

appeal process as set forth in paragraph (i) of this section.

(i) *Appeals.* (1) Any person adversely affected by a refuge manager's decision or order relating to the person's permit, or application for a permit, has the right to have the decision or order reviewed by the regional director. This section does not apply to permits or applications for rights-of-way. See 50 CFR 29.22 for the hearing and appeals procedure on rights-of-way.

(2) Prior to making any adverse decision or order on any permit or an application for a noncompetitively issued permit, the refuge manager will notify the permittee or applicant, verbally or in writing, of the proposed action and its effective date. A permittee or applicant of noncompetitively issued permits, shall have 45 calendar days after notification in which to present to the refuge manager, orally or in writing, a statement in opposition to the proposed action or effective date. Notification in writing to a valid permit holder shall occur within 10 calendar days after receipt of the statement in opposition to the refuge manager's final decision or order. An applicant for a noncompetitively issued permit shall be notified in writing within 30 calendar days after receipt of the statement in opposition, of the refuge manager's final decision or order. An applicant for a competitively issued permit who is not selected will not receive advance notice of the award decision. Such applicants, who wish to appeal the decision must appeal directly to the regional director within the time period provided for in paragraph (i)(3) of this section.

(3) The permittee or applicant shall have 45 calendar days from the post-marked date of the refuge manager's final decision or order in which to file a written appeal to the regional director. In appeals involving applicants who were not selected during a competitive selection process, the selected applicant concurrently will have the opportunity to provide information to the regional director prior to the final decision. Selected applicants who choose to take advantage of this opportunity, will retain their right of appeal should the appeal of the unsuccessful applicant result in reversal or revision

of the original decision. For purposes of reconsideration, appellants shall present the following information:

(i) Any statement or documentation, in addition to that included in the initial application, permit or competitive prospectus, which demonstrates that the appellant satisfies the criteria set forth in the document under which the permit application/award was made;

(ii) The basis for the permit applicant's disagreement with the decision or order being appealed; and

(iii) Whether or not the permit applicant requests an informal hearing before the regional director.

(4) The regional director will provide a hearing if requested by the applicant. After consideration of the written materials and oral hearing, and within a reasonable time, the regional director shall affirm, reverse, or modify the refuge manager's decision or order and shall set forth in writing the basis for the decision. The applicant must be sent a copy of the decision promptly. The decision will constitute final agency action.

(5) Permittee compliance with any decision or order of a refuge manager shall be required during the appeal process unless the regional director makes a preliminary finding contrary to the refuge manager's decision, and prepares a written determination that such action is not detrimental to the interests of the United States, or upon submission and acceptance of a bond deemed adequate by the refuge manager to indemnify the United States from loss or damage.

(j) *State selection of guide-outfitters.* Nothing in this section will prohibit the Service from cooperating with the State of Alaska in administering the selection of sport fishing guides and big game hunting guide-outfitters operating on national wildlife refuges should the State develop a competitive selection process which is acceptable to the Service.

[62 FR 45340, Aug. 27, 1997]

§ 36.42 Public participation and closure procedures.

(a) *Authority.* The Refuge Manager may close an area or restrict an activity on an emergency, temporary, or permanent basis.

(b) *Criteria.* In determining whether to close an area or restrict an activity otherwise allowed, the Refuge Manager shall be guided by factors such as public health and safety, resource protection, protection of cultural or scientific values, subsistence uses, endangered or threatened species conservation, and other management considerations necessary to ensure that the activity or area is being managed in a manner compatible with the purposes for which the Alaska National Wildlife Refuge area was established.

(c) *Emergency closures or restrictions.*

(1) Emergency closures or restrictions relating to the use of aircraft, snowmachines, motorboats, or non-motorized surface transportation shall be made after notice and hearing;

(2) Emergency closures or restrictions relating to the taking of fish and wildlife shall be accompanied by notice with a subsequent hearing;

(3) Other emergency closures or restrictions shall become effective upon notice as prescribed in §36.42(f); and

(4) No emergency closure or restriction shall be for a period exceeding 30 days.

(d) *Temporary closures or restrictions.*

(1) Temporary closures or restrictions relating to the use of aircraft, snowmachines, motorboats or non-motorized surface transportation, or to the taking of fish and wildlife, shall not be effective prior to notice and hearing in the vicinity of the area(s) affected by such closures or restriction, and other locations as appropriate;

(2) Other temporary closures shall be effective upon notice as prescribed in §36.42(f);

(3) Temporary closures or restrictions shall extend only for so long as necessary to achieve their purposes, and in no case may exceed 12 months or be extended beyond that time.

(e) *Permanent closures or restrictions.*

Permanent closures or restrictions shall be made only after notice and public hearings in the affected vicinity and other locations as appropriate, and after publication in the FEDERAL REGISTER.

(f) *Notice.* Emergency, temporary or permanent closures or restrictions shall be: (1) Published in at least one newspaper of general circulation in the

State and in at least one local newspaper if available, posted at community post offices within the vicinity affected, made available for broadcast on local radio stations in a manner reasonably calculated to inform residents in the affected vicinity, and designated on a map which shall be available for public inspection at the office of the Refuge Manager and other places convenient to the public; or

(2) Designated by the posting of appropriate signs; or

(3) Both.

(g) *Openings.* In determining whether to open an area to public use or activity otherwise prohibited, the Refuge Manager shall provide notice in the FEDERAL REGISTER and shall, upon request, hold a hearing in the affected vicinity and other location, as appropriate prior to making a final determination.

(h) Except as otherwise specifically permitted under the provision of this part, entry into closed areas or failure to abide by restrictions established under this section is prohibited.

TABLE I—SUMMARY LISTING THE NATIONAL WILDLIFE REFUGES IN ALASKA AS ESTABLISHED BY THE ALASKA LANDS ACT, PUB. L. 96-487, DECEMBER 2, 1980

1. Alaska Maritime, including:
 - Aleutian Island*
 - Bering Sea*
 - Bogoslof*
 - Chamisso*
 - Forrester Island*
 - Hazy Islands*
 - Pribilof*
 - Saint Lazaria*
 - Semidi*
 - Simeonof*
 - Tuxedni*
2. Alaska Peninsula
3. Arctic, including: William O. Douglas*
4. Becharof**
5. Innoko
6. Izembek*
7. Kanuti
8. Kenai*
9. Kodiak*
10. Koyukuk
11. Nowitna
12. Selawik
13. Tetlin
14. Togiak, including: Cape Newenham*
15. Yukon Delta, including:
 - Clarence Rhode*
 - Hazen Bay*

- Nunivak*
16. Yukon Flats*

PART 37—GEOLOGICAL AND GEOPHYSICAL EXPLORATION OF THE COASTAL PLAIN, ARCTIC NATIONAL WILDLIFE REFUGE, ALASKA

Subpart A—General Provisions

- Sec.
37.1 Purpose.
37.2 Definitions.
37.3 Other applicable laws.
37.4 Disclaimer and disqualification.

Subpart B—General Requirements

- 37.11 General standards for exploratory activities.
37.12 Responsibilities of permittee.
37.13 Group participation.
37.14 Bonding.

Subpart C—Exploration Plans

- 37.21 Application requirements.
37.22 Approval of exploration plan.
37.23 Special use permit.
37.24 Plan of operation.
37.25 Revision.

Subpart D—Environmental Protection

- 37.31 Environmental protection.
37.32 Special areas.
37.33 Environmental briefing.

Subpart E—General Administration

- 37.41 Responsibilities of the Regional Director.
37.42 Inspection and monitoring.
37.43 Suspension and modification.
37.44 Revocation and relinquishment.
37.45 Exploration by the U.S. Geological Survey.
37.46 Cost reimbursement.
37.47 Civil penalties.

Subpart F—Reporting and Data Management

- 37.51 Operational reports.
37.52 Records.
37.53 Submission of data and information.
37.54 Disclosure.

*These indicated units were previously existing refuges before the Alaska Lands Act of December 2, 1980, and are now part of the 16 National Wildlife Refuges established by the Alaska Lands Act.

APPENDIX I TO PART 37—LEGAL DESCRIPTION OF THE COASTAL PLAIN, ARCTIC NATIONAL WILDLIFE REFUGE, ALASKA

AUTHORITY: Sec. 1002, Pub. L. 96–487, 94 Stat. 2449, as amended by sec. 110, Pub. L. 97–394, 96 Stat. 1982 (16 U.S.C. 3142); sec. 110, Pub. L. 89–665, as added by sec. 206, Pub. L. 96–515, 94 Stat. 2996 (16 U.S.C. 470h–2); sec. 401, Pub. L. 148, 49 Stat. 383, as amended (16 U.S.C. 715s); 31 U.S.C. 9701; 5 U.S.C. 301; 209 DM 6.1.

SOURCE: 48 FR 16858, Apr. 19, 1983, unless otherwise noted.

NOTE: The information collection requirements contained in this part do not require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq., because there are fewer than 10 respondents annually.

Subpart A—General Provisions

§ 37.1 Purpose.

These regulations implement the requirement of section 1002(d) of the Alaska National Interest Lands Conservation Act, 94 Stat. 2450, as amended, 16 U.S.C. 3142(d), that the Secretary establish guidelines governing surface geological and geophysical exploration for oil and gas within the coastal plain of the Arctic National Wildlife Refuge. Section 1002 mandates an oil and gas exploration program for the refuge's coastal plain. The program shall culminate in a report to Congress which contains, among other things, the identification of those areas within the coastal plain that have oil and gas production potential, an estimate of the volume of oil and gas concerned, the description of the wildlife, its habitat, and other resources that are within the areas identified, and an evaluation of the adverse effects that the carrying out of further exploration for, and the development and production of, oil and gas within such areas will have on the refuge's resources. It is the objective of this program to ascertain the best possible data and information concerning the probable existence, location, volume, and potential for further exploration, development, and production of oil and gas within the coastal plain without significantly adversely affecting the wildlife, its habitat, or the environment and without unnecessary duplication of exploratory activities.