

**§ 37.23 Special use permit.**

(a) Within 45 days, or sooner if practicable, of approving an exploration plan, or portion thereof, the Regional Director shall, unless prohibited by law, issue a special use permit to authorize the permittee to proceed with those exploratory activities described and approved in its exploration plan, or portion thereof, provided that the requirements of § 37.14(a) have been satisfied. The special use permit may contain such terms and conditions and may be amended from time to time as the Regional Director deems necessary and appropriate to carry out the Act and this part.

(b) Before issuing a special use permit to authorize exploration of lands within the coastal plain allotted pursuant to the Act of May 17, 1906, 34 Stat. 197, as amended by the Act of August 2, 1956, 70 Stat. 954, or on lands within the coastal plain the surface estate in which has been selected by or conveyed to the Kaktovik Inupiat Corporation pursuant to Sections 12 and 14 of the Alaska Native Claims Settlement Act, 85 Stat. 701 and 702, 43 U.S.C. 1611 and 1613, the Regional Director shall seek the views of the holder of such approved native allotment or the Corporation for the purpose of developing permit conditions designed to mitigate the effects of such exploration on its interests.

**§ 37.24 Plan of operation.**

Each approved exploration plan shall be supplemented by a written plan of operation for each fiscal year, or portions thereof, covered by the exploration plan. Each plan of operation shall specify the field operations for implementing that exploration plan during the year, or portions thereof, covered by the plan of operation. Each plan of operation shall be submitted to the Regional Director at least 30 days before field operations are to be commenced thereunder, except that any plan of operation supplementing a portion of an exploration plan that received expedited review and approval pursuant to § 37.21(c) shall be submitted 10 days before field operations are to be commenced thereunder. A plan of operation shall set forth such specific information as is required by the Regional

Director in determining whether the plan is consistent with the exploration plan to which it pertains and with this part. The permittee shall make such modifications in its plan of operation as are deemed at any time by the Regional Director to be necessary and appropriate to ensure such consistency. Reconsideration of the Regional Director's actions under this section may be obtained by employing the procedures described in § 37.22(c).

**§ 37.25 Revision.**

(a) A permittee may request the Regional Director for permission to revise its approved exploration plan. Until the Regional Director grants the permittee's request, no revision of its exploration plan shall be implemented. Such request shall be deemed to be granted on the 10th working day following its receipt unless the Regional Director denies the request; advises the permittee that the proposed revision is major and, therefore, must satisfy the publication and hearing requirements of § 37.22(b) before it can be acted upon; by timely written notice extends the period for considering the request; conditionally approves the proposed revision with such modifications as he stipulates are necessary and appropriate; or, unconditionally approves the proposed revision within a shorter period. No revision of an exploration plan shall be approved that is inconsistent with the Act or this part. Approval of any revision is subject to the conditions stated in § 37.22(d) to the extent that they are pertinent.

(b) Upon 10 working days advance notice to the Regional Director of its proposed revision, or within such lesser period as may be concurred in by the Regional Director, a permittee may implement a revision of its plan of operation, provided that such revision is consistent with the exploration plan to which the plan of operation pertains and this part. The Regional Director may require the permittee to defer, modify, or rescind such revision whenever he determines that such action is necessary and appropriate to ensure such consistency.

(c) Reconsideration of the Regional Director's actions under this section

**§ 37.31**

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.

**Subpart D—Environmental Protection**

**§ 37.31 Environmental protection.**

(a) The permittee shall conduct operations in a manner which avoids significant adverse effects on the refuge's wildlife, its habitat, and environment. The Regional Director may impose stipulations to supplement the permittee's special use permit and issue other orders as needed to ensure that the permittee's activities are conducted in a manner consistent with this part. If, after 30 days, or in emergencies such shorter periods as shall not be unreasonable, following a demand by the Regional Director, the permittee shall fail or refuse to perform any action required by this part, its exploration plan, plan of operation, special use permit, or a stipulation or order of the Refuge Manager, the department shall have the right, but not the obligation, to perform any or all such actions at the sole expense of the permittee. Prior to making such demand, the Regional Director shall confer with the permittee, if practicable to do so, regarding the required action or actions included in the demand. Reconsideration of the Regional Director's demands 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 demands or the Department's performance pursuant to this section unless such stay is granted in writing by the Director.

(b) *Terrestrial environment.* (1) Vehicles shall be operated in a manner such that the vegetative mat or soil is not significantly damaged or displaced. Blading of snow on trails or campsites shall be limited so as to maintain an adequate protective cover.

(2) Ground vehicles shall be of the type causing the least practicable harm to the surface, such as Nodwell FN-110 or FN-60 or Bombardier track vehicles, mobile camps on flexible

tracks or skids, vibrator units on flexible tracks or wheels, D-7 Caterpillar tractors, or their equivalent. They shall be operated only in the winter and where there is adequate protective cover. Vehicle operation shall cease in the spring when the Regional Director determines that the protective cover is no longer adequate. Operation of ground vehicles in the summer is prohibited.

(3) Movement of equipment through riparian willow stands shall be avoided, except when approved by the Regional Director.

(4) Above ground explosive charges shall be utilized in a manner to minimize damage to the vegetative mat.

(5) Campsites may be located on lakes which are frozen throughout, including bottom sediments, on durable ground, and on lagoons which are frozen to sufficient depth to ensure safety of personnel, but shall not be located on river ice. Durable ground can include gravel or sand bars or vegetated ground with adequate protective cover.

(6) Campsites and trails shall be kept clean of waste.

(7) Gray water may be discharged to the surface provided it is filtered, disinfected, and not discharged directly into lakes and rivers.

(8) The permittee shall take all precautionary measures necessary to prevent and suppress man-caused tundra fires and shall notify the Regional Director of the occurrence of any tundra fires immediately or as soon as communication can be established.

(9) Rehabilitation of disturbed surface areas shall be accomplished by the permittee in accordance with schedules and a plan required and approved by the Regional Director. Revegetation shall be accomplished exclusively with endemic species.

(10) The permittee shall not harass wildlife in any manner, including, but not limited to, close approach by surface vehicles or aircraft. Aircraft should maintain an altitude of at least 1500 feet above ground level whenever practicable.

(11) No explosives shall be detonated within ½ miles of any known denning brown or polar bear or any muskoxen or caribou herd.