



Arizona Department of Mines and Mineral Resources

1502 West Washington, Phoenix, AZ 85007 Phone (602) 255-3795

1-800-446-4259 in Arizona FAX (602) 255-3777 www.admmr.state.az.us

Mining Laws and Regulations, Changes and Revisions 2003

Circular 104, August, 2003

Recent statutory and regulatory changes that affect Federal mining claims have made portions of Special Report 12, *Laws and Regulations Governing Mineral Rights in Arizona, 9th Edition* **inaccurate**. Pending the completion of the rewriting of Special Report 12 this circular attempts to briefly describe statutory and agency policy changes in mining claim procedures. These changes are especially pertinent for the information on Federal filing requirements, maintenance of title, surface management regulations, and patenting of claims on pages 28 to 45.

Department circulars that describe previous changes are:

Arizona Mining Law Change – 1989 (Circular 30)

Arizona Recordation Law Change, 1991 (Circular 36)

Annual Assessment Work Requirements Under Arizona Statue, 1994 (Circular 56)

These circulars, included in Special Report 11, should also be reviewed.

It is important for claimants to keep informed as Congress or managing agencies make additional changes to mining law or regulatory procedures.

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Rental Fee Requirement

The Federal government's Continuing Act of 2002 extends the requirement of rental or maintenance fees in place of assessment work for filing and holding mining claims with the Bureau of Land Management (BLM). All claimants must pay a yearly maintenance fee of \$100 per claim for all or part of the mining claim assessment year. The fee must be paid at the State Office of the Bureau of Land Management by August 31, of each year or the claimant must apply and qualify for the Small Miners Exemption waiver. The assessment year ends on noon of September 1 of each year.

The initial maintenance fee is paid at the time the Notice of Location is filed with the BLM and covers the remainder of the assessment year in which the claim was located. There are no exemptions from the initial fee. Some claim holders made qualify for a Small Miner Exemption waiver of the maintenance fee for assessment years after the year in which the claim was located.

Fee Schedule (per claim)

Location Fee	\$25.00
Maintenance Fee.....	\$100.00
Service Charges.....	\$10.00
Transfer Fee	\$5.00
Proof of Labor	\$5.00
Notice of Intent to Hold	\$5.00
Transfer of Interest	\$5.00
Amendment	\$5.00
Petition for Deferment of Assessment Work	\$25.00
Notice of Intent to Locate on Stock Raising Homestead land.....	\$25.00

Small Miners' Exemption

A special exemption is available for claimants with 10 or less claims who meet production or unreclaimed surface disturbance criteria. If a waiver of the claim maintenance fee is granted, the claim holder is then required to perform annual assessment work and file an affidavit of labor at the BLM and county.

A waiver certificate must be filed on or before September 1 of the assessment year for which the waiver is sought. The waiver certificate shall contain:

- the mining claim and site names,
- Bureau of Land Management serial numbers,
- a declaration by the claimant and all related parties that they own no more than ten claims and sites nationwide on the date the waiver statement is due,
- a declaration that specifies that the assessment work requirements have been or will be completed by the date the payment is due (on or before September 1) for the coming assessment year,
- the names and mailing addresses of all owners maintaining an interest in the claims and sites, and
- the signatures of all owners of the mining claims and sites for which the waiver is claimed.

If a waiver is denied, the claim maintenance fee must be paid within 30 days of the denial or the claim will be voided. If the waiver is found to be defective for any reason, the claimant has 60 days after the receipt of written notification of the defect(s) by the Bureau of Land Management to either fix the problem or pay the \$100 claim maintenance fee due for that period.

More information on small miners' exemptions can be found in Circular 56 (included in Special Report 11).

Stock-raising Homestead Act

Amendments in 1993 to the Stock-raising Homestead Act have materially changed the procedure for locating mining claims on Federal minerals underlying such privately owned surface lands.

Lands patented under the Stock Raising Homestead Act require a formal notification procedure to the surface owners(s) and the BLM prior to entry. See 43 CFR 3833.1-2 and 43 CFR 3814 or contact the BLM Arizona State Office for further details.

Moratorium on Patenting Claims

Federal law provides for the patenting of a mining claim. A patented claim is one in which the Federal government transfers title to the claimant. The claimant has clear and absolute title to the claim and the claim maintenance fee or assessment work is not required.

However, the Interior and Related Agencies Appropriation Act of 1994 established a moratorium on patenting claims that is still in effect.

Changes to Surface Management Regulations

These changes pertain to the surface management regulations on pages 39-45.

Bureau of Land Management

43 CFR 3809

The Bureau of Land Management of Arizona has compiled handouts, and posted on their website, interim guidelines and forms for miners attempting to comply with 43 CFR 3809. 3809 contains requirements enacted to protect public lands from hardrock mining. The Arizona BLM website, www.az.blm.gov/fr_wwdo.htm, lists the pdf files available. The document *Operator Information for Casual Use, Notice and Plan Level Operations and for Providing a Financial Guarantee as Required by 43 CFR 3809* is especially useful.

The BLM regulations provide for three types of operations on public lands: 1. Casual Use level, 2. Notice level and 3. Plan of Operation level.

1. Casual Use means activities ordinarily resulting in no or negligible disturbance of the public lands or resources. Casual Use operations involve simple prospecting with hand tools such as picks, shovels, and metal detectors. Small-scale mining devices such as dry washers having engines with less than 10 brake-horsepower are allowed, provided they are fed using only hand tools. Casual Use level operations are not required to file an application to conduct activities or post a financial guarantee.

2. Notice level operations include only exploration activities in which five or less acres of disturbance are proposed. Presently, all Notice Level operations require a written notice and must be bonded for all activities other than reclamation.

3. Plans of Operation activities include all mining and processing (regardless of the size of the proposed disturbance), plus all other activities exceeding five acres of proposed public land disturbance.

Financial guarantees do not necessarily need to cover any pre-existing disturbance if the pre-

existing disturbance is **not used in any way**. Operators are encouraged to conduct a thorough inventory of the claim to determine the full extent of any existing disturbance and to meet with Field Office personnel at the site before developing an estimate. The inventory should include photographs taken "before" and "after" any mining activity.

If an operator constructs access or **uses existing access** for an operation and would object to BLM blocking, removing, or claiming that access, then the operator must post a financial guarantee that covers the reclamation of the access.

The BLM has made the Reclamation Bond Calculation Spreadsheet available to help miners estimate their reclamation costs. Generally the BLM will accept the results of this estimation pending verification of data input. (See *Links* section, below)

43 CFR 3715

In these regulations the BLM has addressed the issue of occupancy. Concurrence by the BLM for occupancy is required whenever residential occupancy is proposed or when fences, gates, or signs will be used to restrict public access or when structures that could be used for shelter are placed on a claim. It is the claimant's responsibility to prepare a complete notice or plan of operators or 43 CFR 3715 filing.

43 CFR 3600

In these regulations the BLM has addressed Mineral Material Sales for common variety mineral materials authorized under the Material Act of 1947 (30 U.S.C. § 601) as amended.

Mineral Records Online

BLM's new online records research tool, LR2000, (<http://www.blm.gov/lr2000>) can be quite useful, but may not be as easy to use as calling or visiting their office. It does, however, offer access to land and claim records for all Federal land in the United States.

Forest Service

The Forest Service is also in the process of changing requirements for filing plans on Forest Service lands. In general, the changes include more specific reclamation plans and may call for a Reclamation Performance Bond. The mineral information site is

www.fs.fed.us/geology/mgm_minerals.html.

The form, *Plan of Operation for Mining Activities on National Forest System Lands*, is at www.fs.usda.gov/geology/fs_2800-5_2005.pdf

Mining Claims On State Land

The Arizona law authorizing location of claims on State Lands was **repealed** in 1998. Acquisition of mineral rights on State Trust Land can only be accomplished by application for a prospecting permit, mineral lease, or lease of common variety materials.

Conclusion

For discussion of these changes and assistance in compliance, contact the Department staff and the appropriate personnel at the Federal managing agencies. See the Department circular, *Federal Agencies Concerned with Mining in Arizona*, or visit the Department website, www.admmr.state.az.us, for locations and phone numbers.

Links to Information and Forms

The Bureau of Land Management's Arizona State Office website has information related to mining claims and locatable minerals (www.az.blm.gov/mining.htm). The following links are suggested:

Mining Law Requirements	www.az.blm.gov/mines/requirements.htm
Annual Mining Claim Filings	www.az.blm.gov/mines/claims.htm
Form A-3850-1, Proof of Labor or Notice of Intent to Hold	www.az.blm.gov/mines/AFFIDAVIT2.pdf
Form 3830-2, Maintenance Fee Waiver Certification	www.nc.blm.gov/blmforms/forms/blm_forms/pdf/Form_3830-2.pdf
Maintenance Fee Payment	www.az.blm.gov/mines/MAINTENANCEFEE3.pdf
Reclamation Bond Calculation Spreadsheet	www.az.blm.gov/mines/3809/BLM_AZ_3809_Bond_Estimator.xls