

47023). These consisted of post cards, e-mail, regular mail, and legal briefs. Several duplicates were received, as several persons sent us both an e-mail and followed up with a paper copy by regular mail. In terms of source, 62 documents were submitted by individuals, 13 by businesses, 11 by industrial or trade associations, 15 by environmental groups, and 2 by agencies of the Federal Government. Most documents had more than one comment or suggestion concerning these regulations. We will address the general comments here. Those that are specific to a particular part or section will be discussed under the heading for the appropriate part or section further below.

#### Legislative Repeal

Nine comments suggested we repeal the General Mining Law of 1872. Laws may not be changed by rulemaking, but only by Act of Congress. Therefore we cannot act upon this suggestion.

#### Waste on Mill Sites

Many comments requested that we not allow the dumping of mining "waste" on the public land upon mill sites. This is for the most part an operational issue that is regulated by BLM under 43 CFR subparts 3715 and 3809 and not under these regulations, which only cover locating, recording, and maintaining mining claims and sites. Nevertheless, we have addressed this concern by requiring claimants to locate only that amount of mill site acreage that is necessary to be used or occupied for efficient and reasonably compact mining or milling operations.

#### Mill Site Opinion

The Solicitor's Opinion of November 12, 1997, concerning the allowable amount of mill site acreage per mining claim location received 49 adverse comments, as did part 3832.32, in which we proposed to implement the 1997 Opinion's conclusions. Deputy Solicitor Roderick E. Walston issued a new opinion on October 7, 2003, that supercedes the 1997 Opinion. We discuss this further in the section-by-section analysis below.

#### Scope, Form and Intent of This Final Rule

This rule is intended to:

(1) Consolidate in one series of parts (parts 3830–3839) all rules and regulations concerning the location, holding, maintenance, transfer, amendment, and recording of mining claims and sites that are currently scattered in various parts of Groups 3700 and 3800;

(2) Remove all obsolete and expired provisions that have legislatively sunset or that courts have rendered ineffective;

(3) Place into regulation the long standing case law elements of the Department that affect the items in (2) above; and

(4) Complete the consolidation in plain language for ease of understanding by our customers and the BLM staff.

"Revising the Mining Law by Regulation"

Several comments objected to BLM placing longstanding administrative practice and rules established by case law into this regulation and declared that this was essentially an attempt to revise the law administratively to suit our purposes. BLM's position is that by placing these longstanding administrative practices and judicial holdings into these regulations, we are clarifying the applicable requirements for our customers and our own personnel, thereby reducing misunderstanding. We have modified the language in some sections from the proposed rule so that they more closely match the language and intent of applicable case law. For example, to define uncommon varieties of mineral materials, we rely on the court's decision in *McClarty v. Secretary of the Interior*, 408 F.2d 907 (9th Cir. 1969).

#### B. Section-by-Section Analysis

This section-by-section analysis will briefly outline how the final regulations are organized and highlight any substantive changes. We will also discuss comments we received addressing each section and our responses.

The chart below provides a map of the final numbering changes to help guide you through the new consolidated part. The column on the left shows the section numbers in this rule, and the column on the right shows the sections in the old regulations from which the provisions are derived, or states that they are new. Sections ending in "0" are generally introductory sections leading into a series of related substantive sections, and may not have equivalent sections shown in the Existing Regulations column. Also, the final regulations have more numbered parts, which did not have part equivalents in the existing regulations. The table, modified from the table published in the proposed rule of August 27, 1999 (64 FR 47023), shows both the "cross walk" of existing CFR sections and parts into the new part 3830 and the new language development for some of those proposed sections.

Final regulations	Existing regulations
<b>Part 3830</b>	
3830.1 .....	New; 3833.0–1
3830.2 .....	New; 3833.0–1;
3830.3 .....	New; 3832
3830.5 .....	New; 3833.0–5
3830.8 .....	3833.0–9
3830.9 .....	3833.5(g)
3830.10 .....	
3830.11 .....	3812.1
3830.12 .....	New; 3711.1; 3811.1; 3812.1
3830.20 .....	
3830.21 .....	New; 3833.1–1; 3833.1–4;
	3833.1–5; 3852.2
3830.22 .....	3833.1–1
3830.23 .....	3833.1–3(a); 3833.1–4(f)–(g)
3830.24 .....	3833.1–3(a); 3833.0–5(m);
	3833.1–4(f)–(g)
3830.25 .....	3833.1–3(a); 3833.1–4(a)–(b)
3830.90 .....	
3830.91 .....	New; 3833.4(a)–(b)
3830.92 .....	3833.4(f)
3830.93 .....	New; 3833.4(b)
3830.94 .....	New; 3833.4(b); 3833.4(c);
	3833.5(d); 3833.5(f)
3830.95 .....	New; 3833.1–3(b); 3833.4(a)
3830.96 .....	3833.1–3(b); 3833.4(b)
3830.97 .....	3833.1–2(c)(3)
3830.100 .....	3833.5(h)
<b>Part 3832</b>	
3832.1 .....	New; 3831.1
3832.10 .....	
3832.11 .....	3831.1; 3833.1–2(b); 3841.4–4;
	3841.4–5; 3841.4–6
3832.12 .....	3833.1–2(a)–(b); 3842.1–1
	through 3842.1–5; 3841.4
3832.20 .....	
3832.21 .....	3812.1; 3841.3; 3841.4;
	3842.2; 3842.4
3832.22 .....	3841.4–1; 3841.4–2; 3842.1–2
3832.30 .....	
3832.31 .....	New; 3844
3832.32 .....	New; 3844
3832.33 .....	New; 3844
3832.34 .....	New; 3844
3832.40 .....	
3832.41 .....	New; 3843
3832.42 .....	3843
3832.43 .....	3843
3832.44 .....	3843.1
3832.45 .....	New; 3843
3832.90 .....	
3832.91 .....	New; 3833.0–5(p) & (r)
<b>Part 3833</b>	
3833.1 .....	New; 3833.4(a); 3833.4(d);
	3833.5(a)–(c) & (e)
3833.10 .....	
3833.11 .....	3833.1–2(a); 3833.1–2(b)(1)–
	(4); 3833.5(c)
3833.20 .....	
3833.21 .....	New; 3833.0–5(p)
3833.22 .....	New; 3833.0–5(p)
3833.30 .....	
3833.31 .....	3833.3
3833.32 .....	New; 3833.3(c)
3833.33 .....	3833.3(a); 3842.1–1
3833.90 .....	
3833.91 .....	New; 3833.4(a); 3833.5(a) &
	(f); 3811.1