

3. Section 1822.103-5 is added to read as follows:

1822.103-5 Contract clauses. (NASA supplements paragraph (a))

(a) See 1822.101-1(e).

[FR Doc. 99-7205 Filed 3-23-99; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 25 and 36

RIN 1018-AE21

Regulations for Administrative and Visitor Facility Sites on National Wildlife Refuges in Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule amends current regulations and provides us with proper authority to enforce regulations concerning public safety, protection of government property, and applicable State of Alaska fish and wildlife regulations on administrative and visitor facility sites commonly located outside the approved boundaries of national wildlife refuges in Alaska.

DATES: This rule is effective April 23, 1999.

ADDRESSES: U.S. Fish and Wildlife Service, Attention: George Constantino, 1011 E. Tudor Road, Anchorage, Alaska 99503.

FOR FURTHER INFORMATION CONTACT: George Constantino; telephone (907) 786-3557.

SUPPLEMENTARY INFORMATION:

Background

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee) as amended and Section 1306 of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA) (16 U.S.C. 3196) authorize the Secretary of the Interior to establish administrative sites and visitor facilities outside the boundaries of, and in the vicinity of, refuge units and to prescribe regulations governing use of such acquired lands.

We originally published the current regulations governing use on units of the National Wildlife Refuge System in Alaska, codified at 50 CFR part 36, in the **Federal Register** on June 17, 1981 (46 FR 31827, as corrected at 46 FR 40194, August 7, 1981), and amended them in 1986 (51 FR 44793, December 12, 1986). The existing regulations in

part 36 are applicable only on federally-owned lands within the approved boundaries of Alaska National Wildlife Refuges. We currently have administrative and visitor facility sites that are both inside and outside the approved boundaries of refuges, some of which are held in less than fee title. Examples of visitor facility sites include Alaska Maritime Refuge's Visitor Center and Headquarters Complex (fee title land) in Homer; Tetlin Refuge's two campgrounds (leased from the State of Alaska) near Northway; and Kenai Refuge's "Sportsmen's Lodge" access and parking area (leased from the State of Alaska and Memorandum of Understanding with the U.S. Forest Service) on the Kenai River at the Russian River confluence near Cooper Landing. Refuge officers currently do not have full authority to enforce applicable Federal and State regulations at visitor facility locations such as those noted above and other administrative sites, including refuge staff offices and residences. The primary purpose of these regulations is to provide us with the proper regulatory authority to enforce regulations concerning public safety, protection of United States government property, and State of Alaska fish and resident wildlife statutes on administrative and visitor facility sites of national wildlife refuges in Alaska.

Analysis of Public Comments and Changes Made to the Proposed Rule

We received two written comments on the proposed rule; one from the general public and one from the State of Alaska's Division of Governmental Coordination (Division). The comment from the member of the general public opposed the regulations and stated that we "should not have the ability to enforce State Fish and Game regulations anywhere and existing authority, if any, should be curtailed not increased." The Division's comments requested that we not promulgate these regulations as they are unnecessary. Their opposition focused primarily on the fact that the Service and the Alaska Department of Public Safety were currently in the process of renegotiating a Memorandum of Agreement for cooperative law enforcement. The draft agreement provided a delegation of State authority to specified Service refuge officers to enforce State criminal, motor vehicle, and public safety laws and regulations on lands leased or owned by us, or in situations involving an immediate threat to public safety. The Division contended that the completed Memorandum of Agreement would resolve our gap in

authority without expanding the Federal regulatory presence on these lands.

Both parties have now signed the final Memorandum of Agreement. The agreement does partially address our needs by including a provision which allows delegation of refuge officers as State authorities for the conservation of wildlife and natural resources as well as for public safety. However, according to the agreement, only refuge officers "whose principal duty is the enforcement of conservation laws . . ." receive delegated State authority. The State delegation of authority greatly expands a refuge officer's authority on all lands within the boundary of the State of Alaska. Both parties understood while developing the agreement that only a very limited number of refuge officers would receive State authority, and the State would approve individuals on a case-by-case basis. It was not the intent of the agreement to grant State cross-deputization with an associated broad expansion of authorities to all refuge officers in order to resolve our need for a limited expansion of authority for refuge officers at refuge administrative and visitor facility sites.

The State also had concerns whether the scope of the regulations would include access areas such as Alaska Native Claims Settlement Act (ANCSA) 17(b) easements or would affect the Alaska National Interest Lands Conservation Act (ANILCA) Title VIII subsistence issues.

After considering the foregoing comments, we need this regulation to provide all refuge officers with the proper authority to enforce regulations concerning public safety, protection of government property, and applicable State of Alaska fish and wildlife regulations on refuge administrative and visitor facility sites. In response to the State's concerns, we have amended the language to clarify that the scope of the regulation does not include ANCSA 17(b) easements. The regulation does not affect ANILCA Title VIII issues.

Required Determinations

Regulatory Planning and Review (E.O. 12866)

This document is not a significant rule subject to Office of Management and Budget review under Executive Order 12866.

1. This rule will not have an effect of \$100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

This action is of an administrative nature only, and places no new economic or regulatory burden on the visiting public.

2. This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. See explanation under Regulatory Flexibility Act.

3. This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. See explanation under Regulatory Flexibility Act.

4. This rule does not raise novel legal or policy issues. See explanation under Regulatory Flexibility Act.

Regulatory Flexibility Act

The primary purpose of these revised regulations is to provide us with the proper regulatory authority to enforce regulations concerning public safety, protection of United States government property, and State of Alaska fish and resident wildlife statutes on fewer than ten administrative and visitor facility sites located both inside and outside the National Wildlife Refuges System in Alaska. Examples of these sites include Alaska Maritime Refuge's Visitor Center and Headquarters Complex (fee title land) in Homer, Tetlin Refuge's two campgrounds (leased from the State of Alaska) near Northway, and Kenai Refuge's "Sportsmen's Lodge" access and parking area (leased from the State of Alaska and memorandum of understanding with the U.S. Forest Service) on the Kenai River at the Russian River confluence near Cooper Landing. This action is of an administrative nature only, and places no new economic or regulatory burden on the visiting public.

We certify that this document will not have a significant economic effect on a substantial number of small entities such as businesses, organizations and governmental jurisdictions in the area under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 et seq., Pub. L. 104-4, E.O. 12875)

This rulemaking does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. See explanation under Regulatory Flexibility Act determination. A statement containing the information required by the Unfunded Mandates

Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (E.O. 12630)

In accordance with Executive Order 12630, this rule does not have significant takings implications. See explanation under Regulatory Flexibility Act determination.

Federalism (E.O. 12612)

In accordance with Executive Order 12612, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. It will not have substantial direct effects on the States, in their relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government.

Civil Justice Reform (E.O. 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This regulation does not require an information collection from ten or more parties and a submission under the Paperwork Reduction Act of 1995 is not required.

Section 7 Consultation

We reviewed this rule with regard to Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531-1543) and find the action is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species within the System since the rule is administrative, financial, legal, technical or procedural in nature and/or makes minor modifications to existing public use programs.

National Environmental Policy Act

We ensure compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(C)) when developing refuge public use management plans, and we make determinations required by NEPA before the addition of refuges to the lists of areas open to public uses in 50 CFR part 32. The minor revisions to regulations as outlined in this document amend current regulations to provide us with the proper authority to enforce regulations concerning public safety, protection of government property, and applicable State of Alaska fish and wildlife regulations on administrative

and visitor facility sites commonly located outside the approved boundaries of national wildlife refuges in Alaska. In accordance with 516 DM 2, Appendix 1, we have determined that this rule is categorically excluded from the National Environmental Policy Act (NEPA) process because it is limited to "policies, directives, regulations and guidelines of an administrative, financial, legal, technical or procedural nature." 516 DM 2, Appendix 1, Sec. 1.10. These regulations simply qualify or otherwise define methods we may or may not use, for purposes of resource management.

Individual refuge headquarters retain information regarding public use programs and the conditions that apply to their specific programs, and maps of their respective areas. You may also obtain information from the regional office at the address listed below:

Region 7—Alaska. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1011 E. Tudor Rd., Anchorage, Alaska 99503; Telephone (907) 786-3557.

Primary Author

George Constantino, Chief, Division of Refuges, U.S. Fish and Wildlife Service, Alaska Region.

List of Subjects

50 CFR Part 25

Administrative practice and procedure, Concessions, Reporting and recordkeeping requirements, Safety, Wildlife refuges.

50 CFR Part 36

Alaska, Recreation and recreation areas, Reporting and recordkeeping requirements, Wildlife refuges.

For the reasons set forth in the preamble, we amend parts 25 and 36 of Chapter I of Title 50 of the *Code of Federal Regulations* as follows:

PART 25—[AMENDED]

1. The authority citation for part 25 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, 715i, 3901 *et seq.*; and 102-402, 106 Stat. 1961.

2. We amend § 25.12 by revising the section heading and by adding the definition for "Service" in alphabetical order to read as follows:

§ 25.12 What do these terms mean?

* * * * *

Service or *we* means U.S. Fish and Wildlife Service, Department of the Interior.

* * * * *

PART 36—[AMENDED]

3. We revise the authority citation for part 36 to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460(k) *et seq.*, 668dd–668ee, as amended, 742(a) *et seq.*, 3101 *et seq.*; and 44 U.S.C. 3501 *et seq.*

4. Amend § 36.1 by revising the section heading, by revising paragraph (b), and by adding paragraph (c) to read as follows:

§ 36.1 How do the regulations in this part apply to me and what do they cover?

* * * * *

(b) Except as provided in paragraph (c) of this section, the regulations contained in this part are applicable only on federally-owned lands within the boundaries of any Alaska National Wildlife Refuge. For purposes of this part, “federally-owned lands” means land interests held or retained by the United States, but does not include those land interests:

(1) Tentatively approved, legislatively conveyed, or patented to the State of Alaska; or

(2) Interim conveyed or patented to a Native Corporation or person.

(c) The regulations found in 50 CFR, parts 25, 26, 27, and 28, and §§ 32.2(d) and 32.5(c), except as supplemented or modified by this part or amended by ANILCA, along with the regulations found in 50 CFR 36.35(d), also are applicable to administrative and visitor facility sites of the Fish and Wildlife Service in Alaska which we may hold in fee or less than fee title and are either inside or outside the approved boundaries of any Alaska National Wildlife Refuge. Less than fee title lands do not include easements under Section 17(b) of the Alaska Native Claims Settlement Act (85 Stat. 688), but although not limited to, they include sites administered by a national wildlife refuge under the terms of a memorandum of understanding or lease agreement.

5. Amend § 36.2 by revising the section heading, by removing paragraph designations (a) through (o), placing existing definitions in alphabetical order, and by adding a new definition in alphabetical order to read as follows:

§ 36.2 What do these terms mean?

* * * * *

Administrative and visitor facility sites means any facility or site administered by the U.S. Fish and Wildlife Service for public entry or other administrative purposes including, but not limited to, refuge staff offices, visitor centers, public access and parking sites, and campgrounds.

* * * * *

6. Amend § 36.33(a) by revising the section heading, and by removing paragraph designations (a)(1) through (a)(11), and placing existing definitions in alphabetical order, to read as follows:

§ 36.33 What do I need to know about using cabins and related structures on Alaska National Wildlife Refuges?

* * * * *

Dated: December 7, 1998.

Donald J. Barry,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 99–6942 Filed 3–23–99; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 36

RIN 1018–AE58

Seasonal Closure of the Moose Range Meadows Public Access Easements in the Kenai National Wildlife Refuge

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We restrict public access and use of the public easements in the Moose Range Meadows area within the boundary of the Kenai National Wildlife Refuge (Refuge). This seasonal closure is necessary to prevent incompatible levels of bank degradation that occur along the easements due to intensive bank angling during the sockeye (red) salmon fishery each summer. We will prohibit public access and use on our managed easements from July 1 through August 15 annually.

DATES: This rule is effective April 23, 1999.

FOR FURTHER INFORMATION CONTACT: Robin West, Refuge Manager, Kenai National Wildlife Refuge, telephone: (907) 262–7021; or Bob Stevens, Public Involvement Specialist, telephone: (907) 786–3499.

SUPPLEMENTARY INFORMATION:

Background

This seasonal closure is necessary to prevent incompatible levels of bank degradation that occur along the easements due to intensive bank angling during the sockeye (red) salmon fishery each summer. Concentrated bank angling along the easements has led to unacceptable levels of vegetation destruction and accelerated erosion of the riverbank. Healthy riverbank habitats are important in maintaining the Kenai River's famous anadromous

and resident fish populations and in meeting the primary purpose of the Refuge.

We manage two public use easements on the banks of the Kenai River within lands conveyed to the Salamatof Native Association, Inc. We reserved the easements under terms of the August 17, 1979, stipulated settlement agreement between the United States, Cook Inlet Region Inc., and Salamatof Native Association Inc. We reserved the subject easements “. . . for the public at large to walk upon or along such banks, to fish from such banks or to launch or beach a boat upon such banks . . .” We also reserved two access easements from existing roadways to the river bank easements under the same agreement and limited use of the two access easements to foot travel or wheelchairs.

The level of foot traffic and use on the river bank easements has increased dramatically since the mid-1980's. The development and growth of the sockeye salmon sport fishery is the principal activity which has lead to this high level of public use. In recent years, use has grown to the point where impacts to the vegetated banks of the Kenai River are readily apparent.

Discussions and meetings among our staff, landowners, users, and other State and Federal managing agencies on how to deal with increasing use of the easements have been ongoing since the late 1980's. In 1995, the Kenai National Wildlife Refuge Manager (Refuge Manager) issued an emergency closure of portions of the public access easements pursuant to the authorities granted in 50 CFR 36.42. In issuing the emergency closure, the Refuge Manager determined that the human-caused bank degradation occurring as a result of the intensive bank angling effort was incompatible with the Refuge's purpose to, “. . . conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, moose, bears, mountain goats, Dall sheep, wolves and other furbearers, salmonids and other fish, waterfowl and other migratory and nonmigratory birds”. [Alaska National Interest Lands Conservation Act (ANILCA), 16 U.S.C. 140hh–3233, 43 U.S.C. 1602–1784]. By regulation, we limited this emergency action to 30 days in duration.

Following the closure in 1995, the Refuge Manager prepared an environmental assessment (EA), with full public involvement, to analyze the management alternatives for the Moose Range Meadows access easements (obtain copies of the EA from the Refuge Manager). Through the EA process, we selected a management alternative that would permanently close the easements