

Bureau of Land Management, Interior

§ 3809.800

§ 3809.604 What happens if I do not comply with a BLM order?

(a) If you do not comply with a BLM order issued under §§ 3809.601 or 3809.602, the Department of the Interior may request the United States Attorney to institute a civil action in United States District Court for an injunction or order to enforce its order, prevent you from conducting operations on the public lands in violation of this subpart, and collect damages resulting from unlawful acts. This relief may be in addition to the enforcement actions described in §§ 3809.601 and 3809.602 and the penalties described in § 3809.700.

(b) If you fail to timely comply with a noncompliance order issued under § 3809.601(a), and remain in noncompliance, BLM may order you to submit plans of operations under § 3809.401 for current and future notice-level operations.

[65 FR 70112, Nov. 21, 2000, as amended at 66 FR 54862, Oct. 30, 2001]

§ 3809.605 What are prohibited acts under this subpart?

Prohibited acts include, but are not limited to, the following:

(a) Causing any unnecessary or undue degradation;

(b) Beginning any operations, other than casual use, before you file a notice as required by § 3809.21 or receive an approved plan of operations as required by § 3809.412;

(c) Conducting any operations outside the scope of your notice or approved plan of operations;

(d) Beginning operations prior to providing a financial guarantee that meets the requirements of this subpart;

(e) Failing to meet the requirements of this subpart when you stop conducting operations under a notice (§ 3809.334), when your notice expires (§ 3809.335), or when you stop conducting operations under an approved plan of operations (§ 3809.424);

(f) Failing to comply with any applicable performance standards in § 3809.420;

(g) Failing to comply with any enforcement actions provided for in § 3809.601; or

(h) Abandoning any operation prior to complying with any reclamation re-

quired by this subpart or any order provided for in § 3809.601.

PENALTIES

§ 3809.700 What criminal penalties apply to violations of this subpart?

The criminal penalties established by statute for individuals and organizations are as follows:

(a) *Individuals.* If you knowingly and willfully violate the requirements of this subpart, you may be subject to arrest and trial under section 303(a) of FLPMA (43 U.S.C. 1733(a)). If you are convicted, you will be subject to a fine of not more than \$100,000 or the alternative fine provided for in the applicable provisions of 18 U.S.C. 3571, or imprisonment not to exceed 12 months, or both, for each offense; and

(b) *Organizations.* If an organization or corporation knowingly and willfully violates the requirements of this subpart, it is subject to trial and, if convicted, will be subject to a fine of not more than \$200,000, or the alternative fine provided for in the applicable provisions of 18 U.S.C. 3571.

§ 3809.701 What happens if I make false statements to BLM?

Under Federal statute (18 U.S.C. 1001), you are subject to arrest and trial before a United States District Court if, in any matter under this subpart, you knowingly and willfully falsify, conceal, or cover up by any trick, scheme, or device a material fact, or make any false, fictitious, or fraudulent statements or representations, or make or use any false writings or document knowing the same to contain any false, fictitious, or fraudulent statement or entry. If you are convicted, you will be subject to a fine of not more than \$250,000 or the alternative fine provided for in the applicable provisions of 18 U.S.C. 3571 or imprisonment for not more than 5 years, or both.

APPEALS

§ 3809.800 Who may appeal BLM decisions under this subpart?

(a) A party adversely affected by a decision under this subpart may ask the State Director of the appropriate

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BLM State Office to review the decision.

(b) An adversely affected party may bypass State Director review and directly appeal a BLM decision under this subpart to the Office of Hearings and Appeals (OHA) under part 4 of this title. See § 3809.801.

§ 3809.801 When may I file an appeal of the BLM decision with OHA?

(a) If you intend to appeal a BLM decision under this subpart, use the following table to see when you must file a notice of appeal with OHA:

If—	And—	Then if you intend to appeal, you must file a notice of appeal with OHA—
(1) You do not request State Director review.	Within 30 calendar days after the date you receive the original decision.
(2) You request State Director review.	The State Director does not accept your request for review.	On the original decision within 30 calendar days of the date you receive the State Director's decision not to review.
(3) You request State Director review.	The State Director has accepted your request for review, but has not made a decision on the merits of the appeal.	On the original decision before the State Director issues a decision.
(4) You request State Director review.	The State Director makes a decision on the merits of the appeal.	On the State Director's decision within 30 calendar days of the date you receive, or are notified of, the State Director's decision.

(b) In order for OHA to consider your appeal of a decision, you must file a notice of appeal in writing with the BLM office where the decision was made.

§ 3809.802 What must I include in my appeal to OHA?

(a) Your written appeal must contain:

- (1) Your name and address; and
- (2) The BLM serial number of the notice or plan of operations that is the subject of the appeal.

(b) You must submit a statement of your reasons for the appeal and any arguments you wish to present that would justify reversal or modification of the decision within the time frame specified in part 4 of this chapter (usually within 30 calendar days after filing your appeal).

§ 3809.803 Will the BLM decision go into effect during an appeal to OHA?

All decisions under this subpart go into effect immediately and remain in effect while appeals are pending before OHA unless OHA grants a stay under § 4.21(b) of this title.

§ 3809.804 When may I ask the BLM State Director to review a BLM decision?

The State Director must receive your request for State Director review no later than 30 calendar days after you receive or are notified of the BLM decision you seek to have reviewed.

§ 3809.805 What must I send BLM to request State Director review?

(a) Your request for State Director review must be a single package that