

NOTICE- AND PLAN-LEVEL APPLICATION REQUIREMENTS

A complete Mining Notice must be submitted 15 calendar days before commencement of **exploration** causing surface disturbance of 5 acres or less of public lands on which reclamation has not been completed (§3809.21(a)). *Exploration* means creating a surface disturbance greater than casual use that includes sampling, drilling, or developing surface or underground workings to evaluate the type, extent, quantity, or quality of mineral values present. Exploration does not include activities where material is extracted for commercial use or sale (§3809.5).

The field office's review of a Notice is not a Federal action requiring National Environmental Policy Act (NEPA) analysis. The BLM review and acceptance of a Notice is part of its enforcement program to ensure that operators comply with their legal responsibility to prevent unnecessary or undue degradation (§3809.311(c)).

a. Notice Information

(1) If the proposed operations meet the requirements of §3809.21, a complete Notice must be filed with the local BLM office with jurisdiction over the lands involved. The BLM does not require that the Notice be on a particular form.

(2) To be considered complete, a Notice must contain all information required by 43 CFR §3809.301 as follows:

(a) *Operator Information.* The name, mailing address, phone number, and taxpayer identification number of the operator(s) and the BLM serial number(s) of any unpatented mining claim(s) where the disturbance would occur. If the operator is a corporation, one individual must be designated as the point of contact. The BLM must be notified in writing within 30 calendar days of any change of operator or corporate point of contact or change of mailing address of the operator or corporate point of contact. **If a third party is designated to act as the agent for a mining claimant or operator operating on Federal lands under BLM-administered Plans or Notices, a notarized, written designation of the agent must be filed with the appropriate BLM office.** The designation must include the Notice and/or Plan number that the agent is authorized to work on, the period that the authorization covers, and a full description of the agent's responsibilities. A separate designation for each Notice and/or Plan must be filed with the BLM field office responsible for handling matters related to the subject mining claim(s). Designating an agent does not relieve the mining claimant or operator of any responsibility or accountability on his or her mining claim with regard to liability for compliance with all Federal, State, and local laws and regulations.

(b) *Activity Description, Map, and Schedule of Activities.* The description must include the proposed activity with a level of detail appropriate to the type, size, and location of the activity. The description must include the following:

(i) The measures that will be taken to prevent unnecessary or undue degradation during operations;

(ii) A map, preferably at least 1:24,000 or smaller scale, showing the location of the project area in sufficient detail for the BLM to be able to find it and the location of access routes intended for use, improvement, or construction on the ground;

(iii) A description of the type of equipment intended for use; and

(iv) A schedule of activities, including the date when operations are expected to begin, periods of operation if intermittent, and the date expected for the completion of reclamation.

Project-specific activities include, but are not limited to: existing and/or proposed excavation sites, adits, shafts, trenches, settling ponds, pipelines, equipment pad locations, drill hole locations, water wells/monitor wells, equipment storage areas, tailings disposal sites, stockpile locations, access routes, and any other information to provide an accurate description of the operations.

(c) *Reclamation Plan.* A description of how reclamation will be completed to the standards described in §3809.420.

(d) *Reclamation Cost Estimate.* An estimate of the cost to fully reclaim disturbances created during the proposed operations as required by §3809.552. **The reclamation cost estimate must be developed as if the BLM were to contract with a third party to reclaim the operations according to the reclamation plan.** A Mining Notice will not be considered complete until a reasonable reclamation cost estimate and acceptable financial guarantee is received and reviewed by the BLM.

The BLM may require that the claimant/operator provide additional information, if necessary, to ensure that proposed operations will comply with this subpart. In general, providing the more detailed information about the proposed operation and any existing land disturbance will minimize the need for requests for additional information from the BLM.

The claimant/operator must notify the BLM in writing within 30 calendar days of any change of operator or corporate point of contact or change of the mailing address of the operator or corporate point of contact.

An operator cannot have overlapping, adjacent, or series of associated notices or segmented notices (§3809.21(b)). Two different operators may each have separate notices on the same area. If any or all of the project area described in each notice overlaps, both operators will be required to post financial guarantees covering the reclamation costs associated with the activities described in that notice. For areas of disturbance that overlap, neither financial guarantee will be refunded until all reclamation is completed and approved by the BLM.

For Notices where the operator is not the claimant, the BLM must receive written notification that the claim holder is aware of and agrees with the proposed Notice-level operation. **The claimant, by agreeing with the Notice-level operation, accepts equal and full financial liability for the reclamation of disturbances created by the operator.**

The following chart has been included to assist in determining when an operation conducted under a notice may begin.

Table 1

If BLM reviews the notice and, within 15 calendar days,	Then—
Notifies the operator that BLM needs additional time, not to exceed 15 calendar days, to complete its review	Operations may not begin until the additional review time period ends.
Notifies the operator that he must modify his notice to prevent unnecessary or undue degradation	Operations may not begin until the notice is modified to ensure that unnecessary or undue degradation is prevented.
Requires operator to consult with BLM about the location of existing or proposed access routes	Operations may not begin until operator consults with BLM and satisfy BLM's concerns about access.
Determines that an on-site visit is necessary	Operations may not begin until BLM visits the site, and has satisfied any concerns arising from the visit. BLM will notify operator if we will not conduct the site visit within 15 calendar days of determining that a visit is necessary, including the reason(s) for the delay.
BLM determines the provided reclamation is not sufficient or the related financial guarantee is not acceptable	Operations may not begin until BLM notifies the operator that the reclamation estimate is complete and financial guarantee is acceptable.
BLM determines proposed operation does not qualify under §3809.11 as a notice-level activity.	Operator must file a plan of operations before beginning operations. See §§3809.400 through 3809.420.

b. Plan Information

(1) If a Mining Plan is required under §3809.11, a complete Mining Plan must be filed with the local BLM field office with jurisdiction over the lands involved. The BLM does not require that the Plan be on a particular form.

(2) The Mining Plan must contain the following information and describe the proposed operations at a level of detail sufficient for the BLM to determine that the Plan prevents unnecessary or undue degradation of public lands:

(a) *Operator Information.* The name, mailing address, phone number, and taxpayer identification number of the operator(s) and BLM serial number(s) of any unpatented mining claim(s) where disturbance would occur. If the operator is a corporation, one individual must be designated as the point of contact. The BLM must be notified in writing within 30 calendar days of any change of operator or corporate point of contact or change in the mailing address of the operator or corporate point of contact. **If a third party is designated to act as the agent for a mining claimant or operator operating on Federal lands under BLM-administered Plans or Notices, a notarized, written designation of the agent must be filed with the appropriate BLM office.** The designation must include the Notice and/or Plan number that the agent is authorized to work on, the period that the authorization covers, and a full description of the agent's responsibilities. A separate designation for each Notice and/or Plan must be filed with the BLM field office responsible for handling matters related to the subject mining claim(s). Designating an agent does not relieve the mining claimant or operator of any responsibility or accountability on his or her mining claim with regard to liability for compliance with all Federal, State, and local laws and regulations.

(b) *Description of Operations.* A description of the equipment, devices, or practices proposed for use during operations including, where applicable:

(i) maps of the project area of at least 1:24,000 or smaller scale, showing the location of exploration activities, drill sites, mining activities, processing facilities, waste rock and tailing disposal areas, support facilities, structures, buildings, and access routes. The map must be of sufficient detail to enable the site(s) to be located on the ground;

(ii) preliminary or conceptual designs, cross sections, and operating plans for mining areas, processing facilities, and waste rock and tailing disposal facilities;

(iii) water management plans;

(iv) rock characterization and handling plans;

(v) quality assurance plans;

(vi) spill contingency plans;

(vii) a general schedule of operations from start through closure, including periods of non-operation; and

(viii) plans for all access roads, water supply pipelines, and power or utility services;

(c) *Reclamation Plan.* A plan for reclamation to meet the standards in §3809.420 with a description of the equipment, devices, or practices proposed for use including, where applicable, plans for:

(i) drill-hole plugging;

(ii) regrading and reshaping;

(iii) mine reclamation, including information on the feasibility of pit backfilling that details economic, environmental, and safety factors;

(iv) riparian mitigation;

(v) wildlife habitat rehabilitation;

(vi) topsoil handling;

(vii) revegetation;

(viii) isolation and control of acid-forming, toxic, or deleterious materials;

(ix) removal or stabilization of buildings, structures, and support facilities; and

(x) post-closure management.

(d) *Monitoring Plan.* A proposed plan for monitoring the effect of the subject operations must be developed. Monitoring plans must meet the following objectives: demonstrate compliance with the approved Mining Plan and other Federal or State environmental laws and regulations, provide early detection of potential problems, and supply information that will assist in directing corrective actions should they become necessary. Where applicable, monitoring plans must include details on type and location of monitoring devices, sampling parameters and frequency, analytical methods, reporting procedures, and procedures to respond to adverse monitoring results. Monitoring plans may incorporate existing State or other Federal monitoring requirements to avoid duplication. Examples of monitoring programs which may be necessary include surface- and ground-water quality and quantity, air quality, revegetation, stability, noise levels, and wildlife mortality.

(e) *Interim Management Plan.* A plan to manage the project area during periods of temporary closure (including periods of seasonal closure) to prevent unnecessary or undue degradation must be proposed. The interim management plan must include, where applicable, the following:

(i) measures to stabilize excavations and workings;

(ii) measures to isolate or control toxic or deleterious materials, including noxious weeds (see also the requirements in §3809.420(c)(12)(vii));

(iii) provisions for the storage or removal of equipment, supplies, and structures;

(iv) measures to maintain the project area in a safe and clean condition;

(v) plans for monitoring site conditions during periods of non-operation; and

(vi) a schedule of anticipated periods of temporary closure during which the interim management plan would be implemented, including provisions for notifying the BLM of unplanned or extended temporary closures.

(3) In addition to the requirements of paragraph (2), the BLM may require the following information:

(a) operational and baseline environmental information for the BLM to analyze potential environmental impacts as required by the National Environmental Policy Act (NEPA) and to determine if the Mining Plan will prevent unnecessary or undue degradation. This could include information on public and non-public lands needed to characterize the geology, paleontological resources, cave resources, hydrology, soils, vegetation, wildlife, air quality, cultural resources, and socioeconomic conditions in and around the project area, as well as information that may identify the need to conduct static and kinetic testing to characterize the potential for the operations to produce acid drainage or other leachate. The BLM is available to advise on the exact type of information and level of detail needed to meet these requirements; and

(b) other information, if necessary to ensure that the proposed operations will comply with this subpart.

(4) *Reclamation Cost Estimate.* An estimate of the cost to fully reclaim disturbances created by the proposed operations must be developed and submitted as required by §3809.552. The BLM will review the reclamation cost estimate and notify the claimant/operator of any deficiencies or additional information that must be submitted in order to determine a final reclamation cost. The BLM will notify the claimant/operator when the final amount, which must be provided for financial assurance, has been determined.

c. BLM Inspections

The BLM may inspect mining operations at any time, including all structures, equipment, workings, and uses located on the public lands. The inspection may include verification that operations comply with 43 CFR §3809 and §3715.

The BLM will inspect operations at least four times each year if cyanide or other leachate is used or where there is significant potential for acid drainage.