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on the perimeter of such areas. A.R.S. Section 27-317.

(6) The primary responsibility for the control and abatement of air pollution rests with the Arizona Department of Environmental Quality and its Hearing Board. The Department is responsible for the establishment and enforcement of air pollution emission standards and ambient air quality standards as a part of a comprehensive air quality plan for Arizona. A.R.S. Title 49.

(7) The Arizona Department of Water Resources has jurisdiction over State water, including "surface waters." "Surface waters" means "the waters of all sources, flowing in streams, canyons, ravines or other natural channels, or in definite underground channels, whether perennial or intermittent, flood, waste or surplus water, and of lakes, ponds and springs on the surface. For the purposes of administering this title, surface water is deemed to include Central Arizona Project Water." A.R.S. Section 45-101. It is a misdemeanor to knowingly use the water of another, or divert water from a stream, waste water or obstruct water flowing into a water work. A.R.S. Section 45-112. Possession of water lawfully denied to the possessor is *prima facie* evidence of one's guilt. A.R.S. Section 45-112. If water is to be used for mining purposes the water rights may be severed from the land rights and transferred separately. The separation and transference of water rights is subject to numerous limitations, under A.R.S. Section 45-172.

(8) Dams are defined as "any artificial barrier, including appurtenant works for the impounding or diversion of water except those barriers for the purpose of controlling liquid borne material, twenty-five feet or more in height or the storage capacity of which will be more than fifty acre feet, but does not include any such barrier which is or will be less than six feet in height, regardless of storage capacity, or which has or will have a storage capacity not in excess of fifteen acre feet, regardless of height." A.R.S. Section 45-701. The construction, operation, repair or alteration of any dam without the prior approval of the Director of Water Resources is a misdemeanor. A.R.S. Section 45-702 to Section 45-716.

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(d) Any Arizona law or regulation which may be found to interfere with the purposes and achievements of the Act, shall be preempted and superseded to the extent that the State law or regulation is inconsistent with, or precludes implementation of, requirements of the Act or this chapter under the Federal program for Arizona. The Director shall publish a notice to that effect in the *FEDERAL REGISTER* following the procedures set forth in § 730.11(a) of this chapter.

(e) The information collection requirements contained in this part have been approved by the Office of Management and Budget under 44 U.S.C. 3501 in its approval of the information collection requirements contained in the permanent regulatory program.

§ 903.701 General.

(a) Sections 700.5, 700.11, 700.12, 700.13, 700.14, 700.15 and part 701 of this chapter apply to coal exploration and surface coal mining and reclamation operations in Arizona.

(b) Beginning on May 12, 1995, each surface coal mining and reclamation operation in Arizona must comply with Subchapter B of this chapter until issuance of a permanent program permit under the provisions of Subchapter C of this chapter.

(c) Records required by § 700.14 of this chapter to be made available locally to the public shall be made available in the county recorder's office of the county in which an operation is located, and at the OSM Albuquerque Field Office.

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

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

§ 903.707 Exemption for coal extraction incident to government-financed highway or other construction.

Part 707 of this chapter, *Exemption for Coal Extraction Incident to Government-*

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Financed Highway or Other Construction, applies to surface coal mining and reclamation operations.

§ 903.736 Permit fees.

Section 736.25 of this chapter, *Permit fees* applies to any person who makes application for a permit to conduct surface coal mining and reclamation operations in Arizona.

§ 903.761 Areas designated unsuitable for surface coal mining by act of Congress.

Part 761 of this chapter, *Areas Designated by Act of Congress*, applies to surface coal mining operations.

§ 903.762 Criteria for designating areas as unsuitable for surface coal mining operations.

Part 762 of this chapter, *Criteria for Designating Areas Unsuitable for Surface Coal Mining Operations*, applies to surface coal mining operations.

§ 903.764 Process for designating areas unsuitable for surface coal mining operations.

Part 764 of this chapter, *State Processes for Designating Areas Unsuitable for Surface Coal Mining Operations*, pertaining to petitions, initial processing, hearing requirements, decisions, data base and inventory systems, public information, and regulatory responsibilities, applies to surface coal mining operations beginning June 24, 1996, one year after the effective date of this program.

§ 903.772 Requirements for coal exploration.

(a) Part 772 of this chapter, *Requirements for Coal Exploration*, applies to any person who conducts coal exploration. For those applications where

§ 772.12 of this chapter applies, the requirements of paragraphs (b) through (d) of this section shall apply in place of § 772.12(c) (1) and (3) and § 772.12(d)(1) of this chapter.

(b) The applicant, upon receipt of notification from the regulatory authority of the submission of an administratively complete application for an exploration permit, must:

(1) Publish one public notice of the filing in a newspaper of general circulation in the county of the proposed exploration area; and

(2) Provide proof of this publication to the regulatory authority within one week of publication.

(c) Any person having an interest which is or may be adversely affected, shall have the right to file written comments within 30 days after the notice is published.

(d) The regulatory authority shall act upon an administratively complete application for a coal exploration permit and any written comments within 15 days from the close of the comment period unless additional time is necessary due to the number or complexity of the issues. The regulatory authority may approve a coal exploration permit only if based upon a complete and accurate application.

§ 903.773 Requirements for permits and permit processing.

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

(b) The Secretary will coordinate, to the extent practicable, his/her responsibilities under the following Federal laws with the relevant Arizona laws to avoid duplication:

Federal law	State law
(1) Clean Water Act, as amended, 33 U.S.C. 1251 et seq	A.R.S Title 49, Art. 2, Sec 221–225; A.R.S Title 49, Art. 3, Sec 241–251; A.R.S Title 49, Art. 10, Sec 361–363; A.R.S Title 49, Art. 11, Sec 371–381. A.R.S. Title 49. A.R.S. Title 49, sections 921–932.
(2) Clean Air Act, as amended, 42 U.S.C. 7401 et seq	A.R.S. Title 49, section 104.
(3) Resource Conservation and Recovery Act, 42 U.S.C. 3251, et seq.	Arizona Antiquities Act—A.R.S. Title 41 secs. 821, 841–846, 861, 862, 865, 1352.
(4) National Environmental Policy Act, 42 U.S.C. 4321 et seq ..	A.R.S. Title 13 Secs. 3702, 3702.1; Title 41 secs. 511, 511.04, 821, 861, 862, 1352; Title 44 sec. 123.
(5) Archeological and Historic Preservation Act, 16 U.S.C. 469 et seq.	A.R.S. Sections 49–101, 201 and 371.
(6) National Historic Preservation Act, 16 U.S.C. 470 et seq	
(7) Section 208 of the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.	