16 U.S.C.  
21 668dd et seq.) is further amended by amending section  
22 7 (relating to amendments to another law, which have exe-  
23 cuted) to read as follows:

1   **“SEC. 7. ANNUAL REPORT ON CONCESSION ACTIVITIES IN**  
2                   **THE SYSTEM.**

3           “(a) IN GENERAL.—The Secretary shall submit by  
4 December 31 each year, to the Committee on Resources  
5 of the House of Representatives and the Committee on  
6 Environment and Public Works of the Senate, a report  
7 on concessions activities conducted in the System.

8           “(b) CONTENTS.—Each report under this section  
9 shall describe the following with respect to the period cov-  
10 ered by the report:

11               “(1) The number of refuge units in which con-  
12 cessions activities were conducted.

13               “(2) The names and descriptions of services of-  
14 fered in the System by each concessionaire.

15               “(3) A listing of the different types of legal ar-  
16 rangements under which concessionaires operated in  
17 the System, including contracts, memoranda of un-  
18 derstanding, permits, letters of agreement, and other  
19 arrangements.

20               “(4) Amounts of fees or other payments re-  
21 ceived by the United States with respect to such ac-  
22 tivities from each concessionaire, and the portion of  
23 such funds expended for purposes under this Act.

24               “(5) An accounting of the amount of monies  
25 deposited into the fund established by section 401 of  
26 the Act of June 15, 1935 (chapter 261; 16 U.S.C.

1       715s), popularly known as the refuge revenue shar-  
2       ing fund, and of the balance remaining in the fund  
3       at the end of the reporting period.

4           “(6) A listing of all concession contracts and  
5       other arrangements that were terminated or not re-  
6       newed within the reporting period.

7           “(7) A summary of all improvements in visitor  
8       services in the System that were completed by con-  
9       cessionaires and volunteers during the reporting pe-  
10      riod.

11          “(8) A summary of all backlogged repair and  
12      maintenance, facility enhancement, and resource  
13      preservation projects completed by concessionaires  
14      and volunteers during the reporting period.”.

15      (b) DEADLINE FOR FIRST REPORT.—The Secretary  
16 of the Interior shall submit the first report under the  
17 amendment made by subsection (a) by not later than 1  
18 year after the date of the enactment of this Act.

Passed the House of Representatives November 18,  
2003.

Attest:

*Clerk.*