

## U.S. Fish and Wildlife Serv., Interior

## § 36.1

accepted, conventional, contemporary modes of travel in said vicinity. Use will be consistent with reasonable purposes for which such land is held. The Director will issue such permits as are necessary for access, designating the means and route of travel for ingress and egress so as to preserve the wilderness character of the area.

[36 FR 25426, Dec. 31, 1971; 37 FR 1049, Jan. 22, 1972]

### § 35.14 Special regulations.

(a) Special regulations will be issued by the Director for individual wilderness units within the National Wildlife Refuge System as established by Public Law. These special regulations will supplement the provisions of this part.

(b) Special regulations may contain administrative and public uses as recognized in the:

(1) Legislative Record of the establishing Act.

(2) Committee Reports of the Congress.

(3) Departmental and Executive Reports to the Congress.

(4) Other provisions.

(c) Such special regulations shall be published in subpart B of this part after a wilderness has been established by Public Law and shall become effective upon publication in the FEDERAL REGISTER (12-31-71).

### Subpart B—Special Regulations for Specific National Wildlife Refuge Wilderness [Reserved]

## PART 36—ALASKA NATIONAL WILDLIFE REFUGES

### Subpart A—Introduction and General Provisions

Sec.

36.1 How do the regulations in this part apply to me and what do they cover?

36.2 What do these terms mean?

36.3 Information collection.

### Subpart B—Subsistence Uses

36.11 Purpose and policy.

36.12 Use of snowmobiles, motorboats, dog teams and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses.

36.13 Subsistence fishing.

36.14 Subsistence hunting and trapping.

36.15 Subsistence uses of timber and plant material.

36.16 Closure to subsistence uses of fish and wildlife.

### Subpart C [Reserved]

### Subpart D—Other Refuge Uses

36.31 Recreational activities.

36.32 Taking of fish and wildlife.

36.33 What do I need to know about using cabins and related structures on Alaska National Wildlife Refuges?

36.34 Firearms.

36.35 Unattended property.

36.36 Sled dogs and household pets.

36.37 Revenue producing visitor services.

### Subpart E—Refuge Specific Regulations

36.39 Public use.

### Subpart F—Permits and Public Participation and Closure Procedures

36.41 Permits.

36.42 Public participation and closure procedures.

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

AUTHORITY: 16 U.S.C. 460(k) *et seq.*, 668dd-668ee, 3101 *et seq.*, Pub. L. 115-20, 131 Stat. 86.

SOURCE: 46 FR 31827, June 17, 1981, unless otherwise noted.

### Subpart A—Introduction and General Provisions

#### § 36.1 How do the regulations in this part apply to me and what do they cover?

(a) The regulations contained in this part are prescribed for the proper use and management of all Alaska National Wildlife Refuges and supplement the general National Wildlife Refuge System regulations found in title 50 CFR chapter I, subchapter C. The general National Wildlife Refuge System regulations are automatically applicable in their entirety to the Alaska National Wildlife Refuges except as supplemented or modified by these regulations or amended by ANILCA.

(b) Except as provided in paragraph (c) of this section, the regulations contained in this part are applicable only on federally-owned lands within the

boundaries of any Alaska National Wildlife Refuge. For purposes of this part, “federally-owned lands” means land interests held or retained by the United States, but does not include those land interests:

(1) Tentatively approved, legislatively conveyed, or patented to the State of Alaska; or

(2) Interim conveyed or patented to a Native Corporation or person.

(c) The regulations found in 50 CFR, parts 25, 26, 27, and 28, and §§32.2(d) and 32.5(c), except as supplemented or modified by this part or amended by ANILCA, along with the regulations found in 50 CFR 36.35(d), also are applicable to administrative and visitor facility sites of the Fish and Wildlife Service in Alaska which we may hold in fee or less than fee title and are either inside or outside the approved boundaries of any Alaska National Wildlife Refuge. Less than fee title lands do not include easements under Section 17(b) of the Alaska Native Claims Settlement Act (85 Stat. 688), but although not limited to, they include sites administered by a national wildlife refuge under the terms of a memorandum of understanding or lease agreement.

[46 FR 31827, June 17, 1981, as amended at 64 FR 14151, Mar. 24, 1999; 81 FR 52271, Aug. 5, 2016; 82 FR 52010, Nov. 9, 2017]

### § 36.2 What do these terms mean?

The following definitions shall apply to the regulations contained in this part.

*Adequate and feasible access* means a reasonable method and route of pedestrian or vehicular transportation which is economically practicable for achieving the use or development desired by the applicant on his/her non-federal land or occupancy interest, but does not necessarily mean the least costly alternative.

*Adequate snow cover* means snow of sufficient depth to protect the underlying vegetation and soil.

*Administrative and visitor facility sites* means any facility or site administered by the U.S. Fish and Wildlife Service for public entry or other administrative purposes including, but not limited to, refuge staff offices, visitor cen-

ters, public access and parking sites, and campgrounds.

*Aircraft* means a machine or device that is used or intended to be used to carry persons or objects in flight through the air, including but not limited to, airplanes, helicopters and gliders.

*Alaska National Wildlife Refuges* means all lands, waters and interests therein administered by the U.S. Fish and Wildlife Service within the following National Wildlife Refuges in Alaska: Alaska Maritime, Arctic, Alaska Peninsula, Becharof, Innoko, Kanuti, Kenai, Kodiak, Koyukuk, Nowitna, Selawik, Tetlin, Izembek, Togiak, Yukon Delta and Yukon Flats.

*ANILCA* means the Alaska National Interest Lands Conservation Act, 94 Stat 237, Pub. L. 96–487 (December 2, 1980).

*Downed aircraft* means an aircraft that as a result of mechanical failure or accident cannot take off.

*Fish and wildlife* means any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, non-migratory, or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, product, egg, or offspring thereof, or dead body or part thereof.

*Off-road vehicle* means any motor vehicle designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, wetland, or other natural terrain, except snowmobiles as defined in this section. It includes, but is not limited to, four-wheel drive or low-pressure-tire vehicles, motorcycles and related two-, three-, or four-wheel vehicles, amphibious machines, ground-effect or air-cushion vehicles, air-thrust boats, recreation vehicle campers, and any other means of transportation deriving motive power from any source other than muscle or wind.

*Operate* means to manipulate the controls of any conveyance, such as, but not limited to, an aircraft, snowmobile, motorboat, off-road vehicle, or any other motorized or non-motorized

form of vehicular transport as to direct its travel, motion, or purpose.

*Person* means any individual, firm, corporation, society, association, partnership, or other private or public body.

*Public lands* means lands situated in Alaska which are federally owned lands, except:

(1) Land selections of the State of Alaska which have been tentatively approved or validly selected under the Alaska Statehood Act (72 Stat. 339) and lands which have been confirmed to, validly selected by, or granted to the Territory of Alaska or the State under any other provision of Federal law;

(2) Land selections of a Native Corporation made under the Alaska Native Claims Settlement Act (85 Stat. 688) which have not been conveyed to a Native Corporation, unless any such selection is determined to be invalid or is relinquished; and

(3) Lands referred to in section 19(b) of the Alaska Native Claims Settlement Act.

*Refuge Manager* means any Fish and Wildlife Service official in charge of an Alaska National Wildlife Refuge, the Alaska Regional Director of the Fish and Wildlife Service, or an authorized representative of either.

*Snowmachine* or *snowmobile* means a self-propelled vehicle intended for off-road travel primarily on snow having a curb weight of not more than 1,000 pounds (450 kg), driven by track or tracks in contact with the snow and steered by a ski or skis in contact with the snow.

*Structure* means something temporarily or permanently constructed, built, or placed; and constructed of natural or manufactured parts including, but not limited to, a building, shed, cabin, porch, bridge, walkway, stair steps, sign, landing, platform, dock, rack, fence, telecommunication device, antennae, fish cleaning table, satellite dish/mount, or well head.

*Subsistence uses* means the customary and traditional uses by rural Alaska residents of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles out of nonedible byproducts of fish and

wildlife resources taken for personal or family consumption; for barter or sharing for personal or family consumption; and, for customary trade. For purpose of this paragraph, the term:

(1) *Family* means all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis; and

(2) *Barter* means the exchange of fish or wildlife or their parts taken for subsistence uses:

(i) For other fish or game of their parts; or

(ii) For other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature; and

(3) *Customary trade* shall be limited to the exchange of furs for cash, and such other activities, if any, as may be designated in special rules for Alaska National Wildlife Refuges.

*Take* or *taking*, as used with respect to fish and wildlife, means to pursue, hunt, shoot, trap, net, capture, collect, kill, harm or attempt to engage in any such conduct.

*Temporary* means a continuous period of time not to exceed 12 months, except as specifically provided otherwise.

[46 FR 31827, June 17, 1981, as amended at 51 FR 44793, Dec. 12, 1986; 64 FR 14151, Mar. 24, 1999; 81 FR 27043, May 5, 2016; 81 FR 52271, Aug. 5, 2016; 82 FR 52010, Nov. 9, 2017]

### § 36.3 Information collection.

The information collection requirements contained in this part have been approved by the Office of Management and Budget under 44 U.S.C. *et seq.* and assigned clearance number 1018-0014. The collected information will assist the Service in administering these programs and, particularly, in the issuance of permits and the granting of statutory or administrative benefits. The information requested in the application form is required to obtain a benefit. The public reporting burden for this collection of information is estimated to average 1.5 hours each for 150 non-competitively awarded permits and 31.66 hours each for 60 competitively awarded permits including the time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and

## § 36.11

completing and reviewing the collection of information. The estimated annual number of respondents is 210, yielding a total annual reporting and record keeping burden of 2125 hours. Comments and suggestions on the burden estimate or any other aspect of the form should be sent directly to the Service's Information Collection Clearance Officer at the address provided at 50 CFR 2.1(b).

[62 FR 45340, Aug. 27, 1997, as amended at 79 FR 43967, July 29, 2014]

## Subpart B—Subsistence Uses

### § 36.11 Purpose and policy.

(a) Consistent with the management of fish and wildlife in accordance with recognized scientific principles and the purposes for which each Alaska National Wildlife refuge was established, designated, or expanded by ANILCA, the purpose of this subpart is to provide the opportunity for local rural residents engaged in a subsistence way of life to do so pursuant to applicable State and Federal law.

(b) Consistent with sound management principles and the conservation of healthy populations of fish and wildlife, the utilization of Alaska National Wildlife Refuges is to cause the least adverse impact possible on local rural residents who depend upon subsistence uses of the resources of the public lands in Alaska.

(c) Nonwasteful subsistence uses of fish, wildlife and other renewable resources by local rural residents shall be the priority consumptive uses of such resources over any other consumptive uses permitted within Alaska National Wildlife Refuge areas.

(d) The State of Alaska is authorized to regulate the taking of fish and wildlife for subsistence uses within Alaska National Wildlife Refuges to the extent such regulation is consistent with applicable Federal law, including but not limited to ANILCA.

(e) Nothing in this subpart shall be construed as permitting the level of subsistence uses of fish and wildlife within Alaska National Wildlife Refuges to be inconsistent with the con-

## 50 CFR Ch. I (10–1–23 Edition)

servation of healthy populations of fish and wildlife.

[46 FR 31827, June 17, 1981, as amended at 81 FR 52272, Aug. 5, 2016; 82 FR 52010, Nov. 9, 2017]

### § 36.12 Use of snowmobiles, motorboats, dog teams and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses.

(a) Notwithstanding any other provision of subchapter C of title 50 CFR the use of snowmobiles, motorboats, dog teams and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses is permitted within Alaska National Wildlife Refuges except at those times and in those areas restricted or closed by the Refuge Manager.

(b) The Refuge Manager may restrict or close a route or area to the use of snowmobiles, motorboats, dog teams or other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses if the Refuge Manager determines that such use is causing or is likely to cause an adverse impact on public health and safety, resource protection, protection of historic or scientific values, subsistence uses, conservation of endangered or threatened species, or other purposes and values for which the refuge was established.

(c) No restrictions or closures shall be imposed without notice and a public hearing in the affected vicinity and other locations as appropriate. In the case of emergency situations, restrictions or closures shall not exceed sixty (60) days and shall not be extended unless the Refuge Manager establishes, after notice and public hearing in the affected vicinity and other locations as appropriate, that such extension is justified according to the factors set forth in paragraph (b) of this section. Notice of the proposed or emergency restrictions or closures and the reasons therefor shall be published in at least one newspaper of general circulation within the State and in at least one local newspaper if available, and information about such proposed or emergency actions shall also be made available for broadcast on local radio stations in a

manner reasonably calculated to inform local rural residents in the affected vicinity. All restrictions and closures shall be designated on a map which shall be available for public inspection at the office of the Refuge Manager of the affected refuge and the post office or postal authority of every affected community within or near the refuge area, or by the posting of signs in the vicinity of the restrictions or closures, or both.

(d) Snowmobiles, motorboats, dog teams and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses shall be operated (1) in compliance with applicable State and Federal law, (2) in such a manner as to prevent waste or damage to the refuge, and (3) in such a manner as to prevent the herding, harassment, hazing or driving of wildlife for hunting or other purposes.

(e) At all times when not engaged in subsistence uses, local rural residents may use snowmobiles, motorboats, dog teams and other means of surface transportation in accordance with subpart C of this part.

#### § 36.13 Subsistence fishing.

Fish may be taken by local rural residents for subsistence uses in compliance with applicable State and Federal law. To the extent consistent with the provisions of this part and other Federal law, applicable State laws and regulations governing the taking of fish which are now or will hereafter be in effect are hereby incorporated by reference as a part of these regulations.

[82 FR 52010, Nov. 9, 2017]

#### § 36.14 Subsistence hunting and trapping.

Local rural residents may hunt and trap wildlife for subsistence uses in Alaska National Wildlife Refuges in compliance with applicable State and Federal laws. To the extent consistent with the provisions of this part and other Federal law, applicable State laws and regulations governing the taking of wildlife which are now or will hereafter be in effect are hereby incor-

porated by reference as a part of these regulations.

[82 FR 52010, Nov. 9, 2017]

#### § 36.15 Subsistence uses of timber and plant material.

(a) Notwithstanding any other provision of this part, the noncommercial cutting of live standing timber by local rural residents for appropriate subsistence uses, such as firewood or house logs, may be permitted in Alaska National Wildlife Refuges as follows:

(1) For live standing timber greater than six inches diameter at breast height (4½ feet above ground level), the Refuge Manager may allow cutting in accordance with the specifications of a special use permit if such cutting is determined to be compatible with the purposes for which the refuge was established;

(2) For live standing timber between three and six inches diameter at breast height, cutting is allowed on the Arctic National Wildlife Refuge south of latitude 68 degrees North and on the Innoko, Kanuti, Koyukuk, Nowitna, Selawik, Tetlin, and Yukon Flats National Wildlife Refuges unless restricted by the Refuge Manager, except that no more than 20 trees may be cut annually by an individual without a special use permit, no cutting may be done within 50 feet of a stream, lake, or river and no more than one tree in five (20%) may be cut in any specific stand; on the remainder of the Arctic National Wildlife Refuge and on all other Alaska National Wildlife Refuges, the Refuge Manager may allow cutting in accordance with the specifications of a special use permit if such cutting is determined to be compatible with the purposes for which the refuge was established;

(3) For live standing timber less than three inches diameter at breast height, cutting is allowed unless restricted by the Refuge Manager.

(b) The noncommercial gathering by local rural residents of fruits, berries, mushrooms, and other plant materials for subsistence uses, and the non-commercial gathering of dead or downed timber for firewood, shall be allowed without a permit.

(c)(1) Notwithstanding any other provision of this part, the Refuge Manager, after notice and public hearing in the affected vicinity and other locations as appropriate, may temporarily close all or any portion of an Alaska National Wildlife Refuge to subsistence uses of a particular plant population only if necessary for reasons of public safety, administration, or to assure the continued viability of such population. For purposes of this section, the term “temporary” shall mean only as long as reasonably necessary to achieve the purpose of the closure.

(2) If the Refuge Manager determines that an emergency situation exists and that extraordinary measures must be taken for public safety or to assure the continued viability of a particular plant population, the Refuge Manager may immediately close all or any portion of an Alaska National Wildlife Refuge to the subsistence uses of such population. Such emergency closure shall be effective when made, shall be for a period not to exceed sixty (60) days, and may not subsequently be extended unless the Refuge Manager establishes, after notice and public hearing in the affected vicinity and other locations as appropriate, that such closure should be extended.

(3) Notice of administrative actions taken pursuant to this section, and the reasons justifying such actions, shall be published in at least one newspaper of general circulation within the State and in at least one local newspaper if available, and information about such actions and reasons therefor also shall be made available for broadcast on local radio stations in a manner reasonably calculated to inform local rural residents in the affected vicinity. All closures shall be designated on a map which shall be available for public inspection at the office of the Refuge Manager of the affected refuge and the post office or postal authority of every affected community within or near the refuge, or by the posting of signs in the vicinity of the restrictions, or both.

[46 FR 31827, June 17, 1981, as amended at 51 FR 44793, Dec. 12, 1986]

#### **§ 36.16 Closure to subsistence uses of fish and wildlife.**

(a) Notwithstanding any other provision of this part, the Refuge Manager, after consultation with the State and adequate notice and public hearing in the affected vicinity and other locations as appropriate, may temporarily close all or any portion of an Alaska National Wildlife Refuge to subsistence uses of a particular fish or wildlife population only if necessary for reasons of public safety, administration, or to assure the continued viability of such population. For the purposes of this section, the term “temporarily” shall mean only so long as reasonably necessary to achieve the purpose of the closure.

(b) If the Refuge Manager determines that an emergency situation exists and that extraordinary measures must be taken for public safety or to assure the continued viability of a particular fish or wildlife population, he may immediately close all or any portion of a refuge to the subsistence uses of such population. Such emergency closure shall be effective when made, shall not exceed sixty (60) days, and may not subsequently be extended unless the Refuge Manager establishes, after notice and public hearing in the affected vicinity and other locations as appropriate, that such closure should be extended.

(c) Notice of administrative actions taken pursuant to this section and the reasons justifying such actions shall be published in at least one newspaper of general circulation within the State and in at least one local newspaper if available, and information about such actions and justifying reasons shall be made available for broadcast on local radio stations in a manner reasonably calculated to inform local rural residents in the affected vicinity. All closures shall be designated on a map which shall be available for public inspection at the office of the Refuge Manager of the affected refuge area and the post office or postal authority of every affected community within or near the refuge area, or by the posting of signs in the vicinity of the closures, or both.

**Subpart C [Reserved]**

**Subpart D—Other Refuge Uses****§ 36.31 Recreational activities.**

(a) Public recreational activities within the Alaska National Wildlife Refuges are authorized as long as such activities are conducted in a manner compatible with the purposes for which the areas were established. Such recreational activities include, but are not limited to, sightseeing, nature observation and photography, sport hunting, sport fishing, boating, camping, hiking, picnicking and other related activities. Any existing special regulations now in force and effect shall continue to apply to the applicable refuge lands in Alaska National Wildlife Refuges.

(b) Surface collection, by hand (including handheld gold pans) and for personal recreational use only, of rocks and minerals is authorized: *Provided however*, That (1) collection of silver, platinum, gemstones and fossils is prohibited, and (2) collection methods which may result in disturbance of ground surface, such as the use of shovels, pickaxes, sluice boxes and dredges, are prohibited. The recreation activities specified in paragraphs (a) and (b) of this section may be prohibited or otherwise restricted in accordance with the provisions of § 36.42.

**§ 36.32 Taking of fish and wildlife.**

(a) The taking of fish and wildlife for sport hunting, trapping, and sport fishing is authorized in accordance with applicable State and Federal law and such laws are hereby adopted and made a part of these regulations; *Provided however*, That the Refuge Manager, pursuant to § 36.42, may designate areas where, and establish periods when, no taking of a particular population of fish or wildlife shall be permitted.

(b) The exercise of valid commercial fishing rights or privileges obtained pursuant to existing law, including any use of refuge areas for campsites, cabins, motorized vehicles, and aircraft landing directly incident to the exercise of such rights or privileges, is authorized; *Provided, however*, That the Refuge Manager may restrict or prohibit the exercise of these rights or privileges or uses of federally owned lands directly incident to such exercise if he determines, after conducting a

public hearing in the affected locality, that they are inconsistent with the purposes of the refuge and that they constitute a significant expansion of commercial fishing activities within such refuge beyond the level of such activities in 1979.

(c) The following provisions shall apply to any person while engaged in the taking of fish and wildlife within an Alaska National Wildlife Refuge:

(1) *Trapping and sport hunting.* (i) Each person shall secure and possess all required State licenses and shall comply with the applicable provisions of State law unless further restricted by Federal law;

(ii) Each person shall comply with the applicable provisions of Federal law; and

(iii) In addition to the requirements of paragraphs (a) and (b) of this section, each person shall continue to secure a trapping permit from the appropriate Refuge Manager prior to trapping on the Kenai, Izembek and Kodiak Refuges and the Aleutian Islands Unit of the Alaska Maritime Refuge.

(2) *Sport and commercial fishing.* (i) Each person shall secure and possess all required State licenses and shall comply with the applicable provisions of State law unless further restricted by Federal law; and

(ii) Each person shall comply with the applicable provisions of Federal law.

(d) Nothing in this section shall apply to the taking of fish and wildlife for subsistence uses.

(e) Nothing in these rules shall be interpreted as waiving the requirements of other fish and wildlife conservation statutes such as the Airborne Hunting Act or those provisions of subchapter C of title 50 CFR regarding the taking of depredating wildlife. Animal control programs shall only be conducted in accordance with a special use permit issued by the Refuge Manager.

[82 FR 52010, Nov. 9, 2017, as amended at 84 FR 47790, Sept. 10, 2019]

**§ 36.33 What do I need to know about using cabins and related structures on Alaska National Wildlife Refuges?**

(a) *Definitions.* As used in this section, the term:

*Administrative cabin* shall mean any cabin only used by refuge or other authorized personnel for the administration of the refuge.

*Cabin* shall mean a small, usually single-story, three or more sided structure that is permanently and completely enclosed with a roof and walls. The roof and walls are not fabric, cannot be easily disassembled, and are not removed seasonally.

*Commercial cabin* shall mean any cabin which is used in association with a commercial operation including but not limited to commercial fishing activities and recreational guiding services.

*Existing cabin* shall mean any cabin situated on Federal lands before December 2, 1980. A cabin legally situated on lands that subsequently become refuge will also be considered an “existing” cabin providing the applicant meets the appropriate application deadlines.

*Family* shall include the spouse (including what is known as a common-law relationship), children by birth or adoption, and other blood relatives within the second degree of kindred.

*Guest* shall mean a person who occasionally visits the permittee in the cabin. This term does not include clients using commercial cabins.

*Immediate family* shall include the spouse and children, either by birth or adoption, of the claimant residing in the cabin or structure.

*New cabin* shall mean any permitted cabin constructed on refuge lands after December 2, 1980. This may also include a cabin whose claimant failed to meet the application deadline for existing cabins but is otherwise a permitted cabin.

*Other related structures* shall mean those structures or devices essential to the activities for which the cabin special use permit is issued. This includes but is not limited to outdoor toilets, food caches, storage sheds, and fish drying racks.

*Private recreational use* shall mean a use associated with leisure activities, not including bona fide subsistence uses or authorized commercial uses.

*Public use cabin* shall mean a cabin owned and administered by the Fish

and Wildlife Service and available for use by the public.

(b) *All cabins.* The regulations in this paragraph (b) shall apply to all cabins, claimants, occupants, and guests. The regulations in this paragraph (b) do not apply to temporary facilities: any structure or man-made improvement which can readily be completely dismantled and removed from the site when the period of authorized use is terminated.

(1) A special use permit is required to construct, use and/or occupy a cabin on Fish and Wildlife Service lands within the refuge. The permit may also authorize the use of related structures and other necessary appurtenances.

(2) After adequate public notice has been given, unclaimed cabins become the property of the Federal Government. Adequate public notice shall include: Posting notices of trespass on unclaimed cabins; publication of notices of trespass in Anchorage and Fairbanks newspapers and in at least one local newspaper if available; and posting notices of trespass at appropriate community post offices. A Government-owned cabin may be used for refuge administration, used for emergency purposes by the public, permitted to another applicant, designated a public use cabin, or destroyed. Disposal of excess cabins and structures will be according to regulations pursuant to title 41, chapter 114 of the Code of Federal Regulations.

(3) Willful noncompliance with the conditions and stipulations of a special use permit shall be considered grounds to invoke the administrative process leading to notice and hearing, and possible revocation of the permit. The refuge manager will attempt to resolve problems of noncompliance with the permittee as soon as possible after the situation becomes known. If this effort fails, the refuge manager shall provide written notice to the permittee within 30 days of that date, informing the permittee of noncompliance, giving specific instructions for compliance and providing appropriate time for the permittee to comply.

(4) No special use permit will be issued for the construction of a cabin for private recreational use or for the



private recreational use of an existing cabin.

(5) Guests are allowed to occupy a cabin only during the activity period identified on the special use permit. Guests occupying a cabin during the absence of the permittee shall obtain a letter of authorization from the permittee. The guest must have a copy of the letter in his/her possession. In commercial cabins, the permittee or another person listed on the permit must be present when the cabin is occupied by guests or clients.

(6) A person whose permit application (new or renewal) for a cabin has been denied or whose cabin permit has been revoked by the refuge manager may appeal to the Regional Director as described in § 36.41(b).

(c) *Existing cabins.* In addition to paragraph (b) of this section, the regulations in this paragraph (c) shall apply to all existing cabins, claimants, occupants, and guests.

(1) Where a valid cabin permit or lease was in effect on December 2, 1980, or at the time the land was subsequently added to the refuge, the refuge manager shall provide for the continuation of the permit or lease under the same conditions. The new permit shall be nontransferable and renewable every five years unless the continuation would directly threaten or significantly impair the purposes for which the refuge was established. The cabin and related structures are the personal property of the claimant and can be removed by him/her upon non-renewal or revocation. The owner of a cabin may sell his/her interest in the cabin to another person; however, the new owner does not automatically qualify for a permit and must apply for a new one.

(2) To obtain a special use permit for a cabin that was not under permit or lease before December 2, 1980, or at the time the land was subsequently added to the refuge, a claimant should submit to the refuge manager an application that includes the following:

(i) Reasonable proof of possessory interest or right to occupy the cabin as shown by affidavit, bill of sale, or other document.

(ii) Date of construction or acquisition.

(iii) A sketch or photograph that accurately depicts the cabin and related structures.

(iv) The dimensions of the cabin and related structures.

(v) A U.S. Geological Survey topographic map that shows the geographic location of the cabin and related structures.

(vi) The claimant's agreement to vacate and remove all personal property from the cabin and related structures within one year from receipt of a non-renewal or revocation notice.

(vii) The claimant's acknowledgment that he/she has no legal interest in the real property on which the cabin and related structures are located.

(viii) A list of family members residing with the claimant in the cabin being applied for. It need only include those immediate family members who may be eligible to renew a permit for continued use and occupancy upon the original claimant's death (this is not applicable to cabins used for commercial purposes).

(3) Applications for permits for existing cabins, which are not currently under valid permits, will only be accepted for a period of one year following the effective date of these regulations. However, cabins that were legally located on lands that subsequently become refuge will also be considered "existing" cabins. The owners will have two years following the date the lands become refuge to apply for a permit. Following those dates, all applications for cabins will be for "new" cabins only, no matter when the cabin was built or first used. If ownership is not established within three years after the land becomes refuge, the cabin may be considered abandoned, and it will become Federal property in accordance with Federal regulations.

(4) The occupancy of a noncommercial cabin is limited to the permittee and his/her family, bona fide partners, and guests.

(5) Major modification or rehabilitation of an existing cabin must be approved by the refuge manager before construction begins. The modifications will be done by the permittee or designated agent and will remain the property of the permittee. Major additions (e.g., larger than the original

cabin) may fall under the ownership provisions for new cabins. Although cabins destroyed by accidents, vandalism or natural causes may be reconstructed, they must be approved by the refuge manager before construction and must meet the construction guidelines for new cabins, even though remaining the property of the claimant.

(d) *New cabins.* In addition to paragraph (b) of this section, the regulations in this paragraph (d) shall apply to all new cabins, claimants, occupants, and guests.

(1) A nontransferable, five year special use permit shall only be issued upon a determination that the proposed construction, use and maintenance of the cabin is compatible with refuge purposes and that the cabin use is either directly related to refuge administration or is needed for continuation of an ongoing activity or use otherwise allowed within the refuge where the applicant lacks a reasonable off-refuge site. In addition, these activities must have historically been supported by the construction and use of cabins in the geographic area. In general, new cabin permits will be given only to local residents to pursue a legitimate subsistence activity. In determining whether to permit the construction, use, and occupancy of cabins or other structures, the refuge manager shall be guided by factors such as other public uses, public health and safety, environmental and resource protection, research activities, protection of historic or scientific values, subsistence uses, endangered or threatened species conservation and other management considerations necessary to ensure that the activities authorized pursuant to a permit are compatible with the purposes for which the refuge was established.

(2) To obtain a special use permit for a new cabin, an applicant should submit to the refuge manager an application that includes the following:

(i) A sketch that accurately depicts the proposed cabin and related structures.

(ii) The dimensions of the proposed cabin and related structures.

(iii) A U.S. Geological Survey topographic map that shows the geographic

location of the proposed cabin and related structures.

(iv) The applicant's agreement to vacate and remove all personal property from the cabin and related structures within one year from receipt of a non-renewal or revocation notice.

(v) The applicant's acknowledgment that he/she has no legal interest in the cabin and related structures or in the real property on which the cabin and related structures are located.

(vi) A list of family members residing with the applicant in the cabin being applied for. It need only include those immediate family members who may be eligible to renew a permit for continued use and occupancy upon the original claimant's death.

(3) The permitting instrument shall be a nontransferable renewable five year special use permit. It shall be renewed every five years (upon request) until the death of the original claimant's last immediate family member unless the special use permit has been revoked or the cabin has been abandoned.

(4) No new cabins will be constructed in designated wilderness areas unless they are built specifically for the administration of the area, for public safety, or for trapping where trapping has been a traditional and customary use.

(5) New trapping cabins in wilderness will be available for public use to ensure public health and safety.

(6) The occupancy of a noncommercial cabin is limited to the permittee, and his/her family, bona fide partners, and guests.

(e) *Commercial cabins.* In addition to paragraph (b) of this section, the regulations in this paragraph (e) shall apply to all commercial cabins, permittees, clients, guests, and occupants.

(1) A special use permit is required for all cabins used for commercial purposes. Refuge managers may also issue special use permits that authorize additional commercial use of an existing cabin used for guiding, etc. The use of a new cabin shall be limited to the type of use specified in the original permit. The refuge manager may permit the use of an existing cabin on non-wilderness refuge lands for the exercise of valid commercial fishing rights. Such a

permit may be denied if, after conducting a public hearing in the affected locality, it is found that the use is inconsistent with refuge purposes and is a significant expansion of commercial fishing activities within the unit beyond 1979 levels.

(2) When the commercial fishing or guiding rights associated with a permittee's existing cabin are acquired by a new party, the privilege of using the cabin cannot be sold and the new party does not necessarily qualify for a cabin permit. He/she must apply for a permit and meet the criteria described in this paragraph (e) before issuance of a special use permit by the refuge manager. He/she may not occupy the cabin before issuance of a permit.

(3) No new commercial cabins will be permitted in wilderness areas.

(4) Commercial cabins may be occupied only by persons legitimately involved in the commercial enterprise, assistants, employees, their families, guests and clients and only during the time that the authorized activity is occurring. The names of those individuals, excluding guests and clients, will be listed on the permit. The permittee or another individual listed on the permit must be present when the cabin is occupied.

(5) Special use permits for commercial cabins may be renewed annually in conjunction with the special use permit renewal for the commercial activity itself. The cabin permit may be issued for periods of up to five years and is a separate permit from one issued for the commercial activity.

(f) *Administrative and government-owned public use cabins.* In addition to paragraph (a) of this section, the regulations in this paragraph (f) apply to all administrative and government-owned cabins.

(1) The refuge manager can designate those cabins not under permit as administrative cabins to be used for official government business. Administrative cabins may be used by the public during life-threatening emergencies. On a case-by-case basis, they may also be designated as public use cabins when not needed for government purposes. In such cases, the refuge manager must inform the public and post dates or seasons when the cabins are available.

(2) The refuge manager may designate government-owned cabins as public use cabins. They are only intended for short-term public recreational use and occupancy. The refuge manager may develop an allocation system for managing public use cabins for short-term recreational use. No existing public use cabins shall be removed or new public use cabins constructed within wilderness areas designated by the Alaska National Interest Lands Conservation Act of 1980 or subsequently designated wilderness areas until the Secretary of the Interior notifies the House Committee on Interior and Insular Affairs and the Senate Committee on Energy and Natural Resources.

[59 FR 38314, July 27, 1994, as amended at 64 FR 14151, Mar. 24, 1999]

#### § 36.34 Firearms.

The possession, use and transporting of firearms is authorized for hunting and personal protection in accordance with State and Federal laws unless prohibited or otherwise restricted by the Refuge Manager in accordance with the provisions of § 36.42.

#### § 36.35 Unattended property.

(a) Leaving any snowmachine, vessel, off-road vehicle or other personal property unattended for longer than 12 months without the prior permission of the Refuge Manager is prohibited, and any property so left may be impounded by the Refuge Manager.

(b) The Refuge Manager may (1) designate areas where personal property may not be left unattended for any time period, (2) establish limits on the amount and type of personal property that may be left unattended, (3) prescribe the manner in which personal property may be left unattended or (4) establish limits on the length of time personal property may be left unattended.

(c) Such designations and restrictions arising under paragraph (b) of this section shall be (1) published in at least one newspaper of general circulation within the State, posted at community post offices within the affected vicinity, made available for broadcast on local radio stations in a manner reasonably calculated to inform residents

### § 36.36

in the affected community, and designated in a map which shall be available for public inspection at the office of the Refuge Manager, or (2) designated by the posting of appropriate signs or (3) both.

(d) In the event unattended property interferes with the safe and orderly management of a refuge area or causes damage to refuge resources, it may be impounded by the Refuge Manager at any time.

### § 36.36 Sled dogs and household pets.

The general trespass provisions of 50 CFR 26.21 shall not apply to household pets and sled, work, or pack dogs under the direct control of their owners or handlers, but such activities may be prohibited or otherwise restricted pursuant to the provisions of § 36.42.

[46 FR 40192, Aug. 7, 1981]

### § 36.37 Revenue producing visitor services.

(a) *Applicability.* (1) Except as otherwise provided for in this paragraph, the regulations contained in this section apply to new visitor services provided within all National Wildlife Refuge areas in Alaska.

(2) The rights granted by this section to historical operators, preferred operators, and Cook Inlet Region, Incorporated, are not exclusive. The Refuge Manager may authorize other persons to provide visitor services on refuge lands. Nothing in this section shall require the Refuge Manager to issue a visitor services permit if not otherwise mandated by statute to do so. Nothing in this section shall authorize the Refuge Manager to issue a visitor services permit to a person who is not capable of carrying out its terms and conditions in a satisfactory manner.

(3) This section does not apply to the guiding of sport hunting or sport fishing.

(b) *Definitions.* The following definitions shall apply to this section:

(1) *Best offer* means a responsive offer that best meets, as determined by the Refuge Manager, the selection criteria contained in a competitive solicitation for a visitor services permit.

(2) *Controlling interest, in the case of a corporation* means an interest, beneficial or otherwise, of sufficient out-

### 50 CFR Ch. I (10-1-23 Edition)

standing voting securities or capital of the business, so as to permit exercise of final managerial authority over the actions and operations of the corporation, or election of a majority of the Board of Directors of the corporation.

(3) *Controlling interest in the case of a partnership, limited partnership, joint venture or individual entrepreneurship* means a beneficial ownership of or interest in the entity so as to permit the exercise of final managerial authority over the actions and operations of the entity.

(4) *Controlling interest in other circumstances* means any arrangement under which a third party has the ability to exercise general management authority over the actions or operations of the business.

(5) *Historical operator* means any person who:

(i) On or before January 1, 1979, was lawfully engaged in adequately providing any type of visitor service in a refuge within the scope of paragraph (c) of this section;

(ii) Has continued to lawfully provide that visitor service; and

(iii) Is otherwise determined by the Refuge Manager to have a right to continue to provide such services or similar services pursuant to paragraph (c) of this section.

(6) *Local area* means that area in Alaska within 100 miles of the location within a refuge where any of the visitor service is authorized.

(7) *Local resident* means:

(i) For *individuals*. Those individuals that have maintained their primary, permanent residence and business within the local area for the past twelve (12) consecutive months and whenever absent from this primary, permanent residence, have the intention of returning to it. Factors demonstrating the location of an individual's primary, permanent residence and business may include, but are not limited to, the permanent address indicated on licenses issued by the State of Alaska, tax returns, and voter registrations.

(ii) For *corporations*. A corporation in which the controlling interest is held by an individual or individuals who qualify as "local resident(s)" within the meaning of this section. For non-

profit corporations a majority of the board members and a majority of the officers must qualify as "local residents."

(8) *Native Corporation* means the same as defined in section 102(6) of ANILCA.

(9) *Preferred operator* means a local resident or Native Corporation which is entitled to a preference under this section in the award of a permit, and as otherwise provided under section 1307(b) of ANILCA.

(10) A *responsive offer* means one which is timely made and meets the terms and conditions of the solicitation document.

(11) *Similar visitor service* means that visitor service authorized by the Refuge Manager to be provided on a refuge and determined by the Refuge Manager, on a case by case basis, to be similar to an established service being provided by a historical operator.

(12) *Visitor service* means any service or activity made available for a fee, commission, brokerage, or other compensation to persons who visit a refuge, including such services as providing food, accommodations, transportation, tours, and guides excepting the guiding of sport hunting and fishing. This also includes any activity where one participant/member or group of participants pays more in fees than the other participants (non-member fees, etc.), or fees are paid to the organization which are in excess of the bona fide expenses of the trip.

(13) *Right of first refusal* means, as it relates to section 1307(a) of ANILCA, a reasonable opportunity for a historical operator to review a description of the new similar service and the terms and conditions upon which it is to be provided to determine if the historical visitor service operator wishes to provide the service. As it relates to section 1307(c) of ANILCA, it refers to the opportunity for Cook Inlet Region, Incorporated to have the first opportunity to provide new visitor services on the Kenai National Wildlife Refuge in the Cook Inlet Region.

(c) *Visitor services existing on or before January 1, 1979, "historical operators"*.

(1) A historical operator shall have a right to continue to provide visitor services or similar services within such area, under appropriate terms and con-

ditions, so long as such services are determined by the Refuge Manager to be consistent with the purposes for which the refuge was established. A historical operator must obtain a permit from the refuge manager to conduct the visitor services. The permit shall be for a fixed term and specified area, and shall contain such terms and conditions as are in the public interest. Failure to comply with the terms and conditions of the permit may result in cancellation of the authorization and consequent loss of historical operator rights under this section. Nothing in this section shall prohibit the Refuge Manager from permitting persons, in addition to historical operators, to provide visitor services in the refuge at the Refuge Manager's discretion so long as historical operators are permitted to conduct a scope or level of visitor services equal to or greater than those provided prior to January 1, 1979, under terms and conditions consistent with this section. A historical operator may be permitted by the Refuge Manager, under separate authority, to increase the scope or level of visitor services provided prior to January 1, 1979, but no historical operating rights shall be obtained in such increase.

(2) A historical operator may also apply to the Refuge Manager for a permit or amended permit to provide similar types of visitor services. Granting the request will not result in an increase in the scope or level of service in excess of those provided as of January 1, 1979, by the requesting historical operator. The Refuge Manager shall grant the request if such visitor services are determined by the Refuge Manager to be:

(i) Consistent with the management of refuge resources and the purposes for which the refuge area was established;

(ii) Similar to the visitor services provided by the historical operator prior to January 1, 1979; and

(iii) Consistent with the legal rights of any other person.

(3) When a historical operator permit has expired, and if the visitor services permitted by it were adequately provided and consistent with the purposes of the refuge as determined by the Refuge Manager, the Refuge Manager shall

renew the permit for a fixed term consistent with such new terms and conditions as are in the public interest. Should a historical operator decline to accept an offer of renewal, its rights as a historical operator shall be considered as terminated.

(4) If the Refuge Manager determines that permitted visitor services must be curtailed or reduced in scope or season to protect refuge resources, or for other purposes, the Refuge Manager shall require the historical operator to make such changes in visitor services. If more than one historical operator providing the same type of visitor services is required to have those services curtailed, the Refuge Manager shall establish a proportionate reduction of visitor services among all such historical operators, taking into account historical operating levels and other appropriate factors, so as to achieve a fair curtailment of visitor services among the historical operators. If the level of visitor services must be so curtailed that only one historical operator feasibly may continue to provide the visitor services, the Refuge Manager shall select one historical operator to continue to provide the curtailed visitor services through a competitive selection process.

(5) The rights of a historical operator shall terminate if the historical operator fails to provide the visitor services under the terms and conditions of a permit issued by the Refuge Manager or fails to provide the visitor services for a period of more than twenty four (24) consecutive months.

(6) The rights of a historical operator under this section shall terminate upon a change, after January 1, 1979, in the controlling interest of the historical operator through sale, assignment, devise, transfer or otherwise.

(7) The Refuge Manager may authorize other persons to provide visitor services in a refuge in addition to historical operators, as long as such other persons conduct the services in a manner compatible with the purposes of the refuge.

(d) *Visitor services initially authorized after January 1, 1979, “preferred operators”.* (1) In selecting persons to provide, and in permitting any type of visitor service, excepting guided hunting

or fishing, the Refuge Manager will give a preference to preferred operators determined qualified to provide such visitor services. Preferences for most directly affected Native Corporation(s) and local residents are equal and are not additive.

(2) In selecting persons to provide any type of visitor service for refuges subject to a preferred operator preference under this section, the Refuge Manager will publicly solicit competitive offers for persons to apply for a permit, or the renewal of a permit, to provide such visitor service pursuant to Service procedures. Preferred operators must submit a responsive offer to such solicitation in order to effect their preference. If, as a result of the solicitation, an offer from a person other than a preferred operator is determined to be the best offer and that offeror is determined to be capable of carrying out the terms of the permit, the preferred operator which submitted the most responsive offer shall be given an opportunity to substantially equal the best offer received by amending its offer. If the amended offer of the preferred operator is considered by the Refuge Manager as being substantially equal to the terms of the best offer, the preferred operator, if determined to be capable of carrying out the terms of the permit, shall be awarded the visitor service permit. If the preferred operator fails to meet these requirements, the Refuge Manager shall award the permit to the person who submitted the best offer in response to the solicitation. The Native Corporation(s) determined to be “most directly affected” under this section and local residents have equal preference.

(3) Nothing in this section shall prohibit the Refuge Manager from authorizing persons other than preferred operators to provide visitor services in refuge areas so long as the procedures described in this section have been followed with respect to preferred operators. Preferred operators are not entitled by this section to provide all visitor services in a qualified refuge.

(4) An offer from a Native Corporation or a local corporation under this section must document its controlling interest in the entity or in the case of

a joint venture, all partners, making the offer.

(5) The preferences described in this section may not be sold, assigned, transferred, or devised, directly or indirectly.

(e) *Preference to Cook Inlet Region, Incorporated (CIRI)*. (1) Cook Inlet Region, Incorporated, in cooperation with village corporations within Cook Inlet Region when appropriate, shall have a right of first refusal to provide new visitor services within that portion of the Kenai National Moose Range (Kenai National Wildlife Refuge) within the boundaries of Cook Inlet Region. The CIRI shall have ninety (90) days from receipt of a prospectus in which to exercise its right.

(2) In order to exercise this right of first refusal, CIRI must submit an offer responsive to the terms of a visitor services solicitation. If CIRI makes such an offer and is determined by the Refuge Manager to be capable of carrying out the terms of the special use permit, it shall be awarded the permit. If it does not, the permit may be awarded to another person pursuant to a showing that such other person can carry out the conditions of the special use permit in a manner compatible with the purposes of the refuge. An offer being made by CIRI under this section must document controlling interest by CIRI when made in cooperation with village corporations within the Cook Inlet Region. The CIRI right of first refusal shall have precedence over the rights of preferred operators.

(3) The right of first refusal described in this section may not be sold, transferred, devised, or assigned, directly or indirectly.

(f) *Most directly affected Native Corporation determination*. (1) Prior to the issuance of a solicitation document for any new visitor service in a refuge, the Refuge Manager shall provide an opportunity for any Native Corporation interested in providing visitor services within that refuge to submit an application to the Refuge Manager to be determined "most directly affected" Native Corporation. The application shall include but not be limited to, the following information:

(i) The name, address, and telephone number of the Native Corporation, the

date of incorporation, its articles of incorporation and structure, and the name of the applicable refuge area;

(ii) The location of the corporation's population center or centers;

(iii) An assessment of the socio-economic impacts, including historical and traditional use, and their effects on the Native Corporation as a result of the expansion or establishment of the refuge; and

(iv) Any other information the Native Corporation believes is relevant.

(2) Upon receipt of all applications from interested Native Corporations, the Refuge Manager will determine the "most directly affected" Native Corporation based on, but not limited to, the following criteria:

(i) The number of acres of surface land within and adjoining the refuge that the Native Corporation owns, or which has been selected under the Alaska Native Claims Settlement Act, unless such selection is determined to be invalid or is relinquished;

(ii) The distance and accessibility from the Native Corporation's population center and/or business address to the applicable refuge; and

(iii) The socio-economic impacts, including historic and traditional use, and their effects as a result of the expansion or establishment of the refuge.

(3) In the event that more than one Native Corporation is determined to be equally affected, each such Native Corporation shall be considered as a preferred operator under this section.

(4) The Refuge Manager's "most directly affected" Native Corporation determination or when requested, the Regional Director's appeal decision for a refuge is applicable for all new visitor services in that refuge.

(5) Any Native Corporation that has not applied for a most directly affected Native Corporation determination may apply for a determination upon issuance of a future solicitation for a new visitor service. A corporation determined to be most directly affected for a refuge will maintain that status for all future visitor service solicitations.

(g) *Appeal procedures*. Any person(s) who believe that they have been improperly denied rights with respect to providing visitor services under this

## § 36.39

## 50 CFR Ch. I (10–1–23 Edition)

section may appeal the denial to the Regional Director. Such an appeal must be submitted in writing within forty-five (45) days of receipt of the denial from which an appeal is sought. The appeals process as defined in 50 CFR subpart F, 36.41(b) will apply with exception of the period of time allowed to file an appeal.

[62 FR 1842, Jan. 14, 1997]

### Subpart E—Refuge Specific Regulations

#### § 36.39 Public use.

(a) *General.* Public use of Alaska National Wildlife Refuges (NWR) is permitted subject to all other parts of 50 CFR part 36, those sections of 50 CFR subchapter C not supplemented by part 36, and the following refuge-specific requirements:

(b) *Alaska Maritime National Wildlife Refuge.* (1) Amchitka Island—closed to all public access, occupancy and use, unless specifically authorized by a special use permit issued jointly by the Refuge Manager and the U.S. Navy (Commanding Officer, Fleet Surveillance Support Command, Chesapeake, Virginia).

(c) *Alaska Peninsula/Becharof National Wildlife Refuge Complex.* (1) The Alaska Peninsula/Becharof National Wildlife Refuge (Complex) includes the Becharof National Wildlife Refuge, the Chignik and Ugashik Units of the Alaska Peninsula National Wildlife Refuge and the Seal Cape Area of the Alaska Maritime National Wildlife Refuge.

(2) Off-road vehicles are permitted on the refuge complex under § 36.12(a), § 36.39(c)(2)(ii) or § 36.39(c)(2)(iii) and must meet the following conditions:

(i) Vehicles are limited to three or four-wheeled vehicles with a maximum gross weight of 650 pounds as listed by the manufacturer.

(ii) ORV's are permitted on the following trails only: Yantarni Bay Airstrip; Yantarni Bay Airstrip to beach trail; and Yantarni Bay Airstrip to oil well site trail. Maps of the above areas are available from the Refuge Manager.

(iii) Subject to the weight and size restrictions listed in (i) above, subsistence use of off-road vehicles, as author-

ized by 50 CFR 36.12(a) is allowed throughout the Alaska Peninsula/Becharof National Wildlife Refuge Complex.

(3) Camping is permitted on the Refuge Complex subject to the following restrictions:

(i) These camping limits do not apply to subsistence users except at Big Creek where they apply to all refuge complex users.

(ii) No permanent improvements may be made to campsites without a special use permit. All materials brought on to the refuge complex must be removed upon cessation of camping unless authorized by a special use permit.

(iii) Other than reserved sites authorized by special use permits, camping at one location is limited to seven consecutive nights from August 1 through November 15 within ¼ mile of the following waters: Becharof Lake in the Severson Peninsula area (Island Arm); Becharof Lake Outlet; Ugashik Narrows; Big Creek; Gertrude Lake; and Gertrude Creek between Gertrude Lake and the King Salmon River. Maps of the above areas are available from the Refuge Manager.

(iv) Tent camps must be moved a minimum of one mile following each seven-night camping stay during the periods specified above.

(4) Temporary facilities may be authorized on the Alaska Peninsula/Becharof National Wildlife Refuge Complex by special use permit only, subject to the following conditions:

(i) Except for administrative or subsistence purposes, new temporary facilities are prohibited within ¼ mile of the Becharof Lake shoreline.

(ii) Except for administrative purposes, new temporary facilities are prohibited in the following areas: within ¼ mile of the shorelines of Gertrude Lake and Long Lake; within ¼ mile of the airstrip on the south side of the King Salmon River approximately ½ mile above the confluence of Gertrude Creek and the King Salmon River; within ¼ mile of the shoreline of Upper and Lower Ugashik Lakes; within ¼ mile of the shoreline of Becharof Lake outlet; and within ¼ mile of the shoreline of Big Creek. Maps of the above areas are available from the Refuge Manager.



(d) *Arctic National Wildlife Refuge*. We prohibit all domestic sheep, goats, and camelids on the refuge.

(e)–(h) [Reserved]

(i) *Kenai National Wildlife Refuge*. Maps of designated areas open to specific public use activities on the refuge are available from Refuge Headquarters at the following address: 1 Ski Hill Road, Soldotna, AK.

(1) *Aircraft*. Except in an emergency, the operation of aircraft on the Kenai National Wildlife Refuge is authorized only in designated areas, as described in this paragraph (i)(1).

(i) We allow the operation of airplanes within the Kenai Wilderness on the following designated lakes, and under the restrictions noted:

(A) *Dave Spencer (Canoe Lakes) Unit*.

(1) Bedlam Lake.

(2) Bird Lake.

(3) Cook Lake.

(4) Grouse Lake.

(5) King Lake.

(6) Mull Lake.

(7) Nekutak Lake.

(8) Norak Lake.

(9) Sandpiper Lake.

(10) Scenic Lake.

(11) Shoepac Lake.

(12) Snowshoe Lake.

(13) Taiga Lake.

(14) Tangerra Lake.

(15) Vogel Lake.

(16) Wilderness Lake.

(17) Pepper, Gene, and Swanson lakes are open to operation of airplanes only to provide access for ice fishing.

(B) *Andrew Simons Unit*.

(1) Emerald Lake.

(2) Green Lake.

(3) Harvey Lake.

(4) High Lake.

(5) Iceberg Lake.

(6) Kolomin Lakes.

(7) Lower Russian Lake.

(8) Martin Lake.

(9) Pothole Lake.

(10) Twin Lakes.

(11) Upper Russian Lake.

(12) Windy Lake.

(13) Dinglestadt Glacier terminus lake.

(14) Wosnesenski Glacier terminus lake.

(15) Tustumena Lake and all lakes within the Kenai Wilderness within 1 mile of the shoreline of Tustumena Lake.

(16) All unnamed lakes in sections 1 and 2, T. 1 S., R. 10 W., and sections 4, 5, 8, and 9, T. 1 S., R. 9 W., Seward Meridian.

(17) An unnamed lake in sections 28 and 29, T. 2 N., R. 4 W., Seward Meridian: The Refuge Manager may issue a special use permit (FWS Form 3-1383-G) for the operation of airplanes on this lake to successful applicants for certain State of Alaska, limited-entry, drawing permit hunts. Successful applicants should contact the Refuge Manager to request information.

(C) *Mystery Creek Unit*. An unnamed lake in section 11, T. 6 N., R. 5 W., Seward Meridian.

(ii) We allow the operation of airplanes on all lakes outside of the Kenai Wilderness, except that we prohibit aircraft operation on:

(A) The following lakes with recreational developments, including, but not limited to, campgrounds, campsites, and public hiking trails connected to road waysides, north of the Sterling Highway:

(1) Afonasi Lake.

(2) Anertz Lake.

(3) Breeze Lake.

(4) Cashka Lake.

(5) Dabbler Lake.

(6) Dolly Varden Lake.

(7) Forest Lake.

(8) Imeri Lake.

(9) Lili Lake.

(10) Mosquito Lake.

(11) Nest Lake.

(12) Rainbow Lake.

(13) Silver Lake.

(14) Upper Jean Lake.

(15) Watson Lake.

(16) Weed Lake.

(B) All lakes within the Skilak Wildlife Recreation Area (south of Sterling Highway and north of Skilak Lake), except for Bottenintnin Lake (open to airplanes year-round) and Hidden Lake (open to airplanes only to provide access for ice fishing).

(C) Headquarters Lake (south of Soldotna), except for administrative purposes. You must request permission from the Refuge Manager.

(iii) Notwithstanding any other provisions of this part, we prohibit the operation of aircraft from May 1 through

September 10 on any lake where nesting trumpeter swans or their broods or both are present.

(iv) We prohibit the operation of wheeled airplanes, with the following exceptions:

(A) We allow the operation of wheeled airplanes, at the pilot's risk, on the unmaintained Big Indian Creek Airstrip; on gravel areas within ½ mile of Wosnesenski Glacier terminus lake; and within the SE¼, section 16 and SW¼, section 15, T. 4 S., R. 8 W., Seward Meridian.

(B) We allow the operation of wheeled airplanes, at the pilot's risk, within designated areas of the Chickaloon River Flats, including all of sections 5 and 6 and parts of sections 2, 3, 4, 7, 8, 9, 11, and 16, T. 9 N., R. 4 W.; all of section 1 and parts of sections 2, 3, 4, 5, 11, and 12, T. 9 N., R. 5 W.; all of sections 33 and 34 and parts of sections 24, 25, 26, 27, 28, 29, 31, 32, and 35, T. 10 N., R. 4 W.; all of section 33 and parts of sections 19, 27, 28, 29, 30, 32, 34, 35, and 36, T. 10 N., R. 5 W., Seward Meridian.

(v) We allow the operation of airplanes on the Kaslof River, on the Chickaloon River (from the outlet to mile 6.5), and on the Kenai River below Skilak Lake (from June 15 through March 14). We prohibit aircraft operation on all other rivers on the refuge.

(vi) We prohibit the operation of unlicensed aircraft anywhere on the refuge except as authorized under terms and conditions of a special use permit (FWS Form 3–1383–G) issued by the Refuge Manager.

(vii) We prohibit air dropping any items within the Kenai Wilderness except as authorized under terms and conditions of a special use permit (FWS Form 3–1383–G) issued by the Refuge Manager.

(2) *Motorboats.* (i) We allow motorboat operation on all waters of the refuge, except that:

(A) We prohibit motorboat operation within the Dave Spencer (Canoe Lakes) Unit of the Kenai Wilderness, including those portions of the Moose and Swanson rivers within this Unit, except that we allow motorboat operation on those lakes designated for airplane operations as provided in paragraph (i)(1) of this section and shown on a map available from Refuge Headquarters.

(B) We prohibit motorboat operation on the Kenai River from the eastern refuge boundary near Sportsmans Landing and the confluence of the Russian River downstream to Skilak Lake. You may have a motor attached to your boat and drift or row through this section, provided the motor is not operating.

(C) We prohibit motorboat operation on the Kenai River from the outlet of Skilak Lake (river mile 50) downstream for approximately 3 miles (river mile 47) between March 15 and June 14, inclusive. You may have a motor attached to your boat and drift or row through this section, provided the motor is not operating.

(D) We prohibit the operation of motors with a total propshaft horsepower rating greater than 10 horsepower on the Moose, Swanson, Funny, Chickaloon (upstream of river mile 7.5), Killey, and Fox rivers.

(E) On the Kenai River downstream of Skilak Lake (river mile 50) to the refuge boundary (river mile 45.5), we restrict motorboat operation to only those motorboats with 4-stroke or direct fuel injection motors with a total propshaft horsepower rating of 50 horsepower or less, and that are up to 21 feet in length and up to 106 inches in width. On Skilak Lake, we restrict motorboat operation to only those motorboats with 4-stroke or direct fuel injection motors.

(F) A “no wake” restriction applies to the entire water body of Engineer, Upper and Lower Ohmer, Bottenintnin, Upper and Lower Jean, Kelly, Petersen, Watson, Imeri, Afonasi, Dolly Varden, and Rainbow lakes.

(ii) Notwithstanding any other provisions of these regulations, we prohibit the operation of motorboats from May 1 through September 10 on any lake where nesting trumpeter swans or their broods or both are present.

(3) *Off-road vehicles.* (i) We prohibit the operation of all off-road vehicles, as defined at §36.2, except that four-wheel drive, licensed, and registered motor vehicles designed and legal for highway use may operate on designated roads, rights-of-way, and parking areas open to public vehicular access. This prohibition applies to off-road vehicle operation on lake and

river ice. At the operator's risk, we allow licensed and registered motor vehicles designed and legal for highway use on Hidden, Engineer, Kelly, Petersen, and Watson lakes only to provide access for ice fishing. You must enter and exit the lakes via existing boat ramps.

(ii) We prohibit the operation of air cushion watercraft, air-thrust boats, jet skis and other personal watercraft, and all other motorized watercraft except motorboats.

(iii) The Refuge Manager may issue a special use permit (FWS Form 3-1383-G) for the operation of specialized off-road vehicles and watercraft for certain administrative activities (to include fish and wildlife-related monitoring, vegetation management, and infrastructure maintenance in permitted rights-of-way).

(4) *Snowmobiles.* We allow the operation of snowmobiles only in designated areas and only under the following conditions:

(i) We allow the operation of snowmobiles from December 1 through April 30 only when the Refuge Manager determines that there is adequate snow cover to protect underlying vegetation and soils. During this time, the Refuge Manager will authorize, through public notice (a combination of any or all of the following: Internet, newspaper, radio, and/or signs), the use of snowmobiles less than 48 inches in width and less than 1,000 pounds (450 kg) in weight.

(ii) We prohibit snowmobile operation:

(A) In all areas above timberline, except the Caribou Hills.

(B) In an area within sections 5, 6, 7, and 8, T. 4 N., R. 10 W., Seward Meridian, east of the Sterling Highway right-of-way, including the Refuge Headquarters complex, the environmental education/cross-country ski trails, Headquarters and Nordic lakes, and the area north of the east fork of Slikok Creek and northwest of a prominent seismic trail to Funny River Road.

(C) In an area including the Swanson River Canoe Route and portages, beginning at the Paddle Lake parking area, then west and north along the Canoe Lakes wilderness boundary to the Swanson River, continuing northeast

along the river to Wild Lake Creek, then east to the west shore of Shoepac Lake, south to the east shore of Antler Lake, and west to the beginning point near Paddle Lake.

(D) In an area including the Swan Lake Canoe Route and several road-connected public recreational lakes, bounded on the west by the Swanson River Road, on the north by the Swan Lake Road, on the east by a line from the east end of Swan Lake Road south to the west bank of the Moose River, and on the south by the refuge boundary.

(E) In the Skilak Wildlife Recreation Area, except on Hidden, Kelly, Petersen, and Engineer lakes only to provide access for ice fishing. You must enter and exit these lakes via the existing boat ramps and operate exclusively on the lakes. Within the Skilak Wildlife Recreation Area, only Upper and Lower Skilak Lake campground boat launches may be used as access points for snowmobile use on Skilak Lake.

(F) On maintained roads within the refuge. Snowmobiles may cross a maintained road after stopping.

(G) For racing, or to herd, harass, haze, pursue, or drive wildlife.

(5) *Hunting and trapping.* We allow hunting and trapping on the refuge in accordance with State and Federal laws and consistent with the following provisions:

(i) You may not discharge a firearm within ¼ mile of designated public campgrounds, trailheads, waysides, buildings including public use cabins, or the Sterling Highway from the east Refuge boundary to the east junction of the Skilak Loop Road. You may not discharge a firearm within ¼ mile of the west shoreline of the Russian River from the upstream extent of the Russian River Falls downstream to its confluence with the Kenai River, and from the shorelines of the Kenai River from the east refuge boundary downstream to Skilak Lake and from the outlet of Skilak Lake downstream to the refuge boundary, except that firearms may be used in these areas to dispatch animals while lawfully trapping and shotguns may be used for waterfowl and small game hunting along the Kenai River. These firearms discharge regulations

do not preclude use of firearms for taking game in defense of life and property as defined under State law.

(ii) We prohibit hunting over bait, with the exception of hunting for black bear, and then only as authorized under the terms and conditions of a special use permit (FWS Form 3–1383–G) issued by the Refuge Manager.

(iii) We prohibit hunting big game with the aid or use of a dog, with the exception of hunting for black bear, and then only as authorized under the terms and conditions of a special use permit (FWS Form 3–1383–G) issued by the Refuge Manager.

(iv) We prohibit hunting and trapping within sections 5, 6, 7, and 8, T. 4 N., R. 10 W., Seward Meridian, encompassing the Kenai Refuge Headquarters, Environmental Education Center, Visitor Center Complex, and associated public use trails. A map of closure areas is available at Refuge Headquarters.

(v) The additional provisions for hunting and trapping within the Skilak Wildlife Recreation Area are set forth in paragraph (i)(6) of this section.

(6) *Hunting and trapping within the Skilak Wildlife Recreation Area.* (i) The Skilak Wildlife Recreation Area is bound by a line beginning at the easternmost junction of the Sterling Highway and the Skilak Loop Road (Mile 58), then due south to the south bank of the Kenai River, then southerly along the south bank of the Kenai River to its confluence with Skilak Lake, then westerly along the north shore of Skilak Lake to Lower Skilak Campground, then northerly along the Lower Skilak campground road and the Skilak Loop Road to its westernmost junction with the Sterling Highway (Mile 75.1), then easterly along the Sterling Highway to the point of origin.

(ii) The Skilak Wildlife Recreation Area (Skilak Loop Management Area) is closed to hunting and trapping, except as provided in paragraphs (i)(6)(iii) and (iv) of this section.

(iii) You may hunt moose only with a permit issued by the Alaska Department of Fish and Game and in accordance with the provisions set forth in paragraph (i)(5) of this section.

(iv) You may hunt small game in accordance with the provisions set forth in paragraph (i)(5) of this section and:

(A) Using falconry and bow and arrow only from October 1 through March 1; or

(B) If you are a youth hunter 16 years old or younger, who is accompanied by a licensed hunter 18 years old or older who has successfully completed a certified hunter education course (if the youth hunter has not), or by someone born on or before January 1, 1986. Youth hunters must use standard .22 rimfire or shotgun, and may hunt only in that portion of the area west of a line from the access road from the Sterling Highway to Kelly Lake, the Seven Lakes Trail, and the access road from Engineer Lake to Skilak Lake Road, and north of the Skilak Lake Road. The youth hunt occurs during each weekend from November 1 to December 31, including the Friday following Thanksgiving. State of Alaska bag limit regulations apply.

(7) *Fishing.* We allow fishing on the refuge in accordance with State and Federal laws, and consistent with the following provisions:

(i) We prohibit fishing during hours of operation of the Russian River Ferry along the south bank of the Kenai River from a point 100 feet upstream to a point 100 feet downstream of the ferry dock.

(ii) Designated areas along the Kenai River at the two Moose Range Meadows public fishing facilities along Keystone Drive are closed to public access and use. At these facilities, we allow fishing only from the fishing platforms and by wading in the Kenai River. To access the river, you must enter and exit from the stairways attached to the fishing platforms. We prohibit fishing from, walking or placing belongings on, or otherwise occupying designated areas along the river in these areas.

(8) *Public use cabin and camping area management.* We allow camping and use of public use cabins on the refuge in accordance with the following conditions:

(i) Unless otherwise further restricted, camping may not exceed 14 days in any 30-day period anywhere on the refuge.

(ii) Campers may not spend more than 7 consecutive days at Hidden

Lake Campground or in public use cabins.

(iii) The Refuge Manager may establish a fee and registration permit system for overnight camping at designated campgrounds and public use cabins. At all of the refuge's fee-based campgrounds and public use cabins, you must pay the fee in full prior to occupancy. No person may attempt to reserve a refuge campsite by placing a placard, sign, or any item of personal property on a campsite. Reservations and a cabin permit are required for public use cabins, with the exception of the Emma Lake and Trapper Joe cabins, which are available on a first-come, first-served basis. Information on the refuge's public use cabin program is available from Refuge Headquarters and online at <http://www.recreation.gov>.

(iv) Campers in developed campgrounds and public use cabins must follow all posted campground and cabin occupancy rules.

(v) You must observe quiet hours from 11:00 p.m. until 7:00 a.m. in all developed campgrounds, parking areas, and public use cabins.

(vi) Within developed campgrounds, we allow camping only in designated sites.

(vii) *Campfires.* (A) Within developed campgrounds, we allow open fires only in portable, self-contained, metal fire grills, or in the permanent fire grates provided. We prohibit moving a permanent fire grill or grate to a new location.

(B) Campers and occupants of public use cabins may cut only dead and down vegetation for campfire use.

(C) You must completely extinguish (put out cold) all campfires before permanently leaving a campsite.

(viii) While occupying designated campgrounds, parking areas, or public use cabins, all food (including lawfully retained fish, wildlife, or their parts), beverages, personal hygiene items, odiferous refuse, or any other item that may attract bears or other wildlife, and all equipment used to transport, store, or cook these items (such as coolers, backpacks, camp stoves, and grills) must be:

(A) Locked in a hard-sided vehicle, camper, or camp trailer; in a cabin; or

in a commercially produced and certified bear-resistant container; or

(B) Immediately accessible to at least one person who is outside and attending to the items.

(ix) We prohibit deposition of solid human waste within 100 feet of annual mean high water level of any wetland, lake, pond, spring, river, stream, campsite, or trail. In the Swan Lake and Swanson River Canoe Systems, you must bury solid human waste to a depth of 6 to 8 inches.

(x) We prohibit tent camping within 600 feet of each public use cabin, except by members and guests of the party registered to that cabin.

(xi) Within 100 yards of the Kenai River banks along the Upper Kenai River from river mile 73 to its confluence with Skilak Lake (river mile 65), we allow camping only at designated primitive campsites. Campers can spend no more than 3 consecutive nights at the designated primitive campsites.

(xii) We prohibit camping in the following areas of the refuge:

(A) Within ¼ mile of the Sterling Highway, Ski Hill, or Skilak Loop roads, except in designated campgrounds.

(B) On the two islands in the lower Kenai River between mile 25.1 and mile 28.1 adjacent to the Moose Range Meadows Subdivision.

(C) At the two refuge public fishing facilities and the boat launching facility along Keystone Drive within the Moose Range Meadows Subdivision, including within parking areas, and on trails, fishing platforms, and associated refuge lands.

(9) *Other uses and activities*—(i) *Must I register to canoe on the refuge?* Canoeists on the Swanson River and Swan Lake Canoe Routes must register at entrance points using the registration forms provided. The maximum group size on the Canoe Routes is 15 people. The Refuge Manager may authorize larger groups under the terms and conditions of a special use permit (FWS Form 3-1383-G).

(ii) *May I use motorized equipment within designated Wilderness areas on the refuge?* Within the Kenai Wilderness, except as provided in this paragraph (i), we prohibit the use of motorized

equipment, including, but not limited to, chainsaws; generators; power tools; powered ice augers; and electric, gas, or diesel power units. We allow the use of motorized wheelchairs, when used by those whose disabilities require wheelchairs for locomotion. We allow the use of snowmobiles, airplanes, and motorboats in designated areas in accordance with the regulations in this paragraph (i).

(iii) *May I use non-motorized wheeled vehicles on the refuge?* Yes, you may use bicycles and other non-motorized wheeled vehicles, but only on refuge roads and rights-of-way designated for public vehicular access. In addition, you may use non-motorized, hand-operated, wheeled game carts, specifically manufactured for such purpose, to transport meat of legally harvested big game on designated industrial roads closed to public vehicular access. Information on these designated roads is available from Refuge Headquarters. Further, you may use a wheelchair if you have a disability that requires its use for locomotion.

(iv) *May I ride or use horses, mules, or other domestic animals as packstock on the refuge?* Yes, as authorized under State law, except on the Fuller Lakes Trail and on all trails within the Skilak Wildlife Recreation Area and the Refuge Headquarters area. All animals used as packstock must remain in the immediate control of the owner, or his/her designee. All hay and feed used on the refuge for domestic stock and sled dogs must be certified under the State of Alaska's Weed Free Forage certification program.

(v) *Are pets allowed on the refuge?* Yes, pets are allowed, but you must be in control of your pet(s) at all times. Pets in developed campgrounds and parking lots must be on a leash that is no longer than 9 feet in length. Pets are not allowed on hiking and ski trails in the Refuge Headquarters area.

(vi) *May I cut firewood on the refuge?* The Refuge Manager may open designated areas of the refuge for firewood cutting. You may cut and/or remove firewood only for personal, non-commercial use, and only as authorized under the terms and conditions of a special use permit (FWS Form 3-1383-G) issued by the Refuge Manager.

(vii) *May I cut Christmas trees on the refuge?* You may cut one spruce tree per household per year no larger than 20 feet in height from Thanksgiving through Christmas Day. Trees may be taken anywhere on the refuge, except that we prohibit taking trees from within the 2-square-mile Refuge Headquarters area on Ski Hill Road. Trees must be harvested with hand tools, and must be at least 150 feet from roads, trails, campgrounds, picnic areas, and waterways (lakes, rivers, streams, or ponds). Stumps from harvested trees must be trimmed to less than 6 inches in height.

(viii) *May I pick berries and other edible plants on the refuge?* You may pick and possess unlimited quantities of berries, mushrooms, and other edible plants for personal, noncommercial use.

(ix) *May I collect shed antlers on the refuge?* You may collect and keep up to eight (8) naturally shed moose and/or caribou antlers annually for personal, noncommercial use. You may collect no more than two (2) shed antlers per day.

(x) *May I leave personal property on the refuge?* You may not leave personal property unattended longer than 72 hours unless in a designated area or as authorized under the terms and conditions of a special use permit (FWS Form 3-1383-G) issued by the Refuge Manager. However, refuge visitors involved in approved, extended overnight activities, including hunting, fishing, and camping, may leave personal property unattended during their continuous stay, but in no case longer than 14 days.

(xi) *If I find research marking devices, what do I do?* You must return any radio transmitter collars, neck and leg bands, ear tags, or other fish and wildlife marking devices found or recovered from fish and wildlife on the refuge within 5 days of leaving the refuge to the Refuge Manager or the Alaska Department of Fish and Game.

(xii) *Are there special regulations for alcoholic beverages?* In addition to the provisions of 50 CFR 27.81, anyone under the age of 21 years may not knowingly consume, possess, or control alcoholic beverages on the refuge in

violation of State of Alaska law or regulations.

(xiii) *Are there special regulations for public gatherings on the refuge?* In addition to the provisions of 50 CFR 26.36, a special use permit (FWS Form 3-1383-G) is required for any outdoor public gathering of more than 20 persons.

(10) *Areas of the refuge closed to public use.* (i) From March 15 through September 30, you may not approach within 100 yards of, or walk on or otherwise occupy, the rock outcrop islands in Skilak Lake traditionally used by nesting cormorants and gulls. A map depicting the closure is available from the Refuge Headquarters.

(ii) Headquarters Lake, adjacent to the Kenai Refuge Headquarters area, is closed to boating.

(11) *Area-specific regulations for the Russian River Special Management Area.* The Russian River Special Management Area includes all refuge lands and waters within ¼ mile of the eastern refuge boundary along the Russian River from the upstream end of the fish ladder at Russian River Falls downstream to the confluence with the Kenai River, and within ¼ mile of the Kenai River from the eastern refuge boundary downstream to the upstream side of the powerline crossing at river mile 73, and areas managed by the refuge under memorandum of understanding or lease agreement at the Sportsman Landing facility. In the Russian River Special Management Area:

(i) While recreating on or along the Russian and Kenai rivers, you must closely attend or acceptably store all attractants, and all equipment used to transport attractants (such as backpacks and coolers) at all times. Attractants are any substance, natural or manmade, including but not limited to, items of food, beverage, personal hygiene, or odiferous refuse that may draw, entice, or otherwise cause a bear or other wildlife to approach. Closely attend means to retain on the person or within the person's immediate control and in no case more than 3 feet from the person. Acceptably store means to lock within a commercially produced and certified bear-resistant container.

(ii) While recreating on or along the Russian and Kenai rivers, you must closely attend or acceptably store all lawfully retained fish at all times. Closely attend means to keep within view of the person and be near enough for the person to quickly retrieve, and in no case more than 12 feet from the person. Acceptably store means to lock within a commercially produced and certified bear-resistant container.

(iii) We prohibit overnight camping except in designated camping facilities at the Russian River Ferry and Sportsman's Landing parking areas. Campers may not spend more than 2 consecutive days at these designated camping facilities.

(iv) You may start or maintain a fire only in designated camping facilities at the Russian River Ferry and Sportsman's Landing parking areas, and then only in portable, self-contained, metal fire grills, or in the permanent fire grates provided. We prohibit moving a permanent fire grill or grate to a new location. You must completely extinguish (put out cold) all campfires before permanently leaving your campsite.

(12) *Area-specific regulations for the Moose Range Meadows Subdivision non-development and public use easements.* (i) Where the refuge administers two variable width, non-development easements held by the United States and overlaying private lands within the Moose Range Meadows Subdivision on either shore of the Kenai River between river miles 25.1 and 28.1, you may not erect any building or structure of any kind; remove or disturb gravel, topsoil, peat, or organic material; remove or disturb any tree, shrub, or plant material of any kind; start a fire; or use a motorized vehicle of any kind (except a wheelchair occupied by a person with a disability), unless such use is authorized under the terms and conditions of a special use permit (FWS Form 3-1383-G) issued by the Refuge Manager.

(ii) Where the refuge administers two 25-foot-wide public use easements held by the United States and overlaying private lands within the Moose Range Meadows Subdivision on either shore of the Kenai River between river miles

25.1 and 28.1, we allow public entry subject to applicable Federal regulations and the following provisions:

(A) You may walk upon or along, fish from, or launch or beach a boat upon an area 25 feet upland of ordinary high water, provided that no vehicles (except wheelchairs) are used. We prohibit non-emergency camping, structure construction, and brush or tree cutting within the easements.

(B) From July 1 to August 15, you may not use or access any portion of the 25-foot-wide public easements or the three designated public easement trails located parallel to the Homer Electric Association Right-of-Way from Funny River Road and Keystone Drive to the downstream limits of the public use easements. Maps depicting the seasonal closure are available from Refuge Headquarters.

(13) *Area-specific regulations for Alaska Native Claims Settlement Act Section 17(b) easements.* Where the refuge administers Alaska Native Claims Settlement Act Section 17(b) easements to provide access to refuge lands, no person may block, alter, or destroy any section of the road, trail, or undeveloped easement, unless such use is authorized under the terms and conditions of a special use permit (FWS Form 3-1383-G) issued by the Refuge Manager. No person may interfere with lawful use of the easement or create a public safety hazard on the easement. Section 17(b) easements are depicted on a map available from Refuge Headquarters.

(j) *Kodiak National Wildlife Refuge—(1) Seasonal public use closure of the O'Malley River Area.* The area within the Kodiak National Wildlife Refuge described in this paragraph (j)(1) is closed to all public access, occupancy, and use from June 25 through September 30, except for individuals participating in the O'Malley River Bear-Viewing Program. The area subject to seasonal closure consists of lands and waters located within Township 33 South, Range 30 West, Seward Meridian, Alaska, consisting of approximately 2,560 acres, and more particularly described as follows: Township 33 South, Range 30 West, Seward Meridian, Alaska, all of Section 25; all of Section 26, excluding U.S. Survey 10875

and the adjacent riparian ownership (Koniag Inc.) fronting the survey and extending to the center of Karluk Lake; and all of Sections 35 and 36, excluding U.S. Survey 10876 and the adjacent riparian ownership (Koniag Inc.) fronting the survey and extending to the center of Karluk Lake. Maps of the closure area are available from the Refuge.

(2) *Access easement provision.* Notwithstanding any other provision of this paragraph (j), there exists a 25-foot-wide access easement on an existing trail within the Koniag Inc. Regional Native Corporation lands within properties described in paragraph (j)(1) of this section in favor of the United States of America.

(3) *Permit requirement for Conservation Easement lands.* Pursuant to the terms of a Conservation Easement held by the United States and the State of Alaska, we manage public use of certain lands owned by Koniag, Inc. These lands are inholdings within the exterior boundaries of the Kodiak National Wildlife Refuge. The Conservation Easement was recorded in the Kodiak Recording District, Alaska, on December 6, 2002, as document number 2002-003448-0. The lands subject to the Conservation Easement to which the permit requirement in this paragraph apply are all lands within ½ mile of the west shore of Karluk Lake, from the lake outlet to the southern boundary of T. 32 S., R. 30 W. (surveyed), Seward Meridian; all lands within ½ mile of the east shore of Karluk Lake, from the lake outlet to a point due east of the north end of Camp Island; and all lands within a ½-mile band of land on either side of the Karluk River, from the Karluk Lake outlet downstream to the refuge boundary. A map is available from the refuge showing the location of the easement lands that are subject to the permit requirement. You are prohibited from using these lands unless:

(i) You have a nontransferable permit from the refuge;

(ii) You are a concessionaire or a client of a concessionaire authorized by Koniag, Inc., to provide revenue-producing visitor services;



(iii) You are an authorized user in accordance with section 7(d) of the Conservation Easement; or

(iv) You are limiting your use of the property to public access easements established under section 17(b) of the Alaska Native Claims Settlement Act.

(4) *Camping prohibition near facilities.* On lands within Kodiak National Wildlife Refuge, you are prohibited from camping within one-quarter mile of public use cabins and Federal and administrative facilities, unless such activity is specifically authorized in a Refuge Special Use Permit. An administrative facility means any facility or site administered by the U.S. Fish and Wildlife Service or the State of Alaska for public entry or other administrative purposes, including but not limited to cabins, storage buildings, piers, docks, weirs, refuge offices, visitor centers, and public access and parking sites. Maps of the locations of public use cabins and administrative facilities are available from Refuge Headquarters in Kodiak, Alaska.

(5) *Snowmachine prohibition.* Snowmachines, as defined in § 36.2, are prohibited within an approximately 4,972-acre area encompassing Den Mountain and adjacent highlands. The summit of Den Mountain is located within Township 29 South, Range 24 West, Seward Meridian, Alaska. Maps of the closed area are available from Refuge Headquarters in Kodiak, Alaska.

[51 FR 32332, Sept. 11, 1986, as amended at 51 FR 41509, Nov. 17, 1986; 60 FR 37311, July 19, 1995; 61 FR 29497, June 11, 1996; 64 FR 14154, Mar. 24, 1999; 71 FR 33259, June 8, 2006; 75 FR 16639, Apr. 1, 2010; 81 FR 27043, May 5, 2016; 85 FR 54145, Aug. 31, 2020]

## Subpart F—Permits and Public Participation and Closure Procedures

### § 36.41 Permits.

(a) *Applicability.* The regulations contained in this section apply to the issuance and administration of competitively and noncompetitively issued permits for economic and/or other privileged uses on all national wildlife refuges in Alaska. Nothing in this section requires the refuge manager to issue a special use permit if not otherwise

mandated by statute to do so. Supplemental procedures for granting historical use, Native Corporation, and local preferences in the selection of commercial operators to hold permits to provide visitor services, other than hunting and fishing guiding on refuges in Alaska, are addressed in § 36.37, Revenue producing visitor services.

(b) *Definitions.* As used in this section, the term or terms:

*Commercial visitor service* means any service or activity made available for a fee, commission, brokerage or other compensation to persons who visit a refuge, including such services as providing food, accommodations, transportation, tours, and guides. Included is any activity where one participant/member or group of participants pays more in fees than the other participants (non-member fees, etc.), or fees are paid to the organization which are in excess of the bona fide expenses of the trip;

*Entire business* means all assets including, but not limited to, equipment, facilities, and other holdings directly associated with the permittee's type of commercial visitor service authorized by permit. This term also includes assets held under the name of separate business entities, which provide the same specific type of commercial visitor services authorized by permit, that the permittee has a financial interest in. The term does not include related enterprises owned by the permittee such as taxidermy and travel services;

*Immediate family* means the spouse and children, either by birth or adoption, of the permittee.

*Operations plan* means a narrative description of the commercial operations which contains all required information identified in the prospectus;

*Permit* means a special use permit issued by the refuge manager which authorizes a commercial visitor service or other activity restricted by law or regulation on a national wildlife refuge;

*Prospectus* means the document that the Service uses in soliciting competition to award commercial visitor services on a refuge;

*Subcontracting* means any activity in which the permittee provides financial or other remuneration to anyone other

§ 36.41

than employees to conduct the specific commercial services authorized by the Service. The permittee's primary authorized activities must be conducted in a genuine employer/employee relationship where the source of all remuneration for services provided to clients is from the permittee. Subcontracting does not apply to booking services or authorized secondary services provided to clients in support of the permittee's primary authorized activities (e.g., a guide paying a marine or air taxi operator to transport clients);

*Subletting* means any activity in which the permittee receives financial or other remuneration in return for allowing another commercial operator to conduct any of the permittee's authorized activities in the permittee's use area; and

*Use area* means the designated area where commercial services may be conducted by the permittee.

(c) *General provisions.* In all cases where a permit is required, the permittee must abide by the conditions under which the permit was issued. Refuge managers will provide written notice to the permittee in all cases where documentation of noncompliance is prepared for use in any administrative proceeding involving the permittee.

(d) *Application.* (1) This section and other regulations in this part 36, generally applicable to the National Wildlife Refuge System, require that permits be obtained from the refuge manager. For activities on the following refuges, request permits from the respective refuge manager in the following locations:

Refuge	Office location
Alaska Peninsula National Wildlife Refuge.	King Salmon.
Alaska Maritime National Wildlife Refuge.	Homer.
Aleutian Islands Unit, Alaska Maritime NWR.	Homer.
Arctic National Wildlife Refuge .....	Fairbanks.
Becharof National Wildlife Refuge .....	King Salmon.
Innoko National Wildlife Refuge .....	McGrath.
Izembek National Wildlife Refuge .....	Cold Bay.
Kanuti National Wildlife Refuge .....	Fairbanks.
Kenai National Wildlife Refuge .....	Soldotna.
Kodiak National Wildlife Refuge .....	Kodiak.
Koyukuk National Wildlife Refuge .....	Galena.
Nowitna National Wildlife Refuge .....	Galena.
Selawik National Wildlife Refuge .....	Kotzebue.
Tetlin National Wildlife Refuge .....	Tok.

50 CFR Ch. I (10–1–23 Edition)

Refuge	Office location
Togiak National Wildlife Refuge .....	Dillingham.
Yukon Delta National Wildlife Refuge ...	Bethel.
Yukon Flats National Wildlife Refuge ...	Fairbanks.

(2) For noncompetitively issued permits, the applicant may present the application verbally if he/she is unable to prepare a written application. The refuge manager will keep a written record of such verbal application. For competitively issued permits, the applicant must submit a written application in the format delineated in the prospectus or other designated format of the Service.

(3) The refuge manager will grant or deny applications for noncompetitively issued permits in writing within 45 days, except for good cause. For competitively issued permits, the refuge manager will grant or deny applications in accordance with the time frame established in the prospectus, except for good cause.

(4) Refuge managers may establish application period deadlines for individual refuges for both competitively and noncompetitively issued permits. The refuge manager will send notification of availability for commercial opportunities and application deadlines to existing and/or the previous year's permittees. He/she will publish the notice in at least one newspaper of general circulation in the State and in at least one local newspaper if available, and will make available for broadcast on local radio stations in a manner reasonably calculated to inform local prospective applicants.

(5) The Service may limit the number of applications that an individual may submit for competitively awarded offerings.

(e) *Competitively awarded permits.* (1) Where the number of available permits is limited, refuge managers will award permits competitively. A prospectus with invitation to bid system will be the primary competitive method used for selecting commercial visitor services. Where justified, other selection methods, including but not limited to lotteries, may be used. Such circumstances may include, but not be limited to, the timely refilling of use areas that have become vacant during regularly scheduled terms to prevent

commercial visitor service opportunities from going unused, and initiating trial programs on individual refuges. The refuge manager has discretionary authority to issue noncompetitive permits on a one-time, short-term basis to accredited educational institutions and other nonprofit organizations to conduct primarily environmental education-related activities that also may be recreational in nature in use areas where permits for that type of guided recreational activity are otherwise limited to competitive award.

(2) Where numbers of permits have been limited for an activity prior to the promulgation of these regulations and a prospectus with invitation to bid system has not yet been developed, refuge managers may issue noncompetitive five-year permits consistent with the terms set forth in paragraph (e)(16) of this section on a one-time basis to existing permittees.

(3) The Service will publish notice of all solicitations for competition in accordance with paragraph (d)(4) of this section and include reasonable application periods of not less than 60 days. When competitively selecting permittees for an activity in a use area where permits for that activity were not previously competitively awarded, the Service will publish notice of the upcoming opportunity a minimum of 18 months prior to the effective date of the permit term.

(4) All prospectuses will identify the selection criteria that the Service will use to evaluate the proposals. All prospectuses involving commercial visitor services must include experience and performance in providing the same or similar services as a criterion. In evaluating the experience of an applicant, the Service will specifically consider knowledge of the specific area covered by the prospectus and the nature of the technical skills required to provide quality service to the public.

(5) A panel of Service employees who use a scoring process based on the selection criteria will evaluate and rank applications received in response to a prospectus.

(6) The Service has discretionary authority to not evaluate or consider proposals that are incomplete or improperly submitted.

(7) The Service may establish minimum scores to qualify for the award of permits. If established, these minimum scores will be identified in the prospectus.

(8) The Service may establish limits on the number of use areas within an individual refuge, or on refuges statewide, in which a permittee is authorized to operate. This limit applies to different corporations in which the same individual has any ownership interests.

(9) When vacancies occur in competitively filled use areas, the procedure for reissuing the permits will depend on how long it has been since the permit originally was issued. The Service will award the permit to the next highest ranking interested applicant in the original solicitation, if a vacancy occurs within the first 12 months of the permit's effective date. Resolicited competition for the area will occur as soon as practicable if:

(i) A vacancy occurs after 12 months of the permit's effective date; and

(ii) At least 24 months of the original permit term is available for a new permittee after completion of the solicitation, application, evaluation and awards period. If less than 24 months of the term of the permit is available, the Service has the discretion to solicit competition during the regularly scheduled solicitation period. The Service may annually issue noncompetitive permits for vacant areas, where there has not been significant permittee interest, until competition can be solicited in conjunction with other solicitations for vacant areas.

(10) Terms of permits awarded under the prospectus with invitation method are valid for 5 years except in those instances where the Service issues permits to fill vacancies occurring during a scheduled award cycle. In these instances, the permit duration is limited to the expiration date of the original award period. Permits awarded under the prospectus by invitation method must be renewed noncompetitively by the refuge manager for a period of 5 additional years upon application and a showing of permittee compliance with

all applicable permit terms and conditions and a satisfactory record of performance. After one renewal, the Service shall not extend or noncompetitively renew another permit.

(11) Permit privileges may be transferred to other qualified entities that demonstrate the ability to meet Service standards, as outlined in the prospectus upon which the existing permit was based, subject to approval by the refuge manager. Requests for transfers must be made in writing to the refuge manager. A permittee who transfers his/her privileges will not be eligible to be considered for competitively awarded permits for the same type of activity on the same national wildlife refuge for a period of three years following the authorized transfer. The Service retains complete discretion in allowing transfers. In general, the Service approves transfers only upon demonstrating that it is to the government's benefit and if all the following criteria are satisfied:

(i) The transfer is part of the sale or disposition of the current permittee's entire business as earlier defined;

(ii) The current permittee was either conducting the commercial operation in the refuge under authorization of a permit for a minimum of 12 years or owns significant real property in the area, the value of which is dependent on holding a refuge permit. Consideration of the last element will include, but is not limited to:

(A) The relationship of the real property to permitted refuge activities as documented in the operations plan;

(B) The percentage that the authorized refuge activities comprise of the total commercial use associated with the real property; and

(C) The appraised value of the real property.

(iii) The transferee must be independently qualified to hold the permit under the standards of the prospectus of the original existing permit.

(iv) The transferee has an acceptable history of compliance with State and Federal fish and wildlife and related permit regulations during the past 5 years. An individual with any felony conviction is an ineligible transferee. Transfer approval to an individual having any violations, convictions, or

pleas of nolo contendere for fish and wildlife related federal misdemeanors or State violations will be discretionary. Denial is based on, but not limited to, whether the individual committed any violation in which the case disposition resulted in any of the following:

(A) Any jail time served or probation;

(B) Any criminal fine of \$250 or greater;

(C) Forfeiture of equipment or harvested animal (or parts thereof) valued at \$250 or greater;

(D) Suspension of privileges or revocation of any fish and wildlife related license/permits;

(E) Other alternative sentencing that indicates the penalty is of equal severity to the foregoing elements; or

(F) Any multiple convictions or pleas of nolo contendere for fish and wildlife-related Federal misdemeanors or State fish and wildlife-related violations or misdemeanors irrespective of the amount of the fine.

(12) The transferee must follow the operations plan of the original permittee. The transferee may modify the operations plan with the written consent of the refuge manager as long as the change does not result in increased adverse impacts to refuge resources or other refuge users.

(13) Upon timely approval of the transfer, the Service will issue the new permittee a permit for the remaining portion of the original permit term. The refuge manager retains the right to restrict, suspend, revoke, or not renew the permit for failure to comply with its terms and conditions.

(14) Permit privileges issued under this paragraph (e) may be transferred, subject to refuge manager approval, to a former spouse when a court awards permit-associated business assets in a divorce settlement agreement to that person. The recipient must independently qualify to hold the originally issued permit under the minimum standards identified by the Service, and the permittee must have an acceptable history of compliance as set forth in paragraph (e)(11)(iv) of this section.

(15) Permit privileges issued under this paragraph (e) may be transferred in the case of death or disability of the

permittee, subject to refuge manager approval, as provided in this paragraph (e). In these cases, the permit privileges may pass to a spouse who can demonstrate he/she is capable of providing the authorized services and who has an acceptable history of compliance as set forth in paragraph (e)(11)(iv) of this section. A spouse who lacks any required license(s) but otherwise qualifies may hire an employee, who holds the required license(s) and who has an acceptable history of compliance as set forth in paragraph (e)(11)(iv) of this section, to assist in the operation. Permit privileges may also pass to another member of the immediate family or a person who was a business partner at the time of original permit issuance. This person must be independently qualified under the minimum standards identified by the Service at the time of original permit issuance and have an acceptable history of compliance as set forth in paragraph (e)(11)(iv) of this section.

(16) Upon September 26, 1997, refuge managers will amend existing competitively-awarded permits through the prospectus method to make the terms fully consistent with this section, including eligibility for a 5-year non-competitive renewal.

(f) *Fees.* Permittees must pay fees formally established by regional and/or nation-wide Service policy. The refuge manager must document any fee exemption.

(g) *Subletting and subcontracting.* A permittee may not sublet any part of an authorized use area. Subcontracting any service authorized by the permit requires written approval from the refuge manager unless the subcontracted service is specifically identified in the permittee's approved operations plan.

(h) *Restriction, suspension and revocation of permits.* The refuge manager may suspend, revoke, or reasonably restrict the terms of a permit for noncompliance with the terms and conditions of the regulations in this subchapter C; for nonuse of the permit; for violations/convictions (including pleas of nolo contendere) of any law or regulation pertaining to the same type of activity authorized by the permit, whether or not the activity occurred on or off the refuge; to protect public health or safe-

ty; or if the refuge manager determines the use to be incompatible with refuge purposes or is inconsistent with the Service's obligations under Title VIII of the Alaska National Interest Lands Conservation Act. All actions pertaining to this paragraph are subject to the 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 paragraph (f) of this section; 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 paragraph (f) of this section; and

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

[46 FR 31827, June 17, 1981, as amended at 81 FR 52273, Aug. 5, 2016; 82 FR 52011, Nov. 9, 2017]

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 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.

\*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.