



## Department of Mines and Mineral Resources

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### Amendment to BLM Surface Management Requirements

*Circular 73 March, 1997 (reference p. 39-45, Laws & Regulations*

*Governing Mineral Rights in Arizona, 9th edition)*

#### Final Rule:

On February 28, 1997, the Bureau of Land Management (BLM) published in the Federal Register a final rule that amends the regulations on hard rock mining on the public lands to require bonding of all operations greater than casual use.

The BLM believes this change in the regulations is needed to fulfill BLM's mandate under section 302(b) of the Federal Land Policy and Management Act, 43 U.S.C. Sec. 1732(b), to prevent unnecessary or undue degradation to the public lands and resources. Imposition of these enhanced bonding requirements will also ensure that BLM has adequate funding available to reclaim the public lands, should a mining claimant or operator fail to fulfill its obligations. Absent this change in the regulations, BLM would have to use taxpayer funds to reclaim the lands and stop the pollution of land, air and water that is usually occurring as a result of the failure to reclaim, or to institute what can be expensive litigation (again, at taxpayer cost) against the mining claimant or operator to require it to do the necessary work.

#### What does this rule do?

- The rule requires submission of or certification of financial guarantees to cover 100 percent of the cost of reclamation for all operations greater than casual use.
- The rule requires minimum per-acre bonds of the greater of 100% of the costs of reclamation or \$1,000 for notice-level operations (disturbance of 5 acres or less) or \$2,000 for plan-level operations (disturbance of more than 5 acres).
- The rule allows the use of additional financial instruments to satisfy the requirement for a financial guarantee.
- The rule requires that all bonds submitted directly to or certified to BLM be accompanied by a Professional Engineer's certification of reclamation costs. No PE's certification is required if the mining claimant or operator is satisfying the bonding require-

ments by evidence of a bond held or approved by a state.

- The rule requires that market-based securities be managed through a brokerage account.
- The rule provides for phased release of the bond as an operation winds down and reclamation is completed and approved.
- The rule amends the noncompliance section of the regulations to require the filing of mandatory plans of operations by operators who compile a record of noncompliance.
- The rule gives BLM the option to require Federal bonds in addition to State bonds for those who compile a record of non-compliance.
- The rule describes criminal penalties applicable to those who knowingly and willfully violate the bonding rule or any of the other provisions of the surface management regulations.
- The rule continues to accept blanket nationwide and statewide bonds, and makes it clear that BLM will accept equivalent State bonds.

#### What doesn't this rule do?

- The rule does not eliminate the existing policy of having a single "point of contact" for bonding, whether the guarantee is held by the State or BLM.
- The rule does not materially change the roles of the States and BLM; cooperative agreements remain in effect.
- The rule does not change any of the other regulations affecting mining exploration and operations, including surface use and occupancy, rentals, assessment work, and filings.
- The rule does not require new bonding from any mining operations that are not already covered by Federal or State bonding requirements except for notice-level operations (5 acres or less of surface disturbance) in Nevada, Arizona, Utah, and Alaska, which do not at present require such bonding.