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

**PAPERWORK REDUCTION ACT SUBMISSION  
SUPPORTING STATEMENT A**

**SURFACE MANAGEMENT ACTIVITIES UNDER THE GENERAL MINING LAW  
(43 CFR SUBPART 3809)**

**OMB CONTROL NUMBER 1004-0194**

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**Terms of Clearance:** When the Office of Information and Regulatory Affairs (OIRA) last reviewed the information collections approved under this OMB Control Number, OIRA provided the following Terms of Clearance: *Those elements of the Bureau of Land Management's Handbook for 43 CFR 3809-1 that provide guidance regarding the collection of information are subject to review under the Paperwork Reduction Act. Any associated changes to the handbook must be submitted to OIRA for approval and may be processed as a change request.* See the Notice of Action dated April 28, 2020. The BLM has made no changes to the information collection elements of the referenced Handbook since OMB last approved this OMB Control Number.

**Abstract:** The collection of information under 43 CFR subpart 3809 enables the BLM to determine whether operators and mining claimants are meeting their responsibility, under FLPMA, to prevent unnecessary or undue degradation while conducting exploration and mining activities on public lands. It also enables the BLM to obtain financial guarantees for the reclamation of public lands. The BLM request that OMB renew this OMB Control Number for an additional three years.

**Justification**

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

The Bureau of Land Management (BLM) seeks approval for an extension of the information collection requirements contained at 43 CFR subpart 3809. The regulations at subpart 3809 implement the following sections of the Federal Land Policy and Management Act (FLPMA), as they apply to exploration and mining activities on public lands under the General Mining Law (30 U.S.C. 22 - 54) :

- Section 302 of FLPMA (43 U.S.C. 1732) gives the Secretary of the Interior the authority to issue permits and other instruments regulating use, occupancy, and development of the public lands. It gives the Secretary authority to issue rules and impose terms or conditions necessary to regulate the use of the public lands.
- Section 302(b) (43 U.S.C. 1732(b)) instructs the Secretary to take any actions necessary to prevent the unnecessary or undue degradation of public lands when used for any purpose.
- Section 601(f) (43 U.S.C. 1782(f)) authorizes the Secretary to establish reasonable regulations for mining claims located within the California Desert Conservation Area and to apply the same regulations to patents issued for those claims.

The collection of information under 43 CFR subpart 3809 enables the BLM to determine whether operators and mining claimants are meeting their responsibility, under FLPMA, to prevent unnecessary or undue degradation while conducting exploration and mining activities on public lands. It also enables the BLM to obtain financial guarantees for the reclamation of public lands.

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

Exploration, mining, and reclamation operations on BLM-administered public lands are subject to the General Mining Law (30 U.S.C. 22 – 54) and regulations of the Secretary of the Interior at 43 CFR subpart 3809. These regulations require an operator to prevent unnecessary or undue degradation of the land, as required by FLPMA Section 302(b) (43 U.S.C. 1732(b)).

Operations, within the meaning of subpart 3809, include all functions, work facilities, and activities on public lands in connection with prospecting, exploration, discovery and assessment work, development, extraction, and processing of mineral deposits locatable under the mining laws; reclamation of disturbed areas; and all other reasonably incident uses, whether on a mining claim or not, including the construction of roads, transmission lines, pipeline, and other means of access across public lands for support facilities. 43 CFR 3809.5. The BLM needs to collect information under 43 CFR 3809 in order to:

- 1) Ensure that only necessary and timely mining-related surface disturbing activities are conducted;
- 2) Determine if proposed exploration or mining would be able to meet the performance standards;
- 3) Determine appropriate mitigation and reclamation measures for the site and the activity;
- 4) Comply with the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA), and Section 106 of the National Historic Preservation Act (NHPA);
- 5) Monitor (conduct field inspections of) claimant or operator activities, especially reclamation activities, on mining claims;
- 6) Determine whether the claimant or operator plans reasonable measures to prevent or control on-site and off-site damage to Federal lands; and
- 7) Ensure compliance with environmental laws.

The type and amount of information the BLM needs to collect depends whether the activities are classified as –

- (a) Casual use;
- (b) Notice-level operations; or
- (c) Plan-level operations.

43 CFR 3809.5. Operations may qualify as “casual use” if they cause only negligible disturbance of the public lands and resources. Activities that qualify as casual use typically involve prospecting with hand tools such as picks, shovels, and metal detectors, but do not include the use of explosives, chemicals, or mechanized earth moving equipment. The BLM does not require prior notice of casual use activities, but reclamation is required for any disturbance that is created (43 CFR 3809.10(a)). If operations do not qualify as casual use, the operator must submit a notice of operations, or a plan of operations, whichever is applicable.

### **Notice of Operations**

Notice-level operations are those that cause an exploration surface disturbance of five acres or less (43 CFR 3809.21). At least 15 calendar days before beginning such operations, a complete notice of operations must be submitted to the local BLM office with jurisdiction over the lands involved. The following information is required:

- 1) Name and mailing address of claimant or operator;
- 2) Taxpayer identification number;
- 3) Serial numbers of any mining claims to disturb during surface activities;
- 4) Description and map of the proposed activities and location, together with a schedule of activities;

- 5) Access routes and the type of equipment used;
- 6) A reclamation plan describing how the surface disturbance will be reclaimed to the standards in 43 CFR 3809.420;
- 7) An estimate (43 CFR 3809.552) of the cost to fully reclaim the disturbance; and
- 8) If a notice is incomplete, any additional information that the BLM deems necessary.

The operator must also notify the BLM in writing within 30 calendar days after any:

- 1) Change of operator;
- 2) Change of corporate point of contact; or
- 3) Change of the mailing address of the operator or corporate point of contact.

43 CFR 3809.21, 3809.301 and 3809.311. Because approval by the BLM is not required before beginning notice-level operations, the receipt and review of a notice is not a Federal action that requires the preparation of an environmental assessment (EA) or environmental impact statement (EIS).

An operator may submit a notice modification at any time during operations under a notice. The BLM will review the notice modification the same way it reviewed the initial notice. (43 CFR 3809.330).

Notices expire after two years, but may be extended for an additional two years if the operator requests an extension in writing on or before the expiration date and meets the financial guarantee requirements of 43 CFR 3809.503. The notice may be extended more than once. (43 CFR 3809.333.)

The regulations at 43 CFR subpart 3809 include performance standards for notices and plans of operations that are enforceable by the BLM. Section 3809.420(a) consists of general performance standards that provide an overview of how an operator should conduct operations, and clarify certain basic responsibilities, including the operator's responsibility to comply with applicable land use plans and BLM's responsibility to specify necessary mitigation measures. Paragraph (b) of section 3809.420 lists specific performance standards, which address matters such as the capture and treatment of acid-drainage and other undesirable effluent. Failure of the operator to prevent unnecessary or undue degradation or to complete reclamation in accordance with the performance standards may cause the operator to be subject to enforcement actions (43 CFR 3809.421).

At any time, the BLM may inspect operations that are subject to the regulations at 43 CFR subpart 3809 (43 CFR 3809.600). Upon finding a violation of a notice or plan of operations, or of any requirement set forth in subpart 3809, the BLM may issue various types of enforcement orders, nullify a notice of operations, or revoke a plan of operations (43 CFR 3809.601 and 3809.602). A party adversely affected by such action may submit an administrative appeal to the State Director or to the Office of Hearings and Appeals (43 CFR 3809.800 through 809). An appeal submitted to the State Director consists of a brief written statement explaining why the BLM should change its decision and any documents in support of the written statement (43 CFR 3809.805). An appeal submitted to the Office of Hearings and Appeals is not within the scope of this submission.

### **Plan of Operations**

BLM approval of a plan of operations generally is required for activities that do not qualify as casual use or notice-level operations. Plan-level operations also include activities causing surface disturbance greater than casual use in the following special status areas:

- 1) Lands in the California Desert Conservation Area (CDCA) designated by the CDCA plan as "controlled" or "limited" use areas;
- 2) Areas in the National Wild and Scenic Rivers System, and areas designated for potential addition to the system;

- 3) Designated Areas of Critical Environmental Concern;
- 4) Areas designated as part of the National Wilderness Preservation system and administered by the BLM;
- 5) Areas designated as “closed” to off-road vehicle use;
- 6) Any land or waters known to contain Federally proposed or listed threatened or endangered species or their proposed or designated critical habitat, unless the BLM allows for other action under a formal land-use plan or threatened or endangered species recovery plan; and
- 7) National Monuments and National Conservation Areas administered by the BLM.

43 CFR 3809.11.

If a plan of operations is required, it must be filed with the local BLM field office with jurisdiction over the lands involved. A plan of operations must contain the following information:

- 1) Name and mailing address of the operator (If the operator is a corporation, the applicant must identify an individual as the corporate point of contact. The applicant must also provide notice in writing within 30 days after any changes in operator or corporate contact.)
- 2) Serial numbers of any mining claims where the surface disturbance would occur.
- 3) A description of the proposed operations at a level of detail sufficient for BLM to determine if the plan would prevent unnecessary or undue degradation.
- 4) A description of the equipment, devices, or practices used during operations.
- 5) Maps and drawing, including preliminary or conceptual designs and operating plans for mining areas, processing facilities, and waste disposal.
- 6) Proposed and existing routes of access, aircraft landing areas, and other means of access.
- 7) Water management plans, waste rock handling plans, quality assurance plans, and spill contingency plans.
- 8) A description of how the operator will conduct the types of operations proposed and a general schedule of activities and reclamation. It must discuss the measures taken to prevent unnecessary or undue degradation and a plan to reclaim areas mining operations disturb.
- 9) Plans for monitoring the effect of the operations and interim management plans for maintaining the project area in a clean and safe condition during periods of non-operation.
- 10) Operational and baseline environmental information that the BLM needs to analyze the potential environmental impacts as required by NEPA.
- 11) An estimate of the cost to reclaim the surface disturbance. Operators proposing surface mining must also provide information on the feasibility of pit backfilling that details economic, environmental and safety concerns (43 CFR 3809.11 and 3809.401),

The BLM will review the plan of operations the operator submits and will notify the operator within 30 days if BLM requires any additional information.

Operations at the plan level may not commence until the plan is approved by the BLM after review for significant effects under NEPA. At the conclusion of the NEPA review, if the plan is approved, the local BLM office with jurisdiction over the lands involved sends a formal decision to the operator. The formal decision includes a Record of Decision that spells out what mitigating measures will be required, and the amount of the required financial guarantee required. The environmental impacts of proposed operations (and therefore the required mitigation and financial guarantee) will vary substantially depending on whether the nature of the operations is exploration, development, or processing, and on the scope of operations (such as size of operations, construction required, length of operations and equipment required), causing varying degrees of disturbance and impacts to vegetative resources, soil, water, air, or wildlife.

Activities conducted under a plan of operations may undergo changes that require modification of the initial plan of operations. Modification is required before making any changes to the operations described in the approved plan of operations; when the BLM requires modification to prevent unnecessary or undue degradation; and before final

closure, to address impacts from unanticipated events or conditions or newly discovered circumstances or information, including the following:

- 1) Development of acid or toxic drainage;
- 2) Loss of surface springs or water supplies;
- 3) The need for long-term water treatment and site maintenance;
- 4) Repair of reclamation failures;
- 5) Plans for assuring the adequacy of containment structure and the integrity of closed waste units;
- 6) Providing for post-closure management; and
- 7) Eliminating hazards to public safety.

43 CFR 3809.431. Most mining operations undergo changes that require plan modifications. The BLM uses information in a plan modification to:

- 1) Contact and identify the claimant or operator;
- 2) Determine whether the proposed operation will prevent unnecessary or undue degradation;
- 3) Identify unnecessary or undue degradation and develop mitigating measures to prevent such degradation; and
- 4) Establish the appropriate amount for the financial guarantee BLM needs to ensure reclamation performance.

The process for review and approval of plans of operations, and modifications to existing plans of operations, is outlined at 43 CFR 3809.411. The BLM requires compliance with these additional statutes during the review process: NEPA, ESA, the Magnuson-Stevens Fishery Conservation and Management Act, and the National Historic Preservation Act (NHPA). The BLM may require the operator to consult with the state regulatory agencies, Native American tribes, other surface managing agencies, and the private surface owner in the case where a non-Federal entity owns the surface. The BLM requires the information in order to prepare a NEPA document that is required by 43 CFR 3809.411(a)(3)(ii). This requirement will have a substantial impact on the amount and type of pre- and post-filing information that applicants must submit to the BLM on a project. Before the BLM can approve a plan of operations, compliance with both NEPA and Section 106 of NHPA is required by the implementing regulations promulgated by the Council on Environmental Quality (CEQ) and the Advisory Council on Historic Preservation.

Plans of operations are subject to the same performance standards, enforcement provisions, and administrative-appeal regulations that apply to notices of operations. See 43 CFR 3809.420 and 3809.421.

### **Financial Guarantee Requirements**

All notice- and plan-level operators are required to estimate, and post a financial guarantee, adequate to cover the cost to complete reclamation as if the BLM were to hire a third-party contractor to perform reclamation after the project area has been vacated (43 CFR 3809.500 and 3809.552(a)). The BLM determines the amount of the required financial guarantee after reviewing the operator's estimate and, if necessary, after obtaining additional information.

If an operator has more than one notice- or plan-level operation underway, that operator may provide a blanket financial guarantee covering statewide or nationwide operations instead of individual financial guarantees for each operation. The BLM has the authority to accept a blanket financial guarantee upon determining that its terms and conditions are sufficient to comply with the regulations at 43 CFR subpart 3809 (43 CFR 3809.560).

The BLM requires that a bonding form be submitted before surface-disturbing activities begin. The BLM developed these forms as a result of the interaction of field offices and operators. The BLM needs to collect the information in these forms in order to protect and restore the environment and to limit taxpayer liability. Either of the following forms may be submitted:

1. Form 3809-1, Surface Management Surety Bond or
2. Form 3809-2, Surface Management Personal Bond

Each of these forms is a bond, i.e., a written contract in which the operator formally recognizes an obligation to ensure that the lands disturbed from hardrock mining activities will be reclaimed. The operator is primarily liable for reclamation, and the operator is typically the bond principal.

Form 3809-1 is a contract among a surety, the principal, and the obligee (BLM), in which the surety agrees to protect the obligee if the principal defaults in performing the principal's contractual obligation to ensure reclamation. The bond is the instrument which binds the surety. Surety bonds must be accompanied by the surety's power of attorney. The form requires the operator to identify whether the surety bond will apply as individual, statewide, or nationwide financial guarantee. For individual financial guarantees, the BLM serial number for the notice or plan of operations is required. Alternatively, if financial guarantee is intended for blanket coverage, for statewide or nationwide operations, then no serial number is required. For state coverage, the state for which the financial guarantee is intended is required. Nationwide financial guarantees simply require affirmation by writing "yes" at the appropriate line. Also required are the names and addresses of the principal and surety, the amount of the financial guarantee, and a statement that the surety agrees to give the principal and the BLM 90 day's written notice by certified mail, return receipt requested, should the surety elect to cancel the bond. The signatures of the principal and surety must be acknowledged by a notary.

Form 3809-2 is a personal bond, in which the principal promises to meet reclamation obligations. The form requires the operator to identify whether the personal bond will apply as individual, statewide, or nationwide financial guarantee. For individual financial guarantees, the BLM serial number for the notice or plan of operations is required. Alternatively if financial guarantee is intended for blanket coverage, for statewide or nationwide operations, then no serial number is required. For state coverage, the state for which the financial guarantee is intended is required. Nationwide financial guarantees simply require affirmation by writing "yes" at the appropriate line. Also required are the name and address of the principal and the amount of the financial guarantee. The signature of the principal must be acknowledged by a notary.

Each of these bonds must be accompanied by at least one financial instrument (for example, a letter of credit) documenting a financial guarantee in an amount at least equal to the reclamation cost estimate as determined by the local BLM office for the notice or plan of operations. Acceptance of a bond may occur before BLM's review of the notice or plan of operations or before the required bond amount is determined by the local BLM office. After the required bond amount for a notice or a plan of operations is determined, any bond amount previously committed will be adjusted, if necessary. If the operator has submitted a bond for more than the amount required, the uncommitted balance on the bond can be applied toward an increase to the bond requirement in the future without requiring additional information or paperwork from the operator.

The operator's bonding requirement may be met by a single bond, by a single bond with multiple financial instruments, such as more than one cash payment, or by multiple bonds. Multiple bonds may be accepted from various entities. If an operator wants to increase the bond amount, or if an increase is required and no funds remain available under your current bond, the operator may submit an additional bond or a rider and additional funds to increase the original current bond.

Forms 3809-4 and 3809-4a are riders that may be attached to the original bond when there are material changes to the bond. Form 3809-4 is used when someone other than the principal provides an additional financial guarantee. Changes that might prompt the use of Form 3809-4a may include the following:

- A decrease or increase in the amount of a personal bond;

- A change in the coverage of a personal bond from individual coverage (single operation) to statewide or nationwide coverage; or
- The addition of an operator as a co-principal to a personal bond.

Form 3809-5, Notification of Change of Operator and Assumption of Past Liability, is used to document the transfer of a mining claim or operation to a different operator under 43 CFR 3809.116. Such a transfer does not relieve a mining claimant's or operator's responsibility for obligations that accrued or conditions that were created while the mining claimant or operator was responsible for operations conducted on that mining claim or in the project area until:

1. The BLM receives documentation that a transferee accepts responsibility for the transferor's previously accrued obligations; and
2. The BLM accepts an adequate replacement financial guarantee adequate to cover such previously accrued obligations and the transferee's new obligations.

When the State makes a demand against the operator's financial guarantee, the operator must notify the BLM within 15 calendar days; and replace or augment the financial guarantee within 30 calendar days if the available balance is insufficient to cover the remaining reclamation cost (43 CFR 3809.573).

At or near the end of an active operation, the BLM begins consultations with the operator to monitor the progress of required reclamation activities, and determine whether the final guarantee can be released partially or completely. For a plan-level operation, the BLM will either post a notice of a final release in the local BLM office, or publish a notice in a local newspaper of general circulation and accept comments for 30 calendar days (43 CFR 3809.590). Upon determining that release or reduction is appropriate, the local BLM office will issue a formal decision, with full right to appeal. Any refund or release will be sent to the operator and/or the appropriate financial institution.

In cases where the operator has failed to do necessary reclamation, the BLM will begin by contacting the operator to discuss the operator's responsibility to complete reclamation. If this contact does not produce the required reclamation, the BLM will issue an enforcement order. If the operator does not comply with the order, the BLM will initiate forfeiture of the financial guarantee pursuant to the procedures specified at 43 CFR 3809.596.

### **Federal/State Agreements**

To prevent unnecessary administrative delay and to avoid duplication of administration and enforcement, the BLM and a State may enter into an agreement for a joint Federal/State program, or for the BLM to defer to State administration (43 CFR 3809.200).

If the State requests BLM to enter into an agreement for State regulation of operations on public lands in place of BLM administration, then the State must send the request to the BLM State Director. When the State Director receives the State's request, he/she will notify the public and provide an opportunity for comment (43 CFR 3809.202).

If BLM determines that the State's requirements are consistent with the requirements necessary and the State has the necessary legal authorities, resources, and funding, BLM must enter into an agreement with the State so that the State will regulate some or all of the operations on public lands, as described in the State request. The BLM State Director's decision will be a final decision of BLM and may be appealed to the Assistant Secretary for Land and Minerals Management, but not to the Department of the Interior Office of Hearings and Appeals (43 CFR 3809.202).

### **3. Describe whether, and to what extent, the collection of information involves the use of automated,**

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

Much of the non-form information consists of statements, sketches, maps, plans, and drawings, which are not amenable to electronic submission by the claimant or operator, or receipt by the BLM. The forms in this collection are electronically available to the public in fillable, printable format on BLM's Forms Web site at <http://www.blm.gov/noc/st/en/business/eForms.html>. A respondent who chooses to submit one of the forms electronically may do so by scanning and then emailing it to the appropriate BLM office.

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

The BLM and units of state government have similar information requirements based on their respective enabling legislation and regulations, such as plans of operation and financial guarantee requirements. In managing surface resources, the BLM generally does not seek information, *per se*, from the states. Where possible, the BLM and the states enter into formal agreements to create joint programs and to reduce administrative overlaps. The regulations at 43 CFR 3809.200 provide for Federal-state agreements to reduce duplication.

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

The Small Business Administration defines a small entity in the mining industry as an establishment with 500 or fewer employees. No small entities are respondents to the information collection component we have labeled "Federal / State Agreements (43 CFR 3809.200)." With the exception of that component, small entities make up the majority of respondents to this information collection.

The BLM estimates that small entities make up 70 percent of the respondents to the following components of this information collection:

- Initial or Extended Plan of Operations (43 CFR 3809.11);
- Initial or Extended Plan of Operations / Data for EIS (43 CFR 3809.401(c));
- Initial or Extended Plan of Operations / Data for Standard EA (43 CFR 3809.401(c));
- Initial or Extended Plan of Operations / Data for Simple Exploration EA (43 CFR 3809.401(c));
- Modification of Plan of Operations (43 CFR 3809.430 and 3809.431);
- Modification of Plan of Operations / Data for EIS (43 CFR 3809.432(a) and 3809.401(c));
- Modification of Plan of Operations / Data for Standard EA (43 CFR 3809.432(a) and 3809.401(c)); and
- Modification of Plan of Operations / Data for Simple Exploration EA (45 CFR 3809.401(c)).

The BLM estimates that small entities make up 95 percent of the respondents to the following components of this information collection:

- Notice of Operations (43 CFR 3809.21);
- Modification of Notice of Operations (43 CFR 3809.330); and
- Extension of Notice of Operations (43 CFR 3809.333).



The BLM estimates that small entities make up 80 percent of the respondents to the following components of this information collection:

- Surface Management Surety Bond (43 CFR 3809.500, Form 3809-1);
- Surface Management Personal Bond (43 CFR 3809.500, Form 3809-2);
- Bond Rider Extending Coverage of Bond (43 CFR 3809.500, Form 3809-4);
- Surface Management Personal Bond Rider (43 CFR 3809.500, Form 3809-4a);
- Notification of Change of Operator and Assumption of Past Liability (43 CFR 3809.116, Form 3809-5);
- Notice of State Demand Against Financial Guarantee (43 CFR 3809.573);
- Request for BLM Acceptance of Replacement Financial Instrument (43 CFR 3809.581);
- Request for Reduction in Financial Guarantee and / or BLM Approval of Adequacy of Reclamation (43 CFR 3809.590);
- Response to Notice of Forfeiture of Financial Guarantee (43 CFR 3809.596); and
- Appeals to the State Director (43 CFR 3809.800).

The BLM limits the information collected to the minimum necessary to maintain a complete and accurate record of surface management activities and compliance with financial requirements. For example, the burdens for notice-level operations are lower than for plan-level operations.

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

If the BLM does not collect the information associated with this information collection, the following could happen:

1. Mining activities would proceed according to the General Mining Law, but in potential violation of the FLPMA mandate to prevent unnecessary or undue degradation of public lands;
2. Reclamation activities might not occur and would cause degradation of the land; and/or
3. BLM might not be able to locate the responsible party for reclamation, and the Federal Government would bear the burden of reclaiming surface disturbance.

Most of the information submitted to the BLM concerns operations for exploration activities. Many of these activities are single events that do not recur. On the other hand, those activities that result in good mining prospects will likely result in either new notices or plans of operations, as exploration continues and the operator decides the opportunities are worth pursuing. Each successful phase will result in the submission of a larger scale plan of operations to the BLM. For a successful mine, there will be a long history of notices and plan of operations submitted to the BLM.

For these reasons, the BLM cannot collect the information less frequently. An operator, when considering development of a mineral deposit, given the variability in natural resource endowments and exploration, would find it nearly impossible to develop a single submission that would cover all of the possible permutations found in the path to developing a mine.

- 7. Explain any special circumstances that would cause an information collection to be conducted in a manner:**
- \* **requiring respondents to report information to the agency more often than quarterly;**
  - \* **requiring respondents to prepare a written response to a collection of information in fewer than 30**

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

There are no special circumstances requiring the collection to be conducted in a manner inconsistent with OMB guidelines. We do not exceed the guidelines in 5 CFR 1320.5.

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

On November 9, 2022, the BLM published a Federal Register notice soliciting comments for a period of 60 days on this collection of information (87 FR 67714). The comment period closed on January 9, 2023. The BLM received one comment in response to this notice. The comment was received jointly from the Center for Biological Diversity; Earthjustice; Earthworks; Information Network For Responsible Mining (INFORM) Colorado; Montana Environmental Information Center; Natural Resources Defense Council; and Trustees for Alaska. The comments are summarized below along with the BLM's response to those comments.

The commentors were generally supportive of information collected on the forms in regard to need, utility, and reasonableness of the burden. The commentors noted, "The information collected in Forms 3809-1, 3809-2, 3809-4, 38094a, and 3809-5 is necessary for the performance of the Department of Interior's (DOI) and Bureau of Land Management's (BLM) statutory duties." The BLM acknowledges the comments on forms 3809-1, 3809-2, 3809-4, 38094a, and 3809-5. The rest of the comments regarding regulations at 43 CFR 3809 are outside the scope of the FRN as they pertain to broader potential program improvements and not specifically to the information collection requirements. These broader comments offered such suggestions as improving bonding requirements and financial assurances, upgrading performance standards, and publishing proposed reclamation plans and bonding amounts. However, in response to some of the broader program recommendation, the BLM notes that under Section 40206 of the Infrastructure Investment and Jobs Act, the interagency working group is currently working on a report which will provide recommendations on reforming hardrock mining laws, regulations and permitting policies.

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

this OMB number to OMB.

The BLM has consulted with the following respondents to obtain their views on the availability of data; frequency of collection; the clarity of instructions; the recordkeeping, disclosure, and reporting formats; and on the data elements to be recorded, disclosed, or reported:

- Sr. Environmental Manager, Newmont Mining Corporation, , Elko, NV;
- Environmental Director, Lithium Nevada Corporation, Reno; and
- Senior Permitting Manager, Coeur Mining, Inc., Chicago, IL.

The BLM did not receive any additional feedback from our efforts to consult with previous respondent to these collections of information.

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

We do not provide payments or gifts to the respondents.

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

The BLM handles any proprietary data submitted under 43 CFR subpart 3890 in accordance with the regulations at 43 CFR part 2 (Records and Testimony; Freedom and Information Act) and 43 CFR 3809.111 (titled, “Will BLM disclose to the public the information I submit under this subpart?”). These regulations provide that data will be subject to disclosure under the Freedom of Information Act unless:

- Each page of data that the respondent believes is confidential is clearly marked, “CONFIDENTIAL INFORMATION,” and
- The operator submits such data to the BLM separately from other materials.

The BLM will keep information marked in this manner confidential to the extent allowed by the Freedom of Information Act (5 U.S.C. 552) and 43 CFR part 2. Material not so marked will not be withheld from disclosure to the public.

The BLM protects personally identifiable information collected under control number 1004-0194 in accordance with the Privacy Act, 5 U.S.C. 552a. The pertinent system of records is the Land & Minerals Authorization Tracking System – Interior, LLM-32. The system of records notice is at 56 FR 5104 (1991).

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

We do not require the applicants to answer questions of a sensitive nature.

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

- \* **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected**

to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.

- \* If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.
- \* Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here.

The mean hourly wages for Table 12-1 for non-government respondents was determined using national Bureau of Labor Statistics data at: [http://www.bls.gov/oes/current/naics4\\_212200.htm](http://www.bls.gov/oes/current/naics4_212200.htm) with the benefits multiplier of 1.4 for as supported by information at <http://www.bls.gov/news.release/ecec.nr0.htm>. The mean hourly wages for government respondents was determined using national Bureau of Labor Statistics data at: [http://www.bls.gov/oes/current/naics4\\_999200.htm](http://www.bls.gov/oes/current/naics4_999200.htm) with the benefits multiplier of 1.6 as implied by information at <http://www.bls.gov/news.release/ecec.nr0.htm>.

**Table 12-1: Estimated Hourly Cost Calculation**

Occupational Category	Mean Hourly Wage	Benefits Multiplier	Total Mean Hourly Wage with Benefits	Percent of Collection Time Completed by Each Occupation	Weighted Average Hourly Cost
<b>For Initial, Modified, and Extended Notices, Plans of Operations, and Appeals to the State Director</b>					
General Office Clerk (43-9061)	\$27.27	1.4	\$38.18	5%	\$1.91
Surveyors (17-1022)	\$34.03	1.4	\$47.64	10%	\$4.76
Mining Engineer (17-2151)	\$44.47	1.4	\$62.26	75%	\$46.70
Engineering Manager (11-9041)	\$69.92	1.4	\$97.89	10%	\$9.79
<b>Total:</b>				<b>100%</b>	<b>\$63.16</b>
<b>For Financial Guarantee Requirements (Respondents Other than State Governments)</b>					
General Office Clerk (43-9061)	\$27.27	1.4	\$38.18	90%	\$34.36
Mining Engineer (17-2151)	\$44.47	1.4	\$62.26	5%	\$3.11
Engineering Manager (11-9041)	\$69.92	1.4	\$97.89	5%	\$4.89
<b>Totals:</b>				<b>100%</b>	<b>\$42.36</b>
<b>For Financial Guarantee Requirements (State Governments)</b>					
General Office Clerk (43-9061)	\$17.83	1.6	\$28.53	10%	\$2.85
Architecture and Engineering Occupations (17-0000)	\$37.40	1.6	\$59.84	85%	\$50.86
Engineering Manager (11-9041)	\$56.64	1.6	\$90.62	5%	\$4.53
<b>Totals:</b>				<b>100%</b>	<b>\$58.24</b>

***Estimates of Hour and Cost Burdens:*** Our estimates of respondents' hour burdens, and the dollar equivalents of those hour burdens, take into account time spent for researching, preparing, and submitting information, and were obtained by consultations with several respondents (see Item 8, above). The weighted average hourly wage associated with these information collection activities is shown in Tables 12-1, above. The burden estimates for these collections of information are shown below in Table 12-2.

Plans of operation submitted under this authority vary widely. An operation requiring a plan of operations may range from less than an acre to several thousand acres. The difference in size of a plan of operations makes it difficult to estimate an accurate time burden. Factors that further exacerbate this difficulty include resource sensitivity, complexity, and the level of controversy associated with the proposal. The estimated burdens reflect the BLM's recent experience with a medium-sized project with a level of controversy and resource impact that are not out of the ordinary.

The frequency of response for each component of this information collection is "on occasion."

**Table 12-2: Burden Estimates**

<b>Information Collection</b>	<b>Number of Responses</b>	<b>Hours Per Response</b>	<b>Total Hours</b>	<b>Hourly Wage</b>	<b>Dollar Equivalent</b>
<b>Initial or Extended Plan of Operations</b>					
Initial or Extended Plan of Operations (3809.11)	41	320	13,120	\$63.16	\$828,659
Data for EIS (3809.401(c))	4	4,960	19,840	\$63.16	\$1,253,094
Data for Standard EA (3809.401(c))	10	890	8,900	\$63.16	\$562,124
Data for Simple Exploration EA (3809.401(c))	13	320	4,160	\$63.16	\$262,746
<i>Sub-totals:</i>	68	----	46,020	----	\$2,906,623
<b>Modification of Plan of Operation</b>					
Modification of Plan of Operations (3809.430 and 3809.431)	92	320	29,440	\$63.16	\$1,859,430
Data for EIS (3809.432(a) and 3809.401(c))	3	4,960	14,880	\$63.16	\$939,821
Data for Standard EA (3809.432(a) and 3809.401(c))	34	890	30,260	\$63.16	\$1,911,222
Data for Simple Exploration EA (3809.432(a) and 3809.401(c))	60	320	19,200	\$63.16	\$1,212,672
<i>Sub-totals:</i>	189	----	93,780	----	\$5,923,145
<b>Initial, Modified, or Extended Notice of Operations</b>					
Notice of Operations (3809.21)	313	32	10,016	\$63.16	\$632,611
Modification of Notice of Operations (3809.330)	128	32	4,096	\$63.16	\$258,703
Extension of Notice of Operations (3809.333)	165	1	165	\$63.16	\$10,421
<i>Sub-totals:</i>	606	----	14,277	----	\$901,735
<b>Financial Guarantee Requirements</b>					
Surface Management Surety Bond Form 3809-1 (3809.500)	28	8	224	\$42.36	\$9,489

<b>Information Collection</b>	<b>Number of Responses</b>	<b>Hours Per Response</b>	<b>Total Hours</b>	<b>Hourly Wage</b>	<b>Dollar Equivalent</b>
Surface Management Personal Bond Form 3809-2 (3809.500)	127	8	1016	\$42.36	\$43,038
Bond Rider Extending Coverage of Bond Form 3809-4 (3809.500)	35	8	280	\$42.36	\$11,861
Surface Management Personal Bond Rider Form 3809-4a (3809.500)	85	8	680	\$42.36	\$28,805
Notification of Change of Operator and Assumption of Past Liability Form 3809-5 (3809.116)	57	8	456	\$42.36	\$19,316
Notice of State Demand Against Financial Guarantee (3809.573)	2	8	16	\$42.36	\$678
Request for BLM Acceptance of Replacement Financial Instrument (3809.581)	12	8	96	\$42.36	\$4,067
Request for Reduction in Financial Guarantee and / or BLM Approval of Adequacy of Reclamation (3809.590)	64	8	512	\$42.36	\$21,688
Response to Notice of Forfeiture of Financial Guarantee (3809.596)	17	8	136	\$42.36	\$5,761
<i>Sub-totals:</i>	427	----	3,416	----	\$144,702
<b>Appeals to the State Director</b>					
Appeals to the State Director (3809.800)	12	40	480	\$63.16	\$30,317
<b>Federal / State Agreements</b>					
Federal / State Agreements (3809.200)	2	40	80	\$58.24	\$4,659
<b>Total Burdens:</b>	<b>1,304</b>	<b>----</b>	<b>158,053</b>	<b>----</b>	<b>\$9,911,181</b>

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

- \* The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information (including filing fees paid for form processing). Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring,

sampling, drilling and testing equipment; and record storage facilities.

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

Claimants and operators will not need to purchase any new computer hardware or software to comply with this collection of information. The only non-hour burdens associated with this collection of information are fees for notarizing Forms 3809-2 and 3809-4a. We estimate \$20 to notarize each form. As shown under Item No. 12 of this supporting statement, we estimate 212 responses annually for these forms (127 for Form 3809-2, and 85 for Form 3809-4a). At \$20 per response, the estimated total non-hour burden is \$4,240.

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

***Per-Hour Calculations:*** Table 14-1, below, shows the weighted average government hourly cost for these information collections. The hourly cost to the Federal Government is based on data at: [SALARY TABLE 2023-GS \(opm.gov\)](https://www.opm.gov) The benefits multiplier of 1.6 is implied by information at: <http://www.bls.gov/news.release/ecec.nr0.htm>.

**Table 14-1: Weighted Average Hourly Federal Wage Cost**

Position	Pay Grade	Hourly Pay Rate (\$/hour)	Benefits Multiplier	Hourly Rate with Benefits	Percent of the Information Collection Processed by Each Occupation	Weighted Avg. (\$/hour)
<b>Hourly Cost Calculation for Initial, Modified, and Extended Notices, Plans of Operations, Appeals to the State Director, and Federal / State Agreements</b>						
Clerical	GS-5/5	\$16.88	1.6	\$27.01	5%	\$1.55
Land Law Examiner	GS-9/5	\$25.58	1.6	\$40.93	5%	\$1.55
Biologist	GS-11/5	\$30.94	1.6	\$49.50	5%	\$1.55
Geologist	GS-11/5	\$30.94	1.6	\$49.50	80%	\$1.55
Supr. Geologist	GS-12/5	\$45.29	1.6	\$72.46	5%	\$1.55
<b>Total:</b>					<b>100%</b>	<b>049.10</b>
<b>Hourly Cost Calculation for Financial Guarantee Requirements</b>						
Clerical	GS-5/5	\$16.88	1.6	\$27.01	5%	\$1.35
Land Law Examiner	GS-9/5	\$25.58	1.6	\$40.93	90%	\$36.84

Position	Pay Grade	Hourly Pay Rate (\$/hour)	Benefits Multiplier	Hourly Rate with Benefits	Percent of the Information Collection Processed by Each Occupation	Weighted Avg. (\$/hour)
Supr. Land Law Examiner	GS-11/5	\$37.09	1.6	\$59.34	5%	\$2.97
<b>Totals:</b>					<b>100%</b>	<b>041.15</b>

Table 14-2, below, shows the itemized Federal hours and costs for each component of this collection of information.

**Table 14-2: Estimated Annual Cost to the Government for Initial and Extended Plan of Operations**

Information Collection	Number of Responses	Hours Per Response	Total Staff Hours	Hourly Cost	Dollar Equivalent
<b>Estimated Annual Cost to the Government for Initial and Extended Plan of Operations</b>					
Plan of Operations (3809.11)	41	160	6,560	\$49.10	\$322,096
Data for EIS (3809.401(c))	4	640	2,560	\$49.10	\$125,696
Data for Standard EA (3809.401(c))	10	320	3,200	\$49.10	\$157,120
Data for Simple Exploration EA (3809.401(c))	13	40	520	\$49.10	\$25,532
<i>Sub-total:</i>					<i>\$630,444</i>
<b>Estimated Annual Cost to the Government for Modification of Plan of Operations</b>					
Modification of Plan of Operations (3809.430 and 3809.431)	92	160	14,720	\$49.10	\$722,752
Data for EIS (3809.432(a) and 3809.401(c))	3	640	1,920	\$49.10	\$94,272
Data for Standard EA (3809.432(a) and 3809.401(c))	34	320	10,880	\$49.10	\$534,208
Data for Simple Exploration EA (3809.432(a) and 3809.401(c))	60	40	2,400	\$49.10	\$117,840
<i>Sub-total:</i>					<i>\$1,469,072</i>
<b>Estimated Annual Cost to the Government for Initial, Modified, and Extended Notice of Operations</b>					
Notice of Operations (3809.21)	313	40	12,520	\$49.10	\$614,732
Modification of Notice of Operations (3809.330)	128	40	5,120	\$49.10	\$251,392
Extension of Notice of Operations (3809.333)	165	1	165	\$49.10	\$8,102
<i>Sub-total:</i>					<i>\$874,226</i>
<b>Estimated Annual Cost to the Government for Financial Guarantee Requirements</b>					
Surface Management Surety Bond, Form 3809-1 (3809.500)	28	8	224	\$41.15	\$9,218



<b>Information Collection</b>	<b>Number of Responses</b>	<b>Hours Per Response</b>	<b>Total Staff Hours</b>	<b>Hourly Cost</b>	<b>Dollar Equivalent</b>
Surface Management Personal Bond, Form 3809-2 (3809.500)	127	8	1,016	\$41.15	\$41,808
Bond Rider Extending Coverage of Bond, Form 3809-4 (3809.500)	35	8	280	\$41.15	\$11,522
Surface Management Personal Bond Rider, Form 3809-4a (3809.500)	85	8	680	\$41.15	\$27,982
Notification of Change of Operator and Assumption of Past Liability, Form 3809-5 (3809.116)	57	8	456	\$41.15	\$18,764
Notice of State Demand Against Financial Guarantee (3809.573)	2	8	16	\$41.15	\$658
Request for BLM Acceptance of Replacement Financial Instrument (3809.581)	12	8	96	\$41.15	\$3,950
Request for Reduction in Financial Guarantee and / or BLM Approval of Adequacy of Reclamation (3809.590)	64	16	1,024	\$41.15	\$42,138
Response to Notice of Forfeiture of Financial Guarantee (3809.596)	17	8	136	\$41.15	\$5,596
<i>Sub-total:</i>					<i>\$161,637</i>
<b>Appeals to the State Director</b>					
Appeals to the State Director (3809.800)	12	40	1,200	\$49.10	\$23,568
<b>Federal / State Agreements</b>					
Federal / State Agreements (3809.200)	2	40	40	\$49.10	\$3,928
<b>Total Federal Wage Cost:</b>					<b>\$3,162,875</b>

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

There are no program changes requested. The estimated annual burden hours are being adjusted from 183,808 to 158,053, a decrease of 25,755 hours and the estimated annual cost burden is being adjusted from \$4,780 to \$4,240, a decrease of \$540. The decrease in these burden estimates results from adjusting the estimated number of annual responses from 1,495 to 1,304, a decrease of 191 annual responses. The adjustment in burdens is based on the average number of filings over the past three years.

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

We have no plans to publish the information in this collection.

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

We will display the expiration date of the OMB approval on the forms.

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

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

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