

## National Park Service, Interior

## § 9.39

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 signifi-

cant 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