

after receipt of the statement in opposition to the refuge manager's final decision or order. An applicant for a non-competitively 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 TO PART 36—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 GEO-PHYSICAL 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.

*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.