
**U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT**

**PAPERWORK REDUCTION ACT REQUEST
SUPPORTING STATEMENT A**

**MINERAL SURVEYS, MINERAL PATENT APPLICATIONS, ADVERSE CLAIMS,
PROTESTS, AND CONTESTS (43 CFR PARTS 3860 AND 3870)**

OMB CONTROL NUMBER 1004-0025

Terms of Clearance: Not applicable. The Office of Management and Budget (OMB) provided no Terms of Clearance when it last approved the collections of information under this OMB Control Number (see OMB Notice of Action dated February 8, 2019).

Abstract: The General Mining Law (30 U.S.C. 29, 30, and 39) authorizes a holder of an unpatented claim for hardrock minerals to apply for fee title (patent) to the federal land (as well as minerals) embraced in the claim. Division G, Title I of the Consolidated Appropriations Act, 2021 (Public Law No. 116–260), annual appropriation bill for the Department of the Interior, has prevented the BLM from processing mineral patent applications unless the applications were grandfathered under the initial legislation. While grandfathered applications are rare at present, the approval to collect the information continues to be necessary because of the possibility that the moratorium will be lifted and applicable regulations that contain the information are still part of the Code of Federal Regulations. Therefore, the Bureau of Land Management (BLM) is requesting that OMB renew this OMB control number of an additional three (3) years.

Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.

The (BLM seeks a 3-year extension of the previously approved information collection requirements pertaining to mineral patent applications, and to challenges to such applications. A patent is an instrument by which the United States conveys legal title to a parcel of Federal land. The statutory authority for such conveyances is the General Mining Law of 1872, as amended (30 U.S.C. 21 – 54). Collections pertaining to mineral patents are authorized by regulations at 43 CFR Part 3860, and challenges of mineral patents are governed by 43 CFR Part 3870.

Three categories of mineral patents are authorized by the General Mining Law: vein or lode mining claim patents, placer mining claim patents, and patents for millsites that are attendant to

vein or lode claims or placer claims. As a prerequisite to applying for a mineral patent, the claimant must “locate” the property under 30 U.S.C. 23 (vein or lode claims), 30 U.S.C. 35 (placer claims), and/or 30 U.S.C. 42 (millsites). "Location" is the act of taking or appropriating a parcel of land. The act of "location" includes posting a location notice on the mining claim or millsite, recording the location notice, and marking the mining claim or millsite boundaries on the ground.

A "vein or lode" claim is a location made upon a vein or lode of quartz or other "rock in place" bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits (30 U.S.C. 23). A "placer" claim is characterized by mineral deposits formed by sedimentary processes and includes all forms of deposit except veins of quartz or other rock in place (30 U.S.C. 35). A millsite is nonmineral land that is used or occupied by the proprietor of a lode or placer claim for mining, milling, or processing purposes (30 U.S.C. 42).

The provisions of the General Mining Law that authorize the BLM to grant mining patents are 30 U.S.C. 29 (vein or lode claims), 35 (placer claims), and 42 (millsites). A mining claimant does not need to obtain a patent for a mining claim or millsite before beginning mining activities on the claim or site. However, a mineral patent gives the owner exclusive title to the locatable minerals, and it may give the owner title to the surface and other resources.

The following types of challenges to patent applications are authorized under 30 U.S.C. 29 and 30:

- In an adverse claim, rival mining claimants assert that they have mining claims covering part or all of the land applied for in the mineral patent application.
- Anyone may protest a patent application, at any time prior to the issuance of the patent, upon any ground tending to show that the applicant has failed to comply with relevant laws or regulations.
- A contest action is a proceeding brought to determine the validity or use of an unpatented mining claim or site.

The collections of information pertaining to mineral patents are authorized by regulations at:

- 43 CFR Subpart 3861 (applications for a mineral survey);
- 43 CFR Subpart 3862 (applications for a vein or lode claim patent);
- 43 CFR Subpart 3863 (applications for a placer claim patent);
- 43 CFR Subpart 3864 (applications for a millsite patent); and
- 43 CFR Part 3870 (adverse claims, protests, and conflicts).

Congress has enacted a series of 1-year moratoria on spending appropriated funds for the acceptance or processing of new applications for patents for any mining or millsite claim. The first moratorium went into effect for fiscal year (FY) 1995 and continues until the most recent

moratorium went into effect for FY 2021. See Public Law No. 103-332, § 112 (the moratorium as originally enacted for FY 1995); Public Law No. 115-141, § 404 (the moratorium as enacted for FY 2018). The moratorium continues under Division G, Title I of the Consolidated Appropriations Act, 2021 (Public Law No. 116–260).

The BLM will not accept any new mineral patent applications while the moratorium is in effect. However, because the moratorium does not have retroactive effect, patent applications are grandfathered if they were filed on or before September 30, 1994, and received their “first-half final certificates” (FHFC) by that date. (The FHFC is given to patent applicants that are awaiting the mineral examiner's verification of the validity of the claim for final approval).

As long as the moratorium remains in effect, the information collection requirements outlined in the regulations at 43 CFR Subparts 3862 through 3864 (mineral patent applications), and Subpart 3871 (adverse claims) are relevant only to grandfathered patent applications.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection. Be specific. If this collection is a form or a questionnaire, every question needs to be justified.

(a) Forms

Form 3860-2 (Certificate of Title on Mining Claims, 43 CFR Subpart 3862, 3863, and 3864). The BLM provides Form 3860-2 as a means to summarize chain-of-title data in support of an application for a mineral patent. The form may be completed by a title company or title attorney on the applicant’s behalf and is submitted with the mineral patent application. A title abstract may be submitted in lieu of Form 3860-2. (A title abstract is a condensed history, taken from public records and documents, of the ownership of a piece of land and all claims that could be made against it.)

Form 3860-2 requires the respondent to summarize the results of a title records search in the relevant County or Borough Recording Office and provides for the respondent’s convenience a list of known and possible unknown conditions that may affect the title: paramount title in the United States; tax or assessment liens; the possibility that evidence of annual assessment work may be inadequate; and the possibility of adverse rights due to overlapping claim boundaries. It also requires the respondent to disclose a description of the land containing the mining claims and/or millsites, and the name and address of the person or corporation that performed the title search.

Form 3860-5 (Application for Survey of Mining Claim, 43 CFR Subpart 3861). An application for a mineral survey (Form 3860-5) is filed by a claim holder who intends to apply for a patent. A claim holder would file this form with the BLM in order to meet the legal requirements for a

plat (a type of map) and field notes of the claim, made under the direction of the BLM, showing accurately the boundaries of the claim. See 30 U.S.C. 29; 43 CFR Subpart 3861. The Congressional moratorium discussed in Item No. 1, above, does not refer to the mineral patent survey, nor has the BLM been directed to interrupt the mineral survey program. As a result, the BLM accepts and processes Form 3860-5, notwithstanding the moratorium.

The BLM uses Form 3860-5 to standardize the filing of the information necessary for the BLM's Chief Cadastral Surveyor to authorize a land survey of the affected mining claims and millsites. Only one submission of Form 3560-5 is required per mineral patent application. A successful applicant for a mineral survey receives a list of the BLM-licensed Deputy U.S. Mineral Surveyors, and the BLM Chief Cadastral Surveyor issues a formal order for survey of the land along with any special instructions to the Deputy U.S. Mineral Surveyor.

The applicant is responsible directly to the surveyor for the actual costs of the survey and the surveyor's preparation of the field notes and plat of survey. The mineral surveyor's duty to the case at hand ends when the estimate of expenditures and improvements, field notes, and a preliminary survey plat are submitted to the BLM for approval as an official survey of the public lands.

We require the following information on Form 3860-5:

Lines 1 and 2 require the name and address of the person(s) requesting the survey and the group name given to the claim or site block, if any. Line 3 is where the owners list the names of the mining claims and millsites, the local and BLM recordation information, and the BLM serial numbers assigned to the mining claims and millsites. The information collected on lines 1-3 will establish the ownership of the mining claims and millsites and allow the BLM to determine whether the persons applying for survey are the actual owners of the claims/sites. We also ensure that all current fees and assessments are up-to-date. Line 4 provides space for the applicant to identify the State, County, Township(s), Range(s), and section(s) where the mining claims and millsites are situated so that the BLM may consult its land records for status of the land and check the location of the mining claims and millsites with regard to any previous land surveys in the same area.

Lines 5a and 5b recite the statutory requirement to submit a certified copy of the original location certificate. The applicant must confirm that the location certificate accurately describes the mining claim and millsite location on the ground, and that the actual boundaries of the mining claim and millsite are prominently marked on the ground so that the mineral surveyor may readily find them.

(b) Non-Form Information Collections

Before filing a mineral patent application, a claimant must post a copy of the plat of survey in a conspicuous place upon the claim, together with notice of his/her intention to apply for a patent

therefor, which notice will give the date of posting, the name of the claimant, the name of the claim, the number of the survey, the mining district and county, and the names of adjoining and conflicting claims as shown by the plat of survey (30 U.S.C. 29; 43 CFR 3861.7-1). After posting the plat and notice upon the premises, the claimant will file with the proper manager two copies of such plat and the field notes of survey of the claim, accompanied by two copies of the statement of at least two credible witnesses that such plat and notice are posted conspicuously upon the claim, giving the date and place of such posting, and two copies of the notice so posted to be attached to and form a part of such statement (43 CFR 3861.7-2).

Mineral Patent Applications — In General

The information that must be filed with the BLM by mining claimants seeking to patent a vein or lode claim, placer claim, or millsite is required by the General Mining Law and by regulations of the BLM (30 U.S.C. 29, 35 and 42; 43 CFR Subparts 3862, 3863, and 3864). All applicants for mineral patents must pay a processing fee in accordance with 43 CFR 3860.1. See 43 CFR 3862.1-2, 3863.1(c), and 3864.1-5.

A mineral patent application consists of statements, documentation, and proofs relative to each claim that is included in the application. The information in the application enables the BLM to meet its two primary responsibilities with respect to such applications — adjudication and mineral examination. A staff of land law examiners in each BLM State Office adjudicates applications for completeness and compliance with the relevant statutory and regulatory provisions. Once the application has successfully passed through the adjudication process, the case is assigned to a BLM Field Office for a formal mineral examination to verify the discovery of a valuable mineral deposit on the mining claims and proper use or occupancy for any millsites.

Two copies of the application must be filed with the BLM State Office having adjudicative responsibility over the mineral estate, whether or not the surface is federally-owned. In applying for a patent embracing land lying within land under the jurisdiction of more than one State Office, a full set of papers must be filed in each office, except that one abstract of title and one proof of patent expenditures will be sufficient. Only one newspaper publication and one posting on the claim will be required, but proof thereof must be filed in both offices (43 CFR 3862.1-1).

Applications for mineral patents must be executed in the land district where the claim is located.

Any documents submitted with the application that are marked proprietary or confidential are removed from the file and hand carried to the mineral adjudicator. The authorities for such protection include the Trade Secrets Act (18 U.S.C. 1905), Departmental regulations at 43 CFR Part 2, and BLM regulations at 43 CFR 3862.9, concerning access to Departmental records.

Subpart 3862 — Vein or Lode Claims

A mineral patent application for a vein or lode claim must show that the claimant has the possessory right to the claim by virtue of compliance with the mining rules, regulations, and customs of the mining district or state in which the claim lies, and with Federal mining laws. Under 43 CFR 3862.1-1, an application must:

- Describe fully the kind and character of the vein or lode;
- State whether ore has been extracted from the vein or load and if so, in what amount and of what value;
- Show the precise place within the limits of each of the locations embraced in the application where the vein or lode has been exposed or discovered and the width thereof, in detail sufficient to enable the Government to confirm the same by examination in the field and also enable the BLM to determine whether a valuable deposit of mineral actually exists within the limits of each of the locations embraced in the application; and
- State whether the claimant has or has not had any part in the development of the atomic bomb project and if so, set forth in detail the exact nature of the claimant's participation and state whether as a result of such participation he has acquired any confidential, official information as to the existence of deposits of uranium, thorium, or other fissionable source materials in the lands covered by his application. (Note: This requirement applies to mining claims located after August 1, 1946).

Each patent application must be supported by evidence of title that satisfies the criteria described at 43 CFR 3862.1-3. This evidence may consist of a certificate of title or an abstract of title certified by the legal custodian of the records of locations and transfers of mining claims, or by an abstracter of titles, accompanied by single copies of the certificate or notice of the original location of each claim, and of the certificates of amended or supplemental locations thereof, certified to by the legal custodian of the record of mining locations. The certificate of title must conform substantially to Form 3860-2, but non-form data may meet the criteria of section 3862.1-3.

Each application must also be supported by evidence relating to destroyed or lost records, in the event of the mining records in any case having been destroyed by fire or otherwise lost (43 CFR 3862.1-4).

For lands in Alaska, the application must be supported by a duly corroborated statement showing that no portion of the land applied for is occupied or reserved by the United States, so as to prevent its acquisition under said laws; that the land is not occupied or claimed by natives of Alaska; and that the land is unoccupied, unimproved and unappropriated by any person claiming the same other than the claimant (43 CFR 3862.1-5).

Proof of citizenship is also required, as follows:

- Corporation — a certified copy of the corporate charter or certificate of incorporation (43 CFR 3862.2-1);

- Association acting through an agent — a statement of the duly authorized agent, made upon his/her own knowledge or upon information and belief, setting forth the residence of each person forming such association, accompanied by a power of attorney from the parties forming such association, authorizing the person who makes the citizenship showing to act for them in the matter of their application for a patent (43 CFR 3862.2-1); or
- Individual or association of individuals who do not appear by their duly authorized agent — a statement of each applicant, showing whether or not he/she is a native or naturalized citizen, when and where born, and residence (43 CFR 3862.2-2(a)); or, in case an applicant has declared an intention to become a citizen or has been naturalized, a statement showing the date, place, and the court before which he/she declared the intention, or from which the certificate of citizenship was issued, and present residence (43 CFR 3862.2(b)).

Anyone applying for a patent as a trustee must provide full disclosure of the nature of the trust and the name of the “cestui que trust” (i.e., the person entitled to the equitable estate), satisfactory proof of citizenship for the trustee and beneficiaries, and the names of beneficiaries and trustee (43 CFR 3862.2-3).

Upon receiving any mineral patent application and accompanying paperwork, the BLM will arrange for publication of a notice of such application for a period of 60 days in the newspaper published nearest to the claim (43 CFR 3862.4-1). The applicant is responsible for the cost of publication. After the 60-day period of newspaper publication has expired, the applicant will furnish to the BLM a sworn statement from the newspaper that the notice was published for the required amount of time, giving the first and last day of such publication. The applicant is also required to provide his/her own statement showing that the plat and notice remained conspicuously posted upon the claim during the 60-day publication period (43 CFR 3862.4-5).

Subpart 3863 — Placer Mining Claims

Applications to patent placer mining claims usually must contain the same recitals necessary for applications to patent vein or lode mining claims, but where a placer claim is upon surveyed lands, and conforms to legal subdivisions, no further survey or plat will be required (30 U.S.C. 35; 43 CFR 3863.1).

In addition to the requirements that apply when seeking to patent vein or lode claims, applications to patent placer claims must include proof of improvements made that are worth at least \$500, and that they were made by the applicant for patent or his grantors. This proof should consist of the statement of two or more disinterested witnesses (43 CFR 3863.1-2.)

Applications must also be supported by such data as will support the claim that the land applied for is placer ground containing valuable mineral deposits not in vein or lode formation, and that

title is sought not to control water courses or to obtain valuable timber but in good faith because of the mineral therein. The following details should be covered as fully as possible:

- If the claim is for a deposit of placer gold, the yield per pan, or cubic yard, as shown by prospecting and development work, distance to bedrock, formation and extent of the deposit, and all other facts upon which the applicant bases the allegation that the claim is valuable for its deposits of placer gold.

If the claim is for a deposit other than placer gold (e.g., building stone), the kind, nature, and extent of the deposit, including why the deposit is regarded as a valuable mineral claim; the natural features of the claim; a full description of streams, if any, including their course and amount of water carried; what kind and amount of timber and other vegetation; and adaptability to mining or other uses (43 CFR 3863.1-3(a)).

If the claim is for all placer ground, that fact must be stated in the application and corroborated by accompanying proofs. If the claim is for mixed placers and lodes, that fact must be stated in the application, along with a description of all known lodes within the boundaries of the claim. A specific declaration, such as is required by 30 U.S.C. 37, must be furnished as to each lode intended to be so claimed. All other known lodes are, by silence of the applicant, excluded by law from all claim by him/her of whatsoever nature, possessory or otherwise (43 CFR 3863.1-3(b)).

Subpart 3864 — Millsites

Holders of vein or lode claims may apply for millsite patents if they hold a possessory right, for mining or milling purposes, to non-mineral land that is not contiguous to the vein or lode. These applications are subject to the same requirements as to survey and notice that are applicable to vein or lodes. Owners of quartz mill or reduction works, not owning a mine in connection therewith, may also receive a patent for their millsite (30 U.S.C. 42(a)).

A placer claimant may include a millsite patent application, covering non-mineral land, in an application for a placer claim patent by showing that:

- The proprietor of the of the claim needs the land for mining, milling, processing, beneficiation, or other operations in connection with the placer claim, and
- The land is used or occupied by the proprietor for such purposes (30 U.S.C. 42(b)).

In every case there must be satisfactory proof that the land claimed as a millsite is not mineral in character. Proof may, where the matter is unquestioned, consist of the statement of two or more persons capable, from acquaintance with the land to testify understandingly (43 CFR 3864-1-4).

Subpart 3871 – Adverse Claims

The mining law states the information an adverse claimant must file with the BLM during the 60-day publication period to allow the BLM to recognize an adverse claim. The adverse claimant must:

- file under oath (sworn affidavit) the adverse claim;
- clearly state the nature of the conflict;
- provide a survey of the boundaries of the claim(s) (if not located in conformance with the public land survey) and the mineral patent applicant's claim(s) as to the overlapped areas; and
- submit evidence of title to the mining claim so that the BLM can determine whether the adverse claimant is the current owner of the claim in conflict.

When the BLM certifies the adverse claim, all mineral patent proceedings (except publication and posting of notices and plat and the filing of the necessary proof thereof) are suspended. We inform the party who files the adverse claim that, within 30 days from the date of such filing, proceedings must be commenced in a court of competent jurisdiction to determine the question of the right of possession (30 U.S.C. 30; 43 CFR 3871.3(a)). If the adverse claimant fails to commence suit in court within the 30-day period, a statutory waiver of the adverse claim will result and the application for patent would be allowed to proceed upon its merits. Based on our experience, we anticipate no adverse claims until the Congressional moratorium is lifted.

43 CFR Subpart 3872 – Protests, Contests, and Conflicts

Protests: Any person may file a protest to a mineral patent application on the grounds that the BLM or the applicant did not comply with the mining law or the regulations in the mineral patent application process. Based on our experience, we anticipate no more than one protest annually against grandfathered patent applications.

A protester must file with the BLM a statement clearly identifying the non-compliance and submit the information upon which the protester bases the allegation of non-compliance. If the protester fails to submit the information, the BLM will dismiss the protest. The protester may file an appeal under 43 CFR Part 4. A properly documented protest will cause the BLM to suspend the mineral patent application until the BLM addresses the issues raised in the protest and issues its decision. The decision may either confirm the issues set out in the protest, which will then cause the BLM to re-adjudicate the application or dismiss the protest.

Contests: If the BLM or an underlying claimant initiates a contest complaint, the claimant must serve a response to the applicant within 30 days. If the applicant fails to respond to the charges, the BLM considers it an admission to the charges in the contest complaint. At this point, we will cancel or forfeit the application and claims/sites. The response is usually in the form of a legal brief prepared by the claimant. The response generally denies the charges in the response and sets the stage for a hearing before an Administrative Law Judge of the Department's Office of Hearings and Appeals in accordance with 43 CFR Part 4, Subpart E.

Conflicts: The regulations do not clearly specify what form of challenge is meant by the term “conflicts,” and a supervisory attorney within the Department’s Office of the Solicitor advised us that “conflicts” is not a term of art at present.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden and specifically how this collection meets GPEA requirements.

Forms 3860-2 and 3860-5 are electronically available to the public in fillable, printable format on the BLM’s Forms Web site at <http://www.blm.gov/noc/st/en/business/eForms.html>. A respondent may complete either form, print it, and then file it with the appropriate BLM office in accordance with 43 CFR 1822.11 and 1822.12. Electronic filing is not an acceptable form of filing because an original signature is required for each form. See 43 CFR 1822.13.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

There is no duplication between this information collection and other collections. The information is unique to each mining claim or millsite, each prospective mineral patent owner, and the physical site of the land the mining claim or millsite encompasses. In addition, the chain-of-title information required for patent is unique to the ownership history of the mining claim or millsite, and State laws require filing in the county or borough offices documents that attest that the claimants comply with the Federal requirements in order to maintain their mining claims or sites. For these reasons, the information is not already available and is unsuitable for other uses.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

The pertinent statutes’ applicability does not depend on whether or not respondents are small businesses or other small entities. All parties must submit the same information to establish the physical location of their mining claims and millsites prior to applying for a mineral patent. The title information is unique to the owner(s) of the mining claims and millsites for which a patent is sought. Therefore, we use no special methods to minimize the information collection burden on small businesses or other small entities. The collection procedures are the same whether the owner is an individual, a partnership, or a corporation. We collect only the minimum information necessary.

The majority of mining claimants are either individuals or small businesses, and in some

circumstances they may benefit from the BLM's reduction of processing fees for applicants seeking to patent 10 or fewer mining claims. At present, the BLM charges a processing fee of \$1,6770 for an application that includes 10 or fewer claims. In contrast, the BLM charges \$3,340 for an application that includes more than 10 claims. These fees, at 43 CFR 3000.12, were most recently updated at 85 FR 64060 (October 9, 2020).

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

The scope of the information to be filed with the BLM is specified in the General Mining Law, and the BLM lacks discretion to change it. An application for a mineral survey is filed only once, and a mineral patent application is submitted only once, so long as the respondent has complied with the relevant statutory and regulatory requirements. The BLM makes every effort to resolve any adverse claims, protests, contests, and conflicts. The frequency of the collection would be "on occasion." Therefore, less frequent collection of this information is impossible and would mean no collection at all, and the BLM lacks discretion to collect no information at all.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- * **requiring respondents to report information to the agency more often than quarterly;**
- * **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- * **requiring respondents to submit more than an original and two copies of any document;**
- * **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;**
- * **in connection with a statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- * **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- * **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- * **requiring respondents to submit proprietary trade secrets, or other confidential information, unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

There are no special circumstances that require us to collect the information in a manner inconsistent with the guidelines in 5 CFR 1320.5(d).

- 8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and in response to the PRA statement associated with the collection over the past three years, and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three years — even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

On October 28, 2021, the BLM published a Federal Register notice soliciting comments for a period of 60 days on this collection of information (86 FR 59746). The comment period closed on December 27, 2021. No comments were received in response to this notice.

Additionally, as required by 5 CFR 1320.5(a)(1)(iv), BLM published a notice in the Federal Register announcing the submission of this request to OMB and allowing the public 30 days to send comments on the proposed extension of this OMB number to OMB.

Consultations: Due to the legislative moratorium on mineral patent appropriations, the BLM has not conducted any collection activities under this control number in the last three years. In these circumstances, consultations would not be useful.

- 9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

The BLM does not provide payments or gifts to respondents.

- 10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.**

The BLM treats as confidential any information concerning a mineral deposit and its economic value, so long as the respondent identifies the information as confidential. We protect this information under the Trade Secrets Act (18 U.S.C. 1905), Departmental regulations at 43 CFR

Part 2, and BLM regulations at 43 CFR 3862.5, concerning access to Departmental records. We physically separate such information from the application package and keep it in a secure location along with other proprietary and confidential information under the Mineral Leasing Act and the Indian Minerals Trust Lands Act.

Under the privacy provisions of the E-Government Act of 2002, individuals/respondents were informed as to whether or not providing the information is required to obtain a benefit. The BLM has firewalls to protect website access, strong security and password protection of the information in the database, and other security measures to protect electronic information.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

Respondents are not required to answer questions of a sensitive nature.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- * **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- * **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.**
- * **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included under “Annual Cost to Federal Government.”**

Table 12-1, below, shows the BLM’s estimate of the hourly cost burdens for respondents. Most respondents hire a professional to complete the necessary paperwork. The mean hourly wages for Table 12-1 were determined using national Bureau of Labor Statistics data at: http://www.bls.gov/oes/current/oes_nat.htm. The benefits multiplier of 1.4 is supported by information at <http://www.bls.gov/news.release/ecec.nr0.htm>.

Table 12-1: Hourly Cost Calculation

| Occupational Category | Mean Hourly Wage | Benefits Multiplier | Total Mean Hourly Wage |
|---|------------------|---------------------|------------------------|
| SOC Code Number 17-2151 Mining and Geological Engineers, Including Mining Safety Engineers | \$48.15 | 1.4 | \$67.41 |

The estimated annual reporting burdens for this collection are shown below in Table 12-2. Because of the moratorium, we are estimating only one response per information collection activity.

Table 12-2: Estimates of Hour and Cost Burdens Annually

| Collection of Information | Number of Annual Responses | Hours Per Response | Annual Burden Hours | Dollar Equivalent (Hours x \$67.41) |
|--|----------------------------|--------------------|---------------------|-------------------------------------|
| Certificate of Title on Mining Claims, or Title Abstract (43 CFR Subpart 3862) Form 3860-2 | 1 | 4 | 4 | \$269.64 |
| Application for Survey of Mining Claim (43 CFR Subpart 3861) Form 3860-5 | 1 | 4 | 4 | \$269.64 |
| Lode Mining Claim Patent Application / 10 or Fewer Claims (43 CFR Subpart 3862) | 1 | 80 | 80 | \$5,392.80 |
| Lode Mining Claim Patent Application / More Than 10 Claims (43 CFR Subpart 3862) | 1 | 100 | 100 | \$6,741.00 |
| Placer Mining Claim Patent Application / 10 or Fewer Claims (43 CFR Subpart 3863) | 1 | 80 | 80 | \$5,392.80 |
| Placer Mining Claim Patent Application / More Than 10 Claims (43 CFR Subpart 3863) | 1 | 100 | 100 | \$6,741.00 |
| Millsite Patent Application / 10 or Fewer Millsites (43 CFR Subpart 3864) | 1 | 80 | 80 | \$5,392.80 |
| Millsite Patent Application / More Than 10 Millsites (43 CFR Subpart 3864) | 1 | 100 | 100 | \$6,741.00 |
| Adverse Claims (43 CFR Subpart 3871) | 1 | 3 | 3 | \$202.23 |
| Protests, Contests, and Conflicts (43 CFR Subpart 3872) | 1 | 8 | 8 | \$539.28 |
| Totals: | 10 | — | 559 | \$37,682.19 |

13. Provide an estimate of the total annual non-hour cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected in item 12.)

- * The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and

disclosing or providing the information (including filing fees paid for form processing). Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.

- * **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
- * **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.**

There are no capital and startup costs.

The following costs are included in Table 13, below:

- Fixed document-processing fees for mineral patent applications, adverse claims, and protests, contests, and conflicts;
- Case-by-case costs of a validity examination and report by a BLM Certified Mineral Examiner; to be determined on a case-by-case basis for each mineral patent application under regulations that went into effect on November 7, 2005, see 30 U.S.C. 39; 43 CFR 3000.11 and 3860.1(b); and
- The cost of publishing a notice of each mineral patent application for a period of 60 days in the newspaper published nearest to the claim (43 CFR 3862.4-1), is estimated to be \$200 per application.

The fixed document-processing fees are authorized by regulations (43 CFR 3000.12, and 3860.1) that went into effect on November 7, 2005, and have been adjusted annually according to the change in the Implicit Price Deflator for Gross Domestic Product. These regulations were promulgated in accordance with Section 304 of the Federal Land Policy and Management Act (43 U.S.C. 1734), the Independent Offices Appropriation Act (31 U.S.C. 9701), and OMB Circular No. A-25 (“User Charges”). As of October 9, 2020 (i.e., Fiscal Year 2021), the BLM is authorized to charge mineral patent applicants of \$3,340 fee for the adjudication of more than 10 claims or millsites. Applicants with 10 or fewer claims are charged a fee of \$1,670. The

fixed processing fee for adverse claims and protests are \$120 and \$75, respectively.

The criteria for determining case-by-case fees, including the fees for validity examinations associated with mineral patent applications, were also promulgated in the 2005 rulemaking, and are codified at 43 CFR 3000.11. Because of the Congressional moratorium, we have not reached the stage of validity examinations for any mineral patent applications under the 2005 regulations, so our estimate of \$40,000 is based on our experience with validity examinations in the context of other types of mineral applications.

A single response for each information collection activity is assumed, in view of the Congressional moratorium described in Item 1, above. In Table 13, below, the notation “N/A” means that there is no fixed processing fee for that particular information collection, no estimated publication costs, and/or no estimated case-by-case fee for a validity examination.

Table 13: Estimated Non-hour Costs

| Collection of Information | Amount of Fixed Document-Processing Fee | Estimated Publication Cost | Estimated Case-by-Case Fee for Validity Examination | Cost Per Response |
|--|---|----------------------------|---|-------------------|
| Certificate of Title on Mining Claims, or Title Abstract 43 CFR Subpart 3862 Form 3860-2 | N/A | N/A | N/A | N/A |
| Application for Survey of Mining Claim 43 CFR Subpart 3861 Form 3860-5 | N/A | N/A | N/A | N/A |
| Lode Mining Claim Patent Application / 10 or Fewer Claims 43 CFR Subpart 3862 | \$1,670 | \$200 | \$40,000 | \$41,870 |
| Lode Mining Claim Patent Application / More Than 10 Claims 43 CFR Subpart 3862 | \$3,340 | \$200 | \$40,000 | \$43,540 |
| Placer Mining Claim Patent Application / 10 or Fewer Claims 43 CFR Subpart 3863 | \$1,670 | \$200 | \$40,000 | \$41,870 |
| Placer Mining Claim Patent Application / More Than 10 Claims 43 CFR Subpart 3863 | \$3,340 | \$200 | \$40,000 | \$43,540 |
| Millsite Patent Application / 10 or Fewer Millsites 43 CFR Subpart 3864 | \$1,670 | \$200 | \$40,000 | \$41,870 |
| Millsite Patent Application / More Than 10 Millsites 43 CFR Subpart 3864 | \$3,340 | \$200 | \$40,000 | \$43,540 |
| Adverse Claims 43 CFR Subpart 3871 | \$120 | N/A | N/A | \$120 |

| Collection of Information | Amount of Fixed Document-Processing Fee | Estimated Publication Cost | Estimated Case-by-Case Fee for Validity Examination | Cost Per Response |
|--|---|----------------------------|---|-------------------|
| Protests, Contests, and Conflicts 43 CFR Subpart 3872 | \$75 | N/A | N/A | \$75 |
| Totals: | \$15,225 | \$1,200 | \$240,000 | \$256,425 |

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.

The total estimated annual cost to the Federal Government is shown below in Tables 14-1 and 14-2. This estimate is based on a calculation of hours and hourly wages involved in processing the responses. The hourly cost to the Federal Government shown in Table 14-1 is based on the U.S. Office of Personnel Management Salary Table at: https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2021/RUS_h.pdf. The benefits multiplier of 1.6 is implied by information at: <http://www.bls.gov/news.release/ecec.nr0.htm>.

Table 14-1: Estimated Hourly Cost to the Government

| Position and Pay Grade | Hourly Pay Rate (\$/hour) | Hourly Rate with Benefits (Hourly Rate x 1.6) | Percent of the Information Collection Completed by Each Occupation | Weighted Avg. |
|---|---------------------------|---|--|----------------|
| Clerk -- GS-7/5 | \$23.72 | \$37.95 | 10% | \$3.80 |
| Land Law Examiner -- GS-9/5 | \$29.02 | \$46.43 | 80% | \$37.14 |
| Supervisory Land Law Examiner -- GS12/5 | \$42.08 | \$67.33 | 10% | \$6.73 |
| Totals: | | | 100% | \$47.67 |

Table 14-2: Estimated Annual Cost to the Government

| Collection of Information | Number of Responses | Staff Hours Per Response | Total Staff Hours | Dollar Equivalent (Total Staff Hours x \$47.67) |
|---|---------------------|--------------------------|-------------------|---|
| Certificate of Title on Mining Claims, or Title Abstract 43 CFR Subpart 3862 Form 3860-2 | 1 | 4 | 4 | \$190.68 |
| Application for Survey of Mining Claim 43 CFR Subpart 3861 Form 3860-5 | 1 | 1 | 1 | \$47.67 |
| Lode Mining Claim Patent Application / 10 or Fewer Claims 43 CFR Subpart 3862 | 1 | 100 | 100 | \$4,767.00 |

| Collection of Information | Number of Responses | Staff Hours Per Response | Total Staff Hours | Dollar Equivalent (Total Staff Hours x \$47.67) |
|---|---------------------|--------------------------|-------------------|---|
| Lode Mining Claim Patent Application / More Than 10 Claims 43 CFR Subpart 3862 | 1 | 110 | 110 | \$5,243.70 |
| Placer Mining Claim Patent Application / 10 or Fewer Claims 43 CFR Subpart 3863 | 1 | 100 | 100 | \$4,767.00 |
| Placer Mining Claim Patent Application / More Than 10 Claims 43 CFR Subpart 3863 | 1 | 110 | 110 | \$5,243.70 |
| Millsite Patent Application / 10 or Fewer Millsites 43 CFR Subpart 3864 | 1 | 100 | 100 | \$4,767.00 |
| Millsite Patent Application / More Than 10 Millsites 43 CFR Subpart 3864 | 1 | 110 | 110 | \$5,243.70 |
| Adverse Claims 43 CFR Subpart 3871 | 1 | 3 | 3 | \$143.01 |
| Protests, Contests, and Conflicts 43 CFR Subpart 3872 | 1 | 32 | 32 | \$1,525.44 |
| Totals: | 10 | ---- | 670 | \$31,938.90 |

15. Explain the reasons for any program changes or adjustments in hour or cost burden.

There are no program changes requested. The BLM is adjusting the non-hour cost burden from \$255,375 to \$256,425, an increase of \$1,050. The adjustment results from updating costs estimates.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

We will not publish the results of this collection.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

The BLM will display the expiration date of the OMB approval on the forms included in this information collection. The OMB number and expiration date displayed on the form as well as at www.reginfo.gov.

18. Explain each exception to the topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions."

There are no exceptions to the certification requirements of 5 CFR 1320.9.