

## COMPATIBILITY DETERMINATION

**Use:** Commercial Recreational Fishing Guide Services

**Refuge Name:** Arctic National Wildlife Refuge

**Establishment and Acquisition Authority:** The Arctic National Wildlife Refuge (Refuge, Arctic Refuge) was established by the Alaska National Interest Lands Conservation Act (ANILCA) (Public Law 96-487 Stat. 2371) on December 2, 1980. The Refuge boundary encompassed 19.64 million acres of land, including the 8.83-million acre Arctic National Wildlife Range (Range), which was established on December 6, 1960, by Public Land Order 2214. ANILCA re-designated the Range as part of Arctic Refuge, designated 7.16 million acres of the Refuge as Wilderness, and designated three wild rivers. In 1988, Public Law 100-395 added 325,000 acres of lands managed by the Bureau of Land Management (BLM) to the Refuge. An additional 1.3 million acres of land, originally selected by the State of Alaska under the Alaska Statehood Act (Public Law 85-508) but later relinquished, was added to the Refuge in two actions occurring in 1983 and 1985. Both these additions were of lands already within the boundaries of the Refuge.

**Refuge Purposes:** ANILCA established four purposes for the Refuge (including lands and waters in the original Range):

- i. *to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, the Porcupine caribou herd (including participation in coordinated ecological studies and management of this herd and the Western Arctic caribou herd), polar bears, grizzly bears, muskox, Dall's sheep, wolves, wolverines, snow geese, peregrine falcons and other migratory birds and Arctic char and grayling;*
- ii. *to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their 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.*

Public Land Order 2214 established the original Arctic National Wildlife Range "for the purpose of preserving unique wildlife, wilderness and recreational values...." These pre-ANILCA purposes apply only to those lands and waters in the original Range, and they remain in force and effect only to the extent they are not inconsistent with ANILCA or the Alaska Native Claims Settlement Act (ANILCA Section 305; 603 FW 2.8).

The Wilderness Act of 1964 (Public Law 88-577) creates the following additional purposes for the designated Wilderness area within the Refuge's boundaries; these purposes are within and supplemental to the Refuge's ANILCA and Range purposes: secure an enduring resource of Wilderness; protect and preserve the Wilderness character of areas within the National Wilderness Preservation System (NWPS); administer the NWPS for the use and enjoyment of the American people in a way that will leave these areas unimpaired for future use and enjoyment as Wilderness; and gather and disseminate information regarding the use and enjoyment of Wilderness areas.

***National Wildlife Refuge System Mission:*** The mission of the National Wildlife Refuge System (Refuge System) is to administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans (National Wildlife Refuge System Administration Act of 1966, as amended [16 U.S.C. 668dd-668ee]).

***Description of Use(s):*** This is a re-evaluation of the compatibility of commercial recreational fishing guide services as a use of Federal lands in Arctic Refuge. This activity was originally found to be compatible in 1988 during the development of the original Arctic Refuge Comprehensive Conservation Plan and again determined to be compatible in 1994, subject to reasonable regulation and special conditions provided with a special use permit.

The State of Alaska is primarily responsible for managing fish and resident wildlife through setting seasons, bag limits, methods and means of harvest, and licensing of commercial guiding operators. Commercial recreational fishing guide services provided in the Refuge are only allowed by Refuge special use permit. "Run of the river" fishing operations are required by Refuge management in place of operations that provide multi-night base camping on a single spawning ground. Means of access include fixed-wing airplanes, inflatable boats, hiking, and snowmobiling. Guided recreational fishing in Alaska occurs spring through winter and is managed under State fishing regulations (5AAC). The major rivers and lakes on the Refuge have fair fishing opportunities, based on reasonable accessibility by airplane or boat, and sustainable populations of anadromous and/or resident fish. Although all these drainages provide opportunities for multi-day use and overnight primitive camping, distance and cost of traveling to these areas for day-use recreational fishing is prohibitive for most visitors. Species of primary interest are arctic char, lake trout, and grayling.

Commercially guided recreational fishing generally occurs for lake trout or Arctic char, either in conjunction with other use or, rarely, as the primary use. The information available indicates that catch-and-release fishing is common. More often, recreational fishing has occurred as an incidental, occasional, or subsidiary activity to other guided activities such as floating, hiking, or big-game hunting, for example, and has not been considered as a guided activity in that context. Only two, non-motorized, commercially guided recreational fishing services special use permits have been issued. Neither of these permits reported any activity. It is likely the reason for low use is that much better, less expensive fishing is available elsewhere in the State.

***Availability of Resources:*** Adequate Refuge personnel and base operational funds are available to manage commercially guided recreational fishing at current existing and projected levels. Administrative staff time primarily involves issuing permits, ensuring the licenses and certifications are current, collecting client use-day fees, and recording activity data. Field work associated with administering the program primarily involves monitoring permittees' compliance with the terms of the permits and resource law enforcement patrols. Estimated staff time to annually administer and monitor these permits is less than two weeks. An administrative fee is assessed when each permit is issued. In addition, a client use-day fee is assessed for each day a guide has a client on the Refuge. In addition, fees are returned to the Refuge to manage the program.

***Anticipated Impacts of the Use(s):*** The Federal Subsistence Board and State Board of Fisheries regularly adopt regulations in response to fish population levels and to address issues of fishery allocation. Providing an opportunity for continued subsistence uses of fishery resources by local residents receives the highest priority from the Federal Subsistence Board. Recent, 1998 to present, Chinook salmon returns have been characterized as poor, and managers (State and Federal) may restrict recreational use of this resource. Chum salmon experienced a worrisome decline in the late 1990s; however, recent run strengths indicate that a recreational fishery on chum salmon currently is sustainable. Guided recreational harvests are monitored to protect fish, as well as subsistence resources for people living near the Refuge.

At current levels, guided recreational fishing harvests require little to no monitoring, and there are no anticipated deleterious effects on fish habitat. Should intensity of use increase, Refuge staff would increase monitoring efforts. If necessary, Refuge staff would review regulations and propose changes to protect fishery resources and subsistence fishing opportunities for people living near the Refuge. We will continue to work with the Fairbanks Fish and Wildlife Field Office to implement inventories and conduct studies aimed at better understanding fish populations on the Refuge.

Additional potential impacts or threats are associated with airplane or motorboat access. Landing aircraft on non-durable surfaces can cause minor to moderate site-specific and long-term effects to Refuge habitats and vegetation. In several areas, soil compaction, scarring, and occasionally rutting have been documented. This is not a problem where aircraft land on durable surfaces such as gravel and sand bars, water, ice and snow, and certain other durable or resistant surfaces. These effects can be minimized or prevented by limitations, including temporal limits, on where aircraft can land, or under what conditions, including aircraft weight or tire configuration. Although not known to occur on the Refuge, landing aircraft could introduce invasive species that could impact resources in the Refuge. We will continue to monitor for such occurrences. Low over-flights, and sometimes landings and take-offs, can disturb or displace wildlife and bother visitors, although the effects are brief and usually minor.

Landings on vegetated lowland tundra and disturbance to vegetation outside established landing areas have been limited in the Kongakut drainage under the stipulations of the special use permit. Access to the Refuge during summer months would be by landing aircraft primarily on gravel bars and, occasionally on tundra/vegetated areas. Landings on vegetated lowland tundra and disturbance to vegetation outside established landing areas could be limited under the stipulations of the special use permit.

The accidental introduction of invasive aquatic species from fishing tackle or waders could affect Refuge resources, although it is not known to have taken place in the Refuge to date. Aquatic invasive species can cause long term damage to aquatic ecosystems. Staff will continue to monitor areas for such occurrences.

***Public Review and Comment:*** Public comments on compatibility determinations were solicited concurrently with the draft of the Refuge's Revised Comprehensive Conservation Plan (Plan) and Environmental Impact Statement. Public comments on compatibility determinations were accepted during the public review period for the draft Plan, which was announced in the Federal Register, on local radio stations, and in local newspapers. The 90-day public comment period began on August 15, 2011, and ended on November 15, 2011. We mailed the full draft Plan, and a summary of the Plan, to the individuals and organizations on our mailing list and posted both on the Refuge's web site. Six public hearings were held in Anchorage, Arctic Village, Fairbanks, Fort Yukon, Kaktovik, and Venetie, during which the Service received comments on the draft Plan. We received one specific comment on this compatibility determination.

One commenter suggested that we combine all consumptive recreation into a single compatibility determination called "Fish and Wildlife Harvest Programs" that would focus on the biological effects of wildlife management activities that are implemented through State regulations. The Service agrees that this is one way that compatibility determinations could be organized, and our policy allows for consideration of uses either independently or as a group of related issues. We feel that analyzing the commercial consumptive recreational uses individually and separate from the non-commercial consumptive uses serves us better for several reasons; the uses are not dependent upon one another, and we can better analyze the use, its potential to impact Refuge purposes, and propose stipulations that apply specifically to commercial users in the permit process when the use is considered individually.

We received two general comments on fishing, both of which wanted to ensure the Refuge maintains quality fishing and not allow popular fishing sites to become over fished. The comments also did not want associated camping areas along rivers to become overused and degraded.

No changes were made to the compatibility determination as a result of public comments except that we updated information on the related (supporting use) issue of aircraft impacts, as in other compatibility determinations. Minor edits were also made from comments received during the Service's internal review.

***Determination:***

Proposed activity is not compatible

Proposed activity is compatible

***Stipulations Necessary to Ensure Compatibility:*** A special use permit with the following stipulations is required for commercial recreational fishing guide services. These stipulations are intended to minimize impacts and ensure compatibility. Refuge permits may also include other special conditions as necessary or appropriate for the specific operations or activities that are proposed. These stipulations will be updated periodically to reflect management needs or policy changes.

1. Failure to abide by any part of this special use permit; violation of any refuge related provision in Titles 43 (Part 36) or 50 (Subchapters B and C) Code of Federal Regulations; violation of the Marine Mammal Protection Act of 1972; violation of the Endangered Species Act of 1973; or violation of any pertinent state regulation (e.g., fish or game violation) will, with due process, be considered grounds for immediate revocation of this permit and could result in denial of future permit requests for lands administered by the U.S. Fish and Wildlife Service. This provision applies to all persons working under the authority of this permit (e.g., assistants). Appeals of decisions relative to permits are handled in accordance with 50 Code of Federal Regulations 36.41.
2. The permittee is responsible for ensuring that all employees, party members, aircraft pilots, and any other persons working for the permittee and conducting activities allowed by this permit are familiar with and adhere to the conditions of this permit.
3. The permittee must maintain, throughout the use period specified on the permit, Comprehensive General Liability Insurance (\$300,000 each occurrence, \$500,000 annual aggregate) covering all ground or water based operations and (unless air transportation is already covered) Aviation Passenger Liability (\$150,000/seat plus \$100,000 property) covering all aircraft operations involving clients.
4. This permit may be cancelled or revised at any time by the Refuge manager in case of emergency (e.g., high fire danger, flooding, unusual resource problems, etc.).
5. The permittee must notify the Refuge manager during Refuge working hours in person or by telephone before beginning and upon completion of annual activities allowed by this permit.
6. Prior to beginning any activities allowed by this permit, the permittee must provide the Refuge manager with: (1) the name(s) and method of contact for the lead field guide(s); (2) aircraft and other vehicle types to be used and identification information for these vehicles; (3) names of assistant guides and helpers; and (4) any changes in information provided in the original permit application.
7. The permittee must provide the Refuge manager with a Client Use Report of the trip dates, locations, number of clients each trip, number of clients per trip, and number and species of all animals taken (if applicable). The permittee may be required to provide names, addresses, and phone numbers of clients.
8. Client Use Reports must be received by October 15, or within 30 days of permit expiration, whichever date is earliest. For permits valid beyond October 31, partial reports including all activity through October 15 must be received by October 31, and reports for activity between October 16 and the date of the permit's expiration must be received within 30 days of the permit's expiration. Failure to report the actual number of client use days per type of activity on or before the due date, and pay the Service's

client use day fees within 30 days after receiving a bill for collection, will be a violation of this permit.

9. This permit authorizes use only on Arctic Refuge lands. Use of land selected by or conveyed to the State of Alaska or North Slope Borough; or a Native corporation or individual is not authorized by this permit.
10. The permittee and permittee's clients do not have the exclusive use of the site(s) or lands covered by this permit, except for the authorized camp facilities (if applicable).
11. The permittee must take no action that interferes with subsistence activities of rural users or restricts the reasonable access of subsistence users to Refuge lands. This may include but is not limited to disturbance of wildlife and their movements near subsistence hunters, and damage to cabins, trails, traditional campsites, or caches used by subsistence users.
12. In accordance with the Archaeological Resources Protection Act (16 U.S.C. 470 ee), no person may excavate, remove, damage or otherwise alter or deface, or attempt to excavate, remove, damage, or otherwise alter or deface any archaeological resource located on public lands or Indian lands unless permitted or exempted (see 16 U.S.C 470cc for permit or exception guidance). No person may sell, purchase, exchange, transport, receive, or offer to sell, purchase, or exchange any archaeological resource if such resource was excavated or removed from public lands.
13. Construction of cabins, platforms, or other permanent structures is prohibited.
14. Use of off road vehicles is prohibited in designated Wilderness areas. Off-road vehicle use in areas not designated as Wilderness is limited to events specifically authorized in writing and in advance of--and in direct support of--the permitted activity. The use of snowmobiles, dog teams, and other means of surface transportation may only be used when adequate snow cover is present and in such a manner as to prevent waste or damage to the Refuge. The phrase "adequate snow cover" means snow is of a depth to protect the underlying vegetation and soil.
15. Snowmobiles, dog teams, watercraft, and other means of transportation shall be operated in such a manner as to prevent the herding, harassment, hazing, or driving of wildlife for viewing or other purposes.
16. Any human-wildlife interactions that have resulted in animals obtaining food; destroying property; or posing a threat to human safety; must be reported to the Refuge Manager immediately at (907) 456-0250, as soon as communication becomes available. You are required to submit a written report within 30 days to the Refuge Manager for all interactions with grizzly bears that have resulted in bears obtaining food; destroying property; posing a threat to human safety; or the death of a grizzly bear, so that this data can be used to help prevent future human-bear conflicts. You may use the Bear Incident Report form (Service 2008). Animals taken in defense of life or property must be reported to the Refuge Manager immediately, and to the Alaska State Troopers at (907) 451-5350, and salvaged in accordance with State regulations.
17. Use of fuel stoves is encouraged over use of wood for cooking and heating. Only dead and down wood may be used for fires and other purposes. Live and standing dead wood must not be altered or used in a way that causes damage to them.

18. In general and where possible, camps must be located on durable surfaces (snow, sand or gravel). Camps located on vegetation must be relocated at intervals adequate to prevent site impacts. Sites at popular aircraft access points that are already heavily impacted can continue to be used. Along high use rivers and lakes, camps must not be located on vegetated sites that show human caused scuffing or matting of vegetation.
19. Total group size including guides is limited to seven people for land-based trips; and ten people for water-based trips. Permit holders can have one group on a river or water body at a time. Concurrent possession of other Refuge permits does not increase this number.
20. Campsites may be occupied for a maximum of two nights after which the camp must be moved at least one mile and not reoccupied by the same guide service within the following 14 days. An exception is allowed in situations where inclement weather might make river travel unsafe.
21. All garbage, litter, and debris must be removed from the Refuge. Food, garbage, and other materials must be stored to minimize attraction to bears and other wildlife. All evidence of your camp must be obliterated prior to your departure from the site. Equipment and other property must be removed from the Refuge upon completion of the permitted activities.
22. Human waste must not be left less than 200 feet from springs, lakes, and streams. Bury waste under soil (or under snow at the ground level during periods when the ground is frozen). Paper toilet tissue, if used, must be packed out or burned completely to ash. Moist towelettes or sanitary products must be removed as trash. In high use areas, especially the Kongakut and Hulahula river corridors and extended base-camps, we encourage packing-out of human waste.
23. Prior to entry onto the Refuge the permit holder must provide to the Refuge Manager copies of State Fishing Guide licenses and U.S. Coast Guard licenses as appropriate for operation of motorized watercraft (if one will be used) of all guides working under this permit.
24. The permittee agrees to minimize accidental fish mortality through effective catch and release fishing practices and avoiding wading through spawning fish. Please utilize killed fish.
25. Records of fish caught and released and mortalities must be tallied by species and drainage and reported to Refuge staff with the annual report.
26. The preeminent value of Arctic Refuge lies in its unsurpassed wilderness condition. The permittee must ensure that all employees and clients seek to minimize the effect of their activities on the wilderness characteristics of the land, wildlife, and the unique experience available there.

For special use permits issued in designated Wilderness, the following condition also applies:

- Boat motors and/or generators are not authorized for use within designated Wilderness.

All permitted activities that occur within 25 miles of the Beaufort Sea coastline will have the following additional condition:

- The permittee must read the Polar Bear Interaction Guidelines (Guidelines) (Arctic Refuge 2010) to these permit Special Conditions. The Guidelines must also be distributed to all employees and clients of the permittee before engaging in any activities on the Refuge. In addition, the following conditions shall be met:
  - Protection of den sites and minimizing disturbance to sows with small cubs is of critical importance. Guides operating under this permit must become knowledgeable of the signs and behaviors indicating the presence of a den and avoid those areas. No person shall approach, or remain, within one mile of a polar bear den, or of a sow with small cubs. If at any time the permittee becomes aware of signs indicating their close proximity to a polar bear den, or encounters a sow with small cubs, all members of the guided party must immediately retreat to a distance of at least one mile. If, at any time, the location of a den becomes known to the permittee, no approach shall be made closer than one mile. When operating within 25 miles of the Beaufort Sea coastline, the permittee will store attractants (human food, dog food, garbage, etc.) in "bear-resistant" containers to minimize attracting polar bears and avoid conditioning bears to human food. Containers must be approved as "bear-resistant." Information about certified "bear resistant" containers can be found at [http://www.igbconline.org/BEAR\\_RESISTANT\\_Oct2010.pdf](http://www.igbconline.org/BEAR_RESISTANT_Oct2010.pdf)
  - Legal take and harassment of polar bears is limited to defense of life or subsistence harvest by coastal-dwelling Native Alaskan situations only. Any killing or harassment of a polar bear in defense of life must be reported to the Refuge Manager and to the US Fish and Wildlife Service Office of Law Enforcement at (907) 456-2335 immediately, as soon as communication becomes available. You are also required to submit a completed copy of the Bear Incident Report form (Service 2008) to the Refuge Manager for all interactions with polar bears that have resulted in bears obtaining food; destroying property; posing a threat to human safety; or the death of a polar bear, so that this data can be used to help prevent future human-bear conflicts.
  - Legal take and harassment of polar bears is limited to defense of life or subsistence harvest by coastal-dwelling Native Alaskan situations only. Any killing or harassment of a polar bear in defense of life must be reported to the Refuge Manager and to the US Fish and Wildlife Service Office of Law Enforcement at (907) 456-2335 immediately, as soon as communication becomes available. You are also required to submit a completed copy of the Bear Incident Report form (Service 2008) to the Refuge Manager for all interactions with polar bears that have resulted in bears obtaining food; destroying property; posing a threat to human safety; or the death of a polar bear, so that this data can be used to help prevent future human-bear conflicts.

**Justification:** The congressional committee report on the National Wildlife Refuge System Improvement Act of 1997 states: “It establishes as the policy of the United States that wildlife-dependent recreation, when it is compatible, is a legitimate and appropriate public use of the Refuge System, through which the American public can develop an appreciation for fish and wildlife.” Commercial recreational fishing guide services also support a traditional activity that Congress intended to preserve with enactment of ANILCA. Guides support not only angling, but also other activities, including wildlife observation and photography, all of which the National Wildlife Refuge System Administration Act of 1966 (as amended by the Refuge Improvement Act of 1997) identifies as priority public uses.

Guided recreational fishing operations on the Refuge would provide the public with high quality recreational opportunities. These visitor services are a valuable benefit to a segment of the public that is not physically able to participate, not comfortable with participating, or choose not to participate in non-guided fishing trips in the Refuge.

Recreational fishing has been found compatible with Refuge purposes and is one of the priority public uses of national wildlife refuges. Guides help facilitate public participation in this activity. After fully considering the impacts of this activity, as described previously in the “Anticipated Impacts” section of this document, it is my determination that commercial recreational fishing guide service activities in the Refuge do not materially interfere with or detract from the purposes of the Refuge or the mission of the Refuge System.

***Supporting Documents:***

Arctic National Wildlife Refuge. 2010. Polar bear interaction guidelines. U.S. Fish and Wildlife Service, Fairbanks, Alaska. Unpublished. 3pp.

Interagency Grizzly Bear Committee. IBG Certified bear resistant products webpage. [http://www.igbconline.org/BEAR\\_RESISTANT\\_Oct2010.pdf](http://www.igbconline.org/BEAR_RESISTANT_Oct2010.pdf), Accessed 11 Feb 2011.

U.S. Fish and Wildlife Service. 1988a. Arctic National Wildlife Refuge Final Comprehensive Conservation Plan, Environmental Impact Statement, Wilderness Review, and Wild River Plans. U.S. Fish and Wildlife Service. Anchorage, Alaska. 609 pp.

U.S. Fish and Wildlife Service. 1988b. Record of Decision: Arctic National Wildlife Refuge Final Comprehensive Conservation Plan, Environmental Impact Statement, Wilderness Review, and Wild River Plans. U.S. Fish and Wildlife Service, November 10, 1988. Anchorage, Alaska, USA.

U.S. Fish and Wildlife Service. 2008. Region 7: Bear awareness and firearms safety training policy, Appendix F. U.S. Fish and Wildlife Service. Anchorage, Alaska. Unpublished. 36 pp.

U.S. Fish and Wildlife Service. 2010. Arctic National Wildlife Refuge Public Use Summary. U.S. Fish and Wildlife Service. Fairbanks, Alaska. Unpublished. 45 pp.

U.S. Fish and Wildlife Service. 2011. Arctic National Wildlife Refuge Draft Revised Comprehensive Conservation Plan, Draft Environmental Impact Statement, Wilderness Review, and Wild and Scenic River Review. U.S. Fish and Wildlife Service, June 2011. Anchorage, Alaska, USA.

**Refuge Determination:**

Refuge Manager/

Project Leader Approval

Richard Voss 8-4-12  
Date

**Concurrence:**

Regional Chief

National Wildlife

Refuge System

Mike Boylan (Acting) 8/15/12  
Date

**Mandatory 10-year Re-Evaluation Date:** 2022

**Mandatory 15-year Re-Evaluation Date** (for priority public uses): 2027

**NEPA Compliance for Refuge Use Decision:**

- Categorical Exclusion without Environmental Action Memorandum
- Categorical Exclusion and Environmental Action Memorandum
- Environmental Assessment and Finding of No Significant Impact
- Environmental Impact Statement and Record of Decision