

## **Title 43: Public Lands: Interior**

### **PART 3500—LEASING OF SOLID MINERALS OTHER THAN COAL AND OIL SHALE**

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**Authority:** 5 U.S.C. 552; 30 U.S.C. 189 and 192c; 43 U.S.C. 1701 *et seq.* ; and sec. 402, Reorganization Plan No. 3 of 1946 (5 U.S.C. appendix).

**Source:** 64 FR 53536, Oct. 1, 1999, unless otherwise noted.

## **Subpart 3501—Leasing of Solid Minerals Other Than Coal and Oil Shale—General**

### **§ 3501.1 What is the authority for this part?**

The statutory authority for the regulations in this group is as follows:

(a) *Leasable minerals* —(1) *Public domain*. The Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 *et seq.* ).

(2) *Acquired lands*. The Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359) and the Act of June 28, 1944 (58 Stat. 483–485) for those lands reserved from allotment by section 58 of the supplemental agreement of 1902 (32 Stat. 654) with the Choctaw-Chickasaw Nation of Indians. Congress ratified the purchase contract in the Act of June 24, 1948 (62 Stat. 596) and appropriated funds for the purchase in the Act of May 24, 1949 (63 Stat. 76).

(b) *Hardrock minerals*. (1) Section 402 of Reorganization Plan No. 3 of 1946 (5 U.S.C. Appendix) transferred the functions of the Secretary of Agriculture for the leasing or other disposal of minerals to the Secretary of the Interior for lands acquired under the following statutes:

(i) The Act of March 4, 1917 (16 U.S.C. 520);

(ii) Title II of the National Industrial Recovery Act of June 16, 1933 (40 U.S.C. 401, 403(a) and 408);

(iii) The 1935 Emergency Relief Appropriation Act of April 8, 1935 (48 Stat. 115, 118);

(iv) Section 55 of Title I of the Act of August 24, 1935 (49 Stat. 750, 781);

(v) The Act of July 22, 1937 (50 Stat. 522, 525, 530), as amended July 28, 1942 (7 U.S.C. 1011(c) and 1018); and

(vi) Section 3 of the Act of June 28, 1952 (66 Stat. 285).

(2) Section 3 of the Act of September 1, 1949 (30 U.S.C. 192c) authorized the issuance of mineral leases or permits for the exploration, development and utilization of minerals, other than those covered by the Mineral Leasing Act for Acquired Lands, in certain lands added to the Shasta National Forest by the Act of March 19, 1948 (62 Stat. 83).

(3) The Act of June 30, 1950 (16 U.S.C. 508(b)) authorizes leasing of the hardrock minerals on National Forest lands in Minnesota.

(c) *Special acts.* (1) Gold, silver or quicksilver in confirmed private land grants are covered by the Act of June 8, 1926 (30 U.S.C. 291–293).

(2) Reserved minerals in lands patented to the State of California for parks or other purposes are covered by the Act of March 3, 1933 (47 Stat. 1487), as amended by the Act of June 5, 1936 (49 Stat. 1482) and the Act of June 29, 1936 (49 Stat. 2026).

(3) National Park Service Areas. Congress authorized mineral leasing, including the leasing of nonleaseable minerals in the manner prescribed by section 10 of the Act of August 4, 1939 (43 U.S.C. 387), in the following national recreation areas:

(i) Lake Mead National Recreation Area—The Act of October 8, 1964 (16 U.S.C. 460n- *et seq.* );

(ii) Whiskeytown Unit of the Whiskeytown-Shasta-Trinity National Recreation Area—The Act of November 8, 1965 (16 U.S.C. 460q- *et seq.* );

(iii) Glen Canyon National Recreation Area—The Act of October 27, 1972 (16 U.S.C. 460dd *et seq.* ).

(4) Shasta-Trinity Units of the Whiskeytown-Shasta-Trinity National Recreation Area. Section 6 of the Act of November 8, 1965 (16 U.S.C. 460q- *et seq.* ) authorizes mineral leasing, including the leasing of nonleaseable minerals in the manner prescribed by section 3 of the Act of September 1, 1949 (30 U.S.C. 192c), on lands within the Shasta-Trinity Units of the Whiskeytown-Shasta-Trinity National Recreation Area.

(5) White Mountains National Recreation Area. Sections 403, 404, and 1312 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 460mm–2 through 460mm–4) authorize the Secretary of the Interior to permit the removal of the nonleaseable minerals from lands or interests in lands within the recreation area in the manner described by section 10 of the Act of August 4, 1939, as amended (43 U.S.C. 387), and the removal of leaseable minerals from lands or interest in lands within the recreation area in accordance with the mineral leasing laws.

(d) *Land management.* The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.* ) authorizes the management and use of the public lands.

(e) *Fees.* Section 304 of FLPMA (43 U.S.C. 1734) authorizes the Secretary to establish reasonable filing and service fees for applications and other documents relating to the public lands. The Independent Offices Appropriation Act (31 U.S.C. 9701) authorizes agencies to charge fees to recover the costs of providing services or things of value.

[64 FR 53536, Oct. 1, 1999, as amended at 70 FR 58876, Oct. 7, 2005]

## § 3501.2 What is the scope of this part?

(a) This part applies to minerals other than oil, gas, coal and oil shale, leased under the mineral leasing acts, and to hardrock minerals leasable under Reorganization Plan No. 3 of 1946, on any unclaimed, undeveloped area of available public domain or acquired lands where leasing of these specific minerals is allowed by law. Special areas identified in part 3580 of this title and asphalt on certain lands in Oklahoma also are leased under this part. Check part 3580 to identify any special provisions that apply to those special areas.

(b) This part does not apply to Indian lands or minerals except where expressly noted.

### **§ 3501.5 What terms do I need to know to understand this part?**

You need to know the following terms, which are used frequently in this part:

*Acquired lands* means lands or interests in lands, including mineral estates, which the United States obtained through purchase, gift, or condemnation. It includes all lands BLM administers for hardrock mineral leasing other than public domain lands.

*Chiefly valuable*, for the purposes of this part, means the land is more valuable for the development of sodium, sulphur or potassium than for any non-mineral use of the land.

*Hardrock minerals* include base metals, precious metals, industrial minerals, and precious or semi-precious gemstones. Hardrock minerals do not include coal, oil shale, phosphate, sodium, potassium, or gilsonite deposits. Also, hardrock minerals do not include commodities the government sells such as common varieties of sand, gravel, stone, pumice or cinder. The term hardrock minerals as used here includes mineral deposits that are found in sedimentary and other rocks.

*Leasable minerals*, for purposes of this part, means the chlorides, sulfates, carbonates, borates, silicates or nitrates of potassium or sodium and related products; sulphur on public lands in the States of Louisiana and New Mexico and on all acquired lands; phosphate, including associated and related minerals; asphalt in certain lands in Oklahoma; and gilsonite (including all vein-type solid hydrocarbons).

*MMS* means the Minerals Management Service.

*Permit* means prospecting permit, unless otherwise specified.

*Valuable deposit*, for the purposes of this part, means an occurrence of minerals of such character that a person of ordinary prudence would be justified in the further expenditure of his or her labor and means, with a reasonable prospect of success in developing a profitable mine.

### **§ 3501.10 What types of mineral use authorizations can I get under these rules?**

BLM issues the mineral use authorizations listed below to qualified individuals. Some authorizations are not available for certain commodities. See the subparts referenced in each subsection for more information.

(a) "Prospecting permits" let you explore for leasable mineral deposits on lands where BLM has determined that prospecting is needed to determine the existence of a valuable deposit. See subpart 3505 of this part.

(b) "Exploration licenses" let you explore in areas with known deposits of a leasable mineral to obtain data. With an exploration license, you do not get any preference or other right to a lease. See subpart 3506 of this part.

(c) "Preference right leases" are issued to holders of prospecting permits who, during the term of the permit, demonstrate the discovery of a valuable deposit of the leasable mineral for which BLM issued the permit. There are other requirements. The requirements for mine plans are in subpart 3592 of part 3590 of this chapter. See subpart 3507 of this part.

(d) "Competitive leases" are issued by competitive bidding for known deposits of a leasable mineral. See subpart 3508 of this part.

(e) "Fringe acreage leases" are issued noncompetitively for known deposits of leasable minerals on Federal lands adjacent to existing deposits, when the Federal deposits can be mined only as part of an adjacent operation. See subpart 3510 of this part.

(f) "Lease modifications" add adjacent acreage to a Federal lease. The acreage to be added:

(1) Contains known deposits of the same mineral that can be mined only as part of the mining operation on the original Federal lease; or

(2) Has the following characteristics—

(i) Does not contain known deposits of the same mineral;

(ii) Will be used for surface activities that are necessary in furtherance of recovery of the mineral deposit on the original Federal lease; and

(iii) Had the acreage been included in the original Federal lease at the time of the Federal lease's issuance, the original Federal lease would have been reasonably compact.

(g) "Use permits" are available to holders of phosphate and sodium leases so that they may use the surface of unappropriated and unentered public lands for the proper extraction, treatment, or removal of the phosphate or sodium deposits. See subpart 3516 of this part.

[64 FR 53536, Oct. 1, 1999, as amended at 74 FR 641, Jan. 7, 2009]

**§ 3501.16 Does my permit or lease grant me an exclusive right to develop the lands covered by the permit or lease?**

No. Your permit or lease gives you an exclusive right to the mineral, but not to the lands. BLM may allow other uses or disposal of the lands, including leasing of other minerals, if those uses or disposals will not unreasonably interfere with your operation. If BLM issues other permits or leases covering the lands contained within your permit or lease, they will contain suitable stipulations for simultaneous operation based on consideration of safety, environmental protection, conservation, ultimate recovery of the resource, and other factors. You must also make all reasonable efforts to avoid interference with other authorized uses. In cases where the date of the lease is used to determine priority for development and a lease is renewed, BLM will use the effective date of the original lease to determine priority for development.

**§ 3501.17 Are there any general planning or environmental considerations that affect issuance of my permit or lease?**

(a) BLM will not issue you a permit or lease unless it conforms with the decisions, terms and conditions of an applicable comprehensive land use plan.

(b) BLM or the surface management agency will comply with any applicable environmental requirements before issuing you a permit or lease. This may result in conditions on your permit or lease.

(c) BLM will issue permits and leases consistent with any unsuitability designation under part 1600 of this title.

**§ 3501.20 If BLM approves my application for a use authorization under this part, when does it become effective?**

Your lease, permit, or other use authorization is effective the first day of the month after BLM signs it, unless you request in writing and BLM agrees to make it effective the first day of the month in which it is approved. This applies to all leases, licenses, permits, transfers and assignments in this part, unless a specific regulation provides otherwise.

### **§ 3501.30 May I appeal BLM's decisions under this part?**

Any party adversely affected by a BLM decision under this part may appeal the decision under parts 4 and 1840 of this title.

## **Subpart 3502—Qualification Requirements**

### **Lease Qualifications**

#### **§ 3502.10 Who may hold permits and leases?**

You may hold an interest in permits or leases under this part only if you meet the requirements of 30 U.S.C. 184. You must be:

- (a) An adult citizen of the United States;
- (b) An association (including partnerships and trusts) of such citizens;
- (c) A corporation organized under the laws of the United States or of any U.S. State or territory;
- (d) A legal guardian of a minor United States citizen;
- (e) A trustee of a trust where the beneficiary is a minor but the trustee is qualified to hold a permit or lease;  
or
- (f) any other person authorized to hold a lease under 30 U.S.C. 184.

#### **§ 3502.13 May foreign citizens hold permits or leases?**

No. However, foreign citizens may hold stock in United States corporations that hold leases or permits if the laws, customs, or regulations of their country do not deny similar privileges to citizens or corporations of the United States.

#### **§ 3502.15 Are there any additional restrictions on holding leases or interests in leases?**

Yes. If you are a member of Congress or an employee of the Department of the Interior, except as provided in part 20 of this title, you may not acquire or hold any Federal lease, or lease interest. (Officer, agent or employee of the Department-see part 20 of this title; Member of Congress-see R.S. 3741; 41 U.S.C. 22; 18 U.S.C. 431–433). Also, BLM may not issue any lease or permit which causes a conflict of interest. See 5 CFR part 2635.

#### **§ 3502.20 Will BLM issue a lease to me if I am not complying with the diligence requirements of the Mineral Leasing Act?**

BLM will not issue you a lease or renew your lease, or approve a transfer of any lease or interest in a lease for you unless you are complying with section 2(a)(2)(A) of the Mineral Leasing Act (30 U.S.C. 201(2)(A)) for any of your existing leases that are subject to that provision. For Federal coal leases, BLM will determine compliance under §3472.1–2(e) of this title. If BLM issues you a lease when you are in violation of section 2(a)(2)(A), BLM must void your lease under §3514.30(b).

## **How To Show Lease Qualifications**

### **§ 3502.25 Where do I file evidence that I am qualified to hold a permit or lease?**

You must file evidence with BLM that you meet the qualification requirements in this subpart. You may file this evidence separately from your permit or lease application, but file it in the same office as your application.

### **§ 3502.26 May I supplement or update my qualifications statement?**

After we accept your qualifications, you may send additional information to the same BLM office by referring to the serial number of the record in which your evidence is filed. All changes to your qualifications statement must be in writing. You must make sure that your evidence is current, accurate and complete.

### **§ 3502.27 If I am an individual, what information must I give BLM in my qualifications statement?**

If you are an individual, send us a signed statement showing that:

- (a) You are a U.S. citizen; and
- (b) Your acreage holdings do not exceed the limits in §3503.37 of this part. This includes your holdings through a corporation, association, or partnership in which you are the beneficial owner of more than 10% of the stock or other instruments of control.

### **§ 3502.28 If I am an association or a partnership, what information must I give BLM in my qualifications statement?**

Send us:

- (a) A signed statement setting forth:
  - (1) The names, addresses, and citizenship of all members who own or control 10 percent or more of the association or partnership;
  - (2) The names of the members authorized to act on behalf of the association or partnership; and
  - (3) That the association or partnership's acreage holdings for the particular mineral concerned do not exceed the acreage limits in §3503.37 of this part.
- (b) A copy of the articles of the association or the partnership agreement.

### **§ 3502.29 If I am a guardian or trustee for a trust holding on behalf of a beneficiary, what information must I give BLM in my qualifications statement?**

Send us:

- (a) A signed statement setting forth:
  - (1) The beneficiary's citizenship;
  - (2) Your citizenship;
  - (3) The grantor's citizenship, if the trust is revocable; and

(4) That the acreage holdings of the beneficiary, the guardian or trustee, or the grantor, if the trust is revocable, cumulatively do not exceed the acreage limitations in §3503.37 of this part; and

(b) A copy of the court order or other document authorizing or creating the trust or guardianship.

**§ 3502.30 If I am a corporation, what information must I give BLM in my qualifications statement?**

A corporate officer or authorized attorney-in-fact must send BLM a signed statement stating:

(a) The State or territory of incorporation;

(b) The name and citizenship of, and percentage of stock owned, held, or controlled by, any stockholder owning, holding, or controlling more than 10 percent of the stock of the corporation;

(c) The names of the officers authorized to act on behalf of the corporation; and

(d) That the corporation's acreage holdings, and those of any stockholder identified under paragraph (b) of this section, do not exceed the acreage limitations in §3503.37 of this part.

**Special Situations and Additional Concerns**

**§ 3502.33 If I represent an applicant as an attorney-in-fact, do I have to submit anything to BLM?**

Yes. Send us evidence of your authority to act on behalf of the applicant, and a statement of the applicant's qualifications and acreage holdings if you are empowered to make this statement. Otherwise, the applicant must send us this information separately.

**§ 3502.34 What must I submit if there are other parties in interest?**

If you are not the sole party in interest in an application for a permit or lease, include with your application the names of all other parties who hold or will hold any interest in the application or in the permit or lease when BLM issues it. All interested parties must show they are qualified to hold permit or lease interests.

**§ 3502.40 What happens if an applicant or successful bidder for a permit or lease dies before the permit or lease is issued?**

(a) If probate of the estate has been completed or is not required, BLM will issue the permit or lease to the heirs or devisees, or their guardian. We will recognize the heirs or devisees or their guardian as the record title holders of the permit or lease. They must send us:

(1) A certified copy of the will or decree of distribution, and if no will or decree exists, a statement signed by the heirs that they are the only heirs and citing the provisions of the law of the deceased's last domicile showing that no probate is required; and

(2) A statement signed by each of the heirs or devisees with reference to citizenship and holdings similar to that required by §3502.27 of this part. If the heir or devisee is a minor, the guardian or trustee must sign the statement.

(b) If probate is required but has not been completed, BLM will issue the permit or lease to the executor or administrator of the estate. BLM considers the executor or administrator as the record title holder of the permit or lease. He or she must send:

- (1) Evidence that the person who, as executor or administrator, submits lease and bond forms has authority to act in that capacity and to sign those forms;
- (2) Evidence that the heirs or devisees are the only heirs or devisees of the deceased; and
- (3) A statement signed by each heir or devisee concerning citizenship and holdings, as required by §3502.27 of this part.

**§ 3502.41 What happens to a permit or lease if the permittee or lessee dies?**

If the permittee or lessee dies, BLM will recognize as the record title holder of the permit or lease:

- (a) The executor or administrator of the estate, if probate is required but has not been completed and they have filed the evidence required by §3502.40(b) of this part; or
- (b) The heirs or devisees, if probate has been completed or is not required, if they have filed evidence required by §3502.40(a) of this part.

**§ 3502.42 What happens if the heir is not qualified?**

We will allow unqualified heirs to hold ownership in a lease or permit for up to two years. During that period, the heir must either become qualified or divest himself or herself of the interest.

**Subpart 3503—Areas Available for Leasing**

**Available Areas Under BLM Management**

**§ 3503.10 Are all Federal lands available for leasing under this part?**

No. The Secretary of the Interior may not lease lands on any of the following Federal areas:

- (a) Land recommended for wilderness allocation by the surface managing agency;
- (b) Lands within BLM wilderness study areas;
- (c) Lands designated by Congress as wilderness areas; and
- (d) Lands within areas allocated for wilderness or further planning in Executive Communication 1504, Ninety-Sixth Congress (House Document Number 96–119), unless such lands are allocated to uses other than wilderness by a land and resource management plan or have been released to uses other than wilderness by an act of Congress.

**§ 3503.11 Are there any other areas in which I cannot get a permit or lease for the minerals covered by this part?**

Prospecting permits and leases for solid leasable and hardrock minerals are not available under this part for:

- (a) Lands within the boundaries of any unit of the National Park System, except as expressly authorized by law;
- (b) Lands within Indian Reservations, except the Uintah and Ouray Indian Reservation, Hillcreek Extension, State of Utah;
- (c) Lands within incorporated cities, towns and villages;



- (d) Lands within the National Petroleum Reserve-Alaska, oil shale reserves and national petroleum reserves;
- (e) Lands acquired by the United States for development of helium, fissionable material deposits or other minerals essential to the defense of the country, except leasable minerals;
- (f) Lands acquired by foreclosure or otherwise for resale;
- (g) Acquired lands reported as surplus under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 *et seq.* );
- (h) Any tidelands or submerged coastal lands within the continental shelf adjacent or littoral to any part of lands within the jurisdiction of the United States;
- (i) Lands within the Grand Staircase-Escalante National Monument;
- (j) Lands adjacent to or within Searles Lake, California, which are not available for potassium prospecting permits (BLM will lease potassium in this area by competitive bidding); and
- (k) Any other lands withdrawn from mineral leasing.

**§ 3503.12 For what areas may I receive a sulphur permit or lease?**

You may get a sulphur permit or lease for public domain lands in the States of Louisiana and New Mexico or for Federal acquired lands nationwide, subject to the exceptions listed in §§3503.10 and 3503.11 of this part.

**§ 3503.13 For what areas may I receive a hardrock mineral permit or lease?**

Subject to the consent of the surface managing agency, you may obtain hardrock mineral permits and leases only in the following areas:

- (a) Lands identified in Reorganization Plan No. 3 of 1946, for which jurisdiction for mineral leasing was transferred to the Secretary of the Interior. These include lands originally acquired under the following acts:
  - (1) 16 U.S.C. 520 (Weeks Act);
  - (2) Title II of the National Industrial Recovery Act (40 U.S.C. 401, 403a and 408);
  - (3) The 1935 Emergency Relief Appropriation Act (48 Stat. 115 and 118);
  - (4) Section 55 of Title I of the Act of August 24, 1935 (49 Stat. 750 and 781); and
  - (5) The Act of July 22, 1937 (7 U.S.C. 1011 (c) and 1018 (repealed), Bankhead-Jones Act).
- (b) Lands added to the Shasta National Forest by Act of March 19, 1948 (62 Stat. 83);
- (c) Public Domain Lands within the National Forests in Minnesota (16 U.S.C. 508 (b));
- (d) Lands in New Mexico that are portions of Juan Jose Lobato Grant (North Lobato) and Anton Chica Grant (El Pueblo) as described in section 1 of the Act of June 28, 1952 (66 Stat. 285);
- (e) Lands in the Shasta and Trinity Units of the Whiskeytown-Shasta-Trinity National Recreation Areas;
- (f) The following National Park Lands:

- (1) Lake Mead National Recreation Area;
- (2) Glen Canyon National Recreation Area; and
- (3) Lands in the Whiskeytown Unit of the Whiskeytown-Shasta-Trinity National Recreation Area;
- (g) Lands patented to the State of California for park or other purposes where minerals were reserved to the United States; and
- (h) White Mountains National Recreation Area, Alaska.

#### **§ 3503.14 For what areas may I get a permit or lease for asphalt?**

You may get leases for asphalt only on certain Federal lands in Oklahoma identified by law. See 32 Stat. 654 (1902) and 58 Stat. 483 (1944). You may not obtain prospecting permits for asphalt.

#### **§ 3503.15 May I lease the gold or silver reserved to the United States on land I hold under a private land claim in New Mexico?**

If you hold the remaining record title interest or operating rights interest in confirmed private land grants in New Mexico, you may obtain a lease for gold and silver reserved to the United States. See parts 3580 and 3581 of this chapter for leasing requirements.

#### **§ 3503.16 May I obtain permits or leases for sand and gravel in Nevada under the terms of this part?**

You may not get new leases or permits under these regulations; BLM will consider any new applications for sand and gravel under the regulations at part 3600 of this chapter. Also, beginning January 1, 2000, BLM will not renew any existing sand and gravel lease for certain lands the United States received under an exchange with the State of Nevada.

### **Available Areas Managed by Others**

#### **§ 3503.20 What if another Federal agency manages the lands I am interested in?**

(a) *Public domain lands.* BLM will issue a permit or lease for public domain lands where the surface is administered by another Federal agency only after consulting with the surface management agency. Some laws applicable to public domain lands require us to obtain the consent of the surface management agency before we issue a lease or permit.

(b) *Acquired lands.* For all lands not subject to paragraph (a) of this section where the surface is managed by another Federal agency, we must have written consent from the surface management agency before we issue permits or leases. The surface management agency may request further information about surface disturbance and reclamation before granting its consent.

(c) *Appeal.* If a surface management agency refuses to consent or imposes conditions on your permit or lease, you may appeal its decision under that agency's appeal provisions. If you notify BLM within 30 days after receiving BLM's decision denying or conditioning your permit or lease that you have appealed the surface management agency's decision, we will suspend the time for filing an appeal under 43 CFR parts 4 and 1840 until the surface management agency's decision is final and not subject to further administrative or judicial review.

#### **§ 3503.21 What happens if the surface of the land I am interested in belongs to a non-Federal political subdivision or charitable organization?**

(a) BLM will notify the entity who owns the surface of the lands included within your permit or lease application if that entity is:

(1) Any State or political subdivision, agency or instrumentality thereof;

(2) A college or any other educational corporation or association; or

(3) A charitable or religious corporation or association.

(b) The entity who owns the surface of the lands in your application will have up to 90 days to suggest any lease stipulations to protect existing surface improvements or uses, or to object to the permit or lease. BLM will then decide whether to issue the permit or lease and which, if any, stipulations identified by the surface owner to include, based on how the interests of the United States would best be served.

### **§ 3503.25 When may BLM issue permits and leases for Federal minerals underlying private surface?**

(a) The regulations in this part apply where the United States disposed of certain lands and those disposals reserved to the United States the right to prospect for, mine, and remove the minerals under applicable leasing laws and regulations.

(b) If the Federal Government acquires minerals through a deed, BLM will follow any special covenants in the deed relating to leasing or permitting.

### **§ 3503.28 Does BLM incorporate any special requirements to protect the lands and resources?**

BLM will specify permit or lease stipulations to adequately use and protect the lands and their resources. This may include stipulations which are required by the surface managing agency, or which are recommended by the surface managing agency or non-federal surface owner and accepted by BLM. (See also part 3580 of this chapter.)

## **Land Descriptions**

### **§ 3503.30 How should I describe surveyed lands or lands shown on protraction or amended protraction diagrams in states which are part of the Public Land Survey System?**

Describe the lands by legal subdivision, section, township, and range.

### **§ 3503.31 How should I describe lands in states which are part of the Public Land Survey System but have not been surveyed and are not shown on a protraction or amended protraction diagram?**

Describe such lands by metes and bounds in accordance with BLM standard survey practices for the public lands. Connect your description by courses and distances between successive angle points to an official corner of the public land survey system or, for accreted lands, to an angle point that connects to a point on an official corner of the public land survey system to which the accretions belong.

### **§ 3503.32 How should I describe acquired lands?**

You may describe acquired lands by metes and bounds, or you may also use the description shown on the deed or other document that conveyed title to the United States. If you are applying for less than the entire tract acquired by the United States, describe the land using courses and distances tied to a point on the boundary of the requested tract. Where the acquiring agency assigned a tract number to the identical tract you wish to permit or lease, you may describe those lands by the tract number and include a map which

clearly shows the lands with respect to the administrative unit or the project of which they are a part. In States outside of the public land survey system, you should describe the lands by tract number, and include a map.

**§ 3503.33 Will BLM issue me a lease for unsurveyed lands?**

No. All leased areas must be officially surveyed to BLM standards. If you are applying for a permit or lease on unsurveyed or protracted lands, you must pay for the survey. If BLM intends to issue a lease by competitive bidding, we will pay for surveying the lands.

**Acreage Amounts**

**§ 3503.36 Are there any size or shape limitations on the lands I can apply for?**

Generally, a quarter-quarter section, a lot or a protraction block is the smallest subdivision for which you may apply. The lands must be in reasonably compact form.

**§ 3503.37 Is there a limit to the acreage of lands I can hold under permits and leases?**

Yes. The limits are summarized in the following table:

| <b>Commodity</b>      | <b>Maximum acreage for a permit or lease</b> | <b>Maximum acreage of permits and leases in any one State</b>   | <b>Maximum acreage in permits and leases nationwide</b> |
|-----------------------|--|---|---|
| (a) Phosphate         | 2,560 acres                                  | None  | 20,480 acres.   |
| (b) Sodium            | 2,560 acres                                  | 5,120 acres (may be increased to 30,720 acres to facilitate an economic mine)   | None.   |
| (c) Potassium         | 2,560 acres                                  | 96,000 acres (larger if necessary for extraction of potassium from concentrated brines in connection with an existing mining operation) | None.   |
| (d) Sulphur           | 640 acres                                    | 1,920 acres in 3 leases or permits  | None.   |
| (e) Gilsonite         | 5,120 acres                                  | 7,680 acres   | None.   |
| (f) Hardrock Minerals | 2,560 acres                                  | 20,480 acres in permits and leases, 10,240 acres in leases, but can be increased to 20,480 if needed for orderly mine development       | None.   |
| (g) Asphalt           | 640 acres                                    | 2,560 acres   | Only available in Oklahoma.                             |

[64 FR 53536, Oct. 1, 1999, as amended at 65 FR 50449, Aug. 18, 2000]

**§ 3503.38 How does BLM compute my acreage holdings?**

(a) The maximum acreage in any one state refers to the acres you hold under a permit or lease on either public domain lands or acquired lands. Acquired lands and public domain lands are counted separately, so you may hold up to the maximum acreage of each at the same time. For example, one person could hold 20,000 acres under phosphate leases for public domain lands and 20,000 acres under phosphate leases for acquired lands at the same time.

(b) If your permit or lease is for fractional interest lands, BLM will charge your acreage holdings for a share which is proportionate to the United States' ownership interest. For example, if the United States holds a 25% interest in 200 acres, you will be charged with 50 acres ( $200 \times .25$ ).

(c) BLM will not charge any acreage in a future interest lease against your acreage limitations until the date the permit or lease takes effect.

(d) If you own stock in a corporation or a beneficial interest in an association which holds a lease or permit, your acreage will include your proportionate part of the corporation's or association's share of the total lease or permit acreage. This only applies if you own more than 10 percent of the corporate stock or beneficial interest of the association.

## **Filing Applications**

### **§ 3503.40 Where do I file my permit or lease application and other necessary documents?**

File your application in the State Office which manages the lands for which you are applying, unless we have designated a different State Office. For purposes of this part, a document is filed when it is received in the proper office.

### **§ 3503.41 Will BLM disclose information I submit under these regulations?**

All Federal and Indian data and information submitted to the BLM are subject to part 2 of this title. Part 2 includes the regulations of the Department of the Interior covering public disclosure of data and information contained in Department of the Interior records. BLM may make certain mineral information not protected from disclosure under part 2 of this title may be made available for inspection without a Freedom of Information Act (FOIA) request.

### **§ 3503.42 When I submit confidential, proprietary information, how can I help ensure it is not available to the public?**

When you submit data and information that you believe to be exempt from disclosure by part 2 of this title, you must clearly mark each page that you believe contains confidential information. BLM will keep all data and information confidential to the extent allowed by §2.13(c) of this title.

### **§ 3503.43 How long will information I give BLM remain confidential or proprietary?**

The FOIA does not provide an express period of time for which information may be exempt from disclosure to the public. We will review each situation individually and in accordance with guidance provided by part 2 of this title.

### **§ 3503.44 How will BLM treat Indian information submitted under the Indian Mineral Development Act?**

Under the Indian Mineral Development Act of 1982 (IMDA) (25 U.S.C. 2101 *et seq.* ), the Department of the Interior will hold as privileged proprietary information of the affected Indian or Indian tribe—

(a) All findings forming the basis of the Secretary's intent to approve or disapprove any Minerals Agreement under IMDA; and

(b) All projections, studies, data, or other information concerning a Minerals Agreement under IMDA, regardless of the date received, related to—

- (1) The terms, conditions, or financial return to the Indian parties;
- (2) The extent, nature, value, or disposition of the Indian mineral resources; or
- (3) The production, products, or proceeds thereof.

**§ 3503.45 How will BLM administer information concerning other Indian minerals?**

For information concerning Indian minerals not covered by §3503.44 of this part, BLM will withhold such records as may be withheld under an exemption to the Freedom of Information Act (FOIA) (5 U.S.C. 552) when it receives a request for information related to tribal or Indian minerals held in trust or subject to restrictions on alienation.

**§ 3503.46 When will BLM consult with Indian mineral owners when information concerning their minerals is the subject of a FOIA request?**

BLM will notify the Indian mineral owner(s) identified in the records of the Bureau of Indian Affairs (BIA), and the BIA, and give them a reasonable period of time to state objections to disclosure, using the standards and procedures of §2.15(d) of this title, before making a decision about the applicability of FOIA exemption 4 to protect:

- (a) information obtained from a person outside the United States Government; when
- (b) following consultation with a submitter under §2.15(d) of this title, BLM determines that the submitter does not have an interest in withholding the records that can be protected under FOIA; but
- (c) BLM has reason to believe that disclosure of the information may result in commercial or financial injury to the Indian mineral owner(s), but is uncertain that such is the case.

**Subpart 3504—Fees, Rental, Royalty and Bonds**

**General Information**

**§ 3504.10 What fees must I pay?**

(a) The following table shows fees for various documents in this part.

| <b>Document</b>                                | <b>Processing fee</b>  |
|--|--|
| (1) Applications other than those listed below | As found in the fee schedule in §3000.12 of this chapter.    |
| (2) Prospecting permit application             | Case-by-case basis as described in §3000.11 of this chapter. |
| (3) Prospecting permit application amendment   | As found in the fee schedule in §3000.12 of this chapter.    |
| (4) Prospecting permit extension               | As found in the fee schedule in §3000.12 of this chapter.    |

|   |   |
|---|---|
| (5) Preference right lease application  | Case-by-case basis as described in §3000.11 of this chapter.  |
| (6) Successful competitive lease application  | Case-by-case basis as described in §3000.11 of this chapter, and modified by §§3508.14 and 3508.21. |
| (7) Future or fractional interest lease application   | Case-by-case basis as described in §3000.11 of this chapter.  |
| (8) Lease modification or fringe acreage lease  | As found in the fee schedule in §3000.12 of this chapter.   |
| (9) Lease renewal application   | As found in the fee schedule in §3000.12 of this chapter.   |
| (10) Assignment, sublease, or transfer of operating rights                                  | As found in the fee schedule in §3000.12 of this chapter.   |
| (11) Transfer of overriding royalty   | As found in the fee schedule in §3000.12 of this chapter.   |
| (12) Application to waive, suspend, or reduce your rental, minimum royalty, or royalty rate | Case-by-case basis as described in §3000.11 of this chapter.  |
| (13) Use permit   | As found in the fee schedule in §3000.12 of this chapter.   |

(b) Fees for exploration licenses are not administered under this section, but are administered under part 2920 of this chapter.

[72 FR 50887, Sept. 5, 2007]

**§ 3504.11 What forms of payment will BLM and MMS accept?**

Make your payments to BLM in cash, postal money order, negotiable instrument in U.S. currency, or such other method as BLM may authorize. See MMS regulations at 30 CFR part 218 for their payment requirements.

**§ 3504.12 What payments do I submit to BLM and what payments do I submit to MMS?**

(a) *Fees and rentals.* (1) Pay all filing and processing fees, all first-year rentals, and all bonus bids for leases to the BLM State Office that manages the lands you are interested in. Make your instruments payable to the U.S. Department of the Interior—Bureau of Land Management.

(2) Pay all second-year and subsequent rentals and all other payments for leases to the Minerals Management Service (MMS). See 30 CFR part 218 for MMS's payment procedures.

(b) *Royalties.* Pay all royalties on producing leases and all payments under leases in their minimum production period to the MMS.

[64 FR 53536, Oct. 1, 1999, as amended at 70 FR 58877, Oct. 7, 2005]

## Rentals

### § 3504.15 How does BLM determine my rent?

We set your rent by multiplying the number of acres in your lease or permit by the rental rates shown below. The rates differ for different commodities and some rates increase over time. You must pay rent each year. We round up any fractional acreage to the next highest acre. If you do not know the exact acreage, compute the total acreage by assuming each of the smallest subdivisions is 40 acres. The minimum rental is \$20 per permit or lease for all commodities. Pay the minimum rental or the per-acre rental, whichever is greater.

(a) Annual rental rates for prospecting permits for all commodities are \$.50 per acre or fraction of an acre.

(b) Annual rental rates for leases for each commodity are shown in the table below. The rate shown is for each acre or fraction of an acre in the lease.

|               | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Year 6 to end |
|---------------|--------|--------|--------|--------|--------|---------------|
| (1) Phosphate | \$0.25 | \$0.50 | \$0.50 | \$1.00 | \$1.00 | \$1.00        |
| (2) Sodium    | 0.25   | 0.50   | 0.50   | 0.50   | 0.50   | 1.00          |
| (3) Potassium | 0.25   | 0.50   | 0.50   | 0.50   | 0.50   | 1.00          |
| (4) Sulphur   | 0.50   | 0.50   | 0.50   | 0.50   | 0.50   | 0.50          |
| (5) Gilsonite | 0.50   | 0.50   | 0.50   | 0.50   | 0.50   | 0.50          |
| (6) Hardrock  | 1.00   | 1.00   | 1.00   | 1.00   | 1.00   | 1.00          |
| (7) Asphalt   | 0.25   | 0.50   | 0.50   | 0.50   | 0.50   | 1.00          |

[64 FR 53536, Oct. 1, 1999; 65 FR 11476, Mar. 3, 2000]

### § 3504.16 When is my rental due after the first year of the lease?

(a) For prospecting permits, pay your rental in advance each year before the anniversary date of the permit.

(b) For sodium, potassium or asphalt leases, pay your rental in advance before January 1 of each year.

(c) For phosphate leases pay your rental in advance on or before the anniversary date of the lease.

(d) For other mineral leases not covered in paragraph (b) or (c) of this section, pay the rental in advance each year before the anniversary of the effective date of the lease.

(e) MMS will credit your lease rental for any year against the first production royalties or minimum royalties (see §3504.25 of this part) as the royalties accrue under the lease during that year.

### § 3504.17 What happens if I do not pay my rental on time?

(a) If you do not pay your rental on time for a prospecting permit, your permit will automatically terminate.

(b) If you do not pay your rental for a lease on time, BLM will notify you that unless you pay within 30 days from receipt of the notification, BLM will take action to cancel your lease.



## Royalties

### § 3504.20 What are the requirements for paying royalties on production?

You must pay royalties on any production from your lease in accordance with the terms specified in the lease. See §3504.21 of this part for minimum royalty rates. Your royalty rate will be a percentage of the quantity or gross value of the output of the produced commodity. Apply the royalty rate to the value of the production determined under MMS regulations in Title 30. For asphalt, the minimum royalty is calculated on a cents-per-ton basis. You may not pay your royalty in quantity without BLM's prior approval.

### § 3504.21 What are the minimum royalty rates?

| Commodity             | Minimum royalty rate  |
|-----------------------|---|
| (a) Phosphate         | 5% of gross value of the output of phosphates or phosphate rock and associated or related minerals.                             |
| (b) Sodium            | 2% of the quantity or gross value of the output of sodium compounds and related products at the point of shipment to market.    |
| (c) Potassium         | 2% of the quantity or gross value of the output of potassium compounds and related products at the point of shipment to market. |
| (d) Sulphur           | 5% of the quantity or gross value of the output of sulphur at the point of shipment to market.                                  |
| (e) Gilsonite         | No minimum royalty rate.  |
| (f) Hardrock Minerals | No minimum royalty rate.  |
| (g) Asphalt           | 25 cents per ton (2,000 pounds) of marketable production.   |

### § 3504.22 How will I know what the royalty rate is on my lease production?

BLM determines the rate for each lease before we offer it. If BLM offered the lease competitively, the rates are in the notice of lease sale. If you applied for a noncompetitive lease, BLM will send you a royalty rate schedule for your concurrence and signature before we issue you the lease. BLM attaches royalty rates to, and makes them a part of, all leases.

### § 3504.25 Do I have to produce a certain amount per year?

(a) If your mineral lease was issued, renewed or readjusted any time after April 22, 1986, you must either produce a minimum amount or pay a minimum royalty in lieu of production each lease year. This requirement begins in the sixth lease year or the first full year of a renewed or readjusted lease, whichever comes first. The minimum royalty payment is \$3 per acre or fraction of an acre. For phosphate, sulphur, gilsonite and hardrock leases, pay the minimum royalty in advance before the lease anniversary date. For sodium, potassium and asphalt leases the minimum royalty is due in advance before January 1 of each year.

(b) MMS will credit any lease rental payment (see §3504.16(d) of this part) against the minimum royalty payment amount due under paragraph (a) of this section. MMS then will credit your minimum royalty as specified under paragraph (a) to your production royalties for that year only. For example, if you pay \$1,000 in rental and you owe \$3,000 in minimum royalties, you will pay a total of \$3,000 for both. If during the lease year you accrue \$10,000 in production royalties, MMS will credit \$3,000 against that amount.

(c) Hardrock mineral leases or development or operating agreements subject to escalating rentals are exempt from minimum production and minimum royalty requirements.

#### **§ 3504.26 May I create overriding royalties on my Federal lease?**

Yes, but:

(a) BLM may order you to suspend or reduce your overriding royalties to as low as one percent if we determine your overriding royalty could:

(1) Cause you to abandon your lease prematurely; or

(2) Prevent mining of marginally economic or low-grade deposits.

(b) Where more than one overriding royalty interest is involved, BLM will apply any suspension or reduction to these interests in the manner agreed upon by the interest holders. If there is no agreement, we will order suspensions and reductions starting with the most recent interest and continuing in reverse order of the dates the overriding interests were created.

(c) If you apply for a royalty rate reduction under subpart 3513, of this part, we may request that you reduce your overriding royalties.

### **Bonding**

#### **§ 3504.50 Do I have to file a bond to receive a permit or lease?**

Yes, unless paragraph (b) of this section applies.

(a) BLM will set permit and lease bond amounts for each lease or permit. We will consider the cost of complying with all permit and lease terms, including royalty and reclamation requirements, when setting bond amounts. The minimum bond amount for prospecting permits is \$1000. The minimum bond amount for leases is \$5000.

(b) BLM may enter into agreements with states to provide for your state reclamation bond to satisfy our reclamation bonding requirements. We may need additional information from you to determine whether your state bond will cover all of our reclamation requirements. If you have filed a current bond with a state where we have an agreement, and we determine that your state bond will satisfy all BLM reclamation bonding requirements, you will only need to file evidence of that state bond with BLM. We will require an additional bond from you if we determine your state bond does not cover all of our bonding requirements.

#### **§ 3504.51 How do I file my bond?**

File one copy of your bond in the BLM State office where you applied for a permit or lease. You must use an approved BLM form. You must sign the form if you are the principal of a personal bond. For surety bonds, both you and an acceptable surety must sign the form.

#### **§ 3504.55 What types of bonds are acceptable?**

You may file either a personal bond or a surety bond.

(a) Personal bonds may be in the form of:

(1) Cashier's check;

(2) Certified check; or

(3) Negotiable U.S. Treasury bonds equal in value to your bond amount. If you submit Treasury bonds, you must give the Secretary full authority to sell the securities if you default on your permit or lease obligations.

(b) Surety bonds must be issued by qualified surety companies approved by the Department of the Treasury. You can get a list of qualified sureties at any BLM State Office.

**§ 3504.56 If I have more than one permit or lease, may I combine bond coverage?**

Yes. Instead of filing separate bonds for each permit or lease, you may file a bond to cover all permits and leases for a specific mineral in any one state, or nationwide. We will establish the amount of the bond; however, the minimums are:

(a) \$25,000 for statewide bonds. File these bonds in the BLM State Office for the state where your leases are located.

(b) \$75,000 for nationwide bonds. File these bonds in any BLM State Office.

**§ 3504.60 Under what circumstances might BLM elect to change the amount of my bond?**

We may increase or decrease your bond amount when we determine that a change in coverage is appropriate, but we will not decrease your bond amount below the minimum.

**§ 3504.65 What happens to my bond if I do not meet my permit or lease obligations?**

BLM will demand payment from your bond to cover any obligations on which you default. Your bond will be reduced accordingly. If the surety makes a payment, we will reduce the face amount of the surety bond and the surety's liability by the amount of the payment.

**§ 3504.66 Must I restore my bond to the full amount if payment has been made from my bond?**

Yes. After any default, BLM will notify you of the amount you must pay to restore your bond. We will give you no more than six months to post a new bond or increase the existing bond to its pre-default level. You may elect to file separate or substitute bonds for each permit or lease. If you do not replace your bond, BLM may take action to cancel the leases or permits covered by the bond.

**§ 3504.70 When will BLM terminate the period of liability of my bond?**

BLM may terminate the period of liability for any bond only when you have filed an acceptable replacement bond or when you have met all your permit or lease terms and conditions.

**§ 3504.71 When will BLM release my bond?**

(a) BLM will release your bond when we have determined, after the passage of a reasonable period of time, that you have done the following:

(1) Paid all royalties, rentals, penalties, and assessments;

(2) Satisfied all permit or lease obligations;

(3) Reclaimed the site; and

(4) Taken effective measures to ensure that the mineral prospecting or development activities will not adversely affect surface or subsurface resources.

(b) If you assign your lease or permit, BLM will release your bond after we determine that you met the requirements of paragraphs (a)(1) and (a)(2) of this section. Also, your assignee must provide an acceptable bond or other surety.

## **Subpart 3505—Prospecting Permits**

### **§ 3505.10 What is a prospecting permit?**

(a) A prospecting permit gives you the exclusive right to prospect on and explore lands available for leasing under this part to determine if a valuable deposit exists of:

(1) Phosphate;

(2) Sodium;

(3) Potassium;

(4) Sulphur;

(5) Gilsonite; or

(6) A hardrock mineral.

(b) Prospecting permits are not available for asphalt.

(c) You may remove only material needed to demonstrate the existence of a valuable mineral deposit.

### **§ 3505.11 Do I need a prospecting permit to collect mineral specimens for non-commercial purposes?**

No. You may collect mineral specimens for hobby, recreation, scientific, research or similar purposes without a prospecting permit. However, the surface management agency may require a use permit. BLM's regulations for collecting mineral specimens are at part 8365 of this title.

## **Applying for Prospecting Permits**

### **§ 3505.12 How do I obtain a prospecting permit?**

Deliver 3 copies of the BLM application form to the BLM office with jurisdiction over the lands you are interested in. Include the first year's rental with your application. You will also be charged a processing fee, which BLM will determine on a case-by-case basis as described in §3000.11 of this chapter. For more information on fees and rentals, see subpart 3504 of this part.

[70 FR 58877, Oct. 7, 2005]

### **§ 3505.13 What must my application include?**

Your application must be legible and dated. It must contain your or your agent's original signature. It must also include:

(a) Your name and address;

(b) A statement of your qualifications and holdings (see subpart 3502 of this part);

(c) A complete and accurate land description (see subpart 3503 of this part);

(d) Three copies of any maps needed to accompany the description; and

(e) The name of all the commodities for which you are applying.

#### **§ 3505.15 Is there an acreage limit for my application?**

The acreage in your application must not exceed the maximum allowed for the permit. See §3503.37 of this part for the acreage limits applicable for the different minerals. BLM will not issue a permit if it causes you to exceed the limits shown in the table in that section.

#### **§ 3505.25 How does BLM prioritize applications for prospecting permits?**

BLM will prioritize applications based on the time of filing. If more than one application is filed at the same time for the same commodity on the same lands, we will hold a public drawing in accordance with subpart 1821 of this title to determine priority.

#### **§ 3505.30 May I amend or change my application after I file it?**

Yes. However, if your amendment adds lands, we will assign priority to those added lands from the date you filed the amended application. You must include the rental for any added lands and the processing fee for prospecting permit application amendments found in the fee schedule in §3000.12 of this chapter with your amended application.

[64 FR 53536, Oct. 1, 1999, as amended at 70 FR 58877, Oct. 7, 2005]

#### **§ 3505.31 May I withdraw my application after I file it?**

Yes. Just send us a written request. If you withdraw your application in whole or in part before BLM signs the permit, we will refund the corresponding proportionate share of your rental payment. BLM will retain any fees already paid for processing the application.

[64 FR 53536, Oct. 1, 1999, as amended at 70 FR 58877, Oct. 7, 2005]

#### **§ 3505.40 After submitting my application, do I need to submit anything else?**

Yes. After we initially review your permit application, but before we issue the prospecting permit, we will require you to submit three copies of an exploration plan under §3505.45 of this part. You must also submit a bond. See 43 CFR part 3504, especially 43 CFR 3504.50, for information on bonds.

#### **§ 3505.45 What is an exploration plan?**

An exploration plan shows how you intend to determine the existence and workability of a valuable deposit. Your exploration plan must include as much of the following information as possible:

(a) The names, addresses and telephone numbers of persons responsible for operations under your plan and to whom BLM will deliver notices and orders;

(b) A brief description of the environment your plan may affect. Focus on the affected geologic, water and other physical factors, and the distribution and abundance of vegetation and habitat of fish and wildlife, particularly threatened and endangered species. Include maps with your descriptions, and discuss the present land use in and adjacent to the area;

(c) A narrative description showing:

- (1) The method of exploration and types of equipment you will use;
- (2) The measures you will take to prevent or control fire, soil erosion, pollution of surface and ground water, pollution of air, damage to fish and wildlife or their habitat, damage to other natural resources, and hazards to public health and safety, including specific actions necessary to meet all applicable laws and regulations;
- (3) The method for plugging drill holes; and
- (4) The measures you will take to reclaim the land, including:
  - (i) A reclamation schedule;
  - (ii) The method of grading, backfilling, soil stabilization, compacting and contouring;
  - (iii) The method of soil preparation and fertilizer application;
  - (iv) The type and mixture of shrubs, trees, grasses, forbs or other vegetation you will plant; and
  - (v) The method of planting, including approximate quantity and spacing;
- (d) The estimated timetable for each phase of the work and for final completion of the program;
- (e) Suitable topographic maps or aerial photographs showing existing bodies of surface water, topographic, cultural and drainage features, and the proposed location of drill holes, trenches and roads; and
- (f) Any other data which BLM may require.

#### **§ 3505.50 How will I know if BLM has approved or rejected my application?**

(a) BLM will review your application to determine compliance with land use plans, environmental requirements, unsuitability criteria and whether the lands are within a known leasing area. BLM's decision whether to approve your application is at BLM's complete discretion. If we approve your application, we will issue your permit. If we reject your application, we will mail you a written decision. This notice will:

- (1) Detail the reasons why we rejected your application;
  - (2) Identify any items you will need to correct in your application; and
  - (3) Tell you how you may appeal an adverse decision.
- (b) If we do not accept your application, we will refund your rental payment. We will retain any fees already paid for processing the application.

[64 FR 53536, Oct. 1, 1999, as amended at 70 FR 58877, Oct. 7, 2005]

#### **Prospecting Permit Terms and Conditions**

#### **§ 3505.55 What are my obligations to BLM under an approved prospecting permit?**

You must:

- (a) Pay your annual rental in a timely fashion. See §§3504.15 and 3504.16 of this part;
- (b) Comply with all permit terms and stipulations the surface management agency attached to the permit;

- (c) Conduct only those exploration activities approved as part of your existing exploration plan; and
- (d) Discontinue activities following expiration of the initial term unless and until BLM extends your permit.

#### **§ 3505.60 How long is my prospecting permit in effect?**

Your prospecting permit will be effective for an initial term of 2 years.

#### **§ 3505.61 May BLM extend the term of my prospecting permit?**

We may extend prospecting permits for phosphate and hardrock minerals for up to an additional 4 years, and for potassium and gilsonite for up to an additional 2 years. We cannot extend sodium and sulphur prospecting permits.

#### **§ 3505.62 Under what conditions will BLM extend my prospecting permit?**

You must prove that:

- (a) You explored with reasonable diligence and were unable to determine the existence and workability of a valuable deposit covered by the permit. Reasonable diligence means that, in BLM's opinion, you drilled a sufficient number of holes or performed other comparable prospecting to explore the permit area within the time allowed; or
- (b) Your failure to perform diligent prospecting activities was due to conditions beyond your control.

#### **§ 3505.64 How do I apply for an extension?**

There is no application form. Just send us a written request with the information in §3505.65 of this part at least 90 days before your permit expires. Include the processing fee for extensions of prospecting permits found in the fee schedule in §3000.12 of this chapter and the first year's rental in accordance with §§3504.10, 3504.15, and 3504.16 of this part.

[64 FR 53536, Oct. 1, 1999, as amended at 70 FR 58877, Oct. 7, 2005]

#### **§ 3505.65 What information must I include in my extension request?**

Your request must:

- (a) Show that you have met the conditions for extension in §3505.62;
- (b) Describe your previous diligent prospecting activities on the permit; and
- (c) Show how much additional time you need to complete prospecting work.

#### **§ 3505.66 If approved, when is my extension effective?**

Your permit extension will become effective on the date we approve it, or on the expiration date of the original permit, if this date is later.

#### **§ 3505.70 May I relinquish my prospecting permit?**

Yes. You may relinquish the entire prospecting permit or any legal subdivision of it. A partial relinquishment must clearly describe the exact acreage you want to relinquish. BLM will not accept a relinquishment if you are not in compliance with the requirements of your permit. Once we accept the request, your

relinquishment is effective as of the date you filed it with BLM. We will then note the relinquishment on the land status records. We may then open the lands to any new applications. If you relinquish part or all of your permit, you lose any right to any preference right lease to the lands covered by the relinquishment.

#### **§ 3505.75 What happens if I fail to pay the rental?**

Your prospecting permit will automatically terminate if you do not pay the rental before the anniversary date of the permit. We will note your permit termination on the official status records.

#### **§ 3505.80 What happens when my permit expires?**

Your permit will expire at the end of its initial or extended term, as applicable, without notice. BLM may open the lands to new applications 60 days after your permit expires. However, if you timely filed for an extension under §3505.64 of this part, the 60 day period would begin to run on the date BLM denies your extension request. If you timely filed for a preference right lease under §3507.15 of this part, the 60 day period only would begin to run on the date BLM denies your lease application.

#### **§ 3505.85 May BLM cancel my prospecting permit for reasons other than failure to pay rental?**

Yes.

(a) We may cancel your permit if you do not comply with the Mineral Leasing Act, any of the other acts applicable to your specific permit, these regulations, or any of the permit terms or stipulations. We will give you 30 days notice, within which you must correct your default. If your default continues, BLM may cancel your permit.

(b) If we waive one cause for cancellation, we may still cancel your permit for another cause, or for the same cause occurring at another time. Unless you file an appeal, we will note your permit cancellation on the land status records. BLM may use your bond to reclaim the land or correct other deficiencies if we cancel your permit.

### **Subpart 3506—Exploration Licenses**

#### **General Information**

#### **§ 3506.10 What is an exploration license?**

An exploration license allows you to explore known, unleased mineral deposits to obtain geologic, environmental and other pertinent data concerning such deposits.

#### **Applying for and Obtaining Exploration Licenses**

#### **§ 3506.11 What must I do to obtain an exploration license?**

(a) To apply, submit an exploration plan as described at §3505.45 of this part, along with your request for an exploration license. No specific form is required. When BLM approves the exploration plan, we will attach the approved plan to, and make it a part of, the license. You must also publish a BLM-approved notice of exploration, inviting others to participate in exploration under the license on a pro-rata cost-sharing basis.

(b) Except as otherwise provided in this subpart, BLM will process your exploration license application in accordance with the regulations at part 2920 of this chapter.

#### **§ 3506.12 Who prepares and publishes the notice of exploration?**



BLM will prepare a notice of exploration using your information and post the notice and your exploration plan in the BLM office for 30 days. You must publish the notice of exploration once a week for three consecutive weeks in at least one newspaper of general circulation in the area in which the lands are located.

**§ 3506.13 What information must I provide to BLM to include in the notice of exploration?**

You must include:

- (a) Your name and address;
- (b) A description of the lands;
- (c) The address of the BLM office where your exploration plan will be available for inspection; and
- (d) An invitation to the public to participate in the exploration under the license.

**§ 3506.14 May others participate in the exploration program?**

(a) If any person wants to participate in the exploration program, you and BLM must receive written notice from that person within 30 days after the later of the final newspaper publication or the end of the BLM 30-day posting period.

(b) A person who wants to participate in the exploration program must state in their notice:

- (1) They are willing to share in the cost of the exploration on a pro-rata basis; and
- (2) Any modifications to the exploration program that BLM should consider.

[64 FR 53536, Oct. 1, 1999; 65 FR 11476, Mar. 3, 2000]

**§ 3506.15 What will BLM do in response to my exploration license application?**

(a) BLM will determine whether to issue the exploration license. If we decide to issue the license, we will name the participants and the acreage covered. We also will establish hole spacing requirements and include any stipulations needed to protect the environment.

(b) If there are inconsistencies between proposed exploration plans, the approved license will resolve them.

**Terms; Modifications**

**§ 3506.20 After my license is issued, may I modify my license or exploration plan?**

BLM may approve modifications of your exploration plan upon your request. We may also permit you to remove lands from your exploration license at any time. However, once we issue your exploration license, you may not add lands to the area of your exploration license.

**§ 3506.25 Once I have a license, what are my responsibilities?**

You must share with BLM all data you obtain during exploration. We will consider the data confidential and will not make the data public until either:

- (a) The areas involved are leased; or
- (b) BLM determines that it must release the data in response to a FOIA request.

## **Subpart 3507—Preference Right Lease Applications**

### **§ 3507.11 What must I do to obtain a preference right lease?**

To obtain a preference right lease, you must have a prospecting permit for the area you want to lease and meet the following conditions and any other conditions established in this subpart:

(a) *All leasable minerals except asphalt.* You must demonstrate that you have discovered a valuable deposit within the period covered by your prospecting permit. However, paragraphs (b) and (d) of this section provide some limitations.

(b) *Sodium, potassium, and sulphur.* In addition to the requirements of paragraph (a) of this section, BLM must determine that the lands are chiefly valuable for the subject minerals.

(c) *Asphalt.* You may not obtain a preference right lease for asphalt. However, you may obtain a competitive lease or a fringe acreage lease under subpart 3508 or 3510 of this part.

(d) *Permits issued under the authority of Reorganization Plan No. 3 of 1946.* Prospecting permits for minerals BLM administers under the authority of Reorganization Plan No. 3 of 1946 do not entitle you to a preference right lease. We may grant you a noncompetitive lease if you discover a valuable deposit during the permit term.

### **§ 3507.15 How do I apply for a preference right lease?**

No specific form is required. Submit three copies of your application within 60 days after the date your prospecting permit expires or the date BLM denies your request for a permit extension filed under §3505.64 of this part, whichever is later.

### **§ 3507.16 Is there a fee or payment required with my application?**

Yes. You must submit the first year's rental with your application according to the provisions in §3504.15 of this part. BLM will also charge a processing fee on a case-by-case basis as described in §3000.11 of this chapter.

[70 FR 58877, Oct. 7, 2005]

### **§ 3507.17 What information must my preference right lease application include?**

Your application must contain:

- (a) A statement of your qualifications and holdings as specified in subpart 3503 of this chapter;
- (b) Three maps showing:
  - (1) Utility systems;
  - (2) The location of any proposed development or mining operations and incidental facilities;
  - (3) The approximate locations and the extent of the areas you will use for pits, overburden and tailings; and
  - (4) The location of water sources or other resources which you may use in the proposed operations or incidental facilities;
- (c) A narrative statement addressing:

- (1) The anticipated scope, method and schedule of development operations, including the type of equipment you will use;
- (2) The method of mining anticipated, including the best available estimate of the mining sequence and production rate; and
- (3) The relationship, if any, between the planned mining operations and existing or planned mining operations and facilities on adjacent Federal or non-Federal lands;
- (d) Financial information which will enable us to determine if you have found a valuable deposit. Include at least an estimate of projected mining and processing costs, saleable products and markets, and projected selling prices;
- (e) A complete and accurate description of the lands as found in your prospecting permit, if your application is for less than the lands covered by your prospecting permit; and
- (f) Other data, as we may require.

**§ 3507.18 What do I need to submit to show that I have found a valuable deposit?**

To show you have found a valuable deposit, send us the information listed in §3593.1 of this part. You must have collected the data during the term of the prospecting permit, but you may refer to prior geologic work. BLM may request supplemental data from you to determine the following:

- (a) The extent and character of the deposit;
- (b) The anticipated mining and processing methods and costs;
- (c) Anticipated location, kind and extent of necessary surface disturbance;
- (d) The measures you will take to reclaim that disturbance;
- (e) An estimate of the profitability of mineral development; and
- (f) Whether there is a reasonable prospect of success in developing a profitable mine.

**§ 3507.19 Under what circumstances will BLM reject my application?**

- (a) BLM will reject your application for a preference right lease if:
  - (1) You did not discover a valuable deposit of mineral(s) covered by the prospecting permit;
  - (2) You did not submit requested information in a timely manner;
  - (3) You did not otherwise comply with the requirements of this subpart; or
  - (4) In the case of sodium, potassium and sulphur, if BLM determines that the lands are not chiefly valuable for the mineral commodity specified in the permit.
- (b) If you applied for a lease for minerals BLM administers under the authority of Reorganization Plan No. 3 of 1946, BLM may also reject your application if we determine that mining is not the preferred use of the lands in the application. In making this determination, we will consider:
  - (1) The land use plan;

- (2) Unsuitability criteria under subpart 1610 of this title;
  - (3) Any environmental impacts; and
  - (4) The purposes of the statute under which the lands were acquired.
- (c) We will also reject your application if the surface managing agency does not consent to the lease.

**§ 3507.20 May I appeal BLM's rejection of my preference right lease?**

Yes. You have a right to appeal under the procedures in parts 4 and 1840 of this title.

**Subpart 3508—Competitive Lease Applications**

**§ 3508.11 What lands are available for competitive leasing?**

BLM may issue a competitive lease on unleased lands where we know that a valuable mineral deposit exists. In such areas, before issuing a lease we may issue you an exploration license, but not a prospecting permit. However, BLM may offer competitive leases for lands where no prospecting or exploratory work is needed to determine the existence or workability of a valuable mineral deposit. In addition, we may offer competitive leases for asphalt on any lands available for asphalt leasing, whether or not we know that a valuable mineral deposit exists.

**§ 3508.12 How do I get a competitive lease?**

- (a) Notify BLM of areas in which you are interested. We may also designate certain lands for competitive leasing.
- (b) Before BLM publishes a notice of lease sale, pay a processing fee on a case-by-case basis as described in §3000.11 of this chapter as modified by §§3508.14 and 3508.21. If someone else is the successful bidder, BLM will refund you the amount you paid under this paragraph. If there is no successful bidder, you remain responsible for all processing fees.
- (c) After determining that the lands are available for leasing, we will publish a notice of lease sale containing all significant information (see §3508.14 of this part).
- (d) We will award a competitive lease through sale to the qualified bidder who offers the highest acceptable bonus bid. In the event of a tie, BLM will determine a fair method for choosing the successful bid.

[64 FR 53536, Oct. 1, 1999, as amended at 70 FR 58877, Oct. 7, 2005]

**§ 3508.14 How will BLM publish the notice of lease sale?**

- (a) Once we determine which lands are available for leasing, we will publish a notice of lease sale at least once a week for three consecutive weeks in a newspaper of general circulation in the area where the lands are situated. We will also post the notice of lease sale for 30 days in the public room of the BLM office which administers the lands.
- (b) The notice will include:
  - (1) The time and place of sale;
  - (2) The bidding method, including opening and closing dates for bidding;
  - (3) A description of the tract BLM is offering;

- (4) A description of the mineral deposit BLM is offering;
- (5) The minimum bid we will consider; and
- (6) Information on where you can get a copy of the proposed lease and a detailed statement of the lease sale terms and conditions.
- (7) If the tract being offered for competitive sale was nominated by an applicant, a statement of the total cost recovery fee paid to BLM by the applicant under §3508.12 up to 30 days before the competitive lease sale.

[64 FR 53536, Oct. 1, 1999, as amended at 70 FR 58877, Oct. 7, 2005]

**§ 3508.15 What information will the detailed statement of the lease sale terms and conditions include?**

- (a) The proposed lease terms and conditions, including the rental, royalty rates, bond amount, and any special stipulations for the particular tract;
- (b) An explanation of how you may submit your bid;
- (c) Notification that you must accompany your bid with your qualifications statement (see subpart 3502 of this part) and a deposit of one-fifth of your bid amount;
- (d) Notification that if you are the successful bidder, you must pay your proportionate share of the total publication cost for the sale notice before we will issue the lease. Your share is based on the number of tracts you bid on successfully, divided by the total number of tracts offered for sale;
- (e) A warning concerning 18 U.S.C. 1860 which provides criminal penalties for manipulating the bidding process;
- (f) A statement that the Secretary reserves the right to reject any and all bids, and to offer the lease to the next qualified bidder, if the successful bidder does not get the lease for any reason; and
- (g) Any other information we deem appropriate.

**§ 3508.20 How will BLM conduct the sale and handle bids?**

We will open and announce all bids at the time and date specified in the notice of lease sale, but we will not accept or reject bids at that time. We must receive your bid by the deadline in the sale notice or we will not consider it. You may withdraw or modify your bid before the time specified in the notice of sale.

**§ 3508.21 What happens if I am the successful bidder?**

- (a) If you are the highest qualified bidder and we determine that your bid meets or exceeds fair market value, we will send you copies of the lease on the form attached to the detailed statement. Within the time we specify you must:
  - (1) Sign and return the lease form;
  - (2) Pay the balance of the bonus bid;
  - (3) Pay the first year's rental;
  - (4) Pay the publication costs;

- (5) Furnish the required lease bond;
  - (6) If you were not the applicant, pay the cost recovery fee specified in the lease sale notice; and
  - (7) Pay all processing costs BLM incurs after the date of the sale notice.
- (b) See §3504.12 of this part for payment procedures.

[64 FR 53536, Oct. 1, 1999; 65 FR 11476, Mar. 3, 2000; 70 FR 58877, Oct. 7, 2005]

#### **§ 3508.22 What happens if BLM rejects my bid?**

- (a) If your bid is the high bid and we reject it because you did not sign the lease form and pay the balance of the bonus bid, or otherwise comply with this subpart, you forfeit to the United States your deposit of one-fifth of the bonus bid amount.
- (b) If we must reject your high bid for reasons beyond your control, we will return your bid deposit.
- (c) If we reject your bid because it is not the high bid, we will return your bid deposit.

### **Subpart 3509—Fractional and Future Interest Lease Applications**

#### **§ 3509.10 What are future interest leases?**

BLM issues noncompetitive future interest leases to persons who hold present mineral interests that will revert to the Federal Government at some future date. Future interest leases allow the present interest holders to continue using their present mineral right once the Federal Government acquires it.

#### **§ 3509.11 Under what conditions will BLM issue a future interest lease to me?**

When it is in the public interest, we will issue you a future interest lease for lands where you either have an existing mining operation or have established that a valuable deposit exists.

#### **§ 3509.12 Who may apply for a future interest lease?**

You may apply for a future interest lease only if you have a present interest in the minerals. You must hold more than 50 per cent of either the fee interest, a lease interest or an operating rights interest. You must also meet the qualification requirements set forth in subpart 3502 of this part.

#### **§ 3509.15 Do I have to pay for a future interest lease?**

You must pay fair market value for the mineral deposit when title vests in the United States. You also will be required to pay royalty on your production.

#### **§ 3509.16 How do I apply for a future interest lease?**

No specific form is required. You must file at least one year before the mineral interest vests with the United States or BLM will deny your application. BLM will charge you a processing fee on a case-by-case basis as described in §3000.11 of this chapter.

[64 FR 53536, Oct. 1, 1999, as amended at 70 FR 58878, Oct. 7, 2005]

#### **§ 3509.17 What information must I include in my application for a future interest lease?**

Your application must include the same information we require when you apply for a present interest Federal lease. See subpart 3508 of this part. In addition, you must include the following:

- (a) A land description;
- (b) Your certification that you meet the qualifications requirements (see subpart 3502 of this part);
- (c) Evidence of your title or the extent of your rights to the present interest in the mineral deposits. Submit either a certified abstract of title or a title certificate, or the instrument establishing your rights; and
- (d) The names of the other owners, if any, of the mineral interests. If you own the operating rights to the mineral by means of a contract with the mineral owner, you also need to submit three copies of the mineral contract or lease.

**§ 3509.18 What will BLM do after it receives my application for a future interest lease?**

- (a) After BLM receives your application for a future interest lease, we will notify all other interest owners that they have 90 days to file applications for the same mineral interest.
- (b) If any other interest owners timely apply, we will hold a competitive lease sale among the qualified applicants. BLM will establish standards for the competitive sale similar to those under subpart 3508 of this part, and provide notice to all of the qualified applicants.
- (c) If no other qualified owners timely apply, BLM may issue a future interest lease to you. BLM will establish the amount of the bonus bid you must pay through appraisal.

**§ 3509.20 When does my future interest lease take effect?**

Your future interest lease will be effective on the date the minerals vest in the United States, as stated in the lease.

**§ 3509.25 For what reasons will BLM reject my application for a future interest lease?**

We will reject your application:

- (a) If you do not meet the qualifications in §3509.15 of this part;
- (b) If you filed your application less than one year before the minerals vest in the United States; or
- (c) We determine that issuing the lease is not in the public interest.

**§ 3509.30 May I withdraw my application for a future interest lease?**

Yes. You must file the withdrawal with BLM before the lease is signed. BLM will retain any fees already paid for processing the application.

[64 FR 53536, Oct. 1, 1999, as amended at 70 FR 58878, Oct. 7, 2005]

**§ 3509.40 What are fractional interest prospecting permits and leases?**

They are prospecting permits and leases for parcels where the United States holds less than 100 per cent of the mineral interest of the parcel. Fractional interest leases allow development of the shared mineral interests.

**§ 3509.41 For what lands may BLM issue fractional interest prospecting permits and leases?**

We issue them for lands where the United States owns less than 100 per cent of the mineral interest and where we have determined it is in the public interest to grant the permit or lease. We will only grant fractional interest permits or leases with the consent of the surface managing agency. If we believe a mineral deposit exists but do not know, we may issue a noncompetitive fractional interest lease.

**§ 3509.45 Who may apply for a fractional interest prospecting permit or lease?**

Only persons who have an interest in the non-Federal share of the same minerals may apply for a fractional interest lease of the minerals. Applicants must also meet the qualification standards in subpart 3502 of this part.

**§ 3509.46 How do I apply for a fractional interest prospecting permit or lease?**

No specific form is required. Submit the application to the BLM office with jurisdiction over the lands. BLM will charge you a processing fee on a case-by-case basis as described in §3000.11 of this chapter.

[64 FR 53536, Oct. 1, 1999, as amended at 70 FR 58878, Oct. 7, 2005]

**§ 3509.47 What information must I include in my application for a fractional interest prospecting permit or lease?**

Your application must include all the same information we require when you apply for a regular competitive Federal lease. See subpart 3508 of this part. In addition, you must include the following:

- (a) A land description;
- (b) Your certification that you meet the qualifications requirements (see subpart 3502 of this part);
- (c) Evidence of your title or the extent of your rights in the mineral deposits. Submit either a certified abstract of title, a title certificate or the instrument establishing your rights; and
- (d) The names of the other owners, if any, of the mineral interests. If you own the operating rights to the mineral by means of a contract with the mineral owner, you also need to submit three copies of the mineral contract or lease.

**§ 3509.48 What will BLM do after it receives my application for a fractional interest lease?**

- (a) After BLM receives your application for a fractional interest lease, we will notify all other interest owners that they have 90 days to file applications for the same mineral interest.
- (b) If any other interest owners timely apply, we will hold a competitive lease sale among the qualified applicants. BLM will establish standards for the competitive sale similar to those under subpart 3508 of this part, and provide notice to all of the applicants.
- (c) If no other qualified owners timely apply, BLM may issue a fractional interest lease to you. BLM will establish the amount of the bonus bid you must pay through appraisal.

**§ 3509.49 What terms and conditions apply to my fractional interest prospecting permit or lease?**

BLM will apply the commodity-specific terms and conditions found in this part to fractional interest prospecting permits and leases.



**§ 3509.50 Under what conditions would BLM reject my application for a fractional interest prospecting permit or lease?**

BLM will reject your fractional interest application if:

- (a) You do not meet the qualifications in §3509.45 of this part;
- (b) You would have an interest in the total Federal and non-Federal mineral estate of less than 50% once the fractional interest prospecting permit or lease is issued, unless we determine it would be in the best interests of the government to issue the permit or lease; or
- (c) We determine that it is not in the public interest to grant the lease.

**§ 3509.51 May I withdraw my application for a fractional interest prospecting permit or lease?**

Yes, if you file the withdrawal before the lease is signed. BLM will retain any fees already paid for processing the application.

[64 FR 53536, Oct. 1, 1999, as amended at 70 FR 58878, Oct. 7, 2005]

**Subpart 3510—Noncompetitive Leasing: Fringe Acreage Leases and Lease Modifications**

**§ 3510.11 If I already have a Federal lease, or the mineral rights on adjacent private lands, may I lease adjoining Federal lands that contain the same deposits without competitive bidding?**

Yes. If the adjoining Federal lands are available for leasing, you may lease them noncompetitively, even if they are known to contain a deposit of the mineral you are interested in leasing. We will either issue a new lease for these lands (fringe acreage) or add the lands to your existing Federal lease (modification).

**§ 3510.12 What must I do to obtain a lease modification or fringe acreage lease?**

- (a) File three copies of your application with the BLM office that administers the lands. No specific application form is required.
- (b) Include a non-refundable filing fee as provided in §3000.12, Table 1, of this chapter (the fee may be found under “Leasing of Solid Minerals Other Than Coal and Oil Shale (Part 3500)”). You must also make an advance rental payment in accordance with the rental rate for the mineral commodity you are seeking. If you want to modify an existing lease, the BLM will base the rental payment on the rate in effect for the lease being modified in accordance with §3504.15.
- (c) Your fringe acreage lease application must:
  - (1) Show the serial number of the lease if the lands specified in your application adjoin an existing Federal lease;
  - (2) Contain a complete and accurate description of the lands desired;
  - (3) Show that the mineral deposit specified in your application extends from your adjoining lease or from adjoining private lands you own or control; and
  - (4) Include proof that you own or control the mineral deposit in the adjoining lands if they are not under a Federal lease.

(d) Your lease modification application must:

(1) Show the serial number of your Federal lease that you seek to modify;

(2) Contain a complete and accurate description of the lands desired that adjoin the Federal lease you seek to modify; and

(3) Show that—

(i) The adjoining acreage to be added contains known deposits of the same mineral deposit that can be mined only as part of the mining operations on the original Federal lease; or

(ii) As an alternative, show that—

(A) The acreage to be added does not contain known deposits of the same mineral deposit; and

(B) The adjoining acreage will be used for surface activities that are necessary for the recovery of the mineral deposit on the original Federal lease, and

(C) Had the acreage been included in the original Federal lease at the time of that lease's issuance, the original Federal lease would have been reasonably compact.

[64 FR 53536, Oct. 1, 1999, as amended at 72 FR 50888, Sept. 5, 2007; 74 FR 641, Jan. 7, 2009]

#### **§ 3510.15 What will BLM do with my application?**

We will issue or modify a lease under this subpart only if we determine that:

(a) The lands are contiguous to your existing Federal lease or to non-Federal lands you own or control;

(b) The new fringe lease does not exceed the maximum size allowed in a lease, as specified in §3503.37 of this part;

(c) The acreage of the modified lease, including additional lands, is not in excess of the maximum size allowed for a lease, as specified in §3503.37 of this part;

(d) The mineral deposit is not in an area of competitive interest to holders of other active mining units in the area;

(e) The lands for which you applied for a fringe acreage lease lack sufficient reserves of the mineral resource to warrant independent development;

(f)(1) The lands for which you applied for a lease modification contain known deposits of the same mineral deposit that can be mined only as part of the mining operations on the original Federal lease; or

(2)(i) The acreage to be added does not contain known deposits of the same mineral; and

(ii) The acreage to be added will be used for surface activities that are necessary for the recovery of the mineral deposit on the original Federal lease; and

(iii) Had the acreage added by the modification been included in the original Federal lease at the time of that lease's issuance, the original Federal lease would have been reasonably compact.

(g) Leasing the lands will conserve natural resources and will provide for economical and efficient recovery as part of a mining unit; and

(h) You meet the qualification requirements for holding a lease described in subpart 3502 of this chapter and the new or modified lease will not cause you to exceed the acreage limitations described in §3503.37.

[64 FR 53536, Oct. 1, 1999, as amended at 74 FR 641, Jan. 7, 2009]

**§ 3510.20 Do I have to pay a fee to modify my existing lease or obtain a fringe acreage lease?**

Yes. Before BLM issues a new fringe acreage lease or modifies your existing lease, you must pay a bonus in an amount we will determine based on an appraisal or other appropriate means. The bonus cannot be less than \$1 per acre or fraction of an acre.

**§ 3510.21 What terms and conditions apply to fringe acreage leases and lease modifications?**

Your fringe acreage lease is a new Federal lease. Therefore, we may impose terms and conditions different from those in your original Federal lease. A modified lease will be subject to the same terms and conditions as in the original Federal lease.

**Subpart 3511—Lease Terms and Conditions**

**§ 3511.10 Do certain leases allow me to mine other commodities as well?**

Yes. Sodium leases authorize you to mine potassium compounds as related products, and potassium leases authorize mining associated sodium compounds and related products. A phosphate lease allows you to use deposits of silica, limestone or other rock on the lease for use in the processing or refining of phosphate, phosphate rock, and associated minerals mined from the leased lands. You must pay royalty on these materials as specified in your lease.

**§ 3511.11 If I am mining calcium chloride, may I obtain a noncompetitive mineral lease to produce the commingled sodium chloride?**

Yes. If you are producing calcium chloride in paying quantities from an existing mine which you control, you may apply to BLM for a noncompetitive lease to produce the commingled sodium chloride. You must already have authorization, under part 3800 of this chapter, for the locatable minerals. You must also meet the other requirements of this part for the commingled leasable minerals.

**§ 3511.12 Are there standard terms and conditions which apply to all leases?**

Yes. BLM will issue your lease on a standard form which will contain several terms and conditions. We will add your rental rate, royalty obligations and any special stipulations to this lease form.

**§ 3511.15 How long will my lease be in effect?**

| <b>Commodity</b> | <b>Initial Term</b> | <b>Period of Renewal or Readjustment</b>  |
|------------------|---------------------|---|
| (a) Phosphate    | Indeterminate       | Subject to readjustment at the end of each 20 year period.                                    |
| (b) Sodium       | 20 years            | Can be renewed for 10 years at the end of the initial term and for following 10 year periods. |

|                       |   |   |
|-----------------------|---|---|
| (c) Potassium         | Indeterminate   | Subject to readjustment at the end of each 20 year period.                                    |
| (d) Sulphur           | 20 years  | Can be renewed for 10 years at the end of the initial term and for following 10 year periods. |
| (e) Gilsonite         | 20 years and for as long thereafter as gilsonite is produced in paying quantities | Subject to readjustment at the end of each 20 year period.                                    |
| (f) Hardrock Minerals | not to exceed 20 years  | Can be renewed for 10 years at the end of the initial term and for following 10 year periods. |
| (g) Asphalt           | 20 years  | Can be renewed for 10 years at the end of the initial term and for following 10 year periods. |

**§ 3511.25 What is meant by lease readjustment and lease renewal?**

(a) If your lease is issued subject to readjustment, BLM will notify you of the readjusted terms before the end of each 20-year period. If we do not timely notify you of readjusted terms, those leases continue for another 20-year period under the same terms and conditions.

(b) If you have a lease that requires renewal, we will issue the lease for an initial term as specified in §3510.15 of this part. You must apply for a renewal of the lease at least 90 days before the initial term ends in order to extend the lease for an additional term. If you do not renew the lease, it expires and the lands become available for re-leasing. BLM may change some of your lease terms when we renew a lease.

**§ 3511.26 What if I object to the terms and conditions BLM proposes for a readjusted lease?**

(a) You have 60 days after receiving the proposed readjusted terms to object. If we do not receive your objection within 60 days, the proposed readjusted terms will be in effect. If you file an objection, BLM will issue a decision in response. If you disagree with the decision, you may appeal under parts 4 and 1840 of this title.

(b) The readjusted lease terms and conditions will be effective pending the outcome of any appeal, unless BLM provides otherwise.

**§ 3511.27 How do I renew my lease?**

File an application at least 90 days before the lease term expires. No specific form is required. Send us 3 copies of your application together with the processing fee for lease renewal found in the fee schedule in §3000.12 of this chapter and an advance rental payment of \$1 per acre or fraction of an acre.

[64 FR 53536, Oct. 1, 1999, as amended at 70 FR 58878, Oct. 7, 2005]

**§ 3511.30 If I appeal BLM's proposed new terms, must I continue paying royalties or rentals while my appeal is pending?**

Yes. Continue to pay royalties and rentals at the original rate. Your obligation to pay any increased readjusted royalties, minimum royalties and rentals will be suspended while your appeal is considered. However, any increased charges accrue beginning with the effective date of the readjustment or renewal, while final action on your appeal is pending. If the increased charges are sustained on appeal, you must pay the accrued balance, plus interest at the rate MMS specifies for late payment in 30 CFR part 218.

## **Subpart 3512—Assignments and Subleases**

### **How to Assign Leases**

#### **§ 3512.11 Once BLM issues me a permit or lease, may I assign or sublease it?**

You may assign or sublease your permit or lease in whole or in part to any person, association, or corporation qualified to hold a permit or lease.

#### **§ 3512.12 Is there a fee for requesting an assignment or sublease?**

When you submit your instrument for assignment of record title or operating rights, or for transfer of overriding royalties, you must pay the filing fee for assignment, sublease, or transfer of operating rights found in the fee schedule in §3000.12 of this chapter. BLM will not accept any instrument without the filing fee.

[64 FR 53536, Oct. 1, 1999, as amended at 72 FR 50888, Sept. 5, 2007]

#### **§ 3512.13 How do I assign my permit or lease?**

(a) Within 90 days of final execution of the assignment, you must submit three copies of your instrument for assignment of each permit or lease. The instrument must contain:

- (1) The assignee's name and current address;
- (2) The interest held by you and the interest you plan to assign;
- (3) The serial number of the affected permit or lease;
- (4) The amount of overriding royalties you retain;
- (5) The date and your original signature on each copy, as the assignor; and
- (6) The assignee must also send BLM a request for approval of the assignment which must contain:
  - (i) A statement of the assignee's qualifications and holdings, as required by subpart 3502 of this part;
  - (ii) Date and original signature of the assignee; and
  - (iii) The filing fee for assignment, sublease, or transfer of operating rights found in the fee schedule in §3000.12 of this chapter.

(b) BLM must approve the assignment. We will notify you with a decision indicating approval or disapproval.

(c) If you are assigning a portion of your permit or lease, we will create a new permit or lease for the assigned portion, if approved.

[64 FR 53536, Oct. 1, 1999, as amended at 72 FR 50888, Sept. 5, 2007]

### **§ 3512.16 How do I sublease my lease?**

(a) You must file one copy of the sublease between you and the sublessee within 90 days from the date of final execution of the sublease.

(b) The sublessee must also file a signed and dated request for approval and a statement of qualifications (see subpart 3502 of this part), and submit the filing fee for assignment, sublease, or transfer of operating rights found in the fee schedule in §3000.12 of this chapter.

(c) We will notify you with a decision indicating approval or disapproval.

[64 FR 53536, Oct. 1, 1999, as amended at 72 FR 50888, Sept. 5, 2007]

### **§ 3512.17 How do I transfer the operating rights in my permit or lease?**

(a) You must file one copy of the agreement to transfer operating rights within 90 days from the date of final execution of the agreement.

(b) The transferee must also file a signed and dated request for approval and a statement of qualifications (see subpart 3502 of this part), and submit the filing fee for assignment, sublease, or transfer of operating rights found in the fee schedule in §3000.12 of this chapter.

(c) We will notify you with a decision indicating approval or disapproval.

[64 FR 53536, Oct. 1, 1999, as amended at 72 FR 50888, Sept. 5, 2007]

## **Special Circumstances and Obligations**

### **§ 3512.18 Will BLM approve my assignment or sublease if I have outstanding liabilities?**

Before we will approve your assignment of a permit or lease, your account must be in good standing. We will also approve the assignment if the assignee and his or her surety provides written acceptance of your outstanding liabilities under the permit or lease. In addition, the assignee must either furnish a new bond equivalent to your existing bond or obtain consent of the surety on your bond to substitute the assignee as the principal.

### **§ 3512.19 Must I notify BLM if I intend to transfer an overriding royalty to another party?**

Yes. Although we do not approve these transfers, you must file all overriding royalty interest transfers with the BLM within 90 days from the date of execution. Include the transferee's statement of qualifications required in subpart 3502 and the filing fee for transfer of overriding royalty found in the fee schedule in §3000.12 of this chapter.

[64 FR 53536, Oct. 1, 1999, as amended at 72 FR 50888, Sept. 5, 2007]

## **Effect of Assignments on Your Obligations**

### **§ 3512.25 If I assign my permit or lease, when do my obligations under the permit or lease end?**

You and your surety remain responsible for the performance of all obligations under the permit or lease until the date we approve the assignment. You will continue to be responsible for obligations that accrued prior to the date of our approval of the assignment, whether or not they were identified at the time of the transfer.

**§ 3512.30 What are the responsibilities of a sublessor and a sublessee?**

After BLM's approval of a sublease becomes effective, the sublessor and sublessee are jointly and severably liable for performance of all obligations under the permit or lease.

**§ 3512.33 Does an assignment or sublease alter the permit or lease terms?**

No, it does not alter permit or lease terms.

**Subpart 3513—Waiver, Suspension or Reduction of Rental and Minimum Royalties**

**Rental and Royalty Reductions**

**§ 3513.11 May BLM relieve me of the lease requirements of rental, minimum royalty, or production royalty while continuing to hold the lease?**

Yes. BLM has a process which may allow you temporary relief from these lease requirements.

**§ 3513.12 What criteria does BLM consider in approving a waiver, suspension, or reduction in rental or minimum royalty, or a reduction in the royalty rate?**

We will consider if approval:

- (a) Is in the interest of conservation;
- (b) Will encourage the greatest ultimate recovery of the resource; and
- (c) Is necessary either to promote development of the mineral resources or because you cannot successfully operate the lease under existing terms.

**§ 3513.15 How do I apply for reduction of rental, royalties or minimum production?**

You must send us two copies of your application with the following information for all leases involved:

- (a) The serial numbers;
- (b) The name of the record title holder(s);
- (c) The name of the operator and operating rights owners if different from the record title holder(s);
- (d) A description of the lands by legal subdivision;
- (e) A map showing the serial number and location of each mine or excavation and the extent of the mining operations;
- (f) A tabulated statement of the leasable minerals mined for each month covering at least the last twelve months before you filed your application, and the average production mined per day for each month;
- (g) If you are applying for relief from the minimum production requirement, complete information as to why you did not attain the minimum production;
- (h) A detailed statement of expenses and costs of operating the entire lease, and the income from the sale of any leased products;

(i) All facts showing why you cannot successfully operate the mines under the royalty or rental fixed in the lease and other lease terms;

(j) For reductions in royalty, full information as to whether you pay royalties or payments out of production to anyone other than the United States, the amounts paid and efforts you have made to reduce them;

(k) Documents demonstrating that the total amount of overriding royalties paid for the lease will not exceed one-half the proposed reduced royalties due the United States; and

(l) Any other information BLM needs to determine whether the request satisfies the standards in §3513.12 of this part.

**§ 3513.16 Do I have to pay a fee when I apply for a waiver, suspension, or reduction of rental, minimum royalty, production royalty, or minimum production?**

Yes. BLM will charge you a processing fee on a case-by-case basis, as described in §3000.11 of this chapter.

[70 FR 58878, Oct. 7, 2005]

**Suspension of Operations and Production (Conservation Concerns)**

**§ 3513.20 What is a suspension of operations and production (conservation concerns)?**

A suspension of operations and production (conservation concerns) is a BLM action where BLM orders or allows you to suspend operations in the interest of conservation of natural resources.

**§ 3513.21 What is the effect of a suspension of operations and production (conservation concerns)?**

BLM will extend your lease term by any periods of suspension of operations and production (conservation concerns). We will reduce the minimum annual production requirements of your lease proportionately for that time during a lease year in which a suspension of operations and production is effective. You do not have to pay rental and minimum annual production royalties starting with the first day of the next lease month after the suspension becomes effective. However, if the suspension is effective on the first day of the lease month, you may stop paying rentals and royalties that same day.

**§ 3513.22 How do I apply for a suspension of operations and production (conservation concerns)?**

Send us two copies of an application that explains why it is in the interest of conservation to suspend your operations and production.

**§ 3513.23 May BLM order a suspension of operations and production (conservation concerns)?**

Yes, BLM may order a suspension of operations and production.

**§ 3513.25 When will my suspension of operations and production (conservation concerns) take effect?**

Your suspension takes effect on the date BLM specifies.



### **§ 3513.26 When and how does my suspension of operations and production (conservation concerns) expire or terminate?**

Your suspension ends on the expiration date that BLM specifies in the decision or order approving the suspension, or on the first day of the lease month in which you resume operations or production, whichever occurs first. All lease terms and obligations resume on this date. MMS will allow credit towards future rentals or royalties due, if you paid rent for the period of suspension of operations and production.

### **Suspension of Operations (Economic Concerns)**

#### **§ 3513.30 What is a suspension of operations (economic concerns)?**

A suspension of operations (economic concerns) is an action by which BLM may approve your request to suspend operations on your lease when marketing conditions are such that you cannot operate your leases except at a loss. BLM may not order a suspension of operations (economic concerns) unless you request it.

#### **§ 3513.31 What is the effect of a suspension of operations (economic concerns)?**

This suspension does not affect the term of the lease or the annual rental payment. BLM will reduce the minimum annual production requirements of your lease in proportion to that part of the lease year for which a suspension of operations is effective.

#### **§ 3513.32 How do I apply for a suspension of operations (economic concerns)?**

Send us two copies of your application which shows why your lease cannot be operated except at a loss.

#### **§ 3513.33 When will my suspension of operations (economic concerns) take effect?**

Your suspension will be effective on the date BLM specifies. You do not have to pay royalty on minimum annual production beginning on the first day of the next lease month after the suspension becomes effective. If the effective date is the first of the month, you may stop paying royalty on minimum annual production on that day.

#### **§ 3513.34 When and how does my suspension of operations (economic concerns) expire or terminate?**

The suspension of operations (economic concerns) ends on the expiration date that BLM specifies in the decision approving the suspension, or on the first day of the lease month in which you resume operations, whichever occurs first. Your obligation for minimum annual production resumes at this time.

### **Subpart 3514—Lease Relinquishments and Cancellations**

#### **Relinquishing Your Lease**

##### **§ 3514.11 May I relinquish my lease or any part of my lease?**

If you can show, to BLM's satisfaction, that the public interest will not be impaired, you may relinquish your entire lease or any legal subdivision of it. Notify us in writing that you intend to relinquish all or part of your lease. Include your original signature and date. If we approve your relinquishment, you are required to pay all accrued rentals and royalties, and to perform any reclamation of the leased lands that BLM may require. In some cases, BLM may require you to preserve any mines, productive works or permanent improvements on the leased lands in accordance with the terms of your lease.

##### **§ 3514.12 What additional information should I include in a request for partial relinquishment?**

Any partial relinquishment must also clearly describe the lands you are relinquishing and give the exact area involved.

**§ 3514.15 Where do I file my relinquishment?**

File the relinquishment in the BLM office that issued the lease.

**§ 3514.20 When is my relinquishment effective?**

When BLM approves your relinquishment, it will be effective as of the date you filed it.

**§ 3514.21 When will BLM approve my relinquishment?**

We will accept your relinquishment when you have met all terms and conditions of the lease, including reclamation obligations.

**Cancellations, Forfeitures, and Other Situations**

**§ 3514.25 When does my lease expire?**

(a) Sodium, sulphur, asphalt, and hardrock mineral leases expire at the end of the lease term. If you file a timely application for lease renewal under §3511.27 of this part, your lease expires on the expiration date or the date BLM rejected your application, whichever is later.

(b) Potassium, phosphate and gilsonite leases continue for so long as you comply with the lease terms and conditions which are subject to periodic readjustment.

(c) For more information, see §3511.15 of this part.

**§ 3514.30 May BLM cancel my lease?**

(a) Yes. BLM may institute appropriate proceedings in a court of competent jurisdiction to cancel your lease if:

(1) You do not comply with the provisions of the Mineral Leasing Act, other relevant statutes, or regulations applicable to your lease; or

(2) You default on any of the lease terms, covenants or stipulations and continue to fail or default for 30 days after BLM notifies you in writing of your default.

(b) BLM may cancel your lease administratively if we issued it in violation of any law or regulation. In such a case, we may consider issuing an amended lease, if appropriate.

**§ 3514.31 May BLM waive cancellation or forfeiture?**

Yes, but our waiver of any particular cause of forfeiture will not prevent us from canceling and forfeiting the lease for any other cause or for the same cause occurring at any other time.

**§ 3514.32 Will BLM give me an opportunity to remedy a violation of the lease terms?**

(a) If you own or control, directly or indirectly, an interest in a lease in violation of any of the provisions of the Mineral Leasing Act, other relevant statutes, the lease terms or the regulations in this part, we will give you 30 days to remedy the violation or to show cause why we should not ask the Attorney General to institute court proceedings to:

- (1) Cancel the lease;
  - (2) Forfeit your interest; or
  - (3) Compel disposal of the interest so owned or controlled.
- (b) BLM will not give you 30 days if there is no legal remedy to the violation.

**§ 3514.40 What if I am a *bona fide* purchaser and my lease is subject to cancellation?**

(a) If you are a *bona fide* purchaser, BLM will not cancel your lease or your interest in a lease based on your predecessor's actions. However, you must be sure that the lease is in compliance with the terms and conditions required by BLM.

(b) BLM will promptly take action to dismiss any party who shows they are a *bona fide* purchaser from any legal proceedings to cancel the lease.

**Subpart 3515—Mineral Lease Exchanges**

**Lease Exchange Requirements**

**§ 3515.10 May I exchange my lease or lease right for another mineral lease or lease right?**

Yes. BLM may determine that operations on your lease or lands for which you have a preference right to a lease are not in the public interest. If you or BLM identify other lands for exchange, you may relinquish your current lease or preference right in exchange for a mineral lease of other lands of equal value.

**§ 3515.12 What regulatory provisions apply if I want to exchange a lease or lease right?**

(a) Except as provided in paragraph (b) of this section, this subpart and the relevant provisions of part 2200 of this title apply to mineral lease exchanges.

(b) Exchanges involving the issuance of coal leases, coal lease bidding rights or coal lease modifications are subject to the regulations in subpart 3435 of this chapter rather than to the regulations in this part.

**§ 3515.15 May BLM initiate an exchange?**

Yes. When we do:

(a) We will notify you that we are prepared to consider exchange of a mineral lease if you relinquish your existing leasing rights.

(b) We may exchange all or any part of the lands under your preference right lease application(s) or lease(s).

**§ 3515.16 What standards does BLM use to assess the public interest of an exchange?**

BLM must find that the exchange is in the public interest under the following criteria:

(a) The benefits of production from your existing lease or preference right to a lease would not outweigh the adverse effects on, or threat of damage or destruction to:

- (1) Agricultural production potential;

- (2) Scenic values;
  - (3) Biological values including threatened or endangered species habitat;
  - (4) Geologic values;
  - (5) Archeological, historic or other cultural values;
  - (6) Other public interest values such as recreational use;
  - (7) Residential or urban areas;
  - (8) Potential inclusion in the wilderness or wild and scenic rivers systems; or
  - (9) Other public uses, including public highways, airports, and rights-of-way from lease operations.
- (b) The lands proposed for exchange must be free from hazardous waste as defined under the authorities of the Federal Water Pollution Control Act (33 U.S.C. 1251), Resource Conservation and Recovery Act (42 U.S.C. 6901) and the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601).

**§ 3515.18 Will I be notified when BLM is considering initiating an exchange that will affect my lease?**

Yes. The notice you receive will:

- (a) State why we believe an exchange would be in the public interest;
- (b) Ask whether you are willing to negotiate for an exchange;
- (c) Contain a description of the lands for which we would offer exchange terms; and
- (d) Ask you to describe the lands on which you would accept a lease in exchange for your present holdings.

**Types of Lease Exchanges**

**§ 3515.20 May I exchange preference rights?**

Yes. To have a preference right that can be exchanged, you must have timely submitted a preference right lease application. If you have demonstrated a right to a lease, BLM may, in lieu of issuing the preference right lease, negotiate for the selection of appropriate lands to exchange and establish lease terms for those lands.

**§ 3515.21 What types of lands can be exchanged?**

The lands to be leased in exchange for your existing rights must be:

- (a) Subject to leasing under the authorities of this part; and
- (b) Acceptable to both you and BLM as a lease tract containing a deposit of leasable or hardrock minerals of equal value to your existing rights.

**§ 3515.22 What if the lands to be exchanged are not of equal value?**

If the lands are not equal in value, either party may equalize the value by paying money to the party receiving the property of lesser value. Such payments may not exceed 25 percent of the total value of the land or interest transferred out of Federal ownership. The parties may mutually agree to waive the monetary payment, if the Secretary determines that:

- (a) A waiver will expedite the exchange;
- (b) The public interest will be better served by the waiver than by the payment; and
- (c) The amount to be waived is no more than 3 percent of the value of the lands being transferred out of Federal ownership, or \$15,000, whichever is less.

## **Lease Exchange Procedures**

### **§ 3515.23 May BLM require me to submit additional information?**

Yes. You must be willing to provide geologic and economic data we need to determine the fair market value of your preference right or lease to be relinquished.

### **§ 3515.25 Is BLM required to publish notice or hold a hearing?**

Yes. After you and BLM agree on the lands for exchange, we will publish a notice of the proposed exchange in the Federal Register and in a newspaper(s) in the county(s) where the lands involved are located. The notice will include:

- (a) The time and place of a public hearing(s);
- (b) Our preliminary findings that the exchange is in the public interest; and
- (c) A request for public comments on the merits of the proposed exchange.

### **§ 3515.26 When will BLM make a decision on the exchange?**

After the public hearing and consideration of public comments, we will determine whether issuance of the exchange lease is in the public interest. If it is, we will then process the exchange. If not, we will cancel the exchange.

### **§ 3515.27 Will BLM attach any special provisions to the exchange lease?**

Yes, the lease terms will contain a statement that you quitclaim and relinquish any right or interest in your preference right lease application or lease exchanged.

## **Subpart 3516—Use Permits**

### **§ 3516.10 What are use permits?**

Use permits allow you to use the surface of lands not included within your permit or lease to help you develop the mineral deposits. You may only get a use permit during the life of your permit or lease, and only for unentered, unappropriated, BLM-administered land. Use permits are not prospecting permits.

### **§ 3516.11 What kinds of permits or leases allow use permits?**

Use permits are issued only in support of phosphate and sodium permits and leases. For phosphate permits and leases, BLM may issue you a use permit to use up to 80 acres. For sodium leases, use permits are limited to no more than 40 acres.

### **§ 3516.12 What activities may I conduct under a use permit?**

Phosphate use permits authorize you to conduct activities to properly extract, treat, or remove the mineral deposits. Sodium use permits authorize you to occupy camp sites, develop refining works and use the surface for other purposes connected with, and necessary to, the proper development and use of the deposits.

### **§ 3516.15 How do I apply for a use permit?**

You must file three copies of your application in the BLM office administering the lands you are interested in. There is no specific form required. Include the filing fee for a use permit found in the fee schedule in §3000.12 of this chapter and the first year's rental. Calculate the rental in accordance with §3504.15 of this part.

[64 FR 53536, Oct. 1, 1999, as amended at 72 FR 50888, Sept. 5, 2007]

### **§ 3516.16 What must I include with my application?**

You must agree to pay the annual charge identified in the permit, and provide the following information:

- (a) Specific reasons why you need the additional lands;
- (b) A description of the lands applied for;
- (c) Any information demonstrating that the lands are suitable and appropriate for your needs; and
- (d) Evidence that the lands are unoccupied and unappropriated.

### **§ 3516.20 Is there an annual fee or charge for use of the lands?**

Yes. You must pay the annual \$1 per acre rental, or \$20, whichever is greater, on or before the anniversary date of the permit.

### **§ 3516.30 What happens if I fail to pay the annual rental on my use permit?**

Your use permit will terminate automatically if you fail to pay the required rental within 30 days after we serve you with a written notice of the rental requirement.

## **Subpart 3517—Hardrock Mineral Development Contracts; Processing and Milling Arrangements**

### **§ 3517.10 What are development contracts and processing and milling arrangements?**

Development contracts and processing and milling arrangements involving hardrock minerals are agreements between one or more lessees and one or more other persons to justify large scale operations for the discovery, development, production, or transportation of ores.

### **§ 3517.11 Are permits and leases covered by approved agreements exempt from the acreage limitations?**

Hardrock mineral permits and leases committed to development contracts or processing or milling arrangements approved by BLM are exempt from state and nationwide acreage limitations. We will not count them toward your maximum acreage holdings. However, individual hardrock mineral leases committed to a development contract or lease may not exceed 2560 acres in size.

#### **§ 3517.15 How do I apply for approval of one of these agreements?**

No specific form is required. Submit three copies of your application to the BLM office with jurisdiction over some or all of the lands in which you are interested. Include the following information:

- (a) Copies of the contract or other agreement affecting the Federal hardrock mineral leases or permits, or both;
- (b) A statement showing the nature and reason for your request;
- (c) A statement showing all the interests held in the area of the agreement by the designated contractor; and
- (d) The proposed or agreed upon plan of operation for development of the leased lands.

#### **§ 3517.16 How does BLM process my application?**

- (a) We will consider whether the agreement will conserve natural resources and is in the public interest.
- (b) Once the agreement is signed by all the parties, we may approve it.

### **PART 3580—SPECIAL LEASING AREAS**

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**Authority:** 16 U.S.C. 90c–1, 460n–5, 460q–5, 460dd–2, 460mm–4; 30 U.S.C. 189, 293, 359; 31 U.S.C. 9701; 43 U.S.C. 1201, 1732(b), 1733, 1740; 47 Stat. 1487.

**Source:** 51 FR 15256, Apr. 22, 1986, unless otherwise noted.

### **Subpart 3581—Gold, Silver, or Quicksilver in Confirmed Private Land Grants**

#### **§ 3581.0-3 Authority.**

Authority for leasing gold, silver, or quicksilver in confirmed private land grants is shown in §3500.0–3(c)(1) of this title.

#### **§ 3581.1 Lands to which applicable.**

The regulations in this subpart apply to lands in private land claims patented pursuant to decrees of the Court of Private Land Claims where the grant did not convey the rights to deposits of gold, silver and quicksilver and where the grantee has not otherwise become entitled in law or in equity to the deposits.

#### **§ 3581.2 Who may obtain a lease.**

Applications shall only be filed by, and leases issued to, the owner of the lands under the confirmed land grant; that is, the original grantee or his/her record transferee or successor in title.

#### **§ 3581.3 Application for lease.**

(a) Applications for leases shall be filed in triplicate in the proper BLM office and may include all or any part of the grant for which the applicant holds title on the date of the application. No specific form is required.

(b) Applications shall set forth the name and address of the applicant, describe the lands in which the deposits occur by legal subdivision of the public surveys, if so surveyed, otherwise by metes and bounds; or if for the entire area in the grant, the name of the grant, area and date of patent shall suffice. The mineral deposits also shall be fully described, giving character, mode of occurrence, nature of the formation, kind and character of associated minerals, if any, proposed mining methods, estimate of amount of investment necessary for successful operation of the mine(s) contemplated, estimated amount of production of gold, silver and quicksilver, or any of them, and such other pertinent information as the applicant may desire to set forth, including what he/she considers a reasonable royalty rate under the lease.

(c) The applicant also shall file with his/her application a duly authenticated abstract of title showing present ownership of the lands or a certificate of the county recorder of deeds that the record title stands in the applicant's name.

#### **§ 3581.4 Leases.**

##### **§ 3581.4-1 Lease terms.**

The lease shall be issued for a period of 20 years with a preference right in the lessee to renew for a 10-year term at the end of the initial term and at the end of each 10-year period thereafter.

[51 FR 15213, Apr. 22, 1986; 51 FR 25204, July 11, 1986]

##### **§ 3581.4-2 Rate of royalty; investment determined.**

If the authorized officer finds the application sufficient to authorize the issuance of a lease, he/she shall establish a rate of royalty of not less than 5 percent or more than 12 1/2 percent of the value of the output of gold, silver or quicksilver at the mine and also shall establish the amount of investment required under the lease.

##### **§ 3581.4-3 Lease form and execution.**

A lease on a form approved by the Director shall be furnished to the applicant, who shall be allowed 30 days from notice within which to execute and return the lease to the proper BLM office and to furnish the required bond.

#### **§ 3581.5 Bond.**

Prior to lease issuance, the lessee shall furnish a bond of not less than \$2,000 conditioned upon compliance with all terms and conditions of the lease, including the prescribed investment requirement. The authorized officer reserves the right to increase the bond amount.

### **Subpart 3582—National Park Service Areas**

#### **§ 3582.0-3 Authority.**

Authority for leasing mineral deposits within certain national recreation areas administered by the National Park Service is found in §3500.0–3(c)(3) of this title.

#### **§ 3582.1 Other applicable regulations.**

##### **§ 3582.1-1 Leasable minerals.**

Except as otherwise specifically provided in this subpart, leasing of deposits of leasable minerals shall be governed by regulations in parts 3500, 3510, 3520, 3530, 3540 and 3550 of this title.

##### **§ 3582.1-2 Hardrock minerals.**

Except as otherwise specifically provided in this subpart, leasing of deposits of hardrock minerals shall be governed by regulations in parts 3500 and 3560 of this title.

#### **§ 3582.2 Lands to which applicable.**

##### **§ 3582.2-1 Boundary maps.**

The areas subject to the regulations in this subpart are those areas of lands and water which are shown on the following maps on file and available for public inspection in the Office of the Director of the National Park Service and in the Superintendent's office of each area. The boundaries of these areas may be revised by the Secretary as authorized in the Acts cited under §3500.0-3(c)(3) of this title.

(a) Lake Mead National Recreation Area—the map identified as “boundary map 8360—80013A, revised December 1979.”

(b) Whiskeytown Unit of the Whiskeytown-Shasta-Trinity National Recreation Area—the map identified as “Proposed Whiskeytown-Shasta-Trinity National Recreation Area,” numbered BOR-WST 1004, dated July 1963.

(c) Ross Lake and Lake Chelan National Recreation Areas—the map identified as “Proposed Management Units. North Cascades, Washington,” numbered NP-CAS—7002, dated October 1967.

(d) Glen Canyon National Recreation Area—the map identified as “Boundary Map Glen Canyon National Recreation Area,” numbered GLC—91,006, dated August 1972.

[51 FR 15213, Apr. 22, 1986; 51 FR 25204, July 11, 1986]

### **§ 3582.2-2 Excepted areas.**

The following areas shall not be opened to mineral leasing:

(a) *Lake Mead National Recreation Area.* (1) All waters of Lakes Mead and Mohave and all lands within 300 feet of those lakes measured horizontally from the shoreline at maximum water surface elevations.

(2) All lands within the area of supervision of the Bureau of Reclamation around Hoover and Davis Dams and all lands within any developed and/or concentrated public use area or other area of outstanding recreational significance as designated by the Superintendent on the map (NRA-L.M. 2291A, dated July 1966) of Lake Mead National Recreation Area which is available for inspection in the Office of the Superintendent.

(b) *Whiskeytown Unit of the Whiskeytown-Shasta-Trinity National Recreation Area.* (1) All waters of Whiskeytown Lake and all lands within 1 mile of that lake measured from the shoreline at maximum surface elevation.

(2) All lands classified as high density recreation, general outdoor recreation, outstanding natural and historic, as shown on the map numbered 611-20, 004B, dated April 1976 entitled “Land Classification, Whiskeytown Unit, Whiskeytown-Shasta-Trinity National Recreation Area.” This map is available for public inspection in the Office of the Superintendent.

(3) All lands within section 34 of Township 33 north, Range 7 west, Mt. Diablo Meridian.

(c) *Ross Lake and Lake Chelan National Recreation Areas.* (1) All of Lake Chelan National Recreation Area.

(2) All lands within one-half mile of Gorge, Diablo and Ross Lakes measured from the shoreline at maximum surface elevation.

(3) All lands proposed for or designated as wilderness.

(4) All lands within one-half mile of State Highway 20.

(5) Pyramid Lake Research Natural Area and all lands within one-half mile of its boundaries.

(d) *Glen Canyon National Recreation Area*. Those areas closed to mineral disposition within the natural zone, development zone, cultural zone and portions of the recreation and resource utilization zone as shown on the map numbered 80,002A, dated March 1980, entitled "Mineral Management Plan—Glen Canyon National Recreation Area." This map is available for public inspection in the Office of the Superintendent and the Offices of the State Directors, Bureau of Land Management, Arizona and Utah.

[51 FR 15213, Apr. 22, 1986; 51 FR 25204, July 11, 1986]

### **§ 3582.3 Consent and consultation.**

Any mineral lease or permit shall be issued or renewed only with the consent of the Regional Director, National Park Service. Such consent shall be granted only upon a determination by the Regional Director that the activity permitted under the lease or permit shall not have significant adverse effect upon the resources or administration of the area pursuant to the authorizing legislation for the area. Any lease or permit issued shall be subject to such conditions as may be prescribed by the Regional Director to protect the surface and significant resources of the area, to preserve their use for public recreation and subject to the condition that site specific approval of any activity on the lease or permit shall be given only upon a concurrence by the Regional Director. All lease applications for reclamation withdrawn lands also shall be submitted to the Bureau of Reclamation for review.

## **Subpart 3583—Shasta and Trinity Units of the Whiskeytown-Shasta-Trinity National Recreation Area**

### **§ 3583.0-3 Authority.**

Authority for leasing mineral deposits within the Shasta and Trinity Units of the Whiskeytown-Shasta-Trinity National Recreation Area administered by the Forest Service is cited in §3500.0–3(c)(4) of this title.

### **§ 3583.1 Other applicable regulations.**

#### **§ 3583.1-1 Leasable minerals.**

Except as otherwise specifically provided in this subpart, leasing of deposits of leasable minerals shall be governed by regulations in parts 3500, 3510, 3520, 3530, 3540 and 3550 of this title.

#### **§ 3583.1-2 Hardrock minerals.**

This subpart governs the leasing of hardrock minerals in the Shasta and Trinity Units of the Whiskeytown-Shasta-Trinity National Recreation Area. The terms and conditions of hardrock leases issued under this subpart shall be the same as those set out for hardrock leases in subpart 3561 of this title, except as specifically modified in this subpart.

### **§ 3583.2 Consent of Secretary of Agriculture.**

Any mineral lease for lands subject to this subpart shall be issued only with the consent of the Secretary of Agriculture and subject to such conditions as he/she may prescribe after he/she finds that such disposition would not have significant adverse effects on the purpose of the Central Valley Project or the administration of the recreation area.

### **§ 3583.3 Applications for hardrock mineral leases.**

No specific form is required. An application shall include the applicant's name and address, a statement of holdings in accordance with subpart 3502 of this title, a description of the lands in accordance with subpart 3501 of this title, and the name of the mineral for which the lease is desired. The applicant shall state whether the mineral applied for can be developed in paying quantities, stating the reasons therefor, and shall furnish such facts as are available to him/her respecting the known occurrence of the mineral, the

character of such occurrence and its probable value as evidencing the existence of a workable deposit of such mineral. Each application must be filed in triplicate in the proper BLM office and must be accompanied by the filing fee for Shasta and Trinity hardrock mineral leases found in the fee schedule in §3000.12 of this chapter.

[51 FR 15213, Apr. 22, 1986, as amended at 72 FR 50888, Sept. 5, 2007]

#### **§ 3583.4 Hardrock mineral leases.**

##### **§ 3583.4-1 Leasing units.**

Leasing units may not exceed 640 acres consisting, if the lands are surveyed, of legal subdivisions in reasonably compact form or, if the lands are not surveyed, of a square or rectangular area with north and south and east and west boundaries so as to approximate legal subdivisions, described by metes and bounds and connected to a corner of the public survey by courses and distances. The authorized officer may prescribe a lesser area for any mineral deposit if such lesser area is adequate for an economic mining operation.

##### **§ 3583.4-2 Royalties, rentals and minimum royalties.**

Rentals and royalties shall be determined by the authorized officer on the basis of the fair market value, but in no event shall be less than:

- (a) A rental of 50 cents per acre or fraction thereof payable in advance until production is obtained.
- (b) A minimum royalty of \$1 per acre or fraction thereof payable in advance after production is obtained.
- (c) A production royalty of 2 percent of the amount or value of the minerals mined, the exact amount of royalty to be fixed prior to the issuance of the lease.

##### **§ 3583.4-3 Special terms and conditions.**

Each lease shall contain provisions for the following:

- (a) Diligent development of the leased property, except when operations are interrupted by strikes, the elements or casualties not attributable to the lessee, unless operations are suspended upon a showing that the lease cannot be operated except at loss because of unfavorable market conditions;
- (b) Occupation and use of the surface shall be restricted to that which is reasonably necessary for the exploration, development and extraction of the leased minerals, subject to any special rules to protect the values of the recreation area;
- (c) No vegetation shall be destroyed or disturbed except where necessary to mine and remove the minerals;
- (d) Operations shall not be conducted in such a manner as to adversely affect the purpose of the Central Valley Project through dumping, drainage or otherwise;
- (e) Structures shall not be erected or roads or vehicle trails opened or constructed without first obtaining written permission from an authorized officer or employee of the Forest Service. The permit for a road or trail may be conditioned upon the permittee's maintaining the road or trail in passable condition satisfactory to the officer in charge of the area so long as it is used by the permittee or his/her successor;
- (f) Reservation of the right to add additional terms to the lease when deemed necessary by the authorized officer or employee of the Forest Service for the protection of the surface, its resources and use for recreation.

**§ 3583.4-4 Duration of lease.**

Leases shall be issued for period of 5 years. Any lease in good standing, upon which production in paying quantities has been obtained, shall be subject to renewal for successive 5 year terms on such reasonable terms as may be prescribed by the Secretary. An application for renewal shall be filed in triplicate in the proper BLM office at least 90 days prior to the expiration of the current lease term unless the lands included in the lease have been withdrawn at the expiration of such term.

**§ 3583.4-5 Lease by competitive bidding.**

Leases may be offered competitively for any lands applied for under this subpart without regard to the quantity or quality of the mineral deposit that may be present therein.

**§ 3583.5 Disposal of materials.**

Materials within the public lands covered by regulations in this subpart which are not subject to the provisions of §§3583.1–1 and 3583.1–2 of this title shall be subject to disposal under the Materials Act of 1947, as amended (30 U.S.C. 601 *et seq.* ), subject to the conditions and limitations on occupancy and operations prescribed for leases in this subpart.

[51 FR 15213, Apr. 22, 1986; 51 FR 25204, July 11, 1986]

**Subpart 3584—Reserved Minerals in Lands Patented to the State of California for Park or Other Public Purposes**

**§ 3584.0-3 Authority.**

Authority for leasing reserved minerals in certain lands patented to the State of California for park or other purposes is cited under §3500.0–3(c)(2) of this title.

**§ 3584.1 Lands to which applicable.**

The regulations in this subpart apply to certain lands patented to the State of California for park and other public purposes.

**§ 3584.2 Minerals to be leased.**

Leasable and hardrock minerals are subject to lease under this subpart.

**§ 3584.3 Other applicable regulations.**

Subject to regulations in this subpart, the regulations in parts 3500, 3510, 3520, 3530, 3540, 3550 and 3560 of this title shall govern the leasing of all leasable and hardrock minerals within the area.

[51 FR 15213, Apr. 22, 1986; 51 FR 25205, July 11, 1986]

**§ 3584.4 Notice of application.**

The authorized officer shall notify the surface owner of each application received. Notice of any proposed competitive lease sale shall be given to the surface owner prior to publication of notice of sale. Should the surface owner object to leasing of any tract for reasons determined by the authorized officer to be satisfactory, the application shall be rejected and the lands shall not be offered for lease sale.

**§ 3584.5 Protection of surface.**

All leases issued pursuant to this subpart shall be conditioned upon compliance by the lessee with all the laws, rules and regulations of the State of California for the safeguarding and protection of plant life, scenic features and park or recreational improvements on the lands, where not inconsistent with the terms of the lease or this section. The lease also shall provide that any mining work performed upon the lease shall be located in accordance with any requirements of the State necessary for the protection of the surface rights and uses and so conducted as to result in the least possible injury to plant life, scenic features and improvements and that, upon completion of the mining operation, all excavations, including wells, shall be closed and the property shall be conditioned for abandonment to the satisfaction of the surface owner. The lease shall further provide that any use of the lands for ingress to and egress from the mine shall be on a route approved in writing by the State's authorized representative.

#### **§ 3584.6 Terms of lease.**

Leases for hardrock minerals shall issue for a period of 5 years with a preference in the lessee for renewal for a term of 5 years at the end of the initial term and at the end of each 5 year period thereafter (See subpart 3566).

### **Subpart 3585—White Mountains National Recreation Area, Alaska**

#### **§ 3585.0-3 Authority.**

(a) Authority for leasing minerals in the White Mountains National Recreation Area—Alaska is found in §3500.0–3(c)(5) of this title.

(b) Authority for approving exploration licenses is section 302(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732(b)).

#### **§ 3585.1 Lands to which applicable.**

The lands subject to the regulations in this subpart are within the White Mountains National Recreation Area—Alaska which have been opened to mineral leasing and development pursuant to the findings in the land use plan for the area that such use and development would be compatible with, or would not significantly impair, public recreation and conservation of the scenic, scientific, historic, fish and wildlife or other values contributing to public enjoyment. The land use plan is on file and available for public inspection in the Bureau's Fairbanks District Office.

#### **§ 3585.2 Other applicable regulations.**

##### **§ 3585.2-1 Leasable minerals.**

Leasing of deposits of leasable minerals shall be governed by the applicable regulations in parts 3500, 3510, 3520, 3530, 3540 and 3550 of this title.

##### **§ 3585.2-2 Hardrock minerals.**

Except as otherwise specifically provided in §§3585.3 and 3585.4 of this title for mining claimant preference right leases, the regulations in parts 3500 and 3560 of this title shall govern the leasing of hardrock minerals.

#### **§ 3585.3 Mining claimant preference right leases.**

##### **§ 3585.3-1 Who may obtain a mining claimant preference right lease.**

Where, consistent with the land use plan, the Secretary has opened the area to mineral leasing and development, the holder of an unperfected mining claim within the White Mountains National Recreation Area—Alaska which was, prior to November 16, 1978, located, recorded and maintained in accordance with

applicable Federal and State laws on lands located within the recreation area is entitled to a lease for the removal of the hardrock minerals from the mining claim(s), provided such mining claimant submits a timely application.

### **§ 3585.3-2 Application.**

(a) An application for a mining claimant preference right lease shall be filed in triplicate in the Fairbanks District Office, Bureau of Land Management, P.O. Box 1150, Fairbanks, Alaska 99707, by the holder of an unperfected mining claim(s), within 2 years from the date the lands are opened to mineral leasing and development.

(b) No specific form is required.

(c) Each application shall be signed in ink by the applicant and shall include the following:

(1) The applicant's name and address;

(2) The serial number for each claim for which the application is made;

(3) The name of the mineral(s) for which the lease is sought; and

(4) A separate map on which the claim(s) is clearly marked.

(d) A single application may embrace any number of unperfected mining claims provided that, in the aggregate, the claims do not exceed 640 acres. The claims shall be contiguous and shall be located entirely within an area 6 miles square. Multiple applications may be submitted.

### **§ 3585.4 Leases.**

#### **§ 3585.4-1 Survey for leasing.**

Prior to the issuance of a lease under this subpart, the applicant, at his/her own expense, shall be required to have a correct survey made under authority of a cadastral engineer, such survey to show the exterior surface boundaries of the entire lease tract, not each individual mining claim where more than one claim is involved, which boundaries are to be distinctly marked by monuments on the ground. Application for authorization of survey shall be made in accordance with subpart 1821 of this title.

[51 FR 15213, Apr. 22, 1986; 51 FR 25205, July 11, 1986]

#### **§ 3585.4-2 Terms and conditions.**

Leases shall be issued on a form approved by the Director and under such terms and conditions as prescribed in the lease form and subpart 3561 of this title. Where deemed necessary by the authorized officer, special lease stipulations also shall be included for the protection of the surface, its resources and use for recreation.

#### **§ 3585.4-3 Relinquishment of claims.**

Prior to the issuance of a lease, the applicant shall relinquish in writing any right or interest in his/her mining claim(s) as of the date the lease covering such claim(s) becomes effective.

### **§ 3585.5 Exploration license.**

#### **§ 3585.5-1 Exploration license.**



Private parties, jointly or severally, may apply for exploration licenses to explore known hardrock mineral deposits which are not under lease or within an area subject to application and lease under §3585.3 of this title to obtain geologic, environmental and other pertinent data concerning such deposits. Exploration licenses do not grant the licensee any preference right to a lease.

**§ 3585.5-2 Other applicable regulations.**

Except as otherwise specifically provided in this subpart, the regulations pertaining to land use authorizations under part 2920 of this title shall govern the issuance of exploration licenses.

**§ 3585.5-3 Exploration plan.**

All applications for exploration licenses shall include an exploration plan which is in full compliance with §3562.3–3 of this title. The approved exploration plan shall be attached to, and made a part of, the license.

**§ 3585.5-4 Notice of exploration.**

Applicants for exploration licenses shall publish a Notice of Exploration inviting other parties to participate in exploration under license on a pro rata cost sharing basis.

**§ 3585.5-5 Contents of notice.**

The Notice of Exploration prepared by the authorized officer and furnished to the applicant shall contain:

- (a) The name and address of the applicant;
- (b) A description of the lands;
- (c) The address of the Bureau office where the exploration plan will be available for inspection; and
- (d) An invitation to the public to participate in the exploration under the license.

**§ 3585.5-6 Publication and posting of notice.**

- (a) The applicant shall publish the Notice of Exploration once a week for 3 consecutive weeks in at least 1 newspaper of general circulation nearest the area where the lands are located.
- (b) The authorized officer shall post the notice in the Bureau's Alaska State Office and in the Fairbanks District Office for 30 days.

**§ 3585.5-7 Notice of participation.**

Any person who seeks to participate in the exploration program shall notify the authorized officer and the applicant in writing within 30 days after posting of the Notice of Exploration.

**§ 3585.5-8 Decision on plan and participation.**

- (a) The authorized officer may issue the exploration license naming participants and acreage covered, establishing core hole spacing and resolving any other issue necessary to minimize surface disturbance and inconsistencies between proposed exploration plans.
- (b) Upon application by the participants, a modification of the exploration plan may be approved by the authorized officer.

[51 FR 15213, Apr. 22, 1986; 51 FR 25205, July 11, 1986]

#### **§ 3585.5-9 Submission of data.**

The licensee must furnish to BLM copies of all data obtained during exploration. If part 2 of this title requires any such data to be held confidential, BLM will not make it public.

[63 FR 52954, Oct. 1, 1998]

### **Subpart 3586—Sand and Gravel in Nevada**

#### **§ 3586.1 Applicable law and regulations.**

The Act of June 8, 1926 (44 Stat. 708), authorizes the Secretary to dispose of the reserved minerals in certain lands patented to the State of Nevada under such conditions and under such rules and regulations as he/she may prescribe. Mineral materials, including deposits of sand and gravel, in such lands shall, except for leases granted and renewed under this subpart, be subject to disposal only under the regulations in Group 3600 of this title which implement the Materials Act of 1947, as amended (30 U.S.C. 601 *et seq.* ).

#### **§ 3586.2 Existing leases.**

Existing sand and gravel leases may be renewed at the expiration of their initial term, and at the end of each successive 5-year period thereafter, for an additional term of 5 years, under such terms and conditions as the authorized officer determines to be reasonable. An application for renewal must be filed in triplicate in the proper BLM office within 90 days prior to the expiration of the lease term and be accompanied by the filing fee for renewal of existing sand and gravel leases in Nevada found in the fee schedule in §3000.12 of this chapter. Prior to renewal of a lease, the lessee shall be required to file a new bond and remit advance rental for the first year of the renewal lease at the rate prescribed by the authorized officer. The rental payment shall not be less than \$20. The lease shall be renewed only upon application of the lessee of record. The authorized officer shall not renew any lease that is not producing sand and gravel or is not part of an existing sand and gravel mining operation.

[51 FR 15213, Apr. 22, 1986, as amended at 72 FR 50889, Sept. 5, 2007]

#### **§ 3586.3 Transfers of lease.**

Leases may be transferred in whole or in part. The regulations in subpart 3506 of this title shall govern all such transfers.

## **PART 3590—SOLID MINERALS (OTHER THAN COAL) EXPLORATION AND MINING OPERATIONS**

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## **Subpart 3599—Late Payment or Underpayment of Charges**

## [§ 3599.1 Late payment or underpayment charges.](#)

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Note: There are many leases and agreements currently in effect, and which will remain in effect, involving Federal leases which specifically refer to the United States Geological Survey, Minerals Management Services or the Conservation Division. These leases and agreements also often specifically refer to various officers as Supervisor, Conservation Manager, Deputy Conservation Manager, Minerals Manager and Deputy Minerals Manager. In addition, many leases and agreements specifically refer to 30 CFR part 231 or specific sections thereof. Those references shall now mean the Bureau of Land Management or Minerals Management Service, as appropriate.

**Authority:** 5 U.S.C. Appendix; 16 U.S.C. 90c–1, 460n–5, 460q–5, 460dd–2 *et seq.*, 460mm–4, 508(b); 25 U.S.C. 396d, 2107; 30 U.S.C. 189, 192c, 293, 359; 31 U.S.C. 9701; 42 U.S.C. 4321 *et seq.*; 43 U.S.C. 1201, 1732(b), 1733, 1740; 35 Stat. 315; 47 Stat. 1487.

**Source:** 53 FR 39461, Oct. 7, 1988, unless otherwise noted.

### **Subpart 3590—Solid Minerals (Other Than Coal) Exploration and Mining Operations—General**

#### **§ 3590.0-1 Purpose.**

The purpose of the regulations in this part is to promote orderly and efficient prospecting, exploration, testing, development, mining and processing operations and production practices without waste or avoidable loss of minerals or damage to deposits; to encourage maximum recovery and use of all known mineral resources; to promote operating practices which will avoid, minimize or correct damage to the environment—land, water and air—and avoid, minimize or correct hazards to public health and safety; and to obtain a proper record and accounting of all minerals produced.

#### **§ 3590.0-2 Policy.**

The regulations in this part are administered under the direction of the Director, Bureau of Land Management.

#### **§ 3590.0-3 Authority.**

Authority for carrying out the regulations in this part is set out in §3500.0–3 of this title, unless otherwise noted.

#### **§ 3590.0-5 Definitions.**

As used in this part, the term:

(a) *Established requirements* means applicable law and regulations, lease, license or permit terms, conditions and special stipulations; approved mine or exploration plan requirements; and orders issued by the authorized officer.

(b) *General mining order* means a formal numbered order issued in a rulemaking procedure by the Department of the Interior which implements the regulations in this part and applied to mining and related operations.

(c) *Lessee* means any person, partnership, association, corporation or municipality that holds a mineral lease, through issuance or assignment, in whole or part, which lease is subject to the provisions of this part.

(d) *Licensee* means any person, partnership, association, corporation or municipality that holds a mineral license, through issuance or assignment, in whole or part, which license is subject to the provisions of this part.

(e) *Permittee* means any person, partnership, association, corporation or municipality that holds a mineral prospecting permit, through issuance, or assignment, in whole or part, which permit is subject to the provisions of this part.

(f) *Operator* means anyone authorized to conduct operations pursuant to the regulations in this part.

(g) *Reclamation* means the measures undertaken to bring about the necessary reconditioning or restoration of lands or water affected by exploration, mining, on-site processing operations or waste disposal in a manner which, among other things, will prevent or control on-site or offsite damage to the environment.

(h) *Ultimate maximum recovery* means that all portions of a leased Federal mineral deposit shall be mined, based on standard industry operating practices. The requirement to achieve ultimate maximum recovery does not in any way restrict the authorized officer's authority to ensure the conservative of the mineral resource and protection of the other resources.

#### **§ 3590.0-7 Scope.**

The regulations in this part govern operations for the discovery, testing, development, mining, reclamation, and processing of all minerals under lease, license or permit issued for Federal lands under the regulations in Group 3500 of this title or part 3140 of this title. For operations, involving the extraction of hydrocarbon from tar sands or oil shale by in-situ methods utilizing boreholes or wells, part 3160 of this title is applicable. These regulations also govern operations for all minerals on Indian tribal lands and allotted Indian lands leased under 25 CFR parts 211 and 212. Further, when the regulations in this part related to matters included in 25 CFR part 215 or 216 the regulations in this part shall be considered as supplemental and the regulations in 25 CFR part 215 or 216 shall govern to the extent of any inconsistencies.

#### **§ 3590.2 Responsibility of the authorized officer.**

The authorized officer shall regulate prospecting, exploration, testing, development, mining, processing operations, and reclamation authorized under this part. The duties of the authorized officer include, but are not limited to, the following:

(a) Approval of operating plans and plan modifications after preparation of appropriate environmental analyses. Prior to approving a plan, the authorized officer shall consult with the agency having jurisdiction over the lands with respect to the surface protection and reclamation aspects of such plan.

(b) Inspection, at least quarterly, of leased, licensed or permitted lands where operations for discovery, testing, development, mining, reclamation, or processing of minerals are being conducted.

(c) Inspection and regulation of such operations for the purpose of preventing waste of mineral substances or damage to formations and deposits containing them, or damage to other formations, deposits or nonmineral resources affected by the operations.

(d) Inspecting exploration and mining operations to determine the adequacy of water management and pollution control measures taken for the protection of the quality of surface and groundwater resources and the adequacy of emission control measures taken for the protection of air quality. Such inspection shall be conducted as necessary and shall be fully coordinated with all State and Federal agencies having jurisdiction.

(e) Requiring operators to conduct operations in compliance with established requirements, including the law, regulations, the terms and conditions of the lease, license or permit, the requirements of approved exploration or mining plans, notices and orders and special stipulations.

(f) Obtaining the records of production of minerals and other information as necessary in order to verify that production reported to the Minerals Management Service for royalty purposes is an accurate accounting of minerals produced.

(g) Acting on applications for suspension of operations and production filed under §3503.3 of this title and terminating such suspensions when conditions warrant. The authorized officer shall, upon request, assist in review of applications for suspension of operations and production on Indian lands which are filed under the provisions of 25 CFR parts 211 and 212.

(h) Upon receipt of a written request for cessation or abandonment of operations, inspecting the operations and determining whether they are in compliance with established requirements. The authorized officer shall, in accordance with applicable procedures, consult with, or obtain the concurrence of the State or Federal agency having jurisdiction over the lands with respect to the surface protection and reclamation requirements of the lease, license or permit and the exploration or mining plan.

(i) Acting on any mineral trespass on Federal or Indian lands in accordance with part 9230 of this title. The surface managing agency, if other than the BLM, shall be notified of any mineral trespass and the planned enforcement action.

(j) Implementing General Mining Orders and issuing other orders, making determinations and providing concurrence and approvals as necessary to implement or assure compliance with the regulations in this part. Any verbal orders, approvals or concurrences shall be promptly confirmed in writing.

#### **Subpart 3591—General Obligations of Lessees, Licensees and Permittees**

##### **§ 3591.1 General obligations of lessees, licensees and permittees.**

(a) Operations for the discovery, testing, development, mining or processing of minerals shall conform to the established requirements.

(b) The surface of lease, license or permit lands shall be reclaimed in accordance with established requirements. Lessees, licensees or permittees shall take such action as may be needed to avoid, minimize or repair:

(1) Waste and damage to mineral-bearing formations;

(2) Soil erosion;

(3) Pollution of the air;

(4) Pollution of surface or ground water;

(5) Damage to vegetation;

(6) Injury to or destruction of fish or wildlife and their habitat;

(7) Creation of unsafe or hazardous conditions;

(8) Damage to improvements; and

(9) Damage to recreation, scenic, historical and ecological values of the lands.

(10) Damage to scientifically significant paleontological and archaeological resources.

(c) All operations conducted under this part shall be consistent with Federal and State water and air quality standards.

(d) Inundations, fires, fatal accidents, accidents threatening damage to the mine, the lands or the deposits, or conditions which could cause water pollution shall be reported promptly to the authorized officer. The notice required by this section shall be in addition to any notice or reports required by 30 CFR part 56 or 57, or other applicable regulations.

### **§ 3591.2 Forms and reports.**

The operator shall submit production and royalty forms and reports to the Minerals Management Service in accordance with 30 CFR parts 216 and 218.

## **Subpart 3592—Plans and Maps**

### **§ 3592.1 Operating plans.**

(a) Before conducting any operations under any lease(s), license(s), or permit(s), the operator shall submit to the authorized officer an exploration or mining plan which shall show in detail the proposed exploration, prospecting, testing, development or mining operations to be conducted. Exploration and mining plans shall be consistent with and responsive to the requirements of the lease, license or permit for the protection of nonmineral resources and for the reclamation of the surface of the lands affected by the operations on Federal or Indian lease(s), license(s), or permits. The authorized officer shall consult with any other agency involved, and shall promptly approve the plans or indicate what additional information is necessary to conform to the provisions of the established requirements. No operations shall be conducted except as provided in an approved plan.

(b) The exploration plan shall be submitted in accordance with mineral specific regulations in Group 3500 of this title (See subparts 3512, 3522, 3532, 3542, 3552 and 3562) and in accordance with 25 CFR 216.6 for Indian lands.

(c) The lessee/operator shall submit 2 copies of the mining plan to the authorized officer for approval. An additional copy shall be submitted if the surface managing agency is other than the BLM. The mining plan shall contain, at a minimum, the following:

(1) Names, addresses and telephone numbers of those responsible for operations to be conducted under the approved plan to whom notices and orders are to be delivered, names and addresses of lessees, Federal lease serial numbers and names and addresses of surface and mineral owners of record, if other than the United States;

(2) A general description of geologic conditions and mineral resources, with appropriate maps, within the area where mining is to be conducted;

(3) A copy of a suitable map or aerial photograph showing the topography, the area covered by the lease(s), the name and location of major topographic and cultural features and the drainage plan away from the affected area;

(4) A statement of proposed methods, of operating, including a description of the surface or underground mining methods, the proposed roads, the size and location of structures and facilities to be built, mining sequence, production rate, estimated recovery factors, stripping ratios and number of acres in the Federal or Indian lease(s), license(s), or permit(s) to be affected;

(5) An estimate of the quantity and quality of the mineral resources, proposed cutoff grade and, if applicable, proposed blending procedures for all leases covered by the mining plan;

(6) An explanation of how ultimate maximum recovery of the resource will be achieved for the Federal or Indian lease(s). If a mineral deposit, or portion thereof, is not to be mined or is to be rendered unminable by the operation, the operator/lessee shall submit appropriate justification to the authorized officer for approval;

(7) Appropriate maps and cross sections showing:

(i) Federal or Indian lease boundaries and serial numbers;

(ii) Surface ownership and boundaries;

(iii) Locations of existing and abandoned mines;

(iv) Typical structure cross sections;

(v) Location of shafts or mining entries, strip pits, waste dumps, and surface facilities; and

(vi) Typical mining sequence, with appropriate timeframes;

(8) A narrative which addresses the environmental aspects associated with the proposed mine which includes, at a minimum, the following:

(i) An estimate of the quantity of water to be used and pollutants that may enter any receiving waters;

(ii) A design for the necessary impoundment, treatment or control of all runoff water and drainage from workings to reduce soil erosion and sedimentation and to prevent the pollution of receiving waters;

(iii) A description of measures to be taken to prevent or control fire, soil erosion, subsidence, pollution of surface and ground water, pollution of air, damage to fish or wildlife or other natural resources and hazards to public health and safety; and

(9) A reclamation schedule and the measures to be taken for surface reclamation of the Federal or Indian lease(s), license(s), or permit(s) that will ensure compliance with the established requirements. In those instances in which the lease requires the revegetation of an area affected by operations, the mining plan shall show:

(i) Proposed methods of preparation and fertilizing the soil prior to replanting;

(ii) Types and mixtures of shrubs, trees or tree seedlings, grasses or legumes to be planted; and

(iii) Types and methods of planting, including the amount of grasses or legumes per acre, or the number and spacing of trees or tree seedlings, or combinations of grasses and trees;

(10) The method of abandonment of operations on Federal or Indian lease(s), license(s), and permit(s) proposed to protect the unmined recoverable reserves and other resources, including the method proposed to fill in, fence or close all surface openings which are a hazard to people or animals. Abandonment of operations also is subject to the provisions of subpart 3595 of this title; and

(11) Any additional information that the authorized officer deems necessary for approval of the plan.

(d)(1) Approved exploration and mining plans may be modified at any time to adjust to changed conditions or to correct an oversight. To obtain approval of an exploration or mining plan modification, the operator/lessee shall submit a written statement of the proposed modification and the justification for such modification. Any proposed exploration or mining plan modification(s) shall not be implemented unless previously approved by the authorized officer.



(2) The authorized officer may require a modification to the approved exploration or mining plan if conditions warrant.

(e) If circumstances warrant, or if development of an exploration or mining plan for the entire operation is dependent upon unknown factors which cannot or will not be determined except during the progress of the operations, a partial plan may be approved and supplemented from time to time. The operator/lessee shall not, however, perform any operation except under an approved plan.

### **§ 3592.2 Maps of underground workings and surface operations.**

Maps of underground workings and surface operations shall be drawn to a scale acceptable to the authorized officer. All maps shall be appropriately marked with reference to Government land marks or lines and elevations with reference to sea level. When required by the authorized officer, vertical projections and cross sections shall accompany plan views. Maps shall be based on accurate surveys and certified by a professional engineer, professional land surveyor or other professionally qualified person. Accurate copies of such maps or reproductive material or prints thereof shall be furnished by the operator to the authorized officer when and as required.

### **§ 3592.3 Production maps.**

(a) The operator shall prepare maps which show mineral production from the leased lands. All excavations in each separate bed or deposit shall be shown in such a manner that the production of minerals for any royalty period can be accurately ascertained. Maps submitted for in situ or solution mining shall show pipelines, meter locations, or other points of measurement necessary for production verification. Production maps shall be submitted to the authorized officer at the end of each royalty reporting period or on a schedule determined by the authorized officer. As appropriate or required by the authorized officer, production maps also shall show surface boundaries, lease boundaries and topography, including subsidence resulting from mining activities.

(b) In the event of failure of the operator to furnish the maps required by this section, the authorized officer shall employ a licensed mine surveyor to make a survey and maps of the mine, and the cost thereof shall be charged to and promptly paid by the operator/lessee.

(c) If the authorized officer believes any map submitted by an operator/lessee is incorrect, the authorized officer may cause a survey to be made, and if the survey shows the map submitted by the operator/lessee to be substantially incorrect in whole or in part, the cost of making the survey and preparing the map shall be charged to and promptly paid by the operator/lessee.

## **Subpart 3593—Bore Holes and Samples**

### **§ 3593.1 Core or test hole cores, samples, cuttings.**

(a) The operator/lessee shall submit promptly to the authorized officer a signed copy of records of all core or test holes made on the lands covered by the lease, license or permit. The records shall be in a form that will allow the position and direction of the holes to be located on a map. The records shall include a log of all strata penetrated and conditions encountered, such as water, gas or unusual conditions. Copies of analysis of all samples shall be transmitted to the authorized officer as soon as obtained or as requested by the authorized officer. The operator/lessee shall furnish the authorized officer a detailed lithologic log of each drill hole and all other in-hole surveys or other logs produced. The core from test holes shall be retained by the operator/lessee for 1 year or such other period as may be directed by the authorized officer, and shall be available for inspection by the authorized officer. The authorized officer may cut such cores and receive samples as appropriate. Upon the request of the authorized officer, the operator/lessee shall furnish samples of strata, drill cuttings and mill products.

(b) Surface drill holes for development or holes for prospecting shall be abandoned to the satisfaction of the authorized officer by cementing and/or casing or by other methods approved in advance by the authorized officer and in a manner to protect the surface and not endanger any present or future underground operation or any deposit of oil, gas, other mineral substances or aquifer.

(c) Logs and analyses of development holes shall not be required unless specifically requested by the authorized officer. Drill holes may be converted to surveillance wells for the purpose of determining the effect of subsequent operations upon the quantity, quality of pressure of ground water or mine gases. Such conversion may be required by the authorized officer or requested by the operator/lessee and approved by the authorized officer. Prior to the termination of the lease, license or permit term, all surveillance wells shall be reclaimed unless the surface owner assumes responsibility for reclamation of such surveillance wells. The transfer of liability for reclamation shall be approved in writing by the authorized officer.

(d) When drilling on lands with potential for encountering high pressure oil, gas or geothermal formations, drilling equipment shall be equipped with blowout control devices acceptable to the authorized officer.

## **Subpart 3594—Mining Methods**

### **§ 3594.1 Ultimate maximum recovery.**

(a) Mining operations shall be conducted in a manner to yield the ultimate maximum recovery of the mineral deposits, consistent with the protection and use of other natural resources and the protection and preservation of the environment—land, water and air. All shafts, main exits and passageways, as well as overlying beds or mineral deposits that at a future date may be of economic importance, shall be protected by adequate pillars in the deposit being worked or by such other means as approved by the authorized officer.

(b) New geologic information obtained during mining regarding any mineral deposits on the lease shall be fully recorded and a copy of the record furnished to the authorized officer, if requested.

### **§ 3594.2 Support pillars.**

Sufficient pillars shall be left during first mining to ensure the ultimate maximum recovery of mineral deposits prior to abandonment. All boundary pillars shall be 50 feet thick unless otherwise specified in writing by the authorized officer. Boundary and other main pillars shall be mined only with the written consent or by order of the authorized officer.

### **§ 3594.3 Boundary pillars and isolated blocks.**

(a) If the ore on adjacent lands subject to the regulations in this part has been worked out beyond any boundary pillar, if the water level beyond the pillar is below the operator's/lessee's adjacent operations, and if no other hazards exist, the operator/lessee shall, on the written order of the authorized officer, mine out and remove all available ore in such boundary pillar, both in the lands covered by the lease and in the adjoining premises, when the authorized officer determines that such ore can be mined without undue hardship to the operator/lessee.

(b) If the mining rights in adjoining premises are privately owned or controlled, an agreement may be made with the owners of such interests for the extraction of the ore in the boundary pillars.

(c) Narrow strips of ore between leased lands and the outcrop on other lands subject to the regulations in this part and small blocks of ore adjacent to leased lands that would otherwise be isolated or lost may be mined under the provisions of paragraphs (a) and (b) of this section.

### **§ 3594.4 Development on leased lands through adjoining mines as part of a mining unit.**

An operator/lessee may mine a leased tract from an adjoining underground mine on lands privately owned or controlled or from adjacent leased lands, under the following conditions:

(a) The only connections between the mine on lands privately owned or controlled and the mine on leased lands shall be the main haulageways, the ventilationways and the escapeways. Substantial concrete frames and fireproof doors that can be closed in an emergency and opened from either side shall be installed in each such connection. Other connections through the boundary pillars shall not be made until both mines

are about to be exhausted and abandoned. The authorized officer may waive any of the requirements of this paragraph when it is determined such waiver will not conflict with the regulations in 30 CFR part 57 and will promote maximum recovery of the ore.

(b) Free access for inspection of said connecting mine on lands privately owned or controlled shall be given at any reasonable time to the authorized officer.

(c) If an operator/lessee is operating on a lease through a mine on lands privately owned or controlled does not maintain the mine access in accordance with the safety regulations, operations on the leased lands may be stopped by order of the authorized officer.

#### **§ 3594.5 Minerals soluble in water; brines; minerals taken in solution.**

(a) In mining or prospecting deposits of sodium, potassium or other minerals soluble in water, all wells, shafts, prospecting holes and other openings shall be adequately protected with cement or other suitable materials against the coursing or entrance of water. The operator/lessee shall, when ordered by the authorized officer, backfill with rock or other suitable material to protect the roof from breakage when there is a danger of the entrance of water.

(b) On leased, license or permit lands containing brines, due precaution shall be exercised to prevent the deposit from becoming diluted or contaminated by the mixture of water or valueless solution.

(c) Where minerals are taken from the earth in solution, such extraction shall not be within 500 feet of the boundary line of lands contained in the approved mine plan without the written permission of the authorized officer.

(d) Any agreement necessary for allocation of brine production shall be made a part of the mine plan.

#### **Subpart 3595—Protection Against Mining Hazards**

##### **§ 3595.1 Surface openings.**

(a) The operator/lessee shall substantially fill in, fence, protect or close all surface openings, subsidence holes, surface excavations or workings which are a hazard to people or animals. Such protective measures shall be maintained in a secure condition during the term of the lease, license or permit. Before abandonment of operations, all openings, including water discharge points, shall be closed to the satisfaction of the authorized officer.

(b) Reclamation or protection of surface areas no longer needed for operations will commence without delay. The authorized officer shall designate such areas where restoration or protective measures, or both shall be taken.

(c) Wells utilized for operations involving solution mining or brine extraction shall be abandoned in accordance with the approved mine plan.

##### **§ 3595.2 Abandonment of underground workings.**

No underground workings or part thereof shall be permanently abandoned and rendered inaccessible without the advance, written approval of the authorized officer.

#### **Subpart 3596—Waste From Mining or Milling**

##### **§ 3596.1 Milling.**

The operator/lessee shall conduct milling operations in accordance with the established requirements. The operator/lessee shall use due diligence in the reduction, concentration or separation of mineral substances by mechanical or chemical processes or other means so that the percentage of salts, concentrates, or other mineral substances recovered and waste generated shall be in accordance with the approved practices.

#### **§ 3596.2 Disposal of waste.**

The operator/lessee shall dispose of all wastes resulting from the mining, reduction, concentration or separation of mineral substances in accordance with the terms of the lease, approved mining plan, applicable Federal, State and local law and regulations and the directions of the authorized officer.

### **Subpart 3597—Production Records**

#### **§ 3597.1 Books of account.**

(a) Operators/lessees shall maintain records which show a correct account of all ore and rock mined, of all ore put through the processing plant, of all mineral products produced and of all ore and mineral products sold. The records shall show all relevant quality analyses of ore mined, processed or sold and the percentage of the mineral products recovered or lost.

(b) Production records shall be made available for examination by the authorized officer during regular business hours. For the purpose of production verification, the authorized office may request, and the operator/lessee shall submit a copy of any portion of the production records not submitted to the Minerals Management Service as part of the operator's/lessee's production reporting.

#### **§ 3597.2 Audits.**

(a) An audit of the operator's/lessee's accounts and books may be made or directed by the Minerals Management Service in accordance with the provisions of Title 30 of the Code of Federal Regulations.

(b) An audit of the operator's/lessee's accounts and production records by the service may be requested by the authorized officer if, during the process of verification of production, it is determined that an irregularity exists between reported production and production calculated by the authorized officer. Such audits shall be requested when the irregularity cannot be resolved between the operator/lessee and the authorized officer.

### **Subpart 3598—Inspection and Enforcement**

#### **§ 3598.1 Inspection of underground and surface conditions; surveying, estimating and study.**

Operators/lessees shall provide means at all reasonable hours, either day or night, for the authorized officer to inspect or investigate the underground and surface conditions; to conduct surveys; to estimate the amount of ore or other methods of prospecting, exploration, testing, development, processing and handling; to determine the volumes, types, and composition of wastes generated; to determine the adequacy of measures for minimizing the amount of such wastes and the measures for treatment and disposal of such wastes; to determine reclamation procedures and progress; production records; environmental concerns; and to determine whether the operator/lessee is in compliance with established requirements.

#### **§ 3598.2 Issuance of orders.**

Orders and notices issued by the authorized officer shall be mailed by certified mail, return receipt requested, to the operator/lessee at the address furnished in the exploration or mining plan. The operator/lessee shall notify the authorized officer of any change of address or operator/lessee name.

#### **§ 3598.3 Service of notices, instructions and orders.**

The operator/lessee shall be considered to have received all notices and orders that are mailed by certified mail and a receipt received by the authorized officer. Verbal orders and notices may be given to officials at the mine but shall be confirmed in writing in accordance with §3598.2 of this title.

#### **§ 3598.4 Enforcement orders.**

(a) If the authorized officer determines that an operator/lessee has failed to comply with established requirements, and such noncompliance does not threaten immediate, serious or irreparable damage to the environment, the mine or deposit being mined, or other valuable mineral deposits or other resources, the authorized officer shall serve a notice of noncompliance upon the operator and lessee by delivery in person or by certified mail, return receipt requested. Failure of the operator/lessee to take action in accordance with the notice of noncompliance shall be grounds for the authorized officer to issue an order to cease operations or initiate legal proceedings to cancel the lease under §3509.4 of this title, or, for Indian leases, recommend to the Bureau of Indian Affairs that action be taken in accordance with 25 CFR part 211.

(b) A notice of noncompliance shall specify how the operator/lessee has failed to comply with established requirements, and shall specify the action which shall be taken to correct the noncompliance and the time limits within which such action shall be taken. The operator/lessee shall notify the authorized officer when noncompliance items have been corrected.

(c) If, in the judgment of the authorized officer, the failure to comply with the established requirements threatens immediate, serious or irreparable damage to the environment, the mine or the deposit being mined, or other valuable mineral deposits or other resources, the authorized officer may, either in writing or orally with written confirmation, order the cessation of operations without prior notice.

#### **§ 3598.5 Appeals.**

Orders or decisions issued under the regulations in this part may be appealed as provided in part 4 of this title. Orders issued under §3598.4(c) of this title shall be effective during the pendency of any appeal.

### **Subpart 3599—Late Payment or Underpayment of Charges**

#### **§ 3599.1 Late payment or underpayment charges.**

(a) The failure to make timely or proper payments of any monies due pursuant to leases, permits, and contracts subject to these regulations will result in the collection by the Minerals Management Service (MMS) of the amount past due plus a late payment charge. Exceptions to this late payment charge may be granted when estimated payments have already been made timely and otherwise in accordance with instructions provided by MMS to the payor. However, late payment charges assessed with respect to any Indian lease, permit, or contract shall be collected and paid to the Indian or tribe to which the overdue amount is owed.

(b) Late payment charges are assessed on any late payment or underpayment from the date that the payment was due until the date on which the payment is received in the appropriate MMS accounting office. Payments received after 4 p.m. local time on the date due will be acknowledged as received on the following workday.

(c) Late payment charges are calculated on the basis of a percentage assessment rate. In the absence of a specific lease, permit, license, or contract provision prescribing a different rate, this percentage assessment rate is prescribed by the Department of the Treasury as the "Treasury Current Value of Funds Rate."

(d) This rate is available in the Treasury Fiscal Requirements Manual Bulletins that are published prior to the first day of each calendar quarter for application to overdue payments or underpayments in that new calendar quarter. The rate is also published in the Notices section of the Federal Register and indexed under "Fiscal Service/Notices/Funds Rate; Treasury Current Value."

(e) Late payment charges apply to all underpayments and payments received after the date due. These charges include rentals; production, minimum, or advance royalties; assessments for liquidated damages; administrative fees and payments by purchaser of royalty taken-in-kind or any other payments, fees, or assessments that a lessee/operator/permittee/payor/or purchaser of royalty taken-in-kind is required to pay by a specified date. The failure to pay past due amounts, including late payment charges, will result in the initiation of other enforcement proceedings.

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