

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?

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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

on a seasonal basis. We instituted a temporary closure during the peak use season of 1996 pursuant to 50 CFR 36.42 as an interim management measure. This rulemaking action is a necessary part of implementing the preferred alternative to make permanent the seasonal use closure.

In the March 18, 1998, issue of the **Federal Register** (63 FR 13158–13161) we published a proposed rulemaking and invited public comment on these regulations and received no public comments during the 60-day comment period.

The seasonal closure will be in effect on the 25-foot wide streamside easements on both banks of the Kenai River, and on the 25-foot wide access easements running from Funny River Road and Keystone Drive to the downstream ends of the stream side easements on the south and north banks of the River, respectively. This closure will affect approximately three miles of stream side easements (two miles on the north bank and one mile on the south bank) and an additional one mile of access easements. T. 4 N.; R. 10 W.; Sections 1, 2, and 3; and Seward Meridian contains lands affected by this action. Maps of the affected area are available from the Refuge Manager.

Statutory Authority

The National Wildlife Refuge System Administration Act (NWRSA) of 1966, (16 U.S.C. 668dd–668ee), and the Refuge Recreation Act (RRA) of 1962, (16 U.S.C. 460k–460k–4) govern the administration and public use of national wildlife refuges.

The National Wildlife Refuge System Improvement Act of 1997 (Pub.L. 105–57) is the latest amendment to the NWRSA. It amends and builds upon the NWRSA in a manner that provides an improved “Organic Act” for the Refuge System similar to those which exist for other public lands. It serves to ensure that we effectively manage the System as a national system of lands, waters and interests for the protection and conservation of our nation’s wildlife resources. The NWRSA states first and foremost that the mission of the System focus on conservation of fish, wildlife, and plant resources and their habitat. This Act prevents the Secretary from initiating or permitting a new use of a refuge or expanding, renewing, or extending an existing use of a refuge, unless the Secretary has determined that the use is a compatible use and that the use is not inconsistent with public safety.

The RRA authorizes the Secretary to administer areas within the System for public recreation as an appropriate

incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary purpose(s) for which we established the areas. This Act requires that any recreational use of refuge lands be compatible with the primary purposes for which we established the refuge and not inconsistent with other previously-authorized operations.

The Alaska National Interest Lands Conservation Act of 1980, (16 U.S.C. 140hh–3233), (43 U.S.C. 1602–1784) (ANILCA), requires that we administer national wildlife refuges in Alaska in accordance with the laws governing the administration of the System. Section 304 of ANILCA adopted the compatibility standard of the Refuge Administration Act for Alaska refuges. When determining appropriate public uses of Alaska refuges, the refuge manager must find the use or uses compatible.

The NWRSA establishes the same standard of compatibility for Alaska refuges as for other national wildlife refuges, but it specifically requires that ANILCA take precedence if any conflict arises between the two laws. Additionally, the provisions of ANILCA are the primary guidance refuge managers should use when examining compatibility issues regarding subsistence use. We may alter the compatibility process in some cases for Alaska refuges to include additional procedural steps such as when reviewing applications for oil and gas leasing on non-North-Slope lands (ANILCA Sec. 1008) and for applications for transportation or utility corridors (ANILCA Sec. 1104).

Section 22(g) of the Alaska Native Claims Settlement Act provides that patents issued for the land within the boundaries of a refuge existing on December 18, 1971, the date of Act signing, are subject to laws and regulations governing the use and development of such refuges. This includes application of the compatibility standard before uses or development may occur on the land.

Alaska refuges established before the passage of ANILCA have two sets of purposes. Purposes for pre-ANILCA refuges (in effect on the day before the enactment of ANILCA) remain in force and effect, except to the extent that they may be inconsistent with ANILCA or the Alaska Native Claims Settlement Act, in which case the provisions of those Acts apply. However, the original purposes apply only to those portions of the refuge established by executive order or public land order, and not to those portions of the refuge added by ANILCA.

The NWRSA, and the RRA, also authorize the Secretary to issue regulations to carry out the purposes of the Acts and regulate uses.

This rule regulates public use of our managed easements in a manner that is compatible with Refuge purposes as defined in section 303(4)(B) of ANILCA. We further determined that this action is in accordance with the provisions of all applicable laws, is consistent with principles of sound fish and wildlife management, helps implement Executive Orders 12996 (Management and Public Use of the National Wildlife Refuge System) and 12962 (Recreational Fisheries) and is otherwise in the public interest by regulating recreational opportunities at national wildlife refuges. Sufficient funds will be available within the refuge budgets to operate the hunting and sport fishing programs.

Summary of Public Involvement

The public frequently has focused on the local area where land interests are centered. On February 20, 1996 we conducted a workshop-style public meeting in Soldotna, Alaska. Thirty people attended the discussions; an additional 15 provided written views. We incorporated the information received into an environmental assessment and mailed the EA to those meeting participants requesting a copy. Fourteen persons responded to the assessment with written comments which we considered in the preparation of the decision document. Eleven of those 14 persons writing had property interests affected by the proposed closure.

We published the resulting proposed rule in the **Federal Register** on March 18, 1998 (63 FR 13158), with a 60-day comment period, and on March 19, 1998 held a public meeting attended by approximately fifty people in Soldotna. Two attendees provided testimony in opposition to the closure because we were terminating their customary fishing access. We received no specific recommendations for changing the proposed rule nor did we receive written responses to the proposed rule during the 60-day public review.

In adopting the President’s “plain language” mandate, we have revised “(7) Other Public Uses” to incorporate plain language changes without modifying the substance of the previous restrictions. We included the substantive changes discussed in this preamble in this effort.

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. See explanation under Regulatory Flexibility Act.

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. See explanation under Regulatory Flexibility Act.

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

This rulemaking will not have a significant economic impact on a substantial number of small entities by decreasing visitation and expenditures in the surrounding area of Kenai NWR. This is not a fishing closure and the same number of anglers will continue to fish the Kenai River. They will simply access the river in a different location.

Since the first emergency closure in 1995, public use has continued to increase. Many of these people are local or own summer homes along the river. They will continue to pay for fishing licenses, magazines, membership dues, contributions, land leasing, ownership, stamps, tags, permits, and tackle.

We calculated economic impacts of refuge fishing programs on local communities from average expenditures in the 1996 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation. In 1996, 35.2 million U.S. residents 16 years old and older enjoyed a variety of fishing opportunities throughout the United States. Anglers fished 626 million days and took 507 million fishing trips. They spent almost \$38 billion on fishing-related expenses during the year. Among the 29.7 million freshwater anglers, including those who fished in the Great Lakes, but not Alaska, 515 million days were spent and 420 million trips were taken freshwater fishing. Freshwater anglers spent \$24.5 billion on freshwater fishing trips and equipment.

Saltwater fishing attracted 9.4 million anglers who enjoyed 87 million trips on 103 million days. They spent \$8.1 billion on their trips and equipment. Trip-related expenditures for food, lodging, and transportation were \$15.4 billion; equipment expenditures amounted to \$19.2 billion; other expenditures such as those for magazines, membership dues, contributions, land leasing, ownership, licenses, stamps, tags, and permits accounted for \$3.2 billion, or 19.2 percent of all expenditures. Overall, anglers spent an average of \$41 per day in the lower 48 states and projecting a 25 percent cost of living increase for Alaska, spent an average of \$51 per day in Alaska.

Five hundred angler-days, based on past creel surveys in the closure areas, will continue to have the same economic impact (\$51./angler-day) on local economies because these anglers that used the closure area will continue to purchase supplies, food or lodging in the area of the refuge, during the time of the closure resulting in a continuation of \$25,500 to the local economy.

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 of 1980 (5 U.S.C. 601 *et seq.*).

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. See explanation under Regulatory Flexibility Act.

Unfunded Mandates Reform Act

This rule 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, the rule does not have significant takings implications. We have determined that the rule has no potential takings of private property implications as defined by Executive

Order 12630. See explanation under Regulatory Flexibility Act analysis.

Federalism (E.O. 12612)

In accordance with Executive Order 12612, the 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

We have examined this regulation under the Paperwork Reduction Act of 1995 and found it to contain no new information collection requirements for which OMB approval is required. We have not changed the information relating to permits, and you may find it in § 36.3 with OMB approval number 1018-0014.

National Environmental Policy Act

The rule does not constitute a major Federal action significantly affecting the quality of the human environment. We complied with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(C)) by completing an environmental assessment following the emergency fishing closure in 1995. On May 9, 1996, we signed a Decision Notice and Finding of No Significant Impact. You may obtain copies of the EA from the Kenai National Wildlife Refuge, P.O. Box 2139, Soldotna, Alaska 99669; telephone: (907) 262-7021. NEPA requires no further documentation.

Section 7 Consultation (16 U.S.C. 1531 et seq., 50 CFR 402)

We reviewed the opening package documents for the seasonal closure of the Moose Range Meadows public access easements in the Kenai National Wildlife Refuge with regards to Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531-1543). There are no known listed or candidate species present in this area of the refuge. We find the action as presented will not jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species.

Primary Author

Mark Chase, Deputy Refuge Manager of the Kenai National Wildlife Refuge, is the primary author of this rulemaking document.

List of Subjects in 50 CFR Part 36

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

Accordingly, we amend part 36 of chapter I of title 50 of the Code of Federal Regulations as follows:

PART 36—[AMENDED]

1. The authority citation for part 36 continues to read as follows:

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

2. Revise § 36.39 (i)(7) to read as follows:

§ 36.39 Public use.

* * * * *

(i) * * *

(7) *What do I need to know about other public uses on Kenai National Wildlife Refuge?* (i) *What are the camping restrictions?* We allow camping subject to the following restrictions:

(A) Camping may not exceed 14 days in any 30-day period anywhere on the refuge.

(B) Campers may not spend more than two consecutive days at the Kenai-Russian River access area, more than seven consecutive days at Hidden Lake Campground, or more than seven consecutive days in refuge shelters.

(C) Within developed campgrounds, camp only in designated areas and use open fires only in portable, self-contained, metal fire grills, or fire grates provided by us.

(D) Do not camp within ¼ mile of the Sterling Highway, Ski Hill, or Skilak Loop roads except in designated campgrounds.

(E) Campers may cut only dead and down timber for campfire use.

(F) Pets must be on a leash no longer than nine feet in developed campgrounds.

(ii) *May I cut and remove timber?* You may remove timber, including the cutting of firewood for home use, only if you have obtained a special use permit from the Refuge Manager.

(iii) *May I leave personal property on the refuge?* Yes, however, if you leave personal property unattended for longer than 72 hours outside of a designated area, obtain a special use permit from the Refuge Manager.

(iv) *If I find research marking devices, what do I do?* Turn in all radio

transmitters, neck and leg bands, ear tags, or other research marking devices recovered from wildlife to the Refuge Manager or the Alaska Department of Fish and Game within five days after recovery.

(v) *May I use non-motorized wheeled vehicles on the refuge?* Yes, but only on refuge roads designated and open for public vehicular access.

(vi) *May I use motorized equipment on the refuge?* You may not use motorized equipment, including but not limited to chainsaws, generators, and auxiliary power units, within the Kenai Wilderness, except snowmobiles, airplanes and motorboats in designated areas.

(vii) *Must I register to canoe on the refuge?* Only canoeists on the Swanson River and Swan Lake Canoe Routes must register at entrance points. Maximum group size is 15 persons.

(viii) *Are any areas of the refuge closed to public use?* (A) We close rock outcrop islands in Skilak Lake used by nesting cormorants and gulls and the adjacent waters within 100 yards to public entry and use from March 15 to September 30. You may obtain maps showing these areas from the Refuge Manager.

(B) From July 1 to August 15 the public may not use or access any portion of the 25-foot wide public easements along both banks of the Kenai River within the Moose Range Meadows area; or along the Homer Electric Association Right-of-Way from Funny River Road and Keystone Drive to the downstream limits of the streamside easements. You may obtain maps showing these closed areas from the Refuge Manager by referring to Sections 1, 2, and 3 of Township 4 North, Range 10 West, Seward Meridian.

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Dated: January 24, 1999.

Donald J. Barry,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 99–6943 Filed 3–23–99; 8:45 am]

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 678**

[I.D. 031899B]

Atlantic Shark Fisheries; Large Coastal Shark Species

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the commercial fishery for large coastal sharks conducted by persons aboard vessels issued a Federal Atlantic shark permit in the Western North Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea. This action is necessary to ensure that the semiannual quota of 642 metric tons (mt) for the period January 1 through June 30, 1999, is not exceeded.

DATES: The closure is effective from 11:30 p.m. local time March 31, 1999, through June 30, 1999.

FOR FURTHER INFORMATION CONTACT: Margo Schulze or Karyl Brewster-Geisz, 301–713–2347; fax 301–713–1917.

SUPPLEMENTARY INFORMATION: The Atlantic shark fishery is managed under the Fishery Management Plan for Sharks of the Atlantic Ocean and its implementing regulations found at 50 CFR part 678 issued under authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

Section 678.24(b) of the regulations provides for two semiannual quotas of large coastal sharks to be harvested from Atlantic, Caribbean, and Gulf of Mexico waters by commercial fishers. The first semiannual quota of 642 mt is available for harvest from January 1 through June 30, 1999.

The Assistant Administrator for Fisheries, NOAA (AA), is required under § 678.25 to monitor the catch and landing statistics and, on the basis of these statistics, to determine when the catch of Atlantic, Caribbean, and Gulf of Mexico sharks will equal any quota under § 678.24(b). When shark harvests reach, or are projected to reach, a quota established under § 678.24(b), the AA is further required under § 678.25 to close the fishery.

Preliminary information indicates that approximately 71 percent of the available quota for large coastal sharks had been landed as of February 28, 1999. Accordingly, the AA has determined, based on the reported catch and other relevant factors, that the semiannual quota for the period January 1 through June 30, 1999, for large coastal sharks in or from the Western North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, will be attained as of March 31, 1999. During the closure, retention of large coastal sharks is prohibited for persons fishing aboard vessels issued a permit under § 678.4, unless the vessel is operating as a charter vessel or headboat, in which