

**Register  
Federal  
Property**

**FRIDAY, NOVEMBER 4, 1977**  
**PART III**



---

**DEPARTMENT OF  
THE INTERIOR**

**Bureau of Land Management**

■

**FEDERALLY-OWNED  
MINERAL INTERESTS**

**Procedures for Conveyance**

[ 4310-84 ]

## DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ 43 CFR Part 2720 ]

CONVEYANCE OF FEDERALLY-OWNED  
MINERAL INTERESTS

## Proposed Procedures

AGENCY: Bureau of Land Management,  
Interior.

ACTION: Proposed rulemaking.

SUMMARY: Section 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719) authorizes the Secretary of the Interior to convey mineral interests owned by the United States where the surface is or will be in non-Federal ownership if conditions set forth in the Act are met. This proposed rulemaking establishes the procedure under which the Secretary of the Interior will exercise that authority.

DATE: Comment by January 3, 1978.

ADDRESS: Send comments to: Director (210), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240. Comments will be available for examination in Room 5555 of the above address during regular business hours (7:45 a.m.-4:15 p.m.).

FOR FURTHER INFORMATION CON-  
TACT:

Robert C. Bruce, Division of Legislation and Regulatory Management, Bureau of Land Management, Department of the Interior, Washington, D.C. 20240, 202-343-8735.

## SUPPLEMENTARY INFORMATION:

Section 209 of the Federal Land Policy and Management Act of 1976 gave the Secretary of the Interior limited authority to convey mineral interests owned by the United States. The Secretary of the Interior may convey mineral interests of the United States when the surface is or will be in non-Federal ownership but is restricted to those instances when there are no known mineral values in the land or where the continued reservation of the mineral interests by the United States interferes with or precludes appropriate non-mineral development of the land and such development would be a more beneficial use of the land than its mineral development.

This proposed rulemaking sets forth the rules and procedures under which the Secretary of the Interior will exercise the authority granted him in section 209 of the Federal Land Policy and Management Act of 1976.

The procedure outlined in the proposed rulemaking is an application procedure. Under the proposed rulemaking, anyone who owns or will own the surface of land, in which the mineral interests are owned or reserved by the United States, may file an application to purchase the interests of the United States. The Secretary can convey the interests of the United States when there are no known mineral values in the land or when the mineral reservation is interfer-

ing with or precluding development of the surface and the planned surface development is more beneficial than the mineral development.

The proposed rulemaking sets out the procedure to be followed in determining the fair market value of the reserved mineral interests. It requires the authorized officer to use all available data to determine value and sets up the requirements for any needed exploratory program. The proposal mandates a close working relationship between the authorized officer and the U.S. Geological Survey in carrying out the exploratory program and the evaluation of data obtained from the program.

Because of the very limited authority granted the Secretary of the Interior by the Congress in section 209 of the Federal Land Policy and Management Act of 1976, there will be many applications to purchase mineral interests owned by the United States that will have to be denied. The proposed rulemaking recognizes this fact and provides a method for rejection of an application by the authorized officer when the application clearly does not meet the requirements of the Act.

Finally, the proposed rulemaking provides the method for conveying the mineral interests of the United States to the applicant when all of the requirements of the Act and the regulations have been met.

The principal author of this proposed rulemaking is Robert C. Bruce of the Division of Legislation and Regulatory Management, assisted by the staff of the Division of Mineral Resources, the Division of Lands and Realty, all of the Bureau of Land Management, as well as the staff of the Office of the Solicitor and the U.S. Geological Survey.

NOTE: The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Analysis under Executive Order 11821 and OMB Circular A-107.

It is hereby determined that the publication of this proposed rulemaking is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

Under the authority of sections 209 and 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), it is proposed to amend Subchapter B, Chapter II, Title 43 of the Code of Federal Regulations by adding Group 2700 as set forth below:

## PART 2720—CONVEYANCE OF FEDERALLY-OWNED MINERAL INTERESTS

Subpart 2720—Conveyance of Federally-  
Owned Mineral Interests

Sec.	
2720.0-1	Purpose.
2720.0-2	Objectives.
2720.0-3	Authority.
2720.0-5	Definitions.
2720.1	Application to purchase Federally-owned mineral interests.
2720.1-1	Filing of applications.
2720.1-2	Form of applications.

Sec.	
2720.1-3	Action on application.
2720.2	Determination that an exploratory program is not required.
2720.3	Action upon determination of the value of the Federally-owned mineral interests.
2720.4	Issuance of document of conveyance.
2720.5	Appeals.

AUTHORITY: Sections 209 and 310 of Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

Subpart 2720—Conveyance of Federally-  
Owned Mineral Interests

## § 2720.0-1 Purpose.

The purpose of these regulations is to establish procedures under section 209 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1719, for conveyance of mineral interests owned by the United States where the surface is or will be in non-Federal ownership.

## § 2720.0-2 Objectives.

The objective is to allow consolidation of surface and subsurface or mineral ownership where there are no known mineral values or in those instances where the reservation interferes with or precludes appropriate non-mineral development and such development is a more beneficial use of the land than the mineral development.

## § 2720.0-3 Authority.

(a) Section 209(b) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1719(b), authorizes the Secretary of the Interior to convey mineral interests owned by the United States where the surface is or will be in non-Federal ownership, if certain specific conditions are met.

(b) Section 310 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1740, authorizes the Secretary of the Interior to promulgate rules and regulations to carry out the purposes of the Act.

## § 2720.0-5 Definitions.

As used in this subpart, the term:

(a) "Prospective record owner" means a person who has a contract or other agreement to purchase a tract of land that is in private ownership with a reservation of minerals in the United States, or a person who is purchasing a tract of land under the provisions of the Federal Land Policy and Management Act of 1976.

(b) "Known mineral values" means mineral values in lands with underlying geologic formations which are valuable for prospecting for, developing or producing natural mineral deposits. The presence of such mineral deposits in the lands may be known, or geologic conditions may be such as to make the lands prospectively valuable for mineral occurrence.

## § 2720.1 Application to purchase Federally-owned mineral interests.

## § 2720.1-1 Filing of application.

Any existing or prospective record owner of the surface of land in which

mineral interests are reserved or otherwise owned by the United States may file an application to purchase such mineral interests if (1) He has reason to believe that there are no known mineral values in the land, or (2) The reservation of ownership of the mineral interests in the United States interferes with or precludes appropriate non-mineral development of the land and such development would be a more beneficial use of the land than its mineral development.

#### § 2720.1-2 Form of application.

(a) An application shall be filed with the State Office of the Bureau of Land Management in the State in which the lands and minerals are located.

(b) No specific form is required.

(c) A non-refundable fee of \$50 shall accompany the application.

(d) Each application shall include:

(1) The name, legal mailing address, and telephone number of the existing or prospective record owner of the land included in the application;

(2) Proof of ownership of the land included in the application, or in the case of a prospective record owner, a copy of the contract of conveyance of a statement describing the method by which he will become the owner of record;

(3) In the case of private ownership of the surface, a certified copy of any patent or other instrument conveying the land included in the application; and

(4) As complete a statement as possible concerning (i) the Federally-reserved or owned mineral values in the land, including substantiating information, (ii) the proposed uses of the land, (iii) why the reservation of the mineral interests in the United States is interfering with or precluding appropriate non-mineral development of the land covered by the application, (iv) how or why such development would be a more beneficial use of the land than its mineral development, and (v) a showing that the proposed use complies with State and local and/or planning requirements.

#### § 2720.1-3 Action on application.

(a) Within 60 days of receipt of an application to purchase Federally-owned mineral interests, the authorized officer shall, if the application meets the requirements for further processing, determine the amount of deposit required and so inform the applicant.

(b) No application filed under this subpart shall be processed until the applicant has either (1) Deposited with the authorized officer an amount of money that the authorized officer estimates is needed to cover administrative costs of processing, including but not limited to costs of conducting an exploratory program, if one is required, to determine the character of the mineral deposits in the land, evaluating the existing data or the data obtained under an approved exploratory program to aid in determining the fair market value of the mineral interests to be conveyed, and preparing and issuing the documents of conveyance, or (2) has obtained the consent of the authorized officer to conduct an

exploratory program, such program to be conducted only under a plan of operations approved by the authorized officer after he has obtained the approval of the U.S. Geological Survey. The authorized officer in reaching a determination as to whether there are any known mineral values in the land and, if so, the estimated costs of an exploratory program, if one is needed, shall rely upon reports on locatable and saleable minerals prepared by the Bureau of Land Management and mineral resource evaluation reports on leasable minerals prepared by the U.S. Geological Survey.

(c) The authorized officer shall inform the applicant of his determination as to the need for an exploratory program, and where appropriate, the estimated cost of such a program. The applicant may request that the exploratory program be arranged by the authorized officer or request the consent of the authorized officer to accomplish any required exploratory program by other means, at his own expense, under a plan of operations approved by the authorized officer after having obtained the approval of the U.S. Geological Survey and to provide the results to the authorized officer for his use and approval. The applicant shall, within 60 days of receipt of such notice, respond to the authorized officers' notice, stating whether he wishes to have the authorized officer arrange to have conducted the required exploratory program or requests the consent of the authorized officer to accomplish any required exploratory program by other means. Failure to respond to said notice shall void the application.

(d) If the applicant requests that any required exploratory program be arranged by the authorized officer, he shall submit the sum of money required under paragraph (b) of this section and the authorized officer shall, with the approval of the U.S. Geological Survey, have the exploratory program accomplished so as to aid in determining the fair market value of the Federal mineral interests covered by the application.

(e) If the applicant requests the consent of the authorized officer to accomplish any required exploratory program by other means, at his own expense, he shall at the time of making his request for such consent, file a plan of operations to carry out any required exploratory program for approval by the authorized officer, after he has obtained the approval of the U.S. Geological Survey. Such plan of operations shall be sufficient to provide the resource and economic data needed to aid in determining the fair market value of the Federal mineral interests to be conveyed. Said resource and economic data shall include, where appropriate, but not be limited to, geologic maps, geologic cross-sections, tables and descriptive information encompassing lithologic, geochemical, and geophysical data, assays of samples, drill logs and outcrop sections, which aid in establishing the location, nature, quantity, and grade, and which aid in determining the fair market value

of the Federal mineral interests in the land covered by the application. The plan of operations shall conform to the laws, regulations and ordinances of all governmental bodies having jurisdiction over the lands covered by the application. The authorized officer shall decide within 60 days of receipt of said request whether he shall or shall not give his consent. The authorized officer shall not give his consent if he determines that the plan of operations is not adequate to supply the resource and economic data needed to aid him in determining the fair market value of the Federal mineral interests to be conveyed. If the authorized officer, in his discretion, and with the approval of the plan of operations by the U.S. Geological Survey, approves the applicant's plan of operations, the applicant may proceed to execute the plan of operations, subject to the supervision of the authorized officer and the U.S. Geological Survey. If the authorized officer does not give his consent to the applicant's request, the applicant may, within 60 days of such refusal, avail himself of the provisions of paragraph (d) of this section. Failure to deposit the required sum within the 60 day period shall void the application. All resource and economic data obtained from the approved exploratory program shall be supplied the authorized officer. The authorized officer shall supply that data needed for determination of the economic value of leasable mineral resources to the U.S. Geological Survey and that needed for determination of the economic value of locatable and saleable mineral resources to the Bureau of Land Management. The authorized officer relying upon those determinations shall determine the fair market value of the Federal mineral interests in the land covered by the application. If the authorized officer determines that the resource and economic data supplied from an approved exploratory program is not adequate to aid in determining the fair market value of the Federal mineral interests to be conveyed, he shall so notify the applicant and state what additional data is needed.

(f) Notwithstanding the provisions of the preceding paragraphs of this section, an application may be rejected without the applicant meeting the requirements of paragraph (b) of this section if the authorized officer determines from an examination of the application or of data readily available to him relating to the land concerned that the application does not meet the requirements of the Act.

#### § 2720.2 Determination that an exploratory program is not required.

(a) In instances where available data indicate that there are no known mineral values in the land covered by the application, an exploratory program shall not be required.

(b) An exploratory program shall not be required to prove the presence or absence of mineral values where the lands covered by the application are classified prospectively valuable, but such value is found to be only nominal.

**§ 2720.3 Action upon determination of the fair market value of the mineral interests.**

(a) Upon the authorized officer's determination that all of the requirements of the Act for conveyance of mineral interests have been met by the applicant and all actions necessary to determine the fair market value of the Federal mineral interests in land covered by the application have been completed, the authorized officer shall notify the applicant in writing of the fair market value of the Federal mineral interests, including the value of removal of the mineral reservation, and give a full and complete statement of the costs incurred in reaching such determination including any sum due the United States or that may be unexpended from the deposit made by the applicant. If the administrative costs of determining the fair market value of the Federal mineral interests exceed the amount of the deposit required of the applicant under this subpart, he will be informed that he is

required to pay the difference between the actual costs and the deposit. If the deposit exceeds the administrative costs of determining the fair market value of the Federal mineral interests, the applicant will be informed that he is entitled to a credit for or a refund of the excess. The notice shall also require that payment be made within 90 days from the date of mailing of the notice. Failure to pay the required amount within the allotted time shall constitute a withdrawal of the application and the application will be dismissed and the case closed.

(b) Mineral rights on lands for which an exploratory program is not required under this subpart shall be conveyed upon payment of fair market value for those mineral interests and all administrative or other costs.

**§ 2720.4 Issuance of document of conveyance.**

Upon receipt of the payment required by § 2720.3 of this subpart, if any is

required, the authorized officer shall issue the necessary document conveying to the applicant the mineral interests of the United States in the land covered by the application.

**§ 2720.5 Appeals.**

An applicant adversely affected by a decision of the authorized officer made pursuant to the provisions of this subpart shall have a right of appeal pursuant to Part 4 of this Title. Decisions of the authorized officer under this subpart shall be subject to reversal only if found to be arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law.

GUY R. MARTIN,  
Assistant Secretary  
of the Interior.

NOVEMBER 1, 1977.

[FR Doc.77-31944 Filed 11-3-77;8:45 am]