

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 36**

RIN 1018-AC02

Visitor Service Authorizations on Alaska National Wildlife Refuges

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (FWS) proposes regulations to implement Section 1307 of the Alaska National Interest Lands Conservation Act (ANILCA). This action is necessary to establish the procedures for granting historical use, Native Corporation, and local preferences in the selection of commercial operators who provide visitor services other than hunting and fishing guiding on National Wildlife Refuge System lands in Alaska. This rulemaking will provide guidance in the solicitation, award, and renewal of Alaska visitor service authorizations.

DATES: Written comments will be accepted until June 26, 1995.

ADDRESSES: Comments should be addressed to: Regional Director, Alaska Region, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503.

FOR FURTHER INFORMATION CONTACT: David G. Patterson, Regional Public Use Specialist, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503; Telephone (907) 786-3389.

SUPPLEMENTARY INFORMATION:**Background**

ANILCA (16 U.S.C. 3101 et. seq.) was signed into law on December 2, 1980. Its broad purpose is to provide for the disposition and use of a variety of federally owned lands in Alaska. Section 1307 of ANILCA (16 U.S.C. 3197) contains two provisions concerning persons and entities who are to be given special rights and preferences with respect to providing "visitor services" in certain lands under the administration of the Secretary of the Interior, in this context, units of the National Wildlife Refuge System. The term "visitor service" is defined in section 1307 as "any service made available for a fee or charge to persons who visit a conservation system unit, including such services as providing food, accommodations, transportation, tours and guides excepting the guiding of sport hunting and fishing."

Section (a) of Section 1307 states as follows:

Notwithstanding any other provision of law, the Secretary [of the Interior], under such terms and conditions as he determines are reasonable, shall permit any persons who, on or before January 1, 1979, were engaged in adequately providing any type of visitor service [as defined in subsection (c)] within any area established as or added to a conservation system unit to continue providing such type of service and similar types of visitor services within such area if such service or services are consistent with the purposes for which such unit is established or expanded. (16 U.S.C. 3197)

Subsection (b) of Section 1307 states as follows:

Notwithstanding provisions of law other than those contained in subsection (a), in selecting persons to provide (and in the contracting of) any type of visitor service for any conservation system unit, except sport fishing and hunting guiding activities, the Secretary [of the Interior]—

(1) shall give preference to the Native Corporation which the Secretary determines is most directly affected by the establishment or expansion of such unit by or under the provisions of this Act;

(2) shall give preference to persons whom he determines, by rule, are local residents * * * (16 U.S.C. 3197).

Subsection (b) also provides to Cook Inlet Region, Incorporated (CIRI), in cooperation with Village Corporations within the Cook Inlet Region when appropriate, the right of first refusal to provide new visitor services within the Kenai National Moose Range, (Kenai National Wildlife Refuge), within the Cook Inlet Region.

The Alaska National Wildlife Refuge System is managed by the U.S. Fish and Wildlife Service under the National Wildlife Refuge System Administration Act (16 U.S.C. 668dd-668ee), Refuge Recreation Act (16 U.S.C. 460k-460k-4), and the Alaska National Interest Lands Conservation Act (ANILCA) (84 Stat. 2371 et seq.; codified as amended in scattered sections of 16 U.S.C., 43 U.S.C., 48 U.S.C.).

The Secretary of the Interior is authorized under the National Wildlife Refuge System Administration Act to provide for visitor services within the refuge system which he determines are compatible with the purposes for which the area was established as a refuge (16 U.S.C. 668dd(b)(1)). In accordance with that authority, provision is made in the Fish and Wildlife Service refuge regulations for operation of public use facilities and services on national wildlife refuges by concessionaires or cooperators under appropriate contracts or legal agreements (50 C.F.R. 25.61). These proposed regulations provide the means for selecting the providers of services and facilities (except sport fishing and hunting guiding activities)

to the public on national wildlife refuges in Alaska under section 1307 of ANILCA.

Paperwork Reduction Act

The information collection requirements contained in part 36 have been approved by the Office of Management and Budget under 44 U.S.C. et seq. and assigned clearance number 1018-0077. The information is being collected to assist the Service in administering these programs and, particularly, in the issuance of permits and the granting of statutory or administrative benefits. The information requested in the application form is required to obtain a benefit. The public reporting burden for this collection of information is estimated to average 1.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Information Collection Clearance Officer, MS 224 ARLSQ, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project (1018-0077), Washington, DC 20530.

Environmental Considerations

In accordance with 516 DM 2, Appendix 2, the Service claims a categorical exclusion to this rulemaking as this is pursuant to "policies, directives, regulations and guidelines of an administrative, financial, legal technical or procedural nature", and as this rulemaking establishes procedures to allow continuing services on certain Alaska refuge units.

Economic Effects/Regulatory Flexibility Act Compliance

This rule has been reviewed by the Office of Management and Budget under Executive Order 12866.

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et. seq.) further requires the preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations or governmental jurisdictions. It is estimated that the need for new visitor services will result in less than five (5) special use permits per year statewide. There is a high probability that local visitor service providers, exercising their right under Section 1307(b) of