

**Bureau of Land Management, Interior**

**§ 3731.1**

**Subpart 3730—Public Law 359;  
Mining in Powersite With-  
drawals: General**

**§ 3730.0-1 Purpose; lands open.**

(a) The purpose of the Mining Claims Rights Restoration Act of August 11, 1955 (Act), is to permit the mining, development, and utilization of the mineral resources of all public lands withdrawn or reserved for power development and other purposes, except for lands that:

(1) Are included in any project operating or being constructed under a license or permit issued under the Federal Power Act or other Act of Congress, or

(2) Are under examination and survey by a prospective licensee of the Federal Energy Regulatory Commission under an uncanceled preliminary permit that has not been renewed more than once.

(b) Locations made under the Act on lands withdrawn or reserved for power development within the revested Oregon and California Railroad and Reconveyed Coos Bay Wagon Road Grant Lands are also subject to the provisions of the Act of April 8, 1948 (62 Stat. 162). See subpart 3821 of this title.

[59 FR 44856, Aug. 30, 1994]

**§ 3730.0-3 Authority.**

The authorities for the regulations in this part are the Act of August 11, 1955 (30 U.S.C. 621-625); §314 of the Act of October 21, 1976 (43 U.S.C. 1744); 30 U.S.C. 28f-k, 107 Stat. 405.

[59 FR 44856, Aug. 30, 1994]

**§ 3730.0-9 Information collection.**

(a) The collections of information contained in subpart 3730 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1004-0110 and subsequently consolidated with 1004-0114. The information will enable the authorized officer to determine whether a mining claimant is qualified to hold a mining claim or site for the exploration, development, and utilization of minerals on all public lands that are withdrawn for power development. A response is required to obtain a benefit in accordance with the

Act of August 11, 1955 (30 U.S.C. 621-625), Section 314 of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1744), and 30 U.S.C. 28f-28k, as amended by the Act of November 5, 2001 (115 Stat. 414).

(b) Public reporting burden for this information is estimated to average 8 minutes per response, including time for reviewing instructions, searching existing records, gathering and maintaining the data collected, and completing and reviewing the information collected. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden; to the Information Collection Clearance Officer (783), Bureau of Land Management, 1849 C St., NW, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project, 1004-0114, Washington, DC 20503.

[58 FR 38196, July 15, 1993, as amended at 59 FR 44856, Aug. 30, 1994; 64 FR 47021, Aug. 27, 1999; 67 FR 38205, June 3, 2002]

**Subpart 3731—Power Rights**

**§ 3731.1 Power rights retained in the United States.**

(a) The Act in the first proviso provides as follows:

That all power rights to such lands shall be retained by the United States.

(1) Under this proviso every patent issued for such a location must contain a reservation unto the United States, its permittees or licensees of the right to enter upon, occupy and use, any part of the lands for power purposes without any claim or right to compensation accruing to the locator or successor in interest from the occupation or use of any of the lands within the location, for such purposes. Furthermore, the patent will contain a provision that the United States, its permittees and licensees shall not be responsible or held liable or incur any liability for the damage, destruction, or loss of any mining claim, mill site, facility installed or erected, income, or other property or investments resulting from the actual use of such lands or portions thereof for power development at any time where such power development is

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made by or under the authority of the United States, except where such damage, destruction, or loss results from the negligence of the United States, its permittees and licensees.

[35 FR 9736, June 13, 1970]

### Subpart 3732—Withdrawals Other Than for Powersite Purposes

#### § 3732.1 Act ineffective as to other withdrawals.

(a) The Act in section 2(c) provides as follows:

Nothing in this act shall affect the validity of withdrawals or reservations for purposes other than power development.

(b) If the power site lands are also affected by any other type of withdrawal which prevents mining location in whole or in part, the provisions of the Act apply only to the extent that the lands are otherwise open to location.

[35 FR 9737, June 13, 1970]

### Subpart 3733—Risk of Operation

#### § 3733.1 Financial risk of operation.

The Act in section 3 provides in part as follows:

Prospecting and exploration for and the development and utilization of mineral resources authorized in this act shall be entered into or continued at the financial risk of the individual party or parties undertaking such work.

[35 FR 9737, June 13, 1970]

#### § 3733.2 Liability of United States.

The Act in section 3 provides in part as follows:

*Provided*, That the United States, its permittees and licensees shall not be responsible or held liable or incur any liability for the damage, destruction, or loss of any mining claim, mill site, facility installed or erected, income, or other property or investments resulting from the actual use of such lands or portions thereof for power development at any time where such power development is made by or under the authority of the United States, except where such damage, destruction, or loss results from the negligence of the United States, its permittees and licensees.

[35 FR 9737, June 13, 1970]

## 43 CFR Ch. II (10–1–06 Edition)

### Subpart 3734—Location and Assessment Work

#### § 3734.1 Owner of claim to file notice of location and assessment work.

(a) The owner of any unpatented mining claim, mill site, or tunnel site located on land described in § 3730.0-1 (a) and (b), shall file all notices or certificates of location, amended notices or certificates, and transfers of interest, with the proper State Office of the Bureau of Land Management pursuant to part 3833 of this chapter, and pay the applicable maintenance, location, and service fees required by part 3830 of this title. The notice, certificate, transfer, or amendment thereto shall be marked by the owner to indicate that it is being filed pursuant to the Act of August 11, 1955, the Act of April 8, 1948, or both, as required by part 3833. Failure to so mark the location certificate will delay the procedures to authorize mining under subpart 3736.

(b) Neither section 4 nor any other provision of the Act validates any mining location made prior to the act, which is invalid because made on lands after they were withdrawn or reserved for power purposes and before a favorable determination by the Federal Power Commission under section 24 of the Federal Power Act of June 10, 1920 (41 Stat. 1063; 1075), as amended (16 U.S.C. 792; 818) and the opening or restoration of the lands to location. Section 4 applies to unpatented locations for lands referred to in § 3730.0-3(a) only if:

(1) The location was made on or after August 11, 1955, or

(2) The location was made prior to August 11, 1955, and prior to the withdrawal or reservation of the lands for power purposes, or

(3) The location was made prior to August 11, 1955, on lands restored to location from a powersite reserve or withdrawal subject to section 24 of the Federal Power Act.

(c) The owner of any unpatented mining claim, mill site, or tunnel site located on land described in § 3730.0-1 of this chapter may either:

(1) Perform and record annual assessment work if the owner qualifies as a small miner under part 3835 of this chapter; or