

2. The Mineral Leasing Act of 1920, 30 U.S.C. 181 *et seq.*, and implementing regulations including 43 CFR parts 3480–3487.

3. The National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and implementing regulations, including 40 CFR part 1500.

4. The Endangered Species Act, 16 U.S.C. 1531 *et seq.*, and implementing regulations, including 50 CFR part 402.

5. The National Historic Preservation Act of 1966, 16 U.S.C. 470 *et seq.*, and implementing regulations, including 36 CFR part 800.

6. The Clean Air Act, 42 U.S.C. 7401 *et seq.*, and implementing regulations.

7. The Federal Water Pollution Control Act, 33 U.S.C. 1251 *et seq.*, and implementing regulations.

8. The Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 *et seq.*, and implementing regulations.

9. The Reservoir Salvage Act of 1960, amended by the Preservation of Historical and Archaeological Data Act of 1974, 16 U.S.C. 469 *et seq.*

10. Executive Order 1593 (May 13, 1971), Cultural Resources Inventories on Federal Lands.

11. Executive Order 11988 (May 24, 1977), for flood plain protection. Executive Order 11990 (May 24, 1977), for wetlands protection.

12. The Mineral Leasing Act for Acquired Lands, 30 U.S.C. 351 *et seq.*, and implementing regulations.

13. The Archaeological Resources Protection Act of 1979, 16 U.S.C. 470aa *et seq.*

14. The Constitution of the United States.

15. The Constitution of the State and State Law.

[52 FR 11049, Apr. 7, 1987]

PART 947—WASHINGTON

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AUTHORITY: 30 U.S.C. 1201 *et seq.*

SOURCE: 48 FR 7883, Feb. 24, 1983, unless otherwise noted.

§ 947.700 Washington Federal program.

(a) This part contains all rules that are applicable to surface coal mining operations in Washington which have been adopted under the Surface Mining Control and Reclamation Act of 1977.

(b) Most of the rules in this part cross-reference pertinent parts of the permanent program regulations in this chapter. The full text of a rule is in the

permanent program rule cited under the relevant section of the Washington Federal program.

(c) The rules in this part apply to all surface coal mining operations in Washington conducted on non-Federal and non-Indian lands. The rules in Subchapter D of this chapter apply to operations on Federal lands in Washington.

(d) The information collection requirements contained in this part do not require approval by the Office of Management and Budget under 44 U.S.C. 3507 because there are fewer than ten respondents annually.

(e) The following provisions of Washington laws generally provide for more stringent environmental control and regulation of some aspects of surface coal mining operations than do the provisions of the Surface Mining Control and Reclamation Act and the regulations in this chapter. Therefore, pursuant to section 505(b) of the Act, they shall not generally be construed to be inconsistent with the Act, unless in a particular instance the rules in this Chapter are found by OSM to establish more stringent environmental controls:

(1) Washington Clean Air Act, RCW 70.94.

(2) Washington Food Fish and Shell Fish Laws pertaining to the Department of Fisheries on operation in streams, RCW 75.

(3) Washington Hydraulic Projects Approval Law, RCW 75.20.100.

(4) Washington Forest Practices Act, RCW 76.09.

(5) Washington Water Code, RCW 90.03.

(6) Washington Water Pollution Control Act, RCW 90.48.

(7) Washington Minimum Water Flows and Levels Act, RCW 90.22.

(8) Washington Shoreline Management Act, RCW 90.58.

(9) Washington Pesticide Control Act, RCW 15.58.

(f) The following are the Washington law and regulations that generally interfere with the achievement of the purposes and requirements of the Act and are, in accordance with section 504(g) of the Act, preempted and superseded. Other Washington laws may in an individual situation interfere with the purposes and achievements of the

Act and may be preempted and superseded with respect to the performance standards of §§ 947.815 through 947.828 as they affect a particular coal exploration or surface mining operation by publication of a notice to that effect in the FEDERAL REGISTER.

(1) The Washington Surface Mining Act of 1971, Revised Code of Washington (RCW) 78.44, as related to surface coal mining, except to the extent that it regulates surface coal mining operations which affect two acres or less or which otherwise are not regulated by the Surface Mining Control and Reclamation Act.

(2) Surface Mined Land Reclamation regulations, Washington Administrative Code (WAC) 332-18, as they apply to surface coal mining, except to the extent that such regulations apply to surface coal mining operations which affect two acres or less or which otherwise are not regulated by the Surface Mining Control and Reclamation Act.

(g) The Secretary may grant a limited variance from the performance standards of §§ 947.815 through 947.828 of this part if the applicant for coal exploration approval or a surface coal mining reclamation permit submitted pursuant to §§ 947.772 through 947.785 of this part demonstrates in the application:

(1) That such a variance is necessary because of the nature of the terrain, climate, biological, chemical, or other relevant physical conditions in the area of the mine; and

(2) If applicable, that the proposed variance is no less effective than the environmental protection requirements of the regulations in this program and is consistent with the Act.

[48 FR 7883, Feb. 24, 1983, as amended at 52 FR 13815, Apr. 24, 1987]

§ 947.701 General.

(a) 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 Washington.

(b) The following modified definitions shall be applicable under § 701.5 of this chapter:

(1) *Arid and semiarid area* means, in the context of alluvial valley floors, an area of the interior western United States, west of the 100th meridian west