

§ 37.43

Director shall have a continuing right of access to any part of the exploratory activities at any time for inspection or monitoring and for any other purpose that is consistent with this part. A permittee, upon request by the Regional Director, shall furnish lodging, food, and reasonable use of its communication and surface and air transportation systems, to the Field Monitors and other representatives of the United States for the purposes of inspecting and monitoring the permittee's exploration activities in the field and for any other purpose consistent with this part. Whenever possible, the Regional Director shall give advance notice of the need for such services and facilities, including the names of persons to be accommodated.

§ 37.43 Suspension and modification.

If at any time while exploratory activities are being carried out under an approved exploration plan and special use permit, the Regional Director, on the basis of information available to him, determines that continuation of further activities under the plan or permit will significantly adversely affect the refuge's wildlife, its habitat, or the environment, or significantly restrict subsistence uses, or that the permittee has failed to comply with its approved exploration plan, plan of operation, special use permit, any reasonable stipulation, demand or order of the Regional Director, or any regulation of this part, the Regional Director may, without any expense or liability to the Department, suspend activities under the plan and/or permit for such time, or make such modifications to the plan and/or permit, or both suspend and so modify, as he determines necessary and appropriate. Such suspensions shall state the reasons therefore and be effective immediately upon receipt of the notice. Suspensions issued orally shall be followed by a written notice confirming the action within 3 days, and all written notices will be sent by messenger or registered mail, return receipt requested. A suspension shall remain in effect until the basis for the suspension has been corrected to the satisfaction of the Regional Director. For good cause, the Regional Director may also grant at the permit-

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tee's request, a written waiver of any provision of its special use permit, so long as such waiver will not be likely to result in significant adverse effects on the refuge's resources. Reconsideration of the Regional Director's actions under this section may be obtained by employing the procedures described in §37.22(c). A request for reconsideration shall not operate to stay the Regional Director's actions unless such stay is granted in writing by the Director.

§ 37.44 Revocation and relinquishment.

For nonuse, for failure to comply with §37.14, or for any action of the permittee not consistent with this part, the Regional Director may revoke or a permittee may relinquish a special use permit to conduct exploratory activities at any time by sending to the other a written notice of revocation or relinquishment. Such notice shall state the reasons for the revocation or relinquishment and shall be sent by registered mail, return receipt requested, at least 30 days in advance of the date that the revocation or relinquishment will be effective. Revocation or relinquishment of a permit to conduct exploratory activities shall not relieve the permittee of the obligation to comply with all other obligations specified in this part and in its special use permit, approved exploration plan and plan of operation. Reconsideration of the Regional Director's actions under this section may be obtained by employing the procedures described in §37.22(c). A request for reconsideration shall not operate to stay the Regional Director actions unless such stay is granted in writing by the Director.

§ 37.45 Exploration by the U.S. Geological Survey.

Notwithstanding the requirement found in §37.21(b) on when exploration plans shall be submitted, the U.S. Geological Survey may at any time apply for a special use permit to conduct exploratory activities by submitting for approval one or more exploration plans in accordance with the requirements of this part and the Act. No plan submitted by the Survey will be approved

unless (1) no other person has submitted a plan for the area involved which satisfies the regulations of this part and (2) the information which would be obtained from the Survey is needed to make an adequate report to Congress pursuant to the Act. Sections 37.13, 37.14, 37.22(d)(3), 37.46, 37.47, and 37.54(d) and the provisions of §§ 37.22(d)(2), 37.53(e), and 37.54 on processed, analyzed and interpreted data or information shall not apply to the Survey. If authorized to conduct exploratory activities, the Survey shall comply with this part in all other respects. All contractors and subcontractors used by the Survey to conduct exploratory activities shall be subject to all of the regulations of this part excepting §§ 37.13 and 37.46 and the provisions of §§ 37.22(d)(2), 37.53(e), and 37.54 on processed, analyzed and interpreted data or information.

§ 37.46 Cost reimbursement.

(a) Each applicant for or holder of a special use permit issued under this part shall reimburse the Department for its actual costs incurred, including, but not limited to, its direct costs and indirect costs as established by the indirect cost rate of the charging bureau or office, in publishing, reviewing (which includes, but is not limited to, conducting any public hearings thereon), modifying, and approving or disapproving the applicant's or permittee's exploration plan(s); reviewing evidence of the permittee's compliance with any order given by the Regional Director under § 37.13; preparing and issuing the permittee's special use permit; reviewing and acting on the permittee's plan(s) of operation; inspecting, monitoring, and enforcing the permittee's compliance with its approved exploration plan(s), plan(s) or operation, special use permit and this part; performing the permittee's obligations pursuant to § 37.31(a); and identifying, evaluating and preserving historic, archeological and cultural resources in areas to be explored by the permittee; as further delineated by the Regional Director.

(b) Each applicant shall submit with each exploration plan submitted a payment, the amount of which shall be an estimate made by the Regional Direc-

tor of the costs which will be incurred by the Department in publishing, reviewing, modifying and approving or disapproving the applicant's exploration plan.

(1) If the applicant's plan is disapproved or if the applicant withdraws its application before a decision is reached on its plan, the applicant shall be responsible for such costs incurred by the Department in processing the applicant's application up to the date on which the plan is disapproved or the Regional Director receives written notice of the applicant's withdrawal, and for costs subsequently incurred by the Department in terminating the application review process. If the costs actually incurred exceed the estimate paid at the time of application, reimbursement by the applicant of such additional costs shall be due within 30 days of receiving notice from the Regional Director of the additional amount due. If the actual costs incurred are less than the estimate paid by the applicant, the excess shall be refunded to the applicant.

(2) If the applicant's plan is approved, the applicant shall pay an estimate made by the Regional Director of the costs which will be incurred by the Department in preparing and issuing to the applicant a special use permit. The first quarterly payment made by the applicant pursuant to paragraph (c) of this section will be adjusted upward or downward, as warranted, to accurately reflect the actual costs incurred by the Department in processing the permit. If an applicant withdraws after its plan is approved, but before its special use permit is issued, the applicant shall be responsible for such costs incurred by the Department in preparing the applicant's permit up to the date on which the Regional Director receives written notice of the applicant's withdrawal and for costs subsequently incurred by the Department in terminating permit preparation and issuance.

(3) When two or more applications are filed which the Regional Director determines to be in competition with each other, each applicant shall reimburse the Department for such actual costs incurred in processing its exploration plan and special use permit, if issued, except that those costs which