



Friday
October 1, 1999

Part III

**Department of the
Interior**

Bureau of Land Management

**43 CFR Part 3500, et al.
Leasing of Solid Minerals Other Than
Coal and Oil Shale; Final Rule**

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3500, 3510, 3520, 3530, 3540, 3550, 3560, and 3570

[WO-320-1330-01-24 A]

RIN 1004-AC49

Leasing of Solid Minerals Other Than Coal and Oil Shale

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Land Management (BLM) is amending its regulations governing leasing of solid minerals other than coal and oil shale. The purpose of this rule is to comply with President Clinton's government-wide regulatory reform initiative to eliminate unnecessary regulations, and streamline and rewrite necessary regulations in plain English. Under the previous rule, each solid mineral commodity had its own separate regulations, much of which was repeated in each set of regulations. This rule now combines these solid minerals regulations into one set of regulations, streamlined, updated and re-written in plain English. The rule also clarifies the responsibilities of interested parties.

EFFECTIVE DATE: November 1, 1999.

ADDRESSES: You may send inquiries or suggestions to: Director (630), Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Philip Allard, (202) 452-5195, or Chris Fontecchio, (202) 452-5012.

SUPPLEMENTARY INFORMATION:

- I. Background
- II. Final Rule as Adopted
- III. Responses to Comments
- IV. Procedural Matters

I. Background

On March 4, 1995, President Clinton issued a memorandum to all Federal Departments and Agencies directing them to simplify their regulations. In response, BLM analyzed 43 CFR part 3500 through 43 CFR part 3570 to determine whether the regulations were current and written in clear and understandable terms. As a result, BLM decided that we could reorganize the regulations to achieve significant reductions in length while greatly improving the clarity of the document.

BLM bases its regulatory program relating to solid minerals on several different statutes which give us the authority to regulate mineral leasing on Federal lands. The Mineral Leasing Act

of 1920 (the Act), as amended and supplemented (30 U.S.C. 181 *et seq.*), provides for leasing of phosphate, potassium, gilsonite, and sodium mineral deposits on public domain lands. The Act also allows sulphur to be leased from public lands in Louisiana and New Mexico. The Act authorizes the Secretary of the Interior (Secretary) to grant to any qualified applicant a permit or lease for certain deposits of minerals on lands owned by the United States. Reorganization Plan No. 3 of 1946 (5 U.S.C. Appendix) transferred the responsibilities of the Department of Agriculture for hardrock mineral leasing to the Secretary in certain areas. The Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351-359), provides for the leasing of minerals from certain acquired lands, and authorizes the Secretary to establish rules and regulations necessary to grant any qualified applicant a permit or lease to promote mining of phosphate, sodium, potassium, sulphur and gilsonite deposits on Federal acquired lands. The National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) (NEPA) directs Federal agencies to consider the environmental impacts of their actions during the decision-making process. Finally, the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*) (FLPMA) authorizes the Secretary of the Interior to develop guidelines for the administration and protection of the Federal lands and their resources under BLM jurisdiction.

Other authorities which address programs related to specific commodities and lands include the following:

- (a) Certain lands added to the Shasta National Forest (30 U.S.C. 192c);
- (b) Public domain lands in National Forests in Minnesota (16 U.S.C. 508(b));
- (c) Gold, silver, or quicksilver in confirmed private land grants (30 U.S.C. 291-293);
- (d) Reserved minerals in lands patented to the State of California for parks or other purposes (47 Stat. 1487, as amended);
- (e) National Park Service areas—
 - (i) Lake Mead National Recreation Area (16 U.S.C. 460n *et seq.*);
 - (ii) Whiskeytown Unit of the Whiskeytown-Shasta-Trinity National Recreation Area (16 U.S.C. 460q *et seq.*);
 - (iii) Glen Canyon National Recreation Area (16 U.S.C. 460dd *et seq.*);
 - (f) Shasta-Trinity Units of the Whiskeytown-Shasta Trinity National Recreation Area (16 U.S.C. 460q *et seq.*); and
 - (g) White Mountains National Recreation Area (16 U.S.C. 460mm-2 through 460mm-4).

When BLM last revised these regulations in 1986, they were written into separate parts covering specific mineral commodities. Under that organization, processes such as issuing exploration licenses and mineral leases were addressed in a similar or identical manner under each commodity section. This was designed to allow parties interested in each commodity to look in only one part of the regulations to find the provisions relating to their commodity. However, not all of the leasing or permitting regulations were included with the commodity, and the regulations were so extensive that the complete body of solid mineral regulations occupied about 100 pages of the Code of Federal Regulations (CFR).

As part of BLM's response to the Administration's regulatory initiatives, we reviewed this extensive body of material and decided to consolidate and to eliminate the repetitive language. BLM understands that our readers want to be able to find particular subject matter easily in our regulations. We believe that the plain English approach, particularly the expanded table of contents, and the overall reduction in volume of BLM regulations, will make it easy for readers to find material that is of concern to them.

In addition to rewriting the regulations for clarity, BLM is making the following substantive changes to the existing regulations:

1. We are eliminating the requirement to re-describe the lands in an application if you have already properly described them and BLM has issued you a previous authorization. Thus, for example, you will not have to submit a land description when you apply for a preference right lease or for an assignment if it relates to all the same lands described in the prospecting permit or original lease. We will still require land descriptions for assignments of parts of the land described in the original prospecting permit or lease, and applicants will still need to identify the permit or lease by serial number.

2. We have increased the State acreage limitation for potassium leases. Current 43 CFR 3530.3 specifies that there is a per-State acreage limitation of 51,200 acres for holders of potassium leases or permits. BLM is increasing this limitation to 96,000 acres. As the potash industry has matured, several mining operations are consolidating. BLM believes that increasing the State acreage limitation will enhance development of Federal reserves and help achieve the statutory goal of ultimate maximum recovery.

3. We will now require you to submit three maps, instead of one, with your preference right lease application. This is consistent with other provisions in these regulations and with BLM's need for maps during our review of these applications. While it is easy for BLM to make copies of most application material, it is often difficult to duplicate maps. Obtaining additional maps from you will speed up our review.

4. We state that we will not approve assignments of leases or issue or renew leases under these regulations to coal lessees and assignees who are not in compliance with the diligence requirements for coal leases found in section 2(a)2(A) of the Act (30 U.S.C. 201). This provision incorporates current BLM practice into regulations, thus it will not have any significant impact on the industry.

5. These regulations add a provision at 43 CFR 3502.42 specifying that we will allow unqualified heirs to own a lease or permit for two years. During this time they can either become qualified or divest the interest.

6. This final rule eliminates provisions authorizing future interest prospecting permits. BLM has rarely been called upon to issue such permits, since the current mineral interest holder can explore for minerals without a BLM permit until the mineral interest vests to the United States. If the mineral holder does demonstrate the existence of a valuable deposit of minerals before title transfers, we can issue future interest leases to the present interest holder for these minerals. We also added a provision to allow competitive bidding for future interest leases if there is more than one qualified present interest holder.

7. This rule clarifies that leases exchanged must be of equal, rather than comparable, value. This change implements the provisions of the Federal Land Exchange Facilitation Act of 1988 (Pub. L. 100-409), which amended section 206 of FLPMA (43 U.S.C. 1716). The same Act also provided the government and any applicant greater flexibility than did previous requirements for making exchanges equal. We are incorporating this provision into the regulations at 43 CFR 3515.22. Section 3515.12 states that the exchange-specific provisions of 43 CFR part 2200 apply.

8. This rule clarifies the definition of the term "valuable deposit." The current definition at 43 CFR 3500.0-5 is circular because it uses the phrase "valuable mine" in describing the term "valuable deposit." The new rule changes "valuable mine" to "profitable mine." Accordingly, § 3507.18, which

describes the information you must provide to us to prove that you have found a valuable deposit, says that we may request supplemental data to determine, among other things, mining and processing costs and the profitability of mineral development.

9. BLM is modifying the requirements for applicants to disclose the identity and citizenship of major stockholders to add the disclosure of the percentage of their stock holdings. This change would help us enforce acreage limitations against those stockholders. The rule also eliminates a requirement found in the current rules to submit such information on the basis of foreign residency. This information is not needed to enforce any statutory limitations.

10. This rule clarifies that we can issue noncompetitive fringe acre leases to extract sodium chloride to persons producing calcium chloride from an existing mine, under an authorization issued under 43 CFR part 3800 for locatable minerals. This addresses an issue restricted to a limited geographic area in California, where these two minerals are commingled.

II. Final Rule as Adopted

The most significant change in these regulations is that they are reorganized from several mineral-specific sections into sections based on the type of authorization. Since the proposed rule we have made slight changes to the organization, moving sections to put them in more logical sequences and groupings. Although the table of contents in the proposed rule divided section headers, in the form of questions, by subparts, we added subheadings in the final rule to help you find what you need more easily. We made this change because some of the subparts contain many sections, and the long list of questions made it difficult for readers to find what they need. Using the subheadings, you can narrow down your search for the regulatory section you need more quickly.

The following cross-reference chart lists every section of the final rule and its origin in the existing rule. It also shows the existing part 3500 and shows where it has been moved to in this final rule.

New 3500	Old 3500
3501.1	New
3501.5	3500.0-5
3501.10	New
3501.16	3500.6
3501.17	3500.7
3501.20	3511.1
	3512.9-2
	3512.9-3
	3521.1

New 3500	Old 3500
	3522.8-2
	3531.1
	3532.8-2
	3532.9-3
	3541.1
	3542.8-2
	3551.1
	3552.8-2
	3552.9-3
	3561.1
	3562.8-2
	3562.9-3
	3571.1
3501.30	3500.4
3502.10	3502.1
3502.13	3502.1(b)
3502.15	3500.3
	3502.1(c)
	3502.1(d)
3502.20	3502.2-1
3502.25	3502.2-1
3502.26	3502.2-2
3502.27	3502.2-3
3502.28	3502.2-3
3502.29	3502.2-4
3502.30	3502.2-6
3502.33	3502.3
3502.34	3502.2-5(a)
3502.40	3502.2-5(b)
3502.41	New
3502.42	New
3503.10	3500.8
3503.11	3542.1
3503.12	3560.3-1
3503.13	3560.3-2
	3560.3-3
	3560.3-4
	3562.1
	3570.2
3503.14	New, also in
3503.15	3581
	New, also in
	3586
3503.20	3500.9-1
	3507.4
	3516.4
	3523.2-2
	3525.2
	3526.4
	3533.2-2
	3535.2
	3536.4
	3543.2-2
	3545.2
	3546.4
	3553.2-2
	3555.2
	3556.4
	3564.2
	3564.4
	3574.2
	3575.4
3503.21	3500.9-2
3503.25	3500.9-3
3503.28	3511.7
	3521.6
	3541.6
	3512.8-4
	3521.5
	3522.8-4
	3531.6
	3532.8-4
	3541.5
	3542.8-4

New 3500	Old 3500	New 3500	Old 3500	New 3500	Old 3500
	3551.6	3504.20	3511.2-2		3532.3-1(c)
	3552.8-4		3521.2-2		3542.3-1(c)
	3561.5		3531.2-2		3552.3-1(c)
	3562.8-4		3541.2-2		3562.3-1(c)
	3571.5		3551.2-2	3505.25	3512.4
3503.30	3501.1-1		3561.2-2		3512.5
	3501.1-2		3571.2-2		3522.4
3503.31	3501.1-1(c)	3504.21	3503.2-1		3522.5
	3501.1-3		3511.2-2		3532.4
3503.32	3501.1-2(b)		3521.2-2		3542.5
3503.33	3501.1-1(a)		3531.2-2		3542.4
	3501.1-2(a)		3541.2-2		3552.4
3503.36	3501.1-1(d)		3551.2-2		3552.5
3503.37	3510.3		3561.2-2		3562.4
	3520.3		3571.2-2		3562.5
	3530.3	3504.22	3503.2-1	3505.30	3512.5
	3540.3	3504.25	3503.2-2		3522.5
	3550.3	3504.26	3503.2-3		3532.5
	3560.4	3504.50	3504.1-1		3542.5
	3570.4		3504.1-4		3552.5
3503.38	3501.2		3511.6		3562.5
3503.40	3500.5(a)		3512.7	3505.31	3512.6
3503.41	3500.5(b)		3521.4		3522.6
3504.11	3503.1-1		3522.7		3532.6
3504.12	3503.1-2		3528.2		3542.6
3504.12(a)(1)	3506.2		3531.5		3552.6
	3507.5		3532.7		3562.6
	3512.3-1(c)		3541.4	3505.40	3512.3-3
	3516.3(b)		3542.7		3512.7
	3517.1-1		3547.2		3522.3-3
	3522.3-1(c)		3551.5		3522.7
	3525.3-1(c)		3552.7		3532.3-3
	3526.3(b)		3561.4		3532.7
	3527.1-1		3566.2		3542.3-3
	3528.1		3562.7		3542.7
	3532.3-1(c)		3571.4		3552.3-3
	3536.3(b)		3576.2		3552.7
	3542.3-1(c)	3504.51	3504.1-2		3562.3-3
	3546.3(b)	3504.55	3504.1-3		3562.7
	3547.1	3504.56	3504.1-5	3505.45	3512.3-3
	3552.3-1(c)	3504.60	3504.1-6		3522.3-3
	3556.3(b)	3504.65	3504.2(a)		3532.3-3
	3562.3-1(c)	3504.66	3504.2(b)		3542.3-3
	3565.3(b)	3504.70	3504.3		3552.3-3
	3575.3(b)	3504.71	3504.3		3562.3-3
	3576.1	3505.10	3507.1	3505.50	3512.3-4
3504.15	3511.2-1(a)		3512.2		3512.8-1
	3511.2-1(c)		3522.2		3522.3-4
	3512.8-3		3532.2		3522.8-1
	3521.2-1(a)		3542.2		3532.3-4
	3522.8-3		3552.2		3532.8-4
	3531.2-1(a)		3560.5		3542.3-4
	3532.8-3		3562.2		3542.8-1
	3541.2-1(a)	3505.12	3560.7		3552.3-4
	3542.8-3	3505.12	3512.3-1		3552.8-1
	3551.2-1(a)		3522.3-1		3562.3-4
	3552.8-3		3532.3-1		3562.8-1
	3561.2-1(a)		3542.3-1	3505.51	3512.3-4
	3562.8-3		3552.3-1		3522.3-4
	3571.2-1(a)		3562.3-1		3532.3-4
3504.16	3511.2-1(a)	3505.13	3512.3-2		3542.3-4
	3521.2-1(a)		3522.3-2		3552.3-4
	3531.2-1(a)		3532.3-2		3562.3-4
	3541.2-1(a)		3542.3-2	3505.55	3512.8
	3551.2-1(a)		3552.3-2		3512.8-3
	3561.2-1(a)		3562.3-2		3522.8
	3571.2-1(a)	3505.15	3512.3-2(c)		3522.8-3
3504.17	3511.2-1(b)		3522.3-2(c)		3532.8
	3521.2-1(b)		3532.3-2(c)		3532.8-3
	3531.2-1(b)		3542.3-2(c)		3542.8
	3541.2-1(b)		3552.3-2(c)		3542.8-3
	3551.2-1(b)		3562.3-2(c)		3552.8
	3561.2-1(b)	3505.20	3512.3-1(c)		3552.8-3
	3571.2-1(b)		3522.3-1(c)		3562.8

New 3500	Old 3500	New 3500	Old 3500	New 3500	Old 3500
3505.60	3562.8-3 3512.8-1 3522.8-1 3532.8-1 3542.8-1 3552.8-1 3562.8-1	3506.20	3554.4-4 3514.6 3524.6 3534.6 3544.6 3554.6		3525.3-1 3535.3-1 3545.3-1 3555.3-1 3564.3-1 3574.3-1
3505.61	3512.9-1 3532.9-1 3552.9-1 3562.9-1	3506.25	3514.5 3524.5 3534.5 3544.5 3554.5	3508.12(c)	3515.5 3525.5 3535.5 3545.5 3555.5
3505.62	3512.9-1 3532.9-1 3552.9-1 3562.9-1	3507.11	3513.3 3523.3 3533.3 3543.3 3553.3		3564.5 3574.5 3515.3-1 3525.3-1 3535.3-1
3505.64	3512.9-2(a) 3532.9-2(a) 3552.9-2(a) 3562.9-2(a)	3507.15	3513.1-1 3523.1-1 3533.1-1 3543.1-1 3553.1-1	3508.14	3545.3-1 3555.3-1 3564.3-1 3574.3-1
3505.65	3512.9-2(b) 3532.9-2(b) 3552.9-2(b) 3562.9-2(b)		3513.1-1 3523.1-1 3533.1-1 3543.1-1 3553.1-1 3563.1-1	3508.15	3515.3-2 3525.3-2 3535.3-2 3545.3-2 3555.3-2
3505.66	3512.9-3 3532.9-3 3552.9-3 3562.9-3	3507.16	3513.1-1(c) 3523.1-1(c) 3533.1-1(c) 3543.1-1(c) 3553.1-1(c) 3563.1-1(b)	3508.16	3515.3-3 3525.3-3 3535.3-3 3545.3-3 3555.3-3 3564.3-3
3505.70	3509.1-1		3513.1-2 3523.1-2 3533.1-2 3543.1-2 3553.1-2 3563.1-2		3515.4 3525.4 3535.4 3545.4 3555.4 3564.4
3505.75	3509.2	3507.17	3513.2-1 3523.2-1 3533.2-1 3543.2-1 3553.2-1 3563.2-1	3508.20	3515.5 3525.5 3535.5 3545.5 3555.5 3564.5
3505.80	3509.3-1		3513.4 3523.4 3533.4 3543.4 3553.4 3563.4	3508.21	3515.6 3525.6 3535.6 3545.6 3555.6 3564.6
3505.85	3509.4-1	3507.18	3513.4(b) 3513.4(c) 3523.4(b) 3523.4(c) 3533.4(b) 3533.4(c) 3543.4(b) 3543.4(c)		3574.6 3509.10 3509.11 3509.12 3509.12 3509.15 3509.16
3506.10	3514.1 3524.1 3534.1 3544.1 3554.1 3514.2 3514.3 3524.2 3524.3 3534.2 3534.3 3544.2 3544.3 3554.2 3554.3	3507.19	3515.1 3525.1 3535.1 3545.1 3555.1 3564.1 3574.1		3574.7-2 3507.1-2 3507.1-2 3507.7-2 3507.6 3507.1-2(b) 3507.2 3507.5 3507.9 3507.2 3507.7-2
3506.11	3514.4 3514.4-2 3524.4 3524.4-2 3534.4 3534.4-2 3544.4 3544.4-2 3554.4 3554.4-2 3512.1 3522.1 3532.1 3552.1	3507.20	3515.1 3525.1 3535.1 3545.1 3555.1 3564.1 3574.1	3508.22	3507.7-2 3507.6 3507.1-2(b) 3507.2 3507.5 3507.9 3507.2 3507.7-2
3506.12	3514.4-1 3524.4-1 3534.4-1 3544.4-1 3554.4-1		3515.1 3525.1 3535.1 3545.1 3555.1 3564.1 3574.1		3507.7-2 3507.6 3507.1-2(b) 3507.2 3507.5 3507.9 3507.2 3507.7-2
3506.13	3514.4-1 3524.4-1 3534.4-1 3544.4-1 3554.4-1	3508.11	3515.1 3525.1 3535.1 3545.1 3555.1 3564.1 3574.1	3509.17	3507.7-2 3507.6 3507.1-2(b) 3507.2 3507.5 3507.9 3507.2 3507.7-2
3506.14	3514.4-3 3524.4-3 3534.4-3 3544.4-3 3554.4-3	3508.12(a)	3515.1 3525.1 3535.1 3545.1 3555.1 3564.1 3574.1	3509.18	3507.7-2 3507.6 3507.1-2(b) 3507.2 3507.5 3507.9 3507.2 3507.7-2
3506.15	3514.4-4 3524.4-4 3534.4-4 3544.4-4	3508.12(b)	3515.3-1	3509.20 3509.25 3509.30 3509.40 3509.41 3509.45	New 3507.8 3507.9 New 3507.1-1 3507.1-1 3507.1-2(a) 3507.6 3507.7-1

New 3500	Old 3500	New 3500	Old 3500	New 3500	Old 3500
3509.46	3507.2		3561.3	3515.23	3508.2(e)
	3507.5		3571.3	3515.25	3508.2(f)
3509.47	3507.6	3511.25	3511.4(a)	3515.26	3508.3(a)
	3507.7-1		3528	3515.27	3508.3(b)
	3507.7-2		3531.4(a)	3516.10	3517.1
3509.48	New		3547		3527.1
3509.49	3507.3		3551.4(a)	3516.11	New
3509.50	3507.9(b)		3566	3516.12	3517.1
3509.51	New		3576		3527.1
3510.11	3516.1	3511.25(b)	3528.3	3516.15	3517.1-1
	3516.2(a)		3547.3		3527.1-1
	3526.1		3566.1	3516.16	3517.1-3
	3526.2(a)		3566.3		3527.1-3
	3536.1		3576.3	3516.20	3517.1-2(a)
	3536.2(a)	3511.26	3511.4(b)		3527.1-2(a)
	3546.1		3531.4(b)	3516.30	3517.1-2(b)
	3546.2(a)		3551.4(b)		3527.1-2(b)
	3556.1	3511.27	3528.3	3517.10	3567.1
	3556.2(a)		3547.3	3517.11	3567.2
	3565.1		3566.1	3517.15	3567.3
	3565.2(a)		3576.3	3517.16	3567.4
	3575.1	3511.28	New	Unnumbered	3500.0-3
	3575.2(a)	3511.30	3511.4(c)	Deleted	3500.1
3510.12	3516.3		3531.4(c)	Deleted	3500.2
	3526.3		3551.4(c)	Deleted	3500.4
	3536.3	3512.11	3506.1	Deleted	3510.0-3
	3546.3	3512.12	3506.2	Deleted	3510.1
	3556.3	3512.13	3506.1-3	Deleted	3510.2-1
	3565.3	3512.16	3506.1-3	Deleted	3510.2-2
	3575.3	3512.17	3506.3-2	Deleted	3511.8
3510.15	3516.2	3512.18	3506.4	Deleted	3512.8-2
	3516.2(b)		3506.5-1	Deleted	3513.2-2
	3526.2	3512.19	3506.3-3	Deleted	3514.0-3
	3526.2(b)	3512.25	3506.5-2	Deleted	3517.2
	3536.2		3506.6	Deleted	3520.0-3
	3536.2(b)	3512.30	3506.5-2	Deleted	3520.1
	3546.2	3512.33	3506.5-2	Deleted	3520.2-1
	3546.2(b)		3506.7	Deleted	3520.2-2
	3556.2	3513.11	3503.2-4(a)	Deleted	3524.0-3
	3556.2(b)	3513.12	3503.2-4(a)	Deleted	3527.2
	3565.2	3513.15	3503.2-4(b)	Deleted	3528.4
	3565.2(b)	3513.20	3503.3-1	Deleted	3530.0-3
	3575.2	3513.21	3503.3-1(c)	Deleted	3530.1
	3575.2(b)		3503.3-1(d)		
3510.20	3516.3(a)		3503.3-1(e)		
	3516.5	3513.22	3503.3-1(b)		
	3526.3(a)	3513.25	3503.3-1(d)		
	3526.5	3513.26	3503.3-1(d)	3500.0-3	Unnumbered
	3536.3(a)	3513.30	3503.3-2(a)	3500.0-5	3501.5
	3536.5	3513.31	3503.3-2(c)	3500.1	Deleted
	3546.3(a)		3503.3-2(d)	3500.2	Deleted
	3546.5		3503.3-2(e)	3500.3	3502.15
	3556.3(a)	3513.32	3503.3-2(b)	3500.4	3501.30
	3556.5	3513.33	3503.3-2(d)	3500.5(a)	3503.40
	3565.3(a)	3513.34	3503.3-2(d)	3500.5(b)	3503.41
	3565.5	3514.11	3509.1-2	3500.6	3501.16
	3575.3(a)	3514.12	3509.1-2	3500.7	3501.17
	3575.5	3514.15	3509.1-2	3500.8	3503.11
3510.21	3516.6	3514.20	3509.1-2	3500.9-1	3503.20
	3526.6	3514.21	3509.1-2	3500.9-2	3503.21
	3536.6	3514.25	3509.3-2	3500.9-3	3503.25
	3546.6	3514.30	3509.4-2	3501.1-1	3503.30
	3556.6	3514.31	3509.4-2	3501.1-1(a)	3503.33
	3565.6	3514.32	3509.4-2	3501.1-1(d)	3503.36
	3575.6	3514.50	3509.4-3	3501.1-1(c)	3503.31
3511.10	3511.5	3515	3508.1	3501.1-2	3503.30
	3521.1	3515.10	3508.0-1	3501.1-2(a)	3503.33
	3531.1	3515.12	3508.0-7	3501.1-2(b)	3503.32
3511.11	New	3515.15	3508.0-1	3501.1-3	3503.31
3511.15	3511.3	3515.18	3508.1(a)	3501.2	3503.38
	3521.3		3508.2(a)	3502.1	3502.10
	3531.3	3515.20	3508.0-1	3502.1(b)	3502.13
	3541.3	3515.21	3508.0-1	3502.1(c)	3502.15
	3551.3	3515.22	New	3502.1(d)	3502.20

Old 3500	New 3500	Old 3500	New 3500	Old 3500	New 3500
3502.2-1	3502.25		3509.47	3512.8	3505.55
	3502.26	3507.7-1	3509.45	3512.8-1	3505.50
3502.2-2	3502.27		3509.47		3505.60
3502.2-3	3502.28	3507.7-2	3509.17	3512.8-2	Deleted
	3502.29		3509.47	3512.8-3	3504.15
3502.2-4	3502.30	3507.8	3509.20		3505.55
3502.2-5(a)	3502.40	3507.9	3509.16	3512.8-4	3503.28
3502.2-5(b)	3502.41		3509.25	3512.9-1	3505.61
3502.2-6	3502.33	3507.9(b)	3509.50		3505.62
3502.3	3502.34	3508.0-1	3515.10	3512.9-2	3501.20
3503.1-1	3504.11		3515.15	3512.9-2(a)	3505.64
3503.1-2	3504.12		3515.20	3512.9-2(b)	3505.65
3503.2-1	3504.21		3515.21	3512.9-3	3501.20
	3504.22	3508.0-7	3515.12		3505.66
3503.2-2	3504.25	3508.1	3515	3513.1-1	3507.15
3503.2-3	3504.26	3508.1(a)	3515.18	3513.1-1(c)	3507.16
3503.2-4(a)	3513.11	3508.2(a)	3515.18	3513.1-2	3507.17
	3513.12	3508.2(e)	3515.23	3513.2-1	3507.18
3503.2-4(b)	3513.15	3508.2(f)	3515.25	3513.2-2	Deleted
3503.3-1	3513.20	3508.3(a)	3515.26	3513.3	3507.11
3503.3-1(b)	3513.22	3508.3(b)	3515.27	3513.4	3507.19
3503.3-1(c)	3513.21	3509.1-1	3505.70	3513.4(b)	3507.20
3503.3-1(d)	3513.21	3509.1-2	3514.11	3513.4(c)	3507.20
	3513.25		3514.12	3514.0-3	Deleted
	3513.26		3514.15	3514.1	3506.10
3503.3-1(e)	3513.21		3514.20	3514.2	3506.11
3503.3-2(a)	3513.30		3514.21	3514.3	3506.11
3503.3-2(b)	3513.32	3509.2	3505.75	3514.4	3506.12
3503.3-2(c)	3513.31	3509.3-1	3505.80	3514.4-1	3506.13
3503.3-2(d)	3513.31	3509.3-2	3514.25	3514.4-2	3506.12
	3513.33	3509.4-1	3505.85	3514.4-3	3506.14
	3513.34		3514.31	3514.4-4	3506.15
3503.3-2(e)	3513.31		3514.32	3514.5	3506.25
3504.1-1	3504.50	3509.4-2	3514.30	3514.6	3506.20
3504.1-2	3504.51		3514.31	3515.1	3508.11
3504.1-3	3504.55		3514.32		3508.12(a)
3504.1-4	3504.50	3509.4-3	3514.50	3515.3-1	3508.12(b)
3504.1-5	3504.56	3510.0-3	Deleted		3508.14
3504.1-6	3504.60	3510.1	Deleted	3515.3-2	3508.15
3504.2(a)	3504.65	3510.2-1	Deleted	3515.3-3	3508.16
3504.2(b)	3504.66	3510.2-2	Deleted	3515.4	3508.20
3504.3	3504.70	3510.3	3503.37	3515.5	3508.12(c)
	3504.71	3511.1	3501.20		3508.21
3506.1	3512.11	3511.2-1(a)	3504.15	3515.6	3508.22
3506.2	3504.12(a)(1)		3504.16	3516.1	3510.11
	3512.12	3511.2-1(b)	3504.17	3516.2	3510.15
3506.3-1	3512.13	3511.2-1(c)	3504.15	3516.2(a)	3510.11
	3512.16	3511.2-2	3504.20	3516.2(b)	3510.15
3506.3-2	3512.17		3504.21	3516.3	3510.12
3506.3-3	3512.19	3511.3	3511.15	3516.3(a)	3510.20
3506.4	3512.18	3511.4(a)	3511.25	3516.3(b)	3504.12(a)(1)
3506.5-1	3512.18	3511.4(b)	3511.26	3516.4	3503.20
3506.5-2	3512.25	3511.4(c)	3511.30	3516.5	3510.20
	3512.30	3511.5	3511.10	3516.6	3510.21
	3512.33	3511.6	3504.50	3517.1	3516.10
3506.6	3512.25	3511.7	3503.28		3516.12
3506.7	3512.33	3511.8	Deleted	3517.1-1	3504.12(a)(1)
3507.1	3505.10	3512.1	3508.11		3516.15
3507.1-1	3509.40	3512.2	3505.10	3517.2	Deleted
	3509.41	3512.3-1	3505.12	3517.1-2(a)	3516.20
3507.1-2	3509.10	3512.3-1(c)	3504.12(a)(1)	3517.1-2(b)	3516.30
	3509.11		3505.20	3517.1-3	3516.16
3507.1-2(a)	3509.41	3512.3-2	3505.13	3520.0-3	Deleted
3507.1-2(b)	3509.15	3512.3-2(c)	3505.15	3520.1	Deleted
3507.2	3509.16	3512.3-3	3505.40	3520.2-1	Deleted
	3509.17		3505.45	3520.2-2	Deleted
	3509.46	3512.3-4	3505.50	3520.3	3503.37
3507.3	3509.49		3505.51	3521.1	3501.20
3507.4	3503.20	3512.4	3505.25		3511.10
3507.5	3504.12(a)(1)	3512.5	3505.25	3521.2-1(a)	3504.15
	3509.16		3505.30	3521.2-1(a)	3504.16
	3509.46	3512.6	3505.31	3521.2-1(b)	3504.17
3507.6	3509.12	3512.7	3504.50	3521.2-2	3504.20
	3509.45		3505.40		3504.21

Old 3500	New 3500	Old 3500	New 3500	Old 3500	New 3500
3521.3	3511.15	3527.1-2(a)	3516.20	3534.4-4	3506.15
3521.4	3504.50	3527.1-2(b)	3516.30	3534.5	3506.25
3521.5	3503.28	3527.1-3	3516.16	3534.6	3506.20
3521.6	3503.28	3527.2	Deleted	3535.1	3508.11
3522.1	3508.11	3528	3511.25		3508.12(a)
3522.2	3505.10		3511.27	3535.2	3503.20
3522.3-1	3505.12	3528.1	3504.12(a)(1)	3535.3-1	3508.12(b)
3522.3-1(c)	3504.12(a)(1)	3528.2	3504.50		3508.14
	3505.20	3528.3	3511.25(b)	3535.3-2	3508.15
3522.3-2	3505.13	3528.4	3511.12	3535.3-3	3508.16
3522.3-2(c)	3505.15	3530.0-3	Deleted	3535.4	3508.20
3522.3-3	3505.40	3530.1	Deleted	3535.5	3508.12(c)
	3505.45	3530.2-1	Deleted		3508.21
3522.3-4	3505.50	3530.2-2	Deleted	3536.1	3510.11
	3505.51	3530.3	3503.37	3536.2	3510.15
3522.4	3505.25	3531.1	3501.20	3536.4	3503.20
3522.5	3505.25		3511.10	3536.5	3510.20
	3505.30	3531.2-1(a)	3504.15	3536.6	3508.22
3522.6	3505.31		3504.16	3536.2(a)	3510.11
3522.7	3504.50	3531.2-1(b)	3504.17	3536.2(b)	3510.15
	3505.40	3531.2-2	3504.20	3536.3	3510.12
3522.8	3505.55		3504.21	3536.3(a)	3510.20
3522.8-1	3505.50	3531.3	3511.15	3536.3(b)	3504.12(a)(1)
	3505.60	3531.4(a)	3511.25	3536.6	3510.21
3522.8-2	3501.20	3531.4(b)	3511.26	3540.0-3	Deleted
3522.8-3	3504.15	3531.4(c)	3511.30	3540.1	Deleted
	3505.55	3531.5	3504.50	3540.2-1	Deleted
3522.8-4	3503.28	3531.6	3503.28	3540.2-2	Deleted
3523.1-1	3507.15	3532.1	3508.11	3540.3	3503.37
3523.1-1(c)	3507.16	3532.2	3505.10	3541.1	3501.20
3523.1-2	3507.17	3532.3-1	3505.12	3541.2-1(a)	3504.15
3523.2-2	3503.20	3532.3-1(c)	3504.12(a)(1)		3504.16
3523.2-1	3507.18		3505.20	3541.2-1(b)	3504.17
3523.3	3507.11	3532.3-2	3505.13	3541.2-2	3504.20
3523.4	3507.19	3532.3-2(c)	3505.15		3504.21
3523.4(b)	3507.20	3532.3-3	3505.40	3541.3	3511.15
3523.4(c)	3507.20		3505.45	3541.4	3504.50
3524.0-3	Deleted	3532.3-4	3505.50	3541.5	3503.28
3524.1	3506.10		3505.51	3541.6	3503.28
3524.2	3506.11	3532.4	3505.25	3542.1	3503.12
3524.3	3506.11	3532.5	3505.30	3542.2	3505.10
3524.4	3506.12	3532.6	3505.31	3542.3-1	3505.12
3524.4-1	3506.13	3532.7	3504.50	3542.3-1(c)	3504.12(a)(1)
3524.4-2	3506.12		3505.40		3505.20
3524.4-3	3506.14	3532.8	3505.55	3542.3-2	3505.13
3524.4-4	3506.15	3532.8-1	3505.60	3542.3-2(c)	3505.15
3524.5	3506.25	3532.8-2	3501.20	3542.3-3	3505.40
3524.6	3506.20	3532.8-3	3504.15		3505.45
3525.1	3508.11		3505.55	3542.3-4	3505.50
	3508.12(a)	3532.8-4	3503.28		3505.51
3525.2	3503.20		3505.50	3542.4	3505.25
3525.3-1	3508.12(b)	3532.9-1	3505.61	3542.5	3505.25
	3508.14		3505.62		3505.30
3525.3-1(c)	3504.12(a)(1)	3532.9-2(a)	3505.64	3542.6	3505.31
3525.3-2	3508.15	3532.9-2(b)	3505.65	3542.7	3504.50
3525.3-3	3508.16	3532.9-3	3501.20		3505.40
3525.4	3508.20		3505.66	3542.8	3505.55
3525.5	3508.12(c)	3533.1-1	3507.15	3542.8-1	3505.50
	3508.21	3533.1-1(c)	3507.16		3505.60
3525.6	3508.22	3533.1-2	3507.17	3542.8-2	3501.20
3526.1	3510.11	3533.2-1	3507.18	3542.8-3	3504.15
3526.2	3510.15	3533.2-2	3503.20		3505.55
3526.2(a)	3510.11	3533.3	3507.11	3542.8-4	3503.28
3526.2(b)	3510.15	3533.4	3507.19	3543.1-1	3507.15
3526.3	3510.12	3533.4(b)	3507.20	3543.1-1(c)	3507.16
3526.3(a)	3510.20	3533.4(c)	3507.20	3543.1-2	3507.17
3526.3(b)	3504.12(a)(1)	3534.0-3	Deleted	3543.2-1	3507.18
3526.4	3503.20	3534.1	3506.10	3543.2-2	3503.20
3526.5	3510.20	3534.2	3506.11	3543.3	3507.11
3526.6	3510.21	3534.3	3506.11	3543.4	3507.19
3527.1	3516.10	3534.4	3506.12	3543.4(b)	3507.20
	3516.12	3534.4-1	3506.13	3543.4(c)	3507.20
3527.1-1	3504.12(a)(1)	3534.4-2	3506.12	3544.0-3	Deleted
	3516.15	3534.4-3	3506.14	3544.1	3506.10

Old 3500	New 3500	Old 3500	New 3500	Old 3500	New 3500
3544.2	3506.11	3552.8-3	3504.15	3562.2	3505.10
3544.3	3506.11		3505.55	3562.3-1	3505.12
3544.4	3506.12	3552.8-2	3501.20	3562.3-1(c)	3504.12(a)(1)
3544.4-1	3506.13	3552.8-4	3503.28		3505.20
3544.4-2	3506.12	3552.9-1	3505.61	3562.3-2	3505.13
3544.4-3	3506.14		3505.62	3562.3-2(c)	3505.15
3544.4-4	3506.15	3552.9-2(a)	3505.64	3562.3-3	3505.40
3544.5	3506.25	3552.9-2(b)	3505.65		3505.45
3544.6	3506.20	3552.9-3	3501.20	3562.3-4	3505.50
3545.1	3508.11		3505.66		3505.51
	3508.12(a)	3553.1-1	3507.15	3562.4	3505.25
3545.2	3503.20	3553.1-1(c)	3507.16	3562.5	3505.25
3545.3-1	3508.12(b)	3553.1-2	3507.17		3505.30
	3508.14	3553.2-2	3503.20	3562.6	3505.31
3545.3-2	3508.15	3553.2-1	3507.18	3562.7	3504.50
3545.3-3	3508.16	3553.3	3507.11		3505.40
3545.4	3508.20	3553.4	3507.19	3562.8	3505.55
3545.5	3508.12(c)	3553.4(b)	3507.20	3562.8-1	3505.50
	3508.21	3553.4(c)	3507.20		3505.60
3545.6	3508.22	3554.0-3	Deleted	3562.8-2	3501.20
3546.1	3510.11	3554.1	3506.10	3562.8-3	3504.15
3546.2	3510.15	3554.2	3506.11		3505.55
3546.2(a)	3510.11	3554.3	3506.11	3562.8-4	3503.28
3546.2(b)	3510.15	3554.4	3506.12	3562.9-1	3505.61
3546.3	3510.12	3554.4-1	3506.13		3505.62
3546.3(a)	3510.20	3554.4-3	3506.14	3562.9-2(a)	3505.64
3546.3(b)	3504.12(a)(1)	3554.4-2	3506.12	3562.9-2(b)	3505.65
3546.4	3503.20	3554.4-4	3506.15	3562.9-3	3501.20
3546.5	3510.20	3554.5	3506.25		3505.66
3546.6	3510.21	3554.6	3506.20	3563.1-1	3507.15
3547	3511.25	3555.1	3508.11	3563.1-1(b)	3507.16
	3511.27		3508.12(a)	3563.1-2	3507.17
3547.1	3504.12(a)(1)	3555.2	3503.20	3563.2-1	3507.18
3547.2	3504.50	3555.3-1	3508.12(b)	3563.3	3507.11
3547.3	3511.25(b)		3508.14	3563.4	3507.19
3547.4	3511.12	3555.3-2	3508.15	3563.4(b)	3507.20
3550.0-3	Deleted	3555.3-3	3508.16	3563.4(c)	3507.20
3550.1	Deleted	3555.4	3508.20	3564.1	3508.11
3550.2-1	Deleted	3555.5	3508.12(c)		3508.12(a)
3550.2-2	Deleted		3508.21	3564.2	3503.20
3550.3	3503.37	3555.6	3508.22	3564.3-1	3508.12(b)
3551.1	3501.20	3556.1	3510.11		3508.14
3551.2-1(a)	3504.15	3556.2	3510.15	3564.3-2	3508.15
	3504.16	3556.2(a)	3510.11	3564.3-3	3508.16
3551.2-1(b)	3504.17	3556.2(b)	3510.15	3564.4	3508.20
3551.2-2	3504.20	3556.3	3510.12	3564.5	3508.12(c)
	3504.21	3556.3(a)	3510.2		3508.21
3551.3	3511.15	3556.3(b)	3504.12(a)(1)	3564.6	3508.22
3551.4(a)	3511.25	3556.4	3503.20	3565.1	3510.11
3551.4(b)	3511.26	3556.5	3510.20	3565.2	3510.15
3551.4(c)	3511.30	3556.6	3510.21	3565.2(a)	3510.11
3551.5	3504.50	3560.0-3	Deleted	3565.2(b)	3510.15
3551.6	3503.28	3560.1	Deleted	3565.3	3510.12
3551.7	Deleted	3560.2-1	Deleted	3565.3(a)	3510.20
3552.1	3508.11	3560.2-2	Deleted	3565.3(b)	3504.12(a)(1)
3552.2	3505.10	3560.3-1	3503.13	3565.4	3503.20
3552.3-1	3505.12	3560.3-2	3503.13	3565.5	3510.20
3552.3-1(c)	3504.12(a)(1)	3560.3-3	3503.13	3565.6	3510.21
	3505.20	3560.3-4	3503.13	3566	3511.25
3552.3-2	3505.13	3560.4	3503.37		3511.27
3552.3-2(c)	3505.15	3560.5	3505.10	3566.1	3511.25(b)
3552.3-3	3505.40	3560.6	3501.16	3566.2	3504.50
	3505.45	3560.7	3505.12	3566.3	3511.25(b)
3552.3-4	3505.50	3561.1	3501.20	3566.4	3511.12
	3505.51	3561.2-1(a)	3504.15	3567.1	3517.10
3552.4	3505.25		3504.16	3567.2	3517.11
3552.5	3505.25	3561.2-1(b)	3504.17	3567.3	3517.15
	3505.30	3561.2-2	3504.20	3567.4	3517.16
3552.6	3505.31		3504.21	3570.0-3	Deleted
3552.7	3504.50	3561.3	3511.15	3570.1	Deleted
	3505.40	3561.4	3504.50	3570.2	3503.14
3552.8	3505.55	3561.5	3503.28	3570.3	Deleted
3552.8-1	3505.50	3561.6	Deleted	3570.4	3503.37
	3505.60	3562.1	3503.13	3571.1	3501.20

Old 3500	New 3500
3571.2-1(a)	3504.15 3504.16
3571.2-1(b)	3504.17
3571.2-2	3504.20 3504.21
3571.3	3511.15
3571.4	3504.50
3571.5	3503.28
3571.6	Deleted
3574.1	3508.11 3508.12(a)
3574.2	3503.20
3574.3-1	3508.12(b) 3508.14
3574.3-2	3508.15
3574.3-3	3508.16
3574.4	3508.20
3574.5	3508.12(c) 3508.21 3508.22
3574.6	3508.22
3575.1	3510.11
3575.2	3510.15
3575.2(a)	3510.11
3575.2(b)	3510.15
3575.3	3510.12
3575.3(a)	3510.20
3575.3(b)	3504.12(a)(1)
3575.4	3503.20
3575.5	3510.20
3575.6	3510.21
3576	3511.25 3511.27
3576.1	3504.12(a)(1)
3576.2	3504.50
3576.3	3511.25(b)
3576.4	3511.12
New	3501.1
New	3501.10
New	3502.42
New	3503.10
New	3503.42
New	3503.43
New	3503.44
New	3503.45
New	3503.46
New	3509.18
New	3509.30
New	3509.48
New	3509.51
New	3511.11
New	3511.28
New	3515.22
New	3516.11
New	3503.15
New	also in 3581
New	3503.16
New	also in 3586

Subpart 3501—General Provisions

This subpart deals with introductory matters, general considerations, definitions, and appeals. We expanded the authorities section. Section 3501.1 discusses the scope of the regulations, which apply to minerals leased by the BLM.

Section 3501.5 is the definitions section. This section lists those terms which are specific to leasing of solid minerals. We made several changes to this section.

We dropped the definition of the term "Act" because it was not needed. We added a definition for the term "acquired lands." We modified the definition of "hardrock minerals" to make the meaning more clear. We kept the definition used in the proposed rule for "valuable deposit," which is discussed more in the Responses to Comments section below.

Section 3501.10 describes the different types of authorizations BLM can issue under these regulations. Here, we define what each authorization is, and list them in the order they occur during development, to give the reader a short road map through the entire mineral development process. The section begins with prospecting permits, which allow exploration for minerals on public lands where no known deposit exists. Next are exploration licenses, which also allow exploration of lands where there are known deposits. After that comes preference right leases, which you could receive if you discover certain mineral deposits during your prospecting permit. Following that are competitive leases, which BLM issues for known deposits. Next are fringe acreage leases, which lease known deposits under special circumstances. This is followed by lease modifications which add land to existing leases, and use permits that provide land to support certain permits and leases.

Section 3501.16 lists some of the general conditions and terms of your permit or lease. There are two particularly important aspects of this section. First, it tells you that a permit or lease gives you an exclusive interest in the minerals covered by your permit or lease, but not the lands. We can issue additional leases, permits and rights-of-way for lands where minerals are leased. Second, this section discusses how we regulate development of multiple leases on the same parcel.

The remaining sections in this part point out that authorizations are subject to other laws and regulations, such as NEPA, BLM land use plans, and BLM and Departmental appeal regulations.

Subpart 3502—Qualification Requirements

Subpart 3502 sets out who may hold a permit or lease. There are several limitations on who may hold an authorization. For example, as required by statute, we require the lessee or permittee to be an adult citizen of the United States who is in compliance with the MLA on all other leases. Also, to prevent conflicts of interest, there are restrictions on government officials. There are also acreage limitations in subpart 3503.

Sections 3502.25-30 discuss how you show your qualifications to hold a lease. These sections discuss where to file information, and what to submit depending on whether you are an individual, an association or partnership, a guardian or trustee of a trust, or a corporation.

The remaining sections address some peripheral concerns related to lease qualifications. For example, if an applicant dies before we process the application, we may issue the lease to the applicant's heirs, or to the executor of the applicant's estate if the estate has not been settled. BLM may also recognize an heir as the record title holder of a permit or lease if the permit or lease holder dies. In all cases, however, the person assuming ownership of the lease must be qualified to hold a lease. If they are not, we will allow no more than two years for them to become qualified or divest their interest.

Subpart 3503—Areas Available for Leasing

This subpart concerns which areas are available for leasing. There are several types of land that are unavailable for leasing, such as lands acquired for development of fissionable materials, wilderness areas, and lands within incorporated cities. Sections 3503.10 and 3503.11 list lands which are not available for any mineral leasing activity. The next four sections set out which areas are generally available for leasing sulphur, hardrock minerals, asphalt, gold and silver.

Generally, lands within a designated wilderness or wilderness study area are unavailable for leasing. The Wilderness Act, 16 U.S.C. 1131 *et seq.*, prohibits commercial enterprise within designated wilderness areas, except for prior existing rights (16 U.S.C. 1133(c)). Wilderness study areas are managed under the interim management standards which prohibit all activities which would impair their suitability for wilderness designation; this typically precludes mineral leasing activity. BLM manages all other areas being considered for possible wilderness study in accordance with the applicable land use plan.

Since BLM drafted the proposed rule, President Clinton has designated the Grand Staircase-Escalante National Monument, and under the Monument's terms the BLM lands contained in it are no longer available for leasing. We added the new Monument to the list of unavailable lands in § 3503.11. We also added another sentence in § 3503.11(k) to remind the reader that any other

lands which are withdrawn from mineral leasing are also unavailable.

Sections 3503.20 through 3503.28 set out the rules for leasing minerals that underlie lands managed by another Federal agency, private owner, or non-Federal political subdivision or charitable organization. When a separate surface owner is involved, we will consult with them, and, if required, obtain their consent before issuing a mineral lease. In many cases, we may insert special stipulations into the lease to satisfy the surface owner's or surface managing agency's concerns. Where BLM is required by law to obtain another agency's consent, we will accept the stipulations they require. In other situations, we will consider the surface owner's or surface management agency's recommendations and accept those which we believe are appropriate.

The next several sections (3503.30-.33) concern land descriptions. You must describe the lands you wish to lease in your application, but there are several different ways to describe land. If the land has been surveyed as part of the Public Lands Survey System, you must describe it by legal subdivision (section, township and range). If it has not been surveyed but is located in a Public Lands Survey System state and is part of a protraction diagram or amended protraction diagram, you must describe the land by legal subdivision. If the land is unsurveyed and not shown on a protraction diagram or amended protraction diagram, you must describe the lands by metes and bounds tied to a survey corner. If the lands are acquired lands, you may use the description shown on the deed that conveyed title to the United States. Finally, § 3503.33 reminds the reader that BLM will only issue leases for lands that have been officially surveyed to BLM standards. If you seek a permit or lease on unsurveyed lands, we will require you to pay for a survey. We will pay for the survey if we initiate the competitive leasing process.

The next subgroup consists of three limitations on the acreage and dimensions of the lands you seek to lease. First, the minimum size for a lease is generally a quarter-quarter section, or a lot. The leased lands must also be in reasonably compact form, not scattered and difficult to manage. The chart at § 3503.37 shows the maximum lease acreage for each commodity. This includes limits on the size of the individual lease, and limits on the total number of acres you have leased from BLM in a single state (or nationwide, in the case of phosphate).

The only change in this chart from the proposed rule is the provision that the

state acreage limit for potassium leases is now 96,000 acres. We made this change in response to comments received on the proposed rule. See responses to comments below.

Calculating your total acreage holdings is simple when you own your lease outright, but if you own a lease through stock ownership or other instruments, BLM will calculate your acreage holdings as a proportion of your ownership interest. For example, if you own a 50% interest in a lease of 800 acres, we will charge 400 acres toward your total personal acreage holdings. Corporate lease holdings will only count against your personal acreage holdings if you own at least ten percent of the corporation holding the leases. In these instances, we will count the same acreage against both the corporation's holdings and your personal holdings, in proportion with your ownership interest. We believe this is necessary to prevent people from using the corporate form to avoid the acreage limitations.

Finally, sections 3503.40 through 3503.46 instruct you where to file your application and other necessary documents, and inform you that the information you submit could be released to the public under the Freedom of Information Act (5 U.S.C. 552 *et seq.*) (FOIA). Since the proposed rule was published, BLM has issued a rule to make all of our FOIA information uniform. The FOIA rule, published in the **Federal Register** on October 1, 1998 (63 FR 52946), amended these regulations by adding detailed information about how BLM decides to release or withhold information under the FOIA. In order to keep this rule consistent with other BLM regulations, we added §§ 3503.42 through 3503.46 to conform to the FOIA regulations.

We will generally release information under FOIA to the extent that the law allows. If you believe the information you submit to us should be kept confidential, you should indicate this by clearly marking the information as confidential. However, BLM must make the final decision, because the FOIA requires us to determine under the law whether information is exempt from release before we can withhold it.

Subpart 3504—Fees, Rental, Royalty and Bonds

This subpart outlines your obligations to BLM under your lease. We made several minor changes from the proposed rule in order to clarify these requirements.

The first three sections distinguish between payments to BLM and those made to the Minerals Management Service (MMS), and set out filing fees.

BLM only receives filing fees, first year rentals and bonus bids; you should make all subsequent rental, royalty and other payments to MMS.

The next three sections discuss rental rates and due dates. One situation that caused some confusion is the rental due date after the first year of the lease. BLM will maintain the previous system, where in the case of sodium, potassium and asphalt, rentals are due before January 1 of each year, while for other minerals rental is due before the anniversary of the lease's effective date. We had proposed a simpler system which would use anniversary dates for all minerals, but several commenters pointed out that this contradicts statutory law. Therefore, we will use the January 1 due date for sodium, potassium and asphalt, and the lease anniversary date for other minerals.

The following sections discuss royalties. Each lease will contain its own royalty provisions, but the regulations set out the minimum royalty at § 3504.21. The regulations also permit you to create overriding royalties. However, if your overriding royalties become too large, to the point where they could pressure you to forego development opportunities under your lease, BLM may order you to suspend or reduce the overriding royalty. Furthermore, if at any time you seek a royalty reduction, we may require you to reduce your overriding royalty payments first. We will not allow overriding royalties to exceed 50% of the amount of the reduced royalty.

The rest of this subpart focuses on bonding requirements. BLM requires a bond in all cases, and determines the amount of the bond on a case-by-case basis. The bond amount is based on our estimate of the cost to comply with all terms and conditions of the lease. This includes the cost to stabilize and reclaim the areas to be disturbed under your lease or permit. We will accept personal bonds in any one of several forms, or surety bonds from qualified surety companies. You may also cover several leases with a single bond, or file statewide or nationwide bonds to cover several obligations at once.

Your bond must always provide full coverage for any activities you pursue. If you default on any of your permit or lease obligations, BLM may take payment from your bond and, if necessary, require you to restore your bond to the amount needed to provide full coverage. If you fail to restore your bond, we may seek to cancel your permit or lease. We will only terminate your bond's period of liability when it has been replaced by another bond or you have fulfilled all your permit or

lease terms and conditions. Finally, terminating the period of liability does not end the bond obligations; we will release your bond when all terms and conditions are met, the site is reclaimed, all payments are made, and a reasonable period of time has passed to assure us that you have effectively reclaimed the land.

Subpart 3505—Prospecting Permits

Prospecting permits are available when you are contemplating commercial mineral development under the mineral leasing program in areas where there is no known mineral deposit. Obtaining a prospecting permit is the first step to development under a preference right lease. If you use a prospecting permit to explore an area where no known mineral deposit exists and you discover a valuable deposit of the mineral covered by your permit, you may be entitled to a preference right lease to develop that mineral deposit.

You do not need a prospecting permit to collect mineral specimens for your hobby, recreational, educational or other similar non-commercial purposes. You can find BLM's regulations for non-commercial mineral specimen collecting at 43 CFR part 8360.

Prospecting permits are required when you are exploring an area for commercial development. Because prospecting permits may entitle you to a preference right lease, they are not available in areas where BLM has identified a known mineral deposit. These areas are leased competitively and can only be explored prior to leasing under an exploration license. Prospecting permits are not available for asphalt.

Sections 3505.12 through 3505.51 discuss how to apply for a prospecting permit. Because a prospecting permit may entitle you to a preference right lease, we will not issue prospecting permits to anyone who would not be qualified to hold a lease. Therefore, all the qualification requirements of subpart 3502, including the acreage limitations, apply to prospecting permits.

You may amend or withdraw your permit application after you file it but before we issue you a permit. BLM considers permit applications on a first-come, first-served basis, meaning that the first application we receive has priority. If you amend your application, you do not need to send an additional filing fee, but if your amendment adds lands to be covered by the permit, your priority to those additional lands will be as of the date of the amendment, not the date of the original application. Your

application must include the first year's rental, and a detailed exploration plan.

We will notify you if your permit application has been accepted or rejected. If we reject your permit application, we will state our reasons for doing so in detail, and describe how you may appeal. If we rejected your application because of something which can be corrected, we will give you 30 days to correct the error and refile your application. You do not have to refile the application fee and first-year rental payment with your corrected application. Filing fees are non-refundable, but if we reject any portion of your application we will return your rental payment covering the rejected areas.

Prospecting permits are limited to their express terms. Therefore, you can only use your prospecting permit for the time, area and minerals identified in your permit. All prospecting permits are valid for two years, though BLM can extend potassium and gilsonite permits for an additional two years and phosphate and hardrock mineral prospecting permits for up to four years. BLM cannot extend permits for sodium and sulphur. We generally will only extend your permit if you have been diligently exploring the area and need more time to discover a valuable deposit, though exceptions may be made if unusual circumstances delayed your exploration efforts.

You can relinquish your permit in whole or in part if BLM approves your relinquishment, you have complied with all the permit requirements, and if your rental payments are up to date. We may cancel your permit if you fail to make timely rental payments, or if your exploration activities violate any law, regulation, or condition of your permit. If your permit is relinquished or canceled, in whole or in part, you will not be entitled to a preference right lease on those lands.

Subpart 3506—Exploration Licenses

Exploration licenses, covered by subpart 3506, allow you to gather information about a mineral resource prior to seeking a lease. BLM grants these licenses to explore areas with known mineral deposits. BLM leases known mineral deposits through a competitive bidding process; therefore, your exploration license will not give you any preference or right to a lease. You may want an exploration license if you are considering entering a bid for an area and you need more information about the resource in order to prepare your bid.

The first several sections of subpart 3506 describe how to obtain an

exploration license. To apply, you need to submit an exploration plan and a request (in no specific form) for an exploration license. Your exploration plan must include the same information contained in 43 CFR 3505.45 as exploration plans in support of prospecting permits.

BLM makes decisions to issue exploration licenses under the general regulations for leases, permits and easements at 43 CFR part 2920. Once we approve your exploration plan, we will prepare a notice of exploration which you must publish for three weeks in a local newspaper in the area where the lands covered by the license are located. The notice, which will include your plan, will invite other interested parties to participate with you in the exploration. They must share costs with you on a pro-rata basis.

Your exploration license is not intended to give you exclusive access to information which is critical to preparing your bid, or any other preference. For competitive leasing, all bidders should have access to the same information about the resource, so that competition will be completely fair. We may require that you allow other interested parties to join you in the exploration activities under your license, provided they pay their pro-rata share of the costs. Sections 3506.12 through 3506.14 discuss the notice of exploration contents and process.

Several things can happen if one or more parties respond to the notice of exploration and notify BLM that they wish to be included. If all parties agree with the exploration plan as approved, the parties may simply devise a way to share the costs and BLM will issue the license. If the interested parties disagree on the exploration plan, the parties need to agree on any changes to be made, and BLM will have to assess the environmental impacts posed by any changes to the plan before we can issue the license.

Once BLM issues your exploration license, you may make changes to your exploration plan, and you may remove lands from your exploration license at any time, subject to BLM's approval. However, you may not add lands to your exploration license. We must provide for public involvement and environmental assessment before we can make lands available for exploration under a license. Therefore, if you wish to add lands to your license, you need to submit a new application.

While conducting your exploration, you must share with us any data you gather. BLM will consider this information confidential, as explained in § 3506.25, until the lands are leased

or unless we determine under the FOIA that the information is not exempt from disclosure. We require that you share this information with us because all information is valuable to us in making sound management decisions. We will not share this information with other potential bidders or the public unless we are required to do so by law. While we feel the fairest system of competitive bidding requires us to give parties equal access to information, we do not think it is fair to require one party to share the data at no cost to other parties after having acquired this data at considerable expense. BLM feels that this system, where parties can join in on the exploration but where we will not freely divulge the exploration's results, is the fairest to all participants.

Subpart 3507—Preference Right Lease Applications

If you discover a valuable deposit of a leasable mineral while exploring under a prospecting permit, you may be entitled to a preference right lease. This subpart discusses how you may apply for and obtain a preference right lease for all leasable minerals except asphalt, which is only leased competitively or under a fringe acreage lease. See subpart 3508 for competitive leases, and subpart 3510 for fringe acreage leases.

The requirements for obtaining a preference right lease, set out in § 3507.11, are fairly simple: if you have been exploring an area under a prospecting permit and you believe you have discovered a valuable deposit of the mineral covered by your permit, you need to submit a complete preference right lease application in a timely manner, along with your first year's rent. We will review your application in order to verify that all of the terms and conditions of your permit have been met. We also need to verify that you have discovered a valuable deposit during the term of your permit.

BLM must also determine that the lands are chiefly valuable for development of the specified mineral before we can issue a preference right lease for sodium, potassium or sulphur. We may reject your application for a preference right lease if your prospecting permit was granted under the authority of Reorganization Plan No. 3 and we find, after careful analysis, that mining is not the preferred use of the lands in the application.

You may submit your preference right lease application any time during the life of the prospecting permit or within 60 days after the permit expires. If you apply for a lease more than 60 days after your permit expires, BLM will reject your preference right lease application.

These regulations describe the application contents at 43 CFR 3507.17. While there is no set application form, you must submit: information showing that you are qualified to hold a lease (under subpart 3502); maps of your proposed mining operations and facilities; a written description of your proposed operations, including the method of mining and the relationship between your operation and any other(s) on adjacent lands; information which shows that you have discovered a valuable deposit; and a legal description of the lands to be leased, if different from the lands in your prospecting permit. You need not lease all the lands covered by your prospecting permit, but all the land you wish to lease must have been part of the permit.

To prove you have found a valuable deposit, you must provide BLM information about any core or test holes, samples and cuttings you collected at the site, as set out in 43 CFR 3593.1. BLM will determine if there is a reasonable prospect of success in developing a profitable mine from this information, though we may request additional information to complete our findings.

BLM will grant you a lease unless:

- You have not shown a valuable deposit exists;
- Your application is late, incomplete, or otherwise deficient;
- You are seeking a lease for sodium, potassium or sulphur and BLM determines that the lands at issue are not chiefly valuable for that mineral; or
- We issued the prospecting permit under the authority of Reorganization Plan No. 3 and we determine that mining is not the preferred use of the land.

You must also have complied with all of the terms and conditions of the prospecting permit. If you disagree with BLM's decision, you may appeal the decision to the Interior Office of Hearings and Appeals.

Subpart 3508—Competitive Lease Applications

Subpart 3508 describes the competitive leasing process, which we use if you wish to lease mineral resources in areas where valuable mineral deposits exist. We cannot issue a preference right lease for known valuable deposits; the only way you can obtain a lease on these lands is under this subpart, through a lease modification or through a fringe acreage lease under subpart 3510 of these regulations.

If you are interested in leasing a certain area, you should contact us to see if the lands are known to contain a

valuable deposit. Generally, this includes lands where further prospecting is unnecessary for us to determine the existence or workability of a valuable deposit. We can rely on geologic inference in making these determinations. BLM must receive the fair market value for all minerals we lease competitively.

BLM must reject a prospecting permit application if it is in an area where there is a known valuable deposit, but in these areas you may request a competitive lease. We may also initiate the competitive leasing process. If we determine that the lands are suitable for leasing, we may publish a notice of lease sale in the local newspaper and in the local BLM public room. This notice will contain all the information necessary for participating in the bidding, such as the sale time and location, the minimum bid, bidding method and deadlines, and description of the resource. Usually the bidding method will be sealed bids, although on appropriate occasions we may use an oral bidding process, or a combination of sealed and oral bids. BLM will also make available the statement of the lease sale terms and conditions.

If you are a qualified bidder and you offer the highest acceptable bonus bid, meeting or exceeding fair market value, BLM may accept your bid. As described in section 3508.20, we will open and announce all bids at the lease sale, but we will not accept or reject bids at that time. Instead, we will review the bids. We may reject all bids, or accept the highest qualified bid by sending that person a lease form and statement of terms and conditions. If we accept your bid, you must sign the lease form, pay the first year's rent, publication costs and the balance of your bonus bid (if not already paid in full with your bid), and furnish the required lease bond. We will then award you the lease.

If there is a tie between bidders for the highest bonus bid, we will determine a fair process for breaking the tie. Also, you may revise your bid at any time while the bidding is still open.

BLM can reject any high bid which does not meet all the qualifications and requirements of these regulations. If we offer you a lease but you decide not to accept it, we will keep one-fifth of your bonus bid and refund any additional money submitted. BLM has complete discretion to issue a competitive lease so we can reject your bid for any other reason, such as a change in economic conditions. If we reject your bid, we will refund any money you submitted with your bid.

Subpart 3509—Fractional and Future Interest Leases

This subpart concerns two types of Federal property interests that include less than complete ownership: Future and fractional interests. While these kinds of property are relatively uncommon, there are many instances where the public owns only a share of a mineral estate. When the United States owns an estate in conjunction with other owners, that is a fractional interest. A future interest occurs when the Federal Government owns the right to an estate after a certain date, but owns no present interest in the estate. The Federal Government acquired most of these limited estates during the Dust Bowl Era in order to help landowners recoup some of their losses from failing farms and to establish watershed protection measures.

BLM leases both future and fractional interests noncompetitively to the party who owns or controls the present interest or partial interest. We added a provision that allows limited competition for these leases in cases where more than one person holds ownership or possession. These leases are not available to the public at large. For future interests, we may lease the future interest in a mineral tract to the person who owns or controls the present interest and is currently developing that interest. As a result, when that person's interest ends and Federal ownership begins, the mineral operations can continue under a future interest lease issued by BLM. Similarly, we may lease a fractional interest in a mineral estate to the owner or owners of the other fraction(s), or the party who has acquired the other owner's development rights. This allows a single operator to develop the minerals.

Future interest leasing is covered in §§ 3509.10 through 3509.30. Since future interest leases are only available to holders of the present mineral interest, it is important that you show you are eligible for a future interest lease. You may only lease a future mineral interest from BLM if you own a present interest in the minerals, which means you must own either the record title or the operating rights. Furthermore, you must own all or substantially all of the present mineral interest. If you as a Federal lessee would control 50 percent or less of the present interest, we may reject your application. To apply for a lease, you must submit evidence of this ownership interest, plus information showing that you are qualified to hold a BLM mineral lease (under subpart 3502), a land

description, information about any other owners, and a \$25 application fee.

BLM will notify the other owners, if any, of your application. We will give these other owners 90 days to file additional applications. If we receive additional applications from other qualified owners, we will hold a limited competitive sale. We will use the general procedures in subpart 3508 to conduct the sale, but only qualified interest holders who applied for the lease may bid at the sale.

If there are no other interest holders or we receive no other applications during the 90 day notice period, we will notify you as to whether we will grant the lease. We will reject your application if you do not qualify to hold a lease. Also, you must apply for a lease more than one year before the United States' ownership interest will vest or we will reject your application.

Sections 3509.40 through 3509.50 cover fractional interest leases. BLM issues fractional interest leases where the Federal Government holds less than 100% of the mineral interest of the parcel. These leases allow the other mineral interest owners to develop the mineral estate.

BLM will only grant fractional interest permits or leases when we believe development of the minerals is in the public interest, and with the consent of the surface managing agency.

To be eligible for a lease, you must have a present interest in the same minerals, and you must also meet the qualification standards listed in subpart 3502. Your application must include a description of the land and the same information we require when you apply for a present interest Federal lease. You also need to include evidence of your present ownership interest; the names of any other owners of the mineral interests; and if you own the operating rights to the mineral by a contract with the owner, you also need to submit three copies of the contract.

We will notify the other owners, if any, of your application. We will give these other owners 90 days to file additional applications. If we receive additional applications from other qualified owners, we will hold a limited competitive sale. We will use the general procedures in subpart 3508 to conduct the sale, but only qualified interest holders who applied for the lease may bid at the sale.

BLM will reject your fractional interest application if you are not qualified to hold a lease, if you do not have a present interest in the same minerals, or if you would have a total interest of less than 50% once the fractional interest prospecting permit or

lease is issued, unless we determine it would be in the public interest to issue the permit or lease.

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

This subpart deals with how BLM leases mineral deposits which are too small to be developed independently but could be developed as part of a larger operation taking place on adjacent lands. We may grant you a separate fringe acreage lease if you are developing non-Federal minerals on adjacent lands. If you are operating on adjacent lands under a Federal lease, we may modify your existing lease to add acreage to your lease. In both cases you would acquire the additional mineral lease noncompetitively. Please note that we have renumbered this subpart since the proposed rule, when it was located at subpart 3514. As a result, subparts 3510, 3511, 3512 and 3513 in the proposed rule are now found at subparts 3511, 3512, 3513 and 3514, respectively.

BLM issues fringe acreage leases for mineral deposits which are too small to be leased independently. This means that, in BLM's opinion, the deposit lacks sufficient reserves to warrant independent development, and that the minerals are not located in an area of competitive interest to other mining operations in the area. However, BLM will competitively lease these kinds of deposits when they have competitive interest. For example, BLM will lease a resource competitively if the mineral deposit is between two different mineral operations, and both parties express an interest in the fringe acreage. However, neither law nor policy requires us to lease the resource.

The rules for applying for a fringe acreage lease and a lease modification are similar. To apply, you must submit the serial number of your adjacent Federal lease, or proof that you own or control the adjacent mineral deposit; information which shows that the mineral deposit you are applying for extends from your adjacent lease or private operation; a complete land description; an advance rental payment and a nonrefundable \$25 application fee.

BLM will not grant a lease through the non-competitive leasing process if a competitive interest exists, or if the mineral deposit is large enough to warrant independent development. We will also deny your application for the additional acreage if it would cause you to exceed the acreage limitations in 43 CFR 3503.37, if you are not qualified to hold a Federal lease under subpart 3502, or if developing the lease would be

economically inefficient or fail to properly conserve the natural resources.

Because a fringe acreage lease is a new lease separate from your ownership or control of the adjacent lands, BLM will set the terms and conditions of your fringe acreage lease. If we modify an existing Federal lease on adjacent lands, the terms for the new acreage will be the same as those in your existing lease. Before we issue either type of authorization, you must pay the bonus amount which we will set by appraisal. The minimum bonus amount is \$1 per acre.

Subpart 3511—Lease Terms and Conditions

While BLM sets most of the terms and conditions separately for each lease, there are a number of terms and conditions which apply to all leases. Those terms and conditions are the subject of subpart 3511.

The first two sections, 3511.10 and 3511.11, discuss when you may mine associated, related or commingled commodities under your lease. There are several situations where you may mine associated and related products. If you have a sodium lease, you may mine related compounds including potassium; while if you have a potassium lease, you may mine related products including associated sodium compounds. If you have a phosphate lease, you can use deposits of silica, limestone, and other rock on your lease during processing or refining your phosphate, phosphate rock and associated minerals. In all cases you must pay a royalty for these additional minerals.

Producers of calcium chloride from Federal lands may also apply for a noncompetitive lease to produce commingled sodium chloride. This applies if you are producing paying quantities of calcium chloride from an existing mine, and if you are authorized under the regulations in part 3800 to produce the calcium chloride as a locatable mineral. This is a new provision of the regulations. You must pay a royalty for the commingled sodium chloride.

Most BLM leases are in effect for an initial 20-year term, subject to readjustment or renewal. Each commodity has different provisions for renewal or readjustment, which are explained in the chart at § 3511.15. If your lease can be readjusted, we must notify you before the initial lease term expires of any new terms or conditions we are proposing. If we fail to notify you, your lease will continue for another 20 years under the same terms. By contrast, if your lease requires that

you renew it, you must contact BLM at least 90 days before the initial term expires and express your interest in renewal. If you do not notify us by this time, your lease will expire at the end of the initial term, and your lands may become available for re-leasing.

Once you receive proposed new terms under a readjusted lease, you can object to the terms if you disagree with them, provided you file your objection within 60 days of receiving the proposal. BLM will respond to your objection with our decision on the lease terms, which you may appeal if you are still dissatisfied. See the hearings and appeals regulations at part 4 of this title.

While you are appealing any new terms or conditions, including increased rentals or royalties under a renewal or readjustment, you must continue paying rentals and royalties at the original rate. However, those increased charges will begin accruing as of the renewal or readjustment date. If the increase is sustained on appeal, you must pay any accrued charges plus interest.

To renew your lease, you need to submit three copies of your application, along with a \$25 application fee and an advance rental payment of \$1 per acre, at least 90 days before your initial term expires. There is no particular form for your renewal application.

Whether your lease is renewed, readjusted or otherwise extended, we base your priority as a lessee on the original date of your initial lease.

Subpart 3512—Assignments and Subleases

Once you receive a permit or lease, you may assign it to any qualified person, in whole or in part, subject to BLM approval. Subpart 3512 describes how we process assignments and subleases.

Sections 3512.11 through 3512.17 describe the assignment and sublease process. To assign a lease or permit, you must send us three copies of your assignment instrument, which must describe the assignee, the interest you hold and the interest you are assigning, and any overriding royalties you are retaining. BLM must also receive from the assignee a statement of their qualifications under subpart 3502, and a \$25 processing fee. We will notify you whether we approve your assignment. If you are assigning only a portion of your permit or lease, we will create a new permit or lease containing that portion, if approved.

You may sublease your lease or transfer the operating rights in your permit by a similar process. Simply send us a copy of the sublease or transfer agreement within 90 days of the

agreement's date of execution, and have the sublessee or transferee send a signed request for approval and a \$25 processing fee. We will inform you of our decision as soon as possible. Our approval will depend on the recipient's qualifications and ability to meet all applicable regulatory provisions.

The remaining sections in subpart 3512 concern your obligations under an assigned or transferred BLM authorization, and special circumstances. The most important provision, in section 3512.18, points out that your account must either be in good standing or your sublessee or assignee must have accepted any liabilities before we will approve your sublease or assignment. Furthermore, your assignee or sublessee must be fully bonded, which they can accomplish by either furnishing a new bond under subpart 3504, or by arranging to assume your existing bond. Until we approve the assignment, you will be responsible for all obligations, and if you are subleasing your lease, both you and your sublessee will be responsible for all obligations once we approve the sublease. By contrast, if you are assigning your lease or permit, your assignee will become responsible for all obligations after we approve the assignment, while you remain responsible for all obligations accrued before we approved it.

Finally, if you are assigning an overriding royalty to a third party, you must notify BLM. While we do not have to approve the transfer, you must still file this assignment with BLM within 90 days of the transfer, along with the assignee's statement of qualifications and a \$25 processing fee.

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

This subpart explains how to deal with three types of changes to your ongoing operations: rental and royalty reductions, suspension of operations and production (for conservation reasons), and suspension of operations (for economic reasons).

Sections 3513.11 through 3513.15 concern rental and royalty rate reductions, which BLM may allow temporarily if it is in the interest of conservation, will encourage the greatest recovery of the mineral, and is necessary either to promote development or to allow you to operate successfully under the existing lease terms. You may apply to have us reduce your rental, minimum royalty, or production royalty rate by submitting the information listed in § 3513.15.

We will consider whether you are paying excessive overriding royalties to

non-Federal parties when we review your application. Before we will reduce your royalty you must try to reduce any overriding royalties. BLM will not approve a royalty rate reduction if your overriding royalty exceeds 50 percent of the proposed reduced Federal royalty. For example, if you are seeking to reduce your production royalty to four percent, you must reduce any overriding royalties to a total of no more than two percent. BLM has the authority to order a reduction of overriding royalties to no more than one percent of the gross value of production. You can find this authority at 43 CFR 3504.26.

Next, §§ 3513.20 through 3513.26 concern suspensions of operations and production, while §§ 3513.30 through 3513.34 concern suspensions of operations. Both situations involve BLM allowing or ordering you to temporarily cease operations; but you would suspend operations and production in order to protect or conserve natural resources, whereas you would only suspend operations for financial reasons. To alleviate confusion, these regulations will differentiate between these two situations in the table of contents by referring to "Suspension of Operations and Production (Conservation Concerns)" and "Suspension of Operations (Economic Concerns)."

You may cease your operations under a suspension of operations and production (conservation concerns) when it is necessary in the interest of conserving the natural resources affected by your operations. This can be established if you show BLM in your application for a suspension that you need to halt operations to benefit the resource. We can also reach this conclusion independently and order you to cease operations. If you initiate the suspension by applying to BLM for it, there is no particular application form; you just need to send us enough information to explain why the suspension will be in the best interest of the natural resource.

BLM will set the effective date of your suspension of operations and production. Once we approve your suspension, you will be relieved of any production obligations, and we will reduce your minimum annual production requirements to reflect the portion of each year in which the suspension is effective. You may also cease paying rentals and royalties on the first day of the month following the effective date of the suspension. If the effective date is the first of the month, you may stop making payments on that day. If you pay any rent or royalty while the suspension is in effect, MMS will

credit these payments toward future rental and royalty obligations.

Meanwhile, you are still responsible for all other obligations under your lease, and once the suspension ends, the payment and production obligations resume. Your obligation to make rental and royalty payments resumes on the first day of the month in which you resume production or when the suspension expires, whichever comes first. Finally, BLM will extend your lease by the amount of time in which the suspension was in effect.

You may also cease your operations under a suspension of operations (economic concerns) if you show us that your lease cannot be operated except at a loss, because of market conditions. BLM may approve your suspension of operations if you send us an application containing enough information to show that you cannot operate under current market conditions except at a loss. Once again, there is no particular application form.

Unlike a *suspension of operations and production (conservation concerns)*, a suspension of operations (economic concerns) does not extend your lease term or suspend your annual rental payment. When we approve a suspension of operations, we temporarily waive the minimum production requirements of your lease. We also waive your obligation to pay minimum royalty in lieu of production. If your suspension is for less than a full year, annual payments may be prorated to the length of the suspension. You still must pay your annual rental.

Like a *suspension of operations and production (conservation concerns)*, your production obligations cease on the first day of the month after the date which BLM sets as the effective date, unless the suspension is effective on the first of the month, in which case your obligations cease immediately. Also, the suspension ends if you resume production, or if the suspension expires. In either case your obligations resume as of the first day of the month in which the suspension ends. At that time your minimum annual production obligations resume.

Subpart 3514—Lease Relinquishments and Cancellations

Subpart 3514 deals with the various ways in which your lease may end. Sections 3514.11 through 3514.21 concern relinquishments, where you may voluntarily give up your lease interest. Sections 3514.25 through 3514.40 concern lease cancellations and expiration.

You may relinquish your lease or any portion of it at any time. The only

requirements are that you have met the terms and conditions of your lease, including reclamation obligations, and that relinquishment will not be detrimental to the public interest. Simply notify us in writing that you wish to relinquish your lease, with your signature and the date. Also, if you are only relinquishing part of your lease, you must clearly describe the lands you are giving up. If your application meets the above conditions, we will notify you of our acceptance, as of the date you filed the application.

When you have relinquished your lease, you remain liable for paying all rentals and royalties which accrued prior to relinquishment. You must also provide for preserving mines, productive works and permanent improvements on the land.

Section 3514.25 briefly describes lease expiration: your sodium, sulfur, asphalt or hardrock lease expires at the end of the lease term, unless you have properly filed for a renewal, in which case your lease continues until BLM issues a decision on your renewal request. If BLM rejects your renewal, your lease expires when the renewal is rejected. Potassium, phosphate and gilsonite leases continue for as long as you comply with the lease terms and conditions. See the chart at 43 CFR 3511.15.

Finally, §§ 3514.30 through 3514.40 describe the circumstances and effects of BLM canceling your lease. BLM may cancel your lease through two types of actions: A court proceeding, if you fail to comply with the applicable law or regulations, or if you default on the terms of your lease; or administratively, if BLM issued your lease in violation of the law or any regulation.

BLM may ask a court to cancel your lease if you violate the law or regulations. We may also pursue cancellation in court if you fail to perform any duty under the lease, and you continue to default on that obligation for thirty days after BLM notifies you of your default. BLM will generally give you thirty days after our notice to you to remedy the violation or show why we should not move for cancellation, before we take any further action.

BLM may also administratively cancel your lease if we issued it in violation of any law or regulation—for example, if the lease would put you over the acreage limitations. In such a case, we may amend the lease and reissue it. However, if the defect in your lease is something that we cannot cure—for example, if you are ineligible to hold a lease—the cancellation will be final.

We may waive cancellation or forfeiture if the circumstances call for doing so. When we waive cancellation, that waiver will have no impact on any future cancellation actions which may be necessary.

Finally, if you are a bona fide purchaser of any lease interest, we will not cancel your lease simply because we decided to cancel your predecessor's lease. A bona fide purchaser is someone who bought the interest without any knowledge or reason to know of the lease's legal defects. We will dismiss you from any legal proceedings to cancel the lease if you are not responsible for the defect.

Subpart 3515—Mineral Lease Exchanges

Subpart 3515 discusses mineral lease exchanges. BLM may exchange mineral lease rights with you when we conclude that it would benefit the public interest to do so.

You can exchange your lease or a portion of your lease interests, as well as your preference right to a lease, for a lease of equal value. When you exchange a lease interest in one mineral, you can receive in return an interest in any leasable mineral. This includes hardrock minerals covered by this part. If your exchange proposal involves any interest in a coal lease, you must refer to the coal leasing regulations at 43 CFR subpart 3435.

Either you or BLM may initiate an exchange. You may do so by contacting us. If we initiate an exchange, we will notify you that we are prepared to consider an exchange for some or all of your existing lease, or your preference right to lease. Our notice to you will also say why we believe the exchange is in the public interest, describe the lands we might exchange, and ask you whether you are willing to negotiate and for which lands.

Exchanges must be in the public interest, which for the purposes of this subpart means two criteria must be met. First, we must determine that the benefits of operations under your existing lease or preference right would not outweigh the adverse effects those operations would have on other public values, such as scenic beauty, wildlife habitat, recreation, or agricultural production potential. The lands which BLM would receive must be free of hazardous waste, as defined under the hazardous waste laws. There may be other elements of the public interest which BLM will account for in considering an exchange as well. Also, BLM will comply with the requirements of NEPA when processing an exchange.

BLM may exchange any lands subject to the limitations of FLPMA and other applicable statutes. You may also exchange a preference right to a lease. To do so, you must first establish your preference right through the procedures described in subpart 3507. Once you have demonstrated to our satisfaction your right to a lease, we can negotiate with you for an exchange lease.

The parcels involved in an exchange must be equal in value. If the lands being exchanged are not equal in value, the exchange can be made equal with cash. However, any payment cannot exceed 25 percent of the total value of the land or interest in land you are receiving from BLM. Under certain circumstances the parties may agree to waive the equalizing payment. We can only agree to this waiver if it will expedite the exchange and if the public interest will benefit more from the waiver than the payment. The waiver amount can be no more than three percent of your new lease's total value or \$15,000, whichever is less.

Either you or the BLM may initiate an exchange. In order for us to proceed with an exchange, you must be willing to provide us any additional geologic and economic data we need to determine the value of your lease or preference right. Once we have reached an agreement on the lands to be exchanged, BLM will publish notice of the exchange in a newspaper of general circulation serving the counties where all lands involved are located, and arrange for a public hearing. We will solicit public comments on the proposed exchange, and after considering this input we will make our final decision to approve or reject the exchange.

If we approve the exchange, we will offer you a lease containing the lease terms discussed in the appropriate regulations and any needed special stipulations. Once we approve an exchange we will include a statement in your new lease that you relinquish all interests in the land which you are giving up in exchange.

Subpart 3516—Use Permits

This next subpart concerns special permits to use the surface of lands which are not included in your lease. If you have a phosphate or sodium lease or permit, you may apply for a permit to use the surface of nearby lands for purposes related to your mineral development.

BLM may grant use permits on unappropriated, unentered lands which we administer. Under a phosphate use permit, you could conduct activities on the surface necessary to extract, treat or

remove phosphate deposits from your leased lands. Under a sodium use permit, you may occupy camp sites, develop refining works, and otherwise use the surface to accommodate your sodium lease operations.

To apply, send your application, a \$25 processing fee, and the first year's rental, which is \$1 per acre or fraction of an acre. Your application should describe the lands you seek and the specific reason why you feel you need to use them. You should also submit any additional information which demonstrates that the lands you seek are available and suitable for your needs. Your application must include a statement that you agree to pay the annual charge identified in the permit, which should be \$1 per acre or \$20, whichever is greater.

If BLM grants your use permit, you will be able to use the lands for the specific purposes identified in it. Your use permit will contain an expiration date, but if your associated lease or permit expires or terminates for any reason during the life of the use permit, we will terminate the use permit at that time. Use permits cannot outlive the operations they are intended to support. Finally, if you fail to pay the rental within 30 days of BLM notifying you that the rental is due, we will terminate your use permit.

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

The final subpart of these regulations concerns a subject specific to hardrock mineral leases: development contracts and processing and milling arrangements. These are agreements between one or more lessees and other persons to collaborate on large-scale operations to develop, produce, or transport ores. Permits and leases committed to these contracts and arrangements do not count towards your maximum acreage holdings.

BLM must approve any such agreement you enter into if your permits and leases are not to be counted toward your maximum acreage holdings. You may apply for BLM's approval by submitting copies of all agreements between you and other parties to the development contract or processing and milling arrangement; a statement which identifies the nature and reason of your request, and which shows all interests held in the area by the designated contractor; and a proposed plan of operations. BLM will approve your agreement only if it will conserve natural resources and is in the public interest.

III. Responses to Comments

BLM received a total of 29 comments on the proposed rule. The commenters included nine corporations, three industry associations, eleven BLM offices, three other government agencies, and three individuals. These comments addressed a wide variety of subjects, and ranged from commenting on general issues to offering specific language changes. We have considered every comment and will address them here, beginning with general comments followed by responses to comments on a section-by-section basis.

A. Generally Applicable Comments

The most hotly-debated issue raised by the proposed rule concerns the definition of a "valuable deposit." Sixteen of these comments addressed the term "profitable mine" as an aspect of the definition of a "valuable deposit." Many of these commenters say that by making this change we have substantially raised the standard of evidence required to earn an entitlement to a preference right lease. Others suggest that this definition exceeds our authority under the law, and suggest that a permittee need only show that they have established the "existence and workability of the deposit" during the term of a prospecting permit in order to be entitled to a preference right lease. We have carefully considered these comments, but we have chosen to leave the definition as we originally proposed it.

The proposed language does not materially change the definition or our existing policy. For example, BLM Instruction Memorandum WO 93-101, dated December 31, 1992, clearly states that BLM's policy is that "valuable mine" means "profitable mine" in this definition. Our legal authority for this definition is found in the Mineral Leasing Act and the Mineral Leasing Act for Acquired Lands.

This definition does not require that a prospecting permittee demonstrate that a profit can be made from the property. The language is conditioned by the phrase "reasonable prospect of success." This means that the permittee only has to show how one can reasonably infer from the data collected during the period of the prospecting permit that further expenditure of his or her means is justified by the expectation he or she can develop a profitable mine.

We have considered if we can make a distinction between a valuable mine and a profitable one. Is there a level of information that would show a hypothetical mine to be valuable, but at the same time be insufficient to show

that it is reasonable to believe that this same hypothetical mine would be profitable? We do not think there is. Information that is less than that necessary to show a person can reasonably expect to develop a profitable mine may show that a valuable prospect exists, but is insufficient to show that a valuable mine can be developed. If a property is only valuable as a prospect, then the permittee has not yet earned an entitlement to a preference right lease.

Nine commenters expressed their opinions about the new style in which this rule is written. As mentioned above, this rule has been reorganized to consolidate overlapping provisions into a single set of generally applicable rules. We are also writing in "plain language," which involves transforming the rule text into a series of questions and answers. Commenters had mixed reactions to our new format, but since we are required to use plain language and to streamline all BLM regulations, we are not making substantial changes in response.

More specifically, some commenters said streamlining is a bad idea because it took the old system, where each commodity had its own set of regulations, and merged them all into a single, more confusing set of regulations. We disagree. There are very few differences between how each commodity is leased, and once people get used to using the new, consolidated rules, they should find them just as easy to use as the prior rules. One commenter felt that streamlined regulations worked in favor of large corporate customers and against small businesses. Again, we disagree. BLM designed these rules to be easy for everyone to understand, including people entirely outside the mining industry. This should actually benefit small businesses, who sometimes may not have the same expertise as large corporations. Your local BLM office is also available to help you understand any regulation that affects you.

Two commenters felt the proposed table of contents was long and hard to understand. We agree, so we have added groupings to the table of contents which should make the table of contents much easier to read. Now, if you want to know how to prove that you are qualified to hold a lease, rather than searching through all fifteen section headers under "Subpart 3502—Qualification Requirements," you can find the grouping called "How to Show Lease Qualifications" and find the section you need more quickly. These groupings should also make it easier to understand how we structured the regulations.

Some people also were unhappy with the question-and-answer format, where each section header is a question which is answered by the section text. This is a key aspect of plain English, which BLM is committed to using. Once you get used to it we believe you will find it very helpful.

Several commenters did not understand the numbering system used in the proposed rule. Two commenters said that the numbering system in the proposed rule did not conform to the numbering system used in BLM's case tracking computer database. We made several changes in the final rule in response to these comments. We added subheadings under the major headings to clarify the organization of the rule. Also, we changed the tables in the rule so that we always list the commodities in the same order. The final rule lists the commodities in the same order as that used in the previous version of this rule. Also, we intentionally skipped numbers in the final rule. We did this to leave room for any future amendments and additions to this rule that might someday be required.

One key index in our computer databases is the case type field. The case type index allows a user to search the data base for particular kinds of cases, for example phosphate leases, and ignore other cases. The first four digits of the case type field have cited the regulations that authorize the action. For example, the first four digits of the case type for competitive phosphate leases is 3515, the same as the citation for competitive phosphate leasing in the previous rule.

This rule making does not require any change to our computer databases. If BLM needs to change this database, we will not need to change this rule to do so. We have placed the commodities in the order in which they were found in the previous version of this rule so that the first three digits of the case type field will refer to the rule. We did this as a matter of convenience and with the hope that it will make the rule easier to use.

There were several general comments concerning substantive issues. One commenter suggested that we should ask potential lessees to certify themselves as qualified, rather than asking them to submit proof of their qualifications so that we can certify them as eligible. We did not accept this idea. While self-certifying could save applicants some time, we feel this is too important an issue for BLM to relinquish our responsibility. Leases issued to people who are not qualified are void by law, and if we granted a lease to an unqualified person and were

forced to shut down their operations later, it would be far more costly and complicated than determining qualifications at the outset. These problems could also occur where someone accidentally misinterprets the qualifications. BLM prefers to resolve these critical issues before we issue a lease, and we think it is in the public interest to do so.

One commenter pointed out that we had eliminated all information on fractional interest leases. We have since reinstated information on fractional interests in this final rule, beginning at 43 CFR 3509.40.

Two commenters requested that BLM make several changes to the proposed bonding requirements, such as allowing self-bonding, not duplicating state bonding requirements, and not requiring high premiums until a user has planned a surface disturbance. We have not made any changes to accommodate self-bonding. First, we will not accept self bonds because they provide no additional security to the government. A self bond is a personal or corporate guarantee of performance. This is not significantly different from the lease document. Once you sign the lease, you have guaranteed your performance of its terms and conditions. The purpose of the bond is to secure performance of these terms and conditions should you be unable to honor your guarantee.

We have added language to § 3504.50 that allows BLM offices to enter agreements with state governments on bonding. In a state where we have entered such an agreement, your state bond may not fully satisfy BLM's bonding requirement. We may still require additional bonding in such states because our bonds cover compliance with all terms and conditions of the lease. State governments generally only bond your reclamation obligations. BLM bonds for reclamation as well as for the payment of rental and royalties. If you are working in a state where the BLM and the state government have developed an agreement on bonds, the information you file with us must prove that your state bond completely covers your responsibilities to BLM, for the entire life of the BLM bond you would otherwise need. If you cannot prove this, or if your state bond is inadequate, we will require you to file an additional bond.

The final rule does have provisions for phased bonding in § 3504.60. This subpart allows us to adjust your bond as circumstances warrant. It may take some time after we issue your lease before you have gotten all the permits needed to open a mine. You need to have a full

reclamation bond in place before you open the mine, but you may not need to have this full bond in place while you are still seeking permits. Subpart 3504.60 allows individual BLM offices to phase in your bond if appropriate.

Finally, a few comments raised questions and offered suggestions for language we could use to describe areas which are known to contain a deposit of a leasable mineral. Exploration licenses, competitive leases, and fringe acreage leases are available in these areas. One comment requested that we use the term Known Leasing Area to describe areas where these authorizations are available. We chose not to change the language in the final rule.

The term Known Leasing Area (KLA) comes from the BLM's practice of classifying lands for various purposes. The former Conservation Division of the U.S. Geological Survey was responsible for designating KLAs. The Secretary of the Interior transferred this responsibility to BLM in the early part of the 1980's. The boundaries of KLAs are fixed through a formal decision process. Because of other workload priorities, we have not reviewed many of these KLA designations recently. Some of these designations may be out of date. Therefore, we chose to avoid the use of the term Known Leasing Area in the final rule.

Under the final rule, we intend for BLM to review each application to see if it is for lands known to contain a valuable deposit of a leasable mineral. This will be more effective than relying solely on old classification maps that may not be based on all currently available geologic data.

B. Specific Comments

Authority Citation

Several comments suggested that we should retain the authorities section from the previous version of the regulations. The existing regulations now contain a complete list of all the statutory authorities which support this part. Also, each commodity section lists statutory authorities. In response to these comments, we expanded the authorities section at the beginning of the rule. We deleted the authorities section from each commodity section because of the way we consolidated the rule. However, we included any commodity-specific authority in the general section listing our statutory authority.

Section 3501.5

Three commenters suggested expanding the definitions section at section 3501.5 to resemble the existing

set of definitions. One commenter opposed consolidating definitions sections in general, reasoning that consolidated sections will be harder to work with and will make it more difficult to track changes to regulations because when BLM revises a definition we can do so by simply referring to the definitions section, not the affected regulations. We did not accept these comments, except to add the term "acquired lands" to the definitions section. We do not use several of the terms we deleted from the definitions section in the final rule. We deleted other terms from the definitions section because we believe these terms will be readily understood when read in the context of the rule. Therefore, we chose to leave these terms out of the definitions section.

Three commenters felt the proposed definition of "hardrock minerals" was deficient. We re-wrote this definition to give a simple, brief explanation of what hardrock minerals generally are and what they are not, without listing all the specific minerals which could fall into this category.

Based on a comment by a BLM office, we deleted the proposed definition of "leasing," which we decided was unnecessary. These regulations explain leasing in great detail, and defining the term does nothing more to help the reader. We also deleted the proposed definition of "Act" because we do not use this term in the rule.

Section 3501.10

Two commenters disputed the proposed language about who determines land to be chiefly valuable for a mineral, and when this determination is required. We amended 43 CFR 3501.10(a) to point out that BLM will determine if land is chiefly valuable for developing a certain mineral, and that BLM must do so only when someone holding a prospecting permit for sodium, potassium or sulphur discovers a valuable deposit and wants a preference right lease to mine the deposit. The permit holder does not make "chiefly valuable" determinations.

Section 3501.16

One commenter suggested including a provision which says that we will determine your priority based on the date of your initial permit or lease. We have accepted this idea, so that now your priority will be determined by your original lease date, even if you have since renewed it.

Section 3501.17

We received four comments on paragraph (b), which says that BLM or the surface managing agency must comply with NEPA before issuing any permit or lease. Two commenters requested definitions of NEPA and "surface managing agency" but we felt this was unnecessary. NEPA refers to the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* The surface managing agency will be the Federal agency responsible for managing the surface estate overlying a leasable mineral area.

Section 3502.13

One BLM office pointed out that we no longer maintain a list of countries which deny U.S. citizens and corporations the opportunity to hold mineral leases or permits. The procedures implementing the Mineral Leasing Act's alien ownership provisions were changed by notice in the **Federal Register** (47 FR 27622, June 25, 1982). This comment is correct, so we deleted the reference to this list from this section.

Section 3502.25

We received one question about filing evidence to show that you are qualified to hold a lease or permit. This comment asked if you have to file evidence with every application. The final rule requires that you do. The information you submit to one BLM office may not be shared with another because it stays with your application. Also, your qualifications may change over time. Therefore, we ask that you submit a copy of your proof of qualifications with each application you file.

Section 3502.30

In response to a question we received, we changed the rule to state that the alien provisions apply to hardrock minerals on acquired National Forest lands.

Section 3503.10

This section lists the areas which the Secretary of the Interior is prohibited by law from leasing because of their wilderness values. This includes designated wilderness, Wilderness Study Areas (WSAs), inholdings in wilderness, and lands recommended for wilderness designation by the surface managing agency. One commenter asked whether this also included lands in Utah that may be reinventoried for wilderness values. BLM is not prohibited by law from leasing these lands provided they are otherwise available.

Section 3503.11

One comment pointed out that the Grand Staircase-Escalante National Monument was closed to mineral leasing by Presidential Proclamation on September 18, 1996, subject to valid existing rights. We added a reference to the Grand Staircase-Escalante National Monument to § 3503.11. This section of the final rule lists those areas where we will not issue a permit or lease. There are no existing prospecting permits or preference right lease applications for the commodities controlled by this rule in the Grand Staircase-Escalante National Monument, so we will not have to consider preference right leasing for these commodities in this area.

One comment pointed out that we have no legal authority to issue permits or leases in Ross Lake and Lake Chelan National Recreation Areas. We removed the reference to these areas in the final rule. The proposed rule copied the list of lands available for leasing from the previous rule. We published the previous rule in 1986. Congress passed the law that removed the authority to issue mineral permits or leases in Ross Lake and Lake Chelan National Recreation Areas in 1988. We have corrected the final rule.

Section 3503.20

We received a comment asking for clarification of the difference between a "consenting" agency and a "consulting" one. Depending on the status of the surface land in question, BLM may need to consult with the surface managing agency, in which case we will seek their opinion but may not be bound by it; or we may need to obtain the surface management agency's consent before we may approve your lease or permit application. If that agency withholds its consent, we cannot approve your application.

Section 3503.25

One comment suggested that we reword this section to apply these regulations to all Federal mineral estate underlying private land. We agree and changed this section. BLM will use this rule to administer leasable minerals on all Federally-owned mineral estate beneath privately owned surface lands. In cases where the Federal Government has patented the surface while reserving both the mineral estate and the right to reenter the lands to develop the mineral estate, we can use these regulations directly. Deeds used to transfer land to the Federal Government may contain special covenants. To the extent practicable, these rules will be used to manage acquired Federal minerals

beneath privately-owned surface, but special covenants may require exceptions to some processes or standards described here. In certain cases where a deed covenant requires us, we will make exceptions to these rules. Our regulations cannot displace the terms of a deed that transferred the mineral estate to the Federal Government.

Section 3503.28

Four commenters expressed concern over this section, which says that BLM will specify any stipulations to your lease that the surface managing agency or private surface owner requires. We revised this section to clarify what stipulations we will add to your lease. We will add stipulations which BLM believes are necessary to protect the lands and resources. We will also add those stipulations which a surface managing agency requires as part of its consenting role (see § 3503.20). BLM may also consider additional stipulations requested by a consulting agency or private surface owner, though we will only add those stipulations with which we agree.

Section 3503.31

For the section concerning how you should describe unsurveyed lands in Public Land Survey states, one commenter asked why we do not allow you to use GPS mapping to comply with this requirement. You may use GPS mapping as a tool to fulfill this requirement, as long as your survey meets or exceeds BLM's standards for accuracy of public land surveys and land description.

Section 3503.37

Two commenters requested that BLM consider raising the acreage limitations in section 3503.37. We raised the acreage limit for potassium to 96,000 acres, but we have not increased any other limits because the other limits are set by statute.

Section 3503.38

One commenter asked whether BLM, when calculating your acreage holdings to see if you are within the acreage limits, will count your corporate holdings against you and also against a corporate applicant. The answer is yes. When we are calculating your personal acreage holdings, we will include acreage which is held by corporations in which you own an interest, in proportion with your ownership share, provided you own at least 10 percent of the corporation. We will also charge that same acreage against the corporation when it applies for a lease or permit. As

discussed above, BLM believes counting the same acreage in each case is the fairest way to calculate holdings.

Section 3503.41

Whether BLM will release confidential information you submit to us drew two comments on this section, as well as several comments on other sections which require you to submit data to BLM. On this section, commenters asked us to make the rules more clear about when and how they may ask BLM to protect sensitive information from release. We expanded the rule by adding §§ 3503.42 through 3503.46 to provide clarification on these access questions. These sections are based on a new rule on this subject published on October 1, 1998 (61 FR 52946).

It is the BLM's policy to make records available to the public to the greatest extent possible consistent with the intent of the Freedom of Information Act (FOIA) (5 U.S.C. 552). We will preserve the confidentiality of documents when sound grounds exist for invoking one of the nine FOIA exemptions and we will protect sensitive information when appropriate under the law. We apply FOIA exemptions to information on a case-by-case basis, and do not categorically exempt information. We must process FOIA requests for mineral resources information under the FOIA rules of the Department at 43 CFR part 2 subpart B.

Exemption 4 of FOIA protects trade secrets; and commercial or financial information obtained from a person that is privileged or confidential. Exemption 9 of FOIA protects geological and geophysical information and data, including maps, concerning wells. Executive Order 12600 and Departmental rules at 43 CFR 2.15(d) generally require notification of, and consultation with, a submitter when we contemplate releasing arguably confidential commercial or financial information. If the information is obviously exempt from disclosure, the request may be denied without consulting with the submitter.

It helps us complete the FOIA review of information if you clearly mark the information you consider to be exempt from release under FOIA before you submit it. BLM will consider the marked information and make its access determinations as provided in the standard public availability of information provisions of the mineral rules at 43CFR 3100.4, and 43 CFR 2.15(d). BLM also refers to applicable court cases identified in the Department of Justice FOIA Guide when making determinations. If we intend to release

a requested record over the objection of a submitter, we must notify both the requester and the submitter in writing of our decision before we release it.

According to newly published rules at 43 CFR 3100.4, BLM must contact the Indian mineral owner and the submitter if we receive a FOIA request for information related to Indian land and the requested information may be covered by Exemption 4. The Department describes the process we use to contact the Indian mineral owner and the submitter in the rules at 2 CFR 2.15(d).

We may release some information in case files to the public without a FOIA request if it is not covered by a FOIA exemption. You may obtain more information about how FOIA relates to specific information by contacting the BLM FOIA Coordinator or Mineral Specialist in the office where the information is kept.

Section 3504.11

The Minerals Management Service (MMS) commented that this section was not completely accurate: MMS accepts postal money orders, negotiable instruments and electronic fund transfers, in U.S. currency, but they do not accept cash. We revised this section to refer the reader to the MMS rules. We also added language to allow us to authorize other payment methods, such as electronic fund transfers, should we develop additional capabilities in the future.

Section 3504.15

MMS also pointed out that rentals for prospecting permits are 50 cents per acre or fraction of an acre. BLM has added this additional phrase to make this section more accurate.

Section 3504.16

We received four comments on this section, reflecting different ideas about when rentals should be due after the first year of the lease. We proposed using the anniversary date in all cases, but as two commenters pointed out, the law requires BLM to use a January 1 deadline for sodium, potassium and asphalt, and the anniversary date for all other leasable minerals. We revised this section to conform with the laws which require payment before January 1 for sodium, potassium and asphalt, on or before the anniversary date for phosphate and before the anniversary date for other minerals.

We also changed the language of this section and in § 3504.25 to clarify how lease rentals are credited against royalties. Please see the discussion in our response to comments for § 3504.25.

Section 3504.21

We received several comments on this section, which we converted into a table to make it easier to read. First, one person thought the section was unclear about what is a related product. We have not amended this section to further define related products because they are discussed in greater detail at 43 CFR 3511.10. Another commenter asked us to explain in this section that when the United States owns less than the entire mineral right, BLM will charge you a pro-rated royalty. We do not believe this language is necessary. You will be required to pay the full royalty amount on all of the Federal production. We recognize that in a situation where the Federal Government owns less than the full mineral estate, we are entitled to royalty for only that portion of the production that is credited to the Federal ownership. We discuss fractional interest leases more fully in subpart 3509.

Section 3504.25

One comment recommended that we amend this section to require you to pay minimum royalties in lieu of production annually before January 1 for sodium, asphalt and potassium, while paying them before the anniversary date for other minerals. We agree and changed the language.

A comment also suggested we add a sentence pointing out that hardrock leases, development agreements, and operating agreements that are subject to escalating rentals, are exempt from minimum production and royalty requirements. We included this suggestion in the final rule.

We also changed the language of this section to clarify a possible ambiguity in the proposed rule about crediting lease rental against royalties. We use both the term "production royalty" and the term "minimum royalty in lieu of production" in this rule. Lease rental can be credited against either form of royalty in any given lease year. For example, in the case of a 1,000 acre, non-producing lease in its sixth year, a lessee would owe \$1,000 in rental. The lessee would also owe \$3,000 in minimum royalty in lieu of production. However, the lessee would receive a credit for the \$1,000 for the rental that was paid, so the lessee would submit only an additional \$2,000. Therefore, since the lessee received a credit for the rental, the lessee would have paid a total of \$3,000 to hold the lease in this year. If the lessee were then to produce minerals after making the payment of minimum royalty in lieu of production, he or she could receive credit for the

minimum royalty in lieu of production for that year only. So, if the lessee produced minerals that accrued a royalty obligation of \$10,000, the lessee would have a credit for the \$3,000 already paid in minimum royalties in lieu of production for that lease year and would owe only an additional \$7,000. This credit can not be carried forward into later lease years.

Section 3504.71

This section discusses when BLM will release your bond and free you of any further liability at that site. We said in the proposed rule that you must first take effective measures to ensure that your activities would not have an adverse effect on surface or subsurface resources. One commenter proposed that we change this language to require you to assure instead that the effects of your activities have been minimized, but we cannot accept this suggestion. We think minimizing impacts is too weak a standard. BLM has a duty to see that your activities will cause no adverse effects on the land once your bond has been released.

Section 3505.30

When you amend your application to include additional lands, we proposed that we use the date of the amended application to determine your priority. One commenter felt we should use the date of the original application for the lands in that application, and only apply the later date to added lands. However, we feel this would be unfair, and cannot accept this suggestion. We review applications as a whole, and need to apply a single date to that application. If you amend your application to include additional land, we will use the date you filed your amendment to establish the priority of your application. If you wish to preserve your earlier date, you can file a separate application for the new lands. This prevents someone from reordering their priority on land by attaching the land to an earlier application.

Section 3505.45

Two commenters thought our proposed section on what you must include in your exploration plan was unnecessary and too detailed. We considered reducing this section, but decided that we should not make it any shorter or less detailed. BLM needs all of this information at the time you are submitting your prospecting permit application, not when the permit is already issued. We must make a careful environmental analysis when deciding whether or not to issue a prospecting permit because you may earn a

preference right to a lease through prospecting for Mineral Leasing Act lands. Also, we need to consider if the exploration you propose would disclose a mineral deposit if one exists. Therefore, in order for us to make a fully informed decision at the proper time, we need this information with your prospecting permit application.

We decided to keep this section intact in subpart 3505 because these requirements are not duplicated elsewhere in these regulations. We also require you to submit exploration plans when you apply for an exploration license. This final rule sets out the requirements in this section only, and subpart 3506, concerning exploration licenses, refers back to here.

Section 3505.501 (Suggested New Section)

One commenter suggested adding an additional section between §§ 3505.50 and 3505.51 which would require us to process prospecting permit applications in 180 days, including review by the surface managing agency. We have decided not to include this language. Each BLM office will strive to process applications in a timely manner. However, because of BLM's complex array of management duties and limited resources, there is always the possibility that some event could occur which would make it impossible to meet strict deadlines. We need to retain our flexibility to deal with such situations, while still providing quality customer service.

Section 3505.62

In our proposed rule, we defined reasonable diligence under a prospecting permit as a function of how many core holes you drilled, among other actions. This prompted one commenter to point out that other holes, such as percussion or circulating holes, would also show that you have diligently explored an area. Therefore, we removed the word "core" from this section. We will consider any holes you drill, as well as other actions you take, to determine if you have been reasonably diligent in your exploration.

Section 3506.10

One commenter questioned the need for exploration licenses. This individual also questioned the BLM's role in exploration licenses. We believe we need exploration licenses, but we made some changes to clarify the final rule in this area.

We can only issue prospecting permits in areas where we know of no valuable deposit of leasable minerals. We must issue competitive leases on

lands where we know that there is a deposit of leasable minerals. In some of these areas you may not be interested in bidding on a lease because you do not have enough geologic and environmental data. An exploration license provides a way for you to collect these data.

It is important for the BLM to be involved in the exploration process. Before we issue a competitive lease we need to make some geologic and economic decisions. We need to estimate the environmental impacts of mining a lease tract before we can issue a lease. Also, we need to set the fair market value of the tract. We must make these decisions based on all available, relevant data.

BLM will hold data submitted under an exploration license as proprietary as allowed by FOIA or until we lease the deposit. We need the authority to share exploration data after we lease the deposit because the party who gets the lease and the party who conducted the exploration may be different. We want the lessee to use all of the available data as it develops the lease.

Section 3506.15

One commenter said that BLM should not establish core hole spacing because permittees and licensees have more experience in doing this. We have not changed this section because of this comment. We may accept your suggestions about establishing core hole spacing, but we will remain ultimately responsible. We need the authority to set hole spacing so that exploration addresses our priorities for data collection. For example, we may have important questions about ground water on a lease tract. A licensee may be interested in overburden characteristics. The location of a drill hole could be very important to the ground water issue, but not particularly sensitive for the overburden issue. We may exercise our authority to set hole spacing in this kind of situation. We may also need to change the location of a hole to protect other resources such as cultural resources. However, we did drop the word "core" from discussions of hole spacing.

Section 3507.25 (Relocated to 3507.19)

This section has been renumbered as § 3507.19. In response to several comments, BLM is modifying the final rule regarding the agency's discretion whether to issue a preference right lease. The modification reflects both underlying statutory differences between minerals administered under the Mineral Leasing Act (MLA) and minerals on certain acquired lands

administered under a different statutory scheme, as well as BLM's historical practice.

Under the MLA, if the holder of a prospecting permit makes a discovery of a valuable mineral, that person generally is "entitled" to a preference right lease for those minerals. For example, for phosphate, the statute provides that:

(If prior to the expiration of the permit the permittee shows to the Secretary that valuable deposits of phosphate have been discovered within the area covered by his permit, the permittee shall be entitled to a lease for any or all of the land embraced in the prospecting permit.

30 U.S.C. 211(b). See also 30 U.S.C. 262 (sodium), 272 (sulphur), and 282 (potash) which have similar provisions. These MLA sections for minerals other than phosphate include the requirement that the lands must be "chiefly valuable" for production of the particular mineral. The Secretary's discretion whether to issue the preference right lease therefore effectively is limited to whether the prescribed statutory standard is met.

For acquired lands, the Mineral Leasing Act for Acquired Lands (MLAAL) applies the MLA preference right leasing standards for the same minerals including phosphate, sodium, potassium and sulphur. However, for certain acquired lands the Secretary also has authority to lease other minerals not subject to the MLAAL. For example, the United States acquired certain lands for the Forest Service under the Weeks Act of 1911, 16 U.S.C. 520, and the Bankhead-Jones Act, 7 U.S.C. 1010. Originally, the authority to lease minerals underlying those lands was vested in the Secretary of Agriculture. However, under Reorganization Plan No. 3 of 1946, 5 U.S.C. App. 1, the leasing authority for certain of these minerals was transferred to the Secretary of the Interior. Under this authority, the Secretary may issue prospecting permits and leases for certain hardrock minerals such as lead, gold, silver, etc. Any decision to lease must be consistent with the purposes of the statute under which the lands were acquired or are being administered, and the Secretary of the Interior must obtain the surface managing agency's consent before issuing a lease. See Reorganization Plan No. 3 of 1946 Section 402 (5 U.S.C. Appendix). The Secretary's decision to lease, or the surface managing agency's consent, may be based on the inclusion of protective stipulations. However, the Secretary has complete discretion whether to issue a prospecting permit which necessarily

precedes a preference right lease application.

Unlike the MLA (and by incorporation the MLAAL), the leasing provisions under Reorganization Plan No. 3 of 1946 do not include a provision "entitling" the holder of a prospecting permit to a lease upon making a valuable discovery. Despite this statutory difference, BLM adopted one regulation in 1986 applicable to minerals leased under all these authorities. 43 CFR 3500.0-3. Thus, under this rule, minerals leasable under Reorganization Plan No. 3 were treated under the same preference right leasing system as minerals leasable under the MLA. However, despite this same regulatory umbrella, BLM historically has treated minerals leased under Reorganization Plan No. 3 differently by including stipulations in the prospecting permits stating that:

(No mineral development of any type is authorized hereby, and consent to the issuance of this prospecting permit as required by law and regulation (43 CFR 3500.9-1(b)) is given subject to the express stipulation that no mineral lease may be issued for the land under permit without the prior approval of the USDA Forest Service [in its capacity as surface management agency] and the proper rendition of an environmental analysis in accordance with the National Environmental Policy Act (NEPA) of 1969, the findings of which shall determine whether or not and under what terms and conditions the lease may be issued.

Thus, BLM made clear that issuance of the prospecting permit would not necessarily entitle the permit holder to a lease. Through this stipulation the Secretary retained discretion whether to issue the lease and also specified that lease issuance was contingent on Forest Service approval and further NEPA analysis of full scale mining. This stipulation was not included in MLA (and MLAAL) mineral prospecting permits.

We received comments from the Forest Service and the National Park Service recommending that this final rule should reflect the difference between the minerals BLM administers under the MLA scheme and Reorganization Plan No. 3, consistent with BLM historical practice. We agree with this comment. Therefore, in subpart 3507 of the final rule, we have clarified the prior language to distinguish between the MLA (and MLAAL) minerals and Reorganization Plan No. 3 minerals. For the former, finding a valuable deposit under the prospecting permit more or less entitles the permit holder to a preference right lease, subject to the "chiefly valuable" determination. For minerals leasable

under Reorganization Plan No. 3, if the permit holder makes a valuable discovery, the BLM will both make its own independent determination whether to issue a lease and seek surface managing agency consent before issuing a non-competitive lease to the permit holder. BLM's determination will include consideration of such factors as the environmental impacts of full scale mining. As noted above, this rule change simply has the effect of making the regulatory language correspond to BLM's historical practice of treating leasable minerals under Reorganization Plan No. 3 differently, which was accomplished through the stipulation in the prospecting permit.

Section 3508.15

One commenter suggested that we give a detailed description of the various bidding methods that we might use in our competitive lease sales. This individual also suggested that the language in the proposed rule seemed to imply that a sealed bidding process is the only bidding method allowed. We have not changed the final rule in this area.

The rule as proposed does not require a specific bidding method. Section 3508.15(b) requires that we publish the bidding method we will use in the notice of lease sale. This can include the method used to break ties in bidding. We think it important to leave flexibility in this area of the regulations. BLM wants to ensure fair bidding and that we obtain fair-market value for the lease tract. The methods needed to achieve this can vary from place to place and time to time. Since the rule requires that we publish the bidding method in advance of the sale, all interested parties will receive notice of the method we intend to use.

Section 3509.11

One comment suggested that we add language to the rule saying that we may reject a lease application because of tangible and intangible environmental considerations. If we were to adopt this suggestion, we would have to more precisely define our use of the phrase "in the public interest." We have chosen not to adopt this suggestion and have not changed the final rule. We intend for the phrase "in the public interest" to imply a consideration of the potential environmental costs of mineral development. It is our duty to balance the potential benefits of mineral development against the potential environmental consequences of that development when we decide that the approval of an application is in the public interest. In § 3515.15(c), we list

the items we consider when making determinations of the public interest. We do not repeat this list every time we use the phrase "in the public interest" because we want to limit the redundancy in this rule.

Section 3509.12

One commenter pointed out that it is inaccurate to refer in this section to the "person who has a present interest in minerals * * *" because there can be more than one owner. We made this change.

Section 3509.18 (New Section)

One commenter pointed out that we provided no means to resolve situations where more than one qualified party applied for a future interest lease. Based on this comment, we added a section that requires us, when we receive a future interest lease application, to notify all present interest owners and give them a chance to apply for a future interest lease. We would then hold a competitive lease sale among the qualified applicants. We believe this change is needed so that our process is fair to all present interest holders.

Section 3509.40 to 3509.51 (New Sections)

One commenter pointed out that we had omitted regulations on fractional interest leasing. This was an oversight in the proposed rule. We added these sections to address fractional interest leasing. The fractional interest leasing section is similar to the language on future interest leasing.

Section 3510.20 (Relocated to 3511.10)

One commenter suggested that we add language to this section to address hardrock mineral leases. We did not change the text in the final rule, although we did move this section to § 3511.10 as part of our reorganization of subparts 3510 through 3514. This section of the regulations describes BLM's special authorities to issue leases to mine more than one commodity under a mineral lease. The intent of this section is to bring attention to certain commodities we lease only because of their association with a leasable mineral. For example, you would normally develop limestone under our mineral materials program or under the authority of the general mining law. However, if you develop limestone on your lease to support phosphate processing, your lease includes the limestone and you pay a royalty on its production. This is a special provision of the Mineral Leasing Act. We do not need to make a similar distinction for hardrock minerals, because on lands

where we lease hardrock minerals, we lease all minerals except common clay and common varieties of sand, stone, gravel, pumice, pumicite and cinders. We do not need special authority to lease both lead and zinc from the same parcel.

Section 3510.21 (Relocated to 3511.11)

This section discusses the conditions for producing sodium chloride commingled with your calcium chloride deposit. One person suggested that royalties should be limited to two or three percent of the gross value of the sodium, and that BLM should not apply royalties retroactively. We have not proposed collecting royalties retroactively, nor will we in this rule. However, we will not accept the suggestion to place a limit on the royalty rate. That rate must be determined based on the circumstances particular to the site, just as we determine royalties for all other leases. This is because BLM has an obligation to collect fair market value for the use of public resources.

Section 3511.11 (Suggested New Section)

One person suggested that we add a section at the beginning of subpart 3511 stating that leases will contain provisions to change the name on a lease by having the new lessee send notice. We cannot do this, for several reasons. First, we must hear from the original lessee so that we can be sure a proper assignment agreement exists. Second, BLM must approve the new lessee before the transfer can take place, including verifying that bonding is adequate and that the new lessee is qualified to hold the lease. Finally, we must verify that the original lessee has paid all royalties before we can approve any assignment or sublease.

Subpart 3512 (Relocated to Subpart 3513)

One commenter suggested that we change the term "minimum royalties" in the name of this subpart and all other places to "advance royalties". This term refers to minimum royalties in lieu of production. The term "advanced royalties" is used in our coal regulations for a lease obligation with a different statutory source. We did not make this change because we do not wish to confuse this phrase with the phrase used in our coal rules.

Section 3512.15 (Relocated to 3513.15)

One reader asked whether you can apply to have your rental, royalty, or minimum production obligations reduced in anticipation of a problem, or whether you must wait until you

experience a problem that prevents you from meeting your obligations. If you are facing financial difficulties, BLM may reduce your obligations if it is also in the interest of conservation and will promote greater recovery of the resource. You may file your application with us at any time; however, the relief described in this section (which has been relocated and renamed) does not depend solely on your financial situation. Therefore, we will not change this section to reflect whether you have experienced a problem yet or not, because we do not base our decision solely on this criterion. Rather, BLM may waive or reduce your obligations if doing so is in the interest of conservation, will encourage the greatest ultimate recovery of the resource, and is necessary either to promote mineral development or will allow the lease to be successfully operated.

Sections 3512.20 and 3512.30 (Relocated to 3513.20 and 3513.30)

We received several comments on these sections. Some comments questioned BLM's authority to initiate Suspensions of Operations and Production. Other comments requested small changes to the rule text. We changed the language in the final rule so the difference between Suspension of Operations and Production and Suspension of Operations is more clear. We made other small changes in the final rule and moved these subparts to 3513.20 and 3513.30.

The two kinds of suspensions have different purposes and effects. To bring attention to the differences between the suspensions we added the label Conservation Concerns to the subheading Suspensions of Operations and Production. We added the label Economic Concerns to the subheading Suspension of Operations.

Suspensions of Operations and Production (Conservation Concerns) derive from 30 U.S.C. 209. This section of the Mineral Leasing Act gives the Secretary the authority to either direct or assent to Suspensions of Operation and Production (Conservation Concerns). Conservation concerns apply to a broad variety of resources including conservation of the leased mineral and other resources. A Suspension of Operations and Production (Conservation Concerns) suspends the obligations of the lessee to produce the mineral, to pay royalty in lieu of production, and to pay rental. The suspension also extends the term of the lease by the amount of time the suspension is in effect.

The lessee must initiate a Suspension of Operations (Economic Concerns). The Mineral Leasing Act mentions Suspensions of Operations affecting phosphate leases at 30 U.S.C. 212, and such suspensions affecting potash leases at 30 U.S.C. 283. Our authority for suspensions of operations for other commodities derives from the Secretary's general authority to issue regulations found at 30 U.S.C. 189. The Secretary may permit a Suspension of Operations (Economic Concerns) if the lessee shows that the lease can only be operated at a loss because of market conditions. A Suspension of Operations (Economic Concerns) suspends the obligations of the lessee to produce the mineral, and to pay royalty in lieu of production. The lessee must still pay the annual rental and the suspension does not extend the term of the lease.

Section 3512.26 (Relocated to 3513.26)

One comment on this section said that during Suspensions of Operations and Production (Conservation Concerns), MMS may allow credit towards future payments if you paid rental or royalties while the suspension was in force. We made the change suggested by this comment.

Section 3513.11 (Relocated to 3514.11)

One comment suggested we change this text to say BLM "accepts" relinquishments, rather than "approving" them. Another comment on this section suggested we add language that says you will be free from continuing obligations after BLM has accepted your relinquishment. We did not make these changes. We believe we must approve relinquishments so that we can prevent high-grading of mineral deposits and other damage to resources. Also, when BLM approves your relinquishment, you are not free from the obligations you accrued during the term of your lease. You may still be responsible for outstanding payment obligations, reclamation and other continuing duties.

Subpart 3514 (Relocated to Subpart 3510)

One comment suggested that we change the regulations on fringe acreage leases to require that fringe acreage lessees get a prospecting permit first, and that BLM or the surface owner should grant prospecting permits whenever the lessee notifies us of its intent to prospect. We have not made any changes based on this comment. We issue fringe acreage leases for known deposits. Prospecting permits are not needed for these leases. You can get a noncompetitive fringe acreage lease if

your application meets all of our requirements. We must also determine that the lands are available for leasing and the conditions for fringe acreage leasing have been met.

Subpart 3515

The proposed rule changed the provision that confined lease exchanges to those involving leases of "comparable" value to "equal" value. One commenter objected to this change, while another supported it. The statute requires BLM to use the "equal" value standard. The objecting commenter felt that this would be too inflexible and delay exchanges while we got bogged down determining the exact dollar amounts involved. However, we do not agree. We have enough flexibility in this area because these regulations allow us to make or accept equalization payments and we can even waive equalization payments when the difference in the values of the leases is less than three percent or \$15,000.

Section 3516.10

One comment pointed out that use permits are not available on lands administered by the National Park Service. We have changed this section to state that use permits are only available on unentered, unappropriated, BLM-administered land.

Section 3517.10

One commenter suggested BLM might add provisions to the section on development contracts and processing and milling arrangements, covering topics like contract duration, renewals, readjustments and financial obligations. However, we have not made any changes to this effect. BLM handles these details on a case-by-case basis, so regulations would be inappropriate.

IV. Procedural Matters

National Environmental Policy Act

BLM has prepared an environmental assessment (EA) and has found that the final rule would not constitute a major federal action significantly affecting the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). This rule, as discussed above, is limited to changes that will help mineral leasing programs operate more efficiently, and to non-substantive changes to how the rule is written and organized. BLM has placed the EA and the Finding of No Significant Impact (FAIENCE) on file in the BLM Administrative Record at the address specified previously. BLM invites the public to review these

documents by contacting us at the addresses listed above (see **ADDRESS**).

We also determined that the rule will have no impact, or will only marginally benefit, the following critical elements of the human environment as defined in the BLM National Environmental Policy Handbook (H-1790-1, appendix 5): Air quality, areas of critical environmental concern, cultural resources, Native American religion concerns, threatened or endangered species, hazardous or solid waste, water quality, prime and unique farmlands, wetlands, riparian zones, wild and scenic rivers, environmental justice and wilderness.

Paperwork Reduction Act

We have determined that this rule complies with requirements under the Paperwork Reduction Act (44 U.S.C. 3501), since we are not significantly altering current policy. This rule contains no information collections that require approval by OMB.

Regulatory Flexibility Act

BLM certifies that this rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The revised regulations will not significantly change the mineral leasing program operations. Therefore, a final Regulatory Flexibility Analysis and Small Entity Compliance Guide is not required.

In accordance with Small Business Administration regulations at 13 CFR 121.201, a "small entity" in this section is an individual, limited partnership, or small company with fewer than 500 employees or less than \$5 million in revenue and considered to be at "arm's length" from the control of any parent companies.

Small Business Regulatory Enforcement Fairness Act

We have determined that this rule is not a major rule under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2)). As explained above, we are not making significant alterations to current policy. This rule:

- a. Does not have an annual effect on the economy of \$100 million or more;
- b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and
- c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

We have determined that this rule is not a significant regulatory action under the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) Because it does not result in the expenditure by the State, local and tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year. As explained above, we are not making significant alterations to current policy, and therefore, do not need to complete a Small Government Agency Plan. This rule:

- a. Will not "significantly or uniquely" affect small governments; and
- b. Will not produce a Federal mandate of \$100 million or greater in any year.

Executive Order 12630

The final rule does not represent a government action capable of interfering with constitutionally protected property rights. Section 2(a)(1) of Executive Order 12630 specifically exempts actions abolishing regulations or modifying regulations in a way that lessens interference with private property use from the definition of "policies that have takings implications." Since the primary function of the final rule is to abolish unnecessary regulations, there will be no private property rights impaired as a result. Therefore, the Department of the Interior has determined that the rule would not cause a taking of private property or require further discussion of takings implications under this Executive Order.

Executive Order 12866

BLM has determined that this rule is not a significant regulatory under Regulatory Planning and Review (Executive Order 12866); however, the Office of Management and Budget (OMB) makes the final decision. Since the new regulations will not make significant policy changes, this rule;

- a. Will not have an annual effect on the economy of \$100 million or more or adversely affect the economy in a material way, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or Tribal governments or communities;
- b. Will not create inconsistencies with other agencies;
- c. Will not materially affect entitlements, grants, loan programs, or rights and obligations of their recipients; and
- d. Will not raise novel legal or policy issues.

Executive Order 12988

We have determined that this rule does not unduly burden the judicial system and therefore, meet the requirements under the Civil Justice Reform (Executive Order 12988, sections 3(a) and 3(b)(2)). As explained above, no significant changes are being made to current policy.

Executive Order 12612

We have determined that this rule does not have significant federalism effects. As explained above, we are not significantly changing BLM policy, and therefore, a Federalism Assessment is not required. This rule does not change the role or responsibilities between Federal, State, and local governmental entities; does not relate to the structure and role of States or have direct, substantive, or significant effects on States; and does not intend to address the relationship between the United States and any other non-Federal governmental entity.

Government-to-Government Relationship With Tribes

We have considered the impact of this rule on the interests of Tribal governments under the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951) and the Department of Interior Manual (512 DM 2). Since this rule does not propose significant changes to BLM policy, we have determined that the government-to-government relationships should remain unaffected.

List of Subjects*43 CFR Part 3500*

Bonds, Government contracts, Mineral royalties, Public lands-mineral resources, Reporting and record keeping requirements.

43 CFR Part 3510

Public lands-mineral resources, Reporting and record keeping requirements.

43 CFR Part 3520

Government contracts, Public lands-mineral resources.

43 CFR Part 3530

Government contracts, Mineral royalties

43 CFR Part 3540

Land Management Bureau, Public lands-mineral resources

43 CFR Part 3550

Public lands-mineral resources.

43 CFR Part 3560

Government contracts, Mineral royalties, Public lands-mineral resources, Surety bonds.

43 CFR Part 3570

Environmental protection, Government contracts, Indians-lands, Mines, Public lands-mineral resources, Reporting and record keeping requirements.

Dated: September 23, 1999.

Sylvia V. Baca,

Assistant Secretary—Land and Minerals Management.

Accordingly, BLM amends 43 CFR Chapter II as follows:

1. Remove parts 3500, 3510, 3520, 3530, 3540, 3550, 3560, 3570 and the heading "Group 3500—Management of Solid Minerals Other Than Coal."
2. Revise part 3500 to read as follows:

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

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

Sec.

- 3501.1 What is the authority for this part?
- 3501.2 What is the scope of this part?
- 3501.5 What terms do I need to know to understand this part?
- 3501.10 What types of mineral use authorizations can I get under these rules?
- 3501.16 Does my permit or lease grant me an exclusive right to develop the lands covered by the permit or lease?
- 3501.17 Are there any general planning or environmental considerations that affect issuance of my permit or lease?
- 3501.20 If BLM approves my application for a use authorization under this part, when does it become effective?
- 3501.30 May I appeal BLM's decisions under this part?

Subpart 3502—Qualification Requirements

Lease Qualifications

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- 3502.13 May foreign citizens hold permits or leases?
- 3502.15 Are there any additional restrictions on holding leases or interests in leases?
- 3502.20 Will BLM issue a lease to me if I am not complying with the diligence requirements of the Mineral Leasing Act?

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- 3502.25 Where do I file evidence that I am qualified to hold a permit or lease?
- 3502.26 May I supplement or update my qualifications statement?
- 3502.27 If I am an individual, what information must I give BLM in my qualifications statement ?

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

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?

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

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

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

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

3503.14 For what areas may I get a permit or lease 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?

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

Available Areas Managed by Others

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

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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?

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3503.32 How should I describe acquired lands?

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Acreage Amounts

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

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

3503.38 How does BLM compute my acreage holdings?

Filing Applications

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

3503.41 Will BLM disclose information I submit under these regulations?

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

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

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

3503.45 How will BLM administer information concerning other Indian minerals?

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3504.11 What forms of payment will BLM and MMS accept?

3504.12 What payments do I send to BLM and what payments do I send to MMS?

Rentals

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

Royalties

3504.20 What are the requirements for paying royalties on production?

3504.21 What are the minimum the royalty rates?

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

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

3504.26 May I create overriding royalties on my Federal lease?

Bonding

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

3504.51 How do I file my bond?

3504.55 What types of bonds are acceptable?

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

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

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

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

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

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Subpart 3505—Prospecting Permits

3505.10 What is a prospecting permit?

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

Applying for Prospecting Permits

3505.12 How do I obtain a prospecting permit?

3505.13 What must my application include?

3505.15 Is there an acreage limit for my application?

3505.25 How does BLM prioritize applications for prospecting permits?

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

3505.31 May I withdraw my application after I file it?

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

3505.45 What is an exploration plan?

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

3505.51 May I file a revised application if BLM rejects my original application?

Prospecting Permit Terms and Conditions

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

3505.60 How long is my prospecting permit in effect?

3505.61 May BLM extend the term of my prospecting permit?

3505.62 Under what conditions will BLM extend my prospecting permit?

3505.64 How do I apply for an extension?

3505.65 What information must I include in my extension request?

3505.66 If approved, when is my extension effective?

3505.70 May I relinquish my prospecting permit?

3505.75 What happens if I fail to pay the rental?

3505.80 What happens when my permit expires?

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

Subpart 3506—Exploration Licenses

General Information

3506.10 What is an exploration license?

Applying for and Obtaining Exploration Licenses

3506.11 What must I do to obtain an exploration license?

3506.12 Who prepares and publishes the notice of exploration?

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

3506.14 May others participate in the exploration program?

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

Terms; Modifications

- 3506.20 After my license is issued, may I modify my license or exploration plan?
 3506.25 Once I have a license, what are my responsibilities?

Subpart 3507—Preference Right Lease Applications

- 3507.11 What must I do to obtain a preference right lease?
 3507.15 How do I apply for a preference right lease?
 3507.16 Is there a fee or payment required with my application?
 3507.17 What information must my preference right lease application include?
 3507.18 What do I need to submit to show that I have found a valuable deposit?
 3507.19 Under what circumstances will BLM reject my application?
 3507.20 May I appeal BLM's rejection of my preference right lease?

Subpart 3508—Competitive Lease Applications

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 3508.12 How do I get a competitive lease?
 3508.14 How will BLM publish the notice of lease sale?
 3508.15 What information will the detailed statement of the lease sale terms and conditions include?
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 3508.22 What happens if BLM rejects my bid?

Subpart 3509—Fractional and Future Interest Lease Applications

- 3509.10 What are future interest leases?
 3509.11 Under what conditions will BLM issue a future interest lease to me?
 3509.12 Who may apply for a future interest lease?
 3509.15 Do I have to pay for a future interest lease?
 3509.16 How do I apply for a future interest lease?
 3509.17 What information must I include in my application for a future interest lease?
 3509.18 What will BLM do after it receives my application for a future interest lease?
 3509.20 When does my future interest lease take effect?
 3509.25 For what reasons will BLM reject my application for a future interest lease?
 3509.30 May I withdraw my application for a future interest lease?
 3509.40 What are fractional interest prospecting permits and leases?
 3509.41 For what lands may BLM issue fractional interest prospecting permits and leases?
 3509.45 Who may apply for a fractional interest prospecting permit or lease?
 3509.46 How do I apply for a fractional interest prospecting permit or lease?

- 3509.47 What information must I include in my application for a fractional interest prospecting permit or lease?
 3509.48 What will BLM do after it receives my application for a fractional interest lease?
 3509.49 What terms and conditions apply to my fractional interest prospecting permit or lease?
 3509.50 Under what conditions would BLM reject my application for a fractional interest prospecting permit or lease?
 3509.51 May I withdraw my application for a fractional interest prospecting permit or lease?

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?
 3510.12 What must I do to obtain a lease modification or fringe acreage lease?
 3510.15 What will BLM do with my application?
 3510.20 Do I have to pay a fee to modify my existing lease or obtain a fringe acreage lease?
 3510.21 What terms and conditions apply to fringe acreage leases and lease modifications?

Subpart 3511—Lease Terms and Conditions

- 3511.10 Do certain leases allow me to mine other commodities as well?
 3511.11 If I am mining calcium chloride, may I obtain a noncompetitive mineral lease to produce the commingled sodium chloride?
 3511.12 Are there standard terms and conditions which apply to all leases?
 3511.15 How long will my lease be in effect?
 3511.25 What is meant by lease readjustment and lease renewal?
 3511.26 What if I object to the terms and conditions BLM proposes for a readjusted lease?
 3511.27 How do I renew my lease?
 3511.30 If I appeal BLM's proposed new terms, must I continue paying royalties or rentals while my appeal is pending?

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?
 3512.12 Is there a fee for requesting an assignment or sublease?
 3512.13 How do I assign my permit or lease?
 3512.16 How do I sublease my lease?
 3512.17 How do I transfer the operating rights in my permit or lease?

Special Circumstances and Obligations

- 3512.18 Will BLM approve my assignment or sublease if I have outstanding liabilities?
 3512.19 Must I notify BLM if I intend to transfer an overriding royalty to another party?

Effect of Assignment on Your Obligations

- 3512.25 If I assign my permit or lease, when do my obligations under the permit or lease end?
 3512.30 What are the responsibilities of a sublessor and a sublessee?
 3512.33 Does an assignment or sublease alter the 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?
 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?
 3513.15 How do I apply for reduction of rental, royalties or minimum production?

Suspension of Operations and Production (Conservation Concerns)

- 3513.20 What is a suspension of operations and production (conservation concerns)?
 3513.21 What is the effect of a suspension of operations and production (conservation concerns)?
 3513.22 How do I apply for a suspension of operations and production (conservation concerns)?
 3513.23 May BLM order a suspension of operations and production (conservation concerns)?
 3513.25 When will my suspension of operations and production (conservation concerns) take effect?
 3513.26 When and how does my suspension of operations and production (conservation concerns) expire or terminate?

Suspension of Operations (Economic Concerns)

- 3513.30 What is a suspension of operations (economic concerns)?
 3513.31 What is the effect of a suspension of operations (economic concerns)?
 3513.32 How do I apply for a suspension of operations (economic concerns)?
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 3513.34 When and how does my suspension of operations (economic concerns) expire or terminate?

Subpart 3514—Lease Relinquishments and Cancellations**Relinquishing Your Lease**

- 3514.11 May I relinquish my lease or any part of my lease?
 3514.12 What additional information should I include in a request for partial relinquishment?
 3514.15 Where do I file my relinquishment?
 3514.20 When is my relinquishment effective?
 3514.21 When will BLM approve my relinquishment?

Cancellations, Forfeitures, and Other Situations

- 3514.25 When does my lease expire?
 3514.30 May BLM cancel my lease?
 3514.31 May BLM waive cancellation or forfeiture?
 3514.32 Will BLM give me an opportunity to remedy a violation of the lease terms?
 3514.40 What if I am a *bona fide* purchaser and my lease is subject to cancellation?

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?
 3515.12 What regulatory provisions apply if I want to exchange a lease or lease right?
 3515.15 May BLM initiate an exchange?
 3515.16 What standards does BLM use to assess the public interest of an exchange?
 3515.18 Will I be notified when BLM is considering initiating an exchange that will affect my lease?

Types of Lease Exchanges

- 3515.20 May I exchange preference rights?
 3515.21 What types of lands can be exchanged?
 3515.22 What if the lands to be exchanged are not of equal value?

Lease Exchange Procedures

- 3515.23 May BLM require me to submit additional information?
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 3515.26 When will BLM make a decision on the exchange?
 3515.27 Will BLM attach any special provisions to the exchange lease?

Subpart 3516—Use Permits

- 3516.10 What are use permits?
 3516.11 What kinds of permits or leases allow use permits?
 3516.12 What activities may I conduct under a use permit?
 3516.15 How do I apply for a use permit?
 3516.16 What must I include with my application?
 3516.20 Is there an annual fee or charge for use of the lands?
 3516.30 What happens if I fail to pay the annual rental on my use permit?

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

- 3517.10 What are development contracts and processing and milling arrangements?
 3517.11 Are permits and leases covered by approved agreements exempt from the acreage limitations?
 3517.15 How do I apply for approval of one of these agreements?
 3517.16 How does BLM process my application?

Authority: 5 U.S.C. 552; 30 U.S.C. 189 and 192c, 43 U.S.C. 1733 and 1740; and sec. 402, Reorganization Plan No. 3 of 1946 (5 U.S.C. appendix).

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*. 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.

§ 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 leaseable 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 acreage containing known deposits of a leasable mineral to an adjacent Federal lease of the same mineral, provided the deposits can be mined only as part of the larger mining operation. See subpart 3510 of this part.

(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.

§ 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 Area 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:

Commodity	Maximum acreage for a permit or lease	Maximum acreage of permits and leases in any one State	Maximum acreage in permits and leases nationwide
(a) Phosphate	2,560 acres	None	20,480 acres.
(b) Sodium	2,560 acres	5,120 acres (may be increased to 15,360 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.

§ 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 x .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****§ 3504.11 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 send to BLM and what payments do I send to MMS?

(a) *Filing fees and rentals.* (1) Include a non-refundable filing fee of \$25 with each application you submit to BLM. Preference right lease applications and exploration license applications do not require a fee.

(2) Pay all filing fees, all first-year rentals, and all bonus bids for leases to the BLM State office which manages the lands you are interested in. Make your instruments payable to the Department of the Interior-Bureau of Land Management.

(3) Pay all second-year and subsequent rentals and all other payments for leases to the Minerals Management Service. 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.

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
(a) Phosphate	\$0.25	\$0.50	\$0.50	\$1.00	\$1.00	\$1.00
(b) Sodium	0.25	0.50	0.50	0.50	0.50	1.00
(c) Potash	0.25	0.50	0.50	0.50	0.50	1.00
(d) Sulphur	0.50	0.50	0.50	0.50	0.50	0.50
(e) Gilsonite	0.50	0.50	0.50	0.50	0.50	0.50
(f) Hardrock	1.00	1.00	1.00	1.00	1.00	1.00
(g) Asphalt	0.25	0.50	0.50	0.50	0.50	1.00

§ 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 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 three copies of the BLM application form to the BLM office with jurisdiction over the lands you are interested in. Include the filing fee and first year's rental with your application. See subpart 3504 of this part.

§ 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 send the rental for the added lands with your amended application. You do not need to submit additional filing fees.

§ 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 the filing fee.

§ 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?

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:

- (a) Detail the reasons why we rejected your application;
- (b) Identify any items you will need to correct in your application; and
- (c) Tell you how you may appeal an adverse decision.

§ 3505.51 May I file a revised application if BLM rejects my original application?

Yes. If you file a revised application for the same lands within 30 days after you receive our rejection, we will apply the non-refundable filing fee and rental payment from your original application to the new application. To obtain this benefit, you must show the serial number of the original application on your new application. We will establish priority for the permit as of the date the revised application is filed. If you do not file a revised application within 30 days of rejection, we will refund only your rental payment.

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 your \$25 nonrefundable filing fee and the first year's rental, in accordance with §§ 3504.15 and 3504.16 of this part.

§ 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.

§ 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 a \$25 nonrefundable filing fee and the first year's rent with your application. Determine the first year's rent from the provisions in § 3504.15 of this part.

§ 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) 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).

(c) 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.

§ 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.

§ 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?

If you are the highest qualified bidder and we determine 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; and
- (5) Furnish the required lease bond.

(b) See § 3504.12 of this part for payment procedures.

§ 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. Include a \$25 filing fee with the application. Submit the application to the BLM office with jurisdiction over the lands. You must file at least one year before the mineral interest vests with the United States or BLM will deny your application.

§ 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.

(e) 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

§ 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 the application fee.

§ 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. Include a \$25 filing fee with the application. Submit the application to the BLM office with jurisdiction over the lands.

§ 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 the application fee.

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 of \$25, and 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, BLM will base the rental payment on the rate in effect for the lease being modified.

(c) Your application must:

(1) Show the serial number of the lease if the lands 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 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.

§ 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 lack sufficient reserves of the mineral

resource to warrant independent development;

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

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

§ 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?

Commodity	Initial Term	Period of Renewal or Readjustment
(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 three copies of your application together with

a non-refundable \$25 filing fee and an advance rental payment of \$1 per acre or fraction of an acre.

§ 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 a non-refundable filing fee of \$25. BLM will not accept any instrument without the filing fee.

§ 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) A \$25 filing fee.

(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.

§ 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, a statement of qualifications (see subpart 3502 of this part) and a \$25 fee.

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

§ 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, a statement of qualifications (see subpart 3502 of this part) and a \$25 fee.

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

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 of this part and the \$25 filing fee.

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**§ 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.

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 a nonrefundable \$25 filing fee and the first year's rental. Calculate the rental in accordance with § 3504.15 of this part.

§ 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.

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