

§ 3715.2 What activities do I have to be engaged in to allow me to occupy the public lands?

In order to occupy the public lands under the mining laws for more than 14 calendar days in any 90-day period within a 25-mile radius of the initially occupied site, you must be engaged in certain activities. Those activities that are the reason for your occupancy must:

- (a) Be reasonably incident;
- (b) Constitute substantially regular work;
- (c) Be reasonably calculated to lead to the extraction and beneficiation of minerals;
- (d) Involve observable on-the-ground activity that BLM may verify under § 3715.7; and
- (e) Use appropriate equipment that is presently operable, subject to the need for reasonable assembly, maintenance, repair or fabrication of replacement parts.

§ 3715.2–1 What additional characteristic(s) must my occupancy have?

In addition to the requirements specified in § 3715.2, your occupancy must involve one or more of the following:

- (a) Protecting exposed, concentrated or otherwise accessible valuable minerals from theft or loss;
- (b) Protecting from theft or loss appropriate, operable equipment which is regularly used, is not readily portable, and cannot be protected by means other than occupancy;
- (c) Protecting the public from appropriate, operable equipment which is regularly used, is not readily portable, and if left unattended, creates a hazard to public safety;

(d) Protecting the public from surface uses, workings, or improvements which, if left unattended, create a hazard to public safety; or

(e) Being located in an area so isolated or lacking in physical access as to require the mining claimant, operator, or workers to remain on site in order to work a full shift of a usual and customary length. A full shift is ordinarily 8 hours and does not include travel time to the site from a community or area in which housing may be obtained.

§ 3715.2–2 How do I justify occupancy by a caretaker or watchman?

If you assert the need for a watchman or caretaker to occupy the public lands to protect valuable or hazardous property, equipment, or workings, you must show that the need for the occupancy is both reasonably incident and continual. You must show that a watchman or caretaker is required to be present either whenever the operation is not active or whenever you or your workers are not present on the site.

§ 3715.2–3 Under what circumstances will BLM allow me to temporarily occupy a site for more than 14 days?

BLM may allow temporary occupancy at a single site to extend beyond the 14-day period described in § 3715.1 if you need to secure the site beyond 14 days through the use of a watchman as allowed by § 3715.2–2, and you have begun consultation with BLM under § 3715.3. If BLM decides not to concur in the occupancy, the temporary occupancy must stop.

§ 3715.3 Must I consult with BLM before occupancy?

Before beginning occupancy, you must consult with BLM about the requirements of this subpart. See Table 2 in this section.

TABLE 2

Consultation requirements	
If you are proposing a use that would involve occupancy.	Then.
Under a plan of operations or a modification submitted under 43 CFR part 3800, subpart 3802 or subpart 3809.	You must include in the proposed plan of operations the materials required by § 3715.3–2 describing any proposed occupancy for BLM review concurrently with review of the plan of operation.