

DEPARTMENT OF THE INTERIOR**Bureau of Land Management**

43 CFR Parts 3710, 3730, 3810, 3820, 3830–3840, and 3850

[WO–620–1430–00–24 1A]

RIN 1004–AD31

Locating, Recording, and Maintaining Mining Claims or Sites

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Land Management (BLM) is publishing this rule to streamline the regulations on locating, filing, and maintaining mining claims or sites by consolidating provisions that were scattered in various portions of Groups 3700 and 3800 into ten consecutive parts placing the provisions in logical order, clarifying conflicting language, eliminating duplication, and removing obsolete provisions. These revisions are part of BLM's overall effort to rewrite regulations in plain language to make them easier for the public to use and understand and to provide better customer service.

DATES: This final rule is effective November 24, 2003.

FOR FURTHER INFORMATION CONTACT: Roger Haskins in the Solid Minerals Group at (202) 452–0355 or Ted Hudson in the Regulatory Affairs Group at (202) 452–5042. For assistance in reaching the above contacts, individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1 (800) 877–8339 at any time.

SUPPLEMENTARY INFORMATION:

I. Background

BLM has primary responsibility for the administration of mining claims and sites on Federal lands. At the end of fiscal year (FY) 2002, there were 198,029 mining claims and sites maintained on the Federal lands. During FY 2002, claimants recorded 15,407 new mining claims and sites. In addition, BLM processed 6,249 waiver documents containing 21,334 mining claims and sites and processed 174,845 annual maintenance fee transactions. BLM also collected a total of \$19,410,375 in location and maintenance fees. BLM pays these collected fees into a special fund, and Congress appropriates the money to BLM to pay for the personnel and operations of the Mining Law

Administration program, which includes, among other things—

- Recording and adjudicating mining claims and sites located on the public lands,
- Processing patent applications, plans of operations and notices,
- Inspecting operations, and
- generally enforcing the regulations.

A. Mining Claims or Sites

A mining claim, which can be either lode or placer, may be located on Federal land and must contain a valuable mineral deposit. In contrast, a mill site may be located on nonmineral land and must be used to support a lode or placer mining claim operation or support itself independent of a particular claim. A tunnel site contains a tunnel to a lode mine or is used to discover previously unknown lode mineral deposits.

B. Current Regulations

How Are Current Regulations Organized?

Regulations on locating, recording, and maintaining mining claims or sites are currently scattered throughout 43 CFR Groups 3700 and 3800. BLM and the General Land Office (GLO), BLM's predecessor agency, created them piece by piece since 1939, when the first Code of Federal Regulations (CFR) was issued. Past practice of BLM and GLO was to create a new subpart in the CFR if Congress amended the General Mining Law or passed new laws affecting mining claims or sites. For this reason, the regulations that this final rule replaces were disjointed and contained conflicting, obsolete, expired, and duplicative information. This rule is BLM's first attempt to consolidate, clarify, and eliminate duplications in these regulations.

What Other Regulations Are Related to This Rule?

This rule concerns the location, recording, and maintenance of mining claims and associated mineral rights on the Federal lands of the United States that are subject to the General Mining Law. In order to obtain permission to occupy or disturb the surface or subsurface of your mining claims or sites, you must follow the Surface Management regulations of the surface management agency.

- For BLM-administered lands, you must follow 43 CFR 3715, 3802, 3809, or 3814 as applicable.
- On National Forest lands, you must follow 36 CFR part 228.
- On National Park System lands, you must follow 36 CFR parts 6 and 9.

• In addition, most States require you to obtain mining and reclamation permits before beginning surface disturbing operations on Federal lands.

To apply for a mineral patent for your mining claim or mill site, you must follow the regulations at 43 CFR parts 3860 and 3870. However, due to a Congressional budget moratorium in effect since October 1, 1994, BLM will not accept any new mineral patent applications unless and until Congress removes the moratorium.

What Previously Proposed Rules Relate to This Rule?

Since 1992, Congress has passed four short-term laws requiring claimants to pay various fees when locating, recording, and maintaining mining claims or sites. As the designated fee collector, BLM has implemented each of these laws by amending its regulations. An administrative final rule dated June 3, 2002 (67 FR 38203) implemented the fourth of these short-term laws—the Interior and Related Agencies Appropriation Act of November 5, 2001, for Fiscal Year 2001 (the Act) (Title I of Pub. L. 107–63, 115 Stat. 414; 30 U.S.C. 28–28k) by continuing to require claimants to pay location and maintenance fees on unpatented mining claims or sites and to make annual maintenance fee waivers available to small miners until September 30, 2003. BLM collected these fees and provided for waivers under the existing regulations based on a previous law that expired on September 30, 2001. To implement the earlier Acts, BLM published rules amending 43 CFR parts 3730, 3821, 3833, and 3850 at 59 FR 44857 and 64 FR 47201. This final rule retains the changes made in the June 2002 administrative final rule.

Statutory History

Originally, all commercially valuable minerals were locatable under the General Mining Law. Congress has, over time, added minerals to or removed them from the General Mining Law through amendments and the enactment of laws such as the Mineral Leasing Act, the Geothermal Steam Act, and the Surface Resources Act. As a result, whether minerals are locatable is defined by the intersection of these statutes with the General Mining Law. The Federal Land Policy and Management Act (FLPMA) affects location, recording, and maintenance of mining claims or sites through its broad directive to the Secretary of the Interior to manage all public lands. In addition, Congress requires special procedures for locating or maintaining claims or sites that fall under the Stockraising