

4869-1) and three copies of proposals for PK studies, identified by document control number (OPPTS-42187B; FRL-4869-1) to: U.S. Environmental Protection Agency, Office of Pollution Prevention and Toxics (OPPT), Document Control Office (7407), Rm. G-099, 401 M St., SW., Washington, DC, 20460.

A public version of the official rulemaking record supporting this action, excluding confidential business information (CBI), is available for inspection at the TSCA Nonconfidential Information Center, Rm. NE-B607, 401 M St., SW., Washington, DC 20460, from 12 noon to 4 p.m., Monday through Friday, except on legal holidays.

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this rulemaking. Persons submitting information any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will consider this as a waiver of any confidentiality claim and the information may be made available to the public by EPA without further notice to the submitter.

Comments and data may also be submitted in electronic form by sending electronic mail (e-mail) to: oppt-ncic@epamail.epa.gov. Such comments and data must be submitted in an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by (OPPTS-42187A)(FRL-4869-1). No information claimed as CBI should be submitted through e-mail. Comments in electronic form may be filed online at many federal depository libraries.

The official record of this action, as well as the public version, will be maintained in paper form. EPA will transfer all comments received electronically into paper form and will place the paper copies in the official record. The official record is the paper record maintained at the address listed at the beginning of the "ADDRESSES" section of this notice.

FOR FURTHER INFORMATION CONTACT:
Susan B. Hazen, Director,

Environmental Assistance Division (7408), Rm. ET-543B, Office of Pollution Prevention and Toxics, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (202) 554-1404; TDD: (202) 554-0551; e-mail: TSCA-Hotline@epamail.epa.gov.

For technical information contact: Robert A. Reiley, Project Manager, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC, 20460; telephone: (202) 260-1105; fax: (202) 260-1096; e-mail: reiley.robert@epamail.epa.gov; or Gary Timm, Senior Technical Advisor, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (202) 260-1105; fax: (202) 260-8168; e-mail: timmm.gary@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: The HAPs rule proposed testing, under section 4(a) of the Toxic Substances Control Act (TSCA), of: 1,1'-biphenyl, carbonyl sulfide, chlorine, chlorobenzene, chloroprene, cresols [3 isomers], diethanolamine, ethylbenzene, ethylene dichloride, ethylene glycol, hydrochloric acid, hydrogen fluoride, maleic anhydride, methyl isobutyl ketone, methyl methacrylate, naphthalene, phenol, phthalic anhydride, 1,2,4-trichlorobenzene, 1,1,2-trichloroethane, and vinylidene chloride. EPA would use the data generated under the rule to implement several provisions of section 112 of the Clean Air Act and to meet other EPA data needs and those of other Federal agencies. EPA is extending the period for public comment on the proposed rule from December 23, 1996 to January 31, 1997.

In addition, in the HAPs proposal, EPA solicited proposals for ECAs regarding the performance of pharmacokinetics studies which would permit extrapolation from oral data to predict effects from inhalation exposure. EPA is extending the period for receipt of proposals for ECAs for PK studies from October 24, 1996 to November 25, 1996.

EPA is extending the period for submitting proposals for ECAs as a result of requests by several members of the public for additional time to submit such proposals. EPA is extending the comment period on the proposed rule to allow adequate time for comments on the proposed rule to be submitted after the Agency has considered the ECA proposals.

List of Subjects in 40 CFR Part 799

Environmental Protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: October 15, 1996.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 96-26813 Filed 10-17-96; 8:45 am]

BILLING CODE 6560-50-F

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

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

[WO-320-1990-01-24 A]

RIN 1004-AC49

Leasing of Solid Minerals Other Than Coal and Oil Shale

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Land Management (BLM) proposes to amend its regulations governing leasing of solid minerals other than coal and oil shale. The purpose of the amendment is to comply with President Clinton's Government-wide regulatory reform initiative to eliminate, streamline, or rewrite regulations in plain English. The current rule includes separate sections for all the solid minerals commodities, and the resulting language is repetitive in many instances. The proposed rule will reorganize these solid minerals regulations to eliminate redundant language and streamline the regulations. The proposed rule will also clarify the responsibilities of interested parties.

DATES: You must submit your comments by January 16, 1997. BLM may not consider comments received after this date in developing the final rule.

ADDRESSES: Commenters may hand-deliver comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW., Washington, DC; or mail comments to the Bureau of Land Management, Administrative Record, Room 401LS, 1849 C Street, NW., Washington, DC 20240. Commenters may transmit comments electronically via the Internet to WOComment@wo.blm.gov. Please include "AC49" and your name and address in your message. If you do not receive a confirmation from the system that we have received your internet message, contact us directly at (202) 452-5030. Comments will be available

for public review at the L Street address during regular business hours, from 7:45 a.m. to 4:15 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Jim Horan, (202) 452-5023 (Commercial or FTS).

SUPPLEMENTARY INFORMATION:

- I. Public Comment Procedures
- II. Background
- III. Discussion of Proposed Rule
- IV. Procedural Matters

I. Public Comment Procedures

Your written comments on the proposed rule should—

- (a) Be specific;
- (b) Be confined to issues about the proposed rule;
- (c) Explain the reason for the recommended change; and
- (d) Where possible, reference the specific section or paragraph of the proposal which you are addressing.

BLM may not necessarily consider or include in the Administrative Record or the final rule comments which BLM receives after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

II. Background

On March 4, 1995, President Clinton issued a memorandum to all Federal Departments and Agencies directing them to simplify their regulations. In response to the President's directive, 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.

Statutory Basis of BLM's Regulations

BLM's regulatory program relating to solid minerals is based on several different statutes which give BLM authority to regulate mineral leasing on the lands administered by the bureau.

Mineral Leasing Act of 1920

The Mineral Leasing Act of 1920 (the Act), as amended and supplemented (30 U.S.C. 181 *et seq.*), provides for leasing of certain deposits of phosphates, potassium, gilsonite, and sodium minerals on public domain lands. The Act authorizes the Secretary of the Interior 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

Reorganization Plan No. 3 of 1946 (5 U.S.C. Appendix) transferred the responsibilities of the Secretary of Agriculture for the leasing or other disposal of hardrock minerals to the Secretary of the Interior for certain areas.

Mineral Leasing Act for Acquired Lands of 1947

The Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351-359), provides for the leasing of certain acquired lands. This statute authorizes the Secretary of the Interior 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 Federal Land Policy and Management Act of 1976

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 the jurisdiction of BLM.

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 (6 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) Ross Lake and Lake Chelan National Recreation Areas (16 U.S.C. 90c *et seq.*);
- (iv) 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).

Development of BLM's Regulations

The last major revision of these solid leasable minerals regulations was

published in the Federal Register on April 22, 1986 (51 FR 15204). That revision included separate parts covering specific mineral commodities. The commodity-by-commodity format completed an attempt to clarify the regulations that began with amendments published on April 25, 1984 (49 FR 17892).

Under the 1986 organization of the regulations, processes such as issuance of exploration licenses and mineral leases were addressed in a similar or identical manner under each commodity. This organization 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.

III. Discussion of Proposed Rule

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 duplicative presentation of processes. BLM understands that our readers want to be able to find particular subject matter easily in our regulations. However, we believe that the plain English approach, particularly the expanded table of contents, will make it easy for readers to find material that is of concern to them. The overall reduction in the volume of BLM's regulations achieved by this revision should make it easier for the reader to find particular subject matter.

BLM believes that a consolidated approach to these regulations offers other advantages. If BLM revises its procedures relating to solid minerals, we would need to undertake only one regulatory action to conform the consolidated regulations to any new revisions in our procedures. This reduces the time it would take BLM to keep its regulations up to date and internally consistent. When several different regulations address one process, as in the current version of 43 CFR part 3500, it is difficult for BLM to ensure that changes made to one part get made in all relevant parts. As a result, parts that should be identical diverge over time.

As a result of these considerations, BLM has determined that we can eliminate the repetition represented by the current regulatory structure, while enhancing our readers' ability to find

material of interest to them. We are particularly interested in comments on whether it is easy to find particular subject matter in this proposed rule. We would also welcome suggestions for further consolidation and reorganization. We understand that a number of different organizations of these regulations are reasonable, and are interested in suggestions from the public as to the most readable and logical arrangement of these rules. BLM also invites comments from surface management agencies, surface owners, and other interested persons as to whether any of the proposed changes would make substantive changes not discussed in this preamble.

Most of the changes BLM is proposing today are for the purpose of streamlining and clarifying the regulations. All parts and subparts of what is currently Group 3500, Management of Solid Minerals Other Than Coal, are affected, except parts 3580 and 3590. BLM is not proposing any changes to these two parts at this time, but may propose changes to these parts in the future for purposes of streamlining and clarification. If BLM finalizes these proposed regulations, certain changes will be made in those two parts to conform the cross references to the new numbers.

The current proposed action eliminates the commodity-specific provisions contained in parts 3510, 3520, 3530, 3540, 3550, 3560, and 3570. BLM proposes to expand the general material currently found in part 3500 to incorporate all substantive provisions of those parts. As a result, the new part would contain subparts 3501 through 3517. Details of these proposed subparts can be found in the table of contents.

In addition to rewriting the regulations for clarity, BLM is proposing to:

1. Eliminate the requirement to describe the lands for which you are making an application once you have properly described them and BLM has issued a prospecting permit or lease. This would eliminate the need for the applicant to submit a land description with his or her application for a preference right lease or for assignments where the land description duplicates that in the prospecting permit or original lease. BLM would still require land descriptions for assignments of parts of the land described in the original prospecting permit or lease. Applicants would still need to identify the lease or permit by serial number.

2. Increase 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 proposes to increase this limitation to 80,000 acres. The acreage limitation for potassium is regulatory, and is not based on any statutory requirement. The statute limits the size of individual leases to 2,560 acres per lease. As the potash industry has matured, many mining operations are consolidating or closing. BLM believes that increasing the size of the State acreage limitation would allow for consolidation of mining properties and enhance development of marginal Federal reserves, thereby ensuring the statutory goal of ultimate maximum recovery. This proposed change would not create a situation where one company could monopolize Federal resources. This proposed change is reflected in the table in § 3503.37.

3. Change a provision currently in 43 CFR 3513.1–2, proposed to be in 43 CFR 3507.16, requiring the applicant for a preference right lease to submit a map showing certain land features, to require three maps, consistent with other provisions in these regulations, and with BLM's need for documentation to facilitate the review of these applications. While it is relatively easy for BLM to make duplicate copies of most application material, it is often difficult to duplicate maps, and obtaining additional maps from the applicant should facilitate BLM's review.

4. Incorporate uniformly BLM's current practice of not issuing leases covered by current Group 3500 to coal lessees and assignees not in compliance with section 2(a)(2)(A) of the Mineral Leasing Act, as amended. This means that BLM will not issue a lease under this part to anyone not in compliance with the diligence requirements for coal leases found in section 2(a)(2)(A). This change is the result of the proposed reorganization and clarification of these regulations and is reflected in proposed 43 CFR 3502.20 and 3511.11. Since this provision is consistent with current practice it will not have any significant impact on the industry. To date, BLM has denied fewer than 5 leases on the basis of this statutory provision.

5. Add a provision at 43 CFR 3502.42 specifying, consistent with the provisions of the Mineral Leasing Act, 30 U.S.C.184(g), that BLM will allow unqualified heirs to hold ownership for not more than two years, during which period the heir must either become qualified or divest himself or herself of the interest.

6. Eliminate provisions authorizing issuance of future interest prospecting permits currently in subpart 3507. BLM has rarely been called upon to issue

such permits. We believe that the period of time available to current mineral interest holders, before the minerals vest in the United States, should be sufficient to allow those interest holders to determine whether there is a valuable mineral deposit present. If the mineral holder does demonstrate the existence of a valuable mineral deposit, BLM would continue, under this proposal, to issue future interest leases to the interest holder for these minerals.

7. Clarify in proposed subpart 3515, particularly § 3515.21, that lands exchanged must be of equal, rather than comparable, value. This change implements the provisions of the Federal Land Exchange Facilitation Act of 1988, which amended section 206 of FLPMA. The same Act also provided the government and any applicant greater flexibility than did previous requirements in achieving equality in an exchange. This flexibility is incorporated into the proposed regulation at proposed § 3515.22. Section 3515.12 clarifies that the exchange-specific provisions of 43 CFR part 2200 apply.

8. Clarify in proposed on § 3501.5 the definition of the term "valuable deposit". The current definition at 43 CFR 3500.0–5 is circular in that it uses the phrase "valuable mine" in describing the term "valuable deposit". The proposed rule would change "valuable mine" to "profitable mine" and thus clarifies that the profitability of mineral development is an important consideration in determining whether a person of ordinary prudence would be justified in the further expenditure of his or her labor and means with the reasonable prospect of successfully developing the mineral deposit. Accordingly, the proposed section on what information you have to provide to BLM to prove that you have found a valuable deposit, proposed section 3507.26, states that BLM may request supplemental data to determine, among other things, mining and processing costs and the profitability of mineral development.

9. Modify the requirements found in the current 43 CFR 3502.2–4(b) on the disclosure of the identity and citizenship of major stockholders to add disclosure of the percentage of their stock holdings. This change would assist BLM to enforce acreage limitations against those stockholders. The proposed rule would eliminate a requirement found in the current 43 CFR 3502.2–4(e) to submit such information on the basis of foreign residency. This information is not needed to enforce any statutory limitations.

10. Clarify at proposed § 3510.21 that BLM 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.

Additionally, BLM seeks comment particularly on the following two proposals. These proposals are not reflected in the regulatory language published today. BLM may decide to undertake these changes, based on public comment.

11. Add a discussion of what makes lands "compact." A similar discussion appeared in the regulations prior to the 1986 revisions. We are particularly interested in whether commenters perceive a need for BLM to define this term.

12. Reduce the number of copies of applications required from three copies to one in cases where there is no specified form, except for copies of maps.

IV. Procedural Matters

National Environmental Policy Act

BLM has prepared an environmental assessment (EA), and has found that the proposed 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 (NEPA), 42 U.S.C. 4332(2)(C). BLM has placed the EA and the Finding of No Significant Impact (FONSI) 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 **ADDRESSES**), and suggests that anyone wishing to submit comments in response to the EA and FONSI do so in accordance with the "Written Comments" section above, or contact us directly.

Federal Paperwork Reduction Act

The Office of Management and Budget has approved the information collection requirements in the rule proposed by this action, which affects all the parts currently numbered as parts 3500, 3510, 3520, 3530, 3540, 3550, 3560, and 3570 of title 43, under 44 U.S.C. 3507 and assigned clearance numbers 1004-0030, 1004-0121, and 1004-0142. Existing information collection requirements have been consolidated into part 3500 in this proposed rule. No new requirements have been added as a result of this proposal. The information

collected under this part is used by BLM to determine if an applicant is qualified to hold a lease, license or prospecting permit for solid leasable minerals other than coal, oil and gas, geothermal, and oil shale on Federal lands. The information is required for the applicant to receive the benefit of a permit or lease from BLM.

BLM estimates the public reporting burden of these information collection sections to average 3½ hours for each response. By eliminating the requirement to describe the lands for many assignments and leases, this burden should be reduced for those activities. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the address listed above (see **ADDRESSES**) and the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act (RFA) to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have as significant economic impact, either detrimental or beneficial, on a substantial number of small entities. BLM has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*).

Unfunded Mandates Reform Act

These amendments to 43 CFR part 3500 will not result in any unfunded mandate to state, local or tribal governments in the aggregate, or to the private sector, of \$100,000,000 or more in any one year.

Executive Order 12630

The proposed 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 function of this regulatory action is to streamline

regulations and eliminate unnecessary provisions, 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

According to the criteria listed in section 3(f) of Executive Order 12866, BLM has determined that the proposed rule is not a significant regulatory action. As such, the proposed rule is not subject to Office of Management and Budget review under section 6(a)(3) of the order.

Executive Order 12988

The Department of the Interior has determined that this rule meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988.

Author: The principal author of this rule is Jim Horan, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240; Telephone: (202) 452-5023 (Commercial or FTS).

List of Subjects

43 CFR Part 3500

Government contracts, Mineral royalties, Public lands—mineral resources, Reporting and recordkeeping requirements, Bonds.

43 CFR Part 3510

Public lands—mineral resources, Reporting and recordkeeping requirements.

43 CFR Part 3520

Government contracts, Public lands—mineral resources.

43 CFR Part 3540

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 recordkeeping requirements.

Dated: September 27, 1996.

Sylvia V. Baca,

Acting Assistant Secretary of the Interior.

Accordingly, as discussed in the preamble, and under the authority of 30 U.S.C. 181, 43 U.S.C. 1734, and section 402, Reorganization Plan No. 3 of 1946 (5 U.S.C. Appendix), we propose to amend 43 CFR Chapter II as follows:

PARTS 3510, 3520, 3530, 3540, 3550, 3560, AND 3570—[REMOVED]

1. Remove Parts 3510, 3520, 3530, 3540, 3550, 3560, and 3570.

2. Remove the heading, Group 3500—Leasing of Solid Minerals Other Than Coal and Oil Shale.

3. 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 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 are allowed under this part?

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 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 Can I appeal BLM's decisions under this part?

Subpart 3502—Qualification Requirements

3502.10 Who may hold leases and permits?

3502.13 Can foreign citizens hold permits or leases?

3502.15 Are there any additional restrictions on holdings of leases or interests in leases?

3502.20 Will BLM issue me a lease if I am not in compliance with the diligence requirements of section 2(a)(2)(A) of the Mineral Leasing Act, as amended?

3502.25 Where do I file evidence that I am qualified to obtain a permit or lease?

3502.26 Can I supplement or update my qualifications statement?

3502.27 If I am filing as an individual, what information do I have to provide?

3502.28 If I am an association or a partnership, what information do I have to provide?

3502.29 If I am a guardian or trustee of a trust holding on behalf of a beneficiary, what information do I have to provide?

3502.30 If I am a United States corporation, what information do I have to provide?

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

3502.34 What if there are other parties in interest?

3502.40 What happens if an applicant for a permit, an applicant for a preference right lease, or a successful bidder to a competitive lease dies before the permit or lease is issued?

3502.41 What happens to a permit or lease if a permittee or lessee dies?

3502.42 What happens if the heir is not qualified?

Subpart 3503—Areas Available for Leasing

3503.10 What areas are not available for leasing of any of the minerals covered by this part?

3503.11 Are there any other areas in which I cannot get a permit or lease for the minerals covered by this part?

3503.12 For what areas can I receive a sulphur lease or permit?

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

3503.14 For what areas can I get a lease or permit for asphalt?

3503.15 How can 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?

3503.20 What if the lands I'm interested in are administered by an agency other than BLM?

3503.21 What happens if the surface of the lands I'm interested in belongs to a non-Federal political subdivision or charitable organization?

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

3503.28 Does BLM incorporate any special requirements to protect the lands and resources?

3503.30 How should I describe the lands I'm applying for in my application?

3503.31 What if the lands are in States that are part of the Public Lands Survey System, but have not been surveyed on the ground, are not shown on the records as protracted surveys, or do not conform to the public land surveys?

3503.32 Are there any alternative methods of describing acquired lands?

3503.33 Are there any size or shape limitations on the lands I can apply for?

3503.36 Will BLM issue a lease for unsurveyed lands?

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?

3503.39 Where do I file my application and other necessary documents?

3503.40 Will BLM make the information in my application available to the public?

Subpart 3504—Fees, Rental, Royalty and Bonds

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?

3504.15 What are the rental rates for the different commodities?

3504.16 When is my rental due after the first year of the lease?

3504.17 What happens if I do not pay my rental in a timely fashion?

3504.20 What are the requirements for paying royalties on production?

3504.21 How does BLM determine the royalty rate?

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?

3504.50 Do I have to file a bond?

3504.51 How do I file my bond?

3504.55 What types of bonds are acceptable?

3504.56 If I have more than one lease or permit, 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 should I fail to carry out my obligations under a permit or lease?

3504.66 Will I be required to 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?

3504.71 When will BLM release my bond?

Subpart 3505—Prospecting Permits

3505.10 What is a prospecting permit?

3505.11 How do I obtain a prospecting permit?

3505.12 How do I complete the application form?

3505.15 Is there an acreage limit for my application?

3505.20 Is there a fee or payment required with my application?

3505.25 How does BLM prioritize applications for prospecting permits?

3505.30 Can I amend or change my application once filed?

3505.31 May I withdraw my application once filed?

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 my application has been approved or rejected?

3505.51 May I correct or refile my application if BLM rejects it?

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 Can BLM extend the term of my prospecting permit?

3505.62 Under what conditions can I extend my prospecting permit?

3505.64 How do I apply for an extension?

3505.65 What information must I include in my request for extension?

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

Subpart 3506—Exploration Licenses

- 3506.10 What is an exploration license?
3506.11 What must I do to obtain an exploration license?
3506.12 Who prepares and publishes the notice?
3506.13 What information must I provide to BLM for inclusion in my Notice of Exploration?
3506.14 What happens after I publish the Notice of Exploration?
3506.15 Who resolves differences and approves the license and participants?
3506.20 After my license is issued, may I modify my exploration plan?
3506.25 Once I have a license, what are my responsibilities?

Subpart 3507—Preference Right Leases

- 3507.11 What do I have to do to be entitled to a preference right lease?
3507.15 How do I apply for a preference right lease?
3507.16 What information must my application for a preference right lease include?
3507.20 Is there a fee or payment required with my application?
3507.25 Under what circumstances will BLM reject my application?
3507.26 What do I need to submit to demonstrate that I've found a valuable deposit?
3507.30 If I disagree with BLM's reasons for rejecting my preference right lease, may I appeal?

Subpart 3508—Competitive Leases

- 3508.11 What lands are available for competitive leasing?
3508.12 How do I get a competitive lease?
3508.14 How much time does BLM allow for a bid to be submitted?
3508.15 What information will the notice of lease sale include?
3508.16 What information will the detailed statement include?
3508.20 How will BLM conduct the sale and handle bids?
3508.21 What happens if I am the successful bidder?
3508.22 What happens if my bid is rejected?

Subpart 3509—Fractional and Future Interest Leases

- 3509.10 What are future interest leases?
3509.11 For what lands will BLM issue future interest leases?
3509.12 What if I am a mining owner or operator, and I am applying for a future interest lease as part of my existing operation?
3509.15 Who may apply 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?

- 3509.20 When does my future interest lease take effect?
3509.25 Under what conditions would BLM reject my application for a future interest lease?
3509.30 May I withdraw my application for a future interest lease?

Subpart 3510—Lease Terms and Conditions

- 3510.15 How long will my lease be in effect?
3510.20 Do certain leases allow me to mine other commodities as well?
3510.21 If I am mining calcium chloride, can I obtain a noncompetitive mineral lease to produce the commingled sodium chloride?
3510.25 What is meant by lease readjustment and lease renewal?
3510.26 What if I object to the terms and conditions BLM proposes for a readjusted lease?
3510.27 How will a lease renewal affect my priority as lessee?
3510.30 If I appeal BLM's proposed new terms, do I have to continue paying royalties or rentals while my appeal is being considered?
3510.50 How do I renew my lease?

Subpart 3511—Assignments and Subleases

- 3511.11 Once I am issued a permit or lease, can I assign or sublease it?
3511.12 Is there a fee for requesting an assignment or sublease?
3511.13 What do I submit to get BLM approval for an assignment of record title?
3511.16 How do I assign or transfer a sublease or operating rights to my lease or permit?
3511.18 Do I have to notify BLM if I intend to transfer an overriding royalty to another party?
3511.20 Will BLM approve my assignment or sublease if I have outstanding liabilities?
3511.25 If I assign my permit or lease, when do my obligations under the permit or lease end?
3511.30 What are the responsibilities of a sublessor and a sublessee?
3511.33 Does an assignment or sublease alter the permit or lease terms?

Subpart 3512—Waiver, Suspension, or Reduction of Rental and Minimum Royalties

- 3512.11 Can I be relieved of the lease requirements of rental, minimum royalty, or production royalty?
3512.12 What criteria does BLM consider in approving a waiver, suspension, or reduction in rental or minimum royalty, or a reduction in the royalty rate?
3512.15 How do I apply for relief?
3512.20 What is a suspension of operations and production?
3512.21 What is the effect of a suspension of operations and production?
3512.22 How do I apply for a suspension of operations and production?
3512.25 When will my suspension of operations and production take effect?
3512.26 When and how does my suspension of operations and production expire or terminate?

- 3512.30 What is a suspension of operations?
3512.31 What is the effect of a suspension of operations?
3512.32 How do I apply for a suspension of operations?
3512.33 When will my suspension of operations take effect?
3512.34 When and how does my suspension of operations expire or terminate?

Subpart 3513—Lease Relinquishments, Terminations, and Cancellations

- 3513.11 Can I relinquish my lease or any part of my lease?
3513.12 What should I include in a request for partial relinquishment?
3513.15 Where do I file my relinquishment?
3513.20 When is my relinquishment effective?
3513.25 When does my lease expire?
3513.30 Can my lease be canceled?
3513.31 Can BLM waive cancellation or forfeiture?
3513.32 Will BLM give me an opportunity to remedy a violation of the lease terms?
3513.50 What happens to a *bona fide* purchaser if the lease assigned to him or her is subject to cancellation?

Subpart 3514—Noncompetitive Leasing—Fringe Acreage Leases and Lease**Modifications**

- 3514.11 If I already have a Federal lease, or the mineral rights on adjacent private lands, may I lease adjoining Federal land that contains the same deposits without competitive bidding?
3514.12 What do I need to do to obtain a lease modification or fringe acreage lease?
3514.15 What does BLM do with my application?
3514.20 Are there any fees required to modify my existing lease or obtain a fringe acreage lease?
3514.21 What terms and conditions apply to fringe acreage leases and lease modifications?

Subpart 3515—Mineral Lease Exchange

- 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 Under what circumstances will BLM consider initiating an exchange?
3515.18 Will I be notified that BLM is considering an exchange?
3515.20 Can preference right lease rights be exchanged?
3515.21 What types of lands can be exchanged?
3515.22 What if the lands to be exchanged are not of equal value?
3515.23 Might I be required to submit additional information?
3515.25 If I agree on the lands to be leased in exchange, what happens next?
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 commodities allow use permits?
- 3516.12 What activities can I conduct under a use permit?
- 3516.15 How do I apply for use permits?
- 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—Special Provisions Applying to Hardrock Minerals

- 3517.10 What are development contracts and processing and milling arrangements?
- 3517.11 Are leases and permits covered by approved agreements exempt from the acreage limitations?
- 3517.15 How do I apply for one of these agreements?
- 3517.16 How does BLM process my application?
- 3517.50 Can I collect mineral specimens for non-commercial purposes?

Authority: 5 U.S.C. 552; 7 U.S.C. 1011(f); 16 U.S.C. 90c–1, 460n–5, 460q–1, 460dd–2, 460mm–3, 508b, and 520; 29 U.S.C. 49g; 30 U.S.C. 189, 192c, 293, and 359; 31 U.S.C. 9701; 43 U.S.C. 387, 1733, and 1740; 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 scope of this part?**

This part applies to certain minerals leased under the mineral leasing acts and hardrock minerals leased 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. Some areas allow only leases, not prospecting permits. Special areas identified in 43 CFR part 3580 are leased under this part. Check that part to identify any special provisions that apply to those special areas.

§ 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:

Act means one or more of the statutes referred to in the authority citation of this regulation, as appropriate.

Chiefly valuable means that land is more valuable for the development of sodium, sulphur or potassium than for any non-mineral disposition, or there is not a significant conflict between mineral extractions and any other disposition of lands.

Hardrock minerals means those locatable minerals for which a mineral

patent may be obtained under the Mining Law of 1872 (30 U.S.C. 22 *et seq.*) if the mineral resource is on public domain land. They do not include leasable minerals, nor do they include oil, gas, coal and oil shale or mineral materials covered by the regulations in 43 CFR part 3600. Hardrock minerals do include, but are not limited to, copper, lead, zinc, magnesium, nickel, tungsten, gold, silver, bentonite, uranium, barite, feldspar and fluorspar.

Leasable minerals for 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).

Leasing includes prospecting permits, unless the context otherwise requires.

MMS means the Minerals Management Service.

Permit means prospecting permit, unless otherwise specified.

Valuable deposit means a mineral occurrence where minerals have been found and the evidence is of such a 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 are allowed under this part?

BLM issues several types of mineral use authorizations to qualified individuals. Certain types of authorizations do not apply to certain commodities.

(a) “Prospecting permits” allow you to explore for leasable mineral deposits on lands where BLM has determined that prospecting is necessary to determine the existence of a valuable deposit. Any qualified holder of a prospecting permit is entitled to a preference right lease if he or she discovers a valuable deposit of the mineral or determines the land to be chiefly valuable for sodium, sulfur or potassium as a result of prospecting efforts under the permit.

(b) “Exploration licenses” allow you to explore in areas which contain known deposits of a leasable mineral to obtain data. With an exploration license, you do not obtain any preference or other right to a lease.

(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 or hardrock mineral for which BLM issued the permit; and, for sodium, potassium and sulphur, prove that the lands are chiefly valuable for those minerals. The lease allows you to mine the deposit in accordance with an approved mine plan.

(d) “Competitive leases” are issued for known deposits of a leasable mineral or hardrock mineral by competitive bidding. The lease allows you to mine the deposit in accordance with an approved mine plan.

(e) “Fringe acreage leases” are issued noncompetitively for known deposits of a leasable mineral or hardrock mineral on Federal lands adjacent to existing mines on non-Federal lands when the deposits can only be mined as part of the existing mining operation.

(f) “Lease modifications” are used to add known deposits of the subject leasable mineral or hardrock mineral to an adjacent Federal lease which contains an existing mine provided the deposits can only be mined as part of the existing mining operation.

§ 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, as long as those uses or disposal will not unreasonably interfere with your operation. Any other permits or leases covering the lands contained within your permit or lease will contain suitable stipulations based on consideration of safety, environmental protection, conservation, maximum recovery of the resource, and other such factors, for simultaneous operation. You must also make all reasonable efforts to avoid interference with other authorized uses.

§ 3501.17 Are there any general planning or environmental considerations that affect my permit or lease?

(a) BLM will not issue a permit or lease that does not conform with the decisions, terms and conditions of an applicable comprehensive land use plan.

(b) BLM or the surface management agency will comply with NEPA before issuing you a permit or lease.

(c) BLM will issue permits and leases only in a manner consistent with any unsuitability designation made under 43 CFR part 1600.

§ 3501.20 If BLM approves my application for a use authorization under this part, when does it become effective?

BLM will approve your use authorization effective the first day of the month after BLM signs it, unless you request, in writing, that it be 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 Can I appeal BLM's decisions under this part?

Any party adversely affected by a BLM decision under this part may appeal the decision in accordance with 43 CFR parts 4 and 1840.

Subpart 3502—Qualification Requirements

§ 3502.10 Who may hold leases and permits?

You may hold an interest in leases and permits under this part only if you are:

- (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 State or territory thereof; or
- (d) A legal guardian or trustee of a minor.

§ 3502.13 Can foreign citizens hold permits or leases?

No. Individual foreign citizens cannot hold permits or leases. Citizens of foreign countries may hold stock in United States corporations that hold leases or permits so long as the laws, customs, or regulations of their country do not deny similar privileges to citizens or corporations of the United States. A list of the countries which deny such privileges is available from any BLM State office.

§ 3502.15 Are there any additional restrictions on holding leases or interests in leases?

Yes. If you are a member of, or delegate to, Congress, a Resident Commissioner, or any 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 interest therein. (Officer, agent or employee of the Department—see 43 CFR part 20; Member of Congress—see R.S. 3741; 41 U.S.C. 22; 18 U.S.C. 431–433)

§ 3502.20 Will BLM issue me a lease if I am not in compliance with the diligence requirements of section 2(a)(2)(A) of the Mineral Leasing Act, as amended?

BLM will not issue, modify or renew a lease, or approve a transfer of any lease or interest in a lease, for any of the minerals covered by this part unless you are in compliance with section 2(a)(2)(A) of the Mineral Leasing Act, as amended (compliance is determined for Federal coal leases in accordance with 43 CFR 3462.1–2(e)). If BLM issues you a lease when you are in violation, BLM will cancel your lease as outlined in subpart 3513 of this part.

§ 3502.25 Where do I file evidence that I am qualified to obtain a permit or lease?

You must file evidence with BLM that you meet the qualification requirements. You may file this evidence separately from your application for a permit or lease, but you should file it in the same office where you filed your application.

§ 3502.26 Can I supplement or update my qualifications statement?

After BLM accepts your qualifications, you may submit additional information to the same BLM office by referring to the serial number of the record in which your evidence is filed. You must make any changes to your qualifications statement in writing. It is your responsibility to assure that such evidence is current, accurate and complete.

§ 3502.27 If I am filing as an individual, what information do I have to provide?

If you are an individual, you must submit a signed statement showing:

- (a) You are a U.S. citizen; and
- (b) Your acreage holdings, including any holding 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, do not exceed the limit for the mineral concerned. (See subpart 3503 of this part for a discussion of acreage holdings.)

§ 3502.28 If I am an association or a partnership, what information do I have to provide?

If you are an association, such as a partnership, a member or authorized attorney-in-fact must submit the following:

- (a) A signed statement setting forth:
 - (1) The names, addresses, and citizenship of all members owning or controlling 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 allowable acreage holdings for that mineral.

(b) A copy of the articles of the association or partnership.

§ 3502.29 If I am a guardian or trustee for a trust holding on behalf of a beneficiary, what information do I have to provide?

If you are a guardian or trustee for a trust holding on behalf of a beneficiary, you must submit the following:

- (a) A signed statement setting forth:
 - (1) The citizenship of the beneficiary;
 - (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, do not exceed that allowed.

(b) A copy of the court order or other document authorizing or creating the trust or guardianship.

§ 3502.30 If I am a United States corporation, what information do I have to provide?

If you are a corporation, an officer or authorized attorney-in-fact must submit a signed statement setting forth:

- (a) The State or territory in which the corporation is incorporated;
- (b) The name and citizenship, and percentage of stock owned, held, or controlled by, of 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 that allowed.

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

You must submit evidence of your authority to act on behalf of the applicant. The applicant must also submit a separate statement as to qualifications and acreage holdings unless the power of attorney specifically authorizes and empowers you to make or to execute such statements on his or her behalf.

§ 3502.34 What if there are other parties in interest?

If you are not the sole party in interest to a permit or lease, you must submit 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 issued. All interested parties must furnish appropriate evidence of their

qualifications to hold permit or lease interest.

§ 3502.40 What happens if an applicant for a permit, an applicant for a preference right lease, or a successful bidder to a competitive 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. BLM will recognize the heirs or devisees or their guardian as the record title holders of the permit or lease. They must file the following information with BLM:

(1) A certified copy of the will or decree of distribution, if any, and if not, 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. If the heir or devisee is a minor, the statement must be signed by the guardian or trustee.

(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 will consider the executor or administrator to be the record title holder of the permit or lease. He or she must submit the following information:

(1) Evidence that the person who, as executor or administrator submits forms of lease and bond, 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.

§ 3502.41 What happens to a permit or lease if a 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); 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).

§ 3502.42 What happens if the heir is not qualified?

Consistent with the provisions of the Mineral Leasing Act (30 U.S.C. 184(g)), BLM will allow unqualified heirs to hold ownership for not more than 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

§ 3503.10 What areas are not available for leasing of any of the minerals covered by this part?

The Secretary of the Interior is prohibited from leasing 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 study 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?

You may not obtain a prospecting permit or lease for the solid leasable and hardrock minerals in the following areas:

(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 and oil shale reserves and within the national petroleum reserves;

(e) Lands acquired by the United States for development of helium, fissionable material deposits or other minerals, except leasable minerals, essential to the defense of the country;

(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; and

(i) Lands located adjacent to or within Searles Lake, California are not available for potassium prospecting permits. BLM will lease potassium in this area by competitive bidding.

§ 3503.12 For what areas can I receive a sulphur lease or permit?

BLM may issue sulphur leases and permits for any public domain lands in the States of Louisiana and New Mexico. You can also obtain sulphur leases or permits for Federal Acquired lands nationwide, subject to the exceptions listed in 43 CFR 3503.10 and 3503.11.

§ 3503.13 For what areas can I receive a hardrock lease or permit?

Subject to the consent of the surface managing agency, you can obtain hardrock leases and permits only in the following areas:

(a) Lands identified in the 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];

(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) Ross Lake and, in accordance with 16 U.S.C. 906-1(b), Lake Chelan Recreation Area;

(3) Glen Canyon National Recreation Area; and

(4) 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 can I get a lease or permit for asphalt?

You may obtain leases for asphalt only on certain Federal lands in the State of Oklahoma. You may not obtain prospecting permits for asphalt.

§ 3503.15 How can 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 are the holder of the remaining record title interest or operating rights interest in confirmed private land grants in the State of New Mexico you can lease gold and silver reserved to the United States. 43 CFR part 3580, subpart 3581 discusses the requirements for leasing silver and gold.

§ 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. However, any sand and gravel lease already issued for certain lands patented to the State of Nevada can be renewed at the expiration of its initial term, for successive additional terms of 5 years.

§ 3503.20 What if the lands I'm interested in are administered by an agency other than BLM?

(a) BLM will lease or permit public domain lands administered by other agencies only after consulting with the surface management agency. When required by law, BLM will also obtain the consent of the surface management agency.

(b) Before issuing leases or permits on acquired lands, BLM must obtain written consent from the surface management agency. For preference right lease applications, where the surface management agency has consented to the prospecting permit, BLM will consult with that agency before approving the lease. At that time, the surface management agency may request supplemental data regarding surface disturbance and reclamation.

(c) If a surface management agency requires special stipulations to a lease or permit as a condition of granting its consent, or refuses to consent to the issuance of the lease or permit, you may pursue any administrative remedies provided by that agency. If you notify BLM within 30 days of receipt of BLM's decision that you have requested the surface management agency to reconsider its decision, BLM will suspend the time for filing an appeal under 43 CFR part 4 until a decision is reached by the surface management agency.

§ 3503.21 What happens if the surface of the lands I'm interested in belongs to a non-Federal political subdivision or charitable organization?

If the United States has conveyed or transferred the surface of the lands included within your permit or lease application to any State or political subdivision, agency or instrumentality thereof, or a college or any other educational corporation or association, or a charitable or religious corporation or association, BLM must notify them by certified mail of your application for a permit or lease. BLM will give the surface owner a reasonable time, not to exceed 90 days, to suggest any lease stipulations necessary for the protection of existing surface improvements or uses, provide reasons for the stipulations, or file any objections to the issuance of the lease or permit. BLM will make the final decision whether to issue or deny the lease and which, if any, stipulations identified by the surface owner will be included within the lease terms, based on how the interests of the United States would best be served.

§ 3503.25 Can BLM issue permits and leases for Federal minerals underlying private surface?

Yes. Where the United States has disposed of certain lands under specific land disposal statutes, and those statutes reserved certain leasable or hardrock minerals to the United States together with the right to prospect for, mine, and remove the minerals under applicable leasing laws and regulations, BLM will manage and dispose of those minerals under this part.

§ 3503.28 Does BLM incorporate any special requirements to protect the lands and resources?

BLM will specify stipulations, including those specified by the surface management agency or private surface owner, to your permit or lease to ensure adequate utilization and protection of the lands and their resources. (See also 43 CFR part 3580.)

§ 3503.30 How should I describe the lands I'm applying for in my application?

If the lands are in States that are part of the Public Land Survey System and if those lands have been surveyed or are included within an approved protracted survey, describe the lands by legal subdivision, section, township, and range.

§ 3503.31 What if the lands are in States that are part of the Public Lands Survey System, but have not been surveyed on the ground, are not shown on the records as protracted surveys, or do not conform to the public land surveys?

Describe such lands by metes and bounds in accordance with standard survey practices. Connect your description by courses and distances between successive angle points to an official corner of the public land surveys or, for accreted lands, to an angle point that connects to a point on an official corner of the public lands survey to which the accretions belong.

§ 3503.32 Are there any alternative methods of describing acquired lands?

Yes. You may describe acquired lands in the manner as discussed above. You may instead 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, you must describe the land using courses and distances tied to a point on the boundary of the requested tract. Where a tract number has been assigned by the acquiring agency to the identical tract you wish to lease or permit, you may describe those lands by the tract number, as long as you include a map which clearly shows the location of the lands sought with respect to the administrative unit or the project of which they are a part. In States outside of the Public Lands Survey System, you should describe the lands by tract number, and include a map.

§ 3503.33 Are there any size or shape limitations on the lands I can apply for?

Generally, a quarter-quarter section or a lot is the smallest legal subdivision for which you may apply. The lands must be in reasonably compact form.

§ 3503.36 Will BLM issue a lease for unsurveyed lands?

All leased areas must be surveyed. If you are applying for a permit or lease on lands for which BLM or the surface management agency determines that a survey is needed, you will be required to pay for the survey. If BLM intends to issue a lease by competitive bidding, BLM will pay for surveying the lands.

§ 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 table.

Affected mineral	Nationwide acreage limitation	Maximum acreage in any one State	Maximum acreage for a permit or lease
Asphalt	(Applies to OK only)	2,560 acres	640
Gilsonite	(Not applicable)	7,680 acres	5,120
Hardrock minerals	(Not applicable)	20,480 acres total, 10,240 acres in leases, unless increased up to 20,480 for orderly mine development.	2,560
Phosphate	Not to exceed 20,480 acres in permits or leases.	(Not applicable)	2,560
Potassium	(Not applicable)	80,000 acres (larger if necessary for extraction of sodium from concentrated brines in connection with an existing mining operation).	2,560
Sodium	(Not applicable)	5,120 acres (may be increased to 15,360 acres to facilitate an economic mine).	2,560
Sulphur	(Not applicable)	1,920 acres in 3 leases or permits	640

§ 3503.38 How does BLM compute my acreage holdings?

BLM computes acreage holdings as follows:

(a) The maximum acreage in any one State refers to either public domain lands or acquired lands. Under a lease or permit for acquired lands, you may not hold acreage for leasable minerals greater than the public domain acreage for the same minerals allowed to be held under the Act. BLM will not charge public domain lease holdings against acquired lands lease holdings and vice versa; these holdings are not interchangeable.

(b) Where the United States owns only a fractional interest in the mineral resources of lands, BLM will charge only that part of the total acreage involved in your lease or permit which is proportionate to the United States' interest as acreage holdings. Example: If the United States holds a 25% interest in 200 acres, you will be charged with 50 acres (200x.25).

(c) BLM will not charge any acreage in a future interest lease against your acreage limitations until the date the lease takes effect.

(d) Your acreage holdings for acreage limitation purposes will be proportionate to your direct interest and your indirect interest through stock or other instruments of ownership or control of the association or corporation in the total lease and permit acreage. You will not, however, be charged with your share of any acreage holdings of a corporation or association unless you

own 10 percent or more interest through stock or other instruments of ownership or control of the association or corporation in the association or corporation.

§ 3503.39 Where do I file my application and other necessary documents?

BLM requires that your initial application be filed in the State Office administering the lands for which you are applying or in the BLM office specified in our correspondence with you. BLM considers a document to be filed when it is received in that office.

§ 3503.40 Will BLM make the information in my application available to the public?

All information that you submit under these regulations is subject to disclosure upon request, unless the information is exempt from disclosure under the regulations implementing the Freedom of Information Act (5 U.S.C. 552) at 43 CFR part 2, or unless otherwise provided in this part.

Subpart 3504—Fees, Rental, Royalty and Bonds

§ 3504.11 What forms of payment will BLM and MMS accept?

Any payment you submit must be by U.S. currency, postal money order, or negotiable instrument payable in U.S. currency. Payments made to MMS may also be made by electronic funds transfer.

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

(a) Filing fees and rentals.

(1) You should pay all filing fees and all first-year rentals and all bonus bids for leases to the BLM State office with jurisdiction over the lands you are interested in. Make your instruments payable to the Department of the Interior-Bureau of Land Management. See 43 CFR part 1800, subpart 1821 for a list of BLM addresses.

(2) You should pay all second-year and subsequent rentals and all other payments for leases to the Department of the Interior-Minerals Management Service.

(b) *Royalties.* You should pay all royalties on producing leases and all payments under leases in their minimum production period to the MMS.

§ 3504.15 What are the rental rates for the different commodities?

Rental rates for prospecting permits for all commodities are \$.50 per acre. Rental rates for leases for each commodity are shown in the table. The rental payment must be for the total acreage. 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. Pay the minimum rental or the per-acre rental, whichever is greater. The minimum rental is \$20 per lease or permit for all commodities except asphalt, which has no minimum rental.

Annual lease rental per acre	Phosphate	Sodium	Sulphur/Gilsonite	Asphalt	Hardrock
1st year	\$.25	\$.25	\$.50	\$.25	\$1
2nd year50	.50	.50	.50	1
3rd year50	.50	.50	.50	1
4th year	1	.50	.50	.50	1
5th year	1	.50	.50	.50	1
6th year through lease end	1	1	.50	1	1

§ 3504.16 When is my rental due after the first year of the lease?

Pay the rental in advance each year on or before the anniversary of the effective date of the lease. You must pay rental for each acre or fraction of an acre within your lease as long as the lease is in effect. BLM will credit your rental for any year against the first royalties as the royalties accrue under the lease during that year.

§ 3504.17 What happens if I do not pay my rental in a timely fashion?

BLM will notify you that unless you pay within 30 days from receipt of the notification, BLM will take action to cancel your lease.

§ 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 § 3504.25 for minimum royalty amounts. You must pay royalty on a percentage of the quantity or gross value of the output of the produced commodity at the point of shipment to market.

§ 3504.21 How does BLM determine the royalty rate?

BLM determines the royalty rate on a case-by-case basis, subject to certain minimum royalty rates:

(a) The royalty rate for phosphate and sulphur cannot be less than 5% of the gross value of the output of the commodity or related mineral.

(b) The royalty rate for potassium and sodium cannot be less than 2% of the quantity or gross value of the output of the commodity or related product at the point of shipment to market.

(c) There is no minimum royalty rate for gilsonite and hardrock minerals.

(d) The royalty rate for asphalt cannot be less than 25 cents per ton of 2,000 pounds of marketable production.

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

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 the lease. BLM attaches production royalty rates to, and makes them a part of, all leases. BLM determines the rate on an individual case basis before we offer the lease.

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

You are required to produce a minimum amount or pay a minimum royalty in lieu of production each lease

year, beginning with the sixth lease year or the first full year of a renewed or readjusted lease. This requirement applies to all mineral leases described in part 3500 that BLM issues, reviews, or readjusts after April 22, 1996. The minimum royalty payment is \$3 per acre or fraction of an acre payable in advance. BLM will credit this payment to your production royalties for that year only. You are exempt from these minimum production and royalty requirements if you have hardrock mineral leases or development or operating agreements subject to escalating rentals.

§ 3504.26 May I create overriding royalties on my Federal lease?

Yes. However, if BLM determines that the overriding royalty interest you created might cause premature abandonment of the property or cause marginally economic or low grade deposits to not be mined, BLM will issue a decision ordering you to reduce or suspend the overriding royalty to as little as 1% of the gross value at point of royalty assessment. Where more than one overriding royalty interest is involved, BLM will apply any suspension or reduction to the respective interests in the manner agreed upon by the interest holders. In the absence of an agreement, BLM will apply the suspension or reduction in inverse order of the dates the overriding interests were created.

§ 3504.50 Do I have to file a bond?

Yes. BLM will establish individual permit and lease bond amounts on a case-by-case basis. In making this determination, BLM will consider the estimated cost of reasonable stabilization and reclamation of the areas to be disturbed and conformance with permit and lease terms. The minimum bond requirement for prospecting permits is \$1,000. The minimum bond requirement for leases is \$5,000.

§ 3504.51 How do I file my bond?

File your bond in the BLM State office where you applied for a permit or lease. You must use an approved BLM form. File one copy, executed by you as principal or, in the case of surety bonds, by both you and an acceptable surety.

§ 3504.55 What types of bonds are acceptable?

You can file either a personal bond or a surety bond.

(a) Personal bonds may be in the form of:

- (1) Cash;
- (2) Cashier's check;
- (3) Certified check; or

(4) Negotiable U.S. Treasury bonds of a value equal to the amount of the bond. If you submit Treasury bonds, include a conveyance giving the Secretary full authority to sell the securities in case you default in your performance of the terms and conditions of your lease or permit.

(b) Surety bonds must be issued by qualified surety companies approved by the Department of the Treasury. A list of qualified sureties is available from any BLM State Office.

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

Yes. In lieu of separate bonds for each lease or permit, you may file a bond to cover all leases and permits for a specific mineral in any one State, or nationwide. BLM establishes the amount of the bond; however, the minimums are shown below:

(a) Statewide bonds will be no less than \$25,000. File these bonds in the BLM State Office for the State where your leases are located.

(b) Nationwide bonds will be no less than \$75,000. File these bonds in any BLM State Office.

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

BLM may increase or decrease the amount of your bond when BLM determines that a change in coverage is appropriate.

§ 3504.65 What happens to my bond should I fail to carry out my obligations under a permit or lease?

BLM will take payment from your bond to cover any obligations on which you default. Your bond will be reduced accordingly. If the surety makes a payment, BLM will reduce the face amount of the surety bond and the surety's liability by the amount of the payment.

§ 3504.66 Will I be required to 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 needed to bring your bond up to the required level. 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 lease or permit. If you do not replace your bond, BLM may cancel the leases or permits covered by the bond.

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

BLM will terminate the period of liability of a surety or other provider of

a bond at any time. The bond provider must provide 30 days notice to BLM and to the principals whose obligations are secured. You may not conduct any operations after a bond is terminated, without providing a new bond satisfactory to BLM. BLM will also terminate the period of liability on an old bond once a new bond has been filed and BLM accepts it.

§ 3504.71 When will BLM release my bond?

BLM will release your bond when we have determined, after the passage of a reasonable period of time, that you have paid all royalties, rentals, penalties, and assessments, satisfied all permit or lease obligations, reclaimed the site, and taken effective measures to ensure that the mineral prospecting or development activities will not have an adverse effect on surface or subsurface resources.

Subpart 3505—Prospecting Permits

§ 3505.10 What is a prospecting permit?

(a) A prospecting permit gives you, as the permittee, the exclusive right to prospect on and explore lands available for leasing to determine the existence of a valuable deposit of:

- (1) Phosphate;
- (2) Potassium;
- (3) Sulphur;
- (4) Sodium
- (5) Gilonite; or
- (6) A hardrock mineral.

(b) You may remove only material needed to demonstrate the existence of a valuable mineral deposit.

§ 3505.11 How do I obtain a prospecting permit?

You must provide three copies of the official BLM application form and file it with the BLM office with jurisdiction over the lands you are interested in.

§ 3505.12 How do I complete the application form?

Your application must be legible and dated. It must contain your or your agent's original signature. Your application must also include:

- (a) Your name and address;
- (b) A statement of your qualifications and holdings (See subpart 3503 of this part);
- (c) A complete and accurate land description in compliance with subpart 3502 of this part;
- (d) Three copies of any maps if needed to accompany the description; and
- (e) The name of the commodity or commodities for which you are applying.

§ 3505.15 Is there an acreage limit for my application?

The acreage in your application must not exceed or cause your holdings for that mineral to exceed the maximum allowed under the permit. BLM cannot issue a permit or lease if it causes you to exceed the State or nation-wide limits. See the table at § 3503.37.

§ 3505.20 Is there a fee or payment required with my application?

Yes. You must include with your application:

- (a) A nonrefundable filing fee of \$25; and
- (b) The first year's rental, as shown in § 3504.15.

§ 3505.25 How does BLM prioritize applications for prospecting permits?

BLM will prioritize applications based on the time of filing. Where more than one application is filed at the same time for the same commodity on the same lands, BLM will hold a public drawing in accordance with 43 CFR part 1820, subpart 1821 to determine priority.

§ 3505.30 Can I amend or change my application once filed?

Yes. However, if your amendment adds lands, BLM will assign priority to your amended application for such additional 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. You cannot exceed the acreage limitations specified in § 3503.37.

§ 3505.31 May I withdraw my application once filed?

Yes. If you withdraw your application in whole or in part before BLM signs the permit, your rental payment will be refunded proportionate to the extent of your withdrawal. BLM will retain the filing fee.

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

Yes. After initially reviewing your permit application, but before issuing the prospecting permit, BLM will require you to submit three copies of an exploration plan. You must also submit a bond. See subpart 3504 of this part, especially § 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, insofar as possible, include the following:

- (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, including maps, of geologic, water, vegetation and other physical factors, and the distribution, abundance and habitat of fish and wildlife, particularly threatened and endangered species, that your proposed exploration may affect, and 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 and 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 for surface reclamation, which must include as appropriate:

- (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 to be planted; 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) Other data which BLM may require.

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

If BLM accepts your application, we will issue your lease or permit. If BLM rejects your application, we will issue a decision document to you by certified mail (return receipt requested). In it BLM will:

- (a) Detail the reasons for rejecting your application;
- (b) Identify any items you will need to correct in your application; and
- (c) Describe how you can appeal an adverse decision.

§ 3505.51 May I correct or refile my application if BLM rejects it?

If you file a new, corrected application for the same lands within 30 days of receipt of the rejection, BLM will apply the nonrefundable filing fee and rental payment submitted with your original application to the new application, provided the serial number of the original application is shown on your new application. BLM will establish priority for the permit as of the date the new application is filed. If you do not file a new application within 30 days of rejection, only your rental payment will be refunded.

§ 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;
- (b) Comply with all permit terms and stipulations attached to the permit by the surface management agency;
- (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 your permit has been extended by BLM.

§ 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 Can BLM extend the term of my prospecting permit?

BLM may extend prospecting permits for phosphate and hardrock for a period not to exceed 4 years, and for potassium and Gilsonite a period not to exceed 2 years. Sodium and sulphur prospecting permits cannot be extended.

§ 3505.62 Under what conditions can I extend my prospecting permit?

Your permit may be extended if you can prove that:

- (a) You have explored with reasonable diligence and been unable to determine the existence and workability of a valuable deposit covered by the permit. Reasonable diligence means that, in the opinion of BLM, you have drilled a sufficient number of core 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. You must request an extension at least 90 days prior to expiration of the permit. Accompany your request with a

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

§ 3505.65 What information must I include in my request for extension?

Your request must:

- (a) Demonstrate that you have met the conditions for extension set out in 43 CFR 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 as of the date BLM approves it, or on the expiration of the original permit, whichever is later.

§ 3505.70 May I relinquish my prospecting permit?

Yes. You may relinquish the entire prospecting permit or any legal subdivision thereof. 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 BLM accepts the request, your relinquishment will be effective as of the date you filed it with BLM. The lands you relinquished, if otherwise available, will be open to any new applications immediately after BLM notes the relinquishment on the official status records. If you relinquish part or all of your permit, you lose any right or entitlement 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 fail to pay the rental on or before the anniversary date of the permit. BLM will note the termination of your permit for failure to pay rental on the official status records. Upon notation, BLM will make the lands covered by the permit available for filing of new permit applications.

§ 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. The lands will be available for new applications 60 days after expiration, unless you timely file for an extension, or you file an application for a preference right lease.

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

Yes. BLM can cancel your permit if you fail to 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. BLM will provide you 30 days notice, within which you must correct your default. If your default continues, BLM may cancel your permit. BLM's waiver of one particular cause for cancellation will not prevent BLM from canceling your permit for any other cause, or for the same cause occurring at any other time. Unless you file an appeal, BLM will note the cancellation of your permit on BLM's official status records, at which time the lands covered by the permit will be available for filing of new applications by any qualified applicant.

Subpart 3506—Exploration Licenses**§ 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.

§ 3506.11 What must I do to obtain an exploration license?

Apply by submitting an exploration plan as described in subpart 3505 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 Notice of Exploration inviting others to participate in exploration under the license on a pro-rata cost-sharing basis.

§ 3506.12 Who prepares and publishes the notice?

BLM prepares the notice using your information and posts 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 for inclusion in my Notice of Exploration?

You must include:

- (a) Your name and address;
- (b) A description of the lands;
- (c) The address of the Bureau 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 What happens after I publish the Notice of Exploration?

Any person who seeks to participate in the exploration program must notify you and BLM in writing within 30 days after the final publication and BLM posting.

§ 3506.15 Who resolves differences and approves the license and participants?

BLM does, by issuing the license naming the participants and acreage covered. BLM may also establish core hole spacing and resolve any other issue necessary to minimize surface disturbance and inconsistencies between proposed exploration plans.

§ 3506.20 After my license is issued, may I modify my exploration plan?

Yes. BLM may approve modifications of your exploration plan upon your request.

§ 3506.25 Once I have a license, what are my responsibilities?

You must provide to BLM all data obtained during exploration. BLM will consider the data confidential and will not make the data public until the earlier of the following occurs:

- (a) The areas involved have been leased; or
- (b) BLM determines that the data are not exempt from disclosure under the Freedom of Information Act.

Subpart 3507—Preference Right Leases**§ 3507.11 What do I have to do to be entitled to a preference right lease?**

You must have a prospecting permit for the area you want to lease and meet the following conditions:

- (a) *Phosphate, Gilsonite and hardrock minerals.* You must demonstrate that you have discovered a valuable deposit within the period covered by your prospecting permit.
- (b) *Sodium, potassium, and sulphur.* In addition to demonstrating that you have discovered a valuable deposit, BLM must determine that the lands are chiefly valuable for the subject minerals.
- (c) *Asphalt.* You can get only a fringe acreage lease or a competitive lease for asphalt, not a prospecting permit.

§ 3507.15 How do I apply for a preference right lease?

No specific form is required. You must submit three copies of your application within 60 days after your prospecting permit expires.

§ 3507.16 What information must my application for a preference right lease include?

Your application must contain:

(a) A statement of your qualifications and holdings as specified in subpart 3503 of this part;

(b) Three maps showing utility systems, the location of any proposed development or mining operations and facilities incidental thereto, including the approximate locations and the extent of the areas you will use for pits, overburden and tailings, and 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 types of equipment to be used;

- (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 mining operations anticipated on the lands applied for and existing or planned mining operations, or facilities incidental thereto, on adjacent Federal or non-Federal lands; and

(d) If your application is for less than the lands covered by your prospecting permit, a complete and accurate description of the lands as described and included in your prospecting permit.

§ 3507.20 Is there a fee or payment required with my application?

Yes. With your application, submit the first year's rent, according to the provisions in 43 CFR 3504.15.

§ 3507.25 Under what circumstances will BLM reject my application?

BLM will reject your application for a preference right lease if:

- (a) You did not discover a valuable deposit of mineral(s) covered by the prospecting permit;
- (b) You did not submit requested information in a timely manner;
- (c) You did not otherwise comply with the requirements of this subpart; or
- (d) In the case of sodium, potassium and sulphur, BLM determines that the lands are not chiefly valuable for the mineral commodity specified in the permit.

§ 3507.26 What do I need to submit to demonstrate that I've found a valuable deposit?

To prove you have found a valuable deposit, provide BLM the information listed in 43 CFR 3593.1. You must have collected the data during the life of the prospecting permit. BLM may request supplemental data to determine the extent and character of the deposit, the anticipated mining and processing

methods and costs, the anticipated location, kind and extent of necessary surface disturbance and measures to be taken to reclaim that disturbance, and the profitability of mineral development.

§ 3507.30 If I disagree with BLM's reasons for rejecting my preference right lease, may I appeal?

Yes. If you believe that the facts in your application are sufficient to show that you are entitled to a lease, you have a right to a hearing before an Administrative Law Judge in the Office of Hearings and Appeals, Department of Interior, under the procedures in 43 CFR parts 4 and 1840. At the hearing, you will have to show, by a preponderance of the evidence, that you discovered a valuable deposit of the mineral.

Subpart 3508—Competitive Leases**§ 3508.11 What lands are available for competitive leasing?**

BLM issues a competitive lease on unleased lands where BLM knows that a deposit of a valuable mineral deposit exists. In such areas, BLM will issue you an exploration license, but not a prospecting permit. You must compete with any other interested parties to get the lease.

(a) In general, BLM may offer competitive leases for lands where prospecting or exploratory work is unnecessary to determine the existence or workability of a valuable mineral deposit.

(b) Lands in and adjacent to Searles Lake, California, are available for competitive potassium leases without regard to quality or quantity of potassium deposits that may be present.

§ 3508.12 How do I get a competitive lease?

Notify BLM of areas in which you are interested. Additionally, BLM may designate certain lands for competitive leasing. In both cases, upon determining the lands are available for leasing, BLM publishes a notice identifying the lands available, conditions under which bids will be accepted, and the date and time bids will be opened. BLM awards competitive leases only through sale to the qualified bidder who offers the highest acceptable bonus bid.

§ 3508.14 How much time does BLM allow for a bid to be submitted?

Prior to offering a lease, BLM will publish a notice of lease sale for at least three consecutive weeks in a newspaper of general circulation in the area in which the lands are situated. BLM will also post the notice of lease sale for 30 days in the public room of the BLM

office with jurisdiction over the lands being offered. The notice will specify the date by which bids must be submitted.

§ 3508.15 What information will the notice of lease sale include?

The notice will include:

- (a) The time and place of sale;
- (b) The bidding method;
- (c) A description of the tract being offered;
- (d) A description of the mineral deposit being offered;
- (e) The minimum bid BLM will consider; and
- (f) Information on where a detailed statement of the terms and conditions of the lease sale and of the proposed lease may be obtained.

§ 3508.16 What information will the detailed statement include?

The detailed statement will include:

- (a) The proposed lease terms and conditions, including the rental, royalty rates, bond amount, and 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 a statement of your qualifications (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, before BLM issues the lease, your proportionate share of the total cost of the publication of the sale notice. Your share is based on the number of tracts you bid on successfully, divided into the total number of tracts offered for sale;
- (e) A warning concerning 18 U.S.C. 1860 which prohibits unlawful combination or intimidation of bidders;
- (f) A statement that the Secretary reserves the right to reject any and all bids, and the right to offer the lease to the next qualified bidder if the successful bidder fails to obtain the lease for any reason; and
- (g) Any other information BLM deems appropriate.

§ 3508.20 How will BLM conduct the sale and handle bids?

BLM will open and announce all bids at the time and date specified in the notice of lease sale, but will not accept or reject bids at that time. BLM will not consider bids received after the time specified in the notice of sale. You may withdraw or modify your bid prior to 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 your bid meets or exceeds fair

market value, as determined by BLM through appraisal or other appropriate means, BLM will send you copies of the lease on the form attached to the detailed statement. You must sign and return the lease form, pay the balance of the bonus bid, pay the first year's rental, pay the publication costs, and furnish the required lease bond, within the time BLM specifies.

§ 3508.22 What happens if my bid is rejected?

- (a) If your bid is the high bid and is rejected 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 BLM determines that your high bid must be rejected for reasons beyond your control, the deposit submitted with the bid will be returned to you.

Subpart 3509—Fractional and Future Interest Leases

§ 3509.10 What are future interest leases?

BLM issues future interest leases to those holders of mineral interests whose present interest 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 For what lands will BLM issue future interest leases?

BLM will issue noncompetitive leases for future interests in lands on which there is an existing mining operation or in which the present mineral interest holder has established the existence of a valuable deposit, if BLM determines it is in the public interest.

§ 3509.12 What if I am a mining owner or operator, and I am applying for a future interest lease as part of my existing operation?

You must meet the qualifications set forth in subpart 3502 of this part, and you must pay fair market value for the mineral deposit when title vests in the United States. BLM will not issue you a lease until you meet those requirements.

§ 3509.15 Who may apply for a future interest lease?

Only the person who has a present interest in the minerals may apply for a future interest lease. BLM may issue future interest leases to applicants who own all or substantially all of the present mineral interest (over 50%), regardless of whether that person owns as fee owner, lessee, or holder of operating rights.

§ 3509.16 How do I apply for a future interest lease?

No specific form is required. Include a \$25 filing fee with application. Submit the application to the BLM office with jurisdiction over the lands. You must file no less than 1 year before the mineral interests vest with the United States.

§ 3509.17 What information must I include in my application for a future interest lease?

Your application must include a description of the land and the same information BLM requires when you apply for a present interest Federal lease, including your certification that you meet the qualifications requirements (see subpart 3502 of this part). You also need to include evidence of your title and of the extent of your rights to the present interest in the mineral deposits either by submitting a certified abstract of title or a title certificate. You must submit the names of the other owners of the mineral interests. If you are owner of the operating rights to the mineral by means of a contract with the owner, you need to submit three copies of the mineral contract or lease also.

§ 3509.20 When does my future interest lease take effect?

Unlike other permits or leases, your future interest lease will be effective on the date the minerals vest in the United States, as stated in the lease.

§ 3509.25 Under what conditions would BLM reject my application for a future interest lease?

BLM will reject your future interest application if you do not meet the qualifications in § 3509.15, or for any of the following reasons:

- (a) You filed your application less than one year before the minerals vest in the United States. If, at the time the minerals vest in the United States, BLM has on file an application for a future interest lease that was filed less than one year earlier, BLM will reject the application. After the mineral right vests in the United States, BLM will accept only applications for present interest leases or permits.

- (b) If you as the lessee would have a total interest of less than 50% once the future interest lease becomes effective, BLM may reject the application unless we determine it would be in the best interests of the government to issue the lease.

§ 3509.30 May I withdraw my application for a future interest lease?

Yes. You can withdraw your application as long as you file the

withdrawal before the lease is signed. BLM will retain the application fee.

Subpart 3510—Lease Terms and Conditions

§ 3510.15 How long will my lease be in effect?

Your lease will be issued for the term specified in the table.

Lease term	Phosphate	Sodium	Potassium	Sulphur/hardrock	Gilsonite
(a) Initial lease term (years).	Indeterminate	10	Indeterminate	20	20 years, and as long thereafter as Gilsonite is produced in paying quantities.
(b) Periods of renewal or readjustment.	Readjustment at the end of each 20 year period.	Renewal for 10 year term at end of initial term and each 10 year period.	Readjustment at the end of each 20 year period.	Renewal for 10 year term at end of initial term and each 10 year period.	Readjustment at the end of each 20 year period.

§ 3510.20 Do certain leases allow me to mine other commodities as well?

Yes. Sodium leases may authorize the mining of potassium compounds as related products, and potassium leases may authorize the mining of sodium compounds as related products. A phosphate lease allows you to use deposits of silica, limestone or other rock on the lease in the processing or refining of phosphate, phosphate rock, and associated minerals mined from the leased lands. You must pay royalty for the use of these materials as specified in your lease.

§ 3510.21 If I am mining calcium chloride, can I obtain a noncompetitive mineral lease to produce the commingled sodium chloride?

If you are producing calcium chloride in paying quantities from an existing mine which you control, you may apply to BLM for a fringe acre lease to produce the commingled sodium chloride. You must already have authorization, under 43 CFR part 3800, for the locatable minerals. You must also meet the other requirements of this part for the commingled leaseable minerals.

§ 3510.25 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 at the end of each 20-year period. If BLM does not 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, BLM will issue the lease for an initial term as specified in the table in § 3510.15. You must apply for a renewal of the lease at least 90 days prior to the end of its initial term in order to extend the lease for an additional term. If you fail to renew these leases, they expire

and the lands become available for re-leasing by BLM.

§ 3510.26 What if I object to the terms and conditions BLM proposes for a readjusted lease?

(a) You will be given 60 days after receiving the proposed readjusted terms to file any objection. If BLM does not receive an objection the proposed readjusted terms will be in effect. If you file an objection, BLM will issue a decision responding to your objection. If you consider the decision to be adverse to your interests, you will have the right of appeal under 43 CFR parts 4 or 1840.

(b) Except as provided in the following section, the readjusted lease terms and conditions will be effective pending the outcome of any appeal provided for in paragraph (a) of this section unless BLM provides otherwise.

§ 3510.27 How will a lease renewal affect my priority as lessee?

BLM bases your priority as a permittee or lessee, as related to other permittees or lessees on the same lands, on the date we issued your initial permit or lease. This applies regardless of the date of any readjustments, extensions, or renewals.

§ 3510.30 If I appeal BLM's proposed new terms, do I have to continue paying royalties or rentals while my appeal is being considered?

You must continue to pay royalties or rentals at the original rate. Your obligation to pay any increased readjusted royalties, minimum royalties and rentals will be suspended while your objection or appeal is considered. However, any increased charges accrue beginning with the effective date of the readjustment, while final action on your appeal is pending. If the increased charges are sustained by a decision on the objection or on appeal, you must pay the accrued balance, plus interest at

the rate specified for late payment by the MMS (See 43 CFR part 3590).

§ 3510.50 How do I renew my lease?

To renew leases, you must file an application at least 90 days prior to the expiration of the lease term. No specific form is required. You must file three copies of your application with BLM together with a nonrefundable \$25 filing fee and an advance rental payment of \$1 per acre or fraction of an acre.

Subpart 3511—Assignments and Subleases

§ 3511.11 Once I am issued a permit or lease, can 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.

§ 3511.12 Is there a fee for requesting an assignment or sublease?

Yes. When you submit your instrument for assignment of record title or operating rights, or for overriding royalty assignment, you must pay a nonrefundable filing fee of \$25. BLM will not accept any instrument not accompanied by the filing fee.

§ 3511.13 What do I submit to get BLM approval for an assignment of record title?

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:

- The name and current address of the assignee;
- The interest held by you and the interest you plan to assign;
- The serial number of the affected permit or lease;
- The percentage of overriding royalties retained;

(e) The date and your original signature on each copy, as the assignor; and

(f) The assignee must also send BLM a request for approval of the assignment which must contain:

(1) A statement of the assignee's qualifications and holdings, as required by subpart 3502 of this part;

(2) Date and signature of the assignee; and

(3) A \$25 filing fee.

§ 3511.16 How do I assign or transfer a sublease or operating rights to my lease or permit?

You must file one copy of the sublease or agreement to assign operating rights between you and the operator within 90 days from the date of final execution of these agreements. The assignee must also file a signed and dated request for approval accompanied by a statement of qualifications and holdings and a \$25 fee. BLM will notify you with a formal decision indicating approval or disapproval.

§ 3511.18 Do I have to notify BLM if I intend to transfer an overriding royalty to another party?

Yes. Although BLM does not approve these transfers, you must file all overriding royalty interest assignments with the BLM within 90 days from the date of execution. Your filing must be accompanied by the assignee's statement of qualifications as provided for in subpart 3503 of this part and the \$25 filing fee.

§ 3511.20 Will BLM approve my assignment or sublease if I have outstanding liabilities?

No. Before BLM will approve your assignment of a lease or permit, your account must be in good standing or the assignee and his or her surety must provide 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.

§ 3511.25 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 BLM approves the assignment. Even then, you will continue to be responsible for obligations that accrued prior to BLM's approval of the assignment, whether or not they were identified at the time of the transfer.

§ 3511.30 What are the responsibilities of a sublessor and a sublessee?

After BLM's approval of a sublease becomes effective, the sublessor and sublessee become jointly and severally liable for performance of all obligations under the permit or lease.

§ 3511.33 Does an assignment or sublease alter the permit or lease terms?

No. An assignment or sublease will not extend the life of the permit or the readjustment or renewal periods of the lease, or alter other terms or conditions of the permit or lease.

Subpart 3512—Waiver, Suspension, or Reduction of Rental and Minimum Royalties

§ 3512.11 Can I be relieved of the lease requirements of rental, minimum royalty, or production royalty?

Yes. BLM has a process which may allow you temporary relief from the lease requirements of rental, minimum royalty, or production royalty.

§ 3512.12 What criteria does BLM consider in approving a waiver, suspension, or reduction in rental or minimum royalty, or a reduction in the royalty rate?

BLM may approve an application for a waiver, suspension, or reduction in rental or minimum royalty, or a reduction in the royalty rate, if approval:

- (a) Is in the interest of conservation;
- (b) Will encourage the greatest ultimate recovery of the resource; and
- (c) Is necessary to promote development of the mineral resources or the lease cannot be successfully operated under existing terms.

§ 12.15 How do I apply for relief?

You must file two copies of an application with BLM which contain the following information for all leases in the application:

- (a) The serial numbers;
- (b) The name of the record title holder(s);
- (c) The name of the operator 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 minerals mined and subject to royalty for each month covering a period of not less than 12 months immediately preceding the date of filing of 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 so paid and efforts made to reduce them;

(k) Agreements of the leaseholder(s) and the non-Federal royalty holders to a permanent reduction which ensures that the non-Federal royalty interests do not exceed one-half the proposed reduced royalties paid to the United States; and

(l) Any other information needed by BLM to ascertain whether the request satisfies the standards in § 3512.12.

§ 3512.20 What is a suspension of operations and production?

A suspension of operations and production is an action by which BLM orders or allows you to cease operations in the interest of conservation.

§ 3512.21 What is the effect of a suspension of operations and production?

BLM will extend the term of your lease by any periods of suspension of operations and production. BLM will reduce the minimum annual production requirements of your lease proportionately for that portion of 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 beginning the first day of the lease month if the suspension becomes effective that day or beginning the first day of the following lease month if the suspension becomes effective on any day other than the first day of the lease month.

§ 3512.22 How do I apply for a suspension of operations and production?

You must submit two copies of an application to BLM that explains why it is in the interest of conservation to suspend your operations and production.

§ 3512.25 When will my suspension of operations and production take effect?

Your suspension takes effect on the date specified by BLM.

§ 3512.26 When and how does my suspension of operations and production expire or terminate?

Your suspension will end on the first day of the lease month in which you

resume operations or production, or upon expiration of the suspension, whichever occurs first. All lease terms and obligations resume on this date. If you have paid rentals in advance, BLM will allow credit on the next rental or royalty due under the lease.

§ 3512.30 What is a suspension of operations?

A suspension of operations is an action by which BLM may, upon your application, suspend operations on your lease when marketing conditions are such that your leases cannot be operated except at a loss.

§ 3512.31 What is the effect of a suspension of operations?

A suspension of operations does not affect the term of the lease or the annual rental payment. BLM will reduce the minimum annual production requirements of your lease proportionate to that portion of the lease year for which a suspension of operations is effective. You do not have to pay minimum annual production beginning the first day of the lease month if the suspension becomes effective that day or beginning the first day of the following lease month if the suspension becomes effective on any day other than the first day of the lease month.

§ 3512.32 How do I apply for a suspension of operations?

You must submit an application in duplicate to BLM which contains sufficient information to establish that your lease cannot be operated except at a loss.

§ 3512.33 When will my suspension of operations take effect?

Your suspension will be effective on the date specified by the BLM.

§ 3512.34 When and how does my suspension of operations expire or terminate?

The suspension of minimum annual production ends on the first day of the lease month in which you resume operations, or upon expiration of the suspension, whichever occurs first. Your obligation for minimum annual production resumes at this time.

Subpart 3513—Lease Relinquishments, Terminations, and Cancellations

§ 3513.11 Can I relinquish my lease or any part of my lease?

If you can show that the public interest will not be impaired, you may relinquish your entire lease or any legal subdivision included in your lease upon BLM's approval. Notify BLM in writing

that you intend to relinquish all or part of your lease. Include your signature and date. If you relinquish your lease, you will be subject to a continued obligation to make payment of all accrued rentals and royalties and to provide for the preservation of any mines or productive works or permanent improvements on the leased lands in accordance with the regulations and terms of your lease.

§ 3513.12 What should I include in a request for partial relinquishment?

Any partial relinquishment must clearly describe the lands you are relinquishing and give the exact area involved.

§ 3513.15 Where do I file my relinquishment?

File the relinquishment in the BLM office that issued the lease.

§ 3513.20 When is my relinquishment effective?

When BLM accepts your relinquishment, it will be effective as of the date you filed it.

§ 3513.25 When does my lease expire?

(a) Sodium, sulphur, asphalt, and hardrock mineral leases expire at the end of the lease term, unless you file a timely application for lease renewal, or at the time your application for renewal is rejected.

(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.

§ 3513.30 Can my lease be canceled?

Yes. BLM may institute appropriate proceedings in a court of competent jurisdiction to forfeit and cancel your lease if:

(a) You fail to comply with the provisions of the Act, or of regulations in effect when your lease is issued or readjusted; or

(b) You default in the performance or observance of any of the terms, covenants, and stipulations of the lease and continue to fail or default for 30 days after BLM notifies you in writing of your default.

§ 3513.31 Can BLM waive cancellation or forfeiture?

Yes, but BLM's waiver of any particular cause of forfeiture will not prevent BLM from canceling and forfeiting the lease for any other cause or for the same cause occurring at any other time.

§ 3513.32 Will BLM give me an opportunity to remedy a violation of the lease terms?

Yes. If you own or control, directly or indirectly, any interest in any lease in violation of any of the provisions of the Act, BLM will give you 30 days to remedy the violation or to show cause why the Attorney General should not be requested to institute proceedings in a court of competent jurisdiction to:

- (a) Cancel the lease;
- (b) Forfeit the interest so owned;
- (c) Compel disposal of the interest so owned or controlled; or
- (d) If a lease is issued improperly, and requires amending, it will be subject to administrative cancellation and BLM will issue an amended lease.

§ 3513.50 What happens to a bona fide purchaser if the lease assigned to him or her is subject to cancellation?

(a) If you are a qualified *bona fide* purchaser, BLM will not cancel your lease or your interest in a lease even if we had decided to cancel your predecessor's lease. However, as purchaser, you are responsible for ensuring 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 it is a *bona fide* purchaser from any legal proceedings to cancel the lease.

Subpart 3514—Noncompetitive Leasing—Fringe Acreage Leases and Lease Modifications

§ 3514.11 If I already have a Federal lease, or the mineral rights on adjacent private lands, may I lease adjoining Federal land that contains the same deposits without competitive bidding?

Yes. If the adjoining Federal lands are available for leasing, you can lease them noncompetitively, even if they are known to contain a deposit of the mineral you are leasing. BLM will either issue a new lease for these lands (fringe acreage) or add the lands to your existing Federal lease (modification).

§ 3514.12 What do I need to do to obtain a lease modification or fringe acreage lease?

(a) You must file three copies of your application with the BLM office with jurisdiction over the lands. No specific application form is required.

(b) Your application must be accompanied by a nonrefundable filing fee of \$25, and an advance rental payment in accordance with the rental rate for the mineral commodity you are seeking. If you are seeking 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) Reference 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 owned or controlled by you; and

(4) Include proof that you own or control the mineral deposit in the adjoining lands if they are not under a Federal lease.

§ 3514.15 What does BLM do with my application?

BLM can 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 owned or controlled by you;

(b) The new lease is not in excess of maximum size allowed in a lease, as specified in § 3503.37;

(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;

(d) The mineral deposit is not in an area of competitive interest;

(e) The lands applied for lack sufficient reserves of the mineral resource to warrant independent development; and

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

§ 3514.20 Are there any fees required to modify my existing lease or obtain a fringe acreage lease?

Before BLM issues a new fringe acreage lease or modifies your existing lease, you must pay a bonus bid in an amount determined by BLM based on an appraisal or other appropriate means, but not less than \$1 per acre or fraction of an acre.

§ 3514.21 What terms and conditions apply to fringe acreage leases and lease modifications?

Your fringe acreage lease is a new lease. Therefore, BLM may impose terms and conditions different from those in your original non-Federal lease, if any. BLM will issue a modified lease subject to the same terms and conditions as in the original lease.

Subpart 3515—Mineral Lease Exchange

§ 3515.10 May I exchange my lease or lease right for another mineral lease or lease right?

Yes. If BLM concludes that operations on your preference right or outstanding lease are not in the public interest, or that operations on the lands to be leased in exchange would be in the public interest, you may relinquish your current lease or preference right in exchange for a mineral lease of other lands of equal value for any leasable or hardrock mineral covered by this part.

§ 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 43 CFR part 2200 apply to exchanges.

(b) Exchanges involving the issuance of coal leases, coal lease bidding rights or coal lease modifications are subject to the regulations in 43 CFR part 3400, subpart 3435 rather than to the regulations in this part.

§ 3515.15 Under what circumstances will BLM consider initiating an exchange?

(a) BLM will notify you that we are prepared to consider exchange of a mineral lease if you relinquish your existing leasing rights.

(b) BLM may seek to exchange any part or all of the lands under your preference right lease application(s) or lease(s).

(c) BLM must find that the exchange is in the public interest under both of the following criteria:

(1) The benefits of production from your existing lease or preference right lease would not outweigh the adverse effects, or threat of damage or destruction to agricultural production potential, or scenic, biological, geologic, historic, or other public interest values such as recreational use; archeological or historic values; threatened or endangered species; proximity of residential or urban areas; study for potential inclusion in the wilderness or wild and scenic rivers systems; and value for public uses, including public highways, airports, and rights-of-way from lease operations; and

(2) The lands proposed for exchange are free from hazardous waste as defined under the authorities of the Clean Water 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 that BLM is considering an exchange?

Yes. The notice you receive will:

(a) State why BLM believes 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 BLM would offer exchange terms; and

(d) Allow you to describe the lands on which you would accept an exchange lease.

§ 3515.20 Can preference right lease rights be exchanged?

Yes. In order to have a 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 land 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 the grantor or the Secretary, as circumstances require, may equalize the value by making a monetary payment to the party receiving the property of lesser value. Such payments cannot 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.

§ 3515.23 Might I be required to submit additional information?

You must be willing to provide geologic and economic data to enable BLM to determine the fair market value of your preference right or lease to be relinquished.

§ 3515.25 If I agree on the lands to be leased in exchange, what happens next?

After you and BLM agree on the lands to be leased in exchange, BLM will publish a notice of the proposed exchange in the Federal Register and in a newspaper(s) in the county(s) where both the preference right or lease lands and the proposed exchange lease lands are located. The notice will include:

- (a) The time and place of a public hearing(s);
- (b) BLM's 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 BLM will prepare a written decision that issuance of the exchange lease is in the public interest. BLM will then process the exchange lease.

§ 3515.27 Will BLM attach any special provisions to the exchange lease?

The terms will contain:

- (a) A statement that you quitclaim and relinquish any right or interest in your preference right lease application or lease exchanged; and
- (b) A statement setting forth BLM's finding that the lease issuance is in the public interest.

Subpart 3516—Use Permits**§ 3516.10 What are use permits?**

Use permits allow you to use the surface of lands not included within your lease for purposes associated with the proper development of your mineral deposits. Use permits are not prospecting permits.

§ 3516.11 What commodities allow use permits?

Use permits are issued only in support of phosphate and sodium leases. For phosphate leases, BLM may issue you a permit to use up to 80 acres on unappropriated and unentered lands. For sodium leases BLM may issue you a permit to use up to 40 acres.

§ 3516.12 What activities can 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 to use the surface for other purposes connected with and necessary to the proper development and use of the deposits. BLM cannot grant use permits on National Forest System lands.

§ 3516.15 How do I apply for use permits?

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.

§ 3516.16 What must I include with my application?

Provide specific reasons why you need the additional lands, describe the lands applied for, provide any information demonstrating that the lands are suitable and appropriate for your needs, and provide evidence that the lands are unoccupied and unappropriated. Your application must also contain an agreement to pay the annual charge identified in the permit.

§ 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 BLM serves you a written notice of the rental requirement.

Subpart 3517—Special Provisions Applying to Hardrock Minerals**§ 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 hardrock mineral lessees and one or more other entities to justify large scale operations for the discovery, development, production, or transportation of ores.

§ 3517.11 Are leases and permits covered by approved agreements exempt from the acreage limitations?

Yes. Hardrock mineral leases and permits committed to development contracts or processing or milling arrangements approved by BLM are exempt from acreage limitations.

§ 3517.15 How do I apply for 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) BLM considers whether the agreement will conserve natural resources and is in the public interest.
- (b) Once the agreement is signed by all the parties, BLM will approve it.

§ 3517.50 Can I collect mineral specimens for non-commercial purposes?

You may collect mineral specimens for hobby, recreation, scientific, research or similar purposes. You do not need a prospecting permit from BLM for these activities. However, the surface management agency, including BLM, may require a use permit. That agency will issue the permit, subject to any fees, terms and conditions that the agency may impose.

[FR Doc. 96-26398 Filed 10-17-96; 8:45 am]
BILLING CODE 4310-94-P

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 73**

[MM Docket No. 96-205; RM-8862]

Radio Broadcasting Services; Jupiter and Hobe Sound, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Jupiter Radio Partners requesting the substitution of Channel 288C2 for Channel 288C3 at Jupiter, Florida, reallocation of Channel 288C2 to Hobe Sound, Florida, and modification of the construction permit for Station WTPX to specify operation on Channel 288C2 at Hobe Sound, Florida. The coordinates for Channel 288C2 are 27-16-03 and 80-12-10. We shall propose to modify the license for Station WTPX in accordance with Section 1.420(i) of the Commission's Rules and will not accept competing expressions of interest for the use of the channel or require petitioner to demonstrate the availability of an