



DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3730

[PO #4820000251; Order #02412-014-004-047181.0]

RIN 1004-AF25

Rescission of Regulations Regarding Surface Protection Requirements

AGENCY: Bureau of Land Management.

ACTION: Direct final rule; request for comments.

SUMMARY: This direct final rule rescinds a portion of the Bureau of Land Management's (BLM) regulations that address mining in powersite withdrawals.

DATES: The final rule is effective on [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless significant adverse comments are received by [INSERT 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If significant adverse comments are received, notice will be published in the **Federal Register** before the effective date either withdrawing the rule or issuing a new final rule which responds to significant adverse comments.

ADDRESSES: You may submit comments by one of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. In the Search box, enter the Docket Number "BLM-2025-0009" and click the "Search" button. Follow the instructions at this website.
- *Mail, personal, or messenger delivery:* U.S. Department of the Interior, Director (630), Bureau of Land Management, 1849 C St. NW, Room 5646, Washington, DC 20240, Attention: 1004-AF25.

FOR FURTHER INFORMATION CONTACT: Kirk Rentmeister, National Mining Law Program Lead, telephone: 775-435-5514; email: krentmei@blm.gov. Individuals in

the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

For a summary of the final rule, please see the abstract description of the document in Docket Number BLM-2025-0009 on www.regulations.gov.

SUPPLEMENTARY INFORMATION: The Department of the Interior's (Department) regulations implementing certain provisions of the Mining Claims Restoration Act of 1955, Pub. L. 84-359, 69 Stat. 797, are contained in 43 CFR subpart 3738. These regulations address bonding requirements for lands withdrawn for powersites. The regulations in § 3738.1 describe when a bond is required, and the nature of the bond to be provided. The regulations in § 3738.2 describe the actions the BLM will take if the locator fails to restore the surface of the lands, including forfeiting the bond provided in compliance with § 3738.1 to be used by the BLM to restore the surface. Upon reviewing these regulations, the BLM has determined that they should be rescinded as they are duplicative of the bonding requirements in 43 CFR 3809.500.

The Department has determined that this reason, independently and alone, justifies rescission of 43 CFR 3738.1 and 3738.2. The BLM has no interest in maintaining rules that are redundant.

The Department is issuing this rule as a direct final rule. Although the Administrative Procedure Act (APA, 5 U.S.C. 551 through 559) generally requires agencies to engage in notice and comment rulemaking, section 553 of the APA provides an exception when an agency “for good cause finds” that notice and comment are “impracticable, unnecessary, or contrary to the public interest.” *Id.* section 553(b)(B). The Department has determined that notice and comment are unnecessary, because this rule is noncontroversial; of a minor, technical nature; involves little agency discretion;

and is unlikely to receive any significant adverse comments. Significant adverse comments are those that oppose the rescission of the rule and raise, alone or in combination, (1) reasons why the rescission of the rule is inappropriate, including challenges to the rescission's underlying premise; or (2) serious unintended consequences of the rescission. A comment recommending an addition to the rule will not be considered significant and adverse unless the comment explains how this direct final rule would be ineffective without the addition.

Procedural Matters

Executive Order (E.O.) 12866—Regulatory Planning and Review and E.O. 13563—Improving Regulation and Regulatory Review

E.O. 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is not significant.

E.O. 13563 reaffirms the principles of E.O. 12866, while calling for improvements in the Nation's regulatory system to promote predictability, reduce uncertainty, and use the best, most innovative, and least burdensome tools for achieving regulatory ends. E.O. 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that agencies must base regulations on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. The Department developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA, 5 U.S.C. 601 through 612) requires an agency to prepare a regulatory flexibility analysis for all rules unless the agency certifies

that the rule will not have a significant economic impact on a substantial number of small entities. The RFA applies only to rules for which an agency is required to first publish a proposed rule. *See* 5 U.S.C. 603(a) and 604(a). As the Department is not required to publish a notice of proposed rulemaking for this direct final rule, the RFA does not apply.

Congressional Review Act

This rule is not a major rule under the Congressional Review Act, 5 U.S.C. 804(2). Specifically, the direct final rule: (a) will 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) will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or Tribal governments, or the private sector, of more than \$100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments, or the private sector. The rule merely revises the Federal regulations to remove an obsolete provision that is no longer used. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

E.O. 12630—Governmental Actions and Interference with Constitutionally Protected Property Rights

This rule does not result in a taking of private property or otherwise have regulatory takings implications under E.O. 12630. The rule rescinds an obsolete regulatory provision; therefore, the rule will not result in private property being taken for public use without just compensation. A takings implication assessment is therefore not

required.

E.O. 13132—Federalism

Under the criteria of section 1 of E.O. 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. A federalism summary impact statement is not required.

E.O. 12988—Civil Justice Reform

This direct final rule complies with the requirements of E.O. 12988. Among other things, this rule:

- (a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation;
- (b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

E.O. 13175—Consultation and Coordination with Indian Tribal Governments

The Department of the Interior strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation with Tribes and recognition of their right to self-governance and Tribal sovereignty. The Department evaluated this direct final rule under E.O. 13175 and the Department's consultation policies and determined that it has no substantial, direct effects on federally recognized Indian tribes and that consultation under the Department's Tribal consultation policies is not required. The rule merely revises the Federal regulations to remove unnecessary regulatory language.

Paperwork Reduction Act

This rule does not contain new or materially revised information collection

requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required.

National Environmental Policy Act

This direct final rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act (NEPA, 42 U.S.C. 4321 *et seq.*) is not required because this rule is covered by a categorical exclusion applicable to regulatory functions “that are of an administrative, financial, legal, technical, or procedural nature.” 43 CFR 46.210(i). In addition, the Department has determined that this rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

E.O. 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This direct final rule is not a significant energy action as defined in E.O. 13211. Therefore, a Statement of Energy Effects is not required.

Adam G. Suess,

Acting Assistant Secretary, Land and Minerals Management.

List of Subjects in 43 CFR Part 3730

Administrative practice and procedure, Mines, Public lands-mineral resources, Reporting and recordkeeping requirements, Surety bonds.

For the reasons stated in the preamble, the Bureau of Land Management amends 43 CFR part 3730 as follows:

PART 3730—PUBLIC LAW 359; MINING IN POWERSITE WITHDRAWALS:

GENERAL

1. The authority citation for part 3730 continues to read as follows:

AUTHORITY: 30 U.S.C. 22 *et seq.*; 30 U.S.C. 28f-k; 30 U.S.C. 621-625; 43 U.S.C. 1201; 43 U.S.C. 1740; 43 U.S.C. 1744.

Subpart 3738—[Removed]

2. Remove subpart 3738.