

coves where passage is restricted to less than 500 feet. In such restrictive locations, the operation of a vessel in excess of 5 mph or creating a wake is prohibited.

(f) Allowing a person to ride on the gunwales, transom, or on the decking over the bow of a vessel propelled by machinery, operating in excess of 5 mph: *Provided, however,* That this provision shall not apply under the following circumstances:

(1) When that portion of the vessel was designed and constructed for the purpose of carrying passengers safely at all speeds.

(2) When the vessel is being maneuvered for anchoring, mooring or casting off moorings.

(g) Attaching a vessel to or interfering with a marker, navigation buoy or other navigational aid.

(h) Using trailers to launch or recover vessels, except at designated launching sites.

(i) Launching a vessel propelled by machinery at other than designated launch sites.

(j) Operating a vessel propelled by machinery on waters not directly accessible by road.

(k) Launching or operating airboats.

(l) Operating a vessel in excess of designated size, length or width restrictions.

### § 3.7 Noise abatement.

Operating a vessel in or upon inland waters so as to exceed a noise level of 82 decibels measured at a distance of 82 feet (25 meters) from the vessel is prohibited. Testing procedures employed to determine such noise levels shall be in accordance with or equal to the Exterior Sound Level Measurement Procedure for Vessels recommended by the Society of Automotive Engineers SAE-J34a (Revised April, 1977).

### § 3.20 Water skiing.

(a) The towing of persons by vessels is prohibited, except in designated waters.

(b) Where towing is authorized, the following are prohibited:

(1) Towing between the hours of sunset and sunrise.

(2) Towing without one person (other than the operator) observing the progress of the person being towed.

(3) Towing a person who is not wearing a personal flotation device. If the person being towed is wearing a flotation device not approved by the United States Coast Guard, there must be an approved personal flotation device readily available in the towing vessel.

(4) Towing or being towed in channels or within 500 feet of areas designated as harbors, swimming beaches, or mooring areas, or within 100 feet of a person fishing or swimming, or a diver's marker.

### § 3.21 Swimming and bathing.

(a) The following are prohibited:

(1) Swimming or bathing in locations designated as closed.

(2) Swimming or bathing in violation of designated restrictions.

(3) Swimming from vessels which are underway, except in circumstances where a capable operator is on board and all propulsion machinery is off and/or sails are furled.

(b) The superintendent may prohibit the use of flotation devices, glass containers, kits, or incompatible sporting activities within locations designated as swimming beaches.

### § 3.22 Surfing.

The use of surfboards and similar rigid devices within locations designated as swimming beaches is prohibited.

### § 3.23 SCUBA and snorkeling.

The following are prohibited:

(a) SCUBA diving and snorkeling within locations designated as swimming, docking, or mooring areas, except in accordance with conditions which may be established by the superintendent.

(b) Diving in waters open to the use of vessels, other than those propelled by hand, without displaying a standard diver flag.

## PART 4—VEHICLES AND TRAFFIC SAFETY

### § 4.2 [Removed and Reserved]

2. Section 4.2 is removed and reserved.

3. A new § 4.22 is added as follows:

### § 4.22 Hitchhiking.

Hitchhiking, or the solicitation of transportation, is prohibited.

## PART 5—COMMERCIAL AND PRIVATE OPERATIONS

4. §§ 5.11, 5.12 are removed and reserved and §§ 5.15 and 5.16 are removed.

## PART 6—MISCELLANEOUS FEES

5. § 6.1 is removed and reserved and § 6.5 is removed.

## PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

6. By adding a new § 7.100 to Part 7 as follows:

### § 7.100 Appalachian National Scenic Trail.

(a) The use of bicycles, motorcycles, snowmobiles, or other motor vehicles is prohibited.

(b) The use of horses or pack animals is prohibited, except in locations designated for their use.

## PART 12—NATIONAL CEMETERY REGULATIONS

7. By revising § 12.1 as follows:

### § 12.1 Applicability and scope.

In addition to the regulations in Parts 1-7, the regulations in this part shall apply to the operation, maintenance, and administration of the national cemeteries.

### §§ 12.2, 12.3, 12.4 and 12.6 [Removed]

8. By removing § 12.2, § 12.3, § 12.4, § 12.6.

### § 12.5 [Redesignated as § 12.2]

9. § 12.5 Redesignated as § 12.2.

### § 12.7 [Redesignated as § 12.3]

10. § 12.7 Redesignated as § 12.3.

### § 12.8 [Redesignated as § 12.4]

11. § 12.8 Redesignated as § 12.4.

### § 12.9 [Redesignated as § 12.5]

12. § 12.9 Redesignated as § 12.5.

### § 12.10 [Redesignated as § 12.6]

13. § 12.10 Redesignated as § 12.6.

### § 12.11 [Redesignated as § 12.7]

14. § 12.11 Redesignated as § 12.7.

### § 12.12 [Redesignated as § 12.8]

15. § 12.12 Redesignated as § 12.8.

Dated: June 17, 1983.

G. Ray Arnett,

*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 83-17468 Filed 6-29-83; 8:45 am]

BILLING CODE 4310-70-M

## DEPARTMENT OF THE INTERIOR

### 36 CFR Parts 4, 6, 7, 9 and 13

### Special Regulations for Areas Administered by the National Park Service

AGENCY: National Park Service, Interior.

ACTION: Final rule.



**SUMMARY:** The National Park Service is deleting regulations codified in 36 CFR Parts 7 and 13. This rulemaking deletes 65 park-specific regulations which have been determined to be unnecessary and duplicative because of revisions to the general regulations applicable to all National Park System areas, published elsewhere in today's *Federal Register*. The Service is also making minor, technical revisions to regulations codified in 36 CFR Parts 4, 6, 7, 9 and 13, such as changing section or paragraph references. These changes are also required because of revisions to the Service's general regulations.

**EFFECTIVE DATE:** These regulations will become effective on October 3, 1983.

**FOR FURTHER INFORMATION CONTACT:** Maureen Finnerty, Division of Visitor Services, National Park Service, Washington, D.C. 20240, Telephone: 202-343-4874.

#### SUPPLEMENTARY INFORMATION:

##### Background

The National Park Service has revised regulations codified in 36 CFR Parts 1-7 and 12. These rules provide guidance and controls for public use and recreation activities (e.g., camping, fishing, hunting, winter activities, boating) in areas administered by the National Park Service, and are published elsewhere in today's *Federal Register*. The publication of this final rule makes it possible for the Service to delete 65 park-specific special regulations which are now unnecessary, and duplicative. This will enable the National Park Service to comply with Executive Order 12291 on Federal Regulations (48 FR 13193, February 19, 1981).

The revisions to the general regulations also make necessary numerous minor, technical changes to other regulations codified in 36 CFR Parts 4, 6, 7, 9 and 13. These revisions are primarily reference changes to paragraphs and sections because of the renumbering of the revised general regulations.

A final change in a minor revision to 36 CFR 4.19, travel on roads and designated routes, to delete reference to the management categories (natural, historical and recreational). The Service discontinued this categorization in 1975, and the Code of Federal Regulations was never revised to reflect this change. The deletion of the management categories from § 4.19 should have been included in the final rule published elsewhere in today's *Federal Register*. Through oversight it was not, and therefore it is included in this rulemaking.

In its proposed rule (47 FR 11598) the National Park Service indicated that it would seek public comment on revisions to and elimination of numerous special regulations. In this rule, the Service has narrowed that proposal to merely eliminate duplicative rules and make minor technical revisions to other rules.

Because of the nature of these amendments, the National Park Service has determined that notice and comment procedures are impracticable, unnecessary and contrary to the public interest. The other revisions to Part 7 will be dealt with in future rulemakings.

#### Drafting Information

The primary author of this rule is Maureen Finnerty, Division of Visitor Services, National Park Service, Department of the Interior, Washington, D.C.

#### Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

#### Compliance with Other Laws

The National Park Service has concluded that promulgation of this rule clearly would not represent a major Federal action having significant impact on the human environment under the National Environmental Policy Act (42 U.S.C. 4332 *et seq.*), and therefore does not require an environmental impact statement or an environmental assessment.

The Department of the Interior has determined that this document is not a major rule under E.O. 12291, and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The Department has made the latter finding because the only economic effect of this rule is a positive one, a cost savings to the United States Government of an estimated \$1,800. This will be the result of publishing approximately 30 fewer pages in the Code of Federal Regulations.

#### List of Subjects

##### 36 CFR Part 4

National parks, Traffic regulations.

##### 36 CFR Part 5

Alcohol and alcoholic beverages, Business and industry, Civil rights, Equal employment opportunity, National parks, pets, Transportation.

##### 36 CFR Part 6

Motor vehicles, National parks.

##### 36 CFR Part 7

National parks.

##### 36 CFR Part 9

Environmental protection, Mines, National parks, Oil and gas exploration, Public lands/Mineral resources, Public lands/Rights-of-way.

##### 36 CFR Part 13

Aircraft, Alaska, National parks, Penalties, Traffic regulations.

#### Authority

The Service's authority for promulgating these regulations is found in 16 U.S.C. 3.

In consideration of the foregoing, 36 CFR Chapter I is amended as follows:

#### CHAPTER I—[AMENDED]

1. Wherever the following references appear in Chapter I (excluding Parts 1, 2, 3), change:

- a. "Mount McKinley National Park" to "Denali National Park and Preserve"
- b. "Katmai National Monument" to "Katmai National Park and Preserve"
- c. "Channel Islands National Monument" to "Channel Islands National Park"
- d. "Cape Hatteras National Seashore Recreational Area; hunting" to "Cape Hatteras National Seashore"
- e. § 1.2 to § 1.4
- f. § 1.42(b) to § 4.17
- g. § 2.2 and 2.2(a) to § 2.17
- h. 36 CFR § 2.2 and 2.2(b) to 36 CFR § 2.17
- i. § 2.8 and 2.8(b) to § 1.5
- j. 36 CFR § 2.8(b) to 36 CFR § 1.5
- k. § 2.8 to § 2.15
- l. § 2.11 and 2.11(a) to § 2.4
- m. § 2.13 to § 2.3
- n. § 2.16 to § 2.35
- o. § 2.25(a),(b),(c) and (d) to § 2.5
- p. § 2.32 to § 2.2
- q. § 3.1 to § 1.4
- r. § 4.1 to § 1.4
- s. § 4.2(g) to § 1.4
- t. 36 CFR § 5.16 to 36 CFR § 2.60
- u. § 7.23(b)-(f) to § 13.65(b)-(f)
- v. § 1227.10 of Chapter XII of this title to 36 CFR Part 71.
- w. 43 CFR § 18.10 to 36 CFR Part 71.

#### PART 4—VEHICLES AND TRAFFIC SAFETY

2. a. In § 4.19, revise paragraphs (a) and (b) as follows:

##### § 4.19 Travel on roads and designated routes.

(a) The use of motor vehicles off established roads and parking areas is prohibited, except on routes designated as open for that use.



(b) Routes for the off-road use of motor vehicles shall be promulgated as special regulations in Part 7 of this chapter. The designation of such routes shall be in accordance with the procedures and criteria of § 1.5 of this chapter and E.O. 11644 (37 FR 2877). No routes shall be designated except in national recreation areas, national seashores, national preserves and national lakeshores.

b. Revise the reference in paragraph (c) from (b)(1) to (b).

#### **PART 6—MISCELLANEOUS FEES [RESERVED]**

3. Remove and reserve all of Part 6.

#### **PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM**

4. In § 7.1 add a new paragraph (b) as follows:

##### **§ 7.1 Colonial National Historical Park.**

(b) *Commercial passenger—carrying motor vehicles.* Permits shall be required for the operation of commercial passenger-carrying vehicles, including taxi-cabs, carrying passengers for hire on any portion of the Colonial Parkway. The fees for such permits shall be as follows:

(1) Annual permit for the calendar year: \$3.50 for each passenger-carrying seat in the vehicle to be operated.

(2) Quarterly permit for a period beginning January 1, April 1, July 1, or October 1: \$1 for each passenger-carrying seat in the vehicle to be operated.

(3) Permit good for one day, 5-passenger vehicle: \$1.

(4) Permit good for one day, more than 5-passenger vehicle: \$3.

5. In § 7.3 revise paragraph (h) as follows:

##### **§ 7.3 Glacier National Park.**

(h) To promote the purpose of the Act of May 2, 1932 (47 Stat. 145; 16 U.S.C. 161a), Canadian dollars tendered by Canadian visitors entering the United States section of Glacier National Park will be accepted at the official rate of exchange in payment of the recreation fees prescribed for the park.

##### **§ 7.5 Mount Rainier National Park [Amended]**

6. a. In § 7.5 remove paragraph (a)(1) and redesignate paragraphs (a)(2) as (a)(1), (a)(3) as (a)(2), (a)(4) as (a)(3), and (a)(5) as (a)(4).

b. Remove paragraphs (c)(1) and (c)(3) and redesignate paragraphs (c)(2) as (c)(1), and (c)(4) as (c)(2).

c. Remove paragraph (d)(1) and redesignate paragraph (d)(2) as (d)(1).

##### **§ 7.7 Rocky Mountain National Park [Amended]**

7. a. In § 7.7 remove paragraph (a)(1)(ii) and redesignate paragraph (a)(1)(iii) as (a)(1)(ii).

b. Amend paragraph (b) by revising the last sentence as follows:

(b) \* \* \* Fees will be charged for such trucking over Trail Ridge Road as provided in paragraph (g) of this section.

c. Revise paragraph (g) as follows:

(g) *Trucking permits.* (1) The fees for permits issued for trucking over the Trail Ridge Road shall be as follows:

Vehicle, 1 ton or less: \$2.

Vehicle, over 1 ton but not more than 2 tons: \$3.

Vehicle, over 2 tons but not more than 3 tons: \$4.

Vehicle, over 3 tons but not more than 5 tons: \$5.

Vehicle, over 5 tons but not more than 10 tons: \$10.

(2) The applicable fee shall be charged for the licensed capacity of a truck, trailer, or semitrailer.

(3) The fee charged is for one round trip, provided such trip is made in 1 day otherwise the fee is for a one-way trip.

(4) No vehicle which has a gross weight, including vehicle and load, in excess of 10 tons, shall be operated or moved on the Trail Ridge Road.

(5) The fees provided in this paragraph shall also apply to special emergency trucking permits issued pursuant to § 5.6(b) of this chapter.

d. Remove paragraph (h).

##### **§ 7.8 Sequoia and Kings Canyon National Parks [Amended]**

8. a. In § 7.8 remove paragraph (e).

##### **§ 7.9 St. Croix National Scenic Rivers [Amended]**

9. In § 7.9 remove paragraph (a)(2)(ii) and redesignate (a)(2)(iii) as (a)(2)(ii) and (a)(2)(iv) as (a)(2)(iii).

10. a. In § 7.10 amend paragraph (c) by revising the last sentence as follows:

##### **§ 7.10 Zion National Park.**

(c) \* \* \* For providing the required convoy service, a convoy fee shall be charged for each vehicle or combination of vehicles as specified in paragraph (d).

b. Add a new paragraph (d) as follows:

(d) Vehicles exceeding size limitations established by the superintendent must be convoyed over the park roads for which a fee of \$5 per single trip will be charged for each vehicle or combination of vehicles. The convoy fee shall be in addition to the recreation fees.

11. a. In § 7.13 revise paragraph (c) as follows:

##### **§ 7.13 Yellowstone National Park.**

(c) *Trucking.* The superintendent may issue permits for the use of park roads for trucking, for which fees shall be charged. The fee schedule shall be as follows:

Emergency trucking between any two park entrances—Round trip permit fee: \$10.

Trucking between the north and northeast entrances:

Trucks with a capacity of  $\frac{3}{4}$  ton, but with a capacity of not more than  $1\frac{1}{2}$  tons—Yearly permit fee: \$20.

Trucks with a capacity of more than  $1\frac{1}{2}$  tons—Yearly permit fee: \$40.

b. Remove paragraphs (d)(9)(i) and (ii) and redesignate paragraph (d)(9)(iii) as (d)(9)(i).

c. Remove paragraph (d)(13).

d. Revise paragraph (e)(8)(iv) as follows:

(e) \* \* \*

(8) \* \* \*

(iv) When in the possession of any fishing equipment and while immediately adjacent to or on waters of the park, no person shall possess any worms, insects, or other organic matter, or parts thereof or fish lures, except as provided for in paragraphs (e)(8)(ii), (iii), and (v) of this section.

e. Remove paragraph (e)(9) and redesignate paragraph (e)(10) as (e)(9).

f. Remove paragraph (g)(3).

g. Revise paragraph (l) as follows:

(l) *Snowmobiles.* (1) The superintendent may, by the posting of appropriate signs, require persons to register or obtain a permit before attempting any oversnow travel. The superintendent shall issue a permit upon ascertaining that suitable winter survival supplies and equipment are available for human use in the event of mechanical failure. Where a permit is required, it must be carried on the person, or within the oversnow vehicle, and shall be exhibited upon request of any authorized person.

(2) Upon designated routes, snowmobile use shall be limited to the unplowed roadway, which is defined as that portion of the roadway located between the road shoulders designated



by snow poles or poles, ropes, and signs erected by the superintendent to regulate snowmobile activity. The designated routes for snowmobile use shall be:

(i) The Grand Loop Road from its junction with Terrance Springs Drive to Norris Junction.

(ii) Norris Junction to Canyon Road.

(iii) The Virginia Cascade Drive.

(iv) The Grand Loop Road from Norris Junction to Madison Junction.

(v) The West Entrance Road from the Park Boundary at West Yellowstone to Madison Junction.

(vi) The Grand Loop Road from Madison Junction to West Thumb.

(vii) The Firehole Canyon Drive.

(viii) The Blacktail Plateau Drive.

(ix) The Fountain Flat Drive.

(x) The South Entrance Road from the South Entrance to West Thumb.

(xi) The Grand Loop Road from West Thumb to its junction with the East Entrance Road.

(xii) The East Entrance Road from the East Entrance to its junction with the Grand Loop Road.

(xiii) The Grand Loop Road from its junction with the East Entrance Road to Canyon Junction.

(xiv) The Canyon Rim Drives.

(xv) The Grand Loop Road from Canyon Junction to Tower Junction.

(xvi) In the developed areas of Madison Junction, Old Faithful, Grant Village, Lake, Fishing Bridge, Canyon and Norris Junction, snowmobile routes to scenic points of interest, lodging and other facilities will be designated by appropriate snow poles and signs; said routes being limited to the unplowed roadways. The criteria for determining specific routes in these areas will be: the most direct access, weather and snow conditions and the elimination of congestion and improvement of circulation in the interest of public safety.

#### § 7.14 Great Smoky Mountains National Park [Amended]

12. a. Remove paragraph (a)(3)(i) and redesignate (a)(3)(ii) as (a)(3)(i) and (a)(3)(iii) as (a)(3)(ii).

b. Remove paragraph (b)(2) and redesignate paragraph (b)(1) as (b).

c. Remove paragraph (c).

#### § 7.15 Shenandoah National Park [Amended]

13. a. Remove paragraphs (a)(7) and (a)(8).

b. Remove and reserve paragraphs (c) and (e).

c. Remove paragraph (f)(5) and redesignate paragraph (f)(6) as (f)(5).

d. Remove paragraph (g).

#### § 7.16 Yosemite National Park [Amended]

14. a. Remove paragraph (e)(3).

b. Amend paragraph (f) by revising the last sentence as follows:

(f). \* \* \* An annual registration fee will be charged for vehicles registered with the superintendent which are not connected with the operation of the park. This fee will be found in paragraph (m) of this section.

c. Revise paragraph (k) as follows:

(k) Skelton Lakes and Delaney Creek from its beginning at the outlet of the lower Skelton Lake to its interception with the Tuolumne Meadows—Young Lakes Trail, are closed to all public fishing.

d. Add paragraphs (l) and (m) as follows:

(l) Motor vehicles driven or moved upon a park road must be registered and properly display current license plates. Such registration may be with a State or other appropriate authority or, in the case of motor vehicles operated exclusively on park roads, with the superintendent. An annual registration fee of \$6 will be charged for vehicles registered with the superintendent which are not connected with the operation of the park.

(m) *Trucking.* (1) The fees for special trucking permits issued in emergencies pursuant to paragraph (b) of § 5.6 of this chapter shall be based on the licensed capacity of trucks, trailers, or semitrailers, as follows:

Trucks, less than 1 ton.  
Trucks of 1 ton and over, but not to exceed 10 tons.

Appropriate automobile permit fee. \$5 for each ton or fraction thereof.

(i) The fee charged is for one round trip between any two park entrances provided such trip is made within one 24-hour period; otherwise the fee is for a one-way trip.

(ii) Trucks carrying bona fide park visitors and/or their luggage or camping equipment may enter the park upon payment of the regular recreation fees.

(2) The fee provided in paragraph (m)(1) of this section also shall apply to permits which the superintendent may issue for trucking through one park entrance to and from privately owned lands contiguous to the park boundaries, except that such fee shall be considered an annual vehicle fee covering the use of park roads between the point of access to such property and the nearest park exit connecting with a State or county road.

15. In § 7.18 add paragraph (a) as follows:

#### § 7.18 Hot Springs National Park.

(a) *Commercial Vehicles.* Permits shall be required for the operation of commercial passenger-carrying vehicles, including taxicabs, carrying passengers for hire over park roads for sightseeing purposes. The fees for such permits shall be as follows:

(1) Fleet operator; equipment that includes any combination of commercial passenger-carrying vehicles, including taxicabs. Calendar-year permit—\$25.

(2) Bus operator; equipment limited to a single bus-type vehicle with passenger-carrying seat capacity in excess of eight persons. Calendar-year permit—\$20.

(3) Taxicab operator; equipment limited to a single vehicle with a capacity of not over eight passenger-carrying seats. Calendar-year permit—\$12.

(4) The fees for permits issued for commercial passenger-carrying vehicle operations starting on or after July 1 of each calendar year will be one-half of the respective rates mentioned in paragraphs (a)(1), (2), and (3) of this section.

#### § 7.21 John D. Rockefeller, Jr. Memorial Parkway [Amended]

16. In § 7.21 remove paragraphs (a)(3) and (a)(4) and redesignate paragraph (a)(5) as (a)(3).

#### § 7.22 Grand Teton National Park [Amended].

17. a. In § 7.22 remove paragraph (b)(2) and redesignate paragraph (b)(3) as (b)(2) and (b)(4) as (b)(3).

b. Remove paragraph (i)(5) and redesignate paragraph (i)(6) as (i)(5).

c. Remove paragraph (j).

#### § 7.23 [Amended]

18. a. In § 7.23 remove paragraph (a).  
b. Redesignate paragraph (b), (c), (d), (e) and (f) as § 13.65 (b), (c), (d), (e) and (f).

c. Revise the reference in paragraph (c)(2)(i) from "§ 7.23(c)(1)" to "§ 13.65(c)(1)."

d. Revise the reference in paragraph (d)(4) from "36 CFR 2.6," to "36 CFR 1.5."

e. Revise the reference in paragraph (g) from "§ 7.23(e)" to "§ 13.65(e)".

#### § 7.24 Catotchin Mountain Park [Reserved]

19. Remove and reserve § 7.24.

20. In § 7.25 revise paragraph (b) as follows:

#### § 7.25 Hawaii Volcanoes National Park.



(b) *Backcountry registration.* No person shall explore or climb about the lava tubes or pit craters in the park without first registering with the superintendent and indicating the approximate length of time involved in the exploration and the number of people in the party. This section does not apply to the maintained trail through Thurston Lava Tube, nor the maintained trail down and across Kilauea Iki pit crater.

#### § 7.28 Olympic National Park [Amended]

21. In § 7.28 remove paragraph (f)(2).  
22a. In § 7.34 revise paragraph (b)(4) as follows:

#### § 7.34 Blue Ridge Parkway

(b) \* \* \*

(4) Prohibited bait in waters in paragraphs (b)(3) (i) and (ii) of this section: Possession of or use as bait of insects, worms, and other similar organic bait or parts thereof adjacent to, on, or in streams or lakes while in possession of fishing tackle, is prohibited.

b. Remove and reserve paragraph (d).  
23. In § 7.36 revise paragraph (a)(1) as follows:

#### § 7.36 Mammoth Cave National Park.

(a) *Fishing*—(1) *General.* Trot and throw lines shall contain hooks which are spaced at least 30 inches apart.

#### § 7.43 Natchez Trace Parkway [Amended]

24. a. In § 7.43 remove and reserve paragraphs (a) and (b).

b. Revise paragraph (d) as follows:

(d) *Beer and alcoholic beverages.* The possession of beer or any alcoholic beverage in an open or unsealed container is prohibited, except in designated picnic, lodging, residence, and camping areas.

#### § 7.44 [Amended]

25. In § 7.44 redesignate paragraphs (a) and (d) as § 13.63 (e) and (f) and remove paragraphs (b), (c), and (e).

#### § 7.46 [Amended]

26. In § 7.46 redesignate paragraph (a) as § 13.66 (b) and remove paragraphs (b) and (c).

27. In § 7.47 revise paragraph (a) as follows:

#### § 7.47 Carlsbad Caverns National Park.

(a) *Cave entry.* With the exception of the regular trips into Carlsbad Caverns under the guidance or supervision of employees of the National Park Service,

no person shall enter any cave or undeveloped part or passage of any cave without a permit.

#### § 7.57 Lake Meredith Recreation Area.

28. In § 7.57 remove paragraph (a)(3).

#### § 7.58 Cape Hatteras National Seashore Recreational Area; Hunting [Amended]

29. In § 7.58 remove paragraph (c)(1)(i) and redesignate paragraphs (c)(1)(ii) as (c)(1)(i), (c)(1)(iii) as (c)(1)(ii), (c)(1)(iv) as (c)(1)(iii), (c)(1)(v) as (c)(1)(iv), and (c)(1)(vi) as (c)(1)(v).

30. a. In § 7.85 revise paragraph (a) as follows:

#### § 7.65 Assateague Island National Seashore.

(a) *Hunting.* (1) Hunting, except with a shotgun, bow and arrow, or by falconry is prohibited. Hunting with a shotgun, bow and arrow, or by means of falconry is permitted in accordance with State law and Federal regulations in designated hunting areas.

(2) Hunting, or taking of a raptor for any purpose is prohibited except as provided for by permit in § 2.5 of this chapter.

(3) A hunter shall not enter upon Service-owned lands where a previous owner has retained use for hunting purposes, without written permission of such previous owner.

(4) Waterfowl shall be hunted only from numbered Service-owned blinds except in areas with retained hunting rights; and no firearm shall be discharged at waterfowl from outside of a blind unless the hunter is attempting to retrieve downed or crippled fowl.

(5) Waterfowl hunting blinds in public hunting areas shall be operated within two plans:

(i) First-come, first-served.

(ii) Advance written reservation.

The superintendent shall determine the number and location of first-come, first-served and/or advance reservation blinds.

(6) In order to retain occupancy rights, the hunter must remain in or near the blind except for the purpose of retrieving waterfowl. The leaving of decoys or equipment for the purpose of holding occupancy is prohibited.

(7) Hunters shall not enter the public waterfowl hunting area more than 1 hour before legal shooting time and shall be out of the hunting area within 45 minutes after close of legal shooting time. The blind shall be left in a clean and sanitary condition.

(8) Hunters using Service-owned shore blinds shall enter and leave the public hunting area via designated routes from the island.

(9) Prior to entering and after leaving a public hunting blind, all hunters shall check in at the registration box located on the trail to the blind he is or has been using.

(10) Parties in blinds are limited to two hunters and two guns unless otherwise posted at the registration box for the blinds.

(11) The hunting of upland game shall not be conducted within 300 yards of any waterfowl hunting blind during waterfowl season.

(12) Hunting on seashore lands and waters, except as designated pursuant to § 1.5 and § 1.7, is prohibited.

b. Remove paragraph (b)(1)(iii) and redesignate paragraphs (b)(1)(iv) as (b)(1)(iii) and (b)(1)(v) as (b)(1)(iv).

c. Remove paragraph (b)(3)(iv) and redesignate paragraph (b)(3)(v) as (b)(3)(iv).

d. Remove paragraph (b)(5).

#### § 7.67 Cape Cod National Seashore [Amended]

31. a. In § 7.67 amend paragraph (b)(1)(ii) by revising the last sentence as follows:

(b) \* \* \*

(1) \* \* \*

(ii) \* \* \* As specified in paragraph (h), fees will be charged for the issuance of these two permits.

b. Add a new paragraph (h) as follows:

(h) *Commercial vehicles.* Permits shall be required for the operation of commercial passenger-carrying vehicles, carrying passengers for hire over sand routes on federally owned lands within the seashore as follows:

(1) Annual permit for calendar year: \$3 for each passenger-carrying seat in the vehicle to be operated.

(2) Annual guide permit for the calendar year, or any part thereof: \$5.

#### § 7.70 Glen Canyon National Recreation Area [Amended]

32. In § 7.70 remove and reserve paragraph (d).

#### § 7.71 Delaware Water Gap National Recreation Area [Amended]

33. In § 7.71 remove and reserve paragraph (a).

#### § 7.73 Buck Island Reef National Monument [Amended]

34. In § 7.73 remove and reserve paragraph (a).



**§ 7.74 Virgin Islands National Park**  
[Amended].

35. In § 7.74 remove and reserve paragraph (a).

**§ 7.75 Padre Island National Seashore**  
[Amended].

36. a. In § 7.75 remove and reserve paragraphs (c), (d), and (f).

b. Revise paragraphs (h) (3) and (4) as follows:

\* \* \* \* \*

(h) \* \* \*

(3) *Exercise of non-Federal Oil and Gas Rights.* Before entering the National Seashore for the purpose of conducting any operations pursuant to a mineral interest authorized under the Act providing for establishment of the Seashore, the operator shall comply with the requirements of Part 9, Subpart B of this chapter.

(4) All activities relating to the exercise of mineral interests which take place within the boundaries of the park shall be in accordance with an approved Plan of Operations.

\* \* \* \* \*

c. Remove existing paragraph (h)(5) and redesignate paragraph (h)(6) as (h)(5).

**§ 7.79 Amistad Recreation Area**  
[Amended].

37. In § 7.79 remove and reserve paragraphs (a) and (b).

**§ 7.84 Channel Islands National Monument**  
[Amended].

38. a. In § 7.84 remove and reserve paragraph (a).

b. Remove paragraph (c)(5).

**§ 7.85 Big Thicket National Preserve**  
[Amended].

39. a. In § 7.85 remove paragraph (d)(3).

b. Remove paragraphs (e) and (f).

**§ 7.86 Big Cypress National Preserve**  
[Amended].

40. In § 7.86 remove and reserve paragraph (d).

**§ 7.87 [Amended]**

41. In § 7.87 remove paragraphs (a) through (h).

**§ 7.93 Guadalupe Mountains National Park**

42. In § 7.93 revise paragraph (a) as follows:

(a) *Cave entry.* No person shall enter any cave or passageway of any cave without a permit.

**§ 7.94 Andersonville National Historic Site**  
[Amended].

43. In § 7.94 remove and reserve paragraph (a).

**PART 9—MINERALS MANAGEMENT**

44. Change the reference in § 9.18(b) from "§ 7.44 (a) and (b)" to "§ 7.45(a)."

**PART 13—NATIONAL PARK SYSTEM  
UNITS IN ALASKA**

**§ 13.3 [Reserved]**

45. Remove and Reserve § 13.3.

Dated: June 17, 1983.

G. Ray Arnett,

*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 83-17469 Filed 6-29-83; 8:45 am]

BILLING CODE 4310-70-M

# **Federal Register**

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**Thursday  
June 30, 1983**

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## **Part III**

### **Department of the Interior**

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**Office of Surface Mining Reclamation and  
Enforcement**

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**Surface Mining and Reclamation  
Operations Under a Federal Program;  
State of North Carolina**



**DEPARTMENT OF THE INTERIOR****Office of Surface Mining Reclamation and Enforcement**

30 CFR Part 933

**Surface Mining and Reclamation Operations Under a Federal Program for the State of North Carolina****AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.**ACTION:** Final rule.

**SUMMARY:** The Office of Surface Mining Reclamation and Enforcement (OSM) of the Department of the Interior promulgates a Federal program for regulation of coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in North Carolina. This includes surface effects of underground coal mining. This program is necessary in order to regulate surface coal mining activities in the absence of a State program.

**DATE:** Effective date, August 1, 1983.

**ADDRESSES:** Documents in the Administrative Record are available for public review and copying during regular business hours at the Office of Surface Mining, Knoxville Field Office, 530 Gay Street, SW, Knoxville, Tennessee 3902, or the Administrative Record Room Office of Surface Mining, 1100 L Street, NW., Washington, DC. Copies of both the proposed and final rules may also be obtained by mail from the Office of Surface Mining, Knoxville Field Office, 530 Gay Street, SW, Knoxville, Tennessee 37902, or from Office of Surface Mining, Administrative Record, 1951 Constitution Avenue, NW., Washington, DC. 20240. Copies of both may also be obtained at either location.

**FOR FURTHER INFORMATION CONTACT:** James M. Kress, Office of Surface Mining, Branch of Regulatory Programs, Room 222, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Telephone (202) 343-5866. James A. Curry, Knoxville Field Office, Office of Surface Mining, Knoxville, Tennessee (615) 673-4504.

**SUPPLEMENTARY INFORMATION:****Availability of Copies**

Copies of this program are available for inspection and may be obtained at the OSM office listed above in "ADDRESSES."

**Background**

Under Section 504(a) of the Surface Mining Control and Reclamation Act of 1977 (the Act), Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*, the Secretary of the Interior

(the Secretary) is required to promulgate a Federal program within 34 months after passage of the Act if a State fails to submit a program to assume responsibility for regulating surface mining activities, fails to resubmit a program within 60 days of disapproval, or fails at any time to implement, enforce or maintain an approved State program.

North Carolina has identifiable coal reserves, but has not submitted a program to the Secretary to obtain primary regulatory responsibility. The Director, therefore, has decided to promulgate this Federal program for North Carolina.

This decision does not necessarily imply any expectation of imminent mining in North Carolina. It instead recognizes that the Act prohibits coal exploration or surface coal mining in States which do not have either an approved State program or a fully promulgated Federal program. Accordingly, OSM believes it prudent to put the required regulatory framework into place so that any future coal exploration or mining may be conducted in North Carolina legally, without unnecessary delay, and in an environmentally sound manner.

Once a decision is made that a Federal program is necessary for a State, the Secretary must make several determinations before promulgating a program. Section 504(a) of the Act requires that in implementing a Federal program the Secretary take into consideration the nature of the State's terrain, climate, biological, chemical, and other relevant physical conditions. This requirement is also found in the regulations, 30 CFR 736.22(a)(1). The Act (Section 505(b)) and the regulations (Section 736.23(b)) also provide that if a State has more stringent land use and environmental laws or regulations, they shall not be construed to be inconsistent with the Act or the Secretary's regulations. If the State's laws or regulations establish more stringent standards regulating surface mining control and reclamation procedures than those found in the Act or the Secretary's regulations, or if the State regulates or protects an aspect of the environment affected by surface mining operations which neither the Act nor the Secretary's regulations protect, then those State standards are specifically preserved. Thus, the Secretary believes that the requirements of Section 505(b) can best be met by identifying North Carolina laws and regulations which impose equivalent or more stringent environmental controls and by listing them in Section 933.700(e).

Also, in promulgating a program for a State, Section 504(g) specifies that any State statutes or regulations which regulate surface mining and reclamation operations subject to the Act will be superseded and preempted by the Federal program to the extent that they interfere with the achievement of the purposes and requirements of the Act and the Federal program. This provision is reinforced by Section 505(a) of the Act, which states that only those State laws and regulations which are inconsistent with the Act and its implementing regulations shall be superseded by the Federal program. Thus, State statutes and rules regulating the same activities as those covered by the Federal law and regulations and which interfere with achievement of the purposes of the Act must be identified and preempted by OSM.

Finally, a Federal program, according to Section 504(h) of the Act, must include a process for coordinating the review and issuance of surface mining permits with other Federal or State permits applicable to the proposed operation. The Federal statutes with which the surface mining permitting process must be coordinated are set out in 30 CFR 736.22(c). State statutes for which a permit is required must be identified in the process of promulgating a Federal program, and the Federal program must provide for coordination with the review and issuance procedures required by those statutes.

Federal programs are based on the Secretary's permanent program regulations: 30 CFR Subchapters A, F, G, J, K, L and M. The permanent program regulations establish procedures and performance standards under the Act and form the benchmark for State programs. In order for a State to have a program approved by the Secretary, Section 503(a)(7) requires that the State's rules and regulations be consistent with the Secretary's regulations.

The parts of the permanent program regulations that must be included in a Federal program are listed at 30 CFR 736.22(b). They include general requirements and definitions (Parts 700 and 701), the exemption for coal extraction incident to government-financed highway or other construction (Part 707), the designation of lands unsuitable for surface mining (Parts 760, 761, 762, and 764), permits and permit applications (Subchapter G), reclamation bonding (Subchapter J), performance standards (Subchapter K), inspection and enforcement (Parts 842, 843 and 845), and blaster training and certification (Subchapter M). In



addition, the provisions in the permanent regulations on protection of employees (Subchapter P) and restrictions on financial interests (Part 706) are applicable to Federal employees who perform functions or duties under the Act. The rules for the permanent program are found in 30 CFR Parts 700-707 and 730-865. Part 705 was published October 20, 1977 (42 FR 56060). Parts 795 and 865 (originally Part 830) were published December 13, 1977 (42 FR 62839). The other permanent program regulations were published at 44 FR 15323-15463 (March 13, 1979). Subchapter M was published on December 12, 1980 (45 FR 82098). Corrections were published at 44 FR 15485 (March 14, 1979); 44 FR 53507-53509 (September 14, 1979); 44 FR 68195 (November 19, 1979); 45 FR 26001 (April 16, 1980); 45 FR 37818 (June 5, 1980); and 45 FR 47424 (July 15, 1980). Amendments to the rules have been published at 44 FR 60969 (October 22, 1979) as corrected at 44 FR 75143 (December 19, 1979); at 44 FR 77440-77447 (December 31, 1979); 45 FR 2626-2629 (January 11, 1980); 45 FR 25998-26001 (April 16, 1980); 45 FR 33926-33927 (May 20, 1980); 45 FR 39446-39447 (June 10, 1980); 45 FR 52306-52324 (August 6, 1980); 45 FR 52375 (August 7, 1980); 45 FR 58780-58786 (September 4, 1980); and 45 FR 76932 (November 20, 1980); 46 FR 37232 (July 17, 1981); 46 FR 41702 (August 17, 1981); 46 FR 47720 (September 29, 1981); 46 FR 53376 (October 28, 1981); 46 FR 59934 (October 26, 1981); 47 FR 32942 (July 30, 1982); 47 FR 33431 (August 2, 1982); 47 FR 35620 (August 16, 1982); and 47 FR 38486 (August 31, 1982); 47 FR 44942 (October 12, 1982); 47 FR 47212 (October 22, 1982); 47 FR 51316 (November 12, 1982); 48 FR 1160 (January 10, 1983); 48 FR 2266 (January 18, 1983); 48 FR 9478 and 9486 (March 4, 1983); 48 FR 9788 (March 8, 1983); 48 FR 14814 (April 15, 1983); 48 FR 19314 (April 28, 1983); 48 FR 20392 (May 5, 1983); 48 FR 21446 (May 12, 1983); 48 FR 22110 (May 16, 1983); 48 FR 22092 (May 16, 1983); 48 FR 23356 (May 24, 1983); and 48 FR 24638 (June 1, 1983).

Representatives of industry, two States and several environmental groups challenged the permanent regulatory program in the U.S. District Court for the District of Columbia. These suits were consolidated and heard in a single lawsuit entitled *In re: Permanent Surface Mining Regulation Litigation* (Civil Action No. 79-1144). In response to the arguments raised in the challenges, the Secretary voluntarily suspended several permanent program regulations. These suspensions were announced in the *Federal Register* on November 27, 1979 (44 FR 67942);

December 31, 1979 (44 FR 77447-77455); January 30, 1980 (45 FR 6913); and August 4, 1980 (45 FR 51547-51550). In two opinions the Court remanded certain other regulations which had been challenged in the lawsuit. These opinions were issued on February 26, 1980, and May 16, 1980. Many of the issues decided by the District Court have been appealed to the Court of Appeals for the District of Columbia Circuit. *In re: Permanent Surface Mining Regulation Litigation*, Nos. 80-1810, 80-1811, 80-1812, 80-1813 and 80-1823. The appeals have been remanded to the District Court and the issues on appeal have been considered in the revisions to the permanent program rules discussed below.

#### North Carolina Federal Program

OSM published a proposed Federal program for North Carolina in the *Federal Register* on March 2, 1983. 48 FR 8954-8961. The notice announced a 60-day comment period ending on May 2, 1983, and a public hearing for April 4, 1983, in Sanford, North Carolina. On April 1, 1983, OSM announced the postponement of the public hearing and the extension of the public comment period until April 26, 1983. Because no one expressed an interest in testifying, OSM subsequently published a notice on April 26, 1983, cancelling the public hearing.

As mentioned above, when promulgating a Federal program for a State, the Secretary is required by Section 504(a) of the Act to take into consideration the nature of the terrain, climate, biological, chemical, and other relevant physical conditions of that State. OSM has reviewed North Carolina laws and regulations to determine whether they suggest that special provisions may be necessary or appropriate based on special terrain or other physical conditions in the State. The results of the review are found under the section below entitled "Detailed Discussion."

Pursuant to Section 504(a), the Secretary becomes the regulatory authority when a Federal program is implemented for a State. OSM's permanent program regulations contain references to "the regulatory authority" and to "the State regulatory authority," both of which mean the Secretary when a Federal program for a State is involved. Section 701(22) of the Act. The Office of Surface Mining is delegated all of the Secretary's authority for implementing, maintaining and enforcing a Federal program. This Federal program for North Carolina does not change these responsibilities.

#### Explanation of Cross-Referencing

In the general notice of intent to promulgate Federal programs of May 16, 1980 (45 FR 32228), OSM stated that each Federal program would be specific to the particular State and would implement the permanent program procedures and environmental protection provisions of the Act (45 FR at 32229). However, except for changes to incorporate more stringent State environmental protection standards, to list other State laws requiring permits for which coordination is required, and to recognize unique or unusual physical conditions affecting surface coal mining and reclamation in a State, OSM believes that few changes are needed in the permanent program regulations for any particular State for which a Federal program must be promulgated.

In January, 1981, the Secretary directed that the Department review all existing regulations in order to eliminate those which are burdensome, excessive and unnecessary. Review of the permanent program regulations was initiated and in many instances is resulting in significant revision of them. See *Calendar of Federal Regulations* notice of rule review and revision, 47 FR 1709 (January 13, 1982). See also; e.g., revisions of OSM's subsidence regulations, 30 CFR Sections 784.20 and 817.121 and 122. 48 FR 24638 (June 1, 1983) and OSM's inspection and enforcement regulations, 30 CFR Parts 842, 843, and 845, 47 FR 35620 (August 16, 1982).

In order to take advantage of the results which revision of the permanent program regulations will achieve, OSM is promulgating this Federal program in the following manner. Rather than repeating the full text of the permanent regulations which are being revised, there is a cross-reference to the permanent program regulations. For example, criteria for the designation of lands unsuitable for surface coal mining have been provided by the statement that "Part 762 of this Chapter . . . shall apply to surface coal mine operations" (see Section 933.762). One effect of cross-referencing the permanent program regulations is that as the permanent program regulations are revised, this Federal program will be similarly revised. Over time, all of the permanent program regulations will undergo review and many will be revised. No separate rulemaking will be undertaken or necessary for revision of this program, however, unless OSM determines that special conditions are necessary for North Carolina.



The promulgation of this cross-referencing program will not result in any modification of the substance of OSM's permanent program rules. Where specific provisions are needed for an individual State's Federal program which are different from the permanent program regulations, a separate paragraph has been added to the appropriate section of this Federal program. Cross-referencing to the permanent program rules is also used in the promulgation of other Federal programs. Public comment on the cross-referencing method as it affects other Federal programs, however, should be directed to each of those rulemaking notices.

When all of the permanent program rules have been revised, OSM will publish corrections to the cross-referencing Federal programs in order to combine changes in the numbering of permanent program rules to the citation in the Federal Register.

Several provisions of the permanent program regulations are already applicable and need not be cross-referenced here because they were fully promulgated for application to all regulatory programs. Those provisions are 30 CFR Chapter VII, Subchapter P—Protection of Employees; Part 706—Restrictions on Financial Interests of Federal Employees; and Part 769—Petition Process for Designation of Federal Lands Unsuitable for Surface Coal Mining. (30 CFR Part 764—Designating Lands Unsuitable for Surface Coal Mining are included in the North Carolina Federal program by a cross-reference under Section 933.764, to provide a petition process on non-Federal and non-Indian lands in that State.)

This final rule notice does not contain Section 983.818 because the final rule notice revising the concurrent surface and underground mining rules deleted 30 CFR Part 818. 48 FR 24638 (June 1, 1983).

With regard to the bonding regulations (Subchapter J), only Part 800 is cross-referenced here because OSM has proposed to revise Subchapter J to include just one part, Part 800. 48 FR 45082 (September 9, 1981) (proposed). Should this program become effective before a final rule notice revising the bonding regulations appears, and the bonding rules not be revised by the time a permit under this program is to be issued, as a condition of issuance of that permit the applicant will be required to abide by the then-effective bonding rules until such rules are superseded.

## Content and Organization of the Program

The content and organization of the Federal program for North Carolina generally follow the permanent program regulations. But, as discussed above, instead of the full text appearing, each section of the program includes only reference to the pertinent permanent program regulation. Sections 933.700 (e) and (f), respectively, list North Carolina statutes that are more stringent than, and those that are inconsistent with, the Act. Where specific provisions are needed for this Federal program which are different from the permanent program regulations, a separate paragraph has been added to the appropriate section.

## Detailed Discussion

In order to fulfill the Secretary's obligation under Section 504(a) of the Act to take into consideration the nature of the terrain, climate, biological, chemical, and other relevant physical conditions in each State, OSM has reviewed North Carolina laws and regulations. OSM has determined that certain North Carolina statutes may impose, in certain circumstances, more stringent environmental controls than are provided for under the act or the Federal regulations. Section 933.700(e) lists the North Carolina laws which OSM has identified as setting more stringent land use and environmental controls for surface mining. Those more stringent North Carolina statutes are summarized as follows:

(a) North Carolina General Statute (NCGS) 74-51, concerning conditions under which a mining permit may be granted, contains provisions which are not found in the Act or the Federal regulations. The North Carolina Department of Natural Resources and Community Development may deny a permit for a mining operation which will have a significantly adverse effect on the purposes of a publicly owned park, forest, or recreation area. OSM has altered the following sections as they apply to Part 933: 30 CFR 761.11(c) has been amended by adding the phrase "forest, recreation area," after the phrase "publicly owned park,"; 30 CFR 761.12(f)(1) has been amended by adding the phrase "forest, recreation area," after the phrase "public park,"; and 30 CFR 780.31 and 784.17 have been amended by adding, "forest, or recreation areas" after the phrase "public parks."

NCGS 74-51 also provides that permit approval may be conditioned on a "requirement of visual screening, vegetative or otherwise, so as to screen

the view of the operation from public highways, public parks, or residential areas where the Department finds such screening to be feasible and desirable." As these sections are more stringent, OSM has added to Sections 780.31 and 784.17 paragraphs requiring that mining operations visible from public parks, public highways, or residential areas include in the plan of operations, measures to be taken to screen the operation from the view of public parks, public highways, or residential areas or reasons why such screening measures are either not feasible or not desirable.

(b) North Carolina mining laws and regulations apply to mining operations affecting an area greater than one acre, while the Act applies to those mining operations affecting an area greater than two acres, Section 528(2). To the extent that North Carolina mining law and regulations apply to coal mining operations not regulated by the Surface Mining Control and Reclamation Act, they are not preempted by this Federal program for North Carolina. Also, the mining of peat, an activity which is believed to be imminent in North Carolina, is not subject to regulation under the Surface Mining Control and Reclamation Act. It may, however, be subject to regulation under the State's mining laws and regulations because it includes the mining of substances other than those minerals listed. NCGS 74-49(6). Regulation of peat mining under the North Carolina Mining Act of 1971 would not interfere with achievement of the purposes of the Federal Act.

(c) Dam Safety Law of 1967, NCGS 143-215.23 through 143-215.37, and Title 15 North Carolina Administrative Code, Subchapter 2K, Dam Safety, include requirements for certification and inspection of water impoundments and diversions.

(d) Geophysical Exploration regulations, Title 15, North Carolina Administrative Code, Subchapter 5C, applies to any coal exploration involving the use of explosives.

In accordance with 30 CFR 736.23, OSM has found that those North Carolina statutes and rules listed in Section 933.700(f) interfere with the attainment of the goals and purposes of the act and the permanent program rules thereunder. Thus, the following North Carolina statutes and rules are preempted and superseded on and after the effective date of this program:

(a) North Carolina Mining Act of 1971 (NCGS 74-46 through 74-68) insofar as it applies to surface coal mining operations affecting more than two acres and which are regulated by the Surface Mining Control and Reclamation



Act. North Carolina law continues to apply to the mining of minerals and substances other than coal, and to coal mining operations which affect two acres or less or otherwise are not regulated by the Surface Mining Control and Reclamation Act.

(b) Title 15, North Carolina Administrative Code, Subchapters 5A, 5B, and 5F, Mining and Mineral Resources, insofar as they apply to surface coal mining operations of more than two acres and which are regulated by the Surface Mining Control and Reclamation Act. These regulations continue to apply to the mining of minerals and substances other than coal and to coal mining operations that affect two acres or less or otherwise not regulated by the Surface Mining Control and Reclamation Act.

These North Carolina laws and regulations represent the main body of North Carolina law relating to the exploration and surface mining of minerals and the reclamation of mined land. A close review of these North Carolina statutes and rules indicates that they are not consistent with the Act or the Federal permanent program rules and that they interfere with the attainment of the goals and purposes of the Act. Thus, the North Carolina statutes and rules described above will no longer be applicable to the regulation of coal exploration, surface coal mining operations or the reclamation of surface coal mined lands in North Carolina, except as they pertain to operations affecting two acres or less or which otherwise are not regulated by the Surface Mining Control and Reclamation Act.

Paragraph (g) of Section 933.700 authorizes the Secretary to grant a limited variance from the performance standards of the permanent program rules based on a showing by a permit applicant or permittee that the variance is necessary due to the unique nature of North Carolina's terrain, climate, biological, chemical, or other relevant physical conditions. This provision gives effect to Section 504(a) which directs the Secretary to take into consideration, in promulgating a Federal program for a State, the aforementioned physical characteristics. In promulgating each Federal program for a State, the Secretary reviews State laws to determine whether any would interfere with achievement of the purposes of a Federal program and must be superseded and whether any establish more stringent standards for environmental protection and must therefore, be preserved. The presumption is that State laws are a

reflection of the particular environmental conditions in the State. There may, however, be conditions present which are not specifically covered by State law, but which must be deferred to pursuant to the requirement in Section 504(a). Paragraph (e) authorizes the Secretary to so do. The variance that may be granted must be shown by a permit applicant to be necessitated by special environmental conditions in North Carolina in order to be granted. It is not a general variance authorization. Congress did not provide for a general variance from standards set in the Act. Congress was concerned that States not be allowed to grant variances from Federally-set minimum standards. The variance allowed under Section 933.700(g), however, would be granted by the Secretary through OSM and would be tied to the relevant environmental conditions found in North Carolina.

To coordinate the Federal program permitting process under the Act with the permitting requirements imposed by other Federal statutes and by North Carolina, Section 933.770 identifies the various permits, statutes, and rules which may, expressly or impliedly, impact on coal exploration and surface coal mining and reclamation under this Federal program. The following permits, statutes, and rules are pertinent and are listed in Section 933.770.

(a) NCGS 143-211 through 143-215.114 set forth requirements for the protection of air and water resources. 1) A permit is required from the Environmental Management Commission of the Department of Natural Resources and Community Development for any outlet into the waters of the State, pursuant to NCGS 143-215.1. 2) A permit may be required by the local government authority for any obstruction to a floodway pursuant to NCGS 143-215.57. 3) The Dam Safety Act, NCGS 143-215.23 through 143-215.37 and Dam Safety Regulations, Title 15, North Carolina Administrative Code, Subchapter 2K, require that notice be provided to the Department of Natural Resources and Community Development at least ten days prior to the construction of any dam and that a certificate of approval of the dam, if necessary, be obtained from the Department in accordance with NCGS 143-215.26 and Title 15, Subchapter 2K. 4) An air pollution control permit may be required pursuant to NCGS 143-215.106. 5) Mining operations must maintain air and water quality reporting systems as required by NCGS 143-215.63 through 143-215.69.

(b) The Coastal Area Management Act, NCGS 113A-100 through 113A-128, requires a permit from the Secretary of Natural Resources and Community Development for a mining operation in any area of environmental concern designated pursuant to that Act.

(c) A permit is required for dredging or for filling in or about estuarine water on State-owned lakes, in accordance with the provisions of NCGS 113-229. The obstruction of navigable water is regulated by NCGS 76-40 and 76-41.

(d) Mining operations must comply with any applicable land use regulations adopted in a soil conservation district pursuant to Section 139-9 of the Soil Conservation District Law, NCGS 139-1 *et seq.*

(e) NCGS 153A-128 requires compliance with any county ordinance or regulation concerning the possession, storage, use or conveyance of explosives. NCGS 14-284.1 regulates the sale, delivery and storage of explosives and imposes criminal sanctions for violations of the statute. NCGS 14-50 through 14-50.1 impose criminal sanctions for the improper use of explosives.

(f) Title 15, North Carolina Administrative Code, Subchapter 5C, Geophysical Exploration, requires a permit for all coal exploration involving the use of explosives.

(g) NCGS 14-284.2 prohibits the dumping of toxic substances without a permit and imposes criminal sanctions for violations.

Other North Carolina laws with which compliance is required but which do not require a permit or license have not been listed. These include, but are not limited to:

NCGS 113.265, which prohibits the obstruction, pollution or diminution of the natural flow of water through a fish hatchery; NCGS 113.293, which prohibits the obstruction of rivers and creeks in a manner preventing the passage of fish; NCGS 113.263, pursuant to which the Wildlife Resource Commission may inspect proposals and specifications for dams having an adverse impact upon fish within the State; and NCGS 143-434 through 143-447, under which mining operations using pesticides must comply with the Pesticide Control Law.

#### Disposition of Comments

OSM proposed a Federal program for North Carolina in the March 3, 1983, Federal Register. The notice announced a 60-day comment period ending on May 2, 1983, and a public hearing for April 4, 1983, in Sanford, North Carolina. On April 1, 1983, OSM announced the postponement of the public hearing and



the extension of the public comment period until April 26, 1983. Because no one expressed an interest in testifying, OSM subsequently published a notice on April 26, 1983, canceling the public hearing.

OSM received written comments on the proposed North Carolina Federal program from the North Carolina Department of Natural Resources and Community Development and from Delta Mining, Inc.

1. Delta Mining stated their interest in mining North Carolina coal reserves, and urged that OSM implement the Federal program in North Carolina.

2. The North Carolina Department of Natural Resources and Community Development identified several errors in the preamble and the text of the proposed Federal program for North Carolina as printed in the March 3, 1983, *Federal Register*. They were:

(a) Page 8958, first column, second line, the correct citation is NCGS 14-284.1, not 14-248.1;

(b) Page 8958, first column, two-thirds of the way down, the reference to the Pesticide Control Law should be to NCGS 143-434 through 143-447, not 143-441; and

(c) Page 8960, first column, line 22, the correct name of the cited agency is the Department of Natural Resources and Community Development.

Further, OSM has made the following modification in the final program as a courtesy to North Carolina:

OSM has added a new Paragraph (b) to § 933.786, under which the Secretary will forward to the North Carolina Department of Natural Resources and Community Development a copy of each decision to grant or deny a permit application.

#### OMB Review

The recordkeeping and reporting requirements of the Federal program for North Carolina are the same as those of the permanent program regulations which have been approved by the Office of Management and Budget under 44 U.S.C. 3507. Although this program contains information and recordkeeping requirements, OSM anticipates less than ten respondents. Under the Paperwork Reduction Act, clearance of information collection forms is required only when ten or more respondents are expected. If in the future the number of respondents appears to be increasing, the proper forms, if they differ from those already approved, will be submitted to the Office of Management and Budget with accompanying notices in the *Federal Register*, in accordance with the requirements of 44 U.S.C. Chapter 35.

#### Other Information

OSM has examined these rules according to the criteria of Executive Order 12291 (46 FR 13193, February 19, 1981) and determined that they do not constitute a major rule. There will be no major economic impact through adoption of this rule because it will affect only a small number of mining operations.

OSM has examined these rules pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and determined that they will not have a significant impact on a substantial number of small entities.

Section 702(d) of the Act provides that promulgation of a Federal program shall not constitute a major Federal action under the National Environmental Policy Act, 42 U.S.C. 4332. Thus, no Environmental Assessment is required for this rulemaking.

#### List of subjects in 30 CFR Part 933

Coal mining, Intergovernmental relations, Surface mining, Underground mining, Reporting and recordkeeping requirements.

#### Drafting Information

These regulations were drafted by Courtney W. Shea, Office of the Solicitor and James M. Kress, Branch of Regulatory Programs, Office of Surface Mining.

Dated: June 10, 1983.

William P. Pendley,

Acting Assistant Secretary, Energy and Minerals.

Authority: Pub. L. 95-87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

30 CFR Chapter VII is amended by adding Part 933 to read as follows:

#### PART 933—NORTH CAROLINA

Sec.

933.700—North Carolina Federal Program.

933.701—General.

933.707—Exemption for coal extraction incident to government-financed highway or other construction.

933.761—Areas designated unsuitable for surface coal mining by act of Congress.

933.762—Criteria for designating areas as unsuitable for surface coal mining operations.

933.764—Process for designating areas unsuitable for surface coal mining operations.

933.770—General requirements for permit and exploration procedures.

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933.815—Performance standards—coal exploration.

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933.819—Special performance standards—auger mining.

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933.826—Special performance standards—operations on steep slopes.

933.827—Special performance standards—coal processing plants and support facilities not located at or near the minesite or not within the permit area for a mine.

933.828—Special performance standards—in situ processing.

933.842—Federal inspections.

933.843—Federal enforcement.

933.845—Civil penalties.

933.850—Blaster training and certification.

Authority: Pub. L. 95-87, The Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.*, 91 Stat. 445.

#### § 933.700—North Carolina Federal Program.

(a) This part contains all rules that are applicable to surface coal mining operations in North Carolina which have been adopted under the Surface Mining Control and Reclamation Act of 1977.

(b) The rules in this part cross-reference pertinent parts of the permanent program regulations in this chapter. The full text of a rule is in the



permanent program rule cited under the relevant section of the North Carolina Federal program.

(c) The rules in this part apply to all surface coal mining operations in North Carolina conducted on non-Federal and non-Indian lands. The rules in Subchapter D of this chapter apply to operations on Federal lands in North Carolina.

(d) The information collection requirements contained in this part do not require approval by the Office of Management and Budget under 44 U.S.C. 3507 because there are fewer than ten respondents annually.

(e) The following provisions of North Carolina laws and regulations provide, where applicable, for more stringent environmental control and regulation of some aspects of surface coal mining operations than do the provisions of the Act and the regulations in this chapter. Therefore, pursuant to section 505(b) of the Act, they shall not be construed to be inconsistent with the Act unless in a particular instance the rules in this chapter are found by OSM to establish more stringent environmental controls.

(1) North Carolina General Statute (NCGS) 74-51, concerning conditions under which a mining permit may be granted, authorized the North Carolina Department of Natural Resources and Community Development to deny a permit for a mining operation which will have a significantly adverse effect on the purposes of a publicly owned park, forest, or recreation area and may condition permit approval on a requirement of visual screening, vegetative or otherwise, so as to screen the view of the operation from public highways, public parks, or residential areas where the Department finds such screening to be feasible and desirable, or determines that such screening measures are either not feasible or not desirable.

(2) North Carolina mining laws and regulations apply to mining operations affecting an area greater than one acre. To the extent that North Carolina mining law and regulations cited in Paragraph (f) of this Section apply to coal mining operations not regulated by the Surface Mining Control and Reclamation Act, they are not preempted by this Federal program for North Carolina.

(3) North Carolina Dam Safety Law of 1967, North Carolina General Statutes (NCGS) 143-215.23 through 143-215.37.

(4) Geophysical Exploration regulations, Title 15, North Carolina Administrative Code, Subchapter 5C, applies to any coal exploration involving the use of explosives.

(f) The following are North Carolina laws and regulations that generally interfere with the achievement of the purposes and requirements of the Act and are, in accordance with Section 504(g) of the Act, preempted and superseded to the extent that they regulate coal exploration or surface coal mining and reclamation operations regulated by the Surface Mining Control and Reclamation Act. Other North Carolina laws may interfere with the achievement of the purposes of goals of the Act in an individual situation, and may be preempted and superseded as they affect a particular coal exploration or surface mining operation by publication of the notice to that effect in the Federal Register.

(1) North Carolina Mining Act of 1971, as amended, NCGS 74-46 through 74-68, except to the extent that the Mining Act is preserved as provided in Paragraph (e) of this section.

(2) Title 15, North Carolina Administrative Code, Subchapters 5A, 5B, and 5F Mining and Mineral Resources, except to the extent that those regulations are preserved as provided in Paragraph (e) of this section.

(g) The Secretary may grant a limited variance from the performance standards of §§ 933.815 through 933.828 of this Part if the applicant for coal exploration approval or a surface mining permit submitted pursuant to §§ 933.770 through 933.788 of this Part can demonstrate in the application that: (1) such variance is necessary because of the unique nature of the State's terrain, climate, biological, chemical, or other relevant physical conditions; and (2) that the proposed alternative will achieve equal or greater environmental protection than does the performance requirement from which the variance is requested.

#### § 933.701—General.

Sections 700.5, 700.11, 700.12, 700.13, 700.14, 700.15 and Part 701 of this chapter shall apply to surface coal mining and reclamation operations in North Carolina.

#### § 933.707—Exemption for Coal Extraction Incident to government-financed highway or other construction.

Part 707 of this chapter, Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction, shall apply to surface coal mining and reclamation operations.

#### § 933.761—Areas designated unsuitable for surface coal mining by Act of Congress.

Part 761 of this chapter, Areas Designated Unsuitable for Coal Mining by Act of Congress, with the exception

of §§ 761.11(c) and 761.12(f)(1), shall apply to surface coal mining and reclamation operations, beginning one year after the effective date of this program. For the purposes of Part 933, the following §§ 761.11(c) and 761.12(f)(1) shall replace the existing §§ 761.11(c) and 761.12(f)(1).

(c) On any lands which will adversely affect any publicly owned park, forest, recreation area, or any places included on, or eligible for listing on, the National Register of Historic Places, unless approved jointly by the regulatory authority and the Federal, State, or local agency with jurisdiction over the park, forest, recreation area, or places:

(f)(1) Where the proposed surface coal mining operation may adversely affect any public park, forest, recreation area, or any places included on, or eligible for listing on, the National Register of Historic Places, the regulatory authority shall transmit to the Federal, State, or local agencies with jurisdiction over, or a statutory or regulatory responsibility for, the park, forest, recreation area, or historic place a copy of the completed permit application containing the following:

(i) A request for that agency's approval or disapproval of the operators;

(ii) A notice to the appropriate agency that it must respond within 30 days from receipt of the request.

#### § 933.762—Criteria for designating areas as unsuitable for surface coal mining operations.

Part 762 of this chapter, Criteria for Designation Areas Unsuitable for Surface Coal Mining Operations, shall apply to surface coal mining and reclamation operations.

#### § 933.764—Process for designating areas unsuitable for surface coal mining operations.

Part 764 of this chapter, State Processes for Designating Areas Unsuitable for Surface Coal Mining Operations, pertaining to petitioning, initial processing, hearing requirements, decisions, data base and inventory systems, public information, and regulatory responsibilities shall apply to surface coal mining and reclamation operations beginning one year after the effective date of this program.

#### § 933.770—General requirements for permits and exploration procedures.

(a) Part 770 of this chapter, General Requirements for Permit System Under State Programs, shall apply to coal exploration and surface coal mining and reclamation operations.

(b) The Secretary shall coordinate, to the extent practicable, the issuance of the following permits, leases and/or certificates required by the State of North Carolina: Water discharge permit (NCGS 143-215.1); water use permits in



a capacity use area (NCGS 143-215.5); an approval of dam construction (NCGS 143-215.108); an air pollution control permit (NCGS 143-215.26, Title 15, North Carolina Administrative Code, Subchapter 2K); air and water quality reporting systems (NCGS 143-215.63-143-215.69); a geophysical exploration permit (Title 15, North Carolina Administrative Code, Subchapter 5C); a development permit for operations in an area of environmental concern designated pursuant to the Coastal Area Management Act (NCGS 113A-100-113A-128); a dredging or filling permit issued by the Department of Natural Resources and Community Development (NCGS 113-229); a permit for dumping of toxic substances (NCGS 14-284.2); compliance with any applicable land use regulations adopted in a soil conservation district (NCGS 139-9); and compliance with any county ordinance regarding explosives (NCGS 153A-128).

(c) No person shall be granted a permit to conduct exploration which results in the removal of more than 250 tons of coal or shall conduct surface coal mining unless that person has acquired all required permits, leases, and/or certificates listed in paragraph (b) of this section.

**§ 933.771—General requirements for permits and permit applications.**

(a) Part 771 of this chapter, General Requirements for Permits and Permit Applications, shall apply to any person who makes application for a permit to conduct surface coal mining and reclamation operations.

(b) A person who wishes to conduct new surface coal mining and reclamation operations or who wishes a revision of his permit shall file a complete application at least 12 months prior to the date upon which permit issuance or revision is desired, and shall pay to the Secretary a permit fee in accordance with Section 736.25 of this chapter.

**§ 933.776—General requirements for coal exploration.**

(a) Part 776 of this chapter, General Requirements for Coal Exploration, shall apply to any person who conducts or seeks to conduct coal exploration operations.

(b) OSM shall make every effort to act on an exploration application within 60 days of receipt or such longer time as may be reasonable under the circumstances. If additional time is needed, OSM shall notify the applicant that the application is being reviewed, but that more time is necessary to complete such review, setting forth the

reasons and the additional time that is needed.

**§ 933.778—Surface mining permit application—Minimum requirements for legal, financial, compliance and related information.**

Part 778 of this chapter, *Surface Mining Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information*, shall apply to any person who makes application for a permit to conduct surface coal mining and reclamation operations.

**§ 933.779—Surface mining permit applications—minimum requirements for information on environmental resources.**

Part 779 of this chapter, *Surface Mining Permit Applications—Minimum Requirements for Information on Environmental Resources*, shall apply to any person who makes application to conduct surface coal mining and reclamation operations.

**§ 933.780—Surface mining permit applications—minimum requirements for reclamation and operation plan.**

Part 780 of this chapter, *Surface Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan*, shall apply to any person who makes application to conduct surface coal mining and reclamation operations, except that for the purposes of Part 933, the paragraph in § 780.31 shall be replaced by the following two paragraphs:

(a) For any public parks, forest, or recreation areas, or historic places that may be adversely affected by the proposed operations, each plan shall describe the measures to be used to minimize or prevent these impacts and to obtain approval of the regulatory authority and other agencies as required in 30 CFR 761.12(f).

(b) Each application for an operation which will be visible from any public park, public highway, or residential area shall include measures to be taken to screen the operation from the view of public parks, public highways and residential areas, or shall set forth the reasons why such screening measures are either not feasible or not desirable.

**§ 933.782—Underground mining permit applications—minimum requirements for legal, financial, compliance, and related information.**

Part 782 of this chapter, *Underground Mining Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information*, shall apply to any person who makes application for a permit to conduct underground coal mining operations.

**§ 933.783—Underground mining permit applications—minimum requirements for information on environmental resources.**

Part 783 of this chapter, *Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources*, shall apply to any person who submits an application to conduct underground coal mining operations.

**§ 933.784—Underground mining permit applications—minimum requirements for reclamation and operation plan.**

Part 784 of this chapter, *Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan*, shall apply to any person who makes application to conduct underground coal mining except that for the purposes of Part 933, the paragraph in Section 784.17 shall be replaced by the following two paragraphs:

(a) For any public parks, forest, or recreation areas, or historic places that may be adversely affected by the proposed operation, each plan shall describe the measures to be used to minimize or prevent these impacts and to obtain approval of the regulatory authority and other agencies as required in 30 CFR 761.12(f).

(b) Each application for an operation which will be visible from any public park, public highway, or residential area shall include measures to be taken to screen the operation from the view of public parks, public highways and residential areas, or shall set forth the reasons why such screening measures are either not feasible or not desirable.

**§ 933.785—Requirements for permits for special categories of mining.**

Part 785 of this chapter, *Requirements for Permits for Special Categories of Mining*, shall apply to each person who makes application for a permit to conduct certain categories of surface coal mining and reclamation operations as specified therein.

**§ 933.786—Review, public participation, and approval or disapproval of permit applications and permit terms and conditions.**

(a) Part 786 of this chapter, *Review, Public Participation, and Approval or Disapproval of Permit Applications and Permit Terms and Conditions*, shall apply to the review of applications made by any person for surface coal mining and reclamation operations.

(b) The Secretary shall provide to the North Carolina Department of Natural Resources and Community Development a copy of each decision to grant or deny a permit application.



**§ 933.787—Administrative and judicial review of decisions on permit applications.**

Decisions on permit applications shall be subject to administrative and judicial review in accordance with Part 787 of this chapter and sections 520, 525 and 526 of the Act.

**§ 933.788—Permit reviews, revisions, and renewals, and transfer, sale, and assignment of rights granted under permits.**

Part 788 of this chapter, *Permit Reviews, Revisions, and Renewals, and Transfer, Sale, and Assignment of Rights Granted Under Permits*, shall apply to review, revision, and renewal of permits for surface coal mine operations, and to transfer, sale, and assignment of rights granted under permits.

**§ 933.795—Small operator assistance.**

Part 795 of this chapter, *Small Operator Assistance*, shall apply to any person making application for assistance under the small operator assistance program.

**§ 933.800—General requirements for bonding of surface coal mining and reclamation operations.**

Part 800 of this chapter, *General Requirements for Bonding of Surface Coal Mining and Reclamation Operations Under Regulatory Programs*, shall apply to all surface coal mining and reclamation operations.

**§ 933.815—Performance standards—coal exploration.**

Part 815 of this chapter, *Permanent Program Performance Standards—Coal Exploration*, shall apply to any person conducting coal exploration operations.

**§ 933.816—Performance standards—surface mining activities.**

Part 816 of this chapter, *Permanent Program Performance Standards—Surface Mining Activities*, shall apply to any person who conducts surface coal mining and reclamation operations.

**§ 933.817—Performance standards—underground mining activities.**

Part 817 of this chapter, *Permanent Program Performance Standards—Underground Mining Activities*, shall apply to any person who conducts underground coal mining operations.

**§ 933.819—Special performance standards—auger mining.**

Part 819 of this chapter, *Special Permanent Program Performance Standards—Auger Mining*, shall apply to any person who conducts surface coal mining operations which include auger mining.

**§ 933.823—Special performance standards—operations on prime farmland.**

Part 823 of this chapter, *Special Permanent Program Performance Standards—Operations on Prime Farmland*, shall apply to any person who conducts surface coal mining and reclamation operations on prime farmlands.

**§ 933.824—Special performance standards—mountaintop removal.**

Part 824 of this chapter, *Special Permanent Program Performance Standards—Mountaintop Removal*, shall apply to any person who conducts surface coal mining operations constituting mountaintop removal mining.

**§ 933.826—Special performance standards—operations on steep slopes.**

Part 826 of this chapter, *Special Permanent Program Performance Standards—Operations on Steep Slopes*, shall apply to any person who conducts surface coal mining and reclamation operations on steep slopes.

**§ 933.827—Special performance standards—coal processing plants and support facilities not located at or near the minesite or not within the permit area for a mine.**

Part 827 of this chapter, *Special Permanent Program Performance Standards—Coal Processing Plants and Support Facilities Not Located at or*

*Near the Minesite or Not Within the Permit Area for a Mine*, shall apply to any person who conducts surface coal mining and reclamation operations which include the operation of coal processing plants and support facilities not located at or near the minesite or not within the permit area for a mine.

**§ 933.828—Special performance standards—in situ processing.**

Part 828 of this chapter, *Special Permanent Program Performance Standards—In Situ Processing*, shall apply to any person who conducts in situ processing activities.

**§ 933.842—Federal inspections.**

(a) Part 842 of this chapter, *Federal Inspections*, shall apply to all exploration and surface coal mining and reclamation operations.

(b) OSM will furnish a copy of any inspection report written pursuant to this part to the North Carolina Department of Natural Resources and Community Development upon request.

**§ 933.843—Federal enforcement.**

(a) Part 843 of this chapter, *Federal Enforcement*, shall when enforcement action is required for violations on surface coal mining and reclamation operations.

(b) OSM will furnish a copy of each enforcement action and order to show cause issued pursuant to this part to the North Carolina Department of Natural Resources and Community Development upon request.

**§ 933.845—Civil penalties.**

Part 845 of this chapter, *Civil Penalties*, shall apply when civil penalties are assessed for violations on surface coal mining and reclamation operations.

**§ 933.850—Blaster training and certification.**

Part 850 of this chapter, *Program for Blaster Training and Certification*, shall apply to any person who conducts coal exploration or surface coal mining operations.

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