

§ 6.7

36 CFR Ch. I (7-1-08 Edition)

§ 6.7 Mining wastes.

(a) Solid waste from mining includes but is not limited to mining overburden, mining byproducts, solid waste from the extraction, processing and beneficiation of ores and minerals, drilling fluids, produced waters, and other wastes associated with exploration, development, or production of oil, natural gas or geothermal energy and any garbage, refuse or sludge associated with mining and mineral operations.

(b) A person conducting mining or mineral operations on January 23, 1995, and not governed by a plan of operations approved under 36 CFR part 9, Minerals Management, or pursuant to the terms of a Federal mineral lease, may continue to operate a solid waste disposal site within the boundaries of a unit only after complying with § 6.5 and § 6.10 and with a permit issued by the Regional Director under § 6.9.

(c) A person conducting mining or mineral operations on January 23, 1995, and governed by a plan of operations approved under 36 CFR part 9 or pursuant to the terms of a Federal mineral lease may continue to operate a solid waste disposal site under the terms of the approved plan of operations or lease. Where an existing mining or mineral operation is governed by 36 CFR part 9 or a Federal mineral lease, an NPS-approved plan of operations will constitute the permit for solid waste disposal site operation otherwise required under § 6.9. A bond required under 36 CFR part 9, or by the Bureau of Land Management for Federal lessees, will satisfy the requirements of § 6.10.

(d) A person proposing to initiate mining or mineral operations after January 23, 1995, within the boundaries of a unit of the National Park System, whether or not governed by a plan of operations approved under 36 CFR part 9 or the terms of a Federal mineral lease, may not establish or operate a new solid waste disposal site within a unit.

(e) The temporary storage, stockpiling for return, or return of nonhazardous mining overburden to the mine site for the purpose of mine site reclamation does not require a request,

environmental report, financial assurance or a permit issued under this part.

§ 6.8 National Park Service solid waste responsibilities.

(a) Beginning one year after January 23, 1995, a Superintendent will not permit or allow a person to dispose of solid waste at a National Park Service operated solid waste disposal site except for waste generated by National Park Service activities.

(b) The Superintendent of a unit where the National Park Service operates a solid waste disposal site will establish a waste collection program for harmful wastes generated by residential activities by National Park Service and concessionaire households within the unit. The Superintendent will establish frequency and place of collection but such frequency must be, at a minimum, every twelve months.

(c) Each Superintendent will ensure full compliance with regulations at 40 CFR part 244, Solid Waste Management Guidelines For Beverage Containers. Only those units of the National Park System where carbonated beverages in containers are not sold, or that have prepared formal documentation of non-implementation under 40 CFR 244.100(f)(3) that has been approved by the Director and the Administrator of the Environmental Protection Agency, are exempt from the deposit and container return program mandated in 40 CFR part 244.

(d) NPS concessionaires, commercial use licensees and contractors will comply with acquisition, recycling and waste minimization goals established by the NPS.

§ 6.9 Permits.

(a) A permit issued under this section is required to operate a solid waste disposal site within the boundaries of a unit of the National Park System, except as specified in § 6.2(c) or § 6.7(c).

(b) Upon receipt of a request under § 6.4, § 6.5 or § 6.6, the Regional Director will analyze whether a new site, or continued operation of an existing site, meets the approval conditions of § 6.4, or § 6.5 respectively. The Regional Director will also review the request under appropriate laws and executive orders, including, but not limited to

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the National Environmental Policy Act (43 U.S.C. 4321), the National Historic Preservation Act (16 U.S.C. 470), the Endangered Species Act (16 U.S.C. 1531-1543), and E.O. 11988, Floodplain Management (3 CFR, 1978 Comp., p. 117), and E.O. 11990, Wetland Protection (3 CFR, 1978 Comp., 121).

(c) The Regional Director must approve or deny a solid waste disposal site request under this part within 180 calendar days of receipt of the request. The 180 calendar days do not include any days required for consultation with State or Federal agencies under, but not limited to, the Endangered Species Act, the National Historic Preservation Act and the Coastal Zone Management Act, or days required to prepare an Environmental Impact Statement under the National Environmental Policy Act.

(d) If the Regional Director approves a solid waste disposal site request under § 6.4, § 6.5 or § 6.6, the Regional Director may issue, after operator compliance with § 6.10, a nontransferable permit, the term of which shall not exceed five years. The permittee may request a new five year permit upon expiration of an existing permit. The permit instrument will be Form 10-114 (OMB No. 1024-0026), Special Use Permit, available from the park Superintendent.

(e) A permit for a solid waste disposal site will prescribe the site capacity and the requirements under which the solid waste disposal site will be operated. The requirements must include, but are not limited to:

- (1) Hours of operation;
- (2) Number, frequency, size, gross weight and types of vehicles used, and access routes;
- (3) Type and height of perimeter fencing;
- (4) Compliance with all applicable Federal, State and local laws and regulations, including permit requirements;
- (5) Type and frequency of groundwater, surface water, explosive gas and other pertinent natural resource monitoring;
- (6) Rights and conditions of access for inspection by National Park Service and other responsible Federal, State or local officials;

(7) Closure and post-closure care requirements;

(8) Methods of pest and vermin control;

(9) Methods of excluding hazardous waste, municipal solid waste incinerator ash, lead-acid batteries, PCBs and PCB Items, material registered by the Environmental Protection Agency as a pesticide, sludge from a waste treatment plant or septic system, domestic sewage, petroleum, including used crankcase oil from a motor vehicle and soil contaminated by such products, medical waste, radioactive materials and tires;

(10) Methods of excluding waste generated from non-National Park Service activities, except for a solid waste disposal site approved under § 6.5, or § 6.6, or § 6.7(c); and

(11) Methods of litter control.

(f) Any conflict between a requirement of the permit issued by the National Park Service and a requirement of State or local law will be resolved in favor of the stricter of the two requirements.

§ 6.10 Financial assurance.

(a) The Regional Director will not require a bond or security deposit for a solid waste disposal site for which the operator has established a bond under 40 CFR 258.74(b).

(b) The Regional Director will not require a bond or security deposit for a solid waste disposal site whose owner or operator is a State entity whose debts and liabilities are the debts and liabilities of a State.

(c) Upon approval of a request to operate a new, or continue an existing, solid waste disposal site, an operator who is not described in paragraphs (a) or (b) of this section must file with the Regional Director a suitable performance bond with satisfactory surety, payable to the Secretary of the Interior or the Secretary's designee. The bond must be conditioned upon faithful compliance with all applicable laws and regulations, and the permit requirements as approved. When bonds are to serve as security, an operator must provide a power of attorney to the Secretary or the Secretary's designee. The bond must be issued by a