

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 operations. This determination will require the acquisition of adequate information, such as that resulting from field surveys, in order to properly determine the presence and significance of cultural resources within the areas to be affected by operations. Whenever National Register properties or properties eligible for inclusion in the National Register would be affected by operations, the Regional Director shall comply with section 106 of the Historic Preservations Act of 1966 as implemented by 36 CFR part 800.

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

[43 FR 57825, Dec. 8, 1978; 44 FR 37914, June 29, 1979]

#### § 9.38 Temporary approval.

(a) The Regional Director may approve on a temporary basis:

(1) Access on, across or through federally-owned or controlled lands or waters for the purpose of collecting basic information necessary to enable timely compliance with these regulations. Such temporary approval shall be for a period not in excess of sixty (60) days.

(2) The continuance of existing operations, if their suspension would result in an unreasonable economic burden or injury to the operator; provided that such operations must be conducted in accordance with all applicable laws, and in a manner prescribed by the Regional Director designed to minimize or prevent significant environmental damage; and provided that within sixty (60) days of the granting of such temporary approval the operator either:

(i) Submits an initial substantially complete plan of operations; or

(ii) If a proposed plan of operations has been submitted, responds to any outstanding requests for additional information.

(b) The Regional Director may approve new operations on a temporary basis only when:

(1) The Regional Director finds that the operations will not cause significant environmental damage or result in significant new or additional surface disturbance to the unit; and either

(2) The operator can demonstrate a compelling reason for the failure to have had timely approval of a proposed plan of operations; or

(3) The operator can demonstrate that failure to grant such approval will result in an unreasonable economic burden or injury to the operator.

[43 FR 57825, Dec. 8, 1978, as amended at 44 FR 37914, June 29, 1979]

#### § 9.39 Reclamation requirements.

(a) Within the time specified by the reclamation provisions of the plan of operations, which shall be as soon as possible after completion of approved operations and shall not be later than six (6) months thereafter unless a longer period of time is authorized in writing by the Regional Director, each operator shall initiate reclamation as follows:

(1) Where the Federal government does not own the surface estate, the operator shall at a minimum:

(i) Remove or neutralize any contaminating substances; 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 or waters, including removal of above ground structures and equipment used for operations, except that such structures and equipment may remain where they are to be used for continuing operations which are the subject of another approved plan of operations or of a plan which has been submitted for approval.

(2) On any site where the surface estate is owned or controlled by the Federal government, each operator must take steps to restore natural conditions and processes. These steps shall include but are not limited to:

(i) Removing all above ground structures, equipment and roads used for operations, except that such structures, equipment and roads may remain where they are to be used for continuing operations which are the subject of another approved plan of operations or of a plan which has been submitted for

approval, or unless otherwise authorized by the Regional Director consistent with the unit purpose and management objectives;

(ii) Removing all other man-made debris resulting from operations;

(iii) Removing or neutralizing any contaminating substances;

(iv) Plugging and capping all non-productive wells and filling dump holes, ditches, reserve pits and other excavations;

(v) 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;

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

(vii) 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, and the return of the area to a condition which does not jeopardize visitor safety or public use of the unit.

**§ 9.40 Supplementation or revision of plan of operations.**

(a) A proposal to supplement or revise an approved plan of operations may be made by either the operator or the Regional Director to adjust the plan to changed conditions or to address conditions not previously contemplated by notifying the appropriate party in writing of the proposed alteration and the justification therefore.

(b) Any proposed supplementation or revision of a plan of operations initiated under paragraph (a) of this section by either party shall be reviewed and acted on by the Regional Director in accordance with § 9.37. If failure to implement proposed changes would not pose an immediate threat of significant injury to federally-owned or controlled lands or waters, the operator will be notified in writing sixty (60) days prior to the date such changes become effective, during which time the operator may submit comments on proposed

changes. If failure to implement proposed changes would pose immediate threat of significant injury to federally-owned or controlled lands or waters, the provisions of § 9.33(c) apply.

**§ 9.41 Operating standards.**

The following standards shall apply to operations within a unit:

(a) Surface operations shall at no time be conducted within 500 feet of the banks of perennial, intermittent or ephemeral watercourses; or within 500 feet of the high pool shoreline of natural or man-made impoundments; or within 500 feet of the mean high tideline; or within 500 feet of any structure or facility (excluding roads) used for unit interpretation, public recreation or for administration of the unit, unless specifically authorized by an approved plan of operations.

(b) The operator shall protect all survey monuments, witness corners, reference monuments and bearing trees against destruction, obliteration, or damage from 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 operations.

(c) Whenever drilling or producing operations are suspended for 24 hours or more, but less than 30 days, the wells shall be shut in by closing well-head valves or blowout prevention equipment. When producing operations are suspended for 30 days or more, a suitable plug or other fittings acceptable to the Superintendent shall be used to close the wells.

(d) The operator shall mark each and every operating derrick or well in a conspicuous place with his name or the name of the owner, and the number and location of the well, and shall take all necessary means and precautions to preserve these markings.

(e) Around existing or future installations, e.g., well, storage tanks, all high pressure facilities, fences shall be built for protection of unit visitors and wildlife, and protection of said facilities unless otherwise authorized by the Superintendent. Fences erected for protection of unit visitors and wildlife shall be of a design and material acceptable to the Superintendent, and