

National Park Service, Interior

§9.51

or may remand the case to the Regional Director, with appropriate instructions for further action.

(d) On or before the expiration of forty-five (45) days after his receipt of the exceptions to the Regional Director's decision, the Director shall make his decision in writing: provided however, that if more than forty-five (45) days are required for a decision after the exceptions are received, the Director shall notify the parties to the appeal and specify the reason(s) for delay. The decision of the Director shall include: (1) A statement of facts; (2) conclusions; and (3) reasons upon which the conclusions are based. The decision of the Director shall be the final administrative action of the agency on a proposed plan of operations.

(e) A decision of the Regional Director from which an appeal is taken shall not be automatically stayed by the filing of a statement of appeal. A request for a stay may accompany the statement of appeal or may be directed to the Director. The Director shall promptly rule on requests for stays. A decision of the Director on request for a stay shall constitute a final administrative decision.

(f) Where, under this subpart, the Superintendent has the authority to make the original decision, appeals may be taken in the manner provided by this section, as if the decision had been made by the Regional Director, except that the original statement of appeal shall be filed with the Superintendent, and if he decides not to reverse his original decision, the Regional Director shall have, except as noted below, the final review authority. The only decision of a Regional Director under this paragraph which shall be appealable by the Director is an appeal from a suspension under §9.51(b). Such an appeal shall follow the procedure of paragraphs (a)-(3) of this section.

[43 FR 57825, Dec. 8, 1978; 44 FR 37915, June 29, 1979]

§9.50 Use of roads by commercial vehicles.

(a) After January 8, 1978, no commercial vehicle shall use roads administered by the National Park Service without being registered with the Su-

perintendent. Roads must be used in accordance with procedures outlined in an approved plan of operations.

(1) A fee shall be charged for such registration and use based upon a posted fee schedule. The fee schedule posted shall be subject to change upon sixty (60) days of notice.

(2) An adjustment of the fee may be made at the discretion of the Superintendent where a cooperative maintenance agreement is entered into with the operator.

(b) No commercial vehicle which exceeds roadway load limits specified by the Superintendent shall be used on roads administered by the National Park Service unless authorized in writing by the Superintendent, or unless authorized by an approved plan of operations.

(c) Should a commercial vehicle used in operations cause damage to roads, resources or other facilities of the National Park Service, the operator shall be liable for all damages so caused.

§9.51 Damages and penalties.

(a) The operator shall be held liable for any damages to federally-owned or controlled lands, waters, or resources resulting from his failure to comply with either his plan of operations, or, where operations are continued pursuant to §9.33, failure to comply with the applicable permit or, where operations are temporarily approved under §9.38, failure to comply with the terms of that approval.

(b) The operator agrees, as a condition for receiving an approved plan of operations, that he will hold harmless the United States and its employees from any damages or claims for injury or death of persons and damage or loss of property by any person or persons arising out of any acts or omissions by the operator, his agents, employees or subcontractors done in the course of operations.

(c) Undertaking any operations within the boundaries of any unit in violation of this Subpart shall be deemed a trespass against the United States and shall be cause for revocation of approval of the plan of operations.

(1) When a violation by an operator under an approved plan of operations is discovered, and if it does not pose an

§ 9.52

immediate threat of significant injury to federally-owned or controlled lands or waters, the operator will be notified in writing by the Superintendent and will be given ten (10) days to correct the violation; if the violation is not corrected within ten (10) days, approval of the plan of operations will be suspended until such time as the violation is corrected.

(2) If the violation poses an immediate threat of significant injury to federally-owned or controlled lands or waters, approval of the plan of operations will be immediately suspended until such time as the violation is corrected. The operator will be notified in writing within five (5) days of any suspension and shall have the right to appeal that decision under § 9.48.

(3) Failure to correct any violation or damage to federally owned or controlled lands, waters or resources caused by such violations will result in revocation of plan of operations approval.

[43 FR 57825, Dec. 8, 1978; 44 FR 37915, June 29, 1979]

§ 9.52 Public inspection of documents.

(a) When a Superintendent receives a request for permission for access on, across or through federally-owned or controlled lands or waters for the purpose of conducting operations, the Superintendent shall publish a notice of this request in a newspaper of general circulation in the county(s) in which the lands are situated, or in such publications as deemed appropriate by the Superintendent.

(b) Upon receipt of the plan of operations in accordance with § 9.35(c), the Superintendent shall publish a notice in the FEDERAL REGISTER advising the availability of the plan for public review and comment. Written comments received within thirty (30) days will become a part of the official record. As a result of comments received or if otherwise deemed appropriate by the Superintendent, he may provide additional opportunity for public participation to review the plan of operations.

(c) Any document required to be submitted pursuant to the regulations in this Subpart shall be made available for public inspection at the office of the Superintendent during normal

36 CFR Ch. I (7–1–10 Edition)

business hours, unless otherwise available pursuant to § 9.51(b). This does not include those records only made available for the Superintendent's inspection under § 9.41 of this Subpart or those records determined by the Superintendent to contain proprietary or confidential information. The availability of such records for inspection shall be governed by the rules and regulations found at 43 CFR part 2.

[43 FR 57825, Dec. 8, 1978; 44 FR 37915, June 29, 1979]

Subpart C [Reserved]

Subpart D—Alaska Mineral Resource Assessment Program

AUTHORITY: 16 U.S.C. 410hh; 16 U.S.C. 3101, *et seq.*; 16 U.S.C. 1, *et seq.*; 16 U.S.C. 347; 16 U.S.C. 410bb; 16 U.S.C. 431; 16 U.S.C. 1131 *et seq.*

SOURCE: 56 FR 22652, May 16, 1991, unless otherwise noted.

§ 9.80 Purpose.

These regulations govern the conduct of the mineral resource assessment activities authorized under § 1010 of the Alaska National Interest Lands Conservation Act (ANILCA), 16 U.S.C. 3101, *et seq.*, in units of the National Park System in Alaska. The regulations are designed to ensure that authorized Federal agencies and their contractors carry out mineral resource assessment activities in an environmentally sound manner that does not result in lasting environmental impacts that appreciably alter the natural character of the units, or biological or ecological systems in the units; is compatible with the purposes for which the units are established; and ensures that all units are left unimpaired and preserved for the enjoyment of present and future generations.

§ 9.81 Scope and applicability.

These regulations apply to all activities conducted by authorized agencies and their contractors on public lands in units of the National Park System in Alaska under the Alaska Mineral Resource Assessment program (AMRAP) as authorized by section 1010