

## National Park Service, Interior

## §9.31

These regulations are not intended to result in the taking of a property interest, but rather to impose reasonable regulations on activities which involve and affect federally-owned lands.

(b) Regulations controlling the exercise of minerals rights obtained under the Mining Law of 1872 in units of the National Park System can be found at 36 CFR part 9, subpart A. In area where oil and gas are owned by the United States, and leasing is authorized, the applicable regulations can be found at 43 CFR, Group 3100.

(c) These regulations allow operators the flexibility to design plans of operations only for that phase of operations contemplated. Each plan need only describe those functions for which the operator wants immediate approval. For instance, it is impossible to define, at the beginning of exploratory activity, the design that production facilities might take. For this reason, an operator may submit a plan which applies only to the exploratory phase, allowing careful preparation of a plan for the production phase after exploration is completed. This allows for phased reclamation and bonding at a level commensurate with the level of operations approved. However, it must be noted that because of potential cumulative impacts, and because of qualitative differences in the nature of the operations, approval of a plan of operations covering one phase of operations does not guarantee later approval of a plan of operations covering a subsequent phase.

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

### §9.31 Definitions.

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

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

(b) *Director*. The Director of the National Park Service or his designee.

(c) *Operations*. All functions, work and activities within a unit in connection with exploration for and development of oil and gas resources, the right to which is not owned by the United States, including: gathering basic information required to comply with this subpart, prospecting, exploration, surveying, preproduction development and

production; gathering, onsite storage, transport or processing of petroleum products; surveillance, inspection, monitoring, or maintenance of equipment; reclamation of the surface disturbed by such activities; and all activities and uses reasonably incident thereto performed within a unit, including construction or use of roads, pipelines, or other means of access or transportation on, across, or through federally owned or controlled lands and waters, regardless of whether such activities and uses take place on Federal, State or private lands.

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

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

(f) *Superintendent*. The Superintendent, or his designee, of the unit of the National Park System containing lands subject to the rights covered by these regulations.

(g) *Commercial Vehicle*. Any motorized equipment used in direct or indirect support of operations.

(h) *Unit*. Any National Park System area.

(i) *Owner*. The owner, or his legal representative, of the rights to oil and gas being exercised.

(j) *Designated Roads*. Those existing roads determined by the Superintendent in accordance with 36 CFR 1.5 and §4.19 to be open for the use of the general public or for the exclusive use of an operator.

(k) *Oil*. Any viscous combustible liquid hydrocarbon or solid hydrocarbon substance easily liquifiable on warming which occurs naturally in the earth, including drip gasoline or other natural condensates recovered from gas without resort to manufacturing process.

(l) *Gas*. 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.

(m) *Site*. Those lands or waters on which operations are to be carried out.

(n) *Contaminating substances*. Those substances, including but not limited to, salt water or any other injurious or toxic chemical, waste oil or waste

## §9.32

emulsified oil, basic sediment, mud with injurious or toxic additives, or injurious or toxic substances produced or used in the drilling, development, production, transportation, or on-site storage, refining, and processing of oil and gas.

(o) *Statement for Management.* A National Park Service planning document used to guide short- and long-term management of a unit; to determine the nature and extent of planning required to meet the unit's management objectives; and, in the absence of more specific planning documents, to provide a general framework for directing park operations and communicating park objectives to the public.

[43 FR 57825, Dec. 8, 1978; 44 FR 37914, June 29, 1979, as amended at 60 FR 55791, Nov. 3, 1995; 62 FR 30234, June 3, 1997]

## §9.32 Access.

(a) No access on, across or through lands or waters owned or controlled by the United States to a site for operations will be granted except for operations covered by §9.33 and, except as provided by §9.38, until the operator has filed a plan of operations pursuant to §9.36 and has had the plan of operations approved in accordance with §9.37. An approved plan of operations serves as the operator's access permit.

(b) No operations shall be conducted on a site within a unit, access to which is on, across or through federally-owned or controlled lands or waters except in accordance with an approved plan of operations, the terms of §9.33 or approval under §9.38.

(c) Any operator intending to use aircraft of any kind for access to a federally-owned or controlled site must comply with these regulations. Failure of an operator to receive the proper approval under these regulations prior to using aircraft in this manner is a violation of both these regulations and 36 CFR 2.17.

(d) No access to a site outside a unit will be permitted across unit lands unless such access is by foot, pack animal, or designated road. Persons using designated roads for access to such a site must comply with the terms of §9.50 where applicable.

(e) Any operator on a site outside the boundaries of a unit must comply with

## 36 CFR Ch. I (7-1-10 Edition)

these regulations if he is using directional drilling techniques which result in the drill hole crossing into the unit and passing under any land or water the surface of which is owned by the United States. Except, that the operator need not comply in those areas where, upon application of the operator or upon his own action, the Regional Director is able to determine from available data, that such operations pose no significant threat of damage to park resources, both surface and subsurface, resulting from surface subsidence, fracture of geological formations with resultant fresh water aquifer contamination, or natural gas escape, or the like.

## §9.33 Existing operations.

(a) Any person conducting operations on January 8, 1979 in accordance with a Federal or State issued permit may continue to do so as provided by this section. After expiration of such existing permits no operations shall be conducted except under an approved plan of operations, unless access is granted by the Regional Director under §9.38.

(1) All Federal special use permits dealing with access on, across or through lands or waters owned or controlled by the United States to a site for the conduct of operations within any unit issued prior to January 8, 1979 shall expire according to their terms and shall not be renewed, unless by the terms of the existing permit it must be renewed.

(2) All operations on a site in a unit access to which is on, across, or through federally owned or controlled lands or waters conducted pursuant to a valid State access permit may be continued for the term of that permit, exclusive of any renewal period whether mandatory or discretionary, if conducted in accordance with the permit.

(b) Any person conducting operations on January 8, 1979 in a unit where Federal or State permits were not required prior to January 8, 1979 may continue those operations pending a final decision on his plan of operations; *Provided, That:*

(1) The operator (within thirty (30) days of January 8, 1979), notifies the