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**COMMENTS TO FOREST SERVICE PROPOSED RULE CHANGES TO 36 CFR Part
228 Subpart A.**

Comments Requested

(1) Classification of locatable mineral operations

- a.
- b.
- c. Yes

Casual: Hand tools, pick, pan, shovel, spade bar, double jack, wheelbarrow, small generator, removing samples, performing annual assessment work.

Notice level: Hand tools, pick, pan, shovel, spade bar, removing samples, performing annual assessment work, wheelbarrow, generator, welder, air compressor, back hoe, loader taking bulk samples, blocking out ore reserves, to determine further values during exploration phase working toward extraction. Occupancy may be anticipated at this level to protect concentrates, equipment from vandalism and public safety. A bond in place, the planed operation has been mitigated, reclamation remains pending plan level approval.

Plan level: Ore body located and defined, marketability established, loader, back hoe additional equipment and recovery system identified in planed operation, occupancy required for public safety, watchman required, extraction begins as long as valuably minerals can be found. Bond in place, the planed operation has been mitigated, reclamation concurrent with extraction. Occupancy anticipated at this level to protect concentrates, public safety and vandalism.

- d. Should be amended
- e.
- f.
- g. No

This can all be mitigated to allow the federally approved activity to take place, multiple use.

If the land is open to mineral entry then the Mining Law applies. The plan is submitted in accordance with the BLM Forest Service (FS) regulation and federally approved activity continues in accordance with the approved plan as long as long as valuable minerals be found.

(2) Submitting, Receiving, Reviewing, Analyzing, Plans of Operations

- a. The miner provides the information, the FS fails to act, cause, analysis paralysis, blame miner.
- c. What are the qualifications for this person, "an appropriate Forest Service official". This person requires a degree in civil engineering or mine engineering or equivalent and at least two years, verifiable in the private sector in under-ground or surface mining, processing, crushing, recovery systems not just taking air samples. This would help streamline the process to prevent analysis paralysis and move the process forward to get the miner mining. The Forest Service should consider this comment and amend their regulations according.

d. No

I believe the FS should meet with the miner at the mine. I feel the miners time can be better spent at the mine preparing to show what he is proposing in his plan.

e. Forest Service must visit the site and see the circumstances so they are familiar with what is being said and shown in the planed operation, then act to approve the plan in a reasonable time.

f. I submitted my planned operation, a bond in place, was treated fairly, the plan was approved, signed by the District Ranger for year around mining and occupancy. The field notes reveal working under approved plan, the box checked yes, and never received notice of non-compliance.

g. Three years after approving my planed operation I received a letter stating my approved plan of operation (APO) had expired and I had to file a new planned operation or the Forest Service would reclaim my mine at earliest convenience and I would pay.

I was told by Forest Service minerals, "I could forget about getting this new plan approved and your structures will just come down". Then the Forest Service threatened impoundment of all my mining equipment so I removed it. I never received a hearing at a meaningful time and place.

With the help of a friend, the local Board of Supervisors, an attorney draining my pockets, years later my structures still stand, for now. Now that the FS expired my plan of operation, I now wait for the civil/criminal prosecution for the un authorized occupancy of my historic site, as I was also the caretaker in that plan. I was never cited for a violation of any term of my plan, I always held my mine in good faith, actively engaged in my approved plan. I was not treated fairly by the Forest Service and was mining under an approved plan of operations.

(3) Modifying Approving Planed Operation

a. No

The operation has been approved, to ask the miner to submit a proposed modification to a prior approved plan is ridiculous, this modification could be treated like a new plan and now more endless analysis may be expected, mining is intrusive and gold is where you find it, you have to crack an egg to make the omelet and a reclamation bond is in place, get to mining.

b. This looking forward approach would be never ending until the approved activity would be curtailed. Someone can always find something wrong with whatever someone else is doing. The current regulation speaks directly to this point, "unless the official's immediate supervisor makes three findings" this is the only way for regulator certainly to take place. Get to mining.

c. No

d. The regulations presently in place are sufficient. Mining is inherently intrusive and some surface disturbance damage is going to take place, reclamation bond is in place. Get to mining.

(4) Noncompliance and Enforcement

a. The FS combines the notice of non-compliance with a citation and the miner is in Court.

- b.
- c. The FS does not need this power as it is reserved for Big mining, not small mom-pop mines.
- d. same as above in c.
- e. same as above in c.
- f. Insert the mandate of Title III Sec. 302 [43 U.S.C. 1732] (a) into APO, no new regs needed.
- g. No

The Forest Service does not need this type of power. The FS deals mostly with small miners, owner operators. This BLM regulation was designed for the Big mining industry, Barrick, Newmont, Gold Strike and others, there is no reason that this kind of power should be in the hands of the FS to be used against the small miner for the gold he pans out.

If the violation is of such harm, the US Attorney's Office is only a phone call away.

The present non-compliance applied in a fair and consistence manner can, and has been used for years, and yes, some miners have gone into Court, that is fundamental fairness of the due process clause.

- h. The issue here has been previously addressed in:

**The Federal Land Policy Management Act Public Law 94-579- October 21, 1976,
as Amended Through May, 2001.**

TITLE III ADMINISTRATION Section 302. [43 U.S.C. 1732] (c)

(c) The secretary shall insert in any instrument providing for use, and occupancy, or development of the public lands a provision authorizing revocation or suspension, after notice and hearing, of such instrument upon a final administration finding of a violation of any term or condition of the instrument, including, but not limiting to, terms and conditions requiring compliance with regulations under Acts applicable to the public lands and compliance with State of federal air or water quality standard or implementation plan: *Provided further*, That the Secretary shall terminate any such suspension no later than the date upon which he determines the cause of said violation has been rectified: *Provided further*, That the Secretary may order an immediate suspension prior to a hearing of final administration finding if it determines that such suspension is necessary to protect health or safety or the environment: *Provided further*, That, where other applicable law contains specific provisions for suspension, revocation, or cancellation of a permit, license, or other authorization to use, occupy, or develop the public lands, the specific provision of such law shall prevail.

- i. A plan of operations is a government issued license that requires a hearing at a meaning time and place before revocation or suspension, you may want to revisit this position with your legal department as the position you have posted, is void of due process. see (4) (h) above.

(5) Reasonably Incident Use Occupancy

- a. see (4) (h) above.
- b. see (4) (h) above.
- c. see (4) (h) above.
- d. see (4) (h) above.
- e. No
- f. No new regulations are needed here, the FS "shall insert in any instrument or plan of operations" this mandate from Congress is not being followed today by the FS.

This mandate was designed to remove the potential bias by the FS against the miner so as to provide oral statements and produce documents on his/her behalf, right to fundamental fairness.

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(6) Financial Guarantees.

- a. The bond must be a reasonable amount
- b. Any disturbance outside the APO or any unforeseen provable surface or other harm.
- c. Three-year intervals. The regulations should be amended here to provide for the claimant to obtain three private sector contractors to review the FS bond, and provide a bid to preform same reclamation needed if at a lower cost, or to legally contest the cost of the FS bond.

(7) Operations on Withdrawn or Segregated Lands

- a.
- b.
- c.
- d. No-The BLM makes these determinations and should remain there. No new amendments to the FS on this issue, the BLM is only a phone call away for assistance, if required.

e. The FS should defer all action in this regard to the BLM regulations as they are the lead agency in determining validity of mining claims on all lands open to mineral entry and that is where it should stay.

**(8) Procedures for Minerals or Materials That May Be Salable Mineral Materials.
Not Locatable Minerals**

- a.
- b. FS needs to move faster in determining whether the substance is a mineral material rather than locatable mineral.
- c.
- d. No
- e. No new amendments here. The FS needs to get up to speed on their existing regulations and not delay in their assessment of salable rather than locatable.
- f. I have only submitted planned operation under Sub part A locatable minerals.

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cc. United States Dept of Interior Ryan Zinke
cc. President of the United States Donald Trump