

Bureau of Land Management, Interior

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authorized officer. The authorized officer may determine not to require a bond where mining operations would cause nominal environmental damage, or the operator has an excellent past record for reclamation. In determining the amount of the bond, the authorized officer shall consider the estimated cost of stabilizing and reclaiming all areas disturbed by the operations consistent with § 3802.3-2(h) of this title.

(b) In lieu of a bond, the operator may deposit and maintain in a Federal depository account of the United States Treasury, as directed by the authorized officer, cash in an amount equal to the required dollar amount of the bond or negotiable securities of the United States having a face and market value at the time of deposit of not less than the required dollar amount of the bond.

(c) In place of the individual bond on each separate operation, a blanket bond covering hardrock mining operations may be furnished, at the option of the operator, if the terms and conditions as determined by the authorized officer are sufficient to comply with these regulations.

(d) In the event that an approved plan of operations is modified in accordance with § 3802.1-5 of this title, the authorized officer shall review the initial bond for adequacy and, if necessary, shall require that the amount of bond be adjusted to conform to the plan of operations, as modified.

(e) When a mining claim is patented, except for the California Desert Conservation Area, the authorized officer shall release the operator from that portion of the performance bond and plan of operations which applies to operations within the boundaries of the patented land. The authorized officer shall release the operator from the remainder of the performance bond and plan of operations (covering approved means of access outside the boundaries of the mining claim) when the operator has either completed reclamation in accordance with paragraph (f) of this section or those requirements are waived by the authorized officer.

(f) When all or any portion of the reclamation has been completed in accordance with paragraph (h) of § 3802.3-2 of this title, the operator shall notify

the authorized officer who shall promptly make a joint inspection with the operator. The authorized officer shall then notify the operator whether the performance under the plan of operations is accepted. When the authorized officer has accepted as completed any portion of the reclamation, he shall reduce proportionally the amount of bond with respect to the remaining reclamation.

§ 3802.3 Environmental protection.

§ 3802.3-1 Environmental assessment.

(a) When a plan of operations or significant modification is filed, the authorized officer shall make an environmental assessment to identify the impacts of the proposed mining operations upon the environment and to determine whether the proposed activity will impair the suitability of the area for preservation as wilderness or cause unnecessary and undue degradation and whether an environmental impact statement is required.

(b) Following completion of the environmental assessment or the environmental impact statement, the authorized officer shall develop measures deemed necessary for inclusion in the plan of operations that will prevent impairment of wilderness suitability and undue or unnecessary degradation of land and resources.

(c) If as a result of the environment assessment, the authorized officer determines that there is substantial public interest in the proposed mining operations, the operator may be notified that an additional period of time is required to consider public comments. The period shall not exceed the additional 60 days provided for approval of a plan in § 3802.1-4 of this title except as provided for cases requiring an environmental impact statement, a cultural resource inventory or section 7 of the Endangered Species Act.

§ 3802.3-2 Requirements for environmental protection.

(a) *Air quality.* The operator shall comply with applicable Federal and State air quality standards, including the requirements of the Clean Air Act (42 U.S.C. 1857 *et seq.*).

(b) *Water quality.* The operator shall comply with applicable Federal and State water quality standards, including regulations issued pursuant to the Federal Water Pollution Control Act (33 U.S.C. 1151 *et seq.*).

(c) *Solid wastes.* The operator shall comply with applicable Federal and State standards for the disposal and treatment of solid wastes. All garbage, refuse, or waste shall either be removed from the affected lands or disposed or treated to minimize, so far as is practicable, its impact on the environment and the surface resources. All tailings, waste rock, trash, deleterious materials of substances and other waste produced by operations shall be deployed, arranged, disposed or treated to minimize adverse impact upon the environment, surface and subsurface resources.

(d) *Visual resources.* The operator shall, to the extent practicable, harmonize operations with the visual resources, identified by the authorized officer, through such measures as the design, location of operating facilities and improvements to blend with the landscape.

(e) *Fisheries, wildlife and plant habitat.* The operator shall take such action as may be needed to minimize or prevent adverse impact upon plants, fish, and wildlife, including threatened or endangered species, and their habitat which may be affected by the operations.

(f) *Cultural and paleontological resources.* (1) The operator shall not knowingly disturb, alter, injure, destroy or take any scientifically important paleontological remains or any historical, archaeological, or cultural district, site, structure, building or object.

(2) The operator shall immediately bring to the attention of the authorized officer any such cultural and/or paleontological resources that might be altered or destroyed by his operation, and shall leave such discovery intact until told to proceed by the authorized officer. The authorized officer shall evaluate the discoveries brought to his attention, and determine within 10 working days what action shall be taken with respect to such discoveries.

(3) The responsibility and the cost of investigations and salvage of such values discovered during approved operations shall be the Federal Government's.

(g) *Access routes.* No new access routes that would cause more than temporary impact and therefore would impair wilderness suitability shall be constructed in a wilderness study area. Temporary access routes that are constructed by the operator shall be constructed and maintained to assure adequate drainage and to control or prevent damage to soil, water, and other resource values. Unless otherwise approved by the authorized officer, roads no longer needed for operations shall be closed to normal vehicular traffic; bridges and culverts shall be removed; cross drains, dips, or water bars shall be constructed, and the road surface shall be shaped to as near a natural contour as practicable, be stabilized and revegetated as required in the plan of operations.

(h) *Reclamation.* (1) The operator shall perform reclamation of those lands disturbed or affected by the mining operation conducted by the operator under an approved plan of operations containing reclamation measures stipulated by the authorized officer as contemporaneously as feasible with operations. The disturbance or effect on mined land shall not include that caused by separate operations in areas abandoned before the effective date of these regulations.

(2) An operator may propose and submit with his plan of operations measures for reclamation of the affected area.

(i) *Protection of survey monuments.* The operator shall, to the extent practicable and consistent with the operation, protect all survey monuments, witness corners, reference monuments, bearing trees and line trees against destruction, obliteration, or damage from the approved operations. If, in the course of operations, any monuments, corners or accessories are destroyed, obliterated or damaged by such operations, the operator shall immediately report the matter to the authorized officer. The authorized officer shall prescribe in writing the requirement for the restoration or reestablishment of

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monuments, corners, bearing trees, and line trees.

§ 3802.4 General provisions.

§ 3802.4-1 Noncompliance.

(a) An operator who conducts mining operations undertaken either without an approved plan of operations or without taking actions specified in a notice of noncompliance within the time specified therein may be enjoined by an appropriate court order from continuing such operations and be liable for damages for such unlawful acts.

(b) Whenever the authorized officer determines that an operator is failing or has failed to comply with the requirements of an approved plan of operations, or with the provisions of these regulations and that noncompliance is causing impairment of wilderness suitability or unnecessary and undue degradation of the resources of the lands involved, the authorized officer shall serve a notice of noncompliance upon the operator by delivery in person to the operator or the operator's authorized agent, or by certified mail addressed to the operator's last known address.

(c) A notice of noncompliance shall specify in what respects the operator is failing or has failed to comply with the requirements of the plan of operations of the provisions of applicable regulations, and shall specify the actions which are in violation of the plan or regulations and the actions which shall be taken to correct the noncompliance and the time limits, not to exceed 30 days, within which corrective action shall be taken.

§ 3802.4-2 Access.

(a) An operator is entitled to non-exclusive access to his mining operations consistent with provisions of the United States mining laws and Departmental regulations.

(b) In approving access as part of a plan of operations, the authorized officer shall specify the location of the access route, the design, construction, operation and maintenance standards, means of transportation, and other conditions necessary to prevent impairment of wilderness suitability, protect the environment, the public health

or safety, Federal property and economic interests, and the interests of other lawful users of adjacent lands or lands traversed by the access route. The authorized officer may also require the operator to utilize existing access routes in order to minimize the number of separate rights-of-way, and, if practicable, to construct access routes within a designated transportation and utility corridor. When commercial hauling is involved and the use of an existing access route is required, the authorized officer may require the operator to make appropriate arrangements for use and maintenance.

§ 3802.4-3 Multiple-use conflicts.

In the event that uses under any lease, license, permit, or other authorization pursuant to the provisions of any other law, shall conflict, interfere with, or endanger operations in approved plans or otherwise authorized by these regulations, the conflicts shall be reconciled, as much as practicable, by the authorized officer.

§ 3802.4-4 Fire prevention and control.

The operator shall comply with all applicable Federal and State fire laws and regulations, and shall take all reasonable measures to prevent and suppress fires on the area of mining operations.

§ 3802.4-5 Maintenance and public safety.

During all operations, the operator shall maintain his structures, equipment, and other facilities in a safe and orderly manner. Hazardous sites or conditions resulting from operations shall be marked by signs, fenced, or otherwise identified to protect the public in accordance with applicable Federal and State laws and regulations.

§ 3802.4-6 Inspection.

The authorized officer shall periodically inspect operations to determine if the operator is complying with these regulations and the approved plan of operations, and the operator shall permit access to the authorized officer for this purpose.