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of this part shall be deemed a trespass against the United States, and the penalty provisions of 36 CFR part 1 are inapplicable to this part.

### §9.17 Public inspection of documents.

(a) Upon receipt of the plan of operations the Superintendent shall publish a notice in the FEDERAL REGISTER advising of the availability of the plan for public review.

(b) Any document required to be submitted pursuant to the regulations in this part shall be made available for public inspection at the Office of Superintendent during normal business hours. The availability of such records for inspection shall be governed by the rules and regulations found at 43 CFR part 2.

### §9.18 Surface use and patent restrictions.

(a) The regulations in 43 CFR 3826.2-5 and 3826.2-6, 3826.4-1(g) and 3826.4-1(h), and 3826.5-3 and 3826.5-4 will apply to any claimant who wishes to take his claim to patent in Olympic National Park, Glacier Bay National Monument or Organ Pipe Cactus National Monument.

(b) The additional provisions of 43 CFR subpart 3826 and 36 CFR 7.26 and 7.45(a) will continue to apply to existing permits until 120 days after January 26, 1977, unless extended by the Regional Director. (See §9.10(g).

[42 FR 4835, Jan. 26, 1977, as amended at 48 FR 30296, June 30, 1983]

## Subpart B—Non-Federal Oil and Gas Rights

AUTHORITY: Act of August 25, 1916, 39 Stat. 535 (16 U.S.C. 1, *et seq.*); and the acts establishing the units of the National Park System, including but not limited to: Act of April 25, 1947, 61 Stat. 54 (16 U.S.C. 241, *et seq.*); Act of July 2, 1958, 72 Stat. 285 (16 U.S.C. 410, *et seq.*); Act of October 27, 1972, 86 Stat. 1312 (16 U.S.C. 460dd, *et seq.*); Act of October 11, 1974, 88 Stat. 1256 (16 U.S.C. 698-698e); Act of October 11, 1974, 88 Stat. 1258 (16 U.S.C. 698f-698m); Act of December 27, 1974, 88 Stat. 1787 (16 U.S.C. 460ff *et seq.*).

SOURCE: 43 FR 57825, Dec. 8, 1978, unless otherwise noted.

## 36 CFR Ch. I (7-1-04 Edition)

### §9.30 Purpose and scope.

(a) These regulations control all activities within any unit of the National Park System in the exercise of rights to oil and gas not owned by the United States where access is on, across or through federally owned or controlled lands or waters. Such rights arise most frequently in one of two situations: (1) When the land is owned in fee, including the right to the oil and gas, or (2) When in a transfer of the surface estate to the United States, the grantor reserved the rights to the oil and gas. These regulations are designed to insure that activities undertaken pursuant to these rights are conducted in a manner consistent with the purposes for which the National Park System and each unit thereof were created, to prevent or minimize damage to the environment and other resource values, and to insure to the extent feasible that all units of the National Park System are left unimpaired for the enjoyment of future generations.

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

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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 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