

## § 3715.0-1

such rights may be limited or restricted as a result of a proceeding pursuant to section 5 of this Act, or as a result of a waiver and relinquishment pursuant to section 6 of this Act; and nothing in this act shall be construed in any manner to authorize inclusion in any patent hereafter issued under the mining laws of the United States for any mining claim heretofore or hereafter located, of any reservation, limitation, or restriction not otherwise authorized by law, or to limit or repeal any existing authority to include any reservation, limitation, or restriction in any such patent, or to limit or restrict any use of the lands covered by any patented or unpatented mining claim by the United States, its lessees, permittees, and licensees which is otherwise authorized by law.

This section makes it clear that all of the rights of mining claimants existing on the date of the Act are preserved and will continue unless: (a) Claimant fails, subject, however, to the provisions of §3712.2-7, to file a verified statement in response to a published notice as provided in section 5(b) of the Act and §3712.2-9; (b) it is determined as a result of a hearing pursuant to section 5(c) that such rights asserted in a verified statement are not valid and effective; (c) the claimant waives and relinquishes his rights pursuant to section 6. It also preserves to all mining claimants the right to a patent unrestricted by anything in the Act and provides that no limitation, reservation or restriction may be inserted in any mineral patent unless authorized by law, but it also makes it clear that all laws in force on the date of its enactment which provide for any such reservation, limitation, or restriction in such patents and all authority of law then existing for the use of lands embraced in unpatented mining claims by the United States, its lessees, permittees, and licensees continue in full force and effect.

### Subpart 3715—Use and Occupancy Under the Mining Laws

AUTHORITY: 18 U.S.C. 1001, 3571 *et seq.*; 30 U.S.C. 22, 42, 612; 43 U.S.C. 1061 *et seq.*, 1201, 1457, 1732 (b) and (c), 1733 (a) and (g).

SOURCE: 61 FR 37125, July 16, 1996, unless otherwise noted.

## 43 CFR Ch. II (10-1-03 Edition)

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

(a) *Purpose.* The purpose of this subpart is to manage the use and occupancy of the public lands for the development of locatable mineral deposits by limiting such use or occupancy to that which is reasonably incident. The Bureau of Land Management (BLM) will prevent abuse of the public lands while recognizing valid rights and uses under the Mining Law of 1872 (30 U.S.C. 22 *et seq.*) and related laws governing the public lands, regardless of when those rights were created. BLM will take appropriate action to eliminate invalid uses, including unauthorized residential occupancy of the public lands.

(b) *Scope.* This subpart applies to public lands BLM administers. They do not apply to state or private lands in which the mineral estate has been reserved to the United States. They do not apply to Federal lands administered by other Federal agencies, even though those lands may be subject to the operation of the mining laws.

(c) This subpart does not impair the right of any person to engage in recreational activities or any other authorized activity on public lands BLM administers.

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

The authorities for this subpart are 18 U.S.C. 1001, 3571 *et seq.*; 30 U.S.C. 22, 42, 612; 43 U.S.C. 1061 *et seq.*, 1201, 1457, 1732 (b) and (c), 1733 (a) and (g).

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

As used in this subpart the term:

*Mining laws* means all laws that apply to mining of locatable minerals on public lands and which make public lands available for development of locatable minerals. This includes, but is not limited to, the general authorities relating to mining of locatable minerals or to the public lands on which this subpart is based and case law which interprets those authorities.

*Mining operations* means all functions, work, facilities, and activities reasonably incident to mining or processing of mineral deposits. It includes