

which nonexclusive disposals of mineral materials can be made, with only negligible surface disturbance. The establishment of a common use area does not create a superior right to remove material as against any subsequent claim or entry of the lands.

(i) *Performance bond* means a bond to ensure compliance with the terms of the contract and reclamation of the site as required by the authorized officer.

(j) *Act* means the Material Act of July 31, 1947, as amended, (30 U.S.C. 601, *et seq.*).

(k) *Unnecessary or undue degradation* means surface disturbance greater than what would normally result when an activity is being accomplished by a prudent operator in usual, customary, and proficient operations of similar character and taking into consideration the effects of operations on other resources and land uses, including those resources and uses outside the area of operations. Unnecessary and undue degradation may involve failure to initiate and complete reasonable mitigation measures, including reclamation of disturbed area; creation of a nuisance; or failure to comply with applicable environmental protection statutes and regulations.

§ 3600.0-8 Public availability of information.

(a) All data and information concerning Federal and Indian minerals submitted under this part 3600 and parts 3610 and 3620 of this chapter are subject to part 2 of this title. Part 2 of this title includes the regulations of the Department of the Interior covering the public disclosure of data and information contained in Department of the Interior records. Certain mineral information not protected from public disclosure under part 2 of this title may be made available for inspection without a Freedom of Information Act (FOIA) (5 U.S.C. 552) request.

(b) When you submit data and information under this part 3600 and parts 3610 and 3620 of this chapter that you believe to be exempt from disclosure to the public, you must clearly mark each page that you believe includes confidential information. BLM will keep all data and information confidential

to the extent allowed by § 2.13(c) of this title.

33. Section 3602.2 is amended by removing the last two sentences of paragraph (a), and adding a sentence in their place to read as follows:

[63 FR 52954, Oct. 1, 1998]

Subpart 3601—Limitations

§ 3601.1 Limitations; disposal of mineral materials.

§ 3601.1-1 Valid existing rights and unpatented mining claims.

(a) Mineral material disposals may not be made by the authorized officer from public lands where:

- (1) There are any unpatented mining claims which have not been cancelled by appropriate legal proceeding;
- (2) Expressly prohibited by law.

§ 3601.1-2 Authorization to use lands subject to material sales contracts and free use permits.

(a) The permittee under contract of sale or permit for free use shall, unless otherwise provided, have the right to:

- (1) Extract, remove, process and stockpile the material until the termination of the contract regardless of any subsequent appropriation under the provisions of the general land laws; and
- (2) Use and occupy the described lands if it is determined by the authorized officer to be necessary for fulfillment of the contract until termination of that contract.

(b) The permittee shall be subject to the continuing rights of the United States to issue leases, permits and licenses for the use and occupancy of the lands, provided that this authorized use does not endanger or materially interfere with the production or removal of materials under contract.

(c) Any person that has a subsequent settlement, location, lease, sale or other appropriation under the general land laws, including the mineral leasing and mining law on lands covered by a material sale contract or free use permit shall be subject to the existing use authorization.