

price less profit) conducted under this contract. Any deviation from this requirement must be approved in advance and in writing by the Contracting Officer. Since the selection of R&D contractors is substantially based on the best scientific and technological sources, it is important that the Contractor not subcontract technical or scientific work without the Contracting Officer's advance approval.

(End of clause)

**1852.219-82 Limitation on Subcontracting—STTR Program.**

As prescribed in 1819.7302(c), insert the following clause in all SBIR and STTR solicitations and contracts:

**Limitation on Subcontracting—STTR Program (XX/XX)**

The Contractor (small business concern (SBC)) shall perform a minimum of 40 percent of the work under this contract (total contract price including cost sharing, if any, less profit if any). A minimum of 30 percent of the work under this contract shall be performed by the research institution (RI). Since the selection of R&D contractors is substantially based on the best scientific and technological sources, it is important that the contractor not subcontract technical or scientific work without the Contracting Officer's advance approval.

(End of clause)

**1852.219-83 Limitation of the Principal Investigator—SBIR Program OR Principal Investigator—Primary Employment—SBIR Program.**

As prescribed in 1819.7302(d), insert the following clause in all SBIR solicitations and contracts:

**Limitation of the Principal Investigator—SBIR Program OR Principal Investigator—Primary Employment—SBIR Program (XX/XX)**

The primary employment of the principal investigator shall be with the small business concern (SBC)/ Contractor during the conduct of this contract. Primary employment means that more than one-half of the principal investigator's time is spent in the employ of the Contractor/SBC. This precludes full-time employment with another organization. Deviations from these requirements must be approved in advance and in writing by the Contracting Officer and are not subject to a change in the firm-fixed price of the contract. The PI for this contract is (*insert name*).

(End of Clause)

**1852.219-84 Limitation of the Principal Investigator—STTR Program.**

As prescribed in 1819.7302(e), insert the following clause in all STTR solicitations and contracts:

**Limitation of the Principal Investigator—STTR Program (XX/XX)**

(a) The primary employment of the principal investigator (PI) identified in this STTR contract is with the small business concern (SBC)/Contractor or the research institution (RI). Primary employment means that more than one-half of the principal investigator's time is spent in the employ of the contractor/SBC or RI.

(b) The principal investigator (PI) is considered to be key personnel in the performance of this contract and may not have been employed by the contractor/SBC. The Contractor/SBC whether or not the employer of the PI shall exercise primary management direction and control over the PI and be overall responsible for the PI's performance under this contract. Deviations from these requirements must be approved in advance and in writing by the Contracting Officer and are not subject to a change in the firm-fixed price of the contract. The PI for this contract is (*insert name*).

(End of Clause)

5. Section 1852.232-83 is added to read as follows:

**1852.232-83 Conditions for Final Payment—SBIR and STTR Contracts.**

As prescribed in 1832.1210, insert the following clause in all SBIR and STTR solicitations and contracts:

**Conditions for Final Payment—SBIR and STTR Contracts (XX/XX)**

As a condition for final payment under this contract, the Contractor shall provide the following certifications as part of its final payment invoice request:

During performance of this contract—

1. Essentially equivalent work performed under this contract has not been proposed for funding to another Federal agency;
2. No other Federal funding award has been received for essentially equivalent work performed under this contract;
3. Deliverable items submitted under this contract have not been submitted as deliverable items under another Federal funding award;

4. *For SBIR contracts:* The subcontracting limitation set forth in this contract was not exceeded except as approved in writing by the Contracting Officer on (*insert date of approval or modification number*);

5. *For STTR contracts:* The subcontracting limitation set forth in this contract was not exceeded;

6. *For SBIR contracts:* The primary employment of the principal investigator (PI) identified in this SBIR contract was with the Contractor, except as approved in writing by the Contracting Officer on (*insert date of approval or modification number*); and

7. *For STTR contracts:* The primary employment of the principal investigator (PI) identified in this STTR contract was the SBC/Contractor or the research institution (RI). The PI identified in the STTR contract was considered key in the performance of this contract and may not have been employed by the Contractor/SBC. However, the Contractor/SBC did exercise primary management direction and control over the PI and was overall responsible for the PI's performance under this contract. Any substitutions of this individual were approved in writing by the Contracting Officer on (*insert date of approval or modification number*).

I understand that the willful provision of false information or concealing a material fact in this representation is a criminal offense under Title 18 U.S.C., Section 1001, False Statements, as well as Title 18 U.S.C., Section 287, False Claims.

(End of Clause)

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**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 36**

**RIN 1018-AU08**

**Refuge-Specific Public Use Regulations for Kodiak National Wildlife Refuge**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The Fish and Wildlife Service (Service) proposes to open private lands within the boundaries of Kodiak National Wildlife Refuge in Alaska to public use, with a permit, complying with our commitments made under a Conservation Easement among the United States, the State of Alaska, and Koniag, Inc. The Conservation Easement furthers the missions of the Service and the National Wildlife Refuge System and the purposes of Kodiak National Wildlife Refuge. The easement lands

affected by this rule are along Karluk River and Karluk Lake on Kodiak Island, Alaska. The rule will apply as long as the easement is in place. Without this rule, the Service would fail to comply with the terms of the Conservation Easement.

**DATES:** We must receive your comments on or before October 31, 2005.

**ADDRESSES:** Submit written comments to Abbey Kucera, Kodiak National Wildlife Refuge, 1390 Buskin River Road, Kodiak, Alaska 99615. See Request for Public Comments section of **SUPPLEMENTARY INFORMATION** for information on electronic submission.

**FOR FURTHER INFORMATION CONTACT:** Abbey Kucera (907) 487-2600; Fax (907) 487-2144.

**SUPPLEMENTARY INFORMATION:** Kodiak National Wildlife Refuge was established in 1941 by Executive Order for the purpose of protecting the natural feeding and breeding ranges of brown bears and other wildlife on Uganik and Kodiak Islands. The lands now under the Conservation Easement were once refuge lands. The Alaska Native Claims Settlement Act of 1971 (43 U.S.C. 1601-1624) (Act) allowed refuge lands to be conveyed to Alaska Native Corporations established under the Act, including the lands now covered by this Conservation Easement. In 2002, the Conservation Easement was signed, calling for these lands to be managed similarly to refuge lands and requiring refuge-issued permits for most public recreational use of the Karluk River and Karluk Lake lands.

### Background About Kodiak Refuge

The Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 *et seq.*, 43 U.S.C. 1602) expanded the purposes for which Kodiak National Wildlife Refuge was established to include: (i) To conserve fish and wildlife populations [and] habitats in their natural diversity including, but not limited to, Kodiak brown bears, salmonids, sea otters, sea lions and other marine mammals and migratory birds; (ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and other habitats; (iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and (iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

Kodiak Refuge encompasses almost two million acres in southwestern

Alaska, including about two-thirds of Kodiak Island. The city of Kodiak, where refuge headquarters are located, is about 250 air miles south of Anchorage, about 20 miles northeast of the refuge boundary on Kodiak Island, and about 60 air miles northeast of Karluk Lake.

Kodiak Refuge is characterized by a large range of habitats within a relatively small geographic area. Because of this, the refuge supports some of the highest densities of brown bears, nesting bald eagles, and spawning salmon found anywhere in North America. The mountainous interior of Kodiak Island, with several peaks over 4,000 feet in elevation, is covered by lush, dense vegetation during the summer, with alpine vegetation on the highest slopes. No place on the refuge is more than 15 miles from the ocean. Access to the refuge is primarily by float plane and boat. Karluk River and Karluk Lake have runs of all five species of Pacific Salmon (chinook, sockeye, coho, pink, and chum) and steelhead. Rainbow trout, Dolly Varden, and Arctic char are also found there.

Kodiak Refuge was established primarily to protect the brown bear. With an estimated population of 2,100 bears, the refuge contains some of the best brown bear habitat in the world supporting some of the highest concentrations of brown bear found anywhere in the world. These bears feed on spawning salmon and forage throughout most of the refuge. The Karluk River drainage is one of the most important fisheries to bears, with up to 200 bears using the Karluk area from mid-June to the end of September.

Under our regulations implementing the Alaska National Interest Lands Conservation Act (50 CFR 36.31), all refuge lands in Alaska are open to public recreational activities as long as such activities are conducted in a manner compatible with the purposes for which the refuge was established. Such recreational activities include, but are not limited to: sightseeing, nature observations and photography, sport hunting, sport fishing, boating, camping, hiking, picnicking, and other related activities (50 CFR 36.31(a)). The National Wildlife Refuge Administration Act of 1966 (16 U.S.C. 668dd-668ee), as amended by the National Wildlife Refuge System Improvement Act of 1997, defines "wildlife-dependent recreation" and "wildlife-dependent recreational use" as "hunting, fishing, wildlife observation and photography, or environmental education and interpretation" (16 U.S.C. 668ee(2)). We encourage these uses, and they will

receive emphasis in management of the public use of the refuge.

### Key Provisions of the Conservation Easement

The Conservation Easement was established in 2002 for 10 years with an option to renew it for another 10 years. Koniag agrees to confine use of Conservation Easement lands to fish and wildlife management and conservation activities, subsistence gathering activities, archaeological investigations, and recreational activities. We agree to establish, maintain, and enforce a permit system that imposes specific limits on the level and location of public recreational use on lands within a 1/2-mile band on either side of the Karluk River and lands within 1/2 mile of the shoreline of Karluk Lake. We are required to conduct a study to establish such limits. The study must consider whether the impact of public use may be reduced to satisfactory levels by measures such as public education, and we are required to consider these measures prior to restricting public access. However, while we are conducting this study, we must annually limit the number of recreational visitors to the area during the period June 10 through July 15 (limited-use period) to a maximum of 70 scheduled visitors on any day. The 70-per-day limit applies to both visitors obtaining permits from us (currently limited to 28 people per day) and visitors using the area as clients of guides authorized by Koniag, Inc. (currently limited to 42 people per day).

We began requiring permits for visitors to the area in 2002, under the authority of temporary restrictions issued by the Refuge Manager. The proposed regulation will replace these temporary restrictions and allow us to continue to implement the Conservation Easement. We began the required study in 2002 and anticipate completing it in 2005. In the interim, parties of up to six people may apply together for permits issued by the refuge; permits are issued for each member of the party. Each individual may obtain only one nontransferable permit for a visit of up to 7 consecutive days during a calendar year. Parties will apply by a deadline established by the refuge and, will be selected by lottery if there are more visitors than scheduled visits available. Remaining available scheduled visits will be allocated on a first come, first-served basis. To date, we have not had visitor use reach the limit of 70 people per day during the limited-use period. During the remainder of the year, July 16 through June 9, there are no limits on the number of permits available; visitors

apply for permits individually and permits are issued to individuals.

In summary, the Conservation Easement allows the Service to open and manage public use of private lands. It also requires the Service to establish a permit system for some of these lands. The purpose of the proposed regulation is to provide the authority for the Service to require visitors to obtain permits to visit easement lands along the Karluk River and Karluk Lake.

#### Plain Language Mandate

In this rule we use “you” to refer to the reader and “we” to refer to the Service, using the word “allow” instead of “permit” when we do not require the use of a permit for an activity, and using active voice. Where the word “permit” occurs, a permit is required.

#### Statutory Authority

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

The Recreation Act authorizes the Secretary to administer areas within the Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that doing so is practicable and not inconsistent with the primary purpose(s) for which Congress and the Service established the areas. The Recreation Act requires that any recreational use of refuge lands be compatible with the primary purpose(s) for which we established the refuge and not inconsistent with other previously authorized operations.

The Administration Act and Recreation Act also authorize the Secretary to issue regulations to carry out the purposes of the Acts and regulate uses.

Section 1302(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(a)) and the National Wildlife Refuge Administration Act as amended by the Refuge Improvement Act of 1997 (16 U.S.C. 668dd) authorized us to enter into the Conservation Easement with Koniag, Inc., and the State of Alaska.

#### Request for Comments

You may comment on this proposed rule by any one of several methods:

1. Federal eRulemaking Portal at <http://www.regulations.gov>. Follow the instructions at that site for submitting comments.

2. You may mail comments to Abbey Kucera, Kodiak National Wildlife

Refuge, 1390 Buskin River Road, Kodiak, AK 99615.

3. You may comment via the Internet to [Abbey\\_Kucera@fws.gov](mailto:Abbey_Kucera@fws.gov). Please submit Internet comments as an ASCII file, avoiding the use of special characters and any form of encryption. Please also include: “Attn: 1018–AU08” and your full name and return mailing address in your Internet message. If you only use your e-mail address, we will consider your comment to be anonymous and will not consider it in the final rule. If you do not receive a confirmation from us that we have received your Internet message, contact us directly at (907) 487–2600 or toll-free at (888) 408–3514.

4. You may fax comments to Abbey Kucera, Kodiak National Wildlife Refuge, at 907–487–2144.

5. Finally, you may hand-deliver or courier comments to the address given above.

We seek comments on this proposed rule and will accept comments by any of the methods described above. We make comments, including the names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home addresses from the rulemaking record, which we will honor to the extent allowable by law. In some circumstances, we would withhold from the rulemaking record a respondent’s identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this request prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or businesses available for public inspection in their entirety.

Department of the Interior policy is, whenever practicable, to afford the public a meaningful opportunity to participate in the rulemaking process. We considered providing a 60-day, rather than a 30-day, comment period. However, we determined that an additional 30-day delay in processing this refuge-specific regulation would jeopardize visitors’ ability to obtain permits in a timely fashion. Since many people who visit the area are from outside Alaska, allowing people to obtain permits earlier allows time for these visitors to make travel arrangements. The proposed rule is an extension of practices successfully implemented by refuge staff for the last 2 years as a trial period under a temporary restriction. We must

administer the public use program on the Karluk drainage using permits or we will violate the Conservation Easement. Without the permit system in place, general public use of these private lands would not be allowed.

When finalized, we will incorporate this regulation into 50 CFR 36.39(j). Part 36 contains general provisions for use and management of all Alaska National Wildlife Refuges and supplements the general National Wildlife Refuge System regulations found in title 50 CFR Chapter I, subpart C.

#### Clarity of This Regulation

Executive Order (E.O.) 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (5) Is the description of the rule in the

**SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the rule? (6) What else could we do to make the rule easier to understand? Send a copy of any comments on how we could make this proposed rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may e-mail your comments to [Execsec@ios.doi.gov](mailto:Execsec@ios.doi.gov).

#### Regulatory Planning and Review

##### *Executive Order 12866*

In accordance with the criteria in E.O. 12866, the Service asserts that this rule is not a significant regulatory action. The Office of Management and Budget (OMB) makes the final determination under E.O. 12866.

a. This rule would not have an annual economic effect of \$100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. A brief assessment to clarify the costs and benefits associated with this rule follows.

This rule would require a permit for recreational activities on Conservation Easement land, which is owned by Koniag, Inc., and is within the boundaries of Kodiak National Wildlife Refuge in Alaska. The easement land is within ½ mile of the Karluk River and

Karluk Lake shoreline. To access the area, visitors must: (1) Have a permit from the refuge; (2) be a concessionaire or a client of a concessionaire authorized by Koniag, Inc.; or (3) be an authorized subsistence user. The baseline (status quo) is defined as the conditions before the temporary restriction was adopted. Therefore, all permits associated with the Conservation Easement land are new.

Visitation to the easement land consists primarily of anglers because of the world class king salmon fishing on the Karluk River. In addition to angling, other activities may include hiking, camping, hunting, and watching wildlife such as Kodiak brown bears.

During the limited use period from June 10 to July 15, the maximum number of recreational visitors that can access the area is limited to 70 people per day (28 holding refuge permits and 42 clients of guides holding Koniag, Inc., permits). Outside of this limited use time period (July 16 to June 9), there is no limit to the number of visitors. In all of 2004, 339 visitors were guided with permits from Koniag, Inc., and 240 visitors were unguided with permits from Kodiak National Wildlife Refuge. Approximately 110 refuge permits were for the limited use period and 130 refuge permits were for outside of the limited use period. Thus, 579 people visited the Karluk River and Lake Conservation Easement land for recreation in 2004.

Throughout the temporary restriction, official monitoring of visitation has shown that no applicants have been denied access to the Conservation Easement land. Therefore, we do not expect that the permit requirement will have an effect on the number of users on the easement land.

#### Costs Incurred

There are no monetary fees for any of these permits. Costs incurred are due to the time to fill out the application and time required to process the permit application. Applicants need about 15 minutes to apply for a permit and fax or mail it to the refuge. Approximately 15 minutes are needed for the refuge to process an application. The majority of applications are electronically produced and faxed to the refuge. The average annual time commitment for visitors is approximately 60 hours (15 minutes x 240 applications). The average annual time commitment for the refuge is about 60 hours (15 minutes x 240 permits).

#### Benefits Accrued

This rulemaking would allow the public to continue to use the lands along Karluk River and Karluk Lake. It

would provide an official system to gather the information necessary to track visitor use and help ensure visitor safety. The proposed rulemaking would also better distribute the number of visitors throughout the peak season in the future if use increased. While the number of visitors is not expected to change in the immediate future, if use does increase in the future, visitors could continue to experience conditions similar to those today along Karluk River and Lake. The permit system would allow the refuge to distribute the number of visitors throughout the peak season thus avoiding fishing congestion.

b. This proposed rule would not create inconsistencies with other Federal agencies' actions. This action pertains solely to the management of Conservation Easement lands within Kodiak National Wildlife Refuge.

c. This proposed rule would not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. This proposed rule does not affect entitlement programs. There are no grants or other Federal assistance programs associated with public use of the Conservation Easement.

d. This proposed rule would not raise novel legal or policy issues. This proposed rule requires a permit to access the Koniag Conservation Easement land. This proposed rule continues the practice of allowing recreational public use of many lands managed by national wildlife refuges.

#### Regulatory Flexibility Act

Under the Regulatory Flexibility Act [as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)], whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions) (5 U.S.C. 601 *et seq.*). However, no regulatory flexibility analysis is required if the head of an agency certifies that the rule would not have a significant economic impact on a substantial number of small entities. Thus, for a regulatory flexibility analysis to be required, impacts must exceed a threshold for "significant impact" and a threshold for a "substantial number of small entities." See 5 U.S.C. 605(b). SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule would not have a significant economic

impact on a substantial number of small entities.

Small businesses that may be affected would include those located in Kodiak Island Borough, Alaska. Because this proposed rule is not expected to affect recreational activities in the area, this rule would not have a significant effect on small businesses engaged in activities in the borough. Therefore, we certify that this rule would not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act. An initial/final Regulatory Flexibility Analysis is not required. Accordingly, a Small Entity Compliance Guide is not required.

#### Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under the Small Business Regulatory Enforcement Fairness Act 5 U.S.C. 804(2). This rule reduces regulatory obligations as discussed in Executive Order 12866 above; therefore, based on the information included in the Appendix, this rule:

a. Does not have an annual effect on the economy of \$100 million or more;

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

#### Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501, *et seq.*), 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. A statement containing the information required by the Unfunded Mandates Reform Act is not required.

#### Takings (E.O. 12630)

In accordance with E.O. 12630, the rule does not have any takings implications. This regulation will affect only conservation easement lands owned by a willing participant, Koniag, Inc., by allowing public use of private lands.

#### Federalism (E.O. 13132)

This rule has no Federalism implications to warrant the preparation of a Federalism Assessment under E.O.

13132. Permit holders who choose to fish are regulated by Alaska Department of Fish and Game regulations. Guides and their clients must be authorized by Koniag, Inc. In negotiating the Conservation Easement, we coordinated with State and Tribal governments, and the State of Alaska is a party to the Conservation Easement.

#### *Civil Justice Reform (E.O. 12988)*

In accordance with E.O. 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order. A violation of the rule is classified as a misdemeanor offense.

#### *Energy Supply, Distribution, or Use (E.O. 13211)*

On May 18, 2001, the President issued E.O. 13211 on regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. The proposed rule has no effect on energy supplies, distribution, and use. Therefore, this action is a not a significant energy action and no Statement of Energy Effects is required.

#### *Consultation and Coordination With Indian Tribal Governments (E.O. 13175)*

In accordance with E.O. 13175, we have evaluated possible effects on federally recognized Indian tribes and have determined there are no effects. Koniag consulted with area Tribal governments in drafting the Conservation Easement. Other provisions of the Conservation Easement provide for preference for certain services be given to Koniag shareholders who reside in Larsen Bay or Karluk and to the tribal governments of Larsen Bay and Karluk.

#### *Paperwork Reduction Act*

This regulation does not contain any information collection requirements other than those already approved by the OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) (OMB Control Number is 1018-0014). See 50 CFR 36.3 for information concerning that approval. We will amend our information collection to include the burden hours associated with this regulation. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

#### *Endangered Species Act Section 7 Consultation*

No species listed as endangered under the Endangered Species Act is known to occur within the easement lands. In 2004, a Section 7 consultation under the Endangered Species Act was conducted for the Draft Revised Comprehensive Conservation Plan, Kodiak National Wildlife Refuge. This plan includes the proposed management of Conservation Easement lands. The plan was found to be fully consistent with Section 7 of the Endangered Species Act by the Service and the National Marine Fisheries Service.

#### *National Environmental Policy Act*

We analyzed this rule in accordance with the criteria of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)) (NEPA) and 516 DM 6, Appendix 1. This rule does not constitute a major Federal action significantly affecting the quality of the human environment. An environmental impact statement/assessment is not required. A categorical exclusion from NEPA documentation applies under the Department of the Interior Manual, 516 DM 8 B(10).

#### *Primary Author*

Abbey Kucera, Supervisory Natural Resources Specialist, Kodiak 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.

For the reasons set forth in the preamble, we propose to amend title 50, part 36, subpart E 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, as amended, 742(a) *et seq.*, 3101 *et seq.*, and 44 U.S.C. 3501 *et seq.*

2. Amend § 36.39 by adding paragraph (j)(3) to read as follows:

#### **§ 36.39 Public use.**

\* \* \* \* \*

(j) Kodiak National Wildlife Refuge.

\* \* \*

\* \* \* \* \*

(3) *Permit requirement for Conservation Easement lands.* (i) Pursuant to the terms of a Conservation Easement held by the United States and the State of Alaska, we manage public use of certain lands owned by Koniag,

Inc. These lands are inholdings within the exterior boundaries of the Kodiak National Wildlife Refuge. The Conservation Easement was recorded in the Kodiak Recording District, Alaska, on December 6, 2002, as document number 2002-003448-0. The lands subject to the Conservation Easement to which the permit requirements in this subsection apply are all lands within ½ mile of the west shore of Karluk Lake, from the lake outlet to the southern boundary of T. 32 S., R. 30 W. (surveyed), Seward Meridian; all lands within ½ mile of the east shore of Karluk Lake, from the lake outlet to a point due east of the north end of Camp Island; and all lands within a ½-mile band of land on either side of the Karluk River, from the Karluk Lake outlet downstream to the refuge boundary. You are prohibited from using these lands unless you have a nontransferable permit from the refuge, are a concessionaire or a client of a concessionaire authorized by Koniag, Inc., to provide revenue-producing visitor services, or you are an authorized user in accordance with section 7(d) of the Conservation Easement. A map is available from the refuge showing the location of the easement lands which are subject to the permit requirement.

(ii) Interim requirements. The Conservation Easement requires us to conduct a study to determine the level of use and how the permit system will work. The following permit procedures and limits apply only until the study is completed, or management of the Conservation Easement is changed by agreement of the three parties (Koniag, Inc., State of Alaska, and Kodiak National Wildlife Refuge). For the period June 10 to July 15 the following conditions apply:

(A) The maximum number of visitors scheduled on one day is limited to 70. Should weather preclude a scheduled visitor from arriving or leaving as planned, more than 70 visitors may be on site at the same time.

(B) The 70 visitors are allocated 28 nonguided (permits issued by the refuge) and 42 guided (under permits issued by Koniag, Inc.).

(C) Parties of up to six people may apply together for permits issued by the refuge; permits are issued for each member of the party.

(D) Each individual may obtain only one nontransferable permit for a visit of up to 7 consecutive days during a calendar year. Parties will apply by a deadline established by the refuge and will be selected by lottery if there are more visitors than scheduled visits available. Remaining available

scheduled visits will be allocated on a first come, first-served basis.

(E) During the remainder of the year, July 16 through June 9, there are no limits on the number of permits

available; visitors apply for permits individually and permits are issued to individuals.

Dated: September 7, 2005.

**Craig Manson,**

*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 05-19570 Filed 9-29-05; 8:45 am]

**BILLING CODE 4310-55-P**