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annual volume of business or any other exemptions provided by Federal law.

[51 FR 24656, July 8, 1986]

§ 8.5 Access for investigators.

Concessioners shall permit representatives of this Department and, when appropriate and authorized representatives of other Federal or State agencies, access to any of their places of employment for the purpose of examining pay rolls and other records and otherwise to ascertain the facts with respect to compliance with the regulations in this part and State labor laws. The report of any investigation concerning a violation of the regulations in this part shall be submitted to the superintendent of the national park involved.

[24 FR 11053, Dec. 30, 1959. Redesignated at 51 FR 24656, July 8, 1986]

§ 8.6 Complaints; appeal.

Any question pertaining to the interpretation or application of or compliance with this part which cannot be satisfactorily settled between a concessioner and his employee, employees, or employee representative may be referred for review by any of the parties concerned to the Director, National Park Service. Any person adversely affected by the decision of the Director, National Park Service, may appeal to the Director, Office of Hearings and Appeals, in accordance with the general rules set forth in Department Hearings and Appeals Procedures, 43 CFR part 4, subpart B, and the special procedural rules in subpart G of 43 CFR part 4, applicable to proceedings in appeals cases which do not lie within the appellate jurisdiction of an established Appeals Board of the Office of Hearings and Appeals.

[36 FR 7184, Apr. 15, 1971. Redesignated at 51 FR 24656, July 8, 1986]

§ 8.7 Record keeping.

Concessioners shall for a period of 3 years keep records of the name, age, address, and occupation of each of their employees, the rate of pay and the amount paid to each employee each pay day, the hours worked each day and each work week by each employee

and such other information concerning employees as the Director may require.

[24 FR 11053, Dec. 30, 1959. Redesignated at 51 FR 24656, July 8, 1986]

§ 8.8 Filing of labor agreements.

Within 60 days after the effective date of the regulations in this part (January 1, 1949), concessioners shall file with the Director of the National Park Service a copy of each labor agreement in effect on the effective date of the regulations in this part, covering rates of pay, hours of work, and conditions of employment duly negotiated with their employees as a whole or by class, craft, or other appropriate unit. Thereafter, on July 1 of each year concessioners shall file copies of all such agreements then in effect with the Director of the National Park Service.

[24 FR 11053, Dec. 30, 1959. Redesignated at 51 FR 24656, July 8, 1986]

§ 8.9 Posting of regulations.

Concessioners shall post in a conspicuous place easily accessible to all employees copies of the regulations in this part in such form as the Director may approve.

[24 FR 11053, Dec. 30, 1959. Redesignated at 51 FR 24656, July 8, 1986]

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Subpart A—Mining and Mining Claims

AUTHORITY: Mining Law of 1872 (R.S. 2319; 30 U.S.C. 21 *et seq.*); Act of August 25, 1916 (39 Stat. 535, as amended (16 U.S.C. 1 *et seq.*); Act of September 28, 1976; 90 Stat. 1342 (16 U.S.C. 1901 *et seq.*).

SOURCE: 42 FR 4835, Jan. 26, 1977, unless otherwise noted.

§ 9.1 Purpose and scope.

These regulations control all activities within units of the National Park System resulting from the exercise of valid existing mineral rights on patented or unpatented mining claims without regard to the means or route by which the operator gains access to the claim. The purpose of these regulations is to insure that such activities are conducted in a manner consistent with the purposes for which the National Park System and each unit thereof were created, to prevent or minimize damage to the environment or other resource values, and to insure that the pristine beauty of the units is preserved for the benefit of present and future generations. These regulations apply to all operations, as defined herein, conducted within the boundaries of any unit of the National Park System.

[53 FR 25162, July 2, 1988]

§ 9.2 Definitions.

The terms used in this part shall have the following meanings:

(a) *Secretary*. The Secretary of the Interior.

(b) *Operations*. All functions, work and activities in connection with mining on claims, including: prospecting, exploration, surveying, development and extraction; dumping mine wastes and stockpiling ore; transport or processing of mineral commodities; reclamation of the surface disturbed by such activities; and all activities and

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uses reasonably incident thereto, including construction or use of roads or other means of access on National Park System lands, regardless of whether such activities and uses take place on Federal, State, or private lands.

(c) *Operator*. A person conducting or proposing to conduct operations.

(d) *Person*. Any individual, partnership, corporation, association, or other entity.

(e) *Superintendent*. The Superintendent, or his designee, of the unit of the National Park System containing claims subject to these regulations.

(f) *Surface mining*. Mining in surface excavations, including placer mining, mining in open glory-holes or mining pits, mining and removing ore from open cuts, and the removal of capping or overburden to uncover ore.

(g) *The Act*. The Act of September 28, 1976, 90 Stat. 1342, 16 U.S.C. 1901 *et seq.*

(h) *Commercial vehicle*. Any motorized equipment used for transporting the product being mined or excavated, or for transporting heavy equipment used in mining operations.

(i) *Unit*. Any National Park System area containing a claim or claims subject to these regulations.

(j) *Claimant*. The owner, or his legal representative, of any claim lying within the boundaries of a unit.

(k) *Claim*. Any valid, patented or unpatented mining claim, mill site, or tunnel site.

(l) *Significantly disturbed for purposes of mineral extraction*. Land will be considered significantly disturbed for purposes of mineral extraction when there has been surface extraction of commercial amounts of a mineral, or significant amounts of overburden or spoil have been displaced due to the extraction of commercial amounts of a mineral. Extraction of commercial amounts is defined as the removal of ore from a claim in the normal course of business of extraction for processing or marketing. It does not encompass the removal of ore for purposes of testing, experimentation, examination or reproduction activities.

(m) *Designated roads*. Those existing roads determined by the Superintendent in accordance with 36 CFR

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1.5 to be open for the use of the public or an operator.

(n) *Production*. Number of tons of a marketable mineral extracted from a given operation.

[42 FR 4835, Jan. 26, 1977, as amended at 60 FR 55791, Nov. 3, 1995; 62 FR 30234, June 3, 1997]

§9.3 Access permits.

(a) All special use or other permits dealing with access to and from claims within any unit are automatically revoked 120 days after January 26, 1977. All operators seeking new or continued access to and from a claim after that date must file for new access permits in accordance with these regulations, unless access to a mining claim is by pack animal or foot. (See §9.7 for restrictions on assessment work and §9.9(d) and §9.10(g) for extensions of permits.)

(b) Prior to the issuance of a permit for access to any claim or claims, the operator must file with the Superintendent a plan of operations pursuant to §9.9. No permit shall be issued until the plan of operations has been approved in accordance with §9.10.

(c) No access to claims outside a unit will be permitted across unit lands unless such access is by foot, pack animal, or designated road. Persons using such roads for access to such claims must comply with the terms of §9.15 where applicable.

(d) In units of the National Park System in Alaska, regulations at 43 CFR part 36 govern access to claims, and the provisions of 36 CFR 9.3 (a), (b) and (c) are inapplicable.

[42 FR 4835, Jan. 26, 1977, as amended at 53 FR 25162, July 5, 1988]

§9.4 Surface disturbance moratorium.

(a) For a period of four years after September 28, 1976, no operator of a claim located within the boundaries of Death Valley National Monument, Mount McKinley National Park, or Organ Pipe Cactus National Monument (see also claims subject to §9.10(a)(3)) shall disturb for purposes of mineral exploration or development the surface of any lands which had not been significantly disturbed for purposes of mineral extraction prior to February

29, 1976, except as provided in this section. However, where a claim is subject, for a period of four years after September 28, 1976, to this section solely by virtue of § 9.10(a)(3), the date before which there must have been significant disturbance for purposes of mineral extraction is January 26, 1977.

(b) An operator of a claim in one of these units seeking to enlarge an existing excavation or otherwise disturb the surface for purposes of mineral exploration or development shall file with the Superintendent an application stating his need to disturb additional surface in order to maintain production at an annual rate not to exceed an average annual production level of said operations for the three calendar years 1973, 1974, and 1975. Accompanying the application shall be a plan of operations which complies with § 9.9 and verified copies of production records for the years 1973, 1974, and 1975.

(c) If the Regional Director finds that the submitted plan of operations complies with § 9.9, that enlargement of the existing excavation of an individual mining operation is necessary in order to make feasible continued production therefrom at an annual rate not to exceed the average annual production level of said operation for the three calendar years 1973, 1974, and 1975, and that the plan of operations meets the applicable standard of approval of § 9.10(a)(1), he shall issue a permit allowing the disturbance of the surface of the lands contiguous to the existing excavation to the minimum extent necessary to effect such enlargement. For the purpose of this section "lands contiguous to the existing excavation" shall include land which actually adjoins the existing excavation or which could logically become an extension of the excavation; for example, drilling to determine the extent and direction to which the existing excavation should be extended may be permitted at a site which does not actually adjoin the excavating.

(d) The appropriate reclamation standard to be applied will be determined by the nature of the claim. (See §§ 9.11(a)(1) and (a)(2).)

(e) Operations conducted under a permit pursuant to this section shall be

subject to all the limitations imposed by this part.

(f) For the purposes of this section, each separate mining excavation shall be treated as an individual mining operation.

§ 9.5 Recordation.

(a) Any unpatented mining claim in a unit in existence on September 28, 1976, which was not recorded on or before September 28, 1977, in accordance with the Notice of October 20, 1976 (41 FR 46357) or 36 CFR 9.5 as promulgated on January 26, 1977, is, pursuant to section 8 of the Act, conclusively presumed to be abandoned and shall be void.

(b) Any unpatented mining claim in a unit established after September 28, 1976, or in an area added to an existing unit after that date, shall be recorded with the Bureau of Land Management in accordance with the provisions of section 314 of the Federal Land Policy and Management Act (FLPMA), 90 Stat. 2769, 43 U.S.C. 1744, and regulations implementing it (43 CFR 3833.1).

(c) A claimant of an unpatented mining claim in any unit must file annually with the Bureau of Land Management a notice of intention to hold a claim or evidence of annual assessment work required by section 314 of FLPMA, as implemented by 43 CFR 3833.2. A copy of each such filing will be provided to the Superintendent of the appropriate unit by the Bureau of Land Management.

(d) The effect of failure to file the instruments required by paragraphs (b) and (c) of this section shall be controlled by 43 CFR 3833.4. Recordation or filing under this section shall not render any claim valid which would not otherwise be valid under applicable law and shall not give the claimant any rights to which he is not otherwise entitled by law.

(Act of September 28, 1976 (16 U.S.C. 1901 *et seq.*), Act of August 25, 1916 (16 U.S.C. 1 and 2-4) and 245 DM (42 FR 12931), as amended)

[44 FR 20427, Apr. 5, 1979]

§ 9.6 Transfers of interest.

(a) Whenever a claimant who has recorded his unpatented claim(s) with

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the Superintendent pursuant to the requirements of §9.5 sells, assigns, bequeaths, or otherwise conveys all or any part of his interest in his claim(s), the Superintendent shall be notified within 60 days after completion of the transfer of: The name of the claim(s) involved; the name and legal address of the person to whom an interest has been sold, assigned, bequeathed, or otherwise transferred; and a description of the interest conveyed or received. Copies of the transfer documents will be provided by the Superintendent to the Bureau of Land Management. Failure to so notify the Superintendent shall render any existing access permit void.

(b) If the transfer occurs within the period of 12 months from the effective date of the Act and the prior owner has not recorded the unpatented claim with the Superintendent in accordance with these regulations, the holder by transfer shall have the remainder of the 12-month period to record the unpatented claim. Failure to record shall be governed by the provisions of §9.5(c).

§9.7 Assessment work.

(a) An access permit and approved plan of operations must be obtained by a claimant prior to the performance of any assessment work required by Revised Statute 2324 (30 U.S.C. 28) on a claim in a unit.

(b) Permits will be issued in accordance with the following:

(1) In units subject to the surface disturbance moratorium of section 4 of the Act and §9.4, no access permits will be granted for the purpose of performing assessment work.

(2) It has been determined that in all other units the Secretary will not challenge the validity of any unpatented claim within a unit for the failure to do assessment work during or after the assessment year commencing September 1, 1976. The Secretary expressly reserves, however, the existing right to contest claims for failure to do such work in the past. No access permits will be granted solely for the purpose of performing assessment work in these units except where claimant establishes the legal necessity for such permit in order to perform work necessary to take the claim to patent, and has

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filed and had approved a plan of operations as provided by these regulations. (For exploratory or development type work, see §9.9.)

§9.8 Use of water.

(a) No operator may use for operations any water from a point of diversion which is within the boundaries of any unit unless authorized in writing by the Regional Director. The Regional Director shall not approve a plan of operations requiring the use of water from such source unless the right to the water has been perfected under applicable State law, has a priority date prior to the establishment of the unit and there has been a continued beneficial use of that water right.

(b) If an operator whose operations will require the use of water from a point of diversion within the boundaries of the unit can show that he has a perfected State water right junior to the reserved water right of the United States and can demonstrate that the exercise of that State water right will not diminish the Federal right, which is that amount of water necessary for the purposes for which the unit was established, he will be authorized to use water from that source for operations, if he has complied with all other provisions of these regulations.

§9.9 Plan of operations.

(a) No operations shall be conducted within any unit until a plan of operations has been submitted by the operator to the Superintendent and approved by the Regional Director. All operations within any unit shall be conducted in accordance with an approved plan of operations.

(b) The proposed plan of operations shall relate, as appropriate, to the proposed operations (e.g. exploratory, developmental or extraction work) and shall include but is not limited to:

(1) The names and legal addresses of the following persons: The operator, the claimant if he is not the operator, and any lessee, assignee, or designee thereof;

(2) A map or maps showing the proposed area of operations; existing roads or proposed routes to and from the area

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of operations; areas of proposed mining; location and description of surface facilities, including dumps;

(3) A description of the mode of transport and major equipment to be used in the operations;

(4) A description of the proposed operations and an estimated timetable for each phase of operations and the completion of operations;

(5) The nature and extent of the known deposit to be mined. When the claim is located in a National Monument in Alaska and is unpatented, a completed Supplemental Claim Information Statement shall be submitted describing the quantity, quality, and any previous production of the deposit;

(6) A mining reclamation plan demonstrating compliance with the requirements of § 9.11;

(7) All steps taken to comply with any applicable Federal, State, and local laws or regulations, including the applicable regulations in 36 CFR, chapter I;

(8) In units subject to the surface disturbance moratorium of section 4 of the Act and § 9.4, proof satisfactory to the Regional Director that the surface of the area on which the operation is to occur was significantly disturbed for purposes of mineral extraction prior to February 29, 1976, or if the area was not so disturbed, proof, including production records for the years 1973, 1974, and 1975, that new disturbance is necessary to maintain an average annual rate of production not to exceed that of the years 1973, 1974, and 1975;

(9) An environmental report analyzing the following:

(i) The environment to be affected by the operations,

(ii) The impacts of the operations on the unit's environment,

(iii) Steps to be taken to insure minimum surface disturbance,

(iv) Methods for disposal of all rubbish and other solid and liquid wastes,

(v) Alternative methods of extraction and the environmental effects of each,

(vi) The impacts of the steps to be taken to comply with the reclamation plan, and

(10) Any additional information that is required to enable the Regional Director to effectively analyze the effects that the operations will have on the

preservation, management and public use of the unit, and to make a decision regarding approval or disapproval of the plan of operations and issuance or denial of the access permit.

(c) In all cases the plan must consider and discuss the unit's Statement for Management and other planning documents, and activities to control, minimize or prevent damage to the recreational, biological, scientific, cultural, and scenic resources of the unit.

(d) Any person conducting operations on January 26, 1977, shall be required to submit a plan of operations to the Superintendent. If otherwise authorized, operations in progress on January 26, 1977, may continue for 120 days from that date without having an approved plan. After 120 days from January 26, 1977, no such operations shall be conducted without a plan approved by the Regional Director, unless access is extended under the existing permit by the Regional Director. (See § 9.10(g).)

[42 FR 4835, Jan. 26, 1977, as amended at 44 FR 11069, Feb. 27, 1979]

§ 9.10 Plan of operations approval.

(a) The Regional Director shall not approve a plan of operations:

(1) For existing or new operations if the claim was patented without surface use restriction, where the operations would constitute a nuisance in the vicinity of the operation, or would significantly injure or adversely affect federally owned lands; or

(2) For operations which had not significantly disturbed the surface of the claim for purposes of mineral extraction prior to January 26, 1977, if the claim has not been patented, or if the patent is subject to surface use restrictions, where the operations would preclude management for the purpose of preserving the pristine beauty of the unit for present and future generations, or would adversely affect or significantly injure the ecological or cultural resources of the unit. No new surface mining will be permitted under this paragraph except under this standard; or

(3) For operations which had significantly disturbed the surface of the claim for purposes of mineral extraction prior to January 26, 1977, if the claim has not been taken to patent, or

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the patent is subject to surface use restrictions, where the operations would constitute a nuisance in the vicinity of the operation, or would significantly injure or adversely affect federally owned lands. Provided, however, operations under this paragraph shall be limited by the provisions of §9.4, notwithstanding the limitation of that section's applicability to the three enumerated units;

(4) Where the claim, regardless of when it was located, has not been patented and the operations would result in the destruction of surface resources, such as trees, vegetation, soil, water resources, or loss of wildlife habitat, not required for development of the claim; or

(5) Where the operations would constitute a violation of the surface disturbance moratorium of section 4 of the Act; or

(6) Where the plan does not satisfy each of the requirements of §9.9.

(b) Within 60 days of the receipt of a proposed plan of operations, the Regional Director shall make an environmental analysis of such plan, and

(1) Notify the operator that he has approved or rejected the plan of operations; or

(2) Notify the operator of any changes in, or additions to the plan of operations which are necessary before such plan will be approved; or

(3) Notify the operator that the plan is being reviewed, but that more time, not to exceed an additional 30 days, is necessary to complete such review, and setting forth the reasons why additional time is required; *Provided, however*, That days during which the area of operations is inaccessible for such reasons as inclement weather, natural catastrophe, etc., for inspection shall not be included when computing either this time period, or that in paragraph (b) of this section; or

(4) Notify the operator that the plan cannot be considered for approval until forty-five (45) days after a final environmental impact statement, if required, has been prepared and filed with the Council on Environmental Quality.

(c) Failure of the Regional Director to act on a proposed plan of operations and related permits within the time pe-

riod specified shall constitute an approval of the plan and related permits for a period of three (3) years.

(d) The Regional Director's analysis may include:

(1) An examination of the environmental report filed by the operator;

(2) An evaluation of measures and timing required to comply with reclamation requirements;

(3) An evaluation of necessary conditions and amount of the bond or security deposit to cover estimated reclamation costs;

(4) An evaluation of the need for any additional requirements in access permit; and

(5) A determination regarding the impact of this operation and the cumulative impact of all operations on the management of the unit.

(e) Prior to approval of a plan of operations, the Regional Director shall determine whether any properties included in, or eligible for inclusion in, the National Register of Historic Places or National Registry of Natural Landmarks may be affected by the proposed activity. This determination will require the acquisition of adequate information, such as that resulting from field surveys, in order to properly determine the presence of and significance of cultural resources within the area to be affected by mining operations. Whenever National Register properties or properties eligible for inclusion in the National Register would be affected by mining operations, the Regional Director shall comply with section 106 of the National Historic Preservation Act of 1966 as implemented by 36 CFR part 800.

(1) The operator shall not injure, alter, destroy, or collect any site, structure, object, or other value of historical, archeological, or other cultural scientific importance. Failure to comply with this requirement shall constitute a violation of the Antiquities Act (16 U.S.C. 431-433) (see 43 CFR part 3).

(2) The operator shall immediately bring to the attention of the Superintendent any cultural and/or scientific resource that might be altered or destroyed by his operation and shall leave such discovery intact until told to proceed by the Superintendent. The

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Superintendent will evaluate the discoveries brought to his attention, and will determine within ten (10) working days what action will be taken with respect to such discoveries.

(3) The responsibility for, and cost of investigations and salvage of such values that are discovered during operations will be that of the operator, where the claim is unpatented.

(f) The operator shall protect all survey monuments, witness corners, reference monuments and bearing trees against destruction, obliteration, or damage from mining operations, and shall be responsible for the reestablishment, restoration, or referencing of any monuments, corners and bearing trees which are destroyed, obliterated, or damaged by such mining operations.

(g) Pending approval of the plan of operations, the Regional Director may approve, on a temporary basis, the continuation of existing operations if necessary to enable timely compliance with these regulations and with Federal, State, or local laws, or if a halt to existing operations would result in an unreasonable economic burden or injury to the operator. Such work must be conducted in accordance with all applicable laws, and in a manner prescribed by the Regional Director and designed to minimize or prevent significant environmental effects.

(h) Approval of each plan of operations is expressly conditioned upon the Superintendent having such reasonable access to the claim as is necessary to properly monitor and insure compliance with the plan of operations.

§9.11 Reclamation requirements.

(a) As contemporaneously as possible with the operations, but in no case later than six (6) months after completion of operations and within the time specified in an approved mining reclamation plan, unless a longer period is authorized in writing by the Regional Director, each operator shall initiate reclamation as follows:

(1) Where the claim was patented without surface use restriction, the operator shall at a minimum:

(i) Remove all above ground structures, equipment, and other manmade debris used for operations; and

(ii) Rehabilitate the area of operations to a condition which would not constitute a nuisance; or would not adversely affect, injure or damage, federally owned lands.

(2) On any claim which was patented with surface use restrictions or is unpatented, each operator must take steps to restore natural conditions and processes, which steps shall include, but are not limited to:

(i) Removing all above ground structures, equipment and other manmade debris;

(ii) Providing for the prevention of surface subsidence;

(iii) Replacing overburden and spoil, wherever economically and technologically practicable;

(iv) Grading to reasonably conform the contour of the area of operations to a contour similar to that which existed prior to the initiation of operations, where such grading will not jeopardize reclamation;

(v) Replacing the natural topsoil necessary for vegetative restoration; and

(vi) Reestablishing native vegetative communities.

(b) Reclamation under paragraph (a)(2) of this section is unacceptable unless it provides for the safe movement of native wildlife, the reestablishment of native vegetative communities, the normal flow of surface and reasonable flow of subsurface waters, the return of the area to a condition which does not jeopardize visitor safety or public use of the unit, and return of the area to a condition equivalent to its pristine beauty.

(c) Reclamation required by this section shall apply to operations authorized under this part, except that all terms relating to reclamation of previously issued special use permits revoked by this part for operations to be continued under an approved plan of operations shall be incorporated into the operator's reclamation plans.

§9.12 Supplementation or revision of plan of operations.

(a) An approved plan of operations may require reasonable revision or supplementation to adjust the plan to changed conditions or to correct oversights.

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(1) The Regional Director may initiate an alteration by notifying the operator in writing of the proposed alteration and the justification therefor. The operator shall have thirty (30) days to comment on the proposal.

(2) The operator may initiate an alteration by submitting to the Superintendent a written statement of the proposal, and the justification therefor.

(b) Any proposal initiated under paragraph (a) of this section by either party shall be reviewed and decided by the Regional Director in accordance with §9.10. Where the operator believes he has been aggrieved by a decision under this paragraph, he may appeal the decision pursuant to §9.14.

§9.13 Performance bond.

(a) Upon approval of a plan of operations the operator shall be required to file a suitable performance bond with satisfactory surety, payable to the Secretary or his designee. The bond shall be conditioned upon faithful compliance with applicable regulations, the terms and conditions of the permit, lease, or contract, and the plan of operations as approved, revised or supplemented.

(b) In lieu of a performance bond, an operator may elect to deposit with the Secretary, or his designee, cash or negotiable bonds of the U.S. Government. The cash deposit or the market value of such securities shall be at least equal to the required sum of the bond.

(c) The bond or security deposit shall be in an amount equal to the estimated cost of completion of reclamation requirements either in their entirety or in a phased schedule for their completion as set forth in the approved, supplemented or revised plan of operations.

(d) In the event that an approved plan of operations is revised or supplemented in accordance with §9.12, the Superintendent may adjust the amount of the bond or security deposit to conform to the plan of operations as modified.

(e) The operator's and his surety's responsibility and liability under the bond or security deposit shall continue until such time as the Superintendent determines that successful reclamation of the area of operations has occurred.

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(f) When all required reclamation requirements of an approved plan of operations are completed, the Superintendent shall notify the operator that performance under the bond or security deposit has been completed and that it is released.

§9.14 Appeals.

(a) Any operator aggrieved by a decision of the Regional Director in connection with the regulations in this part may file with the Regional Director a written statement setting forth in detail the respects in which the decision is contrary to, or in conflict with, the facts, the law, these regulations, or is otherwise in error. No such appeal will be considered unless it is filed with the Regional Director within thirty (30) days after the date of notification to the operator of the action or decision complained of. Upon receipt of such written statement from the aggrieved operator, the Regional Director shall promptly review the action or decision and either reverse his original decision or prepare his own statement, explaining that decision and the reasons therefor, and forward the statement and record on appeal to the Director, National Park Service, for review and decision. Copies of the Regional Director's statement shall be furnished to the aggrieved operator, who shall have 20 days within which to file exceptions to the Regional Director's decision. The Department has the discretion to initiate a hearing before the Office of Hearing and Appeals in a particular case. (See 43 CFR 4.700.)

(b) The official files of the National Park Service on the proposed plan of operations and any testimony and documents submitted by the parties on which the decision of the Regional Director was based shall constitute the record on appeal. The Regional Director shall maintain the record under separate cover and shall certify that it is the record on which his decision was based at the time it is forwarded to the Director of the National Park Service. The National Park Service shall make the record available to the operator upon request.

(c) If the Director considers the record inadequate to support the decision on appeal, he may provide for the

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production of such additional evidence or information as may be appropriate, or may remand the case to the Regional Director, with appropriate instructions for further action.

(d) On or before the expiration of forty-five (45) days after his receipt of the exceptions to the Regional Director's decision, the Director shall make his decision in writing; *Provided, however*, That if more than forty-five (45) days are required for a decision after the exceptions are received, the Director shall notify the parties to the appeal and specify the reason(s) for delay. The decision of the Director shall include (1) a statement of facts, (2) conclusions, and (3) reasons upon which the conclusions are based. The decision of the Director shall be the final administrative action of the agency on a proposed plan of operations.

(e) A decision of the Regional Director from which an appeal is taken shall not be automatically stayed by the filing of a statement of appeal. A request for a stay may accompany the statement of appeal or may be directed to the Director. The Director shall promptly rule on requests for stays. A decision of the Director on request for a stay shall constitute a final administrative decision.

§ 9.15 Use of roads by commercial vehicles.

(a) After January 26, 1977, no commercial vehicle shall use roads administered by the National Park Service without first being registered with the Superintendent.

(1) A fee shall be charged for such registration based upon a posted fee schedule, computed on a ton-mile basis. The fee schedule posted shall be subject to change upon 60 days notice.

(2) An adjustment of the fee may be made at the discretion of the Superintendent where a cooperative maintenance agreement is entered into with the operator.

(b) No commercial vehicle which exceeds roadway load limits specified by the Superintendent shall be used on roads administered by the National Park Service unless authorized by written permit from the Superintendent.

(c) Should a commercial vehicle used in operations cause damage to roads or other facilities of the National Park Service, the operator shall be liable for all damages so caused.

§ 9.16 Penalties.

Undertaking any operation within the boundaries of any unit in violation of this part shall be deemed a trespass against the United States, and the penalty provisions of 36 CFR part 1 are inapplicable to this part.

§ 9.17 Public inspection of documents.

(a) Upon receipt of the plan of operations the Superintendent shall publish a notice in the FEDERAL REGISTER advising the availability of the plan for public review.

(b) Any document required to be submitted pursuant to the regulations in this part shall be made available for public inspection at the Office of Superintendent during normal business hours. The availability of such records for inspection shall be governed by the rules and regulations found at 43 CFR part 2.

§ 9.18 Surface use and patent restrictions.

(a) The regulations in 43 CFR 3826.2-5 and 3826.2-6, 3826.4-1(g) and 3826.4-1(h), and 3826.5-3 and 3826.5-4 will apply to any claimant who wishes to take his claim to patent in Olympic National Park, Glacier Bay National Monument or Organ Pipe Cactus National Monument.

(b) The additional provisions of 43 CFR subpart 3826 and 36 CFR 7.26 and 7.45(a) will continue to apply to existing permits until 120 days after January 26, 1977, unless extended by the Regional Director. (See § 9.10(g).

[42 FR 4835, Jan. 26, 1977, as amended at 48 FR 30296, June 30, 1983]

Subpart B—Non-Federal Oil and Gas Rights

AUTHORITY: 16 U.S.C. 230a(a)(4), 459d-3, 460cc-2(i), 460ee(c)(4), 698c(b)(2), 698i(b)(2), and 698m-4; 18 U.S.C. 3571 and 3581; 31 U.S.C. 9701; 54 U.S.C. 100101, 100751, and 103104.

SOURCE: 81 FR 77992, Nov. 4, 2016, unless otherwise noted.

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PURPOSE AND SCOPE

§ 9.30 What is the purpose and scope of this subpart?

(a) The purpose of this subpart is to ensure that operators exercising non-federal oil and gas rights within a System unit outside of Alaska use technologically feasible, least damaging methods to:

(1) Protect federally owned or administered lands, waters, or resources of System units;

(2) Protect NPS visitor uses or experiences, or visitor or employee health and safety; and

(3) Protect park resources and values under the statute commonly known as the NPS Organic Act;

(b) This subpart applies to all operators conducting non-federal oil or gas operations on lands or waters within System units outside of Alaska, regardless of the ownership or legislative jurisdiction status of those lands or waters.

(c) We do not intend for this subpart to result in a taking of a property interest. Application of this subpart is intended to reasonably regulate operations within System units that may affect federally owned or administered lands, waters, and resources, visitor uses and experiences, and visitor and employee health and safety.

§9.31 When does this subpart apply to me?

(a) This subpart applies to you if you are an operator who conducts or proposes to conduct non-federal oil or gas operations outside of Alaska.

(b) If you were operating outside of a System unit and your operation has been included within an existing System unit as a result of a change to the boundary, or included within a newly established System unit, you are subject to §§9.50 through 9.53.

(c) If you were operating under an exemption because your operation accessed oil and gas rights inside the System unit boundary from a surface location outside the boundary, and your surface location has been included within an existing System unit as a result of a change to the boundary, or included within a newly established Sys-

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tem unit, you are subject to §§9.50 through 9.53.

§ 9.32 What authorization do I need to conduct operations?

(a) Except as provided in §§9.70 through 9.73, you must obtain a temporary access permit under §§9.60 through 9.63 or an operations permit under §§9.80 through 9.90 before conducting operations.

(b) You must demonstrate that you have the right to operate in order to conduct activities within a System unit.

§ 9.33 If I am already operating under an NPS authorization, what do I need to do?

(a) If you already have an NPS-approved plan of operations, you may continue to operate according to the terms and conditions of that approval, subject to the provisions of this subpart. For purposes of this subpart, we consider your approved plan of operations to be either a temporary access permit or operations permit.

(b) This section applies to you if we have granted you an exemption to the plan of operations requirement because your operation accesses oil and gas rights inside a System unit boundary from a surface location outside the boundary. You may continue to operate under the exemption provided that your operations comply with the general terms and conditions of §§9.120 through 9.122. You are also subject to the prohibitions and penalties in §§9.180 through 9.182.

DEFINITIONS

§9.40 What do the terms used in this subpart mean?

In addition to the definitions in 36 CFR 1.4, the following definitions apply to this subpart:

Area of operations means lands or waters within a System unit on which your operations are approved to be carried out, including roads or other areas where you are authorized to exercise the oil and gas rights.

Contaminating substance means any toxic or hazardous substance which is used in or results from the conduct of operations and is listed under the Clean Water Act at 40 CFR part 116, the

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Resource Conservation and Recovery Act at 40 CFR part 261, or the Hazardous Materials Transportation Act at 49 CFR part 172. This includes, but is not limited to, explosives, radioactive materials, brine waters, formation waters, petroleum products, petroleum by-products, and chemical compounds used for drilling, production, processing, well testing, well completion, and well servicing.

Gas means any fluid, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at ordinary temperature and pressure conditions.

Oil means any viscous combustible liquid hydrocarbon or solid hydrocarbon substance easily liquefiable on warming that occurs naturally in the earth, including drip gasoline or other natural condensates recovered from gas without resort to manufacturing process.

Operations means all existing and proposed functions, work, and activities in connection with the exercise of oil or gas rights not owned by the United States and located or occurring within a System unit outside of Alaska.

(1) Operations include, but are not limited to: Access by any means to or from an area of operations; construction; geological and geophysical exploration; drilling, well servicing, workover, or recompletion; production; gathering (including installation and maintenance of flowlines and gathering lines); storage, transport, or processing of petroleum products; earth moving; excavation; hauling; disposal; surveillance, inspection, monitoring, or maintenance of wells, facilities, and equipment; reclamation; road and pad building or improvement; shot hole and well plugging and abandonment, and reclamation; and all other activities incident to any of the foregoing.

(2) Operations do not include reconnaissance surveys as defined in this subpart or oil and gas pipelines that are located within the System unit under authority of a deeded or other right-of-way.

Operations permit means an NPS special use permit authorizing an operator

to conduct operations in a System unit.

Operator means any person or entity, agent, assignee, designee, lessee, or representative thereof who is conducting operations or proposing to exercise non-federal oil and gas rights within the boundaries of a System unit outside of Alaska.

Owner means the person that holds title to non-federal oil or gas rights.

Previously exempt operations means those operations being conducted in a System unit without an approved permit from the NPS as of December 5, 2016, except operations for which the NPS had granted the operator an exemption to the plan of operations requirement before such date, because the operator accessed oil and gas rights inside the System unit from a surface location outside the System unit.

Reconnaissance survey means an inspection or survey conducted by qualified specialists for the purpose of preparing a permit application.

(1) A reconnaissance survey includes identification of the area of operations and collection of natural and cultural resource information within and adjacent to the proposed area of operations.

(2) Except for the minimal surface disturbance necessary to perform cultural resource surveys, natural resource surveys, and location surveys required under this subpart, surface disturbance activities are beyond the scope of a reconnaissance survey.

Right to operate means a deed, lease, memorandum of lease, designation of operator, assignment of right, or other documentation demonstrating that you hold a legal right to conduct the operations you are proposing within a System unit.

Technologically feasible, least damaging methods are those that we determine to be most protective of park resources and values while ensuring human health and safety, taking into consideration all relevant factors, including environmental, economic, and technological factors and the requirements of applicable law.

Temporary access permit means an NPS special use permit authorizing an operator to access the proposed area of operations to conduct reconnaissance

surveys necessary to collect basic information necessary to prepare an operations permit application.

Third-party monitor means a qualified specialist who is not an employee, agent, or representative of the operator and who has the relevant expertise to monitor operations for compliance with applicable laws, regulations, and permit requirements.

Usable water means an aquifer or its portion that:

- (1)(i) Supplies any public water system; or
- (ii) Contains a sufficient quantity of ground water to supply a public water system and either:
 - (A) Currently supplies drinking water for human consumption; or
 - (B) Contains fewer than 10,000 mg/l total dissolved solids; and
- (2) Is not an exempted aquifer under state law.

Waste means any material that is discarded. It includes, but is not limited to: drilling fluids and cuttings; produced fluids not under regulation as a contaminating substance; human waste; garbage; fuel drums; pipes; oil; contaminated soil; synthetic materials; man-made structures or equipment; or native and nonnative materials.

We and *us* mean the National Park Service.

You and *I* mean the operator, unless otherwise specified or indicated by the context.

PREVIOUSLY EXEMPT OPERATIONS

§9.50 Do I need an operations permit for my previously exempt operations?

Yes. You must obtain an NPS operations permit.

§9.51 How do I apply for my operations permit?

Within 90 days after December 5, 2016 or within 90 days after the effective date of a boundary change, or establishment of a new System unit, as applicable, you must submit the following to the Superintendent of the System unit in which you propose to continue to conduct operations:

- (a) The names and contact information of the operator, the owner, and the individuals responsible for overall

management, field supervision, and emergency response of the proposed operations;

- (b) Documentation demonstrating that you hold a right, and the extent of such right, to operate within the System unit;

- (c) A brief description of the current operations and any anticipated changes to the current operations;

- (d) The American Petroleum Institute (API) well number or State well-identification permit number;

- (e) Maps to scale that clearly delineate your current area of operations as of December 5, 2016 or the effective date of a boundary change, or establishment of a new System unit, as applicable, and that identify the area of surface disturbance and equipment layout within your proposed area of operations;

- (f) The results of any reconnaissance surveys you have conducted to be used by the Superintendent to identify resource protection measures in your operations permit.

- (g) A spill control and emergency preparedness plan as required by §9.86;

- (h) Documentation of the current operating methods, surface equipment, downhole well construction and completion, materials produced or used, and monitoring methods;

- (i) A description of how your proposed operation will meet each applicable operating standard at §§9.110 through 9.116 and 9.118; and

- (j) A description of the procedures to be used and cost estimates for well plugging and surface reclamation.

§9.52 What will the NPS do with my application?

The NPS will review your application and take action under §§9.100 through 9.104.

§9.53 May I continue to operate while the NPS reviews my application?

During this interim period, you may continue to conduct operations subject to the following conditions:

- (a) Continuation of operations is limited to those methods and the area of disturbance that existed on December 5, 2016 or the effective date of a boundary change, or establishment of a new System unit, as applicable.

(b) Your operation is subject to the general terms and conditions in §§ 9.120 through 9.122 and the prohibitions and penalties in §§ 9.180 through 9.182.

(c) Except in an emergency, we will not take any steps to directly regulate your operation before 90 days after December 5, 2016 or 90 days after the effective date of a boundary change, or establishment of a new System unit, as applicable.

TEMPORARY ACCESS PERMITS

§ 9.60 When do I need a temporary access permit?

(a) You must apply to the Regional Director for a temporary access permit to access your proposed area of operations that is on NPS administered lands or waters in order to conduct reconnaissance surveys. This permit will describe the means, routes, timing, and other terms and conditions of your access as determined by the Regional Director.

(b) A temporary access permit is subject to cost recovery under 54 U.S.C. 103104.

§ 9.61 How do I apply for a temporary access permit?

To apply for a temporary access permit, you must submit the following information to the Superintendent of the System unit in which you propose to conduct operations:

(a) Documentation demonstrating that you hold a right, and the extent of such right, to operate within the System unit;

(b) A map delineating the proposed reconnaissance survey areas in relation to the System unit boundary and the proposed area of operations at a minimum scale of 1:24,000, or a scale specified by the Superintendent as acceptable;

(c) A brief description of the intended operation so that we can determine the scope of the reconnaissance surveys needed;

(d) The name and contact information of the operator, employee, agent, or contractor responsible for overall management of the proposed reconnaissance surveys;

(e) The name, legal address, telephone number, and qualifications of all

specialists responsible for conducting the reconnaissance surveys;

(f) A description of proposed means of access and routes proposed for conducting the reconnaissance surveys; and

(g) A description of the survey methods you intend to use to identify the natural and cultural resources.

§ 9.62 When will the NPS grant a temporary access permit?

If the Regional Director determines that your proposed reconnaissance surveys will not result in surface disturbance, except for minimal disturbance necessary to perform required surveys, the Regional Director will issue you a temporary access permit within 30 days after receipt of a complete application, unless the Regional Director notifies you that additional time is necessary to evaluate or process your application.

§ 9.63 How long will I have to conduct my reconnaissance surveys?

The duration of your temporary access permit will be stated in the permit, based upon the scope of the reconnaissance surveys needed. The Regional Director may, upon written request, extend the term of the temporary access permit.

ACCESSING OIL AND GAS RIGHTS FROM A SURFACE LOCATION OUTSIDE THE SYSTEM UNIT BOUNDARY

§ 9.70 Do I need an operations permit for accessing oil and gas rights from outside the System unit boundary?

Your downhole operations inside a System unit are subject to these regulations. If you wish to access your oil and gas rights located inside a System unit from a surface location outside the unit, you must submit the information required by § 9.71. We will evaluate this information and may request that you apply for an operations permit. We will require an operations permit for such operations only if we determine that downhole permit requirements are needed to protect against a significant threat of damage to:

(a) Federally owned or administered lands, waters, or resources within System units;

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(b) NPS visitor uses or experiences;
or

(c) Visitor or employee health or safety.

§9.71 What information must I submit to the NPS?

You must provide the information required by this section to the Superintendent of the System unit. You must provide all of the following.

(a) The names and contact information of:

(1) The operator;

(2) The owner; and

(3) The individuals responsible for overall management, field supervision, and emergency response of the proposed operations.

(b) Documentation demonstrating that you hold a right, and the extent of such right, to operate within the System unit.

(c) Maps and plats to scale showing the boundaries of each of the oil or gas rights that are relevant to your proposed operations within the System unit boundary.

(d) Maps and plats to scale showing all proposed surface uses (well site, access route, flowlines, production facilities) that occur outside the System unit.

(e) Information regarding downhole operations and conditions, including:

(1) Description, including depths, thicknesses, and properties of geologic horizons between the target zone and the base of the deepest aquifer;

(2) Drilling plan, including directional-drilling program, horizontal distance along the wellbore's path from well's surface location to the System unit boundary, depth at which wellbore crosses the boundary, and timeline for operations;

(3) Casing, cementing, and mud programs;

(4) Stimulation programs; and

(5) Well plugging and abandonment program.

(f) If you propose hydraulic fracturing, then you must also provide the information required by §9.89.

§9.72 How will the NPS act on my submission?

(a) Within 30 days after receiving your submission under §9.71, the Super-

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intendent will notify you in writing that your information is complete, you need to submit more information, or we need more time to review your submission.

(b) After NPS receives your complete submission, and completes compliance with applicable federal laws, including the National Environmental Policy Act, the Superintendent will notify you in writing within 30 days that either:

(1) No further action is required by the NPS and you are exempt from the operations permit requirement; or

(2) You must obtain an operations permit.

(c) If you need an operations permit, the information provided under §9.71 is your permit application and the NPS will review your application under §§9.100 through 9.104.

§9.73 If I don't need an operations permit, are there still requirements that I must meet?

If the NPS notifies you under §9.72 that you do not need an operations permit, your operations are still subject to the general terms and conditions in §§9.120 through 9.122, the prohibitions and penalties in §§9.180 through 9.182, and the requirements in this section.

(a) You must notify the NPS within 30 days if the methods or the environmental conditions of your downhole operations materially change.

(b) The Regional Director may notify you in writing that you are no longer exempt from the operations permit requirement after determining that downhole operational requirements are needed to protect against a significant threat of damage to any of the following:

(1) Federally owned or administered lands, waters, or resources of System units;

(2) NPS visitor uses or experiences; or

(3) Visitor or employee health or safety.

(c) Within 30 days after receiving this notification, you must file your operations permit application with the Superintendent.

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clearly identify the information required by §§ 9.82 through 9.90.

§ 9.80 Who must apply for an operations permit?

(a) Except as otherwise provided in §§ 9.70 through 9.73, an operator proposing to conduct operations within the boundary of a System unit must submit an application for an operations permit to the Superintendent.

(b) An operations permit is subject to cost recovery under 54 U.S.C. 103104.

§ 9.81 May I use previously submitted information?

(a) In satisfying the requirements of §§ 9.82 through 9.90, you do not need to resubmit information that is already on file with the NPS. Instead, you may reference the previously submitted information in your permit application.

(b) You may submit documents and materials containing the information required by §§ 9.82 through 9.90 that you submit to other Federal and State agencies. If you do this, you must

§ 9.82 What must I include in my application?

(a) Your application for an operations permit must include all of the information required by § 9.83 and, to the extent applicable, the information required by §§ 9.87 through 9.90, as well as any additional information that the Superintendent may require by written request.

(b) You may provide information for only the phase of operations you propose. Each permit application is only required to describe those activities for which you request approval. Approval of an operations permit covering one phase of operations does not assure future approval of, or the terms of future approval for, an operations permit covering a subsequent phase.

§ 9.83 What information must be included in all applications?

All applications must include the information required by this section.

All operations permit applications must include information on . . .	and must include the following detailed information . . .
(a) Ownership	documentation demonstrating that you hold a right, and the extent of such right, to operate within the System unit.
(b) The owner/operator	names, addresses, and other contact information for: (1) The operator; (2) The owner; (3) Any agents, assignees, designees, contractors, or other representatives of the operator including those responsible for overall management, field supervision, and emergency response of the proposed operations.
(c) Existing conditions and proposed area of operations.	all the information required by § 9.84.
(d) Reclamation plan	(1) A description of the equipment and methods used to meet the operating standards for reclamation at § 9.116; and (2) A breakdown of the estimated costs that a third party would charge to complete reclamation as proposed in your reclamation plan.
(e) Use of water	(1) The source (including documentation verifying a water right), quantity, access route, and transportation/conveyance method for all water to be used in access road and pad construction, well drilling, stimulation, and production; and (2) Estimations of any anticipated waste water volumes generated and how they will be managed (i.e. handled, temporary stored, disposed, recycled, reused) throughout stages of the operation.
(f) Environmental conditions and mitigation actions.	all the information required by § 9.85.
(g) The spill control and emergency preparedness plan.	all the information required by § 9.86.

§ 9.84 Existing conditions and proposed area of operations.

(a) You must submit to-scale maps that clearly depict:

(1) The boundaries of your oil or gas rights in relation to your proposed op-

erations and the relevant System unit boundary;

(2) The natural features, including, but not limited, to streams, lakes, ponds, wetlands, seepage areas, springs,

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shallow water aquifers, topographic relief, and areas we have indicated to you as environmentally sensitive;

(3) The locations of existing roads, trails, railroad tracks, pads, and other disturbed areas; and

(4) The locations of existing structures that your operations could affect, including but not limited to: Buildings, pipelines, existing or permitted oil or gas wells, freshwater wells, underground and overhead electrical lines, and other utility lines.

(b) You must submit the following information about geologic conditions in their natural state and under the proposed operating conditions:

(1) Estimated depths and names of known zones of usable water, brine, hydrocarbon, geothermal, or other mineral-bearing zones based on the best available information;

(2) Potential hazards to persons and the environment such as known abnormal pressure zones, lost circulation zones, hydrogen sulfide gas, or karst formations; and

(3) Nature, extent, and depth (if known) of near-surface bedrock fracturing or jointing relative to proposed cemented surface casing-seat depth and any open annular interval proposed in the well design.

(c) You must submit the following information for any new surface disturbances or construction:

(1) Maps depicting the proposed area of operations, boundaries of new surface disturbances and proposed access routes;

(2) Maps depicting the proposed location of all support facilities, including those for transportation (*e.g.*, vehicle parking areas, airstrips, helicopter pads), sanitation, occupation, staging areas, fuel dumps, refueling areas, loading docks, water supplies, and disposal facilities;

(3) The methods and diagrams, including cross-sections, of any proposed pad construction, road construction, cut-and-fill areas, and surface maintenance, including erosion control;

(4) The number and types of equipment and vehicles, including an estimate of vehicular trips, associated with each phase of your operation;

(5) An estimated time to complete each phase of the proposed operations,

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including any operational timing constraints;

(6) The type and extent of security measures proposed within your area of operations;

(7) The power sources and their transmission systems for the proposed operations; and

(8) The types and quantities of all solid and liquid waste generation and the proposed methods of storage, handling, and off-site disposal.

§9.85 Environmental conditions and mitigation actions.

You must submit the following information about environmental conditions and mitigation actions:

(a) Description of the natural and cultural resource conditions from your reconnaissance surveys or other sources collected for your proposed area of operations. The Superintendent may require, on a case by case basis, baseline field testing of soils and field or laboratory testing of surface, or near-surface, waters within your area of operations, as well as any groundwater resources that may reasonably be impacted by your surface operations;

(b) Description of the steps you propose to take to mitigate any adverse environmental impacts on park resources and values, including but not limited to, the System unit's land features, land uses, fish and wildlife, vegetation, soils, surface and subsurface water resources, air quality, noise, lightscares, viewsheds, cultural resources, and economic environment; and

(c) Discussion of:

(1) Any anticipated impacts that you cannot mitigate; and

(2) All alternative technologically feasible, least damaging methods of operations, their costs, and their environmental effects.

§9.86 Spill control and emergency preparedness plan.

You must submit the following information about your spill control and emergency preparedness plan. You may use a spill prevention control and countermeasure (SPCC) plan prepared under 40 CFR part 112 if the plan includes all

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of the information required by this section. You must submit:

(a) A list of names, addresses, and telephone numbers of persons that the Superintendent can contact in the event of a spill, fire, or accident, including the order in which the persons should be contacted;

(b) Your reporting procedures in the event of a spill, fire, or accident;

(c) Identification of contaminating or toxic substances expected to be used within your area of operations;

(d) Identification of abnormal pressure, temperature, toxic gases or substances, or other hazardous conditions expected to be encountered during operations;

(e) Measures (*e.g.*, procedures, facility design, equipment) to minimize risks to human health and safety and the environment;

(f) Steps to prevent conditions creating fire hazards in the vicinity of well locations and lease tanks;

(g) List of equipment and methods for containment and cleanup of contaminating substances, including a list of the equipment to be maintained on site as well as a list of equipment to be available from local contractors;

(h) A storm water drainage plan and actions intended to mitigate storm water runoff;

(i) Safety data sheets for each material expected to be used or encountered during operations, including quantities expected to be maintained at your area of operations;

(j) A description of the emergency actions you will take in the event of accidents causing human injury; and

(k) Contingency plans for relevant conditions and emergencies other than spills, based on the particular geographic area, such as hurricanes, flooding, tornadoes, or earthquakes.

§ 9.87 What additional information must be included if I am proposing geophysical exploration?

If you propose to conduct geophysical exploration, you must submit the following additional information:

(a) The number of crews and expected numbers of workers in each crew;

(b) Names and depths of geologic zones targeted for imaging;

(c) A description of the acquisition methods, including the procedures, specific equipment you will use, and energy sources (*e.g.*, explosives or vibroseis trucks);

(d) The methods of access along each survey line for personnel, materials, and equipment;

(e) A list of all explosives, blasting equipment, chemicals, and fuels you will use in the proposed operations, including a description of proposed disposal methods, transportation methods, safety measures, and storage facilities; and

(f) A map showing the positions of each survey line including all source and receiver locations as determined by a locational survey, and including shotpoint offset distances from wells, buildings, other infrastructure, and areas the NPS has indicated to you as environmentally sensitive areas.

§ 9.88 What additional information must be included if I am proposing drilling operations?

If you are proposing to drill a well, you must submit the following additional information:

(a) Well-pad construction plans, including dimensions and cross sections of: cut and fill areas and excavations for ditches, sumps, and spill control equipment or structures, including lined areas;

(b) Drill-rig and equipment layout plans, including rig components, fuel tanks, testing equipment, support facilities, storage areas, and all other well-site equipment and facilities;

(c) The drilling program, including hole size for each section and the directional program, if applicable;

(d) Proposed drilling depth and the estimated depths and names of usable water, brine, hydrocarbon, geothermal, or other mineral-bearing zones;

(e) The type and characteristics of the proposed mud systems;

(f) The casing program, including the size, grade, weight, and setting depth of each string;

(g) The cementing program, including downhole location of any stage equipment, cement types, volumes, and additives to be used, and a description of pressure tests and cement verification techniques used that will

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be run to evaluate cement placement and integrity;

(h) The minimum specifications for pressure control equipment function, and pressure testing frequency, and the blowout preventer stack arrangement;

(i) The proposed logging, coring, and testing programs;

(j) The completion program, including completion type (open-hole, perforated, slotted liner, etc.), any proposed stimulation techniques, and procedures, including considerations for well control; and

(k) A description of the equipment, materials, and procedures for well plugging, including plug depths, plug types, and minimum mud weight.

§9.89 What additional information must be included if I am proposing well stimulation operations, including hydraulic fracturing?

If you are proposing well stimulation operations, including hydraulic fracturing, you must submit the following additional information:

(a) The geologic names, a geologic description, and the estimated depths (measured and true vertical) to the top and bottom of the target formation(s). The estimated minimum vertical distance between the top of the completion zone and the nearest usable water zone, and the measured depth of the proposed perforated or open-hole interval.

(b) The estimated depths (measured and true vertical) to the top and bottom of the confining zone(s). Include a map showing the location, orientation, and extent of any known or suspected faults or fractures within one-half mile (horizontal distance) of the wellbore trajectory that may transect the confining zone(s).

(c) A map showing all existing wellbore trajectories, regardless of type, within one-half mile (horizontal distance) of any portion of the wellbore into which hydraulic fracturing fluids are to be injected. The true vertical depth of each wellbore identified on the map must be indicated.

(d) Steps to be taken before well completions to verify mechanical integrity of all downhole tubulars and tools and cement quality, including pressure tests, monitoring of cement

returns to surface, and cement evaluation logs (or other logs acceptable to the Superintendent) demonstrating that the occurrences of usable water zones have been isolated to protect them from contamination.

(e) A detailed description of the proposed well-stimulation design, including:

(1) The total proposed volume of stimulation fluid to be used; total proposed base fluid volume, description of proposed base fluid, and each additive in the proposed stimulation fluid, including the trade name, supplier, purpose, ingredients; Chemical Abstract Service Number (CAS); maximum ingredient concentration in additive (percent by mass); and maximum ingredient concentration in hydraulic fracturing fluid (percent by mass);

(2) Proposed proppant system if applicable;

(3) The anticipated surface treating pressure range;

(4) The maximum anticipated surface pressure that will be applied during the hydraulic fracturing process;

(5) The trajectory of the wellbore into which hydraulic fracturing fluids are to be injected and the estimated direction and length of the fractures that will be propagated and a notation indicating the true vertical depth of the top and bottom of the fractures; and

(6) Any microseismic monitoring planned or proposed in conjunction with well stimulation.

(f) The source and location of water supply, such as reused or recycled water, rivers, creeks, springs, lakes, ponds, and water supply wells, and the source and location of water supply, such as reused or recycled water, rivers, creeks, springs, lakes, ponds, and water supply wells.

(g) The storage, mixing, pumping, and control equipment needed to perform the stimulation.

(h) The following information concerning the handling of recovered fluids:

(1) The estimated volume of stimulation fluids to be recovered during flow back;

(2) The proposed methods of handling the recovered fluids including any on-site treatment for re-use of fluids in other stimulation activities; and

(3) The proposed disposal method of the recovered fluids, including, but not limited to, injection, hauling by truck, or transporting by pipeline.

§9.90 What additional information must be included if I am proposing production operations?

If you are proposing production operations, you must submit the following information:

(a) The dimensions with a to-scale layout of the wellpad, clearly identifying well locations, noting partial reclamation areas; gathering, separation, metering, and storage equipment; electrical lines; fences; spill control equipment or structures including lined areas, artificial lift equipment, tank batteries, treating and separating vessels, secondary or enhanced recovery facilities, water disposal facilities, gas compression and/or injection facilities; metering points; sales point (if on lease); tanker pick-up points; gas compressor, including size and type (if applicable); and any other well site equipment;

(b) The size, grade, weight, and setting depth of all casing and tubing strings; cementing history; type and size of packers and subsurface flow control devices; top and bottom depths of each completed interval; and method of completion;

(c) The well history, including completions, stimulations, servicing, and workovers;

(d) The minimum specifications for pressure-control equipment, function, and pressure-testing frequency;

(e) The methods and means to be used to transport produced oil and gas, including vehicular transport; flowline and gathering line construction; operation; pipe size; operating pressure; cathodic protection methods; surface equipment use; surface equipment location; maintenance procedures; maintenance schedules; pressure detection methods; and shutdown procedures;

(f) Road and wellpad maintenance plan, including equipment and materials to maintain the road surface and control erosion;

(g) Vegetation management plan on well sites, roads, pipeline corridors, and other disturbed surface areas, including control of exotic species;

(h) Storm water management plan on the well site;

(i) Produced water storage and disposal plan; and

(j) The procedures for well plugging, the depths and the types of plugs, and minimum mud weight.

OPERATIONS PERMIT: APPLICATION REVIEW PROCESS

§9.100 How will NPS process my application?

If you propose operations in System units, other than Big Cypress National Preserve, we will process your application in accordance with §§9.101 through 9.104. If you propose operations in Big Cypress National Preserve, we will process your application in accordance with §§9.103 and 9.105.

§9.101 How will the NPS conduct initial review?

(a) Within 30 days after receipt of your application, the Superintendent will notify you in writing that either:

(1) Your application is complete and the NPS will begin formal review;

(2) Your permit application does not meet the information requirements and additional information is required before the NPS will conduct formal review of your permit application; or

(3) More time is necessary to complete the review, in which case the NPS will provide you an estimate of the amount of additional time reasonably needed and an explanation for the delay.

(b) If you resubmit information requested by the NPS under this section and the Superintendent determines that you have met all applicable information requirements, the Superintendent will notify you within 30 days after receipt of the additional information that either:

(1) Your application is complete and the NPS will begin formal review; or

(2) More time is necessary to complete the review, in which case the NPS will provide you an estimate of the amount of additional time reasonably needed and an explanation for the delay.

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§9.102 How will the NPS conduct formal review?

(a) The Superintendent will evaluate the potential impacts of your proposal on federally owned or administered lands, waters, or resources within System units, visitor uses and experiences, and visitor and employee health and safety. As part of this evaluation process, the NPS will comply with all applicable federal laws, including the National Environmental Policy Act. The Superintendent will then make a recommendation to the Regional Director regarding final action on your operations permit.

(b) As part of the evaluation process, the Superintendent may consult with other Federal, State, and local agencies.

§9.103 What standards must be met to approve my operations permit?

(a) The Regional Director will approve your operations permit if the NPS has determined that your operations:

(1) Will not violate the laws governing administration of units of the National Park System; and

(2) Will meet all applicable operating standards.

(b) Before approval of your operations permit, you must submit to the Superintendent:

(1) Financial assurance in the amount specified by the Regional Director and in accordance with the requirements of §§9.140 through 9.144;

(2) Proof of liability insurance with limits sufficient to cover injuries to persons or property caused by your operations; and

(3) An affidavit stating that the operations planned are in compliance with all applicable Federal, State, and local laws and regulations.

§9.104 What final actions may the Regional Director take on my operations permit?

(a) The Regional Director will take final action within 30 days of completing all required legal compliance, including compliance with the National Environmental Policy Act, unless:

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(1) We and you agree that such final action will occur within a shorter or longer period of time; or

(2) We determine that an additional period of time is required to ensure that we have, in reviewing the permit application, complied with all applicable legal requirements.

(b) The Regional Director will notify you in writing that your operations permit is:

(1) Approved with the operating conditions contained therein; or

(2) Denied, and provide you justification for the denial. Any such denial must be consistent with §9.30(c).

§9.105 What is the approval process for operations in Big Cypress National Preserve?

(a) Within 30 days after the date of submission of your application, we will notify you whether the application contains all information reasonably necessary to allow us to consider the application and, if not, will request that you provide additional information. After receiving this notification, you must either supply any reasonably necessary additional information or must notify us that you believe that the application contains all reasonably necessary information and is therefore complete; whereupon we may:

(1) Within 30 days after receipt of the notice from the applicant, determine that the application does not contain all reasonably necessary additional information and, on that basis, deny the application; or

(2) Review the application and take final action within 60 days after the date that you provided notification to the NPS that your application is complete.

(b) The Regional Director will take final action within 90 days after the date you submitted your application unless:

(1) We and you agree that final action can occur within a shorter or longer period of time; or

(2) We determine that an additional period of time is required to ensure that we have, in reviewing the permit application, complied with other applicable laws, executive orders, and regulations.

OPERATING STANDARDS

§9.110 What are the purposes and functions of NPS operating standards?

(a) You must comply with all operating standards in §§9.111 through 9.116, as well as with the standards in §§9.117 and 9.118, if applicable. The standards apply only to operations that occur within a System unit, including downhole activities, and do not apply to surface activities located outside a System unit. These operating standards are incorporated into the terms and conditions of your operations permit. Violation of these operating standards will subject you to the prohibitions and penalties provisions of §§9.180 through 9.182.

(b) NPS operating standards are applied to ensure protection of federally owned or administered lands, waters, and resources of System units, visitor uses and experiences, and visitor and employee health and safety. The operating standards give us and the operator flexibility to consider using alternative methods, equipment, materials design, and conduct of operations.

(c) In applying standards to a particular operation, you must use technologically feasible, least damaging methods to protect federally owned or administered lands, waters, and resources of System units, visitor uses and experiences, and visitor and employee health and safety.

§9.111 What general facility design and management standards must I meet?

(a) You must not conduct operations within 500 feet of surface water, including an intermittent or ephemeral watercourse, or wetland; within 500 feet of the mean high tide line; or within 500 feet of any structure or facility used by the NPS for interpretation, public recreation, or administration. The Superintendent may increase or decrease this distance consistent with the need to protect federally owned or administered lands, water, or resources of System units, visitor uses or experiences, or visitor or employee health and safety while ensuring that you have reasonable access to your non-Federal oil

and gas rights. Measurements for purposes are by horizontal distance.

(b) You must design, construct, operate, and maintain access to your operational site to cause the minimum amount of surface disturbance needed to safely conduct operations and to avoid areas the NPS has indicated to you as sensitive resources.

(c) You must install and maintain secondary containment materials and structures for all equipment and facilities using or storing contaminating substances. The containment system must be sufficiently impervious to prevent discharge and must have sufficient storage capacity to contain, at a minimum, the largest potential spill incident.

(d) You must keep temporarily stored waste in the smallest feasible area, and confine in a manner appropriate to prevent escape as a result of percolation, rain, high water, or other causes. You must regularly remove waste from the System unit and dispose of it in a lawful manner. Nothing in this subpart affects the application of the regulations found at 36 CFR part 6.

(e) You must use engines that adhere to applicable Federal and State emission standards.

(f) You must construct, maintain, and use roads to minimize fugitive dust.

(g) You must use equipment and practices that minimize releases of air pollutants and hydrocarbons, and flaring of gas.

(h) You must conduct operation in a manner that does not create an unsafe environment for fish and wildlife by avoiding or minimizing exposure to physical and chemical hazards.

(i) You must conduct operations in a manner that avoids or minimizes impacts to sensitive wildlife, including timing and location of operations.

(j) You must control the invasion of exotic plant and animal species in your area of operations from the beginning through final reclamation.

§9.112 What hydrologic standards must I meet?

(a) You must maintain hydrologic connectivity between surface water and groundwater during all operations.

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(b) You must not cause measurable degradation of surface water or groundwater.

(c) You must conduct operations in a manner that maintains natural channel and floodplain processes and functions.

§9.113 What safety standards must I meet?

(a) You must maintain your area of operations in a manner that avoids or minimizes the cause or spread of fires and does not intensify fires originating outside your operations area.

(b) You must maintain site security, structures, facilities, improvements, and equipment in a safe and professional manner in order to provide a safe environment for park resources, park visitors, and NPS employees, free from exposure to physical and chemical hazards.

§9.114 What lighting and visual standards must I meet?

(a) You must design, shield, and focus lighting to minimize the effects of spill light on the night sky or adjacent areas.

(b) You must reduce visual contrast in the landscape by selecting the area of operations, avoiding unnecessary disturbance, choosing appropriate colors for permanent facilities, and other means.

(c) You must use road and pad materials similar in composition to soils in surrounding profiles whenever feasible.

§9.115 What noise reduction standards must I meet?

You must prevent or minimize all noise that:

(a) Adversely affects the natural soundscape or other park resources or values, taking into account frequency, magnitude, or duration; or

(b) Exceeds levels that have been identified through monitoring as being acceptable to or appropriate for visitor uses at the sites being monitored.

§9.116 What reclamation and protection standards must I meet?

(a) You must promptly clean up and remove any released contaminating substances and provide documentation to the Superintendent that the sub-

stances were disposed of in accordance with all applicable Federal, State, and local laws.

(b) You must perform partial reclamation of areas no longer necessary to conduct operations. You must begin final reclamation as soon as possible but no later than 6 months after you complete your permitted operations unless the Regional Director authorizes a longer period in writing.

(c) You must protect all survey monuments, witness corners, reference monuments, and bearing trees against destruction, obliteration, or damage from operations. You are responsible for reestablishing, restoring, and referencing any monuments, corners, and bearing trees that are destroyed, obliterated, or damaged by your operations.

(d) You must complete reclamation by:

(1) Plugging all wells;

(2) Removing all above-ground structures, equipment, and roads and all other man-made material and debris resulting from operations;

(3) Removing or neutralizing any contaminating substances;

(4) Reestablishing native vegetative communities, or providing for conditions where ecological processes typical of the ecological zone (e.g., plant or wildlife succession) will reestablish themselves;

(5) Grading to reasonably conform the contours to preexisting elevations that are most appropriate to maximizing ecologic functional value;

(6) Restoring conditions to pre-disturbance hydrologic movement and functionality;

(7) Restoring natural systems using native soil material that is similar in character to the adjacent undisturbed soil profiles;

(8) Ensuring that reclaimed areas do not interfere with visitor use or with administration of the unit;

(9) Meeting conditions compatible with the management objectives of the park; and

(10) Ensuring proper and equitable apportionment of reclamation responsibilities by coordinating with us or with other operators who may be using a portion of your area of operations.

§9.117 What additional operating standards apply to geophysical operations?

If you conduct geophysical operations, you must do all of the following:

(a) Use surveying methods that minimize the need for vegetative trimming and removal;

(b) Locate source points using industry-accepted minimum safe-offset distances from pipelines, telephone lines, railroad tracks, roads, power lines, water wells, oil and gas wells, oil and gas-production facilities, and buildings;

(c) Use equipment and methods that, based upon the specific environment, will minimize impacts to federally owned or administered lands, waters, and resources of System units, visitor uses and experiences, and visitor and employee health and safety; and

(d) If you use shot holes, you must:

(1) Use biodegradable charges;

(2) Plug all shot holes to prevent a pathway for migration for fluids along any portion of the bore; and

(3) Leave the site in a clean and safe condition that will not impede surface reclamation or pose a hazard to human health and safety.

§9.118 What additional operating standards apply to drilling, stimulation, and production operations?

If you conduct drilling, stimulation, and production operations, you must meet all of the standards in this section.

(a) *Drilling.* (1) You must use contained mud circulation systems for operations.

(2) You must not create earthen pits for any use. Earthen pits used solely for secondary containment on sites existing before December 5, 2016 may continue in use; however, the Superintendent may require such structures to be lined or removed depending on site-specific operational and environmental conditions.

(3) You must take all necessary precautions to keep your wells under control at all times, use only contractors or employees trained and competent to drill and operate the wells, and use only oil field equipment and practices generally used in the industry.

(4) You must design, implement, and maintain integrated casing, cementing, drilling fluid, completion, stimulation, and blowout prevention programs. These programs must be based upon sound engineering principles to prevent escape of fluids to the surface and to isolate and protect usable water zones throughout the life of the well, taking into account all relevant geologic and engineering factors.

(b) *Stimulation operations including hydraulic fracturing.* (1) You must not begin injection activities before you demonstrate the mechanical integrity of all surface and downhole tubulars and equipment to differential pressures equal to at least those calculated at the maximum anticipated treating pressure.

(2) You must continuously monitor and record the treating pressures and all annular pressures before, during, and after the treatment to ensure that treatment materials are directed to the intended zone.

(3) If mechanical integrity is lost during the treatment, you must immediately cease the operation and notify the Superintendent as soon as feasible, but no later than 24 hours after the incident. Within 15 days after the occurrence, you must submit to the Superintendent a report containing all details pertaining to the incident, including corrective actions taken.

(c) *Production.* (1) You must monitor producing conditions in order to maintain the mechanical integrity of both surface and subsurface equipment.

(2) You must maintain your well to prevent escape of fluids to the surface and to isolate and protect usable water zones throughout the life of the well, taking into account all relevant geologic and engineering factors.

(3) You must identify wells and related facilities by a sign, which must remain in place until the well is plugged and abandoned and the related facilities are closed. The sign must be of durable construction, and the lettering must be legible and large enough to be read under normal conditions at a distance of at least 50 feet. Each sign must show the name of the well, name of the operator, and the emergency contact phone number.

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(4) You must remove all equipment and materials that are no longer needed for a particular phase of your operation.

(5) You must plug all wells to:

(i) Prevent a pathway of migration for fluids along any portion of the bore; and

(ii) Leave the surface in a clean and safe condition that will not impede surface reclamation or pose a hazard to human health and safety.

GENERAL TERMS AND CONDITIONS

§9.120 What terms and conditions apply to all operators?

The following terms and conditions apply to all operators:

(a) The operator/permittee is responsible for ensuring that all of its employees and contractors and subcontractors comply fully with all of the requirements of this subpart;

(b) The operator/permittee may not use any surface water or groundwater owned or administered by the United States that has been diverted or withdrawn from a source located within the boundaries of a System unit unless the use has been approved in accordance with NPS policy;

(c) The operator/permittee must provide the NPS an affidavit, signed by an official who is authorized to legally bind the company, stating that proposed operations are in compliance with all applicable federal, state, and local laws and regulations and that all information submitted to the NPS is true and correct;

(d) The operator/permittee must agree to indemnify and hold harmless the United States and its officers and employees from and against any and all liability of any kind whatsoever arising out of or resulting from the acts or omissions of the operator and its employees, agents, representatives, contractors, and subcontractors in the conduct of activities under the operations permit; and

(e) The operator/permittee must agree to take all reasonable precautions to avoid, minimize, rectify, or reduce the overall impacts of your proposed oil and gas activities to System units. You may be required to mitigate for impacts to NPS resources and lost

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uses. Mutually agreed-upon mitigation tools for this purpose may include providing or restoring alternative habitat and resources to offset those impacts by the operations.

§9.121 What monitoring and reporting is required for all operators?

(a) The NPS may access your area of operations at any time to monitor the potential effects of the operations and to ensure compliance with this subpart where applicable.

(b) The Regional Director may determine that third-party monitors are required when necessary to protect federally owned or administered lands, waters, or resources of System units, visitor uses or experiences, or visitor or employee health and safety.

(1) The Regional Director's determination will be based on the scope and complexity of the proposed operation and whether the park has the staff and technical ability to ensure compliance with the operations permit and any provision of this subpart.

(2) A third-party monitor will report directly to the NPS at intervals determined by the Superintendent, and you will be responsible for the cost of the third party monitor. We will make the information reported available to you upon your request.

(3) Third party monitors must disclose to the NPS any potential conflicts of interest that could preclude objectivity in monitoring an operator's compliance with the operations permit and any provision of this subpart.

(c) You must notify the Superintendent of any accidents involving serious personal injury or death and of any fires or spills on the site as soon as feasible, but no later than 24 hours after the accident occurs. You must submit a full written report on the accident to the Superintendent within 90 days after the accident occurs.

(d) You must notify the Superintendent as soon as feasible, but no later than 24 hours after the discovery of any cultural or scientific resource you encounter that might be altered or destroyed by your operation. You must cease operations if necessary and leave the discovered resource intact until the

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Superintendent provides you with instructions. The Superintendent will determine, within 10 working days after notification what action will be taken with respect to the discovery.

(e) Upon the Superintendent's request, you must submit reports or other information necessary to verify compliance with your permit or with any provision of this subpart. To fulfill this request, you may submit to the NPS reports that you have submitted to the State under State regulations, or that you have submitted to any other Federal agency.

§9.122 What additional reports must I submit if my operation includes hydraulic fracturing?

If your operations include hydraulic fracturing, you must provide the Superintendent with a report including all of the following details of the stimulation within 30 days after the completion of the last stage of hydraulic fracturing operations for each well:

(a) The true vertical depth of the well; total water volume used; a description of the base fluid and each additive in the hydraulic fracturing fluid, including the trade name, supplier, purpose, ingredients; Chemical Abstract Service Number (CAS); maximum ingredient concentration in additive (percent by mass); and maximum ingredient concentration in hydraulic fracturing fluid (percent by mass). This information may be submitted to the Superintendent through FracFocus or another existing database available to the public;

(b) The actual source(s) and location(s) of the water used in the hydraulic fracturing fluid;

(c) The maximum surface pressure and rate at the end of each stage of the hydraulic fracturing operation and the actual flush volume;

(d) The actual, estimated, or calculated fracture length, height and direction;

(e) The actual measured depth of perforations or the open-hole interval;

(f) The actual volume of stimulation fluids recovered during flow back, including a description of how the volumes were measured or calculated;

(g) The following information concerning the handling of fluids recov-

ered, covering the period between the commencement of hydraulic fracturing and the implementation of the approved permit for the disposal of produced water under NPS requirements:

(1) The methods of handling the recovered fluids, including, but not limited to, transfer pipes and tankers, holding pond use, re-use for other stimulation activities, or injection; and

(2) The disposal method of the recovered fluids, including, but not limited to, the percent injected, the percent stored at an off-lease disposal facility, and the percent recycled; and

(h) Continuous monitoring records of annulus pressure at the bradenhead and other annular pressures that document pressures before, during, and after injection operations. You must submit a signed certification that wellbore integrity was maintained throughout the operation.

ACCESS TO OIL AND GAS RIGHTS

§9.130 May I cross Federal property to reach the boundary of my oil and gas right?

The Regional Director may grant you the privilege of access, subject to the provisions of any applicable law, on, across, or through federally owned or administered lands or waters in any System unit outside of Alaska to reach the boundary of your oil and gas right.

§9.131 Will the NPS charge me a fee for access?

(a) Except as provided in paragraph (b) of this section, the Regional Director may charge you a fee if you use federally owned or administered lands or waters that are outside the scope of your oil and gas right.

(1) If you require the use of federally owned or administered lands or waters to access your operation, the Regional Director will charge you a fee based on the fair market value of such use.

(2) If access to your mineral right is on or across an existing park road, the Regional Director may charge you a fee according to a posted fee schedule.

(b) Fees under this section will not be charged for access within the scope of your oil and gas right or access to your mineral right that is otherwise provided for by law.

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§9.132 Will I be charged a fee for emergency access to my operations?

The Regional Director will not charge a fee for access across federally owned or administered lands beyond the scope of your oil and gas right as necessary to respond to an emergency situation at your area of operations if the Regional Director determines that the circumstances require an immediate response to either:

- (a) Prevent or to minimize injury to park resources; or
- (b) Ensure public health and safety.

FINANCIAL ASSURANCE

§9.140 Do I have to provide financial assurance to the NPS?

Yes. You must file financial assurance with us in a form acceptable to the Regional Director and payable upon demand. This financial assurance is in addition to any financial assurance required by any other regulatory authority.

§9.141 How does the NPS establish the amount of financial assurance?

We base the financial assurance amount upon the estimated cost for a third-party contractor to complete reclamation in accordance with this subpart. If the cost of reclamation exceeds the amount of your financial assurance, you remain liable for all costs of reclamation in excess of the financial assurance.

§9.142 Will the NPS adjust my financial assurance?

The Regional Director may require, or you may request, an adjustment to the financial assurance amount because of any circumstance that increases or decreases the estimated costs established under §9.141.

§9.143 When will the NPS release my financial assurance?

We will release your financial assurance within 30 days after the Regional Director:

- (a) Determines that you have met all applicable reclamation operating standards and any additional reclamation requirements that may be included in your operations permit; or

- (b) Accepts a new operator's financial assurance under §9.160(b) or (c).

§9.144 Under what circumstances will the NPS retain my financial assurance?

(a) We will retain all or part of your financial assurance if compliance with your reclamation responsibilities under the approved permit or any provisions of this subpart is incomplete.

(b) In addition, we may also:

- (1) Prohibit you from removing all structures, equipment, or other materials from your area of operations;
- (2) Require you to secure the operations site and take any necessary actions to protect federally owned or administered lands, waters, or resources of System units, visitor uses or experiences, or visitor or employee health and safety; and
- (3) Suspend review of any permit applications you have submitted until the Regional Director determines that all violations of permit provisions or of any provision of this subpart are resolved.
- (4) Seek recovery as provided in §9.141 for all costs of reclamation in excess of the posted financial assurance.

MODIFICATION TO AN OPERATION

§9.150 How can an approved permit be modified?

(a) You may request modification to a temporary access permit or operations permit by providing the Regional Director with written notice describing the modification and why you think it is needed.

(b) The Regional Director may propose to modify an approved temporary access or operations permit to address changed or unanticipated conditions within your area of operations. You will be notified in writing of the proposed modifications and the justifications therefore, and the time within which you must either notify the Regional Director that you accept the modifications to your permit or explain any concerns you may have

(c) The Regional Director will review requests made under paragraph (a) of this section or responses provided under paragraph (b) of this section applying the approval standards and

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timeframes at §9.62 or §9.104, respectively. You will be notified in writing of the Regional Director's decision and any revisions approved to the terms of the permit.

CHANGE OF OPERATOR

§9.160 What are my responsibilities if I transfer my operations?

(a) You must notify the Superintendent in writing within 30 calendar days after the date the new owner acquires the rights to conduct operations. Your written notification must include:

(1) The names and contact information of the person or entity conveying the oil or gas right, and the names and contact information of the person or entity acquiring the oil or gas right;

(2) The effective date of transfer;

(3) The description of the rights, assets, and liabilities being transferred and those being reserved by the previous owner; and

(4) A written acknowledgement from the new owner that the contents of the notification are true and correct.

(b) Until you meet the requirements of this section and the Regional Director provides notice to you that the new operator has complied with §9.161(a) you remain responsible for compliance with your operations permit, and we will retain your financial assurance.

(c) If you were operating without an operations permit, you are subject to §§9.120 through 9.122 and §§9.180 through 9.182 until the new operator meets the requirements of this section and the Regional Director provides notice to you that the new operator has complied with §9.161(b) or (c), as applicable.

§9.161 What must I do if operations are transferred to me?

(a) If you acquire rights to conduct operations, you must provide to the Superintendent:

(1) Written acknowledgment that you adopt the previous operator's operations permit, and that you agree to conduct operations in accordance with all terms and conditions thereof, or that you adopt the previous operator's operations permit and are also requesting approval for modification of the

previous operator's permit consistent with the procedures at §9.150;

(2) Financial assurance in the amount specified by the Regional Director and in accordance with the requirements of §§9.140 through 9.144;

(3) Proof of liability insurance with limits sufficient to cover injuries to persons or property caused by your operations; and

(4) An affidavit stating that your operations are in compliance with all applicable Federal, State, and local laws and regulations.

(b) If the previous operator was granted an exemption under §9.72, you must provide the Superintendent the following information within 30 calendar days after the date you acquire the rights to conduct operations:

(1) Right to operate documentation demonstrating that you are the successor in interest to the previous operator's right, and the extent of such right, to operate within the System unit; and

(2) The names and contact information of:

(i) The operator;

(ii) The owner; and

(iii) The individuals responsible for overall management, field supervision, and emergency response of the proposed operations.

(c) If the previous operator was operating without an operations permit, you will be considered a previously exempt operator and must obtain an operations permit. Within 90 days after acquiring the rights to conduct operations, you must submit the information at §9.51(a) through (j), and your operations permit application will be processed in accordance with §§9.52 and 9.53.

WELL PLUGGING

§9.170 When must I plug my well?

Except as provided in §9.171, you must plug your well when any of the following occurs:

(a) Your drilling operations have ended and you have taken no further action to produce the well within 60 days;

(b) Your well, which has been completed for production operations, has

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no measureable production quantities for 12 consecutive months; or

(c) The period approved in your operations permit to maintain your well in shut-in status has expired.

§9.171 Can I get an extension to the well plugging requirement?

(a) You may apply for either a modification to your approved operations permit or, in the case of previously exempt operations, an operations permit to maintain your well in a shut-in status for up to 5 years. The application must include:

(1) An explanation of why the well is shut-in or temporarily abandoned and your future plans for utilization;

(2) Proof of the mechanical integrity of both surface and production casing demonstrating that no migration of fluid can be expected to occur; and

(3) A description of the manner in which your well, equipment, and area of operations will be maintained.

(b) Based on the information provided under this section, the Regional Director may approve your application to maintain your well in shut-in status for a period up to 5 years. You may apply for additional extensions by submitting a new application under paragraph (a) of this section.

PROHIBITIONS AND PENALTIES

§9.180 What acts are prohibited under this subpart?

The following are prohibited:

(a) Operating in violation of the terms or conditions of a temporary access permit, or an approved operations permit, or any provision of this subpart;

(b) Damaging federally owned or administered lands, waters, or resources of a System unit as a result of violation of the terms or conditions of a temporary access permit, an operations permit, or any provision of this subpart;

(c) Conducting operations or activities without a required permit;

(d) Failure to comply with any suspension or revocation order issued under this subpart; and

(e) Failure to comply with any applicable Federal law or regulation, or non-conflicting State law or regula-

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tion, pertaining to your oil and gas operation.

§9.181 What enforcement actions can the NPS take?

If you engage in a prohibited act described in §9.180:

(a) You may be subject to a fine or imprisonment, or both, in accordance with 36 CFR 1.3;

(b) The Superintendent may suspend your operations; or

(c) The Regional Director may revoke your approved temporary access permit or operations permit.

§9.182 How do violations affect my ability to obtain a permit?

Until you are in compliance with this subpart or the terms and conditions of an existing temporary access permit or operations permit, we will not consider any new permit requests to conduct operations within any System unit.

RECONSIDERATION AND APPEALS

§9.190 Can I, as operator, request reconsideration of NPS decisions?

Yes. If you disagree with a decision of the Regional Director under this subpart, you may file with the Regional Director a written statement describing the alleged factual or legal errors in the original decision and requesting that the Regional Director reconsider the decision. You must file your request for reconsideration within 60 calendar days after your receipt of the Regional Director's decision. The NPS will dismiss as untimely any request for reconsideration received more than 60 days after your receipt of the original decision.

§9.191 How does the NPS process my request for reconsideration?

The Regional Director will review his or her original decision and, within 90 days after receipt of your appeal, provide you with a written statement reversing, affirming, or modifying that decision, unless the Regional Director notifies you that he or she needs additional time to review the original decision. When issued, that written statement constitutes the Regional Director's final decision on the matter.

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§ 9.192 Can I appeal the Regional Director's decision?

(a) If the Regional Director affirms or modifies his or her original decision after you file a request for reconsideration, you may file an appeal with the NPS Director within 60 calendar days after your receipt of the Regional Director's decision under § 9.191.

(b) Your appeal must include a statement of exceptions specifying your specific disagreements with the Regional Director's final decision. If you do not file your appeal within 60 calendar days, your appeal will be dismissed as untimely.

(c) If you timely file your statement of exceptions, the Regional Director will forward his or her decision and the record for the appeal to the NPS Director. The record will consist of all documents and materials considered by NPS that are related to the matter appealed. The Regional Director will maintain that record under separate cover and will certify that the decision was based on that record. The Regional Director will make a copy of the record available to you at your request.

(d) If, upon review, the NPS Director considers the record inadequate, the NPS Director may require additional documentation or information, or may remand the matter to the Regional Director with instructions for further action.

(e) Within 45 calendar days from the date the NPS Director receives your statement of exceptions, the Director will issue a written decision. If the Director requires more than 45 calendar days to reach a decision, the Director will notify you and specify the reasons for the delay. The Director's written decision will include:

- (1) A statement of facts;
- (2) A statement of conclusions; and
- (3) An explanation of the basis for the decision.

(f) No NPS decision under these regulations that is subject to appeal to the Director, or the Regional Director pursuant to § 9.194, will be considered final agency action subject to judicial review under 5 U.S.C. 704 unless the appropriate official has rendered a decision on the matter. That decision will constitute NPS's final agency action,

and no further appeal will lie in the Department from that decision.

§ 9.193 Will filing a request for reconsideration or appeal stop the NPS from taking action under this subpart?

(a) Except as provided for in paragraph (b) of this section, during the reconsideration and appeal processes, the decision at issue will be stayed (suspended). The decision will not become effective until the appeals process is completed.

(b) If NPS suspends your operation due to an emergency within your area of operation that poses an immediate threat of injury to federally owned or administered lands or waters, or to public health and safety, you have a right to request reconsideration and appeal the decision under §§ 9.190 through 9.194, but the suspension will not be stayed until the threat is eliminated.

§ 9.194 What if the original decision was made by the Superintendent?

Where the Superintendent has the authority to make the original decision, requests for reconsideration and appeals may be filed in the manner provided by §§ 9.190 through 9.193, except that:

(a) The request for reconsideration will be filed with and decided by the Superintendent;

(b) The appeal will be filed with and decided by the Regional Director; and

(c) The Regional Director's decision will constitute the final agency action on the matter.

PUBLIC PARTICIPATION

§ 9.200 How can the public participate in the approval process?

(a) Interested parties may view the publicly available documents at the Superintendent's office during normal business hours or by other means prescribed by the Superintendent. The availability for public inspection of information about the nature, location, character, or ownership of park resources will conform to all applicable law and implementing regulations, standards, and guidelines.

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(b) The Superintendent will make available for public inspection any documents that an operator submits to the NPS under this subpart except those that you have identified as proprietary or confidential.

(c) For the information required in §§9.88, 9.89, and 9.122, the operator and the submitter of the information will be deemed to have waived any right to protect from public disclosure information submitted to the NPS. For information required under §§9.88, 9.89, and 9.122 that the owner of the information claims to be exempt from public disclosure and is withheld from the NPS, a corporate officer, managing partner, or sole proprietor of the operator must sign and the operator must submit to the Superintendent an affidavit that:

(1) Identifies the owner of the withheld information and provides the name, address and contact information for a corporate officer, managing partner, or sole proprietor of the owner of the information;

(2) Identifies the Federal statute or regulation that would prohibit the NPS from publicly disclosing the information if it were in the NPS's possession;

(3) Affirms that the operator has been provided the withheld information from the owner of the information and is maintaining records of the withheld information, or that the operator has access and will maintain access to the withheld information held by the owner of the information;

(4) Affirms that the information is not publicly available;

(5) Affirms that the information is not required to be publicly disclosed under any applicable local, State, tribal, or Federal law;

(6) Affirms that the owner of the information is in actual competition and identifies competitors or others that could use the withheld information to cause the owner of the information substantial competitive harm;

(7) Affirms that the release of the information would likely cause substantial competitive harm to the owner of the information and provides the factual basis for that affirmation; and

(8) Affirms that the information is not readily apparent through reverse engineering with publicly available information.

(d) If the operator relies upon information from third parties, such as the owner of the withheld information, to make the affirmations in paragraphs (c)(6) through (8) of this section, the operator must provide a written affidavit from the third party that sets forth the relied-upon information.

(e) The NPS may require any operator to submit to the NPS any withheld information, and any information relevant to a claim that withheld information is exempt from public disclosure.

(f) If the NPS determines that the information submitted under paragraph (e) of this section is not exempt from disclosure, the NPS will make the information available to the public after providing the operator and owner of the information with no fewer than 10 business days' notice of the NPS's determination.

(g) The operator must maintain records of the withheld information until the later of the NPS's release of the operator's financial assurance or 7 years after completion of hydraulic fracturing operations. Any subsequent operator will be responsible for maintaining access to records required by this paragraph during its operation of the well. The operator will be deemed to be maintaining the records if it can promptly provide the complete and accurate information to NPS, even if the information is in the custody of its owner.

(h) If any of the chemical identity information required in §9.122 is withheld, the operator must provide the generic chemical name in the submission required by §9.122. The generic chemical name must be only as nonspecific as is necessary to protect the confidential chemical identity, and should be the same as or no less descriptive than the generic chemical name provided to the Environmental Protection Agency.

INFORMATION COLLECTION

§9.210 Has the Office of Management and Budget approved the information collection requirements?

(a) The Office of Management and Budget (OMB) has reviewed and approved the information collection requirements in 36 CFR part 9, subpart B, and assigned OMB Control Number

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1024-0274. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. We use the information collected to:

- (1) Evaluate proposed operations;
 - (2) Ensure that all necessary mitigation measures are employed to protect park resources and values; and
 - (3) Ensure compliance with all applicable laws and regulations.
- (b) You may submit comments on any aspect of the information collection requirements to the Information Collection Clearance Officer, National Park Service, 12201 Sunrise Valley Drive, Room 2C114, Mail Stop 242, Reston, VA 20192.

Subpart C—Alaska Mineral Resource Assessment Program

AUTHORITY: 16 U.S.C. 410hh; 16 U.S.C. 3101, *et seq.*; 16 U.S.C. 347; 16 U.S.C. 410bb; 16 U.S.C. 1131 *et seq.*; 54 U.S.C. 320301; 54 U.S.C. 100101, *et seq.*

SOURCE: 56 FR 22652, May 16, 1991, unless otherwise noted. Redesignated at 81 FR 77992, Nov. 4, 2016.

§ 9.300 Purpose.

These regulations govern the conduct of the mineral resource assessment activities authorized under §1010 of the Alaska National Interest Lands Conservation Act (ANILCA), 16 U.S.C. 3101, *et seq.*, in units of the National Park System in Alaska. The regulations are designed to ensure that authorized Federal agencies and their contractors carry out mineral resource assessment activities in an environmentally sound manner that does not result in lasting environmental impacts that appreciably alter the natural character of the units, or biological or ecological systems in the units; is compatible with the purposes for which the units are established; and ensures that all units are left unimpaired and preserved for the enjoyment of present and future generations.

§ 9.301 Scope and applicability.

These regulations apply to all activities conducted by authorized agencies and their contractors on public lands in units of the National Park System

in Alaska under the Alaska Mineral Resource Assessment program (AMRAP) as authorized by section 1010 of ANILCA. AMRAP activities conducted under this subpart shall be performed in accordance with ANILCA, the regulations in this subpart, the terms and conditions of an approved permit, and other applicable statutes and regulations, and amendments thereto.

§ 9.302 Definitions.

The terms used in this subpart shall have the following meaning:

(a) *AMRAP* means the Alaska Mineral Resource Assessment Program authorized by section 1010 of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA), 16 U.S.C. 3150.

(b) *AMRAP Activities* means any project, method, technique or other activity incidental to mineral resource assessments conducted by authorized AMRAP agencies or their contractors in units of the National Park System in Alaska pursuant to section 1010 of ANILCA under an approved permit. AMRAP activities include access into, across, through, or over a unit of the National Park System for the conduct of those activities. Only mineral resource assessment methods or techniques that do not result in lasting impacts on park resources and values may be permitted as AMRAP activities. Mineral resource assessment techniques may include aerial photography; remote sensing; hand-sampling of geologic materials; hand-sampling or hand-augering methods for geochemical analyses; and geophysical techniques such as magnetic, electrical, electromagnetic, chemical, radioactive, and gravitational methods. Mineral resource assessment activities may be permitted as long as:

- (1) No explosives are used;
- (2) They are consistent with § 9.306; and
- (3) They are consistent with the provisions of the Wilderness Act of 1964 (16 U.S.C. 1131 *et seq.*) and National Park Service policies concerning wilderness management and the use of motorized equipment in wilderness areas.

Core and test drilling, including exploratory drilling of oil and gas test wells, are explicitly prohibited as

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AMRAP activities in units of the National Park System.

(c) *AMRAP agencies* means those agencies of the U.S. Department of the Interior that are authorized by the Secretary to perform mineral resource assessment activities pursuant to section 1010 of ANILCA.

(d) *Superintendent* means the Superintendent, or his/her designee, of the unit of the National Park System in Alaska where AMRAP activities are conducted or proposed to be conducted.

[56 FR 22652, May 16, 1991, as amended at 60 FR 55791, Nov. 3, 1995; 62 FR 30234, June 3, 1997; 81 FR 78005, Nov. 4, 2016]

§9.303 Coordination of AMRAP activities in National Park System units.

(a) To facilitate compliance with this Subpart, each AMRAP agency will designate a coordinator for AMRAP activities in Alaska who will be the central point of communications with the NPS. The AMRAP agency is responsible for notifying the Regional Director of such designation.

(b) By January 1 of each year, the designated coordinators for the AMRAP agencies will, in consultation with the Regional Director, schedule an interagency meeting to be held by January 31 of each year. Representatives of the AMRAP agencies and the NPS will meet to develop a mutually agreeable schedule of AMRAP projects and activities in Alaska units of the National Park System. Where practicable, AMRAP agencies will consolidate their field activities, including access and field camps, to minimize disturbance to park resources and values.

§9.304 Application requirements.

(a) By February 15 of each year, the designated coordinator of each AMRAP agency will forward to the Regional Director an application pursuant to §9.304(b) for proposed AMRAP projects and activities discussed and reviewed at the annual coordination meeting held under §9.303(b). Applications requiring additional information will be promptly returned to, or discussed with, the coordinator of the involved AMRAP agency to resolve any deficiencies.

(b) Applications will be submitted in a form and manner prescribed by the

Regional Director and will contain at a minimum:

(1) The name of the AMRAP agency and responsible office and, where applicable, its designated contractual representative that will conduct the proposed activities;

(2) The name, office address and telephone numbers of the AMRAP agency persons or contractor persons who will supervise the proposed activities, and a list of all individual's names, addresses and telephone numbers who will be present at field activities;

(3) A list of any previous AMRAP activities or prior geologic and mineral resource assessments that have occurred in the proposed study area;

(4) A discussion of overall project objectives, schedules and products, and how the proposed activities for the current application relate to those objectives;

(5) A description of the activities proposed for approval, including a detailed description of the collection techniques, sampling methods and equipment to be used in each area;

(6) Topographic maps identifying the specific areas in units of the National Park System where the agency proposes to conduct each AMRAP activity;

(7) The approximate dates on which the AMRAP activities for each area are proposed to be commenced and completed;

(8) A description of access means and routes for each area in which work is proposed including an estimate of the number of flights or number of vehicle trips;

(9) A description of the field support requirements proposed for locations on lands within units of the National Park System, including camp sites, fuel storage areas, and any other requirements;

(10) A discussion which documents that proposed activities will be carried out in an environmentally sound manner utilizing the least impacting technology suitable for the purposes of the project; and

(11) A description of how any disturbed areas, such as camp sites, will be reclaimed.

[56 FR 22652, May 16, 1991. Redesignated and amended at 81 FR 77992, 78005, Nov. 4, 2016]

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§ 9.305 Environmental compliance.

Each AMRAP agency is responsible for obtaining all required Federal, State, and local permits and must provide sufficient information to the NPS to ensure appropriate compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), the National Historic Preservation Act of 1966 (16 U.S.C. 470 *et seq.*), and other applicable statutes.

§ 9.306 Application review process and approval standards.

(a) The Regional Director will review applications submitted pursuant to § 9.304 and will ensure that final action is taken on such applications by April 15 of each year. If additional review time is necessary to ensure compliance with this Subpart or with other applicable laws, Executive Orders and regulations, the Regional Director will promptly notify the AMRAP agency coordinator of the anticipated date of a final decision.

(b) The Regional Director is responsible for approving AMRAP activities in units of the National Park System in Alaska.

(c) To be approved, proposed AMRAP activities must be designed to be carried out in an environmentally sound manner, as determined in appropriate environmental documentation, that:

(1) Does not result in lasting environmental impacts that appreciably alter the natural character of the units or the integrity of the biological or ecological systems in the units; and

(2) Is compatible with the purposes and values for which the units are established; and

(3) Does not adversely affect the natural and cultural resources, visitor use, or administration of the area.

[56 FR 22652, May 16, 1991. Redesignated and amended at 81 FR 77992, 78005, Nov. 4, 2016]

§ 9.307 Permitting requirements and standards.

(a) AMRAP activities approved by the Regional Director may be conducted in units of the National Park System pursuant to a permit issued by the Superintendent in accordance with this subpart, 36 CFR 1.6, and other ap-

plicable regulations, guidelines and policies.

(b) The NPS may restrict the conduct of AMRAP activities in certain areas and during sensitive periods, such as nesting, calving and spawning seasons, to minimize impacts to fish and wildlife or to comply with existing policies or directives.

(c) All project areas affected by AMRAP activities shall be left in an unimpaired state by the AMRAP agency and its contractors. All costs borne by the NPS in cleaning or restoring an area affected by AMRAP activities will be recoverable from the AMRAP agency.

(d) Copies of all published information or written reports resulting from AMRAP activities conducted in units of the National Park System shall be provided to the Regional Director.

(e) The NPS reserves the right, without prior notice to the AMRAP agency or its contractors, to observe or inspect AMRAP activities to determine whether such activities are being conducted pursuant to this subpart and the terms and conditions of the approved permit.

§ 9.308 Permit modification, suspension, and cancellation.

(a) A proposal to modify, supplement, or otherwise amend an approved permit shall be made by an AMRAP agency by written request to the Regional Director. The Regional Director shall review and promptly act on the proposed modification pursuant to the standards set forth in § 9.306. An AMRAP agency may not undertake any of the activities proposed in the modification until the Regional Director approves the modification and the Superintendent amends the approved permit.

(b) The Superintendent may modify, suspend or cancel an AMRAP agency's permit by notifying the agency in writing, or orally in an emergency situation, when the Superintendent determines that:

(1) Changes to the permit are necessary to address conditions not previously anticipated; or

(2) There is imminent threat of serious, irreparable, or immediate harm or danger to public health and safety, or the natural and cultural resources and values of the unit; or

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(3) The AMRAP agency or its contractors fails to comply with the provisions of ANILCA or of any other applicable law or regulation, the provisions and conditions of the approved permit and any modification thereto, or any written or field orders issued by the Superintendent.

(c) Modification, suspension, or cancellation of an approved permit pursuant to paragraph (b) of this section shall be effective immediately upon receipt of oral or written notice from the Regional Director or the Superintendent. Notices issued orally shall be followed by written notice sent by certified mail within three (3) working days confirming and explaining the action. Suspensions shall remain in effect until the basis for the suspension has been corrected to the satisfaction of the Superintendent. Cancellation notices shall state the reason for cancellation and shall be sent by the Superintendent to the AMRAP agency at least fourteen (14) days in advance of the date the cancellation will become effective.

(d) Suspension or cancellation of a permit to conduct AMRAP activities shall not relieve the AMRAP agency or its contractors of the obligation to restore any location in accordance with the requirements of this subpart and to comply with all other obligations specified in this subpart and in the permit.

[56 FR 22652, May 16, 1991. Redesignated and amended at 81 FR 77992, 78005, Nov. 4, 2016]

§ 9.309 Appeals.

Written appeals made within 30 days of notification of a final decision by the Regional Director pursuant to this subpart shall be reviewed by the Director of the National Park Service. Resolution of any outstanding issues shall follow current Department of the Interior procedures for resolving inter-agency disputes.

PART 10—DISPOSAL OF CERTAIN WILD ANIMALS

- Sec.
- 10.1 Animals available.
- 10.2 Charges.
- 10.3 Application; requirements.
- 10.4 Shipment.

AUTHORITY: Secs. 1-3, 39 Stat. 535, as amended; 42 Stat. 1214, 45 Stat. 1644, secs. 1, 2, 52 Stat. 708, secs. 1, 2, 67 Stat. 495, 496; 16 U.S.C. 1, 1b, 1c, 2, 3, 36, 36a, 141c.

SOURCE: 24 FR 11054, Dec. 30, 1959, unless otherwise noted.

§ 10.1 Animals available.

From time to time there are surplus live elk, buffaloes and bears in Yellowstone National Park, and live buffaloes in Wind Cave National Park which the Secretary may, in his discretion, dispose of to Federal, State, county and municipal authorities for preserves, zoos, zoological gardens, and parks. When surplus live elk and buffaloes are available from these national parks, the Secretary may, in his discretion, dispose of these to individuals and private institutions.

§ 10.2 Charges.

No charge will be made for the animals, but the receiver will be required to make a deposit with the appropriate superintendent to defray the expense of capturing, crating, and transporting them to the point of shipment. The receiver may also be required to pay for the services of a veterinarian for testing, vaccinating, and treating the animals at the park for communicable diseases and parasites. Estimates of such expenses will be furnished by the appropriate superintendent upon request.

§ 10.3 Application; requirements.

(a) Applications for animals should be directed to the appropriate superintendent, stating the kind, number, age, and sex of animals desired. The post office address for Yellowstone National Park is Yellowstone Park, Wyoming, and for Wind Cave National Park is Hot Springs, South Dakota.

(b) Applicants desiring animals which are to be held in enclosures must show that they have suitable facilities for the care of the animals. Operators of game farms or private preserves must submit evidence of their authority to engage in such operations.

(c) When any animals are desired for liberation on private lands, the application must be accompanied by the written concurrence of the State agency having jurisdiction over wildlife.