well without the owner's permission (section 27), and the requirement to cap, plug, and seal all exploration test holes (section 28).

(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.


§ 941.701 General.

Sections 700.5, 700.11, 700.12, 700.13, 700.14, 700.15 and part 701 of this chapter shall apply to surface coal mining operations in South Dakota.

§ 941.702 Exemption for coal extraction incidental to the extraction of other minerals.

Part 702 of this chapter, Exemption for Coal Extraction Incidental to the Extraction of Other Minerals, shall apply to any person who conducts coal extraction incidental to the extraction of other minerals for purposes of commercial use or sale.

[54 FR 52123, Dec. 20, 1989]

§ 941.707 Exemption for coal extraction incident to Government-financed highway or other construction.

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

[52 FR 13814, Apr. 24, 1987]

§ 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.