

Bureau of Land Management, Interior

§ 3710.0-3

PART 3710—PUBLIC LAW 167; ACT OF JULY 23, 1955

Subpart 3710—Public Law 167; Act of July 23, 1955: General

Sec.

3710.0-3 Authority.

Subpart 3711—Common Varieties

3711.1 Provisions of act.

Subpart 3712—Proceedings Under the Act

3712.1 Restriction on use of unpatented mining claims.

3712.2 Publication of notice.

3712.2-1 Request for publication of notice to mining claimant.

3712.2-2 Evidence necessary to support a request for publication.

3712.2-3 Contents of published notice.

3712.2-4 Publication.

3712.2-5 Proof of publication.

3712.2-6 Service of notice.

3712.2-7 Service of copies; failure to comply.

3712.3 Failure of claimant to file verified statement.

Subpart 3713—Hearings

3713.1 Hearing procedures.

3713.2 Hearing; Time and place.

3713.3 Stipulation between parties.

3713.4 Effect of decision affirming a mining claimant's rights.

Subpart 3714—Rights of Mining Claimants

3714.1 Recording by mining claimant of request for copy of notice.

3714.2 Waiver of rights by mining claimants.

3714.3 Protection of existing rights; exclusion of reservation in patents.

Subpart 3715—Use and Occupancy Under the Mining Laws

3715.0-1 What are the purpose and the scope of this subpart?

3715.0-3 What are the legal authorities for this subpart?

3715.0-5 How are certain terms in this subpart defined?

3715.0-9 Information collection.

3715.1 Do the regulations in this subpart apply to my use or occupancy?

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

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

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

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

3715.3 Must I consult with BLM before occupancy?

3715.3-1 At what point may I begin occupancy?

3715.3-2 What information must I provide to BLM about my proposed occupancy?

3715.3-3 How does BLM process the information I submit about my proposed occupancy?

3715.3-4 How will BLM notify me of the outcome of its review process?

3715.3-5 What will BLM's notification include?

3715.3-6 May I begin occupancy if I have not received concurrence from BLM?

3715.4 What if I have an existing use or occupancy?

3715.4-1 What happens after I give BLM written notification of my existing occupancy?

3715.4-2 What if I do not notify BLM of my existing occupancy?

3715.4-3 What if BLM does not concur in my existing use or occupancy?

3715.4-4 What if there is a dispute over the fee simple title to the lands on which my existing occupancy is located?

3715.5 What standards apply to my use or occupancy?

3715.5-1 What standards apply to ending my use or occupancy?

3715.5-2 What happens to property I leave behind?

3715.6 What things does BLM prohibit under this subpart?

3715.7 How will BLM inspect my use or occupancy and enforce this subpart?

3517.7-1 What types of enforcement action can BLM take if I do not meet the requirements of this subpart?

3715.7-2 What happens if I do not comply with a BLM order?

3715.8 What penalties are available to BLM for violations of this subpart?

3715.8-1 What happens if I make false statements to BLM?

3715.9 What appeal rights do I have?

3715.9-1 Does an appeal to IBLA suspend a BLM decision?

Subpart 3710—Public Law 167; Act of July 23, 1955: General

§ 3710.0-3 Authority.

The Act of July 23, 1955 (69 Stat. 367, 30 U.S.C. sec. 601), was enacted "to amend the Act of July 31, 1947 (61 Stat. 681) and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes." The regulations in this part

§ 3711.1

are intended to implement only sections 3 to 7, inclusive, of said Act hereinafter more fully identified. The word "Act" when used in this subpart refers to the Act of July 23, 1955. Sections 1 and 2 thereof relate specifically to the Materials Act of July 31, 1947.

[35 FR 9731, June 13, 1970]

Subpart 3711—Common Varieties

§ 3711.1 Provisions of act.

(a) The Act in section 3 provides: A deposit of common varieties of sand, stone, gravel, pumice, pumicite or cinders shall not be deemed a valuable mineral deposit within the meaning of the mining laws of the United States so as to give effective validity to any mining claim hereafter located under such mining laws: *Provided, however,* That nothing herein shall affect the validity of any mining location based upon discovery of some other mineral occurring in or in association with such a deposit. "Common varieties" as used in this act does not include deposits of such materials which are valuable because the deposit has some property giving it distinct and special value and does not include so-called "block pumice" which occurs in nature in pieces having one dimension of two inches or more.

(b) "Common varieties" includes deposits which, although they may have value for use in trade, manufacture, the sciences, or in the mechanical or ornamental arts, do not possess a distinct, special economic value for such use over and above the normal uses of the general run of such deposits. Mineral materials which occur commonly shall not be deemed to be "common varieties" if a particular deposit has distinct and special properties making it commercially valuable for use in a manufacturing, industrial, or processing operation. In the determination of commercial value, such factors may be considered as quality and quantity of the deposit, geographical location, proximity to market or point of utilization, accessibility to transportation, requirements for reasonable reserves consistent with usual industry practices to serve existing or proposed manufacturing, industrial, or proc-

43 CFR Ch. II (10–1–03 Edition)

essing facilities, and feasible methods for mining and removal of the material. Limestone suitable for use in the production of cement, metallurgical or chemical grade limestone, gypsum, and the like are not "common varieties." This subsection does not relieve a claimant from any requirements of the mining laws.

[35 FR 9731, June 13, 1970]

Subpart 3712—Proceedings Under the Act

SOURCE: 35 FR 9732, June, 13, 1970, unless otherwise noted.

§ 3712.1 Restriction on use of unpatented mining claims.

(a) The Act in section 4 provides:

Any mining claim hereafter located under the mining laws of the United States shall not be used, prior to issuance of patent therefor, for any purposes other than prospecting, mining or processing operations and uses reasonably incident thereto.

Rights under any mining claim hereafter located under the mining laws of the United States shall be subject, prior to issuance of patent therefor, to the right of the United States to manage and dispose of the vegetative surface resources thereof and to manage other surface resources thereof (except mineral deposits subject to location under the mining laws of the United States). Any such mining claim shall also be subject, prior to issuance of patent therefor, to the right of the United States, its permittees, and licensees, to use so much of the surface thereof as may be necessary for such purposes or for access to adjacent land: *Provided, however,* That any use of the surface of any such mining claim by the United States, its permittees or licensees, shall be such as not to endanger or materially interfere with prospecting, mining or processing operations or uses reasonably incident thereto: *Provided, further,* That if at any time the locator requires more timber for his mining operations than is available to him from the claim after disposition of timber therefrom by the United States, subsequent to the location of the claim, he shall be entitled, free of charge, to be supplied with timber for such requirements from the nearest timber administered by the disposing agency which is ready for harvesting under the rules and regulations of that agency and which is substantially equivalent in kind and quantity to the timber estimated by the disposing agency to have been disposed of from the claim: *Provided, further,* That nothing in this act shall be construed as affecting or intended to