

Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

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- Lea, I. 1870. A synopsis of the family Unionidae, 4th edition. H.C. Lea, Philadelphia. 184 pp.

- Louisiana Natural Heritage Program. 1985. Status of *Margaritifera hembeli* (Unionacea: Margaritiferidae) in Kisatchie National Forest, Evangeline Ranger District, Rapides Parish, Louisiana, November 1985. An unpublished report to the U.S. Forest Service. 20 pp.
- Simpson, C.T. 1900. Synopsis of the naiades, or pearly fresh-water mussels. Proc. U.S. Natl. Mus. 22:679.

Author

The primary author of this proposed rule is James H. Stewart (see ADDRESSES section). Contact by telephone at 601/965-4900 or FTS 490-4900.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order under "Clams," to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
CLAMS							
Pearlshell, Louisiana	<i>Margaritifera hembeli</i>	U.S.A. (LA)	NA	E		NA	NA

Dated: March 24, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87-9031 Filed 4-23-87; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for *Solidago albopilosa* (White-haired Goldenrod)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine endangered status for a plant, *Solidago albopilosa* (white-haired goldenrod). It is known only from rockhouses and beneath overhanging ledges primarily in the Daniel Boone National Forest, Red River Gorge Area of Menifee, Powell, and Wolfe Counties, Kentucky. All known populations of the species are threatened by trampling from recreational use of their specific habitat within the National Forest. This proposal, if made final, would implement the protection of the Endangered Species Act of 1973, as amended. The Service seeks relevant

data and comments from the public on this proposal.

DATE: Comments from all interested parties must be received by June 23, 1987. Public hearing requests must be received by June 8, 1987.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, Endangered Species Field Office, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Robert R. Currie at the above address (704/259-0321 or FTS 672-0321).

SUPPLEMENTARY INFORMATION:

Background

Solidago albopilosa E. L. Braun (white-haired goldenrod) is an upright-to-slightly-arching herbaceous plant that attains a height of 3 to 10 decimeters (12 to 39 inches). Braun (1942) described this species based on specimens discovered in the summer of 1940 in the Red River Gorge area of Menifee and Powell Counties, Kentucky. The leaves of *Solidago albopilosa* are prominently veined with a dark green upper surface and a pale underside. They vary in

length from 6 to 10 centimeters (2.5 to 4.0 inches) with the large leaves closer to the base of the stem. The stem is cylindrical and densely covered with fine white hairs. Clusters of small, yellow flowers begin blooming in late August. Pale brown, pubescent, oblong achenes (dry single-seed fruits) appear in October. *Solidago albopilosa* can be distinguished from its close relative *Solidago flexicaulis* by its generally downy appearance in contrast to the slick, smooth appearance of *S. flexicaulis* (Medley 1980).

The species is endemic to outcroppings of Pottsville sandstone found in the Red River Gorge area of Menifee, Powell, and Wolfe Counties, Kentucky. Usually it is found in rockhouses (natural, shallow, cave-like formations) and beneath overhanging ledges. The plants grow behind the dripline in loose sand, on the floor, in crevices, and on ledges along the walls of rockhouses. Associated rockhouse species include round-leaved catchfly (*Silene rotundifolia*) and alumroot (*Heuchera parviflora*). Associated overstory species of the mixed mesophytic forest are oaks (*Quercus* spp.), maples (*Acer* spp.), and mountain-laurels (*Kalmia* spp.) (Kral 1983).

Solidago albopilosa is only found within Kentucky's Red River Gorge.

Most of this small area is within the Daniel Boone National Forest and has been designated a National Geological Area (36 CFR 294.1). Although there are several small, private inholdings within the Gorge, the Forest Service is planning to acquire the most significant of these in the future. One population segment of *Solidago albopilosa* occurs within one of these private inholdings. The geological features (rockhouses) with which the species is associated are common within the Red River Gorge; however, only a small percentage of these rockhouses currently support the species (Andreasen and Eshbaugh 1973; Don Figg, Daniel Boone National Forest, personal communication, 1986).

The unique features and habitat of *Solidago albopilosa* have made this plant an object of great interest to botanists. Thorough searches of suitable habitat in areas adjacent to the Gorge and in other parts of the State have failed to reveal the presence of any additional populations (Marc Evans, Kentucky Nature Preserves Commission, personal communication, 1986). *Solidago albopilosa*'s unique habitat is subject to intensive disturbance by recreational visitors to the Gorge (Medley 1980). Rockhouses, including those which support *Solidago albopilosa*, are very popular destinations or sites for hiking, camping, climbing, picnicking, building campfires, and digging for Indian artifacts. These activities have, in the past, endangered and continue to endanger *Solidago albopilosa*.

Federal government actions on this species began with section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94-51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice (40 FR 27823), which formally accepted the Smithsonian report as a petition within the context of section 4(c)(2) (now section 4(b)(3)) of the Act. By accepting this report as a petition the Service also acknowledged its intention to review the status of those plant taxa named within the report. *Solidago albopilosa* was included in the Smithsonian report and the July 1, 1975, notice of review. On June 16, 1976, the Service published a proposed rule (41 FR 24523) to determine approximately 1,700 vascular plant taxa to be endangered species pursuant to section 4 of the Act; *Solidago albopilosa* was included in this proposal.

The 1978 amendments to the Endangered Species Act required that

all proposals over two years old be withdrawn. On December 10, 1979 (44 FR 70796), the Service published a notice withdrawing plants proposed on June 16, 1976. On December 15, 1980, the Service published a revised notice of review for native plants (45 FR 82480). *Solidago albopilosa* was included in that notice as a Category 1 species. Category 1 includes those species for which the Service has sufficient biological data to propose to list them as endangered or threatened species.

Section 4(b)(3)(B) of the Endangered Species Act, as amended in 1982, requires the Secretary to make certain findings on pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *Solidago albopilosa* because of the acceptance of the 1975 Smithsonian report as a petition. On October 13, 1983; October 12, 1984; October 11, 1985; and October 10, 1986, the Service found that the petitioned listing of *Solidago albopilosa* was warranted but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act. Publication of this proposal constitutes the next one-year finding as required by section 4(b)(3)(B)(ii) of the Act.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Solidago albopilosa* E. L. Braun (white-haired goldenrod) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* *Solidago albopilosa* is only known for a small number of rockhouses in the Red River Gorge of Menifee, Powell, and Wolfe Counties, Kentucky. The species has been extirpated from some of these sites and is being adversely impacted by human activities at most other sites (Medley 1980). A census taken by Medley (1980) resulted in a population estimate of 10,500 individuals. Field work since that time by Forest Service personnel (B. Knowles, personal communication, 1986) has revealed the presence of several additional

population segments. These additional segments are located in the more remote and inaccessible portions of the Gorge. Medley (1980) states that all but two of the sites he visited showed some disturbance by recreational use of the gorge. He further reports that J. Varner, a local botanist who observed the species over several years, believes that *Solidago albopilosa* has been extirpated from numerous rockhouse sites. Recreational activities that directly impact rockhouses and *Solidago albopilosa* include hiking, picnicking, rappelling, camping, and climbing. The presence of Indian artifacts within the area, and the damage caused by collectors pursuing them, subjects even the most remote rockhouses to human disturbance (Marc Evans, Kentucky Nature Preserves Commission, personal communication, 1984; D. Figg, personal communication, 1986). Due to its vulnerable position on the floors and walls, *Solidago albopilosa* is especially susceptible to visitor damage. Recreational use of the Red River Gorge is currently about 240,000 recreational visitor days per year. Management practices designed to reduce recreational use of the rockhouses are needed to ensure the continued existence of the plant.

Solidago albopilosa would also be affected by the proposed Red River Lake project. Though no longer being pursued as a viable project by the U.S. Army Corps of Engineers, the project, if implemented, could adversely affect the species through associated construction and recreational activities. Although the proposed high water level would not inundate the plant's habitat, the project would need to be planned and completed with the protection of *Solidago albopilosa* being a primary consideration.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* *Solidago albopilosa* is subject to taking and vandalism due to the accessibility of most of the rockhouses and the high rate of visitor use in the gorge, especially at the rockhouses.

C. *Disease or Predation.* No such threats currently face *Solidago albopilosa*.

D. *The inadequacy of existing regulatory mechanisms.* Endangered, threatened, and unique plants found on National Forest property are protected from damage and taking by Federal regulation (36 CFR 261.9). However, limited manpower makes enforcement of this regulation difficult. *Solidago albopilosa* is included as an endangered species on Kentucky's unofficial list of endangered, threatened, and rare

species, but receives no additional protection from this recognition (Branson *et al.* 1981).

E. Other natural or manmade factors affecting its continued existence. Due to its unique topographic structure, the Red River Gorge experiences different climatic conditions than those found on the Cumberland plateau and landscapes to the east and west (Martin 1976). *Solidago albopilosa* is adapted to the unique combination of climatic, geologic, and topographic conditions present within the Gorge. Even seemingly minor changes in the surrounding forest could impact this shade-tolerant plant directly through drying and erosion and indirectly by increasing competition with less shade-tolerant species (Kral 1983). Although no such operations currently threaten the plant, management planning designed to take into account the requirements of the species is needed to ensure its continued existence.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Solidago albopilosa* as endangered. Threatened status is not deemed appropriate for this species because of the severity of the threats to its continued existence. Critical habitat is not being proposed for the species for the reasons given below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time. *Solidago albopilosa* only occurs in rockhouses, where the species is vulnerable to taking and vandalism. Publication of a critical habitat description in the *Federal Register* would draw attention to the remaining populations of *Solidago albopilosa*, making the species more vulnerable, and would increase law enforcement problems. Since almost all of the known plants occur on Federal land, any activity that could affect the continued existence of the species will be brought to the attention of the Service through the section 7 consultation process. The private landowners on whose land the species occurs have been notified of the presence of *Solidago albopilosa* and of the importance of protecting its habitat. Protection of this species' habitat will be

addressed through the recovery process and through provisions of section 7 of the Act. Therefore, it would not be prudent to determine critical habitat for *Solidago albopilosa* at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Effects upon management practices of the U.S. Forest Service would be minimal, consisting of the development and implementation of management practices designed to reduce visitor impacts to the most important rockhouses which support the plant and the careful planning of any future timber removal operations so that the continued existence of *Solidago albopilosa* is ensured. Involvement of the U.S. Army Corps of Engineers would only occur if the suspension of the Red River Lake project is lifted. Development of plans designed to reduce the impacts of reservoir construction activities and

recreational development, the construction of the dam, and the subsequent recreation activity would be needed if the project is reauthorized. Because of the geographical and biological significance of the Red River Gorge and the official objection to the project by the Commonwealth of Kentucky, it is not anticipated that the project will be reauthorized.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63, set forth a series of general trade prohibitions and exceptions that apply to all endangered plants. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any endangered plant, transport it in interstate or foreign commerce in the course of commercial activity, sell or offer it for sale in interstate or foreign commerce, or remove it from areas under Federal jurisdiction and reduce it to possession. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued since the species is not common in the wild or in cultivation. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235-1903).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposal are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Solidago albopilosa*;

(2) The location of any additional populations of *Solidago albopilosa* and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range and distribution of this species; and

(4) Current or planned activities in the subject area and their possible impacts on *Solidago albopilosa*.

Final promulgation of the regulation on *Solidago albopilosa* will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Field Supervisor, Endangered Species Field Office, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

References Cited

Andreasen, M.L., and W.H. Eshbaugh. 1973. *Solidago albopilosa* Braun, a

- little known goldenrod from Kentucky. *Castanea* 38(2):117-132.
- Branson, B.A., D.F. Harker, Jr., J.M. Baskin, M.E. Medley, D.L. Batch, M.L. Warren, Jr., W.H. Davis, W.C. Houtcouper, B. Monroe, Jr., L.R. Phillippe, and P. Cupp. 1981. Endangered, threatened and rare animals and plants of Kentucky. *Transactions of the Kentucky Academy of Science* 42:77-89.
- Braun, E.L. 1942. A new species and a new variety of *Solidago* from Kentucky. *Rhodora* 44:1-4.
- Kral, R. 1983. A report on some rare, threatened, or endangered forest-related vascular plants of the South. Vol II. Technical Publication R8-TP2, U.S. Forest Service, Atlanta, Georgia. Pp. 1252-1255.
- Martin, W.H. 1976. The Red River Gorge controversy in Kentucky: a case study in preserving a natural area. *Association of Southeastern Biologists Bulletin* 23(3):163-167.
- Medley, M.E. 1980. Endangered and threatened plant status surveys. Unpublished report to the Southeastern Region of the U.S. Fish and Wildlife Service under Contract No. 14-16-0004-79-105, 24 pp.

Authors

The primary authors of this proposed rule are Laurance S. Torok, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-1975 or FTS 235-1975),

and Robert R. Currie, Endangered Species Field Office, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801 (704/259-0321 or FTS 672-0321).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 98 Stat. 1411 (16 U.S.C 1531 *et seq.*).

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under Asteraceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Asteraceae—Aster family:	*	*	*	*		
<i>Solidago albopilosa</i>	White-haired goldenrod.....	U.S.A. (KY).....	E		NA	NA

Dated: March 24, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87-9032 Filed 4-23-87; 8:45am]

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Register

Friday
April 24, 1987

Part III

Department of the Interior

Office of Surface Mining Reclamation and
Enforcement

30 CFR Part 910, etc.

Federal Surface Coal Mining and
Reclamation Operations, Georgia et al.,
Final Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 910, 912, 921, 922, 933, 937, 939, 941, and 947

Surface Coal Mining and Reclamation Operations Under Federal Programs in Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, and Washington

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) of the U.S. Department of the Interior (DOI) is updating Federal programs promulgated under the Surface Mining Control and Reclamation Act of 1977 (the Act) to reflect section numbering changes and rule content revisions made in OSMRE's permanent program rules during regulatory reform. Because of these changes, certain incorrect Federal program cross-reference citations are corrected. The rule corrects those inaccurate cross-reference and revises all Federal programs except that for Tennessee to include those changes made during regulatory reform. The Tennessee Federal program was promulgated after regulatory reform and already includes the changes cited here.

EFFECTIVE DATE: May 26, 1987.

ADDRESSES: For updated copies of the regulatory notebook contact: Office of Surface Mining Regulations and Enforcement, 1951 Constitution Ave., NW., Room 139, Washington, DC 20240. Telephone (202) 343-5587 (FTS 343-5587). (Subscription price is \$40 per year for quarterly updates. Check made payable to OSMRE.)

FOR FURTHER INFORMATION CONTACT: James Kress, Branch of Environmental and Economic Analysis, Room 5401 L, Office of Surface Mining, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone: (202) 343-7953 (FTS 343-5587).

SUPPLEMENTARY INFORMATION:

- I. Background
- II. General Discussion and Response to Comments
- III. Procedural Matters

I. Background

On March 13, 1979, OSMRE promulgated permanent program regulations to implement the requirements of the Surface Mining Control and Reclamation Act of 1977

(the Act), 30 U.S.C. 1201 *et seq.*, 44 FR 14902.

On May 16, 1980, OSMRE published a general notice of intent to promulgate Federal programs. 45 FR 32328. The notice stated that each Federal program would implement the permanent program regulations and environmental protection provisions of the Act and that each Federal program would be specific to the State for which it was promulgated. 45 FR 32329 (May 16, 1980).

In the winter and spring of 1982, OSMRE published numerous proposed changes to its permanent program rules. See 47 FR 30266 (July 13, 1982). On July 13, 1982, a notice concerning both the proposed and final permanent program rules appeared in the *Federal Register*. 47 FR 30266. The notice advised the public that any change in a permanent program rule would result in a corresponding change in the Federal programs. The notice invited comments on whether changes were necessary to accommodate unique or unusual aspects of surface mining in any Federal program State so that OSMRE could tailor the Federal program for each State as necessary.

OSMRE subsequently promulgated Federal programs for nine States. OSMRE promulgated these Federal programs using cross-references to the permanent program regulations which set the substantive standards.

Sections on various topics cross-reference the counterpart permanent program rules on those topics. The cross-referencing system made repeating the full text of the permanent regulations in each Federal program unnecessary. Where any permanent program regulations needed to be modified for use in a particular Federal program, an additional paragraph was added to change or supplement the permanent program requirement applicable to that State. Where changes were made, the changes were needed to list other State laws with which OSMRE would coordinate permit reviews, and to accommodate the State's unique terrain, climate, biological, chemical, and physical conditions.

On September 8, 1983, OSMRE revised its permanent program regulations on requirements for coal exploration. 48 FR 40622. On September 28, 1983, OSMRE revised its permanent program rules on: (1) Permit processing for surface coal mining operations, (2) general content requirements for permit applications, and (3) legal, financial, compliance, and related information requirements for permit applications. 48 FR 44344. The changes in OSMRE's permanent program rules were needed to clarify requirements and procedures for permit

applications. In addition, OSMRE removed Parts 818 and 826 during regulatory reform. 48 FR 24638 (June 1, 1983); 48 FR 23356 (May 24, 1983). Because of these changes, however, some of the Federal program cross-reference citations became incorrect.

This rule corrects those inaccurate cross-references and revises the Federal programs to include changes made during regulatory reform that are indicated in the regulatory notebook. A copy of this notebook can be obtained from OSMRE at the location shown above in **ADDRESSES**. This notebook is updated quarterly and shows both old, proposed and new text for all rules that have or are being changed.

II. General Discussion and Response to Public Comments

This rule affects nine of the ten Federal program States; it is not necessary to amend the most recently promulgated Federal program (Tennessee), published on October 1, 1984, because it cross-references the revised permanent program regulations. To streamline the explanation of this rule, one preamble has been written which explains the changes in all nine Federal programs. Nine separate rules follow the preamble, with variations for each State. In addition, a redesignation table, which serves as a reader's aid to the changes made, precedes those nine rules. This table permits the reader to readily follow the extensive renumbering and other changes that are being made by this rulemaking action.

Rather than repeating the section numbers for each State every time a section is cited in the preamble, OSMRE has used two blank spaces in the citation to signify that the citation refers to all nine Federal program States discussed here. For example, the preamble discussion of § 9—770 refers to §§ 910.770, 912.770, 921.770, 922.770, 933.770, 937.770, 939.770, 941.770, and 947.770.

The nine rules following the preamble differ from each other in minor ways. For example, only six of the nine programs contained a § 9—.818, which is removed by this rule. Since the other three Federal programs never contained § 9—.818, it is unnecessary to remove it from them.

Another difference between the programs occurs in § 9—773, since the State statutes listed there are specific to each State.

The reader should also be aware that the index listing the section in each part for each State is revised to reflect the changes in titles and section numbers in this rule.

The following is an explanation, first of those revisions which affect all nine Federal program states, and second an explanation of revisions specific to one or more Federal program States.

General Revisions Affecting All States

1. One commenter suggested that OSMRE should prepare updated pages for the Regulation Notebook (*Office of Surface Mining Permanent Program Regulations*). This commenter further suggested that OSMRE has violated item 1 of the settlement agreement reached between the Washington Irrigation and Development Company (WIDCO) and Secretary of the Interior James G. Watt in litigation of certain parts of 30 CFR 947 by not providing those updated pages when changes have occurred in the permanent program regulations.

OSMRE does not agree. Item 1 of the settlement agreement states that OSMRE will "... provide to the Company a copy of the full text of all rules comprising the Washington Federal program. This will contain all Federal program rules which are in effect as of the effective date of the program.

The Company shall have a period of 30 days after receipt of the copy to notify OSM of any errors or omissions and OSM will have a period of 15 days from receipt of any notification to respond to the Company to make corrections."

OSMRE was not obligated in any way by the agreement to continue to provide WIDCO with updated pages for the regulatory notebook, unless WIDCO voluntarily subscribed to receive those pages. Updated pages for the regulatory notebook can be obtained from OSMRE by contacting the office shown in "ADDRESSES" above. It is because changes have occurred in the permanent regulations creating a disparity in cross-referenced material that OSMRE is now publishing a final updated rule to correct all Federal programs so that when a subject is cross-referenced, the material in the permanent regulations addresses that subject.

2. Related to this issue two commenters continue to express reservations to the general use of cross-referencing in the Washington Federal program. OSMRE has adopted the cross-referencing approach because it ensures that changes to OSMRE's permanent program rules will be effectively adopted in Federal program States. Together, with particularized rules for each State, it ensures consistent regulation while tailoring each program to the circumstances in each State.

Sections 9-.770 and 9-.771

Sections 9-.770 and 9-.771 are removed under this rule because they cross-reference superseded permanent program regulations. When OSMRE revised its permanent program rules, Parts 770 and 771 were removed and their provisions were consolidated into a new Part 773. 48 FR 44334 (September 28, 1983).

Although § 9-.770 is removed by this rule, the applicable State statutes cited in Paragraphs (b), (c), and (d) (where they occur) are moved intact to § 9-.773. The paragraphs are given different letter designations, if necessary, to maintain alphabetical order within the new section. Any references within these paragraphs to Part 770 are corrected to cite Part 773. There is no change in substance due to this citation change. For further explanation, see the discussion in this preamble of changes in § 9-.773.

Paragraph (b) of § 9-.771 is removed because it references § 736.25, a section that was never promulgated. OSMRE proposed § 736.25, 50 FR 7522, on February 22, 1985. If § 736.25 is adopted, it will apply to all Federal programs. The permit fee provision referred to in § 9-.771(b) is now found in § 777.17, and is included in each Federal program by this rule through a cross-reference at § 9-.777.

Section 9-.772

Section 9-.772, which contains requirements for coal exploration, is added in this rule. Part 772 contains some of the provisions previously found in Part 776, which was removed during regulatory reform. 48 FR 40622 (September 8, 1983). Paragraphs (a) and (b) and Paragraph (c), where it occurs, of § 9-.776 are redesignated as Paragraphs (a), (b), and (c) of § 9-.772 and cross reference Part 772. There is no change in the content or meaning of these paragraphs.

Section 9-.773

Section 9-.773 is added to cross-reference Part 773 of the permanent program regulations. Section 9-.773(b) added to the requirements under the corresponding permanent program rules providing additional guidance to the permit applicant. The section also establishes procedures for handling permit applications, as 30 CFR Part 773 requires. The procedures provide guidelines for handling applications which are grossly deficient, for obtaining additional information, and for determining administrative completeness. These permit application procedures were promulgated in the

Tennessee Federal program. 49 FR 38874 (October 1, 1984).

3. One commenter suggested that coordination efforts between Federal, State, and local agencies, and private groups have been minimal. They noted particular concerns in the State of Washington. The commenter suggested that OSMRE should develop guidelines outlining what effort must be made to ensure full cooperation and exchange of information among the affected Federal, State, and local agencies when mine applications are received.

OSMRE makes every effort to ensure that the public and governmental agencies are fully informed and have a chance to participate in all surface coal mine application and permit actions. This requirement was strengthened through proposed § 9-.773 found at 50 FR 31674 (August 5, 1985). The requirements of § 9-.773 were further strengthened to include instances where a permit was revised or renewed and where permit rights were transferred, assigned, or sold with the concurrent proposal of § 9-.774 50 FR 31674; (August 5, 1985). The inclusion of these two sections in the Federal programs to supplement 30 CFR 773.13, cross-reference here, strengthens the participation and coordination roles that citizen groups and other governmental agencies play during the permitting process in Federal Program States.

4. The same commenter suggested that the regulations set a maximum amount of time that OSMRE has to declare a permit application administratively complete. The commenter was concerned that a potential exists for an abuse of the system if OSMRE has unlimited time to declare such a permit administratively complete.

OSMRE disagrees. The period of time that it would take to make this decision is affected by at least two variables which are not under the control of OSMRE. The first is the size and complexity of the permit application. It would obviously be a longer and more involved process to review an application for a large, complex mine than it would be for a smaller, less complex mine. The second variable depends on the applicant. If OSMRE needs more information from the applicant, it is dependent upon the applicant to respond as quickly as he/she can. Again, however, if the information that is required of the applicant is substantial, more time would be needed to respond.

OSMRE does not agree with the commenter that response dates are negotiable. OSMRE realizes, however, that the preparation of responses to

some questions may require more effort than others and takes this fact into consideration when setting a response date. OSMRE, as the regulatory authority, retains the right to require a reasonable response time for any required additional data. On the other hand, response times would not be arbitrarily imposed, but to avoid protracted periods for completion of the permitting process, it must retain the authority to set response dates.

6. Two commenters objected to the requirement in § 9—.816 that "boundaries, topsoil storage areas, sediment control structures, roads, and other significant factors contained in the application [be] marked by flags." The commenters suggested wording that would leave to the discretion of the applicant whether to mark areas. The applicant would still be required to be able to show OSMRE's visiting representative the location of all pertinent features contained in the application.

OSMRE does not accept this suggestion. The presence of markers is a requirement of the permanent regulatory program and all Federal programs and was not proposed for deletion. § 9—.816 cross-references 30 CFR Part 816 of the permanent regulations which requires signs and markers to be "maintained during the conduct of all activities to which they pertain," and that the "perimeter of a permit area shall be clearly marked before the beginning of surface mining activities." Further, the act specifically requires such signs in § 517(d) and 701(17).

7. One commenter suggested that the words "and the National Historic Preservation Act, 16 U.S.C. sections 470 et seq." (NHPA) be inserted between "National Environmental Policy Act, 12 U.S.C. 4322," (NEPA) and the word "shall" in proposed § 947.773(b)(6).

OSMRE generally agrees with the commenter. However, because there are laws in addition to NEPA and NHPA with which coordination and compliance are required, and because proposed § 947.773(b)(6) seemingly limited the coordination and compliance requirements to NEPA, adding NHPA would be inadequate to meet the full requirements of coordination and compliance with those additional laws. Therefore, OSMRE is deleting proposed § 9—.773(b)(6), and relying on § 9—.773(a) to include all the required laws through cross-referencing.

8. Two commenters objected to the requirement that applicants are required to submit data needed for the preparation of an environmental assessment (EA) or impact statement (EIS) and, therefore, requested that

OSMRE delete from the section the provision that failure to submit such data could result in disapproval of the application.

OSMRE rejects this suggestion.

Proposed § 9—.773(c) authorizes the Office to obtain permit information beyond that specified in 30 CFR Part 773. The Office may need the additional information in order to meet its obligations under the Federal laws identified in 30 CFR § 773.12. The provision would also allow the Office to obtain information needed to comply with the National Environmental Policy Act. It would, therefore, be to the applicant's advantage to provide as much data as are needed for the application process that could also be used in the NEPA compliance process. This provision was incorporated into the Tennessee Federal program. 49 FR 38894 (October 1, 1984). Because proposed § 9—.773(b)(6) is deleted (see comment 7 above), the proposed disapproval option is also deleted.

As noted above, the State statutes listed in § 9—.770 are moved to § 9—.773, since § 9—.770 is removed under this rule. The paragraphs are redesignated to maintain alphabetical order within the new section. Any references within these paragraphs to Part 770 are replaced with references to Part 773. For example, in Massachusetts, § 921.770(b) is redesignated § 921.773(d). No change in meaning is intended. The paragraph's internal reference to Part 770 is changed to Part 773. Section 921.770(c) now becomes § 921.773(e), and its internal reference to Part 770 is changed to Part 773. The existing requirement in §§ 933.786(b) and 947.786(b) that OSMRE notify certain North Carolina and Washington State agencies of permit decisions remains substantively unchanged. However, these sections are redesignated as §§ 933.773(f) and 947.773(g) respectively.

9. Two applicants expressed concern that the requirements of proposed § 947.773(c) would be used to encompass the whole range of Federal law. The commenters want assurance that the data required will only be those applicable to the environmental and reclamation focus of SMCRA.

OSMRE is obligated to comply or to ensure compliance with numerous federal laws other than the Act. All major Federal actions, for example, are subject to NEPA. Federal undertakings are subject to the National Historic Preservation Act. OSMRE must also comply with the Endangered Species Act. Other Federal laws may apply in specific circumstances. Section 9—.773 ensures that OSMRE will have enough

information to meet its obligations under those laws.

10. Two commenters believe that proposed § 947.773(e) directs the Secretary to carry out State and local regulatory activities. The commenters suggest alternative wording that would clarify the Secretary's role in coordinating Federal law with State law.

The Secretary will not enforce State and local law; therefore, OSMRE is adopting a commenter's suggested wording for § 947.773(e). The final wording reads, "The Secretary shall coordinate the SMCRA permit with appropriate State and regional or local agencies, to the extent possible, to avoid duplication with the following State and regional or local regulations: . . ."

11. OSMRE is also adopting one commenter's suggestion that the heading for proposed § 947.773(e)(8) be changed to read: "(8) Cities, Counties and Regional Agencies:"

Section 9—.774

Section 9—.774 provides procedures and requirements for permit revisions, renewals, and transfer, assignment or sale of permit rights.

12. One commenter expressed concern that even though § 9—.774 gives OSMRE the authorization it needs to carefully consider permit revisions, proposed § 9—.774 lacked requirements that provide for adequate public notice and opportunity to comment on major permit revisions.

OSMRE disagrees. Proposed § 9—.774(a) cross-references 30 CFR Part 774 which in turn cross-references §§ 773.13, Public Participation in Permit Processing § 773.19(b)(1) and (3), Permit Issuance and Right of Renewal, and 778.21, Proof of Publication. OSMRE believes that these rules adequately provide for public notice and participation in permit revisions. Therefore, proposed § 9—.774 remains unchanged in the final rule.

Section 9—.774(b) specifies that any revision to the approved permit is subject to review and approval by OSMRE. Section 9—.774(b)(1) further specifies that significant revisions are to be processed in accordance with the public notice and hearing provisions listed in § 774.13(b)(2) of the permanent program rules.

Section 774.13(b)(2) of the permanent program rules directs the regulatory authority to develop guidelines establishing the scale or extent of permit revisions for which all the permit application information requirements and procedures of Subchapter G, including notice, public participation, and notice of decision requirements of §§ 773.13, 773.19(b)(1) and (3), and 778.21

shall apply. The regulation further provides that such procedures shall apply at a minimum to all significant permit revisions. OSMRE has not adopted the guidelines proposed at § 9-774(b)(2). OSMRE has reopened the comment period for that section. OSMRE, received a petition for rulemaking to establish guidelines for permit revisions in the permanent program. The consideration of this petition, therefore, potentially affects OSMRE's final decision on the guidelines proposed for the nine Federal program States included in the August 5, 1985, notice.

To effectively respond to public comments, OSMRE has taken three actions. (1) Because the scope had been clarified by the petitioners, OSMRE reopened the comment period on the petition for a 30 day period beginning on August 1, 1986. (51 FR 27559, August 1, 1986). (2) In order to avoid conflict with the efforts of the Division of Tennessee Permitting, OSMRE has removed § 9-774(b)(2) from this final renumbering rule. (3) Because applications for significant permit revisions have specific requirements in SMCRA and the existing regulations, OSMRE reopened regulations, OSMRE reopened the comment period on the portion of these proposed rules pertaining to guidelines in determining the scale or extent of proposed permit revisions and in determining whether the proposed revision is significant. The comment period for this section was reopened for 30 days (51 FR 27559, August 1, 1986).

The proposed guidelines, for which the comment period was reopened, had been listed under §§ 910.774(b)(2), 912.774(b)(2), 921.774(b)(2), 922.774(b)(2), 933.774(b)(2), 937.774(b)(2), 939.774(b)(2), 941.774(b)(2), and 947.774(b)(2) in the 1985 notice. OSMRE is reconsidering those proposed guidelines in its consideration of the petition for rulemaking.

13. Two commenters requested clarification of the meaning of the statement found in proposed § 947.774(b)(3), published as final § 947.774(b)(2), that OSMRE will act on a permit revision request within 60 days. It was unclear to the commenters if "act" meant review and final approval or disapproval or merely an action to determine if the proposed revision is significant. The proposed section also has certain provisions for time extensions, and the commenters asked whether an extension is appealable under the Administrative Procedure Act (APA).

OSMRE will make every effort to approve or disapprove a permit revision application within 60 days and has

changed the rule accordingly. It should be noted, however, that where a significant environmental impact is found, an EIS would be required, which could not be completed within 60 days. If, for that or other reasons, additional time is required, OSMRE will follow the procedures set forth in proposed § 9-774(b)(3), published as final § 9-774(b)(2). The decision that more than 60 days are needed to make a final decision on an application is not appealable under APA, nor are there any other provisions to appeal decisions to extend the time needed to act upon a revision request.

Section 9-774(c) specifies a 30-day period within which to submit written comments on an application for approval of a transfer, assignment, or sale of a permit. There is no period set in 30 CFR 774.17. This provision is added to give commenters guidance on a reasonable time frame. A provision similar to § 9-774(b) and (c) of this proposed rule was promulgated in the Tennessee Federal program. 49 FR 38894 (October 1, 1984).

Section 9-775

Section 9-775 is added to cross-reference Part 775, which was added during OSMRE's regulatory reform. Part 775, which addresses administrative and judicial review of decisions on permits, contains some provisions previously found in Part 787, which was removed during regulatory reform.

Section 9-776

OSMRE has removed § 9-776 because it cross-referenced a superseded permanent program regulation. Requirements for coal exploration are now found in § 9-772.

Section 9-777

Part 777 was added during OSMRE's regulatory reform and is cross-referenced to the Federal programs in this rule. Part 777 contains general content requirements for permit applications. Portions of previous Part 771 were incorporated into Part 777 during regulatory reform.

Section 9-778

OSMRE has revised § 9-778 in the Federal programs to reflect 30 CFR Part 778 as revised during regulatory reform. Part 778 contains rules on the legal, financial, and compliance information required in permit applications. Previous 30 CFR 782, which originally was cross-referenced at § 9-782, addressed underground mines and was incorporated into Part 778 during regulatory reform.

Sections 9-782, 9-786, 9-787, 9-788, 9-818, 9-826

OSMRE has removed these sections because they cross-reference superseded permanent program regulations. During regulatory reform, the requirements of previous Part 782 were incorporated into Part 778. Most of the requirements of previous Part 786 were incorporated into Part 773. The requirements of previous Part 787 were incorporated into Part 775, and requirements from previous Part 778 were included in Part 774. See 48 FR 44344 (September 28, 1983).

It is not necessary to remove § 9-818 in Massachusetts, North Carolina, or Rhode Island, because Part 818 was not cross-referenced in these Federal programs. This rule removes § 9-818 from the other six Federal programs, because Part 818 was removed during regulatory reform. 48 FR 24638 (June 1, 1983).

OSMRE has removed § 9-826 from all nine Federal programs because it cross-referenced Part 826, which was removed during regulatory reform. 48 FR 23356 (May 24, 1983).

Revisions Specific to One or More Federal Program States

Sections 910.700, 912.700, 921.700, 922.700, 937.700, and 941.700

OSMRE had made minor editorial revisions in the titles of §§ 910.700, 922.700, and 937.700. OSMRE has also made minor editorial revisions to § 9-700(d) in the Idaho, Massachusetts, and South Dakota Federal programs to improve clarity.

OSMRE has revised § 9-700(g) in the Massachusetts, North Carolina, South Dakota and Washington Federal programs. These paragraphs incorrectly cross-referenced §§ 9-770 through 9-778. They have been changed to correctly cross-reference §§ 9-772 through 9-775, and 9-777 through 9-785.

OSMRE has amended §§ 910.773(e), 922.773(e), and 933.773(d) to remove OSMRE from the responsibility of enforcing State laws and regulations that are more stringent than or are in addition to regulations promulgated in the Federal programs, which do not interfere with the achievement of the purposes and requirements of the Act. The revised language provides for the coordination of review and issuance of permits for surface mining and reclamation operations with the requirements of certain laws and regulations of the three States.

Sections 910.816 and 910.817

OSMRE has removed references to 30 CFR 816.49(a), 816.89(b), and 816.112(d) from § 910.816 of the Georgia Federal program. OSMRE has also removed these references to 30 CFR 817.49(a), 817.89(b), and 817.112(d) from § 910.817. This revision removes specific references which were rendered inaccurate during regulatory reform, and is not substantive. No change is made in the content or meaning of these sections since §§ 910.816 and 910.817 continue to cross-reference Parts 816 and 817 respectively.

III. Procedural Matters

Federal Paperwork Reduction Act

The recordkeeping and reporting requirements of Federal programs 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.

Executive Order 12291

The DOI has examined this proposed rule according to the criteria of Executive Order 12291 (February 17, 1981) and has determined that it does not constitute a major rule and does not require a regulatory impact analysis. No major economic impact would occur if this rule were adopted, because the rule would affect only a small number of mining operations.

Regulatory Flexibility Act

The DOI has examined this proposed rule according to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and determined that it will not have a significant economic impact on a substantial number of small entities.

National Environmental Policy Act

Section 702(d) of the Act provides that promulgation of Federal programs does not constitute a major Federal action under the National Environmental Policy Act, 42 U.S.C. 4332. This provision has been interpreted to include revisions to Federal programs. Thus, no environmental assessment is required for this rule.

Author

The author of this regulation is James M. Kress, Division of Permit and Environmental Analysis, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC. 20240; Telephone (202) 343-7953.

List of Subjects in 30 CFR Parts 910, 912, 921, 922, 933, 937, 939, 941, and 947

Coal mining, Intergovernmental relations, Surface mining, Underground

mining, Reporting and recordkeeping requirements.

Accordingly, 30 CFR Parts 910, 912, 921, 922, 933, 937, 939, 941, and 947 are amended as follows:

Dated: March 3, 1987.

J. Steven Griles,

Assistant Secretary for Land and Minerals Management.

Subchapter T—[Amended]

1. In Title 30 CFR, Chapter VII, Subchapter T the following sections are removed.

Section and Action

910.770	Removed.
910.771	Removed.
910.776	Removed.
910.786	Removed.
910.787	Removed.
910.788	Removed.
910.818	Removed.
910.826	Removed.
912.770	Removed.
912.771	Removed.
912.776	Removed.
912.782	Removed.
912.786	Removed.
912.787	Removed.
912.788	Removed.
912.818	Removed.
912.826	Removed.
921.770	Removed.
921.771	Removed.
921.776	Removed.
921.782	Removed.
921.786	Removed.
921.787	Removed.
921.788	Removed.
921.826	Removed.
922.770	Removed.
922.771	Removed.
922.776	Removed.
922.782	Removed.
922.787	Removed.
922.788	Removed.
922.818	Removed.
922.826	Removed.
933.770	Removed.
933.771	Removed.
933.776	Removed.
933.782	Removed.
933.786	Removed.
933.787	Removed.
933.788	Removed.
937.770	Removed.
937.771	Removed.
937.776	Removed.
937.782	Removed.
937.786	Removed.
937.787	Removed.
937.788	Removed.
937.818	Removed.
937.826	Removed.
939.776	Removed.
939.782	Removed.
939.786	Removed.
939.787	Removed.
939.788	Removed.
939.826	Removed.
941.770	Removed.
941.771	Removed.
941.776	Removed.
941.782	Removed.

Section and Action

941.786	Removed.
941.787	Removed.
941.788	Removed.
941.818	Removed.
941.826	Removed.
947.770	Removed.
947.771	Removed.
947.776	Removed.
947.782	Removed.
947.786	Removed.
947.787	Removed.
947.788	Removed.
947.818	Removed.
947.826	Removed.

PART 910—GEORGIA

2. The authority citation for Part 910 is revised to read as follows:

Authority: Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*

3. Section 910.700 is amended by revising the heading to read:

§ 910.700 Georgia Federal program.

4. Section 910.772 is added to read as follows:

§ 910.772 Requirements for coal exploration.

(a) Part 772 of this chapter, Requirements for Coal Exploration, shall apply to any person who conducts or seeks to coal exploration operations.

(b) The Office 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, OSMRE shall notify the applicant that the application is being reviewed, but that more time is necessary to complete such reviews, setting forth the reasons and the additional time that is needed.

5. Section 910.773 is added to read as follows:

§ 910.773 Requirements for permits and permit processing.

(a) Part 773 of this chapter, "Requirements for Permits and Permit Processing", shall apply to any person who applies for a permit for surface coal mining and reclamation operations.

(b) In addition to the requirements of Part 773, the following permit application review procedures shall apply:

(1) Any person applying for a permit shall submit five copies of the application to the Office.

(2) The Office shall review an application for administrative completeness and acceptability for further review and shall notify the applicant in writing of the findings. The Office may:

(i) Reject a flagrantly deficient application, notifying the applicant of the findings;

(ii) Request additional information required for completeness stating specifically what information must be supplied and negotiate the date by which the information must be submitted; or

(iii) Judge the application administratively complete and acceptable for further review.

(3) Should the applicant not submit the information as required by § 910.773(b)(2)(ii) by the specified date, the Office may reject the application. When the applicant submits the required information by the specified date, the Office shall review it and advise the applicant concerning its acceptability.

(4) When the application is judged administratively complete, the applicant shall be advised by the Office to file the public notice required § 773.13 of this chapter.

(5) A representative of the Office shall visit the proposed permit area to determine whether the operation and reclamation plans are consistent with actual site conditions. The applicant will be notified in advance of the time of the visit. At the time of the visit, the applicant shall have the locations of the proposed permit boundaries, topsoil storage areas, sediment control structures, roads, and other significant features contained in the application marked by flags.

(c) In addition to the information required by subchapter G of this chapter, the Office may require an applicant to submit supplementary information to ensure compliance with applicable Federal laws and regulations other than the Act.

(d) Issuance of permits shall also be coordinated with permits issued pursuant to the Georgia Water Quality Control Act, section 17-501; the Georgia Solid Waste Management Act, section 43-1681; the Georgia Air Quality Act of 1973; the Georgia Hazardous Waste Management Act of 1979; the Georgia Groundwater Use Act; and the rules of the Georgia Fire Safety Commission on blasters' permits.

(e) The Secretary shall provide for coordination of review and issuance of permits for surface mining and reclamation operations with applicable requirements of the Georgia Wildflower Preservation Act of 1973, section 43-1801 *et seq.*; the Georgia Endangered Wildlife Act of 1973, section 43-2101 *et seq.*; the Georgia Heritage Trust Act of 1975, section 43-2301 *et seq.*; and the Georgia Cave Protection Act of 1977, section 43-2501 *et seq.*

6. Section 910.774 is added to read as follows:

§ 910.774 Revision; renewal; and transfer, assignment, or sale of permit rights.

(a) Part 774 of this chapter, Revision; Renewal; and Transfer, Assignment, or Sale of Permit Rights, shall apply to any such actions involving surface coal mining and reclamation operations permits.

(b) Any revision to the approved permit will be subject to review and approval by OSMRE.

(1) Significant revisions shall be processed as if they are new applications in accordance with the public notice and hearing provisions of §§ 773.13, 773.19(b) (1) and (2), and 778.21 and of Part 775.

(2) OSMRE shall make every effort to approve or disapprove an application for permit revision within 60 days of receipt or such longer time as may be reasonable under the circumstances. If additional time is needed, OSMRE shall notify the applicant that the application is being reviewed, but more time is necessary to complete such review, setting forth the reasons and the additional time that is needed.

(c) In addition to the requirements of Part 774 of this chapter, any person having an interest which is or may be adversely affected by a decision on the transfer, assignment, or sale of permit rights, including an official of any Federal, State, or local government agency, may submit written comments on the application to the Office within thirty days of either the publication of the newspaper advertisement required by § 774.17(b)(2) of this chapter or receipt of an administratively complete application, whichever is later.

7. Section 910.775 is added to read as follows:

§ 910.775 Administrative and judicial review of decisions.

Part 775 of this chapter, Administrative and Judicial Review of Decisions, shall apply to all decisions on permits.

8. Section 910.777 is added to read as follows:

§ 910.777 General content requirements for permit applications.

Part 777 of this chapter, "General Content Requirements for Permit Applications", shall apply to any person who applies for a permit to conduct surface coal mining and reclamation operations.

9. Section 910.778 is revised to read as follows:

§ 910.778 Permit applications—minimum requirements for legal, financial, compliance, and related information.

Part 778 of this chapter, "Permit applications—minimum requirements for

legal, financial, compliance, and related information", shall apply to any person who applies for a permit to conduct surface coal mining and reclamation operations.

10. Paragraph (b) of § 910.816 is revised to read as follows:

§ 910.816 Performance standards—surface mining activities.

(b) No person shall conduct surface coal mining operations except in compliance with the Georgia Safe Dams Act and Rules for Safety of the Natural Resources, Environmental Protection Division; the Solid Waste Management Rules of the Georgia Department of Natural Resources, Environmental Protection Division, Chapter 391-3-4; and the Georgia Seed Laws and Regulation 4.

Paragraph (b) of § 910.817 is revised to read as follows:

§ 910.817 Performance standards—underground mining activities.

(b) No person shall conduct surface coal mining operations except in compliance with the Georgia Safe Dams Act and Rules for Safety of the Natural Resources, Environmental Protection Division; the Solid Waste Management Rules of the Georgia Department of Natural Resources, Environmental Protection Division, Chapter 391-3-4; and the Georgia Seed Laws and Regulation 4.

PART 912—IDAHO

12. The authority citation for Part 912 is revised to read as follows:

Authority: Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*

13. Section 912.700(d) is revised to read as follows:

§ 912.700 Idaho Federal program.

(d) The recordkeeping and reporting requirements of this part 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.

14. Section 912.772 is added to read as follows:

§ 912.772 Requirements for coal exploration.

(a) Part 772 of this chapter, "Requirements for coal exploration", shall apply to any person who conducts or seeks to conduct coal exploration operations.

(b) The office 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, OSMRE shall notify the applicant that the application is being reviewed, but more time is necessary to complete such review, setting forth the reasons and the additional time that is needed.

15. Section 912.773 is added to read as follows:

§ 912.773 Requirements for permits and permit processing.

(a) Part 773 of this chapter, "Requirements for permits and permit processing", shall apply to any person who applies for a permit for surface coal mining and reclamation operations.

(b) In addition to the requirements of Part 773, the following permit application review procedures shall apply:

(1) Any person applying for a permit shall submit five copies of the application to the Office.

(2) The Office shall review an application for administrative completeness and acceptability for further review and shall notify the applicant in writing of the findings. The Office may:

(i) Reject a flagrantly deficient application, notifying the applicant of the findings;

(ii) Request additional information required for completeness stating specifically what information must be supplied and negotiate the date by which the information must be submitted; or

(iii) Judge the application administratively complete and acceptable for further review.

(3) Should the applicant not submit the information as required by § 912.773(b)(2)(ii) by the specified date, the office may reject the application. When the applicant submits the required information by the specified date, the Office shall review it and advise the applicant concerning its acceptability.

(4) When the application is judged administratively complete, the applicant shall be advised by the Office to file the public notice required by § 773.13 of this chapter.

(5) A representative of the Office shall visit the proposed permit area to determine whether the operation and reclamation plans are consistent with actual site conditions. The applicant will be notified in advance of the time of the visit. At the time of the visit, the applicant shall have the locations of the proposed permit boundaries, topsoil storage areas, sediment control

structures, roads, and other significant features contained in the application marked by flags.

(c) In addition to the information required by subchapter G of this chapter, the Office may require an applicant to submit supplementary information to ensure compliance with applicable Federal laws and regulations other than the Act.

(d) Where applicable, no person shall conduct surface coal exploration operations which result in the removal of more than 250 tons in one location, or surface coal mining operations without permits issued and/or certificates required by the State of Idaho, pursuant to Idaho Code sections 47-704, 47-1317, 47-1318, 47-1319, 47-1317 (Supp.), and 39-101 *et seq.* (Suppl.).

16. Section 912.774 is added to read as follows:

§ 912.774 Revision; renewal; and transfer, assignment, or sale of permit rights.

(a) Part 774 of this chapter, "Revision; renewal; and transfer, assignment, or sale of permit rights", shall apply to any such actions involving surface coal mining and reclamation operations permits.

(b) Any revision to the approved permit will be subject to review and approval by OSMRE.

(1) Significant revisions shall be processed as if they were new applications in accordance with the public notice and hearing provisions of §§ 773.13, 773.19(b)(1) and (b)(2), and 778.21 and of Part 775.

(2) OSMRE shall make every effort to approve or disapprove an application for permit revision within 60 days of receipt or such longer time as may be reasonable under the circumstances. If additional time is needed, OSMRE shall notify the applicant that the application is being reviewed, but more time is necessary to complete such review, setting forth the reasons and the additional time that is needed.

(c) In addition to the requirement of Part 774 of this chapter, any person having an interest which is or may be adversely affected by a decision on the transfer, assignment, or sale of permit rights, including an official of any Federal, State, or local government agency, may submit written comments on the application to the Office within thirty days of either the publication of the newspaper advertisement required by § 774.17(b)(2) of this chapter or receipt of an administratively complete application, whichever is later.

17. Section 912.775 is added to read as follows:

§ 912.775 Administrative and judicial review of decisions.

Part 775 of this chapter, "Administrative and Judicial review of decisions", shall apply to all decisions on permits.

18. Section 912.777 is added to read as follows:

§ 912.777 General content requirements for permit applications.

Part 777 of this chapter, "General content requirements for permit applications", shall apply to any person who applies for a permit to conduct surface coal mining and reclamation operations.

19. Section 912.778 is revised to read as follows:

§ 912.778 Permit applications—minimum requirements for legal, financial, compliance, and related information.

Part 778 of this chapter, "Permit applications—minimum requirements for legal, financial, compliance and related information", shall apply to any person who applies for a permit to conduct surface coal mining and reclamation operations.

PART 921—MASSACHUSETTS

20. The authority citation for Part 921 is revised to read as follows:

Authority: Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*

21. Paragraphs (d) and (g) of § 921.700 are revised to read as follows:

§ 921.700 Massachusetts Federal program.

(d) The recordkeeping and reporting requirements of this part 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.

(g) The Secretary may grant a limited variance from the performance standards of §§ 921.815 through 921.828 of this part if the applicant for coal exploration approval or a surface mining permit submitted pursuant to §§ 921.772 through 921.785 demonstrates in the application that:

(1) Such a variance is necessary because of the nature of Massachusetts' terrain, climate, biological, chemical or other relevant physical conditions; and

(2) The proposed variance is not less effective than the environmental protection requirements of the regulations in this program and is consistent with the Act.

22. Section 921.772 is added to read as follows:

§ 921.772 Requirements for coal exploration.

(a) Part 772 of this chapter, "Requirements for coal exploration", shall apply to any person who conducts or seeks to conduct coal exploration operations.

(b) The Office 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, OSMRE shall notify the applicant that the application is being reviewed, but more time is necessary to complete such review, setting forth the reasons and the additional time that is needed.

23. Section 921.773 is added to read as follows:

§ 921.773 Requirements for permits and permit processing.

(a) Part 773 of this chapter, "Requirements for permits and permit processing", shall apply to any person who applies for a permit for surface coal mining and reclamation operations.

(b) In addition to the requirements of Part 773, the following permit application review procedures shall apply:

(1) Any person applying for a permit shall submit five copies of the applications to the Office.

(2) The Office shall review an application for administrative completeness and acceptability for further review and shall notify the applicant in writing of the findings. The Office may:

(i) Reject a flagrantly deficient application, notifying the applicant of the findings;

(ii) Request additional information required for completeness stating specifically what information must be supplied and negotiate the date by which the information must be submitted; or

(iii) Judge the application administratively complete and acceptable for further review.

(3) Should the applicant not submit the information as required by § 921.773(b)(2)(ii) by the specified date, the Office may reject the application. When the applicant submits the required information by the specified date, the Office shall review it and advise the applicant concerning its acceptability.

(4) When the application is judged administratively complete, the applicant shall be advised by the Office to file the public notice required by § 773.13 of this chapter.

(5) A representative of the Office shall visit the proposed permit area to determine whether the operation and

reclamation plans are consistent with actual site conditions. The applicant will be notified in advance of the time of the visit. At the time of the visit, the applicant shall have the locations of the proposed permit boundaries, topsoil storage areas, sediment control structures, roads, and other significant features contained in the application marked by flags.

(c) In addition to the information required by subchapter G of this chapter, the Office may require an applicant to submit supplementary information to ensure compliance with applicable Federal laws and regulations other than the Act.

(d) No person shall conduct coal exploration which results in the removal of more than 250 tons of coal nor shall any person conduct surface coal mining operations without a permit issued by the Secretary pursuant to 30 CFR Part 773 and applicable permits issued pursuant to the laws of the State of Massachusetts, including: the Historic and Scenic Rivers Act, Mass. Ann. Laws Ch. 21, Sections 8-17B; Massachusetts Register of Historic Places, Mass. Ann. Laws Ch. 152 and the regulations (950 CMR 71); Historical Preservation Statutes, Mass. Ann. Laws Ch. 9, Sections 26-27(D); real property statutes, Mass Ann. Laws Ch. 184, Sections 31-32; statutes governing State forests and parks, Mass. Ann. Laws Ch. 132, Sections 40-46; of the Wetlands Protection Act Ch. 131, Sections 40-46; statutes and rules governing dredging permits, Mass. Ann. Laws Ch. 21A; Section 14, 310 CMR 9.01 *et seq.*; the Massachusetts Hazardous Waste Management Act Ch. 21C, Sections 1-14; the Massachusetts Clean Water Act Ch. 21, Sections 26-53; statutes governing the construction of roads, drains, or ditches, Mass. Ann. Laws Ch. 252, Sections 15-18; statutes governing drilling or removal of sand or any minerals, Mass. Ann. Laws Ch. 132A, Sections 13-181 and statutes governing use, storage, and handling of explosives, Mass. Ann. Laws Ch. 148, Sections 9-19.

(e) The Secretary shall provide for coordination of review and issuance of a coal exploration or surface coal mining and reclamation permit with the review and issuance of other Federal and State permits listed in this subpart and Part 773 of this chapter.

24. Section 921.774 is added to read as follows:

§ 921.774 Revision; renewal; and transfer, assignment, or sale of permit rights.

(a) Part 774 of this chapter, "Revision; renewal; and transfer, assignment, or sale of permit rights", shall apply to any such actions involving surface coal

mining and reclamation operations permits.

(b) Any revision to the approved permit will be subject to review and approval by OSMRE.

(1) Significant revisions shall be processed as if they are new applications in accordance with the public notice and hearing provisions of §§ 773.13, 773.19(b) (1) and (2), and 778.21 and of Part 775.

(2) OSMRE shall make every effort to approve or disapprove an application for permit revision within 60 days of receipt or such longer time as may be reasonable under the circumstances. If additional time is needed, OSMRE 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.

(c) In addition to the requirements of Part 774 of this chapter, any person having an interest which is or may be adversely affected by a decision on the transfer, assignment, or sale of permit rights, including an official of any Federal, State, or local government agency, may submit written comments on the application to the Office within thirty days of either the publication of the newspaper advertisement required by § 774.17(b)(2) of this chapter or receipt of an administratively complete application, whichever is later.

25. Section 921.775 is added to read as follows:

§ 921.775 Administrative and judicial review of decisions.

Part 775 of this Chapter, "Administrative and judicial review of decisions", shall apply to all decisions on permits.

26. Section 921.777 is added to read as follows:

§ 921.777 General content requirements for permit applications.

Part 777 of this chapter, "General content requirements for permit applications", shall apply to any person who applies for a permit to conduct surface coal mining and reclamation operations.

27. Section 921.778 is revised to read as follows:

§ 921.778 Permit applications—minimum requirements for legal, financial, compliance, and related information.

Part 778 of this chapter, "Permit applications—minimum requirements for legal, financial, compliance and related information", shall apply to any person who applies for a permit to conduct surface coal mining and reclamation operations.

PART 922—MICHIGAN

28. The authority citation for Part 922 is revised to read as follows:

Authority: Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*

29. The heading for § 922.700 is revised to read:

§ 922.700 Michigan Federal Program.

30. Section 922.772 is added to read as follows:

§ 922.772 Requirements for coal exploration.

(a) Part 773 of this chapter, "Requirements for coal exploration", shall apply to any person who conducts or seeks to conduct coal exploration operations.

(b) The Office 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, OSMRE 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.

31. Section 922.773 is added to read as follows:

§ 922.773 Requirements for permits and permit processing.

(a) Part 773 of this chapter, "Requirements for permits and permit processing", shall apply to any person who applies for a permit for surface coal mining and reclamation operations.

(b) In addition to the requirements of Part 773, the following permit application review procedures shall apply:

(1) Any person applying for a permit shall submit five copies of the application to the Office.

(2) The Office shall review an application for administrative completeness and acceptability for further review and shall notify the applicant in writing of the findings. The Office may:

(i) Reject a flagrantly deficient application, notifying the applicant of the findings;

(ii) Request additional information required for completeness stating specifically what information must be supplied and negotiate the date by which the information must be submitted; or

(iii) Judge the application administratively complete and acceptable for further review.

(3) Should the applicant not submit the information as required by § 912.773(b)(2)(ii) by the specified date, the office may reject the application.

When the applicant submits the required information by the specified date, the Office shall review it and advise the applicant concerning its acceptability.

(4) When the application is judged administratively complete, the applicant shall be advised by the Office to file the public notice required by § 773.13 of this chapter.

(5) A representative of the Office shall visit the proposed permit area to determine whether the operation and reclamation plans are consistent with actual site conditions. The applicant will be notified in advance of the time of the visit. At the time of the visit, the applicant shall have the locations of the proposed permit boundaries, topsoil storage areas, sediment control structures, roads, and other significant features contained in the application marked by flags.

(c) In addition to the information required by subchapter G of this chapter, the Office may require an applicant to submit supplementary information to ensure compliance with applicable Federal laws and regulations other than the Act.

(d) Where applicable, no person shall conduct surface coal exploration operations which result in the removal of more than 250 tons in one location, or surface coal mining operations without permits issued pursuant to the: Michigan Construction and Maintenance Act, MCL section 254.25, pertaining to the alteration of watercourses; Michigan Dams in Streams or Rivers Act of 1963, MCL section 281.131; Michigan Explosives Act of 1970, MCL section 29.41, pertaining to the use of explosives (permit is issued by an officer of a local police or sheriff's department or a designated officer of the State police); Michigan Hazardous Waste; Management Act of 1980, MCL section 299.501; Michigan Inland Lake and Streams Act of 1972, MCL section 281.951; Michigan Mineral Wells Act of 1969, MCL section 319.211; Michigan Sand Dune Protection and Management Act of 1976, MCL section 281.651; Michigan Solid Waste Management Act of 1978, MCL section 299.401; Michigan Water Resources Commission Act, MCL section 323.1; Michigan Water Resources Commission General Rules, R-323.1001 *et seq.*; Michigan Water Quality Standards, R-323.1041; the Michigan Wetland Protection Act of 1969, MCL section 281.701; Michigan Aboriginal Records and Antiquities Act, MCL section 299.51; Michigan Great Lakes Submerged Lands Act, MCL section 322.701 and the Michigan Historical Activities Act, MCL section 399.201.

(e) The Secretary shall provide for the coordination of review and issuance of

permits for surface mining and reclamation operations with applicable requirements of the Michigan Air Pollution Act of 1965, MCL section 336.11 and the Michigan Administrative Rules for Air Pollution Control, R-336.1101 *et seq.*; the Michigan Control and Eradication of Noxious Weeds Act, MCL section 247.61; the Michigan Endangered Species Act of 1974, MCL section 299.221 and the Michigan Hazardous Waste Management Act of 1980. The Secretary shall further coordinate review of permits, where applicable, with the appropriate State agencies concerning compliance with the Michigan Farmland and Open Space Preservation Act, MCL section 554.71.

32. Section 922.774 is added to read as follows:

§ 922.774 Revision; renewal; and transfer, assignment, or sale of permit rights.

(a) Part 774 of this chapter, Revision; renewal; and transfer, assignment, or sale of permit rights", shall apply to any such actions involving surface coal mining and reclamation operations permits.

(b) Any revision to the approved permit will be subject to review and approval by OSMRE.

(1) Significant revisions shall be processed as if they are new applications in accordance with the public notice and hearing provisions of §§ 773.13, 773.19(b) (1) and (2), and 778.21 and of Part 775.

(2) OSMRE shall make every effort to approve or disapprove an application for permit revision within 60 days of receipt or such longer time as may be reasonable under the circumstances. If additional time is needed, OSMRE shall notify the applicant that the application is being reviewed, but more time is necessary to complete such review, setting forth the reasons and the additional time that is needed.

(c) In addition the requirements of Part 774 of this chapter, any person having an interest which is or may be adversely affected by a decision on the transfer, assignment, or sale of permit rights, including an official of any Federal, State, or local government agency, may submit written comments on the application to the Office within thirty days of either the publication of the newspaper advertisement required by § 774.17(b)(2) of this chapter or receipt of an administratively complete application, whichever is later.

33. Section 922.775 is added to read as follows:

§ 922.775 Administrative and judicial review of decisions.

Part 775 of this chapter, "Administrative and judicial review of decisions", shall apply to all decisions on permits.

34. Section 922.777 is added to read as follows:

§ 922.777 General content requirements for permit applications.

Part 777 of this chapter, "General content requirements for permit applications", shall apply to any person who applies for a permit to conduct surface coal mining and reclamation operations.

35. Section 922.778 is revised to read as follows:

§ 922.778 Permit applications—minimum requirements for legal, financial, compliance, and related information.

Part 778 of this chapter, "Permit applications—minimum requirements for legal, financial, compliance, and related information", shall apply to any person who applies for a permit to conduct surface coal mining and reclamation operations.

PART 933—NORTH CAROLINA

36. The authority citation for Part 933 is revised to read as follows:

Authority: Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*

37. Paragraph (g) of § 933.700 is revised to read as follows:

§ 933.700 North Carolina Federal program.

(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 §§ 933.772 through 933.785 demonstrates in the application that: (1) Such variance is necessary because of the unique nature of North Carolina's terrain, climate, biological, chemical, or other relevant physical conditions; and (2) the proposed alternative will achieve equal or greater environmental protection than does the performance requirement from which the variance is requested.

38. Section 933.772 is added to read as follows:

§ 933.772 Requirements for coal exploration.

(a) Part 772 of this chapter, "Requirements for coal exploration", shall apply to any person who conducts or seeks to conduct coal exploration operations.

(b) The Office 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, OSMRE shall notify the applicant that the application is being reviewed, but more time is necessary to complete such review, setting forth the reasons and the additional time that is needed.

39. Section 933.773 is added to read as follows:

§ 933.773 Requirements for permits and permit processing.

(a) Part 773 of this chapter, "Requirements for permits and permit processing", shall apply to any person who applies for a permit for surface coal mining and reclamation operations.

(b) In addition to the requirements of Part 773, the following permit application review procedures shall apply:

(1) Any person applying for a permit shall submit five copies of the application to the Office.

(2) The Office shall review an application for administrative completeness and acceptability for further review and shall notify the applicant in writing of the findings. The Office may:

(i) Reject a flagrantly deficient application, notifying the applicant of the findings;

(ii) Request additional information required for completeness stating specifically what information must be supplied and negotiate the date by which the information must be submitted; or

(iii) Judge the application administratively complete and acceptable for further review.

(3) Should the applicant not submit the information as required by § 912.773(b)(2)(ii) by the specified date, the office may reject the application. When the applicant submits the required information by the specified date, the Office shall review it and advise the applicant concerning its acceptability.

(4) When the application is judged administratively complete, the applicant shall be advised by the Office to file the public notice required by § 773.13 of this chapter.

(5) A representative of the Office shall visit the proposed permit area to determine whether the operation and reclamation plans are consistent with actual site conditions. The applicant will be notified in advance of the time of the visit. At the time of the visit, the applicant shall have the locations of the proposed permit boundaries, topsoil storage areas, sediment control structures, roads, and other significant

features contained in the application marked by flags.

(c) In addition to the information required by subchapter G of this chapter, the Office may require an applicant to submit supplementary information to ensure compliance with applicable Federal laws and regulations other than the Act.

(d) The issuance of permits shall be coordinated, to the extent practicable, with 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 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).

(e) 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 (d) of this section.

(f) 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.

40. Section 933.774 is added to read as follows:

§ 933.774 Revision; renewal; and transfer, assignment, or sale of permit rights.

(a) Part 774 of this chapter, "Revision; renewal; and transfer, assignment, or sale of permit rights", shall apply to any such actions involving surface coal mining and reclamation operations permits.

(b) Any revision to the approved permit will be subject to review and approval by OSMRE.

(1) Significant revisions shall be processed as if they are new applications in accordance with the public notice and hearing provisions of §§ 773.13, 773.19(b) (1) and (2), and 778.21 and of Part 775.

(2) OSMRE shall make every effort to approve or disapprove an application for permit revision within 60 days of receipt or such longer time as may be reasonable under the circumstances. If additional time needed, OSMRE 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.

(c) In addition to the requirements of Part 774 of this chapter, any person having an interest which is or may be adversely affected by a decision on the transfer, assignment, or sale of permit rights, including an official of any Federal, State, or local government agency, may submit written comments on the application to the Office within thirty days of either the publication of the newspaper advertisement required by § 774.17(b)(2) of this chapter or receipt of an administratively complete application, whichever is later.

41. Section 933.775 is added to read as follows:

§ 933.775 Administrative and judicial review of decisions.

Part 775 of his chapter, "Administrative and judicial review of decisions", shall apply to all decisions on permits.

42. Section 933.777 is added to read as follows:

§ 933.777 General content requirements for permit applications.

Part 777 of this chapter, "General content requirements for permit applications", shall apply to any person who applies for a permit to conduct surface coal mining and reclamation operations.

43. Section 933.778 is revised to read as follows:

§ 933.778 Permit applications—minimum requirements for legal, financial, compliance, and related information.

Part 778 of this chapter, "Permit applications—minimum requirements for legal, financial, compliance and related information", shall apply to any person who applies for a permit to conduct surface coal mining and reclamation operations.

PART 937—OREGON

44. The authority citation for Part 937 is revised to read as follows:

Authority: Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*

45. The title of § 937.700 is revised to read:

§ 937.700 Oregon Federal program.

46. Section 937.772 is added to read as follows:

§ 937.772 Requirements for coal exploration.

(a) Part 772 of this Chapter, "Requirements for coal exploration," shall apply to any person who conducts or seeks to conduct coal exploration operations.

(b) The Office 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, OSMRE shall notify the applicant that the application is being reviewed, but more time is necessary to complete such review, setting forth the reasons and the additional time that is needed.

(c) Where coal exploration is to occur on State lands or the minerals to be explored are owned by the State, a mineral lease issued by the Oregon Division of Lands authorizing the coal exploration is required to be filed with the permit application.

47. Section 937.773 is added to read as follows:

§ 937.773 Requirements for permits and permit processing.

(a) Part 773 of this chapter, "Requirements for permits and permit processing," shall apply to any person who applies for a permit for surface coal mining and reclamation operations.

(b) In addition to the requirements of Part 773, the following permit application review procedures shall apply:

(1) Any person applying for a permit shall submit five copies of the application to the Office.

(2) The Office shall review an application for administrative completeness and acceptability for further review and shall notify the applicant in writing of the findings. The Office may:

(i) Reject a flagrantly deficient application, notifying the application of the findings;

(ii) Request additional information required for completeness stating specifically what information must be supplied and negotiate the date by which the information must be submitted; or

(iii) Judge the application administratively complete and acceptable for further review.

(3) Should the applicant not submit the information as required by § 937.773(b)(2)(ii) by the specified date, the office may reject the application. When the applicant submits the required information by the specified date, the Office shall review it and advise the applicant concerning its acceptability.

(4) When the application is judged administratively complete, the applicant shall be advised by the Office to file the public notice required by § 773.13 of this chapter.

(5) A representative of the Office shall visit the proposed permit area to determine whether the operation and reclamation plans are consistent with actual site conditions. The applicant will be notified in advance of the time of the visit. At the time of the visit, the applicant shall have the locations of the proposed permit boundaries, topsoil storage areas, sediment control structures, roads, and other significant features contained in the application marked by flags.

(c) In addition to the information required by subchapter G of this chapter, the Office may require an applicant to submit supplementary information to ensure compliance with applicable Federal laws and regulations other than the Act.

(d) Where applicable, no person shall conduct surface coal exploration operations which result in the removal of more than 250 tons in one location, or surface coal mining operations without permits issued and/or certificates required by the State of Oregon, including compliance with Oregon's Statewide Planning Goals (ORS 197.180) and any relevant Country Comprehensive Land Use Plans (ORS 197.005-ORS 197.775); license from the Division of State Lands where mines or exploration are on State lands (ORS 273.005-273.815); Solid Waste Disposal Permits, Hazardous Waste Transportation and Disposal Permits, Industrial Waste Disposal Permits issued by the Department of Environmental Quality (ORS 459.005-ORS 459-850); leases issued by the county where county designated forest lands are involved (ORS 275.340); noise restrictions enforced by the Department of Environmental Quality (ORS 467.010-467.990); Air Contaminant Discharge Permits (ORS 468.005-ORS 468.997), Water Pollution Control Facilities Permits, Waste Discharge Permits (ORS 468.900-ORS 468.997), Energy Facility Site Certificates (ORS 469.300-ORS 469.570, ORS 469.990, ORS 469.992) issued by the Energy Facilities Siting Council; Department of Fish and Wildlife issues permits for dam use

(ORS 509.600), for use of explosives used to construct dams or similar structures (ORS 509.140); the State Fire Marshall issues Certificates of Possession for persons having or using explosives (ORS 480.210); the Division of State Lands issues license for use of dredging machines (ORS 517.611-ORS 517.700); the Department of Water Resources issues permits with respect to the use, appropriation or diversion of State waters (ORS 537.130, ORS 537.135 and surface waters (ORS 537.135, ORS 537.140 and ORS 537.800), and permits relative to the design, construction and maintenance of dams, dikes or other hydraulic structures or works (ORS 540.350, ORS 540.400); matter may be removed from the beds and banks of State waters and fill may be deposited in State waters once a permit is obtained from the Division of State Lands (ORS 541.605-ORS 541.990).

48. Section 937.774 is added to read as follows:

§ 937.774 Revision; renewal; and transfer, assignment, or sale of permit rights.

(a) Part 774 of this chapter, "Revision; renewal; and transfer, assignment, or sale of permit rights," shall apply to any such actions involving surface coal mining and reclamation operations permits.

(b) Any revision to the approved permit will be subject to review and approval by OSMRE.

(1) Significant revisions shall be processed as if they are new applications in accordance with the public notice and hearing provisions of §§ 773.13, 773.19(b) (1) and (2), and 778.21 and of Part 775.

(2) OSMRE shall make every effort to approve or disapprove an application for permit revision within 60 days of receipt or such longer time as may be reasonable under the circumstance. If additional time is needed, OSMRE shall notify the applicant that the application is being reviewed, but more time is necessary to complete such review, setting forth the reasons and the additional time that is needed.

(c) In addition to the requirements of Part 774 of this chapter, any person having an interest which is or may be adversely affected by a decision on the transfer, assignment, or sale of permit rights, including an official of any Federal, State, or local government agency, may submit written comments on the application to the Office within thirty days of either the publication of the newspaper advertisement required by § 774.17(b)(2) of this chapter or receipt of an administratively complete application, whichever is later.

49. Section 937.775 is added to read as follows:

§ 937.775 Administrative and judicial review of decisions.

Part 775 of this chapter, "Administrative and judicial review of decisions", shall apply to all decisions on permits.

50. Section 937.777 is added to read as follows:

§ 937.777 General content requirements for permit applications.

Part 777 of this chapter, "General content requirements for permit applications", shall apply to any person who applies for a permit to conduct surface coal mining and reclamation operations.

51. Section 937.778 is revised to read as follows:

§ 937.778 Permit applications—minimum requirements for legal, financial, compliance, and related information.

Part 778 of this chapter, "Permit applications—minimum requirements for legal, financial, compliance and related information", shall apply to any person who applies for a permit to conduct surface coal mining and reclamation operations.

PART 939—RHODE ISLAND

52. The authority citation for Part 939 is revised to read as follows:

Authority: Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*

53. Section 939.772 is added to read as follows:

§ 939.772 Requirements for coal exploration.

(a) Part 772 of this chapter, "Requirements for coal exploration", shall apply to any person who conducts or seeks to conduct coal exploration operations.

(b) The Office 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, OSMRE shall notify the applicant that the application is being reviewed, but more time is necessary to complete such review, setting forth the reasons and the additional time that is needed.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, any person who intends to conduct coal exploration shall, prior to conducting the exploration, file with the regulatory authority a written notice of intention to explore including:

(1) The name, address, and telephone number of the person seeking to explore;

(2) The name, address, and telephone number of the representative who will be present at and responsible for conducting the exploration activities;

(3) A precise description and map, at a scale of 1:24,000 or larger, of the exploration area;

(4) A statement of the period of intended exploration;

(5) If the surface is owned by a person other than the person who intends to explore, a description of the basis upon which the person who will explore claims the right to enter such area for the purpose of conducting exploration and reclamation; and

(6) A description of the practices proposed to be followed to protect the environment from adverse impacts as a result of the exploration activities.

(d) The Office 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, OSMRE 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.

54. Section 938.773 is added to read as follows:

§ 939.773 Requirements for permits and permit processing.

(a) Part 773 of this chapter, "Requirements for permits and permit processing", shall apply to any person who applies for a permit for surface coal mining and reclamation operations.

(b) In addition to the requirements of Part 773, the following permit application review procedures shall apply:

(1) Any person applying for a permit shall submit five copies of the application to the Office.

(2) The Office shall review an application for administrative completeness and acceptability for further review and shall notify the applicant in writing of the findings. The Office may:

(i) Reject a flagrantly deficient application, notifying the application of the findings;

(ii) Request additional information required for completeness stating specifically what information must be supplied and negotiate the date by which the information must be submitted; or

(iii) Judge the application administratively complete and acceptable for further review.

(3) Should the applicant not submit the information as required by

§ 939.773(b)(2)(ii) by the specified date, the Office may reject the application. When the applicant submits the required information by the specified date, the Office shall review it and advise the applicant concerning its acceptability.

(4) When the application is judged administratively complete, the applicant shall be advised by the Office to file the public notice required by § 773.13 of this chapter.

(5) A representative of the Office shall visit the proposed permit area to determine whether the operation and reclamation plans are consistent with actual site conditions. The applicant will be notified in advance of the time of the visit. At the time of the visit, the applicant shall have the locations of the proposed permit boundaries, topsoil storage areas, sediment control structures, roads, and other significant features contained in the application marked by flags.

(c) In addition to the information required by subchapter G of this chapter, the Office may require an applicant to submit supplementary information to ensure compliance with applicable Federal laws and regulations other than the Act.

(d) Where applicable, no person shall conduct surface coal exploration operations which result in the removal of more than 250 tons of coal nor shall any person conduct surface coal mining operations without a permit issued by the Secretary pursuant to 30 CFR Part 773 and permits issued pursuant to State law, including: the Wetlands Protection Act (R.I. General Laws Section 2-1-22); Chapter 20 of the Waters and Navigation Act (petitions for ditches and drains) (R.I. General Laws Section 46-20-1 *et seq.*); the Coastal Resources Management Council Act of 1971 (R.I. General Laws Section 46-23-6); the Rhode Island Hazardous Waste Management Act of 1978 (R.I. General Laws Section 23-19.1-11 *et seq.*); the Rhode Island Act for Inspection of Dams and Reservoirs (R.I. General Laws Section 46-19-1 *et seq.*) and Chapter 23-23.28 of Rhode Island's Health and Safety Code (R.I. General Laws Section 23-28.28-1 *et seq.*, permits for blasting), and an order of approval authorizing discharge of sewage into waterways within the State and modification or operation of sewage disposal systems if applicable (R.I. General Laws Sections 46-12-1 to 46-12-37). The permit issued by the Secretary shall incorporate the requirements of the Rhode Island Historical Zoning Act of 1954, as amended (R.I. General Laws Section 45-24.1-1 *et seq.*) and the Rhode Island Antiquities Act of 1974 (R.I. General Laws Section 42-45.1-1 *et seq.*).

(e) The Secretary shall coordinate review and issuance of a coal exploration or surface coal mining permit with the review and issuance of other Federal and State permits listed in this Section and 30 CFR Part 773.

55. Section 939.774 is added to read as follows:

§ 939.774 Revision; renewal; and transfer, assignment, or sale of permit rights.

(a) Part 774 of this chapter, "Revision; renewal; and transfer, assignment, or sale of permit rights", shall apply to any such actions involving surface coal mining and reclamation operations permits.

(b) Any revision to the approved permit will be subject to review and approval by OSMRE.

(1) Significant revisions shall be processed as if they are new applications in accordance with the public notice and hearing provisions of §§ 773.13, 773.19(b) (1) and (2), and 778.21 and of Part 775.

(2) OSMRE shall make every effort to approve or disapprove an application for permit revision within 60 days of receipt or such longer time as may be reasonable under the circumstances. If additional time is needed, OSMRE 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.

(c) In addition to the requirements of Part 774 of this chapter, any person having an interest which is or may be adversely affected by a decision on the transfer, assignment, or sale of permit rights, including an official of any Federal, State, or local government agency, may submit written comments on the application to the Office within thirty days of either the publication of the newspaper advertisement required by § 774.17(b)(2) of this chapter or receipt of an administratively complete application, whichever is later.

56. Section 939.775 is added to read as follows:

§ 939.775 Administrative and judicial review of decisions.

Part 775 of this chapter, "Administrative and judicial review of decisions", shall apply to all decisions on permits.

57. Section 939.777 is added to read as follows:

§ 939.777 General content requirements for permit applications.

Part 777 of this chapter, "General content requirements for permit applications", shall apply to any person who applies for a permit to conduct

surface coal mining and reclamation operations.

58. Section 939.778 is revised to read as follows:

§ 939.778 Permit applications—minimum requirements for legal, financial, compliance, and related information.

Part 778 of this chapter, "Permit applications—minimum requirements for legal, financial, compliance and related information", shall apply to any person who applies for a permit to conduct surface coal mining and reclamation operations.

PART 941—SOUTH DAKOTA

59. The authority citation for Part 941 is revised to read as follows:

Authority: Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*

60. Paragraphs (d) and (g) of § 941.700 are revised to read as follows:

§ 941.700 South Dakota Federal program.

* * * * *

(d) The recordkeeping and reporting requirements of this part 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.

* * * * *

(g) The Secretary may grant a limited variance from the performance standards of §§ 941.815 through 941.828 of this part if the applicant for coal exploration approval or a surface mining permit submitted pursuant to §§ 941.772 through 941.785 demonstrates in the application that:

(1) Such variance is necessary because of the unique nature of South Dakota's terrain, climate, biological, chemical, or other relevant physical conditions; and

(2) The proposed alternative will achieve equal or greater environmental protection than does the performance requirement from which the variance is requested.

61. Section 941.772 is added to read as follows:

§ 941.772 Requirements for coal exploration.

(a) Part 772 of this chapter, "Requirements for coal exploration", shall apply to any person who conducts or seeks to conduct coal exploration operations.

(b) The Office 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, OSMRE 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.

62. Section 941.773 is added to read as follows:

§ 941.773 Requirements for permits and permit processing.

(a) Part 773 of this chapter, "Requirements for permits and permit processing", shall apply to any person who applies for a permit for surface coal mining and reclamation operations.

(b) In addition to the requirements of Part 773, the following permit application review procedures shall apply:

(1) Any person applying for a permit shall submit five copies of the application to the Office.

(2) The Office shall review an application for administrative completeness and acceptability for further review and shall notify the applicant in writing of the findings. The Office may:

(i) Reject a flagrantly deficient application, notifying the applicant of the findings;

(ii) Request additional information required for completeness stating specifically what information must be supplied and negotiate the date by which the information must be submitted; or

(iii) Judge the application administratively complete and acceptable for further review.

(3) Should the applicant not submit the information as required by § 941.773(b)(2)(ii) by the specified date, the office may reject the application. When the applicant submits the required information by the specified date, the Office shall review it and advise the applicant concerning its acceptability.

(4) When the application is judged administratively complete, the applicant shall be advised by the Office to file the public notice required by § 773.13 of this chapter.

(5) A representative of the Office shall visit the proposed permit area to determine whether the operation and reclamation plans are consistent with actual site conditions. The applicant will be notified in advance of the time of the visit. At the time of the visit, the applicant shall have the locations of the proposed permit boundaries, topsoil storage areas, sediment control structures, roads, and other significant features contained in the application marked by flags.

(c) In addition to the information required by subchapter G of this chapter, the Office may require an

applicant to submit supplementary information to ensure compliance with applicable Federal laws and regulations other than the Act.

(d) Where applicable, no person shall conduct surface coal exploration operations which result in the removal of more than 250 tons of coal, nor shall any person conduct surface coal mining operations without a permit issued by the Secretary pursuant to 30 CFR Part 773, and permits, leases and certificates required by the State of South Dakota including compliance with: (1) Air pollution control, S.D. Comp. Laws Ann. Chap. 34A-1; (2) water pollution control, S.D. Comp. Laws Ann. Chap. 34A-2; and (3) solid waste disposal, S.D. Comp. Laws Ann. Chap. 34A-6.

(e) 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 certificates listed in paragraph (d) of this section.

63. Section 941.774 is added to read as follows:

§ 941.774 Revision; renewal; and transfer, assignment, or sale of permit rights.

(a) Part 774 of this chapter, "Revision; renewal; and transfer, assignment, or sale of permit rights", shall apply to any such actions involving surface coal mining and reclamation operations permits.

(b) Any revision to the approved permit will be subject to review and approval by OSMRE.

(1) Significant revisions shall be processed as if they are new applications in accordance with the public notice and hearing provisions of §§ 773.13, 773.19(b)(1) and (2), and 778.21 and of Part 775.

(2) OSMRE shall make every effort to approve or disapprove an application for permit revision within 60 days of receipt or such longer time as may be reasonable under the circumstances. If additional time is needed, OSMRE 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.

(c) In addition to the requirements of Part 774 of this chapter, any person having an interest which is or may be adversely affected by a decision on the transfer, assignment, or sale of permit rights, including an official of any Federal, State, or local government agency, may submit written comments on the application to the Office within thirty days of either the publication of the newspaper advertisement required

by § 774.17(b)(2) of this chapter or receipt of an administratively complete application, whichever is later.

64. Section 941.775 is added to read as follows:

§ 941.775 Administrative and judicial review of decisions.

Part 775 of this chapter, "Administrative and judicial review of decisions", shall apply to all decisions on permits.

65. Section 941.777 is added to read as follows:

§ 941.777 General content requirements for permit applications.

Part 777 of this chapter, "General content requirements for permit applications", shall apply to any person who applies for a permit to conduct surface coal mining and reclamation operations.

66. Section 941.778 is revised to read as follows:

§ 941.778 Permit applications—minimum requirements for legal, financial, compliance, and related information.

Part 778 of this chapter, "Permit applications—minimum requirements for legal, financial, compliance and related information", shall apply to any person who applies for a permit to conduct surface coal mining and reclamation operations.

PART 947—WASHINGTON

67. The authority citation for Part 947 is revised to read as follows:

Authority: Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*

68. Paragraph (g) of § 947.700 is revised to read as follows:

§ 947.700 Washington Federal program.

(g) The Secretary may grant a limited variance from the performance standards of §§ 947.815 through 947.828 of this part if the applicant for coal exploration approval or a surface coal mining reclamation permit submitted pursuant to §§ 947.772 through 947.785 of this part demonstrates in the application: (1) That such a variance is necessary because of the nature of the terrain, climate, biological, chemical, or other relevant physical conditions in the area of the mine; and (2) if applicable, that the proposed variance is no less effective than the environmental protection requirements of the regulations in this program and is consistent with the Act.

69. Section 947.772 is added to read as follows:

§ 947.772 Requirements for coal exploration.

(a) Part 772 of this chapter, "Requirements for coal exploration", shall apply to any person who conducts or seeks to conduct coal exploration operations.

(b) The Office 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, OSMRE 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.

70. Section 947.773 is added to read as follows:

§ 947.773 Requirements for permits and permit processing.

(a) Part 773 of this chapter, Requirements for Permits and Permit Processing, shall apply to any person who applies for a permit for surface coal mining and reclamation operations.

(b) In addition to the requirements of Part 773, the following permit application review procedures shall apply:

(1) Any person applying for a permit shall submit five copies of the application to the Office.

(2) The Office shall review an application for administrative completeness and acceptability for further review and shall notify the applicant in writing of the findings. The Office may:

(i) Reject a flagrantly deficient application, notifying the application of the findings;

(ii) Request additional information required for completeness stating specifically what information must be supplied and negotiate the date by which the information must be submitted; or

(iii) Judge the application administratively complete and acceptable for further review.

(3) Should the applicant not submit the information as required by § 947.773(b)(2)(ii) by the specified date, the Office may reject the application. When the applicant submits the required information by the specified date, the Office shall review it and advise the applicant concerning its acceptability.

(4) When the applicant is judged administratively complete, the applicant shall be advised by the Office to file the public notice required by § 773.13 of this chapter.

(5) A representative of the Office shall visit the proposed permit area to determine whether the operation and

reclamation plans are consistent with actual site conditions. The applicant will be notified in advance of the time of the visit. At the time of the visit, the applicant shall have the locations of the proposed permit boundaries, topsoil storage areas, sediment control structures, roads, and other significant features contained in the application marked by flags.

(c) In addition to the information required by subchapter G of this chapter, the Office may require an applicant to submit supplementary information to ensure compliance with applicable Federal laws and regulations other than the Act.

(d) The Secretary shall coordinate, to the extent practicable, his responsibilities under the following Federal laws with the relevant Washington State laws to avoid duplication:

Federal law	Washington law
(1) Clean Water Act, as amended 33 U.S.C. 1251 <i>et seq.</i>	Water Pollution Control Act, Chapter 90.48 RCW
(2) Clean Air Act, as amended 42 U.S.C. 7401 <i>et seq.</i>	Washington Clean Air Act, Chapter 70.94 RCW.
(3) Resource Conservation and Recovery Act, 42 U.S.C. 3251.	Solid Waste Management, Chapter 70.95 RCW: Hazardous Waste Disposal Act, Chapter 70.105 RCW.
(4) National Historic Preservation Act, RCW, 16 U.S.C. 470 <i>et seq.</i>	Indian Graves and Records, Chapter 27.44.
(5) Archeological and Historic Preservation Act, 16 U.S.C. 469 <i>et seq.</i>	Archeological Sites and Resources, Chapter 27.53 RCW, Office of Archeology and Historic Preservation, Chapter 43.51A, RCW.
(6) National Environmental Policy Act 42 U.S.C. 4321 <i>et seq.</i>	State Environmental Policy Act, Chapter 43.21C RCW.
(7) Coastal Zone Management Act 16 U.S.C. 1451, 1453-1464.	Shoreline Management Act, Chapter 90.58, RCW.
(8) Section 208 of the Clean Water Act, as amended, 33 U.S.C. 1251 <i>et seq.</i>	Water Pollution Control Act, Chapter 90.48 RCW: Washington Forest Practices Act, Chapter 76.09 RCW.
(9) Endangered Species Act, 16 U.S.C. 1531 <i>et seq.</i>	Natural Area Preserves Act (Plants), Chapter 79.70, RCW: Department of Game, Chapter 43.17 RCW: Game Commission, Chapter 77.08, RCW.
(10) Fish and Wildlife Coordination Act 16 U.S.C. 661-667.	Water Resources Act of 1971, Chapter 90.54 RCW: Minimum Water Flows and Levels, Chapter 90.22 RCW.
(11) Noise Control Act, 42 U.S.C. 4903.	Noise Control Act of 1974, Chapter 70.107 RCW.
(12) Bald Eagle Protection Act 16 U.S.C. 668-668(d).	

(e) The Secretary shall coordinate the SMCRA permit with appropriate State and regional or local agencies to the extent possible, to avoid duplication with the following state and regional or local regulations:

(1) Department of Ecology:

Surface Water Rights Permit, RCW 90.03.250
Dam Safety Approval, RCW 90.03.350
Reservoir Permit, RCW 90.03.370

Approval of Change of Place or Purpose of Use [water] RCW 90.03.380
Ground Water Permit, RCW 90.44.050
New Source Construction Approval, RCW 79.94.152
Burning Permit, RCW 70.94.650
Flood Control Zone Permit, RCW 86.16.080
Waste Discharge Permit, RCW 90.48.180
National Pollution Discharge Elimination System (NPDES) Permit, RCW 90.48
Approval of Change of Point of Diversion, RCW 90.03.380
Sewage Facilities Approval, RCW 90.48.110
Water Quality Certification, RCW 90.48.160

(2) Department of Natural Resources:

Burning Permit, RCW 77.04.150 & .170
Dumping Permit, RCW 76.04.242
Operating Permit for Machinery, RCW 76.04.275
Cutting Permit, RCW 76.08.030
Forest Practices, RCW 76.09.060
Right of Way Clearing, RCW 76.04.310
Drilling Permit, RCW 78.52.120

(3) Regional Air Pollution Control Agencies:

New Source Construction Approval (RCW 70.94.152)
Burning Permit, RCW 70.94.650

(4) Department of Fisheries:

Hydraulic Permit, RCW 75.20

(5) Department of Game:

Hydraulic Permit, RCW 75.20.100

(6) Department of Social Health Services:

Public Sewage, WAC 248.92
Public Water Supply, WAC 248.54

(7) Department of Labor and Industries:

Explosive license, RCW 70.74.135
Blaster's license, WAC 296.52.040
Purchaser's license, WAC 296.52.220
Storage Magazine license, WAC 296.52.170

(8) Cities and Counties:

New Source Construction Approval, RCW 70.94.152
Burning Permit, RCW 79.94.650
Shoreline Substantial Development Permit, RCW 90.58.140
Zoning and Building Permits, Local Ordinances

(f) Where applicable, no person shall conduct coal exploration operations which result in the removal of more than 250 tons in one location or surface coal mining and reclamation operations without first obtaining permits required by the State of Washington.

(g) The Secretary shall provide a copy of the decision to grant or deny a permit application to the Washington Department of Natural Resources, the Department of Ecology and to the County Department of Planning, if any, in which the operation is located.

71. Section 947.774 is added to read as follows:

§ 947.774 Revision; renewal; and transfer, assignment, or sale of permit rights.

(a) Part 774 of this chapter, "Revision; renewal; and transfer, assignment, or sale of permit rights," shall apply to any such actions involving surface coal mining and reclamation operations permits.

(b) Any revision to the approved permit will be subject to review and approval by OSMRE.

(1) Significant revisions shall be processed as if they are new applications in accordance with the public notice and hearing provisions of §§ 773.13, 773.19(b) (1) and (2), and 778.21 and of Part 775.

(2) OSMRE shall make every effort to approve or disapprove an application for permit revision within 60 days of receipt or such longer time as may be reasonable under the circumstances. If additional time is needed, OSMRE 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.

(c) In addition to the requirements of Part 774 of this chapter, any person having an interest which is or may be adversely affected by a decision on the transfer, assignment, or sale of permit rights, including an official of any Federal, State, or local government agency, may submit written comments on the application to the Office within thirty days of either the publication of the newspaper advertisement required by § 774.17(b)(2) of this chapter or receipt of an administratively complete application, whichever is later.

72. Section 947.775 is added to read as follows:

§ 947.775 Administrative and judicial review of decisions.

Part 775 of this chapter, "Administrative and judicial review of decisions", shall apply to all decisions on permits.

73. Section 947.777 is added to read as follows:

§ 947.777 General content requirements for permit applications.

Part 777 of this chapter, "General content requirements for permit applications", shall apply to any person who applies for a permit to conduct surface coal mining and reclamation operations.

74. Section 947.778 is revised to read as follows:

§ 947.778 Permit applications—minimum requirements for legal, financial, compliance, and related information.

Part 778 of this chapter, "Permit applications—minimum requirements for legal, financial, compliance, and related information", shall apply to any person who applies for a permit to conduct surface coal mining and reclamation operations.

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