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December 6, 2000

The Honorable Frank H. Murkowski
Chairman
The Honorable Jeff Bingaman
Ranking Minority Member
Committee on Energy and Natural Resources
United States Senate

The Honorable Don Young
Chairman
The Honorable George Miller
Ranking Minority Member
Committee on Resources
House of Representatives

Subject: Department of the Interior, Bureau of Land Management: Mining Claims Under the General Mining Laws; Surface Management

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of the Interior, Bureau of Land Management (BLM), entitled "Mining Claims Under the General Mining Laws; Surface Management" (RIN: 1004-AD23). We received the rule on November 20, 2000. It was published in the Federal Register as a final rule on November 21, 2000. 65 Fed. Reg. 69998.

The final rule amends BLM's regulations governing mining operations involving metallic and some other minerals on public lands. The rule addresses technical advances in mining and incorporates policies BLM has developed since the prior regulations were issued 20 years ago.

Enclosed is our assessment of the BLM's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the BLM complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is Bob Robinson, Managing

**Director, Natural Resources and Environment. Mr. Robinson can be reached at
(202) 512-3841.**

**Kathleen E. Wannisky
Managing Associate General Counsel**

Enclosure

**cc: The Honorable Sylvia V. Baca
Assistant Secretary of the Interior
Department of the Interior**

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF THE INTERIOR,
BUREAU OF LAND MANAGEMENT
ENTITLED
"MINING CLAIMS UNDER THE GENERAL MINING LAWS;
SURFACE MANAGEMENT"
(RIN: 1004-AD23)

(i) Cost-benefit analysis

The Bureau of Land Management performed a cost-benefit analysis of the final rule. The analysis used as a baseline the existing regulation and current BLM administrative costs. The potential costs are increased operating costs for miners and increased administrative costs for BLM. The potential benefits are environmental improvements. BLM notes both benefits and costs are difficult to quantify because many of the potential impacts associated with the rule will be site- or mining-operation specific. For the alternative that BLM selected for the final rule, the annual cost of plans would be \$12.2 million and the annual cost of notice would be \$1.4 million. The BLM administrative costs would be \$3 million and the value of forgone production ranges from \$0 to \$133 million.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

BLM prepared an Initial and a Final Regulatory Flexibility Analysis for the proposed and final rule, respectively. The analyses comply with the requirements of the act, including the size and number of small entities impacted by the rule and the alternatives considered and the steps taken to minimize the burden on small entities. These include the deletion of the requirement for an "immediately redeemable" financial guarantee.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The final rule, according to BLM, does not impose either an intergovernmental or private sector mandate, as defined in title II, of more than \$100 million in any one year.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The final rule was issued using the notice and comment procedures contained at 5 U.S.C. 553. On February 9, 1999, BLM published a Notice of Proposed Rulemaking in the Federal Register. 64 Fed. Reg. 6422. BLM received 2,500 comments in response to the proposed rule and in the preamble to the final rule, responds to the comments and explains the changes in the rule made in response to them.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains information collections that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Review Act. OMB has approved the collections and assigned OMB No. 1004-0194. BLM states that the estimated annual burden of the collections is 306,536 hours.

Statutory authorization for the rule

The final rule was promulgated under the authority contained in 16 U.S.C. 1280; 30 U.S.C. 22, 612; and 43 U.S.C. 1202, 1732, 1733, 1740, 1781, and 1782.

Executive Order No. 12866

The final rule was reviewed by the Office of Management and Budget and found to be an “economically significant” regulatory action under the order.

Executive Order No. 13132 (Federalism)

BLM found that the final rule has federalism implications under the order because, in certain circumstances, the final rule will preempt state law. The preamble to the final rule discusses the consultations BLM had with state officials and a discussion of the states’ concerns.