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§ 3514.30 May BLM cancel my lease?

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

(1) You do not comply with the provisions of the Mineral Leasing Act, other relevant statutes, or regulations applicable to your lease; or

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

(b) BLM may cancel your lease administratively if we issued it in violation of any law or regulation. In such a case, we may consider issuing an amended lease, if appropriate.

§ 3514.31 May BLM waive cancellation or forfeiture?

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

§ 3514.32 Will BLM give me an opportunity to remedy a violation of the lease terms?

(a) If you own or control, directly or indirectly, an interest in a lease in violation of any of the provisions of the Mineral Leasing Act, other relevant statutes, the lease terms or the regulations in this part, we will give you 30 days to remedy the violation or to show cause why we should not ask the Attorney General to institute court proceedings to:

- (1) Cancel the lease;
- (2) Forfeit your interest; or
- (3) Compel disposal of the interest so owned or controlled.

(b) BLM will not give you 30 days if there is no legal remedy to the violation.

§ 3514.40 What if I am a *bona fide* purchaser and my lease is subject to cancellation?

(a) If you are a *bona fide* purchaser, BLM will not cancel your lease or your interest in a lease based on your predecessor's actions. However, you must be sure that the lease is in compliance with the terms and conditions required by BLM.

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(b) BLM will promptly take action to dismiss any party who shows they are a *bona fide* purchaser from any legal proceedings to cancel the lease.

Subpart 3515—Mineral Lease Exchanges

LEASE EXCHANGE REQUIREMENTS

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

Yes. BLM may determine that operations on your lease or lands for which you have a preference right to a lease are not in the public interest. If you or BLM identify other lands for exchange, you may relinquish your current lease or preference right in exchange for a mineral lease of other lands of equal value.

§ 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 part 2200 of this title apply to mineral lease exchanges.

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

§ 3515.15 May BLM initiate an exchange?

Yes. When we do:

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

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

§ 3515.16 What standards does BLM use to assess the public interest of an exchange?

BLM must find that the exchange is in the public interest under the following criteria:

(a) The benefits of production from your existing lease or preference right to a lease would not outweigh the adverse effects on, or threat of damage or destruction to:

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- (1) Agricultural production potential;
- (2) Scenic values;
- (3) Biological values including threatened or endangered species habitat;
- (4) Geologic values;
- (5) Archeological, historic or other cultural values;
- (6) Other public interest values such as recreational use;
- (7) Residential or urban areas;
- (8) Potential inclusion in the wilderness or wild and scenic rivers systems; or
- (9) Other public uses, including public highways, airports, and rights-of-way from lease operations.

(b) The lands proposed for exchange must be free from hazardous waste as defined under the authorities of the Federal Water Pollution Control 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 when BLM is considering initiating an exchange that will affect my lease?

Yes. The notice you receive will:

- (a) State why we believe 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 we would offer exchange terms; and
- (d) Ask you to describe the lands on which you would accept a lease in exchange for your present holdings.

TYPES OF LEASE EXCHANGES

§ 3515.20 May I exchange preference rights?

Yes. To have a preference 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 lands 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, either party may equalize the value by paying money to the party receiving the property of lesser value. Such payments may not 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.

LEASE EXCHANGE PROCEDURES

§ 3515.23 May BLM require me to submit additional information?

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

§ 3515.25 Is BLM required to publish notice or hold a hearing?

Yes. After you and BLM agree on the lands for exchange, we will publish a notice of the proposed exchange in the FEDERAL REGISTER and in a newspaper(s) in the county(s) where the lands involved are located. The notice will include:

- (a) The time and place of a public hearing(s);
- (b) Our preliminary findings that the exchange is in the public interest; and
- (c) A request for public comments on the merits of the proposed exchange.

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§ 3515.26 When will BLM make a decision on the exchange?

After the public hearing and consideration of public comments, we will determine whether issuance of the exchange lease is in the public interest. If it is, we will then process the exchange. If not, we will cancel the exchange.

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

Yes, the lease terms will contain a statement that you quitclaim and relinquish any right or interest in your preference right lease application or lease exchanged.

Subpart 3516—Use Permits

§ 3516.10 What are use permits?

Use permits allow you to use the surface of lands not included within your permit or lease to help you develop the mineral deposits. You may only get a use permit during the life of your permit or lease, and only for unentered, unappropriated, BLM-administered land. Use permits are not prospecting permits.

§ 3516.11 What kinds of permits or leases allow use permits?

Use permits are issued only in support of phosphate and sodium permits and leases. For phosphate permits and leases, BLM may issue you a use permit to use up to 80 acres. For sodium leases, use permits are limited to no more than 40 acres.

§ 3516.12 What activities may 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 use the surface for other purposes connected with, and necessary to, the proper development and use of the deposits.

§ 3516.15 How do I apply for a use permit?

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.

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Include the filing fee for a use permit found in the fee schedule in §3000.12 of this chapter and the first year's rental. Calculate the rental in accordance with §3504.15 of this part.

[64 FR 53536, Oct. 1, 1999, as amended at 72 FR 50888, Sept. 5, 2007]

§ 3516.16 What must I include with my application?

You must agree to pay the annual charge identified in the permit, and provide the following information:

(a) Specific reasons why you need the additional lands;

(b) A description of the lands applied for;

(c) Any information demonstrating that the lands are suitable and appropriate for your needs; and

(d) Evidence that the lands are unoccupied and unappropriated.

§ 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 we serve you with a written notice of the rental requirement.

Subpart 3517—Hardrock Mineral Development Contracts; Processing and Milling Arrangements

§ 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 lessees and one or more other persons to justify large scale operations for the discovery, development, production, or transportation of ores.