

## Surface Mining Reclamation and Enforcement, Interior

## § 941.773

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

(g) The Secretary may grant a limited variance from the performance standards of §§ 941.815 through 941.828 of this part if the applicant for coal exploration approval or a surface mining permit submitted pursuant to §§ 941.772 through 941.785 demonstrates in the application that:

(1) Such variance is necessary because of the unique nature of South Dakota's terrain, climate, biological, chemical, or other relevant physical conditions; and

(2) The proposed alternative will achieve equal or greater environmental protection than does the performance requirement from which the variance is requested.

[48 FR 16823, Apr. 19, 1983, as amended at 52 FR 13814, Apr. 24, 1987]

### § 941.701 General.

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

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

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

[54 FR 52123, Dec. 20, 1989]

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

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

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

Part 761 of this chapter, *Areas Designated by Act of Congress*, shall apply

to surface coal mining and reclamation operations.

### § 941.762 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*, shall apply to surface coal mine operations.

### § 941.764 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 petitioning, initial processing, hearing requirements, decisions, data base and inventory systems, public information, and regulatory responsibilities shall apply to surface coal mine operations beginning one year after the effective date of this program.

### § 941.772 Requirements for coal exploration.

(a) Part 772 of this chapter, *Requirements for Coal Exploration*, shall apply to any person who conducts or seeks to conduct coal exploration operations.

(b) The Office shall make every effort to act on an exploration application within 60 days of receipt or such longer time as may be reasonable under the circumstances. If additional time is needed, OSMRE shall notify the applicant that the application is being reviewed, but that more time is necessary to complete such review, setting forth the reasons and the additional time that is needed.

[52 FR 13814, Apr. 24, 1987]

### § 941.773 Requirements for permits and permit processing.

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

(b) In addition to the requirements of part 773, the following permit application review procedures shall apply:

(1) Any person applying for a permit shall submit five copies of the application to the Office.