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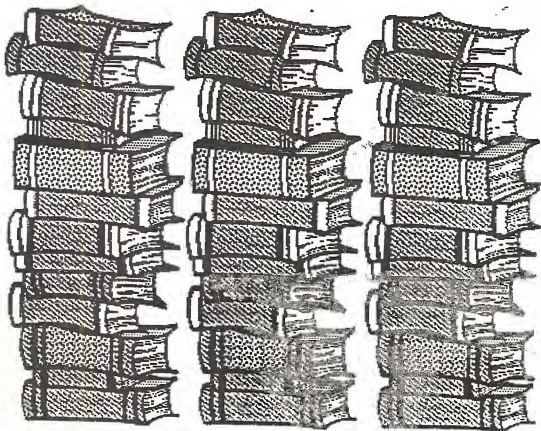


BUREAU OF LAND MANAGEMENT  
PHOENIX TRAINING CENTER



# ADMINISTRATIVE and LEGAL SOURCE MATERIALS WORKBOOK

Course Number 2000/3000-ST-4





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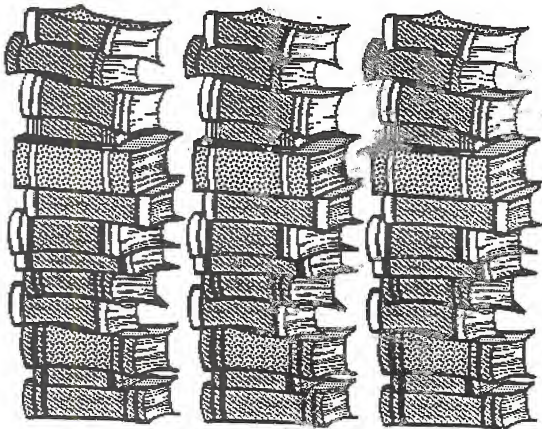


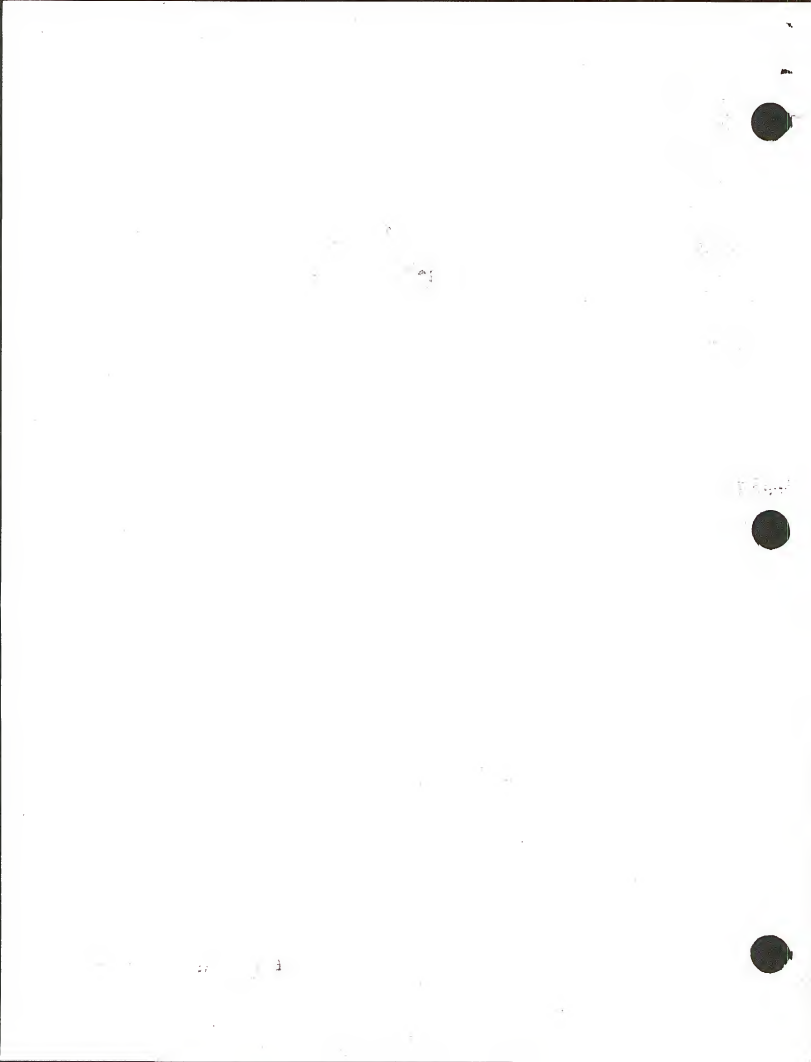
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Course Number 2000/3000-ST-4





**Administrative  
and  
Legal Source Materials  
Workbook**

**Prepared by**

**Bureau of Land Management  
Phoenix Training Center**

**1988  
Phoenix, Arizona**

**BLM-AZ-AE-88-001-2000**



## PREFACE

The *Administrative and Legal Source Materials Workbook* has been written for land law examiners, realty specialists and other government employees that do not have a legal background but who often work with or are exposed to the law in their work. It has been adapted from a 1982 Bureau of Land Management publication, *Finding the Law: A Workbook on Legal Research for Laypersons*, written by Al Coco, Professor of Law/Librarianship and Law Librarian and Director of the Master of Law Librarianship Program at the University of Denver College of Law. This adaptation was accomplished by Mary Linda Ponticelli of BLM's Washington Office Division of Solid Leasable Minerals.

Though some of the information in these two publications is similar or the same, *Finding the Law* was prepared for a different primary audience—cadastral surveyors—than the *Administrative and Legal Source Materials Workbook*, and some of the materials and organization of the two workbooks differ. *Finding the Law* presents extensive information on civil case precedent and the use of civil law finding tools. The *Administrative and Legal Source Materials Workbook* is more directed toward land law examiners and includes expanded coverage of internal administrative and Interior Board of Land Appeals materials.

This workbook is a prerequisite to the Basic Lands and Basic Minerals Adjudication courses and the BLM Foundations course. The illustrations and definitions should help readers better understand the legal process and legal publications. To further help the reader, exercises are included at the end of Sections 2 through 5.

## ACKNOWLEDGEMENT

We would like to thank West Publishing Company for permission to reproduce pages from its legal publications: *United States Code Annotated*, *U.S. Code Congressional and Administrative News*, and *Federal Reporter*.



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## SECTION 1

### INTRODUCTION

The Bureau of Land Management's (BLM) foundation rests on the Constitution of the United States, written in 1787 and adopted in 1789. Article IV, Section 3, Clause 2 of the Constitution gave Congress the power to dispose of public lands and to make needed rules and regulations for the territory and property of the United States.

The framework governing BLM's operations and functions is based on administrative and legal source materials, materials on which BLM employees daily rely in performing their duties. Every BLM action is derived from a legal source and based on either (1) written law as spelled out by acts of Congress or interpretations by the courts and (2) departmental regulations and policies as established by the Secretary of the Interior.

The objective of this workbook is to familiarize the user with these legal and administrative source materials.

A law library is similar to other libraries. It has a catalog, a library staff, and a collection arranged in some order on shelves. But a law library differs from other libraries in that its sources--books, periodicals, micro-products--mostly relate to law. The bulk of the other sources in a law library help define the law. These sources that explain the law include digests, indexes, and books--periodicals, treatises, textbooks, and encyclopedias.

For the two categories of law there are two categories of law books. The first category consists of statutory or quasi-statutory laws.<sup>1</sup> Statutory laws are original laws pertaining to civil and criminal matters enacted by a body legally authorized to pass laws. For example, Congress enacts Federal laws; a State legislature enacts State laws; and a city council enacts municipal ordinances. These laws are published in sets of statutes such as the *United States Code*, which contains public law enacted by Congress.

The most common quasi-statutory laws are

rules (same as regulations) that are written by Federal, State, county, and city agencies. Agencies are given authority for rulemaking from a higher authority. Congress, for example, gives authority to the Environmental Protection Agency (EPA) to write and issue rules and regulations. The same authority also gives the agency power to enforce its rules. EPA rules as well as regulations of other agencies are published in the *Federal Register* and later in the *Code of Federal Regulations*. (See figure 1.)

The second category involves laws derived from appellate cases heard and decided by Federal and State appellate judges. Appellate courts hear cases appealed from lower trial courts. Appellate decisions and opinions are published in reports. The United States Supreme Court, for example, publishes its opinions in the *United States Reports*. When an appellate court issues an opinion that contains a new interpretation of a previously written opinion on the same point of law or on a new point altogether, the court is setting precedent. Since precedent is binding on lower courts within the same jurisdiction, the precedent-setting decision becomes law.

Federal agencies also have authority (1) to decide cases on the basis of evidence and testimony given at hearings and (2) to hear appeals. (Judges in Federal administrative agencies are called either administrative law judges or administrative judges.) Some agencies publish decisions and opinions, such as *Decisions of the Department of the Interior*. (Also see figure 2.)

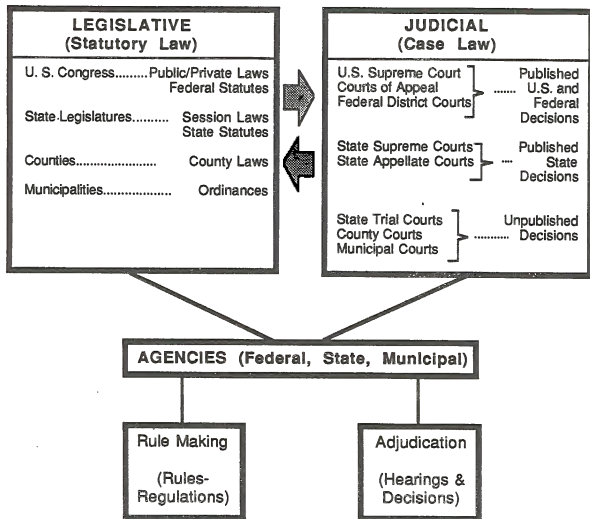
Before learning about law books and legal research, let's review how statutory and case laws are generated and end up in the thousands of volumes in law libraries.

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<sup>1</sup> All law books and citations referred to in this Introduction will be discussed elsewhere in the workbook.

## INTRODUCTION

FIGURE 1. *Legislative and Judicial Flowchart*



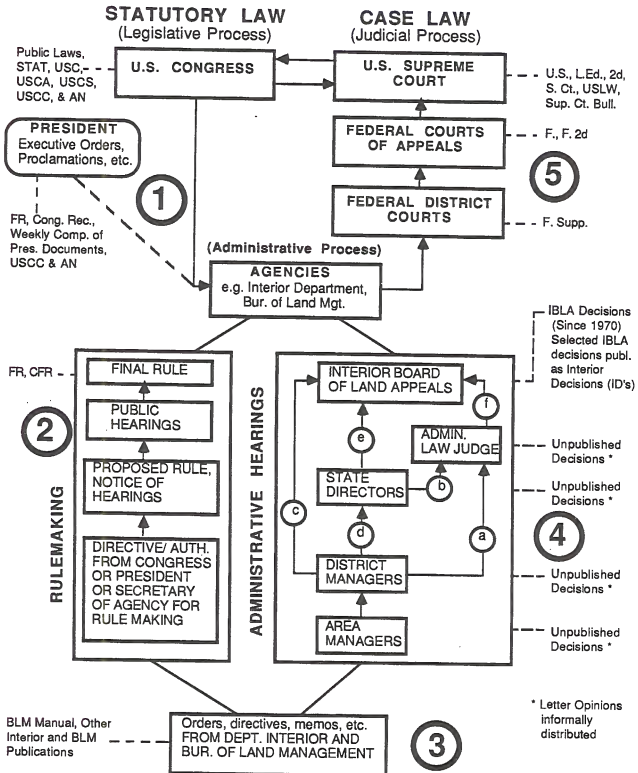
The legal profession uses the term volumes rather than books because 75 percent of law materials are serials. A serial publication is one published in series, usually in chronological order. Examples of serials include daily newspapers, legal periodicals, and law reports.

To understand the complex network of statutes, cases, and administrative processes, study figure 2 on page 3.

The left side of the chart shows the legislative process (statutory law), including the administrative rulemaking process. Congress enacts public laws that are

published in the *United States Statutes at Large* and later codified in the *United States Code*. Congress and the President of the United States both have power to direct agency rulemaking. (See (1) on figure 2.) Congress delegates rulemaking authority to an agency when the agency is created. With respect to the authority delegated to the Department of the Interior, if the law is not specific, 43 U.S.C. 2 (1982) authorizes the Secretary of the Interior to perform all executive duties pertaining to public lands. The President may delegate authority to an agency under the power granted him by the United States Constitution or by Congress in a law.

FIGURE 2. Statutory and Case Law Flowchart



## INTRODUCTION

The President delegates his authority by executive orders, Presidential proclamations, and reorganization plans. The delegations are published in the *Federal Register*, the *Code of Federal Regulations*, *Congressional Record*, *Weekly Compilation of Presidential Documents*, *United States Code*, *Congressional & Administrative News*, *House and Senate Documents*, and in other places.

When rules are proposed, they are published in proposed form in the *Federal Register*. Included is notification of where comments can be submitted and information on the time and place of a public hearing on these rules, if a hearing is to be held. After review of public comments, the rules may be changed and then published in final form in the *Federal Register* (see (2) on figure 2).

The Secretary of the Interior may delegate departmental authority to his staff only via the departmental *Manual*. (The Secretary of the Interior has not delegated below the assistant secretarial level the authority to sign regulations or Public Land Orders (PLOs)). PLOs withdraw lands from operation of some of the public land laws or revoke such withdrawals.

The Director of BLM delegates Bureau authority to his staff via BLM Manual 1203 (see (3) on figure 2).

If not prohibited from doing so, field officials (State Directors and District Managers) can redelegate authority to such subordinates as Area Managers and Division and Branch Chiefs. Redelegation, however, must be approved by either the Director of

BLM (for State Director's redelegation) or by the State Director for his staff's redelegation. Many redelegations are published in the *Federal Register*.

The right side of the chart shows the judicial process (case law) of Federal trial and appellate courts and the Federal administrative hearing process. A one-step appeals process now exists for BLM-related adjudicative-type decisions, i.e., from State or District Office decision to Interior Board of Lands Appeals (IBLA), the highest appellate level for BLM appeals (see (4) c & e on figure 2). Exceptions to the one-step appeals are (1) matters relating to land classification decisions and (2) situations involving property rights and factual issues, such as contests of surveys, mining claims, right-of-way grants, and allowed homestead entries. In these examples, decisions by the State Director are appealed to the Hearings Division of the Office of Hearings and Appeals and then to IBLA.

After IBLA issues a decision, the administrative appeal process within the Department of the Interior usually ends, although the Secretary can review and overrule an IBLA decision. At this point, the case can be appealed only to the federal court system (see 5) on figure 2), but only by a private party. The government cannot appeal an IBLA decision, but once a case is in the stream of the Federal court system, the government does have the right of appeal.

The publications referred to on the chart and in this Introduction will be discussed in the sections that follow.



## SECTION 2

### STATUTORY LAW

The steps of the legislative process generate many publications that become the legislative history of the law. Legislative history consists of the background information of a law from the body that passed it. Legislative history includes hearings, committee reports, and congressional debates compiled during a law's enactment. A legislative history is often important because it shows Congress's intent in passing the law. From original introduction to final enactment, a law's language is changed many times through amendments. The final law is thus seldom in its original language.

#### HOW A BILL BECOMES STATUTORY LAW

Federal laws are enacted by the United States Congress. First, a bill is introduced in either of the two houses, the Senate or House of Representatives. Each bill is read by title and assigned a bill number, such as S. 123 or H. R. 456. Bills then go to a committee for consideration. But over 85 percent of those introduced bills are never considered and therefore die. If a bill dies at any stage, it can be re-introduced during the next congressional session at which time it will be assigned a new number.

If a bill goes to a committee, hearings may be held, and many of these hearings are published. After hearings and committee study and investigation, the committee submits a report with its findings and a recommendation of whether the bill should pass. These committee reports are numbered, such as H. R. Rep. 8910 or S. Rep. 198. When a bill is reported out of committee, it is put on a calendar. In turn, the bill is read.

The respective house then holds debates, most of which are also printed in the *Congressional Record*. The bill is read a third time and then voted on. If it passes, it goes to the other house. After passage in one house, the legislation is called an act. The act goes through the same steps in the

second house. When an act is amended, it is returned to the originating house for study and a vote on the amendments. If the second house passes the act, it is signed by the head of the Senate, the Vice President, and by the head of the House of Representatives, the House Speaker, and then sent to the President for consideration. The act becomes law if it is signed by the President or is not vetoed within 10 days. This law will then be printed in various publications. At this stage, the law is generally referred to as a public law or statute.

Any law may be changed later by Congress or by Federal courts. For example, Congress may amend, repeal, revise, or supersede the law, or a Federal court may test the constitutionality or validity of a law that is questioned in court.

Congress enacts two types of laws: private and public laws. A private law is one that affects an individual or a specific group of individuals, the subject of which will seldom be litigated (contested) in court. For example, a private law could give franking privileges to a President's widow to allow her to use the U. S. mails without paying postage. A public law, on the other hand, potentially affects most U. S. citizens. For example, anyone interested in obtaining a Federal onshore oil and gas lease in the Lower 48 States must comply with the provisions of the *Mineral Leasing Act of 1920*. After enactment, a new Federal public law will be published first as a slip law. A slip law is an individual publication in pamphlet form of the law as enacted by Congress. Slip laws are published by the Government Printing Office and issued in chronological order by public law number, e.g.,

Public Law 95-625, November 10, 1978.

95th                      Slip Law                      Date of Enactment  
Congress                      No.

(See figure 3.)

## STATUTORY LAW

### STATUTES AT LARGE (STAT.)

The Government Printing Office later compiles these slip laws into a set of volumes known as *The United States Statutes at Large* (Stat.). (See figure 3.) But these bound volumes are slow in being published, having a lag time of 2 to 3 years.

#### Citation to the Statutes at Large:

92 Stat. 3467

*The Statutes at Large* have been published since 1789. About five volumes of *Statutes at Large* are published each congressional session. These volumes contain public laws, private laws, Presidential proclamations, reorganization plans, and constitutional amendments. Each volume has a subject index, and the front of each has a chronological listing of laws (arranged by public law or private number) passed during that particular session of Congress. (See figures 3 and 4.)

Researching a federal law in the many volumes of the *Statutes at Large* is difficult because it requires the researcher to practically search each volume to see if the law being traced has been changed by later congressional enactments.

From 1789 to 1864, 17 *Statutes at Large* volumes were published. In 1866, Congress decided to codify the laws still valid and in effect from the 17 volumes. (Codification, which means "to reduce to a code," arranges laws in a systematic, classified order.) Codification of the 17 volumes of the *Statutes at Large* resulted in the publication of the *United States Revised Statutes of 1875*. But because the *Revised Statutes of 1875* contained many errors, a corrected version was published in 1878. To date, Congress has not reenacted the 1878 revision into law. So, in effect, unless laws in the *Revised Statutes of 1875* were later changed by Congress, these laws are still the law today, errors included. Meanwhile the publication of the *Statutes at Large* continued, and research became more and more cumbersome and difficult as each volume was published. In the early 1920s, Congress authorized another codification, which in 1926 resulted in the publication of the *United States Code* (U.S.C.).

### SUMMARY

Title: *United States Statutes at Large* (Stat.).

Publisher: Vol. 1-17, various private publishers; Vol. 18- (1873 to present), Government Printing Office.

Composition of Set: The *Statutes at Large* make up a complete, permanent file of all Federal legislation passed since 1789. In addition, treaties and international executive agreements were included before volume 65 (1951).

Arrangement of Materials: Materials in the *Statutes at Large* are arranged chronologically rather than by subject.

Finding Aids: The *Statutes at Large* have no general index. Each volume has a subject index, but the coverage is limited to materials in that volume. Each volume also has a chronological listing of the laws printed within it.

Currency of the Set: New volumes are added to the set at the end of each session of Congress. Before 1939, a new volume was not issued until the entire Congress had been completed, so that each volume covered a 2-year period. Slip laws may be viewed as advance sheets to the *Statutes at Large*.

Currency and Validity of Information: The chronological arrangement of the material largely precludes the use of the *Statutes at Large* as a substitute for the statutory compilations.

Special Features and Utility of the Set: Though the lack of a subject arrangement prevents the researcher from substituting this set for a statutory compilation, the permanent all-inclusiveness of the materials makes the *Statutes at Large* a needed adjunct to the *United States Code*, *United States Code Annotated*, and *United States Code Service*.

Special uses for and features of the *Statutes at Large* include the following:

1. The *Statutes at Large* provide the researcher with a permanent file of certain materials that have not been included in



## STATUTORY LAW

statutory compilations. It, thus, is often the sole source for the text of private legislation, temporary legislation, and legislation not deemed to have been of general interest.

2. The *Statutes at Large* provide the researcher with a permanent file of materials that were once in statutory compilations but are no longer current.

3. For the portion of United States Federal statutes that has not been carried forward from the *United States Revised Statutes* or re-codified into positive law in the *United States Code*, the *Statutes at Large* remain the "best evidence."

4. The *Statutes at Large* provide the researcher with a permanent source of all Federal legislation in its original form. This source is important because the statutory compilations often have to divide an act to properly place it in the code by subject.

5. Since 1933, the publishers have provided in the margins of the *Statutes at Large* information that is often helpful in preparing a legislative history.

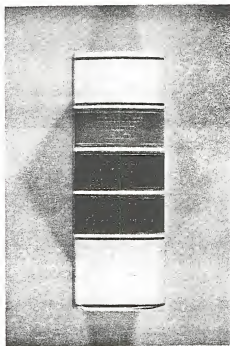
6. Beginning with volume 77, each volume contains a section entitled "Guide to Legislative History of Bills Enacted into Public Law." This section cites most of the documents needed to produce a federal legislative history.

Because research became more and more difficult with the publication of each volume of the *Statutes at Large*, the need for a thorough codification of public laws by subject matter became more apparent. In the early 1920s, Congress authorized another codification because the codification attempted by the Revised Statutes had many errors. This codification became the *United States Code* (U.S.C.) of 1926.

### UNITED STATES CODE (U.S.C.)

The *United States Code* (U.S.C) has been officially published by the Government Printing Office since 1926. A revised edition of the set is published every 6 years. The present code is the 1982 edition; the next revision will be the 1988 edition.

FIGURE 4. *U.S. Statutes at Large*



Bound cumulative supplements for the U.S.C. are issued annually and consist of about four to five volumes per year. Like the *Statutes at Large* volumes, the supplements have a lag time of about 2 years.

Public laws from the *Statutes at Large* are codified in the U.S.C. into the following 50 titles:

- \*1. General Provisions
2. The Congress
- \*3. The President
- \*4. Flag and Seal, Seat of Government, and the States
- \*5. Government Organization and Employees; and Appendix
- +6. [Surety Bonds]
7. Agriculture
8. Aliens and Nationality
- \*9. Arbitration
- \*10. Armed Forces; and Appendix
- \*11. Bankruptcy
12. Banks and Banking
- \*13. Census
- \*14. Coast Guard
15. Commerce and Trade
16. Conservation

A citation to a statute consists of the title number, the abbreviation for the name of the set, the section number, and the date of the edition of the U.S.C. in which the statute is published.

Two annotated versions of the U.S.C. are published. (In relation to statutory sets, "annotation" refers to a classified arrangement of court case summaries that interpret the statute section. These summaries, also called "Notes of Decisions," follow each statute section.) The two annotated sets are *United States Code Annotated* (U.S.C.A.) and *United States Code Service* (U.S.C.S.). Because the U.S.C.A. is generally the annotated set most often used within BLM, it is discussed in further detail.

### SUMMARY

**Title:** *United States Code* (U.S.C.)

**Publisher:** Government Printing Office

**Composition of Set:** The U.S.C. (figure 9) contains the text of the United States Constitution and current Federal legislation that is both permanent and public. The text of this official publication is the same as that in the unofficial *United States Code Annotated* and *United States Code Service*.

**Arrangement of Materials:** The text is subdivided into 50 broad subject areas known as titles, each further subdivided into chapters, sections, and subsections as needed. Each title is preceded by a table of contents for the chapters within the title, and each chapter is preceded by a table of contents. The U.S.C. is arranged the same as both annotated codes. Therefore, a citation to the U.S.C. can be used to locate information in the *United States Code Annotated* and *United States Code Service*.

**Finding Aids:** The publisher provides a multi-volume general index that provides access to the entire set but does not provide individual title indexes.

**Currency of the Set:** The U.S.C. began publication in 1926, and later editions have been periodically issued. The schedule now

calls for a 6-year cycle. The most recent edition was issued in 1982. To prevent the researcher from being as much as 6 years out of date, the publisher issues annual bound cumulative supplements between publication of editions.

**Currency and Validity of Information:** The U.S.C. and its supplements supply the researcher with the current text of the United States Constitution and the current body of statutory material, except items added, repealed, or amended in the current session of Congress. The *United States Code Annotated* and the *United States Code Service* provide greater currency.

**Special Features:** Following the text of a section in the U.S.C., the publisher includes historical notes. These notes provide research information on the initial passage of the legislation, later amendments, and cross-references to other parts of the U.S.C. that apply.

FIGURE 9. *United States Code*



## STATUTORY LAW

### UNITED STATES CODE ANNOTATED (U.S.C.A.)

Because public laws cannot be copyrighted, companies like West Publishing Company and Lawyers Cooperative Publishing Company can reprint the U.S.C. verbatim.

The *United States Code Annotated* (U.S.C.A.) is an unofficial publication of the U.S.C. published by West. In addition to a reprint of the U.S.C., the U.S.C.A. includes the following features: (1) library references to West topics and key numbers (see figure 10); (2) references to the West encyclopedia, *Corpus Juris Secundum* (C.J.S.) (see figure 10), and (3) annotations (called notes of decisions) to the statute section (see figure 10). (These annotations are summaries of cases that have interpreted the statutory section being researched. If such summaries or notes of decisions are numerous, West prepares an outline of the notes to make the search easier. (See figure 10).)

Like the U.S.C., the U.S.C.A. also has a popular names and tables volume and a detailed multivolume subject index. In addition, U.S.C.A. has a separate index at the end of each title and a separate index to the United States Constitution and amendments.

#### Citation to the United States Code Annotated:

43 U.S.C.A 772

Since the U.S.C.A. is an unofficial publication, the preferred citation is to simply drop the "A" from the U.S.C.A. citation, e.g., 43 U.S.C.

**Updating the U.S.C.A.:** Use (1) pocket parts (2) cumulative pamphlets, and (3) *U.S. Code Congressional and Administrative News*.

**Step 1.** Check the pocket part to the U.S.C.A. volume.

All U.S.C.A. volumes are updated by annual cumulative pocket parts (figures 11 and 12). (Pocket parts are supplementary pamphlets that update sets of law books

such as statutes, digests, and encyclopedias. Pocket parts are cumulative from year to year. Because they are usually published annually, they are called "annual cumulative pocket parts." Each pocket part is inserted into a slit or pocket in back of the volume it supplements.)

In addition to pocket parts, U.S.C.A. volumes are occasionally updated by separately published pamphlets. When U.S.C.A. volumes are revised, all supplementary material is included in the volumes.

**Step 2.** Check for pamphlet supplements updating the pocket parts.

Every 2-3 months, West publishes a cumulative pamphlet service that supplements the annual pocket parts. Each pamphlet supplement supersedes the preceding pamphlet supplements.

Steps 1 and 2 update the law to within the last few months.

**Step 3.** To further update the research, go to a separate set, the *United States Code Congressional and Administrative News*.

## SUMMARY

**Title:** *United States Code Annotated* (U.S.C.A.)

**Publisher:** West Publishing Company

**Composition of Set:** The U.S.C.A. (figures 13-14) contains the text of the United States Constitution and current Federal legislation that is both permanent and public. The text is the same as that in the official *United States Code*.

**Arrangement of Materials:** Materials are arranged just as they are in the official U.S.C. This arrangement classifies all covered legislation into 50 subject areas called titles. Each title is then further subdivided into chapters, sections, and subsections as needed. Each title is preceded by a table of contents that shows the chapters within it, and each chapter is preceded by a table of contents.

FIGURE 10. *United States Code Annotated*

TITLE 43  
SECTION 772  
FROM U.S.C.A.  
NOTE: TEXT  
SAME AS U.S.C.  
FIGURE 7

OUTLINE OF  
NOTES OF  
DECISIONS

REFERENCES  
TO TOPIC-KEY  
NUMBER (USED  
TO ACCESS  
INFORMATION  
IN OTHER  
WEST PUBLI-  
CATIONS)

REFERENCE TO  
ENCYCLOPEDIA

EXAMPLE OF  
ANNOTATION  
OR NOTES OF  
DECISIONS

Ch. 18

SURVEY OF PUBLIC LANDS

43 § 772

**Historical Note**

Derivation. Act Mar. 3, 1853, c. 145, § 4, 10 Stat. 245.

1880 Amendment. Act Apr. 20, 1900, generalized the provisions permitting departures, and eliminated the limitation

that, when there are departures from the rectangular surveys, the lands shall not be surveyed into less than 160 acres or subdivided into less than 40 acres.

**Notes of Decisions****1. Construction with other laws**

This and other acts and regulations of lands in grant from Mexico to the city of the surveyor general as to form of subdivisions of public lands did not apply to San Francisco. *Bark v. Howe*, 1915, 152 F. 434, 171 Cal. 242.

§ 771. Repealed. Dec. 16, 1930, c. 14, § 1, 46 Stat. 1029

**Historical Note**

Section, R.S. § 2611, related to compensation for surveying by the day instead of by the mile in Oregon and California.

§ 772. Resurveys or retracements to mark boundaries of undisposed lands

The Secretary of the Interior may, as of March 3, 1909, in his discretion cause to be made, as he may deem wise under the rectangular system on that date provided by law, such resurveys or retracements of the surveys of public lands as, after full investigation, he may deem essential to properly mark the boundaries of the public lands remaining undisposed of: *Provided*, That no such resurvey or retracement shall be so executed as to impair the bona fide rights or claims of any claimant, entryman, or owner of lands affected by such resurvey or retracement: *Provided further*, That not to exceed 20 per cent of the total annual appropriation for surveys and resurveys of the public lands shall be used for the resurveys and retracements authorized hereby. Mar. 3, 1909, c. 271, 35 Stat. 845; June 25, 1910, No. 40, 36 Stat. 884.

**Notes of Decisions**

Evidence 5  
Fraud 4  
Judicial notice 5  
Mistake or fraud, 4  
Original survey controls 2  
Rights or claims, impairment of 5  
Surveys and resurveys 1

closed by an act of Congress directing a resurvey, based on the fact of obliteration of the lines and marks. *Cox v. Hart*, Cal.1922, 43 S.Ct. 154, 269 U.S. 427, 67 L.Ed. 322.

A government surveyor is not invested with authority to determine the character of land surveyed or left unsurveyed or to classify it as within or without the operation of particular laws, and his error in failing to extend his survey over islands in a river did not make them less a part of the government domain, and the government was not there- by divested of title or prevented from subsequently surveying them and assert-

**Library references**

Public Lands 228.  
C.J.S. Public Lands § 33.

**1. Surveys and resurveys**

A purpose to annul or abandon a survey of public lands may be dis-

FIGURE 11. *United States Code Annotated (Pocket Part)*

7 PUBLIC LANDS

43 § 270-12

SUBCHAPTER VII—PAYMENTS AND REFUNDS

§ 261. Repealed. Pub.L. 94-579, Title VII, § 702, Oct. 21, 1976, 90 Stat. 2787

Section, Acts Sept. 30, 1890, No. 59, 26 Stat. 684; Oct. 25, 1921, c. 114, § 1, 42 Stat. 208; Mar. 3, 1925, c. 462, 43 Stat. 1145, 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to time for payments and extension of time.

Effective Date of Repeal. Section 702 of Pub.L. 94-579 provided in part that section is repealed effective on and after Oct. 21, 1976.

except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.

Savings Provisions. Repeal by Pub.L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub.L. 94-579, set out as a note under section 1701 of this title.

§ 263. Repealed. Pub.L. 94-579, Title VII, § 702, Oct. 21, 1976, 90 Stat. 2787

Section, Acts June 16, 1890, c. 344, §§ 1-4, 21 Stat. 287; Apr. 18, 1904, No. 25, 33 Stat. 589; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to cancellation of entries and repayment of fees.

Effective Date of Repeal. Section 702 of Pub.L. 94-579 provided in part that section is repealed effective on and after Oct. 21, 1976, except such effective date to be on and after the

tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.

Savings Provisions. Repeal by Pub.L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub.L. 94-579, set out as a note under section 1701 of this title.

SUBCHAPTER VIII—ALASKA HOMESTEADS

§ 270-4. Repealed. Pub.L. 94-579, Title VII, § 702, Oct. 21, 1976, 90 Stat. 2787

Section, Acts May 14, 1898, c. 299, § 10, 30 Stat. 413; Oct. 23, 1921, c. 114, § 1, 42 Stat. 208; Mar. 3, 1925, c. 462, 43 Stat. 1144, 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to affidavits and filing, publishing, and posting proof of claims.

Effective Date of Repeal. Section 702 of Pub.L. 94-579 provided in part that section is repealed effective on and after Oct. 21, 1976,

except such effective date to be on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976, insofar as the homestead laws apply to public lands in Alaska.

Savings Provisions. Repeal by Pub.L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub.L. 94-579, set out as a note under section 1701 of this title.

§ 270-11. Repealed. Pub.L. 94-579, Title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2787

Section, Act Mar. 2, 1922, c. 96, § 1, 42 Stat. 415; Aug. 23, 1954, Pub.L. 85-725, § 1, 72 Stat. 730, related to entry on land containing coal, oil, or gas.

Effective Date of Repeal. Section 703(a) of Pub.L. 94-579 provided in part that section is repealed effective on and after the tenth anniversary-

ry of the date of approval of this Act, Oct. 21, 1976.

Savings Provisions. Repeal by Pub.L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub.L. 94-579, set out as a note under section 1701 of this title.

§ 270-12. Disposal by United States of coal, oil, or gas deposits reserved to United States; entry, reentry, etc., on lands for prospecting, mining, and removal

The coal, oil, or gas deposits reserved to the United States in accordance with the Act of March 8, 1922 (42 Stat. 415; 43 U.S.C. 270-11 et seq.), as added to by the Act of August 17, 1961 (75 Stat. 384; 43 U.S.C. 270-12), and amended by the Act of October 3, 1962 (76 Stat. 740; 43 U.S.C. 270-12), shall be subject to disposal by the United States in accordance with the provisions of the laws applicable to coal, oil, or gas deposits or coal, oil, or gas lands in Alaska in force at the time of such disposal. Any person qualified to acquire coal, oil, or gas deposits, or the right to mine or remove the coal or to drill for and remove the oil or gas under the laws of the United States shall have the right at all times to enter upon the lands patented under the

TITLE 43  
SECTION  
270-12  
FROM POCKET  
PART OF  
U.S.C.  
(TEXT  
CONTINUED  
ON FIGURE 12)



FIGURE 12. United States Code Annotated (Pocket Part)

NOTE  
EXPLAINING  
AMENDMENT  
TO SECTION  
270-12

## 43 § 270-12

## PUBLIC LANDS 8

Act of March 8, 1922, as amended, and in accordance with the provisions hereof, for the purpose of prospecting for coal, oil, or gas therein, upon the approval by the Secretary of the interior of a bond or undertaking to be filed with him as security for the payment of all damages to the crops and improvements from the United States the coal, oil, or gas deposits in any such land, or the right to mine, drill for, or remove the same, may reenter and occupy so much of the surface thereof incident to the mining and removal of the coal, oil, or gas therefrom, and mine and remove the coal or drill for and remove oil and gas upon payment of the damages caused thereby to the owner thereof, or upon giving a good and sufficient bond or undertaking in an action instituted in any competent court to ascertain and fix said damages: Provided, That the owner under such limited patent shall have the right to mine the coal for use on the land for domestic purposes at any time prior to the disposal by the United States of the coal deposits: Provided further, That nothing in this Act shall be construed as authorizing the exploration upon or entry of any coal deposits withdrawn from such exploration and purchase.

(As amended Oct. 21, 1976, Pub.L. 94-579, Title VII, § 703(c), 90 Stat. 2791.)

**References in Text.** The Act of March 8, 1922, referred to in text, is Act Mar. 8, 1922, c. 96, §§ 1 to 3, 42 Stat. 415, 416, originally classified to sections 274, 377 and 377a of Title 44, Territories and Insular Possessions, respectively, was transferred to sections 270-11 to 270-13 of this title, respectively. The provisions added by the Act of Aug. 17, 1962, and amended by the Act of Oct. 3, 1962, were classified to section 270-13 of this title. Sections 270-11 and 270-13 of this title were repealed by Pub.L. 94-579, § 703(a), effective on and after the tenth anniversary of the date of approval of Pub.L. 94-579, which was enacted into law Oct. 21, 1976.

**1976 Amendment.** Pub.L. 94-579 substituted provisions relating to disposal by United States of

coal, oil, or gas deposits reserved to the United States, applicability of statutory provisions to such disposal, and entry, reentry, etc., on lands for prospecting, mining, and removal of deposits, for provisions relating to patent for land entered under former section 270-11 of this title, reservation to the patented land, disposal of reserved coal, oil, or gas deposits, and entry, reentry, etc., on lands for prospecting, mining, and removal of deposits.

**Effective Date of 1976 Amendment.** Section 703(c) of Pub.L. 94-579 provided in part that amendment to this section is effective on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976.

§§ 270-15 to 270-17. Repealed. Pub.L. 94-579, Title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2787

**Section 270-15, Acts Apr. 13, 1926, c. 121, § 1, 44 Stat. 243; Apr. 29, 1920, c. 134, § 3, 64 Stat. 93,** related to claims and rectangular system of surveys and departures for local or topographic conditions.

**Section 270-16, Acts Oct. 28, 1921, c. 114, § 1, 43 Stat. 226; Mar. 1, 1923, c. 462, 43 Stat. 1146; Apr. 13, 1926, c. 121, § 2, 46 Stat. 246; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100,** related to additional entries by Indians.

**Section 270-17, Act Apr. 13, 1926, c. 121, § 3, 44 Stat. 244,** related to disposition of deposit of

estimated cost of work incident to survey, and promulgation of rules and regulations.

**Effective Date of Repeal.** Section 703(c) of Pub.L. 94-579 provided in part that sections are repealed effective on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976.

**Statute Provisions.** Repeal by Pub.L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub.L. 94-579, set out as a note under section 1701 of this title.

## SUBCHAPTER IX—SOLDIERS' AND SAILORS' HOMESTEAD

§§ 271 to 284. Repealed. Pub.L. 94-579, Title VII, § 702, Oct. 21, 1976, 90 Stat. 2787

**Section 271, R.S. § 2304; Mar. 1, 1901, c. 674, 31 Stat. 847,** set forth provisions respecting soldiers and sailors entitled to make entry.

**Section 272, R.S. § 2305; Mar. 1, 1901, c. 674, 31 Stat. 847; Apr. 6, 1922, c. 122, § 1, 42 Stat. 491,** related to deduction of military and naval service from time required to perfect title, and rights of widows and children of veterans.

**Section 272a, Acts Feb. 25, 1919, c. 37, 40 Stat. 1161; Dec. 28, 1922, c. 19, 42 Stat. 1067,** related to applicability of former sections 271 and 272 to military and naval operations on Mexican border or in World War I.

**Section 273, Act Apr. 6, 1922, c. 122, § 1, 42 Stat. 491,** related to veterans receiving compensation for wounds or disability.

## STATUTORY LAW

Finding Aids: The publisher includes a multivolume general index that provides access to the entire set. The general index is arranged identically to the U.S.C. In addition, the final volume for each title contains an index to that specific title.

Currency of the Set: The U.S.C.A. is being continuously updated. Three times a year during the course of a Congress, West publishes a pamphlet service that updates materials in the parent set. At the end of the year, these pamphlets are cumulated into more permanent supplementation. Depending upon the amount, supplementary material is added as a pocket part to a bound volume, as a free-standing paperbound supplement to a bound volume, or as a new bound volume replacing one previously in the set.

Currency and Validity of Information: The U.S.C.A. and its supplementation supply the researcher with the current text of the United States Constitution and the current body of statutory material.

Special Features: The advantages of annotated codes over the official U.S.C. lie in the speed with which the material is published and the special features of the commercial publication. The major additions made by the West Publishing Company in the U.S.C.A. include the following.

1. Historical Notes - Following the text of a section in the U.S.C.A., the publisher includes historical notes. These notes give the researcher information on the initial passage of the legislation, later amendments, and some cross-references to documents forming a part of the statute's legislative history.
2. Annotations Entitled "Notes of Decisions" - this segment provides paragraph-length summaries of and citations to State and Federal court cases that are important to an understanding of the statute consulted. This feature follows the library references portion of the editorial material at the end of a section.
3. Related Materials - The publisher often incorporates into the U.S.C.A. materials that do not technically belong in a statutory

FIGURE 13. *United States Code Annotated*



FIGURE 14. *United States Code Annotated Set for Title 43*



compilation. For example, the text of reorganization plans and executive orders will be included when the statute is logically related and the publisher feels that such publication would be useful to the researcher.

4. Tables - Supplied with the U.S.C.A. are several volumes of tables whose use will allow conversion from a U.S.C.A. citation to the proper citation in the *Revised Statutes of 1878* or from a *Statutes at Large* citation to the U.S. Code. In addition, you can use these tables to proceed from the U.S.C.A. to the *Statutes at Large* or to find executive documents issued under the authority of Federal statutes.

5. Popular Names - Many statutes become well known by a popular name or short title. The last volume of the multivolume index to the U.S.C.A. contains a table of such acts. For the convenience of the user, the popular names also appear as entries in the general index and in the indexes following each title.

**UNITED STATES CODE  
CONGRESSIONAL AND  
ADMINISTRATIVE NEWS  
(U.S. CODE CONG. & AD. NEWS)**

This set is published by West during each Congress, first in advance sheet form and later in bound volumes after the congressional session (figure 15). The set contains all public laws enacted during a congressional session, published in chronological order by public law number. (Note the cross-reference in the margin where this public law section will be found later in the U.S.C.)

The *U.S. Code Cong. & Ad. News* also contains important pieces of the legislative history for the public laws. Much of the legislative history comes from congressional reports and hearings. (See figure 16.)

## SUMMARY

**Title:** *United States Code Congressional and Administrative News* (U.S. Code Cong. & Ad. News)

**Publisher:** West Publishing Company

**Composition of Set:** This set is a commercial publication of documents relating to the legislative, administrative, and executive components of government. Its speed of publication and breadth of coverage make it useful as an updating device for sets like the *United States Code Annotated* and as a single source to monitor the current production of the components of the Federal Government that it covers.

**FIGURE 15.** *U.S. Code Congressional and Administrative News*

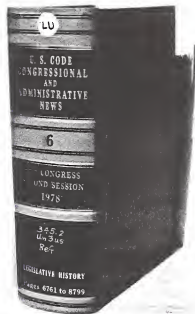


FIGURE 16. U.S. Code Congressional and Administrative News

REFERENCES  
TO CONGRES-  
SIONAL  
INFORMATION  
ABOUT THE  
ACT

TEXT OF  
LEGISLATIVE  
HISTORY

LEGISLATIVE HISTORY

P.L. 96-487

ALASKA NATIONAL INTEREST LANDS  
CONSERVATION ACT

*P.L. 96-487, see page 94 Stat. 2371*

House Report (Interior and Insular Affairs Committee) No. 96-97 (I),  
Apr. 18, 1979 [To accompany H.R. 39]

House Report (Merchant Marine and Fisheries Committee)  
No. 96-97 (II), Apr. 23, 1979 [To accompany H.R. 39]

Senate Report (Energy and Natural Resources Committee)  
No. 96-413, Nov. 14, 1979 [To accompany H.R. 39].

Cong. Record Vol. 125 (1979)

Cong. Record Vol. 126 (1980)

DATES OF CONSIDERATION AND PASSAGE

House May 16, 1979; November 12, 1980

Senate August 19, 1980

The Senate Report is set out.

SENATE REPORT NO. 96-413

CONTENTS

[page III]

	Page
H.R. 39, as reported.....	1
I. Purpose of the measure.....	126
II. Summary of major provisions.....	127
III. Background and need.....	129
IV. Legislative history.....	134
V. Committee recommendation and tabulation of votes.....	135
VI. Committee amendments.....	136
VII. Section-by-section analysis.....	266
VIII. Cost and budgetary considerations.....	334
IX. Regulatory impact evaluation.....	344
X. Executive communications.....	345
XI. Additional views.....	369
XII. Changes in existing law.....	[omitted]

[page 1]

The Committee on Energy and Natural Resources to which was referred the act (H.R. 39) to provide for the designation and conservation of certain public lands in the State of Alaska, including the designation of units of the National Park, National Wildlife Refuge, National Forest, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes, having con-

**Arrangement of Materials:** The materials presented in this set are first arranged by the issuing source. The first major section presented consists of congressional documents, including the text of public and selected congressional documents relating to specific statutes. This section is followed by Presidential messages, proclamations, and executive orders. Finally, a section

**Register.** A more current compilation of Presidential documents can be found in the *Weekly Compilation of Presidential Documents*.

**Special Features:** The end of each issue and the final bound volume of each annual set contain an array of useful tables, including tables (1) showing citations for legislation

## SECTION 2

- \*17. Copyrights
- \*18. Crimes and Criminal Procedure; and Appendix
  - 19. Customs Duties
  - 20. Education
  - 21. Food and Drugs
  - 22. Foreign Relations and Intercourse
- \*23. Highways
  - 24. Hospitals and Asylums
  - 25. Indians
  - 26. Internal Revenue Code
  - 27. Intoxicating Liquors
- \*28. Judiciary and Judicial Procedure; and Appendix
  - 29. Labor
  - 30. Mineral Lands and Mining
- \*31. Money and Finance
- \*32. National Guard
- 33. Navigation and Navigable Waters
- \*34. [Navy]
- \*35. Patents
- 36. Patriotic Societies and Observances
- \*37. Pay and Allowances of the Uniformed services.
  - \*38. Veterans' Benefits
  - \*39. Postal Service
  - 40. Public Building, Property, and Works
    - 41. Public Contracts
    - 42. The Public Health and Welfare
    - 43. Public Lands
  - \*44. Public Printing and Documents
  - 45. Railroads
  - 46. Shipping
  - 47. Telegraphs, Telephones, and Radiotelegraphs
  - 48. Territories and Insular Possessions
  - \*49. Transportation; and Appendix
  - 50. War and National Defense; and Appendix

The *United States Code* contains the U.S. Constitution and amendments and the codified public laws of the United States organized into 50 subject areas known as titles. A four-volume subject index to the U.S.C. is the main finding tool for this set. (See figure 5, a sample index page.) One volume of the Index contains *Acts Cited by Popular Name* and cross-reference tables.

The *Acts Cited by Popular Name* is an alphabetical listing of public laws that have acquired a popular name. The *Statutes at Large* citation, including amendments, is listed under the popular name of the statute, e.g., the Public Land Sales Act (see figure 6).

The "Tables" sections provide cross-references from the *Revised Statutes* and *Statutes at Large* to the U.S.C. citations. The *Statutes at Large* table lists public laws chronologically, first by Congress, then by public law number (see figure 7).

Other tables include cross-references of executive orders, proclamations, and reorganization plans from the *Statutes at Large* to the U.S.C.

The 50 titles of the U.S.C. are divided into chapters, which are subdivided into sections. Following each statute section is historical information showing where to locate data on amendments and changes for the section.

The *Statutes at Large* citation to the original public law and its amendments are listed after each section (see figure 8) section 772 Resurveys).

\*This title has been enacted as law, but any appendix to this title has not been enacted as law.

+This title was enacted as law but has been repealed by the enactment of Title 31.

\*\*This title has been eliminated by the enactment of Title 10.

To update the research in the U.S.C., consult the annual U.S.C. cumulative supplements.

Citation to the United States Code:

FIGURE 17. Congressional Record



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 99<sup>th</sup> CONGRESS, SECOND SESSION

Vol. 132

WASHINGTON, MONDAY, JULY 21, 1986

No. 94

## House of Representatives

The House met at 12 o'clock noon and was called to order by the Speaker pro tempore (Mr. WAGNER).

### DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,

July 17, 1986.

I hereby designate the Honorable JIM WAGNER to act as Speaker pro tempore on Monday, July 21, 1986.

THOMAS P. O'NEILL, Jr.,  
Speaker of the  
House of Representatives.

### PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, help us to see the strands and the glory of living even as we are aware of suffering in our world. May we develop attitudes of thanksgiving and hearts full of praise for the marvelous gifts of life and love that surround us day by day.

For Your gift of life and for Your presence in every need, for Your forgiving spirit, for Your strength and hope that You freely impart, we offer this our prayer.

On this particular day, we pray for the family of GEORGE O'BARRON. We are grateful for his good works among us, and we pray that Your peace that passes all understanding be with him and them now and evermore. Amen.

### THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

### MESSAGE FROM THE SENATE

A message from the Senate by Mr. HALEN, one of its clerks, announced that the Senate had passed without amendment bills, joint resolution, and concurrent resolution of the House of the following titles:

H.R. 4469. An act to authorize appropriations for fiscal year 1987 for the operation and maintenance of the Panama Canal, and for other purposes.

H.R. 4985. An act to authorize the distribution within the United States of the URLA film entitled "The March".

H.J. Res. 672. Joint resolution ratifying and affirming the report of January 16, 1986, of the Director of the Office of Management and Budget and the Director of the Congressional Budget Office with respect to fiscal year 1986; and

H. Con. Res. 365. Concurrent resolution correcting the enrollment of H.J. Res. 672.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 415) "An act to amend the Education of the Handicapped Act to authorize the award of reasonable attorneys' fees to certain prevailing parties, and to clarify the effect of the Education of the Handicapped Act on rights, procedures, and remedies under other laws relating to the prohibition of discrimination."

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 1874) "An act to authorize quality educational programs for deaf individuals, to foster improved educational programs for deaf individuals throughout the United States, to reenact and codify certain provisions of law relating to the education of the deaf, and for other purposes."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3113. An act providing for the coordinated operation of the Central Valley project and the State water project in California.

The message also announced that the Senate had passed bills and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 2129. An act to facilitate the ability of organizations to establish risk retention programs to purchase liability insurance on a group basis, and for other purposes.

S. 2572. An act to provide economic support for the November 15, 1985, agreement between the Government of Ireland and the Government of the United Kingdom, and for other purposes.

S. Con. Res. 127. Concurrent resolution expressing the sense of the Congress that the Federal Government take immediate steps to support a National STORM Program; and

S. Con. Res. 143. Concurrent resolution expressing the sense of the Congress on the resignation of the United Nations High Commissioner for Refugees Orderly Departure Program for Vietnam.

### COMMUNICATION FROM THE HONORABLE BILL BONNER, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Hon. BILL BONNER:

HOUSE OF REPRESENTATIVES,

Washington, DC, July 17, 1986.

Hon. THOMAS P. O'NEILL, Jr.,  
Speaker of the House of Representatives,  
Speaker's Room 5, The Capitol, Wash-  
ington, DC.

DEAR MR. SPEAKER: On June 9, 1986 I notified you, pursuant to the provisions of Rule 1450) of the Rules of the House of Representatives, that certain present and former members of my staff had been served with subpoenas issued by the United States District Court for the Middle District of Tennessee. I have consulted with the General Counsel to the Clerk of the House and we have determined that compliance with the subpoenas may be effected con-

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

H 4661

Upon the application of the owners of three-fourths of the privately owned lands in any township covered by public-land surveys, more than 50 per centum of the area of which townships is privately owned, accompanied by a de-

to order the marshal of the State or district, by himself or deputy, to attend such surveyor or deputy surveyor with sufficient force to protect such officer in the execution of his duty, and to remove force should any be offered.

## REVIEW EXERCISE 1

1. The *United States Code* is a codification of public and private laws from the *Statutes at Large*.  
True \_\_\_\_\_ False \_\_\_\_\_
2. After enactment, a new public law will first be published as a \_\_\_\_\_.
3. Both the *Statutes at Large* and the *United States Code* are organized into 50 subject areas known as titles.  
True \_\_\_\_\_ False \_\_\_\_\_
4. After passage in either the House of Representatives or the Senate, legislation is then called an \_\_\_\_\_.
5. How would you cite Section 156 of Title 43 of the 1982 edition of the *United States Code*?  
\_\_\_\_\_
6. The \_\_\_\_\_ is an unofficial publication of the *United States Code*.
7. The set referred to in Question 6 is annotated. What does annotation mean as used with statute sets?
8. The *United States Code* is updated by \_\_\_\_\_, and the U.S.C.A. is updated by \_\_\_\_\_.
9. The publication of the \_\_\_\_\_ represents the first attempt to codify public laws.
10. The "Tables" sections of the U.S.C. and U.S.C.A provide cross-references from the *Revised Statutes* and *Statutes at Large* to U.S.C. citations.  
True \_\_\_\_\_ False \_\_\_\_\_

## STATUTORY LAW

### REVIEW EXERCISE 1 - ANSWERS

(Page references are to source of questions and answers in workbook.)

1. False pages 8, 9
2. slip law page 5
3. False page 7
4. act page 5
5. 43 U.S.C. 156 (1982) See example on page 12
6. United States Code Annotated page 14
7. In relation to statutory sets, "annotation" means a classified arrangement of summaries from cases that interpret the set. page 13
8. Supplements; pocket parts pages 9; 14
9. Revised Statutes of 1875 page 7
10. True pages 9; 14



## SECTION 3

### FEDERAL ADMINISTRATIVE REGULATIONS

(Note: The terms--rules and regulations--have the same meaning.)

Federal administrative agencies are created by Congress. Their regulations and orders affect citizens as much as do statutes, and their decisions have the same authority as case law. Agencies get their rulemaking authority from Federal statutes and Presidential executive orders.

Agencies can do the following: (1) write rules or regulations, (2) issue orders (orders are final dispositions of matters before the agencies), (3) issue licenses (permits) to operate or act under agency control, (4) issue advisory opinions (advice) about their regulations, and (5) conduct hearings.

Agencies hear (1) matters that arise from violation of their rules or (2) controversies over interpretations of their rules. Agency hearings are conducted by review boards or administrative law judges, such as those within the Department of the Interior's Office of Hearings and Appeals.

All regulations issued by a Federal agency must be published in the *Federal Register* to put the public "on notice." The *Federal Register* system of publication consists of two publications, the daily *Federal Register* (FR) and the annually revised *Code of Federal Regulations* (CFR). The two publications work together to provide an up-to-date version of any agency regulation.

#### THE FEDERAL REGISTER (FR)

Congress established the *Federal Register* (FR) publication system to inform the public of the regulations affecting them. Increasing legislative activity spurred by New Deal programs led Congress to delegate more responsibility to Federal agencies. The delegated responsibility often took the form of authority to issue detailed regulations concerning complex social and economic issues. A central publication system was needed to manage the increased

number and expanded scope of Federal regulations.

The Federal Register Act (44 U.S.C. Chapter 15), which became law on July 26, 1935, established a uniform system for handling agency regulations. The act provided for the following:

- Submitting documents to the Office of the Federal Register;
- Placing documents on public inspection;
- Publishing documents in the *Federal Register*; and
- After a 1937 amendment, codifying rules in the *Code of Federal Regulations*.

The *Federal Register* is a daily magazine-like publication published by the Government Printing Office. For rules and regulations, the FR is like the *Statutes at Large* for Federal statutes. In the front of any FR issue is this statement: "The *Federal Register* provides a uniform system for making available to the public, regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by acts of congress and other federal agency documents of public interest."

*Federal Register* issues include the following information.

(1) Contents. This is a comprehensive list of documents in each issue arranged by agency and type of document (rule, proposal, or notice). (See figure 18.)

(2) Presidential documents. Periodically a FR issue will contain copies of documents, such as proclamations recently signed by the President. (See figure 19.)

# FEDERAL ADMINISTRATIVE REGULATIONS

(3) Notices by agency. This part includes notices of orders, opinions, and agency changes. (See figure 20.)

(4) Proposed rules by agency. (See figure 21.)

(5) Final rules and regulations by agency. (See figure 22.)

(6) List of CFR parts affected. Rules and proposals that appear in the issue are arranged by part number.

(7) Cumulative list of parts affected - monthly. Rules and proposals that have appeared so far in that month's FRs, hearings, and meetings.

(8) FR pages and dates. A parallel table of the inclusive pages and corresponding dates for the FR issues of the month.

The FR can be accessed through the FR indexes in each daily issue. These indexes are published monthly and cumulated for 12 months. An annual index is then published. Agency abbreviations used in the FR are published monthly in the first issue of the month.

## Citation to a notice in the *Federal Register*:

49 FR 2049 (March 13, 1985)

Volume Page Date

## Citation to final rulemaking that appears in the *Federal Register* and is not found in CFR:

43 CFR 3110.1-3 (50 FR 2048, January 15, 1985)

Title of Regulation Volume Page Date of CFR Issue

## SUMMARY

**Title:** *Federal Register* (FR)

**Publisher:** Government Printing Office

**Composition of Set:** When the FR was first published in March 1936, it became the first single published source of Federal documents relating to the regulatory process. Published daily after each working day, the issues constitute a session law for federal regulations from the FR's inception to date.

**Arrangement of Materials:** Although each daily issue stands alone and does not become part of a larger cumulation, each issue is standardly arranged. The *Federal Register* has the following eight major divisions:

1. Contents Table (see figure 18)
2. List of CFR Parts Affected
3. Reminders
4. Presidential Documents (see figure 19)
5. Rules and Regulations (see figure 20)
6. Proposed Rules (see figure 21)
7. Notices (see figure 22)
8. Cumulative List of Parts Affected (for the month).

**Finding Aids:** Because the FR is designed to be used largely for current materials, there are only a few methods of access. The daily table of contents is supplemented by a monthly index, a quarterly index, and an annual index. These indexes serve much better to give access by issuing agency than they do to give access by subject.

**Currency of the Set:** The daily issuance of the FR provides obvious currency. Because the subject-arranged CFR is published only annually, the FR is useful as an updating tool for the CFR.

FIGURE 18. *Federal Register Table of Contents*

Federal Register / Vol. 51, No. 180 / Wednesday, September 17, 1986 / Contents

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<b>International Trade Administration</b>	<b>Library of Congress</b>
<b>NOTICES</b>	<b>NOTICES</b>
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South Africa, 32931	<b>Management and Budget Office</b>
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	Grants; availability, etc.:
	Precision measurement grants program, 32936
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FIGURE 19. *Federal Register - Presidential Documents*

18869

Federal Register  
Vol. 51, No. 100  
Friday, May 23, 1986

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**Presidential Documents**

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Title 3—

Proclamation 5486 of May 21, 1986

The President

**Better Hearing and Speech Month, 1986**

By the President of the United States of America

**A Proclamation**

Sounds, whether we produce them or receive them, are an integral part of our lives. Musical sounds bring us a whole range of delight. Much of our knowledge of the world around us we learn through sounds: conversations allow us to gather and convey information, to question and to receive answers; ringing fire alarms warn us to clear a burning building. Sounds—both the ones we hear and the ones we make—help us to understand others and be understood.

More than fifteen million Americans strive daily to surmount the isolation that hearing impairment so often brings. Over ten million Americans endeavor to communicate despite speech disorders. We can help people with communicative disorders fulfill their potential by identifying and removing the man-made obstacles that limit their educational and occupational opportunities. Our efforts will enrich not only their lives, but our own.

Today, in medical institutions across the country, scientists supported by the National Institute of Neurological and Communicative Disorders and Stroke and by numerous voluntary health agencies are carrying out a wide range of research to find better ways to prevent, treat, and cure hearing and speech disorders. Investigators have discovered much about the structure and function of the systems involved in hearing and speech. They have developed new devices and medications that offer hope where before there was none. Still, much remains to be learned.

To heighten public awareness of hearing and speech disorders, the Congress, by Senate Joint Resolution 284, has designated the month of May 1986 as "Better Hearing and Speech Month" and has authorized and requested the President to issue a proclamation in observance of this month.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the month of May 1986 as Better Hearing and Speech Month, and I call upon the people of the United States to observe this month with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of May, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and tenth.

FIGURE 20. Example of Final Rulemaking

2048 Federal Register / Vol. 50, No. 10 / Tuesday, January 15, 1985 / Rules and Regulations

## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

## 43 CFR Part 3110

(Circular No. 2558)

## Noncompetitive Leases; Amendment Clarifying Minimum Noncompetitive Lease Size

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

**SUMMARY:** This final rulemaking amends the existing regulations to clarify that the minimum size for a noncompetitive oil and gas lease offer in the coterminous States is 640 acres or an entire surveyed or protracted section, whichever is larger. The final rulemaking also changes the minimum size for a noncompetitive lease in Alaska to 2,500 acres or 4 entire contiguous surveyed or protracted sections, whichever is larger. It also adds a new section clarifying that parcels offered under the simultaneous oil and gas leasing program are not controlled by the new limit imposed by this amendment on the size of lease offers. This change should promote more efficient economic exploration and development of the mineral resources on the public lands.

EFFECTIVE DATE: February 14, 1985.

**ADDRESS:** Any suggestions or inquiries should be sent to Director (820), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

**FOR FURTHER INFORMATION CONTACT:** Valliere Cacy, (202) 633-2190.

or  
Robert C. Bruce, (202) 343-5735.  
**SUPPLEMENTARY INFORMATION:** A proposed rulemaking to change the minimum lease offer size for a noncompetitive over-the-counter oil and gas lease was published in the Federal Register on August 15, 1984 (49 FR 32808), with a 60-day comment period. During the comment period, comments were received from 3 sources, all corporations.

One comment endorsed the changes made by the proposed rulemaking, while another comment objected to any change because there are too many situations in the Western States where sections contain less than 640 acres and a status check of adjoining lands would be required to meet the minimum requirement of 640 acres. This opposing comment also recommended that the Department of the Interior determine the regulations it wishes to impose and leave those regulations unchanged for extended periods of time, suggesting that changes should not be made more than twice a year. The third comment asserted that if an entire section or 640 acres is available to lease, the entire acreage should issue under one lease.

The establishment of a minimum acreage size serves to promote expeditious development of oil and gas resources by prospective producers. Allowing issuance of leases smaller than the minimum provided in the proposed rulemaking in those instances where adjoining lands are available would be counterproductive to a meaningful oil and gas leasing program. Reviewing adjoining lands to determine their availability for leasing is an action that would be undertaken by any serious individual filing an over-the-counter offer for lands for oil and gas leasing. After carefully reviewing the leases raised in the comments, the final rulemaking adopts the language of the proposed rulemaking without change.

The principal author of this final rulemaking is Valliere Cacy, Division of Fluid Mineral Leasing, assisted by the staff of the Office of Legislation and Regulatory Management, all of the Bureau of Land Management.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The changes made by the final rulemaking are applicable to anyone offering to lease public lands for oil and gas. For the most part, the changes are designed to clarify the minimum size that a noncompetitive oil and gas lease must encompass. While this will increase the amount of the rental that must be deposited with some offers, the amount will be insignificant and should have little or no effect on those making such offers.

The final rulemaking contains no additional information collection requirements requiring approval of the Office of Management and Budget under 44 U.S.C. 3507.

## List of Subjects in 43 CFR Part 3110

Administrative practices and procedure, Environmental protection, Mineral royalties, Oil and gas reserves, Public lands—classifications, Public lands—mineral resources, Surety bonds.

Under the authority of the Mineral Leasing Act, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351-359), the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 750 et seq.), the Act of May 21, 1930 (30 U.S.C. 301-306), the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35), the Independent Offices Appropriation Act of 1952 (31 U.S.C. 9701), the Department of the Interior Appropriations Act, Fiscal Year 1981 (Pub. L. 96-514) and the Attorney

General's Opinion of April 2, 1941 (40 Op. Att. Gen. 41), Subpart 3110, Part 3110, Group 3100, Subchapter C of Title 43 of the Code of Federal Regulations is amended as set forth below.

I. Steven Giles,

Acting Assistant Secretary of the Interior  
December 21, 1984.

## PART 3110—[AMENDED]

## § 3110.1-3 [Amended]

## 1. Section 3110.1-3 is amended by:

A. Amending paragraph (a) by removing the word "section", where it first appears, and replacing it with the phrase "section, whichever is larger," and by adding at the end of the paragraph the sentence "Public domain lease offers in Alaska shall not be made for less than 2,500 acres or a full contiguous sections, whichever is larger, where the lands have been surveyed under the rectangular survey system or are within an approved protracted survey, except where the offer or parcel includes all available lands within the subject sections and there are no contiguous lands available for lease."; and

B. Adding a new paragraph (d) to read:

(d) The restrictions set forth in paragraph (a) of this section regarding the minimum size of noncompetitive oil and gas lease offers do not apply to the development of parcels for leasing under subpart 3112 of this title.

[FR Doc. 85-1128 Filed 1-14-85; 8:45 am]

BLSM5 CODE 43100-06

FIGURE 21. Example of Proposed Rulemaking

Federal Register / Vol. 49, No. 159 / Wednesday, August 15, 1984 / Proposed Rules 32809

## DEPARTMENT OF THE INTERIOR

Bureau of Land Management

## 43 CFR PART 3110

Noncompetitive Lease; Amendment  
Clarifying Minimum Noncompetitive  
Lease SizeAGENCY: Bureau of Land Management,  
Interior.

## ACTION: Proposed rulemaking.

**SUMMARY:** This proposed rulemaking would amend the existing regulations to clarify that the minimum size for a noncompetitive oil and gas lease offer in the contiguous States is 640 acres or an entire surveyed or protected section, whichever is larger. The proposed rulemaking would also change the minimum size for a noncompetitive lease offer in Alaska to 2,560 acres or 4 entire contiguous surveyed or protected sections, whichever is larger. It would also add a new section clarifying that parcels offered under the simultaneous oil and gas leasing program are not controlled by the new limits imposed by this amendment on the size of lease offers. The change would promote more efficient economic exploration and development of the mineral resources on the public lands.

**DATE COMMENTS:** should be submitted by October 15, 1984. Comments summarized or reviewed after the above date may not be considered as part of the decisionmaking process on issuance of a final rulemaking.

**ADDRESS:** Comments should be sent to Director (169), Bureau of Land Management, 1820 C Street, NW, Washington, D.C. 20250.

Comments will be available for public review in Room 6555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Vallery Cacy, (202) 652-2100.

**SUPPLEMENTARY INFORMATION:** This proposed rulemaking amends § 3110.1-3(e) to provide that a noncompetitive oil and gas lease offer must encompass, at a minimum, 640 acres or an entire surveyed or protected section, whichever is larger. In those instances where a section contains less than 640 acres, contiguous lands, if available, must be included in an offer to accommodate the minimum acreage requirement.

The proposed rulemaking would establish for the first time a minimum noncompetitive oil and gas lease offer size of 2,560 acres or 4 entire contiguous

surveyed or protected sections, whichever is larger, for Alaska. Again, the minimum acreage is controlling and contiguous available lands must be included until the minimum acreage is attained. The purpose of the change is to promote more efficient economic exploration and development of the mineral resources of the United States in Alaska where there presently is very little information concerning the mineral potential of the public lands that are available for noncompetitive oil and gas lease offers.

The proposed rulemaking would add a new paragraph to § 3110.1-3 which clarifies the point that the size of parcels offered by the Bureau of Land Management for lease under the simultaneous oil and gas leasing program are not restricted by the provisions of § 3110.1-3(a) relating to minimum parcel size.

The principal author of this proposed rulemaking is Vallery Cacy, Division of Field Mineral Leasing, Bureau of Land Management, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this rulemaking does not constitute 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.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The changes made by this proposed rulemaking will be applicable to anyone offering to lease public lands for oil and gas. For the most part, the changes and designed to clarify the minimum size that a noncompetitive oil and gas lease offer must encompass. While this will increase the amount of rental that must be deposited with some offers, the amount will be insignificant and should have little or no impact on those making such offers.

The proposed rulemaking contains no additional information collection requirements requiring approval of the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 43 CFR Part 3110

Administrative practice and procedure, Environmental protection,

Mineral royalties, Oil and gas reserves, Public lands—classification, Public lands—mineral resources, Survey bonds.

Under the authority of the Mineral Leasing Act, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 331-339), the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 790 et seq.), the Act of May 21, 1930 (30 U.S.C. 303-305), the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35), the Independent Offices Appropriation Act of 1952 (31 U.S.C. 450a), the Department of the Interior Appropriations Act, Fiscal Year 1981 (Pub. L. 96-514), and the Attorney General's Opinion of April 2, 1941 (40 Op. Att. Gen. 41), it is proposed to amend Subpart 3110, Part 3110, Group 3100, Subchapter C of Title 43 of the Code of Federal Regulations as set forth below:

## § 3110.1-3 [Amended]

## 1. Section 3110.1-3 is amended by:

A. Amending paragraph (a) by removing the word "section", where it first appears, and replacing it with the phrase "section, whichever is larger," and by adding at the end of the paragraph the sentence "Public domain lease offers in Alaska shall not be made for less than 2,560 acres or 4 full contiguous sections, whichever is larger, where the lands have been surveyed under the rectangular survey system or are within an approved patented survey, except where the offer or parcel includes all available lands within the subject sections and there are no contiguous lands available for lease," and

B. Adding a new paragraph (d) to read:

(d) The restrictions set forth in paragraph (a) of this section regarding the minimum size of noncompetitive oil and gas lease offers do not apply to the offer of parcels for leasing under subpart 3112 of this title.

J. Steven Collins,  
Acting Assistant Secretary of the Interior,  
July 8, 1984.

FOR FURTHER INFORMATION CONTACT:  
BLM/REG OFFICE (202) 652-2100

FIGURE 22. Federal Register Notices

Federal Register / Vol. 46, No. 176 / Friday, September 11, 1981 / Notices

## EXAMPLE OF NOTICE



[W-48391]

## Wyoming; Termination of Classification

1. By a classification decision dated July 24, 1974, the following described lands were classified for disposal through private exchange.

Sixth Principal Meridian, Wyoming

T. 29 N., R. 114 W.,  
Sec. 4, lots 4, SW¼NW¼;  
Sec. 4, lots 1, 2, and 3, SE¼NE¼.  
T. 27 N., R. 114 W.,  
Sec. 22, E½SE¼;  
Sec. 24, NE¼SW¼.

The areas described aggregate 300.47 acres.

2. The proposed exchange could not be completed and the applicants withdrew their application. It has been determined that the classification should be terminated.

3. Pursuant to the regulations set forth in 43 CFR Part 2450, the classification set forth in paragraph 1. above is hereby terminated.

4. Acceptance of the withdrawal of the private exchange application removed the segregative effect of the exchange application segregating the lands from the public land laws and mining laws.

5. At 7:45 a.m. on October 1, 1981, the lands shall be open to the public land laws generally subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law.

6. At 7:45 a.m. on October 1, 1981, the lands will be open to location under the United States mining laws subject to valid existing rights, the provisions of existing withdrawals and applicable law.

7. The lands have been and will continue to be open to mineral leasing.

Dated: September 1, 1981.  
Maxwell T. Llesurance,  
State Director.

(FR Doc. 81-32864 Filed 9-10-81; 8:45 am)  
BILLING CODE 4310-04-M

## EXAMPLE OF NOTICE OF MEETING



Ely District Advisory Council; Meeting  
AGENCY: Bureau of Land Management,  
Interior.

## ACTION: Notice of Meeting.

SUMMARY: The Ely District Advisory Council will conduct a meeting on Wednesday, October 21, 1981. The meeting will convene at 9:30 a.m. in the Conference Room of the Ely District BLM Office, Pioche Highway, Ely, Nevada. The following events and topics will be included on the agenda for the meeting:

- (1) Minutes of the last meeting
- (2) Committee reports
- (3) Acting District Manager's comments
- (4) Update on Schell MFP for Wilderness
- (5) Public comment period
- (6) Update on activities by Resource Area
- (7) Council recommendations
- (8) Determination of next meeting date and place
- (9) White Pine Power Project proposed site visitations

The meeting is open to the public. Written comments may be filed with the District Manager for the Council's consideration, and oral statements will be heard between 10:00 and 10:30 a.m., October 21, 1981. Depending on the number of persons wishing to make a statement, a per person time limit may be established by the District Manager. Those persons other than Council members wishing to attend the field trip must provide their own transportation. Summary minutes of the meeting will be available for public inspection at the Ely District Office within 30 days following the meeting.

DATE: October 21, 1981.

ADDRESS: Bureau of Land Management,  
Star Route 5, Box 1, Ely, Nevada 89301.

FOR FURTHER INFORMATION CONTACT:  
Ms. Cleome McDonald, 702-259-4865.

Date Signed: September 2, 1981.

G. Duncan MacDonald,

Acting District Manager.

(FR Doc. 81-32867 Filed 9-10-81; 8:45 am)  
BILLING CODE 4310-04-M

# FEDERAL ADMINISTRATIVE REGULATIONS

## CODE OF FEDERAL REGULATIONS (CFR)

The *Code of Federal Regulations* (CFR) is a basic part of the Federal Register publication system. The CFR is a codification of the current, general, and permanent regulations of Federal agencies as published in the FR. The CFR is to the FR what the U.S.C. is to the *Statutes at Large* insofar as it is arranged by subject rather than chronologically.

The CFR is divided into the 50 titles that represent broad areas subject to Federal regulation. Titles are divided into chapters, chapters into parts, and parts into sections. (See figure 23.) About half of the CFR titles cover the same subjects as the U.S.C. titles. For example, the subject "Public Lands" is in Title 43 in the U.S.C. and the CFR. Certain titles have more than one volume. Title 43 CFR, for example, is in three volumes.

The CFR is revised annually. One fourth of CFR is revised quarterly.

Titles 1-16 are revised as of January 1.  
Titles 17-27 are revised as of April 1.  
Titles 28-41 are revised as of July 1.  
Titles 42-50 are revised as of October 1.

A typical CFR volume contains the same kind of information as found in the Table of Contents for the second volume (Parts 1000 to 3999) of the 1985 edition of Title 43.

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a. Chapter II of Subtitle B contains BLM's regulations, codified from their original FR source.

b. Appendix-Table of Public Land Orders, 1942-1984. This appendix, found in the third volume of Title 43 CFR, gives information for public land orders. (See figure 25.)

c. Index. A CFR title may have two indexes. The CFR set has an index volume, and some titles have a title index. A separate volume entitled *CFR Index and Finding Aids* has a subject-agency index and is revised yearly as of January 1. The index contains the following.

- (1) A subject/agency index for rules currently codified in the CFR.
- (2) A list of agency-prepared indexes appearing in individual CFR volumes.
- (3) A table of rulemaking authority for regulations codified in the CFR.
- (4) A list of acts requiring publication in the *Federal Register*.
- (5) A list of CFR titles, chapters, subchapters, and parts.
- (6) An alphabetical list of agencies appearing in the CFR. References in CFR indexes are to the CFR title and to subtitle or chapter. (See figure 26.)

To update the CFR semi-annual index, consult the monthly *Federal Register* Index.

d. Table of CFR titles and chapters. This table shows the title and subtitle for each agency.



FIGURE 23. *Division of CFR Titles*

The list of CFR titles follows as of September 13, 1985:

1. General Provisions.
2. [Reserved].
3. The President.
4. Accounts.
5. Administrative Personnel.
6. [Reserved].
7. Agriculture.
8. Aliens and Nationality.
9. Animals and Animal Products.
10. Energy.
11. Federal Elections.
12. Banks and Banking.
13. Business Credit and Assistance.
14. Aeronautics and Space.
15. Commerce and Foreign Trade.
16. Commercial Practices.
17. Commodity and Securities Exchanges.
18. Conservation of Power and Water Resources.
19. Customs Duties.
20. Employees' Benefits.
21. Food and Drugs.
22. Foreign Relations.
23. Highways.
24. Housing and Urban Development.
25. Indians.
26. Internal Revenue.
27. Alcohol, Tobacco Products and Firearms.
28. Judicial Administration.
29. Labor.
30. Mineral Resources.
31. Money and Finance: Treasury.
32. National Defense.
33. Navigation and Navigable Waters.
34. Education.
35. Panama Canal.
36. Parks, Forests, and Public Property.
37. Patents, Trademarks, and Copyrights.
38. Pensions, Bonuses and Veterans' Relief.
39. Postal Service.
40. Protection of Environment.
41. Public Contracts and Property Management.
42. Public Health.
43. Public Lands: Interior.
44. Emergency Management and Assistance.
45. Public Welfare.
46. Shipping.
47. Telecommunication.
48. Federal Acquisition Regulations System.
49. Transportation.
50. Wildlife and Fisheries.

## DIVISION OF CFR TITLES

## BASIC NUMBERING

## Title 43

- Subtitle A

## Chapter 1

- Subchapter A

## Part 10

- Subpart A

## Section 10.1 (10.1)

- Paragraph (a)

FEDERAL ADMINISTRATIVE REGULATIONS

FIGURE 24. Redesignation Table No. 1 for 43 CFR

Redesignation Table No. 1

At 48 FR 36583, Aug. 12, 1983, 30 CFR Part 221 was redesignated as 43 CFR Part 3160. For the convenience of the user, the following table shows the relationship of the old CFR section numbers to the new CFR section numbers.

Old 30 CFR Part 221	New 43 CFR Part 3160	Old 30 CFR Part 221	New 43 CFR Part 3160
	Insert new part title—Part 3160—Onshore Oil and Gas Operations.		Insert new § 3162.5—Environment and safety.
	Insert new Subpart 3160—Onshore Oil and Gas Operations—General.	221.20	3162.5-1.
221.1 (First sentence).	3160.0-1 Purpose.	221.31	3162.5-3.
221.1 (Second sentence).	3160.0-1 Objectives.	221.32	Insert new § 3162.4—Records and reports.
221.1 (Third sentence).	3160.0-2 Policy.	221.32	3162.4-1.
	Insert new § 3160.0-3 Authority.	221.32	3162.6.
221.2	3160.0-5.	221.34	Insert new § 3162.7—Measurement, disposal and protection of production.
221.3-1	Inserted as a note immediately after Part title.	221.35	3162.7-3.
221.3	3160.0-7.	221.36	3162.7-1.
221.4-221.9	Remove.	221.37	3162.7-4.
221.10	3161.1.	221.38-221.46	Remove.
221.11	3161.2.	221.50	Insert new Subpart 3163—Non-Compliance and Assessments.
221.12	Remove.	221.51	3163.1.
221.13	Remove.	221.52	3163.2.
221.14	3164.1.	221.53	3163.3.
221.15	3164.2.	221.54	3163.4.
221.16-221.19.	Remove.	221.55-221.59	3163.5.
221.20	3162.1.		Remove.
221.21	3162.3.	221.60	Insert new Subpart 3164—Special Provisions.
221.22	3162.2.	221.61	3164.1.
221.23	3162.3-1.	221.62-221.69.	Remove.
221.24	3162.6.		Insert new Subpart 3165—Relief, Certificates and Appeals.
221.25	3162.5-2.	221.70	3165.1.
221.26	3162.4-2.	221.71	3165.2.
221.27	3162.3-2.	221.72	3165.3.
221.28	3162.3-3.	221.73	3165.4.
221.29	3162.3-4.	221.74-221.89.	Remove.
		221.109	3165.1-1.
		221.117	3162.4-3.

FIGURE 25. CFR Appendix - Table of Public Land Orders, 1942-1984

Chapter II, App., PLO's

43 CFR Ch II (10-1-85 Edition)

## Appendix—Table of Public Land Orders, 1942-1984

[See footnotes at end of table.]

No.	Date	Subject	7 FR page
1942			
1	June 20	California, withdrawing public lands for use of the War Department for campsite and maneuver purposes.	4866
2	June 22	Arizona, withdrawal of land for use in connection with the San Carlos Indian Irrigation Project.	4805
3	June 23	California, withdrawing public lands for use as sources of sand, water, etc., supply for Sierra Ordnance Depot, War Department.	4866-7
4	June 25	Florida, withdrawal of lands for use as aerial gunnery range, War Department.	4834
5	June 26	Alaska, withdrawal of public lands for military purposes <sup>1</sup> .	
6	June 26	Nevada, withdrawing public lands for War Department air base.	5281
7	June 29	New Mexico, withdrawing public lands for War Department air base.	5281
8	June 30	Arizona, withdrawing public lands for national defense purposes.	5281
9	July 3	New Mexico, withdrawing lands for War Department practice bombing range.	5449
10	July 6	South Dakota, withdrawing public lands War Department ordnance depot.	5449
11	July 8	Oregon, withdrawing public lands for use of War Department campsite.	5575
12	July 20	Alaska, withdrawing public lands pending definite location and construction of Canadian-Alaskan military highway.	5917
13	July 21	Colorado, withdrawing public lands for military purposes.	5917
14	July 21	California, withdrawing public lands for Naval supply depot.	5917
15	July 21	Utah, withdrawing lands as ammunition storage depot for Chemical Warfare Service.	5917-8
16	July 21	Arizona, withdrawal of lands for War Department field artillery range.	5918
17	July 21	Alaska, air navigation site withdrawal No. 179 <sup>2</sup> .	
18	July 29	New Mexico, withdrawing public land for use of War Department practice bombing range.	6230
19	Aug. 4	Alaska, enlarging Air Navigation Site withdrawal No. 146 <sup>3</sup> .	
20	Aug. 4	Alaska, withdrawing public lands for use of the War Department for military purposes <sup>1</sup> .	
21	Aug. 6	New Mexico, withdrawal of public lands for practice bombing range for War Department.	6376
22	Aug. 6	Arizona, withdrawing public lands for bombing range, War Department.	6376
23	Aug. 7	Washington, withdrawal for Swift Creek Administrative site, in connection with Columbia National Forest.	6622
24	Aug. 11	Wyoming, withdrawal for military purposes.	6500
25	Aug. 12	California, withdrawal of public lands for defense training school for aircraft pilots.	6607
26	Aug. 12	California, withdrawal of public lands for War Department campsite.	6660-1
27	Aug. 12	Nevada, withdrawal for military purposes.	6691
28	Aug. 12	California, withdrawal for military purposes.	6691
29	Aug. 14	Idaho, partial revocation of Executive Order No. 4798 of Jan. 19, 1926, and air navigation site withdrawal No. 105.	6691
30	Aug. 14	Florida, withdrawal of lands for Department of the Navy.	7182
31	Aug. 14	California, withdrawal of public lands for War Department air base.	6691
32	Aug. 16	Alaska, withdrawal of public lands in aid of construction of Trans-Canadian Alaskan Railway.	6780
33	Aug. 20	Utah, withdrawal of public lands for prosecution of the war.	6907-8
34	Aug. 25	Alaska, withdrawal of public lands for military purposes.	7039-40
35	Aug. 27	Idaho, Utah, Wyoming, withdrawal of public lands for military purposes.	7040
36	Sept. 7	Alaska, withdrawal of public lands for military purposes <sup>1</sup> .	
37	Sept. 7	Wisconsin, withdrawal of public lands for military purposes.	7295
38	Sept. 8	Washington, withdrawal for Navy Department aviation purposes.	7295

FEDERAL ADMINISTRATIVE REGULATIONS

FIGURE 26. *Alphabetical List of Agencies Appearing in the CFR  
(As of September 13, 1985)*

Agency	CFR Title, Subtitle or Chapter
<b>ACTION</b>	45, XII
Acquisition Policy, Office of	41, 5A
Administrative Committee of the Federal Register	1, 1
Administrative Conference of the United States	1, III
Advisory Commission on Intergovernmental Relations	5, VII
Advisory Committee on Federal Pay	5, IV
Advisory Council on Historic Preservation	36, VIII
African Development Foundation	22, XV
Agency for International Development	22, II; 41, 7; 48, 7
Agricultural Marketing Service	7, I, IX, X, XI
Agricultural Research Service	7, V
Agricultural Stabilization and Conservation Service	7, VII
Agriculture Department	
Agricultural Marketing Service	7, I, IX, X, XI
Agricultural Research Service	7, V
Agricultural Stabilization and Conservation Service	7, VII
Animal and Plant Health Inspection Service	7, III; 9, I, III
Commodity Credit Corporation	7, XIV
Contract Appeals, Board of	7, XXIV
Cooperative State Research Service	7, XXXIV
Energy, Office of	7, XXXIX
Environmental Quality, Office of	7, XXXI
Farmers Home Administration	7, XVIII
Federal Acquisition Regulation	48, 4
Federal Crop Insurance Corporation	7, IV
Federal Grain Inspection Service	7, VIII
Federal Procurement Regulations System	41, 4
Food and Nutrition Service	7, II
Food Safety and Inspection Service	9, III
Foreign Agricultural Service	7, XV
Foreign Economic Development Service	7, XXI
Forest Service	36, II
General Sales Manager, Office of	7, XXV
Grants and Program Systems, Office of	7, XXXIII
Information Resources Management, Office of	7, XXXVII
Inspector General, Office of	7, XXXVI
International Cooperation and Development Office	7, XXXII
Operations and Finance, Office of	7, XXX
Packers and Stockyards Administration	9, II
Rural Electrification Administration	7, XVII
Rural Telephone Bank	7, XVI
Secretary of Agriculture, Office of	7, Subtitle A
Soil Conservation Service	7, VI
Air Force Department	32, VII
Alaska Natural Gas Transportation System, Office of the Federal Inspector	10, XV
Alcohol, Tobacco and Firearms, Bureau of	27, I
AMTRAK	49, VII
American Battle Monuments Commission	36, IV
Animal and Plant Health Inspection Service	7, III; 9, I
Appalachian Regional Commission	5, IX

## UPDATING A REGULATION IN CFR BY USING

Book to Use Year of Regulation	Bound CFR Cumulation Volume (L.S.A.)	Back of CFR volumes (L.S.A.)	Current Monthly L.S.A. Pamphlet	Last issue of any succeeding months' Federal Register (L.S.A. Section Cumulative to date of FR issue checked)	Latest issue of this month's Federal Register (L.S.A. Section Cumulative to date of FR issue checked)
1973-1984	X	X	X	X	X
1985 (1/1/85-10/1/85)	X	or X	X	X	X
Current Year			X	X	X

### Example:

Title 43--Public Lands: Interior

Subtitle A--Office of the Secretary of the Interior

(Parts 0-199)

Subtitle B--Regulations Relating to Public Lands

I. Bureau of Reclamation, Department of the Interior (Parts 200-499)

II. Bureau of Land Management, Department of the Interior (Parts 1600-9299)

e. Alphabetical List of Agencies Appearing in CFR.

f. Redesignation Tables. From time to time, the reorganization of Federal agencies changes the location of agency regulations in the CFR. When researching a CFR citation that predated a change, check redesignation tables, which cross-reference the old citations to the new. For example, in researching a CFR citation to regulations no longer current, check the redesignation tables to find this citation's location in the current edition of the CFR. (See figure 24.)

g. List of CFR Sections Affected. Be aware that these lists are used to update a CFR citation--to trace a change that may have occurred after a rule was first issued. The Lists of Sections Affected in the CFR are commonly referred to as L.S.A. The L.S.A.s are designed to lead CFR users to amendatory actions published in the *Federal Register*. The lists are cumulative and

appear in pamphlet form published monthly, in individual FR issues, and in the CFR.

To find all forms of a regulation, i.e., temporary or interim rules, in addition to those in the CFR, check in the L.S.A. for every year since a rule was issued. Upon reaching the current year, update the regulation as shown above.

### Citation to a regulation in CFR

43 CFR 3400. 0-4 (1981)

Title Section Year is referenced if regulation is not found in current edition of CFR.

To see how the Federal Register System (FR & CFR) works, complete the following problem:

What is the current regulation covering the measure of damages for unauthorized removal of timber from BLM land in a State that has its own laws covering such trespasses? Find and update this regulation.

### STEP 1 Using CFR Indexes

#### (a) Use of CFR (General) Index.

If you don't know the citation to this regulation in the CFR, check either the CFR index (the general index to the entire CFR set, found at the end of the set) or check the Title 43 index in the Title 43 volume.

## FEDERAL ADMINISTRATIVE REGULATIONS

Ordinarily, when using statutory indexes, a researcher would look under terms like trespass, measure of damages, damages, timber, and removal of timber. But none of these terms appear in the CFR index. The key is to look under Land Management Bureau, and then under specific terms such as trespass and timber. (See figures 27-29.)

Under the entry Land Management Bureau appears a reference to "trespassing on public lands" with a citation to 43 CFR 9230. No entry appears for "measure of damages" for unauthorized removal of timber from BLM land. Thus, by using the CFR index, a researcher could get no closer to a citation than "trespassing on public lands" 43 CFR 9230. [Note: The CFR index reference is to Part 9230.]

At this point, you may want to go to the CFR volume containing Title 43 CFR Part 9230 (the part is divided in sections). Looking over the section analysis for mention of "measure of damage," you will find these entries (see figure 30):

### 9239.0-8 Measure of damage and

#### 9239.1.3 Measure of damages, when not prescribed by State law.

Thereafter, you need only read the appropriate section, which in this case would be 9239.0-8 Measure of damages, in the CFR (see figure 30).

#### (b) Using Index to Title 43 (alternative step.)

If you had decided to go to the title index instead of the general index, you would have found the information provided in figure 31.

[Note: The lack of adequate search terms in CFR indexes is evidenced by the absence of a listing for "trespass," the subject matter of Part 9230. This shortcoming makes research more difficult than it should be. Other types of indexes would probably have entries under Trespass, Measure of Damages, and other terms.]

If you already had the citation to the section, you could skip Step 1 and begin with Step 2. Step 2 is always necessary.

### STEP 2. Updating regulation 43 CFR 9239.0-8, Measure of Damage

(a) Check 43 CFR Part 9230--Trespass (which includes section 9239.0-8) and find when this regulation was issued or revised. See Source that follows Authority, Figure 30. There you will find that the source of Part 9230 is 35 FR 9800, June 13, 1970, as amended in 42 FR 4460, January 25, 1977.

Next, to update 9239.0-8 to see if any changes occurred since January 25, 1977, go to Step 2(b).

(b) Go to the L.S.A. section in back of the CFR volume containing 43 CFR 9239.0-8. There you will find listings of changes that occurred in the Title 43 sections. These listings are arranged by year. To update 9239.0-8 from January 1977 to date, check this section in each listing by year, e.g., 1976, 1977, 1978. (See figures 32-34.)

Note that no changes occurred. This step updates the research through the last year listed, i.e., 1985. (See figure 35.)

To update the search from 1985 (January 1 through October 1) to the current date, go to Step 2(c).

(c) Each month an L.S.A. pamphlet is published (see figure 38). These monthly L.S.A. publications are cumulative from the date the title being researched is revised. In this case, Title 43 is updated from October 1, 1985 in the cumulative monthly L.S.A. (See figure 39.) The December 1985 and August 1986 L.S.A. (see figures 39-40) pamphlets are used to illustrate updating 43 CFR 9239.0-8 for this problem. In the December 1985 L.S.A., which lists changes to Title 43 CFR, if you were to turn to Title 43 and check to see if 9239.0-8 is listed (see figure 39), you would see no citation to 9239.0-8. Similarly, the August 1986 L.S.A. (which itemizes changes to Title 43 CFR from October 1, 1985 through August 29, 1986), does not reference 9239.0-8. (See figure 40.) Now the research is

FIGURE 27. Code of Federal Regulations - Index

Land Management Bureau	CFR Index
<b>Land Management Bureau</b>	Geothermal resources unit agreements—unproven areas, 43 CFR 3280
Acquisition of public lands or interests in lands by purchase or condemnation, 43 CFR 2130	Gifts of land, 43 CFR 2110
Adjudication principles and procedures, 43 CFR 1870	Grazing lands
Advisory committees and Land Management Bureau, cooperative relations, 43 CFR 1780	Administration, 43 CFR 4100
Airport land grants, 43 CFR 2640	Leases, 43 CFR 2120
Alaska natives	Livestock in Alaska, administration, 43 CFR 4200
Acquisition of title to lands occupied and used, 43 CFR 2560	Reindeer in Alaska, administration, 43 CFR 4300
Land selections, 43 CFR 2650	Hearing procedures, 43 CFR 1850
Appeals procedures, 43 CFR 1840	Historical or scientific value of public lands, management procedure, 43 CFR 8200
Cadastral survey, 43 CFR 9180	Homesteads, 43 CFR 2510
Carey Act grants, desert lands reclamation and settlement for agricultural purposes, 43 CFR 2610	Indian allotments, 43 CFR 2530
Coal management	Introduction and general administrative guidance, 43 CFR 1810
Coal exploration and mining operations rules, 43 CFR 3480	Land application procedures, 43 CFR 1820
Competitive leasing, 43 CFR 3420	Land areas and sites designation, 43 CFR 2070
Environment, 43 CFR 3460	Land classification system, 43 CFR 2400
Existing leases management, 43 CFR 3450	Criteria, 43 CFR 2410
Exploration licenses, 43 CFR 3410	Disposal classification, 43 CFR 2430
Licenses to mine, 43 CFR 3440	Land Management Bureau initiated, 43 CFR 2460
Management, general, 43 CFR 3400	Multiple-use management
Management provisions and limitations, 43 CFR 3470	classifications, 43 CFR 2420
Noncompetitive leases, 43 CFR 3430	Petition-application classification system, 43 CFR 2450
Color-of-title and omitted lands, 43 CFR 2540	Post classification actions for disposal lands, 43 CFR 2470
Conveyances, disclaimers and correction documents, 43 CFR 1860	Segregation by classification, 43 CFR 2440
Desert land entries, 43 CFR 2520	Land disposal and management, programs and objectives, 43 CFR 1720
Fire management on public lands, wildfire protection, 43 CFR 9210	Land exchanges
Geothermal resources leasing, 43 CFR 3200	Between Federal and State governments, 43 CFR 2210
Competitive, 43 CFR 3220	General procedures, 43 CFR 2200
Noncompetitive, 43 CFR 3210	Miscellaneous, 43 CFR 2270
Rules governing leases, 43 CFR 3240	National park system lands, 43 CFR 2240
Utilization for electricity generation, 43 CFR 3250	Wildlife refuge lands, 43 CFR 2250
Geothermal resources operations, 43 CFR 3260	Land leases, 43 CFR 2910
	Land use, special laws and rules, 43 CFR 2090

# FEDERAL ADMINISTRATIVE REGULATIONS

FIGURE 28. Code of Federal Regulations - Index (continued)

CFR Index	Land Management Bureau
Law enforcement on public lands, 43 CFR 9260	Off-road vehicles on public lands, 43 CFR 8340
Leases, permits, and easements for non-Federal use of public lands, 43 CFR 2920	Oil and gas leasing Combined hydrocarbon leasing, 43 CFR 3140
Mineral interests, federally-owned, conveyance, 43 CFR 2720	Competitive, 43 CFR 3120
Mineral leases	General regulations, 43 CFR 3100
Fractional and future interest leases and permits, 43 CFR 3550	National petroleum reserve, Alaska, 43 CFR 3130
Land use permits, 43 CFR 3540	Noncompetitive, 43 CFR 3110
Leasing of solid minerals other than coal and oil shale, 43 CFR 3500	Onshore oil and gas operations, 43 CFR 3160
Preference right and competitive leases, 43 CFR 3520	Onshore oil and gas unit agreements-unproven areas, 43 CFR 3180
Prospecting permits, 43 CFR 3510	Payments in lieu of taxes and mineral development relief loans, financial assistance for local governments, 43 CFR 1880
Rights-of-way, 43 CFR 2880	Protection and preservation of natural values, 43 CFR 6220
Solid minerals (other than coal) exploration and mining operations, 43 CFR 3570	Public lands valuable for coal, entry and location of source material on, 43 CFR 3720
Special leasing acts, 43 CFR 3560	Railroad land grants, 43 CFR 2630
Mineral materials disposal, 43 CFR 3600	Recreation and public purposes, public lands sales, 43 CFR 2740
Free use, 43 CFR 3620	Recreation programs on public lands, 43 CFR 8000
Sales, 43 CFR 3610	Recreation use permits on public lands, 43 CFR 8370
Mineral patent applications	Recreational activities use of public lands, management procedures, 43 CFR 8300
Adverse claim, protests and conflicts, 43 CFR 3870	Resource management plans, planning, programming, and budgeting, 43 CFR 1600
Survey plats, lode mining and placer mining, claims, and mill sites, 43 CFR 3860	Rights of way Principles and procedures, 43 CFR 2800
Minerals management, 43 CFR 3000	Tramroads and logging roads, 43 CFR 2810
Exploration activity, 43 CFR 3040	Sales, Federal Land Policy and Management Act, 43 CFR 2710
Mining claims	Special land areas, 43 CFR 2780
Areas subject to special mining laws, 43 CFR 3820	State land grants, 43 CFR 2620
Assessment work, 43 CFR 3850	Table of Public Land Orders, 43 CFR Ch. II App.
General mining laws, 43 CFR 3800	
Lands and minerals open for mining, 43 CFR 3810	
Location, 43 CFR 3830	
Nature and classes, 43 CFR 3840	
Mining in powerstate withdrawals, 43 CFR 3730	
Multiple mineral development, 43 CFR 3740	
Multiple use of land surface while mining, 43 CFR 3710	
National petroleum reserve, Alaska, 43 CFR 2360	



FIGURE 29. Code of Federal Regulations - Index (continued)

Land sales	CFR Index
Timber	
Administration of forest management decisions, 43 CFR 5000	
Annual sale plan, 43 CFR 5410	
Competitive sales, advertisement, 43 CFR 5430	
Conduct of sales, 43 CFR 5440	
Forest products sale, 43 CFR 5400	
Free use, 43 CFR 5510	
Harvesting, award of contract, 43 CFR 5450	
Harvesting, contract modification, extension and assignment, 43 CFR 5470	
Nonsale disposal, 43 CFR 5500	
Sale preparation, 43 CFR 5420	
Sales administration, 43 CFR 5460	
Sustained yield unit and cooperative agreement, 43 CFR 5040	
Townsites, public lands sales, 43 CFR 2760	
Trespassing on public lands, 43 CFR 9230	
Visitor services on public lands, 43 CFR 8360	
Wild and Scenic Rivers Act and National Trails System Act, management of public lands under, 43 CFR 8350	
Wild free-roaming horses and burro protection, management and control, 43 CFR 4700	
Wilderness areas, 43 CFR 8560	
Withdrawal of public lands, 43 CFR 2300	
Withdrawals or reservations of public lands, restoration and revocation of public land, 43 CFR 2370	
<b>Land sales</b>	
<i>See also</i> Public lands—sale	
Application of regulations to existing and future filings, 24 CFR 1730	
Federal reclamation projects, sale of lands, 43 CFR 402	
Interstate land sales registration program, introduction, 24 CFR 1700	
Land sales or leases, registration, 24 CFR 1710	
Purchasers' revocation rights, sales practices and standards, 24 CFR 1715	
<b>Losers</b>	
Radiation protection, light-emitting products, performance standards, 21 CFR 1040	
<b>Law</b>	
<i>See also</i> Administrative practice and procedure	
Courts	
Indians—law	
Lawyers	
Military law	
Indian fellowship program, 34 CFR 263	
Law book industry guides, 16 CFR 256	
Law school clinical experience program, 34 CFR 639	
Law-related education program, 34 CFR 241	
Legal profession, training, 34 CFR 651	
<b>Law enforcement</b>	
<i>See also</i> Drug traffic control	
Wiretapping and electronic surveillance	
Agriculture Department, authorities, 7 CFR 1a	
Air Force installations, enforcement of order and guidance in use of Air Force personnel to control civil disturbances and in disaster relief operations in U.S. and overseas, 32 CFR 809a	
Air Force personnel, delivery to U.S. civilian authorities for trial, 32 CFR 884	
Alcohol, Tobacco and Firearms Bureau, procedure and administration, 27 CFR 70	
Animal and Plant Health Inspection Service	
Endangered species regulations concerning terrestrial plants, 7 CFR 355	
Forfeiture procedures for seized plants, 7 CFR 356	
Armed forces disciplinary control boards and off-installation military enforcement services, 32 CFR 631	

FEDERAL ADMINISTRATIVE REGULATIONS

FIGURE 30. Code of Federal Regulations

Bureau of Land Management, Interior

Part 9230

(a) Cause a fire, other than a campfire, or the industrial flaring of gas, to be ignited by any source;

(b) Fire a tracer or incendiary device;

(c) Burn, timber, trees, slash, brush, tundra or grass except as used in campfires;

(d) Leave a fire without extinguishing it, except to report it if it has spread beyond control;

(e) Build, attend, maintain or use a campfire without removing all flammable material from around the campfire adequate to prevent its escape;

(f) Resist or interfere with the efforts of firefighter(s) to extinguish a fire;

(g) Enter an area which is closed by a fire prevention order, or

(h) perform any act restricted by a fire prevention order.

§ 9212.2 Fire prevention orders.

(a) To prevent wildfire or facilitate its suppression, an authorized officer may issue fire prevention orders that close entry to, or restrict uses of, designated public lands.

(b) Each fire prevention order shall:

(1) Identify the public lands, roads, trails or waterways that are closed to entry or restricted as to use;

(2) Specify the time during which the closure or restriction shall apply;

(3) Identify those persons who, without a written permit, are exempt from the closure or restrictions;

(4) Be posted in the local Bureau of Land Management office having jurisdiction over the lands to which the order applies; and

(5) Be posted at places near the closed or restricted area where it can be readily seen.

§ 9212.3 Permits.

(a) Permits may be issued to enter and use public lands designated in fire prevention orders when the authorized officer determines that the permitted activities will not conflict with the purpose of the order.

(b) Each permit shall specify:

(1) The public lands, roads, trails or waterways where entry or use is permitted;

(2) The person(s) to whom the permit applies;

(3) Activities that are permitted in the closed area;

(4) Fire prevention requirements with which the permittee shall comply; and

(5) An expiration date.

(c) An authorized officer may cancel a permit at any time.

§ 9212.4 Penalties.

Any person who knowingly and willfully violates the regulations at § 9212.1 of this title shall, upon conviction, be subject to a fine of not more than \$1,000 or to imprisonment of not more than 12 months, or both.

PART 9230—TRESPASS

Subpart 9230—Kinds of Trespass

Sec.

9230.0-3 Authority.

9230.0-7 Penalty for unauthorized removal of material.

9230.0-8 Measure of damage.

9230.0-9 Sale, lease, permit, or license to trespassers.

9230.1 Timber.

9230.1-1 Unauthorized cutting of timber.

9230.1-2 Penalty for unauthorized cutting of timber.

9230.1-3 Measure of damages, when not prescribed by State law.

9230.2 Unlawful enclosures or occupancy.

9230.2-1 Enclosures of public lands in specified cases declared unlawful.

9230.2-2 Duty of district attorney.

9230.2-3 Responsibility for execution of law.

9230.2-4 Filing of charges or complaints.

9230.2-5 Settlement and free passage over public lands not to be obstructed.

9230.3 Grazing, Alaska.

9230.5 Minerals.

9230.5-1 Ores.

9230.5-2 Oil.

9230.5-3 Coal.

9230.6 Materials.

9230.6-1 Turpentine.

9230.7 Right-of-way.

9230.7-1 O&C lands.

AUTHORITY: R.S. 2478; 43 U.S.C. 1201.

SOURCE: 35 FR 9800, June 13, 1970, unless otherwise noted.

STATUTORY  
AUTHORITY

SOURCE

FIGURE 31. Code of Federal Regulations - Title 43 Index

NO ENTRY  
FOR  
TRESPASS

Index	
<b>T</b>	
Technical services.....	Subchapter I (9000)
Technical and procedural review (oil and gas).....	§ 3165.3
Television sites, rights-of-way for.....	Part 2800
Telephone and telegraph lines, rights-of-way for.....	Part 2800
Testimony and proofs.....	Subpart 1823
Testimony of employees of Department.....	Subtitle A, Part 2
Timber.....	Group 5400
Time limit for filing documents.....	§ 1813.2-2
Title Conveyances.....	Subpart 1863
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Alaska native townsites.....	Subpart 2564
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Reclamation.....	Subpart 2764
Segregative effect.....	§ 2091.4
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Trade and manufacturing sites.....	Subpart 2562
Traffic:	
Exchanges.....	Subpart 2273
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Unauthorized use.....	Part 9230
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Vehicles:	
Developed sites and areas.....	§ 8365.2-4
Off-road.....	Part 8340
Vehicles operation—off-road vehicles.....	Subpart 8343
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Visitor Services.....	Part 8360
<b>W</b>	
Water facilities, right-of-way for.....	Subpart 2812
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Wild and Scenic Rivers.....	Subpart 3568
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Enforcement.....	Subpart 4750
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FEDERAL ADMINISTRATIVE REGULATIONS

FIGURE 32. Code of Federal Regulations

SECTION  
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NOT LISTED

43 CFR (10-1-85 Edition)	
<b>1975-1976</b>	
(Regulations published from October 1, 1975 through September 30, 1976)	
<b>43 CFR</b>	40 (41A) FR Page
Chapter II	
4111.2-1 (a) and (b) amended.....	Δ11822
4111.3-1 (a) and (b) amended.....	Δ11822
4111.3-2 (a)(1) and (2) and (b) amended.....	Δ11822
4111.4-2 Amended.....	Δ11823
4111.4-3 Amended.....	Δ11823
4111.5-4 Amended.....	Δ11823
4115.2-5 (b)(1) amended.....	Δ11823
4700 Redesignated from former Part 4710.....	Δ9880
Circular No. corrected.....	Δ15009
4710 Recodified as Parts 4700, 4710, 4720, 4730, 4740, 4750, and 4760.....	Δ9880
4720 Redesignated from former Part 4710.....	Δ9880
4730 Redesignated from former Part 4710.....	Δ9881
4740 Redesignated from former Part 4710.....	Δ9881
4750 Redesignated from former Part 4710.....	Δ9881
4760 Redesignated from former Part 4710.....	Δ9882
5400.0-3 (c) revised.....	Δ12859
5400.0-5 (k) and (l) revised; (n) added.....	Δ12859
(n) revised.....	Δ1381
(o) added.....	Δ1381
5400.0-7 (a) revised.....	Δ12859
5401.0-6 (b) revised.....	Δ12859
5402.0-6 (d) revised.....	Δ12860
5402.1 Revised.....	Δ39324
5424.0-6 Revised; eff. 10-15-76.....	Δ12860
6224.0-1-6224.5 (Subpart 6224) Added.....	Δ39750
9239.5-3 (b) revised.....	Δ36022
<b>1976-1977</b>	
(Regulations published from October 1, 1976 through September 30, 1977)	
<b>43 CFR</b>	41 (42*) FR Page
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4115.2-1 (k)(1) (i), (ii) and (iv) revised.....	*778
Note: Symbol (Δ) refers to 1976 page numbers.	
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4720.2 (a) and (b) revised.....	*26655
4730.7 Added.....	*26655
4730.7-1 Added.....	*26655
4730.7-2 Added.....	*26655
4730.7-3 Added.....	*26655
4740.4 Added.....	*26655
6010.0-3 Added.....	*26655
6010.6 Added.....	*20628
9239.0-3 (b)(3) revised.....	*4460
9239.5-3 (f) added.....	*4460
<b>1977-1978</b>	
(Regulations published from October 1, 1977 through September 30, 1978)	
<b>43 CFR</b>	42 (43*) FR Page
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4100 Revised.....	Δ29067
4130 Redesignated as 4200 and 4300 and revised.....	Δ29062
4200 (Group 4200) Heading revised.....	Δ29062
4200 Redesignated from 4130 in part and revised.....	Δ29062
4250 Removed.....	Δ29062
4300 (Group 4300) Heading added.....	Δ29065
4300 Redesignated from 4130 in part and revised.....	Δ29065
4720.3 Revised.....	Δ29076
4730.3 Revised.....	Δ29076
4730.4 Revised.....	Δ29076
6000-6290 (Subchapter F) Heading revised; eff. 10-12-78.....	Δ40734
6000 Removed; eff. 10-12-78.....	Δ40734
6010 Removed; eff. 10-12-78.....	Δ40734
6200 Removed; eff. 10-12-78.....	Δ40734
6221.0-1-6221.2 (Subpart 6221) Removed; eff. 10-12-78.....	Δ40734
6222.0-6 (Subpart 6222) Removed; eff. 10-12-78.....	Δ40734
6223.0-1-6223.0-6 (Subpart 6223) Removed; eff. 10-12-78.....	Δ40734
6225.0-1-6225.1 (Subpart 6225) Removed; eff. 10-12-78.....	Δ40734
Note: Symbol (*) refers to 1977 page numbers.	
Note: Symbol (Δ) refers to 1978 page numbers.	

FIGURE 33. Code of Federal Regulations

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Part 4710.....	Δ9880
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4710 Recodified as Parts 4700, 4710, 4720, 4730, 4740, 4750, and 4760.....	Δ9880
4720 Redesignated from former Part 4710.....	Δ9880
4730 Redesignated from former Part 4710.....	Δ9881
4740 Redesignated from former Part 4710.....	Δ1522
4750 Redesignated from former Part 4710.....	Δ1522
4760 Redesignated from former Part 4710.....	Δ1522
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4120 Revised.....	129067

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8600 Heading added; eff. 10-12-78.....	140735
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9239.3-1 Removed.....	129076
9239.3-2 Removed.....	129076
9239.3-3 Redesignated as 9239.3.....	129076
ed as (p); new (f) through (o) added.....	76987
8341.1 (e) revised; (f) removed; (g) through (i) redesignated as (f) through (h).....	47843
8351.1 Added.....	51741
8351.2 Added.....	51741
8351.2-1 Added.....	51741
9260 Added.....	31276
(Regulations published from October 1, 1980 through September 30, 1981)	
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5420.1 Added.....	129263
5424.1 Added.....	129263
5441.1-1 Amended.....	142873
5451.1 (a)(5) added.....	142873
5451.4 Amended.....	142828
9210 Added.....	142828
9268.3 (e)(2) (i), (ii), and (iv) corrected.....	146810
4120.2-3 Introductory text. (a) and (e) revised; (c) amended; eff. 10-21-82.....	Δ41710
4120.3 (a)(3) amended; (a) (4) and (b), (c) and (d) removed; eff. 10-21-82.....	Δ41710
4120.4 (a) amended; eff. 10-21-82.....	Δ41711
4120.5-1 (a) and (c) amended; (e) removed; (d) redesignated as (e); new (d) added; eff. 10-21-82.....	Δ41711
4120.5-3 (c) amended; eff. 10-21-82.....	Δ41711
4120.6-4 Revised; eff. 10-21-82.....	

1982	
(Regulations published from October 1, 1982 through December 31, 1982)	
4150.4-2 Redesignated from 4150.5-2 and revised; eff. 10-21-82.....	Δ41712
4150.4-3 Redesignated from 4150.5-3 and amended; eff. 10-21-82.....	Δ41712
4150.4-4 Redesignated from 4150.5-4; eff. 10-21-82.....	Δ41712
4150.4-5 Redesignated from 4150.5-5 and amended; eff. 10-21-82.....	Δ41712
4150.5 Redesignated as 4150.4; eff. 10-21-82.....	Δ41712
4150.5-1 Redesignated as 4150.4-1; (a) amended.....	Δ41712
5451.2 Revised; eff. 10-4-82.....	Δ38697
5451.4 Amended; eff. 10-4-82.....	Δ38697
5461.2 Revised; eff. 10-4-82.....	Δ38697
8351.1 Revised.....	Δ23103
8351.1-1 Added.....	Δ23103
9264.1 (a) revised; (k) removed; (l) redesignated as (k); eff. 10-21-82.....	Δ41713
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FIGURE 34. Code of Federal Regulations

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43 CFR	Chapter II—Continued
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Chapter II	4110.3-2 (c), (d), and (e) re-
Interim management policy	moved..... 6451
guidelines amended.....31854	4110.4-3 Added..... 6451
4100 (Group 4100) Note re-	4110.4-1 Nomenclature
vised.....40890	change..... 6451
4300 (Group 4300) Note added...40890	4110.4-2 (b) revised..... 6451
4700 (Group 4700) Note added...9262,	(b) corrected..... 12704
40890	4110.5 Removed; new 4110.5 re-
4740.4-2 Redesignated as	designated from 4110.6..... 6451
4740.4-3 and (d) revised; new	4110.6
4740.4-2 added.....40890	Redesignated

5400 (Group 5400) Note	designated from 4120.2-3 and
added.....40890	introductory text and (b) re-
8300-8600 (Group 8300) Note	vised; (a) amended; (c), (e),
added.....40890	and (f) removed; (d) redesign-
8360 Revised.....36384	ated as (c) and revised..... 6451
8365.1-4 (e) correctly added.....52058	4120.2-1 Removed..... 6451
9180 (Group 9100) Note added...40890	4120.2-2 Removed..... 6451
1984	4120.2-3 Redesignated as 4120.2
43 CFR	and introductory text and (b)
	revised; (a) amended; (c), (e)
	and (f) removed; (d) redesign-
	ated as (c) and revised..... 6451
Chapter II	4120.3
4100.0-1 Revised.....6449	4120.3 Revised..... 6452
4100.0-2 Amended.....6449	4120.3-1-4120.3-7 Added..... 6452
Corrected..... 12704	4120.3-3 (b) and (c) corrected... 12704
4100.0-3 (a), (b), and (d) revised;	4120.3-6 (b) corrected..... 12704
(e) redesignated as (f); new	4120.4 Revised..... 6452
(e) added..... 6449	4120.5 Removed.....6452
(d) and (e) corrected..... 12704	4120.6 Removed.....6452
4100.0-5 Amended..... 6449	4120.6-1-4120.6-7 Removed..... 6452
Corrected..... 12705	4120.7 Removed..... 6452
4110.1-4110.6 (Subpart 4110)	4120.8 Removed..... 6452
Heading revised.....	4130.1 Nomenclature change..... 6453

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4130.7	6372.4 (a) revised; (b) removed;
revised as 4130.8;	(c) and (d) redesignated as (b)
new 4130.7 added..... 6454	and (c); new (b)(2) and (3) re-
4130.7-1-4130.7-3 Added..... 6454	designated as (b)(3) and (4);
4130.7-2 (b) corrected..... 6454	new (c)(4) and (5) removed;
4130.7-3 Corrected..... 12705	new (b)(2) added; new (c)(3)
4130.8 Redesignated from	revised..... 34337
4130.7..... 6454	6372.6 Added..... 34338
4140.1 (a)(3) and (b)(14)(v)	Public Land Orders
amended; (b)(7) and (8) re-	1102 Revoked by FLO 6528..... 12264
moved; (9) through (11) re-	1345 Revoked in part by FLO
designated as (7) through (9);	6528..... 12264
new (b)(7) and (8) amended;	1523 Revoked in part by FLO
(b)(10) added..... 6454	6528..... 12264
4150.2 (b) amended; (c) re-	2345 Revoked in part by FLO
moved..... 6454	6533..... 20001
	2993 Revoked in part by FLO



## FEDERAL ADMINISTRATIVE REGULATIONS

regulations currently codified in the CFR; (4) a list of acts requiring publication in the Federal Register; (5) a list of CFR titles, chapters, subchapters, and parts; and (6) an alphabetical list of agencies appearing in the CFR.

Currency of the Set: Since this set was first published, it has used almost every major pattern found with American law books. The set is now published in paperback. Each title is revised annually and completely reissued, but titles are not all revised simultaneously. The present schedule calls for Titles 1-16 to be revised as of January 1, Titles 17-27 as of April 1, Titles 28-41 as of July 1, and Titles 42-50 as of October 1. Attention to the effective

date of the volume being used is essential in the updating process.

Currency and Validity of the Information: A CFR volume is as current as the date shown on its cover. Because volumes are only annually updated by re-publication, current materials can be nearly a year out of date. To solve this problem, use the FR to re-establish appropriate currency of regulations. Check the latest Cumulative List of Parts Affected, issued monthly with the FR. Then check the latest FR for the current month in the section also entitled Cumulative List of Parts Affected. By following these steps, you can keep yourself currently informed.

FIGURE 36. *Federal Register*



FIGURE 37. *Code of Federal Regulations*





FIGURE 38. *List of CFR Sections Affected (L.S.A.)*

code of  
federal regulations

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# LSA

List of CFR Sections Affected

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## August 1986

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**Titles 1-16**  
Changes January 2, 1986  
through August 29, 1986

**Titles 17-27**  
Changes April 1, 1986  
through August 29, 1986

**Titles 28-41**  
Changes July 1, 1986  
through August 29, 1986

**Titles 42-50**  
Changes October 1, 1985  
through August 29, 1986

**Parallel Table of  
Authorities and Rules**



The seal of the National Archives and Records Administration, featuring an eagle with wings spread, holding a shield on its chest. The eagle is perched on a banner that reads "1789". The words "NATIONAL ARCHIVES OF THE UNITED STATES" are written around the perimeter of the seal.

FEDERAL ADMINISTRATIVE REGULATIONS

FIGURE 39. List of CFR Sections Affected (L.S.A.) (December 1985)

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	Page	Page
2783.0-3—2783.9 (Subpart 2783) Redesignated as 2781.0-3—2781.9 (Subpart 2781).....	46771	
2784.0-3—2784.9 (Subpart 2784) Removed.....	46771	
2912.4—2912.4-2 Removed.....	50301	
3430 Authority citation revised.....	42022	
3436.1-2 (f) amended.....	42023	
3436.2-3 (f) removed.....	42023	
3450 Authority citation revised.....	42023	
3453.3-1 (a)(7) amended.....	42023	
3487.1 (a) revised; interim.....	40199	
4100 (Group 4100) Note amended.....	45827	
4100 Authority citation revised.....	45827	
4100.0-3 (g) added.....	45827	
4100.0-5 Amended.....	45827	
4130.5 (d) and (e) added.....	45827	
4140.1 (a)(6) added.....	45827	
4170.1-1 (d) added.....	45827	
8224.0-1—8224.2 (Subpart 8224) Added.....	42123	
<b>Public Land Orders</b>		
1800 See PLO 6611.....	50165	
6610 Corrected by PLO 6611.....	50165	
6611 .....	50165	
<b>Title 43—Proposed Rules:</b>		
4.....	47237, 48445, 48446, 51711	
7.....	47073	
11.....	52126	
42b.....	45438	
43i.....	49563	
1600.....	53167	
3040.....	42967	
3100.....	42967	
3130.....	42967	
3200.....	42967	
<b>TITLE 44—EMERGENCY MANAGEMENT AND ASSISTANCE</b>		
<b>Chapter I—Federal Emergency Management Agency</b>		
1.4 (f) and (g) amended.....	40004	
2 Authority citation revised.....	40004	
2.2 Revised.....	40004	
2.11 Amended.....	40004	
2.12 Revised.....	40004	
2.14 (b) and (c) amended; (d) and (e) removed.....	40004	
2.17 Introductory text and (a) amended.....	40005	
2.21 Revised.....	40005	
2.22 (a) revised.....	40005	
2.24 Revised.....	40005	
2.25 Removed.....	40005	
2.26 Removed.....	40005	
2.31 Revised.....	40005	
2.52 (a) and (b) introductory text revised; (b)(7) and (8) added.....	40005	
2.54 Revised.....	40005	
2.55 (b) amended; (c)(1) revised.....	40005	
2.60 Added.....	40005	
2.62 Heading removed.....	40005	
2.58 (p) removed.....	40005	
2.70 (a)(6) amended.....	40005	
2.81 Table amended (OMB numbers).....	40006	
3.1061 (b) corrected.....	42023	
5.26 (a)(2) revised.....	40006	
5.41 Amended.....	40006	
5.52 (h) amended.....	40006	
5.54 (a)(2) removed; (a)(5) and (b) amended.....	40006	
5.55 (b) and (c) amended.....	40006	
5.60 Amended.....	40006	
6.3 (b) amended.....	40006	
6.20 (c) and (f) amended.....	40006	
6.33 (b)(2) removed; (b)(5) amended.....	40006	
8.1 (b) amended.....	40006	
8.4 (g)(3) amended.....	40006	
9 Authority citation revised; section authority citations removed.....	40006	
9.4 Amended.....	40006	
9.7 (c)(1) nomenclature change; (c)(2) amended.....	40006	
10 Authority citation revised; section authority citations removed.....	40006	
10.3 (c) amended.....	40006	
11.24 (a)(1)(v) and (b) amended.....	40007	
11.45 (c)(1) amended.....	40007	
11.54 (a) amended.....	40007	
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12 Authority citation revised.....	40007	
12.1 (a) amended.....	40007	
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NO ENTRY FOR 9239. 0-8



# FEDERAL ADMINISTRATIVE REGULATIONS

FIGURE 41. List of CFR Sections Affected (L.S.A.)

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## LSA—LIST OF CFR SECTIONS AFFECTED

The LIST OF CFR SECTIONS AFFECTED is a monthly publication designed to lead users of the Code of Federal Regulations (CFR) to amendatory actions published in the Federal Register (FR). It should be shelved with current CFR volumes. Entries are by CFR title, chapter, part, and section. Proposed rules are listed at the end of appropriate titles.

## HOW TO USE THIS FINDING AID

The CFR is revised annually according to the following schedule:

Titles 1-16—as of Jan. 1  
17-27—as of April 1  
28-41—as of July 1  
42-50—as of Oct. 1

To bring these regulations up to date, consult the most recent LIST OF CFR SECTIONS AFFECTED for any changes, additions, or removals published after the revision date of the volume you are using. Then check the CUMULATIVE LIST OF PARTS AFFECTED appearing in the Reader Aids of the latest Federal Register for less detailed but timely changes published after the final date included in this publication.

**Boldface** page numbers under a particular title indicate that the page numbers span 2 years. **Boldface** is used to distinguish the current year from the previous year.

Cite a page reference from this publication as 50 FR for 1985 page numbers and 51 FR for 1986 page numbers. Example: Page 42736 cite as 50 FR 42736; 16052 cite as 51 FR 16052.

## ISSUES TO BE SAVED

There is no single annual issue of the LIST OF CFR SECTIONS AFFECTED. Four ANNUAL ISSUES must be saved; the DECEMBER issue is the ANNUAL for Titles 1-16; the MARCH issue is the ANNUAL for Titles 17-27; the JUNE issue is the ANNUAL for Titles 28-41; the SEPTEMBER issue is the ANNUAL for Titles 42-50. ANNUAL ISSUES to be saved are clearly designated on the cover.

## PARALLEL TABLE OF AUTHORITIES AND RULES

Following Title 50 is an update to Table I—Parallel Table of Authorities and Rules found in the CFR Index and Finding Aids. This table contains authority citations added to or removed from Table I as a result of documents published in the Federal Register since January 1, 1986.

## TABLE OF FEDERAL REGISTER ISSUE PAGES AND DATES

A table is included at the end of this publication which identifies the inclusive page numbers and corresponding Federal Register issue dates for the period covered.

## INDEXES

An INDEX to the daily Federal Register is published monthly and is cumulated for 12 months. A separate volume, the CFR Index and Finding Aids to the entire Code of Federal Regulations, is revised as of January 1 each year.

BOLDFACE  
PAGE NOS.  
DISTINGUISH  
VOL. 51 FR  
FROM  
VOL. 50

FIGURE 42. List of CFR Sections Affected (L.S.A.)

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<b>1985</b>			
39953-40180	Oct. 1	52757-52890	Dec. 26
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40325-40474	3	53127-53256	30
40475-40796	4	53257-53480	31
40797-40994	7	<b>1986</b>	
40995-41120	8	1-188	Jan. 2
41127-41328	9	189-336	3
41329-41468	10	337-576	6
41469-41654	11	577-718	7
41655-41834	15	719-874	8
41835-42004	16	875-1234	9
42005-42136	17	1235-1360	10
42137-42506	18	1361-1480	13
42507-42668	21	1481-1766	14
42669-42900	22	1767-2335	15
42901-43114	23	2337-2468	16
43115-43374	24	2469-2668	17
43375-43564	25	2669-2870	21
43565-43644	28	2871-3026	22
43645-45074	29	3027-3184	23
45075-45386	30	3185-3320	24
45387-45590	31	3321-3462	27
45591-45804	Nov. 1	3463-3568	28
45805-45900	4	3569-3760	29
45901-45984	5	3761-3930	30
45985-46276	6	3931-4130	31
46277-46414	7	4131-4286	Feb. 3
46415-46628	8	4287-4474	4
46629-46736	12	4475-4584	5
46737-47026	13	4585-4700	6
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47201-47354	15	4887-5028	10
47355-47620	18	5029-5144	11
47621-47702	19	5145-5304	12
47703-48072	20	5305-5512	13
48073-48160	21	5513-5688	14
48161-48370	22	5689-5984	18
48371-48548	25	5985-6096	19
48549-48740	26	6097-6212	20
48741-49026	27	6213-6392	21
49027-49340	29	6393-6496	24
49341-49504	Dec. 2	6497-6724	25
49505-49664	3	6725-6886	26
49665-49824	4	6887-7040	27
49825-49918	5	7041-7236	28
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FEDERAL ADMINISTRATIVE REGULATIONS

FIGURE 43. Federal Register

9239. 0-8  
NOT LISTED

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36 CFR	223	31328	Proposed Rules:
901	31340		67
935	33034		405
939	31842		447
Proposed Rules:			43 CFR
723	31139		5
723a	33805		26
843	33055		2510
815	32204		2880
917	32208		3180
946	32106		3470
946a	32326, 33096		
38 CFR			Public Land Orders
90	32209		6592 (Corrected by
190	31100		P.L.O. 6621)
205	31205		6621
286a	31103		6624
292	33055		
306	33039		Proposed Rules:
759	31103-31112,		2860
	32912-32916, 32749		2866
1286	33589		
Proposed Rules:			44 CFR
40	32611		2
33 CFR	2165		3
110	32217		5
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	32218, 32219, 33026		7
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156	33037		9
165	31113, 31114, 31843,		11
	33039		11.1
Proposed Rules:			54
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156	34332		58
181	32109		59
185	31959		60
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7	33040		
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## FEDERAL ADMINISTRATIVE REGULATIONS

### REVIEW EXERCISE 2

1. All rules (regulations) issued by a Federal agency must be published in the \_\_\_\_\_.
2. The publication in question 1 also publishes which of the following material:  
Notices of Meetings  
Presidential Proclamations  
Notices of Public Hearings  
Proposed Rules  
Private Laws
3. CFR means \_\_\_\_\_.
4. The CFR codifies rules from the \_\_\_\_\_.
5. The relationship of the CFR to the \_\_\_\_\_ is comparable to the relationship of the \_\_\_\_\_ to the *U.S. Statutes at Large*.
6. Where are public land orders located in the 43 CFR? \_\_\_\_\_.
7. The CFR is divided into 50 \_\_\_\_\_ which represent broad subject areas subject to regulatory action.
8. Why must all rules (regulations) issued by a federal agency be published in the *Federal Register*? \_\_\_\_\_.
9. To update a change in a regulation since the latest edition of Title 43 of the CFR, one must check \_\_\_\_\_, which are designed to lead users of the CFR to amendatory actions published in the *Federal Register*.
10. The monthly L.S.A. pamphlets are cumulative from the date the title of the CFR being researched was revised. True \_\_\_\_\_ False \_\_\_\_\_



SECTION 3

## REVIEW EXERCISE 2 - ANSWERS

- |   |             |
|---|-------------|
| 1. <i>Federal Register</i>                          | page 25     |
| 2. All except private laws                          | pages 25-26 |
| 3. <i>Code of Federal Regulations</i>               | page 26     |
| 4. <i>Federal Register</i>                          | page 32     |
| 5. <i>Federal Register, U.S. Code</i>               | page 32     |
| 6. Appendix - Table of Public Land Orders 1942-1984 | page 32     |
| 7. Titles   | page 32     |
| 8. To put the public "on notice"                    | page 25     |
| 9. List of Sections Affected (L.S.A)                | page 33     |
| 10. True  | page 38     |

## SECTION 4

### CASE LAW

#### ADMINISTRATIVE REVIEW PROCESS WITHIN THE DEPARTMENT OF THE INTERIOR-- DECISIONS AND OPINIONS

The Interior Board of Land Appeals (IBLA) is part of the Office of Hearings and Appeals, an adjunct of the Office of the Secretary. The IBLA's authority to review decisions of BLM and other Department of the Interior agencies is based on regulations in Part 4 of 43 CFR.

IBLA has authority to review decisions of the following agencies:

- a. Bureau of Land Management
- b. Minerals Management Service
- c. Bureau of Indian Affairs
- d. Office of Surface Mining Reclamation and Enforcement

The IBLA is also authorized to review decisions issued by departmental administrative law judges.

Although the regulations in Part 4 of 43 CFR provide a broad grant of review authority to IBLA, this review authority specifically concerns decisions by authorized officers of BLM. Generally, all final decisions of BLM officers are subject to appeal to the IBLA.

The present one-step departmental appeals system results from an effort to provide "objective administrative review" of agency decisions.

#### HISTORICAL PERSPECTIVE

*From 1849 to 1947:* Since the first days of the Department of the Interior, land management decisions have been reviewed at the Secretarial level. Appeals from initial decisions of the General Land Office and later the Grazing Service were taken to the Office of the Secretary. Until 1947, the Secretary, Under Secretary, or Assistant Secretary actually signed decisions constituting final departmental action.

*From 1947 to 1970:* With the creation of BLM in 1946, a new two-tiered departmental review procedure was implemented. Decisions by BLM State Office officials could be appealed to the BLM Director. The Director delegated his review authority to BLM's Office of Appeals and Hearings, which issued decisions on his behalf. The Director's decisions were in turn appealable (by right) to the Secretary of the Interior. The Secretary delegated his final review authority to the Office of the Solicitor.

In 1969, the two-tiered review system was found to be resulting in an undesirable delay in reaching a final departmental decision. There was also concern that BLM employees could not objectively review BLM decisions. Furthermore, using the Office of the Solicitor as the Department's final decisionmaker was seen as creating an appearance of lack of objectivity because of the combination in that office of policy-making, investigative, and prosecutorial functions with the administrative review function.

#### LAND DECISIONS (L.D.s)

Land Decisions were published from July 1881 to December 1929 in volumes 1 to 52. These volumes are titled *Decisions of the Department of the Interior and General Land Offices in Cases Relating to the Public Lands*. Cases reported in these volumes pertained almost exclusively to matters under the jurisdiction of the General Land Office. In addition, this publication included important Administrative ("A") Decisions. In 1930, beginning with volume 53, the publication's title became *Decisions of the Department of the Interior* (L.D.s).

Citation to Land Decision:

*Walter Maine*, 52 L.D. 510 (1928).

Access to cases in the L.D.s is through the *Digest of Decisions of the Department of Interior in Cases Relating to Public Lands*.

## CASE LAW

Each L.D. volume has tables and an individual index-digest.

### INTERIOR DECISIONS (I.D.s)

On July 7, 1930, the Secretary of the Interior issued an order amending the title *Decisions of the Department of the Interior and General Land Office in Cases Relating to Public Lands to Decisions of the Department of the Interior* (I.D.), Beginning with volume 53, to date, leading decisions and important opinions relating to all activities of the Department have been published in *Decisions of the Department of Interior* (I.D.), a U.S. Government Depository item, first published in advance sheet form and later bound into permanent I.D. volumes. (See figure 45.)

In addition to certain important decisions issued by the IBLA, current volumes include particular opinions from other boards within the Office of Hearings and Appeals, such as Interior Board of Indian Appeals (IBIA), and Interior Board of Contract Appeals (IBCA), as well as certain *Solicitor's Memorandum Opinions* ("M" Opinions). Moreover, from 1930 to 1970, important "A" Opinions were published in the I.D.s.

The citation format for Interior Decisions is discussed later.

Access to the I.D.s is through the *Index-Digests of the Department of Interior*. Each I.D. volume has tables and individual index-digests.

### ADMINISTRATIVE ("A") DECISIONS

Administrative decisions or "A" decisions were unpublished opinions that resulted from appeals of the Director's decisions. "A" decisions were issued before the creation of the IBLA in 1970. (See figure 46.) Important "A" decisions were published in L.D. volumes 1-52 and I.D. volumes 53-77.

### Citation To "A" Decisions:

*William P. Surman, A-31010*  
(December 1, 1969)

Date	Name of Party	Serial number of case
------	---------------	-----------------------

Access to "A" decisions is through the *Index-Digests* of the Department of Interior.

### INTERIOR BOARD OF LAND APPEALS (IBLA) DECISIONS

The IBLA was created on July 1, 1970 within the Office of Hearings and Appeals, Office of the Secretary. IBLA decisions replaced the "A" decisions. Because IBLA acts for and on behalf of the Secretary of the Interior, its decisions are usually final concerning the Department's position. But the decisions are subject to the Secretary of the Interior's review and to appeal in Federal court. IBLA decisions may be cited as precedent. (Precedent means when an appellate court has decided an issue and written a rule in its opinion about that issue, the court will follow the precedent it has set.) Each case on appeal to IBLA is identified by the name of the party and IBLA docket number.

Example: *Paul N. Scherbel, IBLA 81-282* (fiscal year 1981, the 282nd case docketed during that year.) (See figure 47.)

BLM libraries keep unpublished IBLA decisions in looseleaf form, filed by the IBLA volume and page numbers. IBLA decisions are unpublished except for the more important decisions that are reprinted in the *Interior Decisions* (I.D.s). These important IBLA decisions are officially published in I.D.s, first as advance sheets and then in bound I.D. volumes. (See figures 48-49 for an example of an IBLA decision that was later reprinted in an I.D. volume.) If the IBLA decision will eventually be reprinted in the I.D.s, the text will be double spaced as opposed to single spaced.

**Citation to Unpublished IBLA Decision:**

(An unpublished decision is one that is not reprinted in the I.D.s)

*Paul N. Scherbel*, 58 IBLA 52 (1981).

**Citation to Published IBLA Decision:**

*Fortune Oil Co.*, 71 IBLA, 153, 90 I.D. 84 (1983).

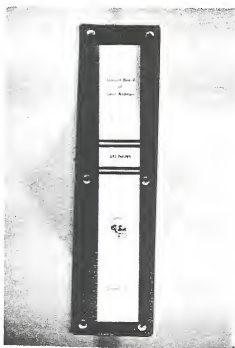
[Note: If an IBLA decision has been published in the I.D.s, then both citations are needed.]

The Office of Hearings and Appeals prints an Index-Digest to the decisions issued by the IBLA and other boards that comprise that office. These paperback digests are published both quarterly and annually. Since 1975 a hardbound edition known as the Quinquennial Index-Digest has been published at 5-year intervals. The latest Quinquennial Index-Digest covers 1979-1984. (See figures 50-52.)

The digest consists of

- headnotes from IBLA decisions, as well as those of other boards, arranged alphabetically by topic (see figures 53-54).
- a table listing overruled or modified cases for the Department (see figure 55).
- results of judicial review of IBLA decisions and decisions of other boards (see figure 56).
- a table of opinions reported (see figure 57).
- tables cross-referencing decisions dealing with specific statutory provisions of *U.S. Statutes at Large*, *Revised Statutes*, and *U.S. Code* (see figures 58-60).

**FIGURE 45. Interior Decisions**



**SOLICITOR'S MEMORANDUM ("M") OPINIONS**

Solicitor's Memorandum "M" Opinions are issued by the Office of the Solicitor for matters involving an interpretation of a law or regulation without a specific set of facts or a particular case. Many opinions are written by a Solicitor's Office, but "M" Opinions are the really important ones and are signed exclusively by the Solicitor. In some cases, the Solicitor may ratify or approve a subordinate's opinion, thereby making it an "M" Opinion. Important "M" Opinions may be selected for publication in the I.D.s (see figure 61). Otherwise, the "M" Opinions are filed in looseleaf binders by number and date of opinion.

FIGURE 46. Sample Unpublished "A" Decision



UNITED STATES  
DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240

A-31105

: I - 2459

T. L. and George F. Bruckner

: Lode mining claim held  
: void ab initio in part

: Affirmed

APPEAL FROM THE BUREAU OF LAND MANAGEMENT

T. L. and George F. Bruckner have appealed to the Secretary of the Interior from a decision dated December 9, 1968, by the Office of Appeals and Hearings, Bureau of Land Management, which affirmed a decision of the Idaho land office, dated September 19, 1968, holding the Elizabeth lode mining claim to be void ab initio in part. <sup>1/</sup>

The claim was held to be void as to those portions of it which were situated within lots 5 and 6, sec. 30, T. 11 N., R. 14 E., B. M., because those lots were included in Fowersite Reserve No. 587 withdrawn by Executive Order of March 21, 1917. Appellants' claim was located on July 2, 1935.

The decision appealed from fully discussed the issues of fact and law involved and cited applicable Departmental precedents. The appellants do not address themselves to this discussion but merely repeat the summary allegations that were made by their predecessor on his appeal from the land office decision.

If further discussion were necessary, we need only refer to the Department's decision in the case of Leslie G. and Rita M. Polwell, A-31104 (August 18, 1969), which held void ab initio a placer claim located on May 19, 1952, on the same lots 5 and 6 (and 8) in sec. 30, T. 11 N., R. 14 E., B. M. The Polwell decision fully discusses the pertinent law applicable here.

<sup>1/</sup> The notice of appeal was filed by Royal C. Johnson, who at the time was the owner of the claim. However, before the statement of reasons in support of the appeal was filed, Johnson quitclaimed the claim to the Bruckners, who then filed the statement of reasons.

FIGURE 47. *Sample IBLA Decision*



NAME OF PARTY		United States Department of the Interior OFFICE OF HEARINGS AND APPEALS INTERIOR BOARD OF LAND APPEALS 4015 WILSON BOULEVARD ARLINGTON, VIRGINIA 22203	IN REPLY REFER TO:
DATE			PAUL N. SCHERBEL
DOCKET NO.	IBLA 81-282	Decided September 21, 1981.	
HOLDING OR DECISION	Appeal from a decision of the Division of Cadastral Survey, Bureau of Land Management, dismissing a protest against the position of a quarter section corner reestablished during a dependent resurvey, Group No. 346, Wyoming.  Affirmed.		
	<ol style="list-style-type: none"> <li>           Surveys of Public Lands: Dependent Resurveys             Restoration of a lost corner by means of proportionate measurement in accordance with the record of the original survey is the proper procedure in a dependent resurvey where there is a lack of conclusive evidence as to the location of the original survey corner.         </li> <li>           Surveys of Public Lands: Dependent Resurveys             Surveys of the United States, after acceptance, are presumed to be correct and will not be disturbed except upon clear proof that they are fraudulent or grossly erroneous. An appellant challenging a Government resurvey has the burden of establishing by clear and convincing evidence that the resurvey is not an accurate retracement and reestablishment of the lines of the original survey.         </li> </ol>		
	APPEARANCES: James R. Leetnad, Esq., Cheyenne, Wyoming, for appellant.		
UNPUBLISHED IBLA DECISIONS ARE FILED BY VOLUME AND PAGE NUMBERS.	58 IBLA 52		
VOLUME			
PAGE NO.			

FIGURE 48. *IBLA Decision*

(Note only excerpted pages of the decision appear in example.)

IN REPLY REFER TO:



United States Department of the Interior  
OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF LAND APPEALS  
4015 WILSON BOULEVARD  
ARLINGTON, VIRGINIA 22203

FORTUNE OIL CO.

IBLA 82-1182  
82-1219  
83-39 1/

Decided March 9, 1983

Appeal from decisions of the Oregon State Office, Bureau of Land Management, rejecting oil and gas lease offers OR 26208 through OR 26210, OR 26213, and OR 26214.

Affirmed in part, set aside and remanded in part.

1. Oil and Gas Leases: Stipulations—Rules of Practice: Appeals: Generally—Rules of Practice: Appeals: Notice of Appeal

Where BLM affords an offeror a period of 30 days to execute stipulations as a condition to issuance of an oil and gas lease and states that failure to comply will result in rejection of the offer to lease, the decision is interlocutory and there is no right of appeal. The offeror may elect to comply, to comply under protest, or to let the 30-day period run without complying and appeal the resulting BLM decision rejecting the offer. In the latter case the offeror has waived the right to comply and, if the appeal is unsuccessful, the rejection is final and no additional opportunity to execute the stipulations will be granted.

---

1/ The Board has consolidated these appeals sua sponte because they involve the same appellant and the same issues.

71 IBLA 153



FIGURE 48. IBLA Decision (continued)

IBLA 82-1182, etc.

2. Federal Land Policy and Management Act of 1976: Wilderness—Oil and Gas Leases:  
Applications: Generally

Action must be suspended on an oil and gas lease offer to the extent it includes lands in either a wilderness study area or an instant study area until Congressional action on the President's recommendations as provided by sec. 603(a) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1782(a) (1976).

NOTE:  
DOUBLE  
SPACING  
DENOTES  
DECISION  
WILL BE  
REPRINTED  
IN I.D.'s

APPEARANCES: John R. Anderson, President, Fortune Oil Company.

OPINION BY ADMINISTRATIVE JUDGE IRWIN

On April 2, 1981, Fortune Oil Company (Fortune) filed several noncompetitive oil and gas lease offers for various lands in south central Oregon. By three separate decisions in May and June 1982 the Oregon State Office, Bureau of Land Management (BLM), notified Fortune that it was prepared to issue the leases provided that Fortune sign and return enclosed stipulations. BLM allowed Fortune 30 days from receipt of each decision to return the signed stipulations and stated that the failure to timely meet this requirement would result in rejection of its offers. The decision concluded with the statement, "This decision is not final, but is an intertributory decision from which no appeal may be taken." Fortune nevertheless filed notices of appeal from each decision, asserting that it was adversely affected by the decision<sup>2</sup> and citing 43 CFR 4.410 as affording it a right of appeal.

BLM treated the notices of appeal as protests that it dismissed by separate decisions in July and August 1982. The decisions asserted that Fortune was incorrect in stating that the earlier decisions were adverse to

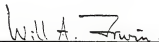
71 IBLA 154

FIGURE 48. IBLA Decision (continued)


IBLA 82-1182, etc.

Ordinarily in these circumstances we would set aside ELM's rejection of the lease offers and afford appellant a period of time to execute the stipulations. However, on December 30, 1982, the Secretary of the Interior announced that the Department would issue no leases in either designated wilderness areas or in wilderness study areas. Pursuant thereto, the Director, ELM, has issued Instruction Memorandum No. 83-237 (Jan. 7, 1983). In relevant part this provides that "leases currently in process should not be issued. \* \* \* All such applications are to be maintained as pending until further notice." Therefore, in accordance with the instruction memorandum, the State Office is directed to suspend further action on appellant's lease offers, to the extent that they embrace lands in a wilderness study area, and to hold them "pending with priority as of the date of filing until Congressional action is taken on the President's recommendation," and to issue leases for the lands not in the wilderness study area, all else being regular.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the Oregon State Office is affirmed in part and set aside and remanded for action consistent with this decision.

  
 Will A. Irwin  
 Administrative Judge

We concur:

  
 James L. Burski  
 Administrative Judge

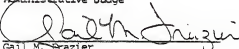
  
 Gail M. Prazier  
 Administrative Judge

FIGURE 49. *IBLA Decision Published in Interior Decisions*

I.D. VOL. NO.

I.D. PAGE NO.

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DECISIONS OF THE DEPARTMENT OF THE INTERIOR

100 I.D.

Solicitor's Opinion M-36914 of June 15, 1979, is hereby modified accordingly.

WILLIAM H. COLDIRON  
Solicitor

IBLA VOL. &  
PAGE NO.

FORTUNE OIL CO.

71 IBLA 153<sup>1</sup>

Decided March 9, 1983

NOTE: TEXT IS  
IDENTICAL TO  
UNPUBLISHED  
VERSION  
(FIG. 48)

Appeal from decisions of the Oregon State Office, Bureau of Land Management, rejecting oil and gas lease offers OR 26208 through OR 26210, OR 26213, and OR 26214.

Affirmed in part, set aside and remanded in part.

**1. Oil and Gas Leases: Stipulations—Rules of Practice: Appeals: Generally—Rules of Practice: Appeals: Notice of Appeal**

Where BLM affords an offeror a period of 30 days to execute stipulations as a condition to issuance of an oil and gas lease and states that failure to comply will result in rejection of the offer to lease, the decision is interlocutory and there is no right of appeal. The offeror may elect to comply, to comply under protest, or to let the 30-day period run without complying and appeal the resulting BLM decision rejecting the offer. In the latter case the offeror has waived the right to comply and, if the appeal is unsuccessful, the rejection is final and no additional opportunity to execute the stipulations will be granted.

**2. Federal Land Policy and Management Act of 1976: Wilderness—Oil and Gas Leases: Applications: Generally**

Action must be suspended on an oil and gas lease offer to the extent it includes lands in either a wilderness study area or an instant study area until Congressional action on the President's recommendations as provided by sec. 608(a) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1782(a) (1976).

APPEARANCES: John R. Anderson, President, Fortune Oil Co.

OPINION BY ADMINISTRATIVE JUDGE IRWIN

INTERIOR BOARD OF LAND APPEALS

On April 2, 1981, Fortune Oil Co. (Fortune) filed several noncompetitive oil and gas lease offers for various lands in south central Oregon. By three separate decisions in May and June 1982 the Oregon State Office, Bureau of Land Management (BLM), notified Fortune that it was prepared to issue the leases provided that Fortune sign and return enclosed stipulations. BLM allowed Fortune 30 days from receipt of each decision to return the signed stipulations and stated that the failure to timely meet this requirement would result in rejection of its offers. The decision concluded with the statement, "This decision is not final, but is an interlocutory decision from which no

<sup>1</sup>The Board has consolidated these appeals (82-1182, 82-1219 and 83-39) sua sponte because they involve the same applicant and the same leases.

FIGURE 49. *IBLA Decision Published in Interior Decisions (continued)*

84)

FORTUNE OIL CO.

85

March 9, 1983

appeal may be taken." Fortune nevertheless filed notices of appeal from each decision, asserting that it was adversely affected by the decision and citing 43 CFR 4.410 as affording it a right of appeal.

BLM treated the notices of appeal as protests that it dismissed by separate decisions in July and August 1982. The decisions asserted that Fortune was incorrect in stating that the earlier decisions were adverse to it because they took no action to terminate the applications, priorities, or interests in the mineral estate of the lands involved and therefore were not adverse. The decisions also rejected the oil and gas lease offers because the 30 days for return of the signed stipulations had passed in each case. BLM noted as well that it had required the signing of a wilderness protection stipulation and that the Board had upheld the stipulation requirement in its decision, *John R. Anderson*, 57 IBLA 149 (1981). A right of appeal from these decisions was afforded and Fortune timely submitted a second notice of appeal for each case.

In its statements of reasons Fortune contends that the distinction that BLM has made between its two types of decisions is self-contradictory and has no merit. Fortune argues that by including a threat of adverse action if the stipulation requirements were not met, BLM has taken action that is adverse to its interests. Fortune requests that the decisions be remanded to BLM and that the Board instruct BLM to comply with the regulations governing treatment of appeals.

[1] In a recent decision, *Carl Gerard*, 70 IBLA 343 (1983), the Board examined the effect on appeal rights of various types of BLM decisions. The case dealt with a decision rejecting an application subject to compliance within 30 days, but the Board also examined the opposite circumstance, a decision "holding for rejection" an offer for some identified deficiency but affording a period of time within which the deficiency might be corrected, failing in which the offer would be considered rejected without further notice. This latter situation is similar to the situation presented in this case where BLM has imposed a requirement on appellant and indicated that failure to comply within the specified time would result in rejection of its offers. The only difference is that a decision "holding for rejection" contemplates that no further decision will issue, whereas the BLM decision in this case stated that a rejection decision would issue. With respect to a BLM decision "holding for rejection," the Board said:

It is our view that, where such a decision clearly contemplates that rejection will occur upon the running of the prescribed period, such a decision is interlocutory. It is, in effect, an interim determination affording an applicant an opportunity to correct a perceived deficiency prior to rejection of the application. On receipt of such a decision, a party may elect to comply in the manner prescribed, comply under protest, or await the running of the identified period and appeal the final rejection. In such a case, the 30-day appeal

FIGURE 49. *IBLA Decision Published in Interior Decisions (continued)*

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DECISIONS OF THE DEPARTMENT OF THE INTERIOR

190 LD.

of the Oregon State Office is affirmed in part and set aside and remanded for action consistent with this decision.

WILL A. IRWIN  
*Administrative Judge*

WE CONCUR:

JAMES L. BURSKI  
*Administrative Judge*

GAIL M. FRAZIER  
*Administrative Judge*

CASE LAW

FIGURE 50. *Cover of Paperback Index-Digest January-September 1985*

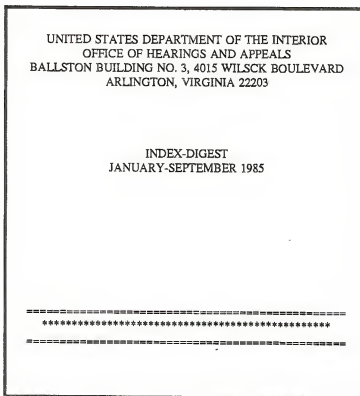


FIGURE 51. *Quinquennial Index-Digest of the Department of the Interior (January 1980 to December 1984)*

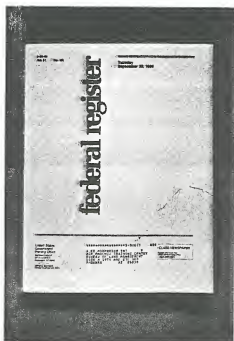


FIGURE 52. *Table of Contents from Index-Digest*

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Table of Opinions Reported .....	CXXIII
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\*\*\*\*\*

FIGURE 53. *Alphabetical List of Topics Covered by Headnotes  
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FIGURE 54. Headnotes Relating to Topic "Oil and Gas Leases-Applications" (Quinquennial Index-Digest 1980-1984)

**OIL AND GAS LEASES--Continued**

**APPLICATIONS--Continued**

**SOLE PARTY, as Applicant--Continued**

negotiate in to be valid for 5 years, the leasing service has an enforceable right to share in the proceeds of any sale of the lease or any interest therein, and in any payments of overriding royalties retained. Such an agreement creates for the leasing service an "interest" in the lease as that term is defined in 43 CFR 3102.2-9(b) (1979).

**Jones Tech. Co. et al.**, 61 IRL 235 (Jan. 28, 1982)

**Travis Shagots et al.**, 62 IRL 278 (Mar. 14, 1982)

**Nicholas Higonius Pipeline Co. et al.**, 64 IRL 247 (May 29, 1982)

**David L. Jones et al.**, 65 IRL 12 (June 21, 1982)

An oil and gas lease offer filed on a simultaneous filing drawing entry card must be rejected if it contains the name of additional parties to be interested, within 15 days of the filing, the offeror fails to submit a statement signed by himself and the other interested parties setting forth the nature of their respective interests and a copy of agreements between them.

**Richard E. Sporick**, 62 IRL 158 (Mar. 8, 1982)

A noncompetitive oil and gas lease application filed in a simultaneous drawing must be rejected if it contains the name of additional parties to be interested, and there is a failure to submit the information required by 43 CFR 3102.2-7(b).

**Walter E. Spratt, Richard S. Evans**, 62 IRL 238 (Mar. 28, 1982)

**Rob Reid**, 64 IRL 17 (May 4, 1982)

An oil and gas lease offeror's agreement with a filing service which by its terms give an offeror an option, exercisable only after the drawing of simultaneously filed lease offers he bids, to employ the service to sell offeror's interest in the lease in return for a specified commission does not create an interest in the lease offer at the time the offer is filed which is required to be disclosed under 43 CFR 3102.7 (1979).

**Spencer Co., Inc.**, 64 IRL 149 (May 24, 1982)

When an individual files an oil and gas lease offer through a leasing service under an agreement whereby the leasing service is authorized to act as the sole and exclusive agent to negotiate for employees, offeror; where the offeror is required to pay the leasing service according to a set schedule, even if the offeror negotiates the sale; and where such agency to negotiate is to be valid for 5 years, the leasing service has an enforceable right to share in the proceeds of any sale of the lease or any interest therein, and in any payments of overriding royalties retained. Such an agreement creates for the leasing service an "interest" in the lease offer which must be disclosed under 43 CFR 3102.7 (1979).

Where an individual files an oil and gas lease offer through a leasing service under an agreement with the service which has been determined to give the service an interest in the lease, and the service files a "waiver" of that interest with the BLM prior to a simultaneous drawing, without commencing such "waiver" to

**OIL AND GAS LEASES--Continued**

**APPLICATIONS--Continued**

**SOLE PARTY, as Applicant--Continued**

the client and without any contractual consideration arising from the client to the leasing service, the "waiver" is without effect as a matter of law and both the successful drawee and the leasing service are required to take a drawing as to their respective interests under 43 CFR 3102.7 (1979).

**Johnson J. Lindsey, Resource Service Co., Inc.**, 64 IRL 274 (June 4, 1982)

Where, in the course of an appeal from the rejection of an oil and gas lease application for other reasons, the pleadings and evidence raise for the first time the question of the existence of an outstanding undisclosed interest in the application, the Board will not decide that issue. It will not grant a lease to the appellant unless and until the question is ultimately resolved in appellant's favor.

**Leads-Baker-Parr**, 65 IRL 340 (July 14, 1982)

Although, under the Departmental regulations in effect at the time of the sale, a competitive bidder in an oil and gas lease sale, where there are other parties to be interested, was required to submit the signed statements required by 43 CFR 3102.2-7 (1981), failure to comply with the regulation does not require rejection of the bid. However, in noncompetitive offerings, the critical element is determining the first qualified offeror. In competitive bidding, the amount of the bid replaces priority of filing as the dominant factor.

**Thomas J. Smith, Jr., Steven S. Smith**, 64 IRL 1 (July 23, 1982)

By I.D. 386

Where substantial evidence of record supports BLM's rejection of a lease application on the basis of its finding that another party holds an undisclosed interest therein, the mere denial of that fact by the applicant is insufficient to overturn the decision on appeal.

**Anders-John Spang**, 67 IRL 117 (Sept. 14, 1982)

Where the regulation, 43 CFR 3102.2-7, requiring the offeror for an oil and gas lease to file a copy of an agreement under which a royalty interest in the lease will be conveyed to a third party is repealed, it is not proper to reject the offer for failure to comply with the repealed regulation unless there was a proper conflicting offer filed for the same land prior to the date of the repeal, which was Feb. 26, 1982.

**Richard S. Saffir, Jr. & Associates**, 67 IRL 373 (Oct. 8, 1982)

A decision partial rejecting an oil and gas lease offer because the lease are included in a lease issued to a prior applicant will be affirmed on appeal upon applicant failed to comply with the requirements for disclosure of other parties to interest as properly enforced.

**Leads-Bell**, 68 IRL 276 (Nov. 17, 1982)

FIGURE 55. *Table of Departmental Decisions Overruled and Modified (Quinquennial Index-Digest 1980-1984)*

TABLE OF OVERRULED AND MODIFIED CASES FOR THE DEPARTMENT OF THE INTERIOR	
For judicial modification and reversal see Table of Suite for Judicial Review.	
Abraham, Lucy S., 3 IBLA 341 (1971); overruled to extent inconsistent, U.S. v. Flynn, 53 IBLA 208, 88 I.D. 373 (1981).	Applicability of Montana Tax to Oil & Gas Leases of Ft. Peck Lands—Opinion of Asst. Secretary (Oct. 27, 1966); superseded to the extent inconsistent, Solicitor's Opinion—Tax Status of the Production of Oil & Gas from Leases of the Fort Peck Tribal Lands Under the 1938 Mineral Leasing Act, M-36896, 84 I.D. 905 (1977).
Alaska By-Products Corp., 6 IBMA 168, 1975-1976 OSHD part. 20, 756 (1976); set aside, 7 IBMA 85, 83 I.D. 574 (1976).	Archer, J. D., A-30750 (May 31, 1967); overruled, 79 I.D. 416 (1972).
Alakayak, Macaulay, Heirs of, 23 IBLA 170 (1975); vacated, (On Recon.), 62 IBLA 90 (1982).	Aspinwall, Mary A. A., 23 IBLA 309 (1976); sustained in part & vacated in part, (On Recon.), 66 IBLA 367 (1982).
Alaska Railroad, Appeal of, 3 ANCAS 273, 86 I.D. 397 (1979); affirmed in part, vacated in part, 3 ANCAS 351, 86 I.D. 432 (1979).	Ayoubak, Mary, 22 IBLA 384 (1975); vacated, (On Recon.), 59 IBLA 384 (1981).
Alaska Railroad, Appeal of, 3 ANCAS 280 (1979); affirmed in part, modified in part, 3 ANCAS 377 (1979).	Barsch, Max, 63 I.D. 51 (1956); overruled in part, Solicitor's Opinion—Issuance of Noncompetitive Oil & Gas Leases on Lands Within the Geologic Structures of Producing Oil or Gas Fields, M-36686, 74 I.D. 285 (1967); Norman Mud Service, Inc., 31 IBLA 150, 84 I.D. 342 (1977).
Alaska, State of, 7 ANCAS 157, 89 I.D. 321 (1982); modified to the extent inconsistent, 67 IBLA 344 (1982).	Bartel, John A., A-29664 (Oct. 11, 1962); distinguished, A-30129 (Nov. 9, 1964).
Alaska, State of & Seldovia Native Ass'n, Inc., Appeals of, 2 ANCAS 1, 84 I.D. 349 (1977); modified, Solicitor's Opinion—Wild Birding Rights Under the Alaska Native Claims Settlement Act, Secretarial Order No. 3015 (Dec. 14, 1977), 85 I.D. 1 (1978).	Bergman, Elsie, 23 IBLA 233 (1975); vacated, (On Recon.), 64 IBLA 180 (1982).
Alaska, State of v. Thorson, Marcia K., State of Alaska v. Phyllis Westcott, 76 IBLA 264 (1983); rev'd, (On Recon.), 83 IBLA 237, 91 I.D. 331 (1984).	Berger, Moses & Leon, 82 IBLA 253 (1984); affirmed in part, rev'd in part, Leo Crowley, Michael G. Clifton, 84 IBLA 7 (1984).
Alexander, William T., 21 IBLA 56 (1975); reaffirmed as modified, U.S. v. Alexander, 41 IBLA 1 (1979).	Bergman, Steven, 22 IBLA 233 (1975); vacated, (On Recon.), 61 IBLA 399 (1982).
Amada Mining & Manufacturing Ass'n, 42 IBLA 144 (1979); overruled to extent inconsistent, Harvey A. Clifton et al., 60 IBLA 29 (1981).	Bergman, Warner, 21 IBLA 173 (1975), 31 IBLA 21 (1977); vacated, (On Recon.), 60 IBLA 214 (1981).
American Telephone & Telegraph Co., 57 IBLA 215 (1981); modified in part, (On Recon.), 59 IBLA 343 (1981).	Beveridge, E. C., 50 IBLA 173 (1980); distinguished, Curtis Wheeler, 62 IBLA 384 (1982).
Amoco Production Co., 24 IBLA 227 (1976); vacated, (On Recon.), 35 IBLA 43 (1978).	Breane, James G., Jr., 38 IBLA 281 (1978); vacated, (On Recon.), 42 IBLA 395 (1979).
Anahonak, Victor A., 21 IBLA 347 (1975); vacated, (On Recon.), 54 IBLA 289 (1982).	Erick, Irving B., 36 IBLA 235 (1978); overruled, Robert E. Furman, 49 IBLA 64 (1980).
Anderson, Ida Lee, 70 IBLA 383 (1983); vacated, (On Recon.), 73 IBLA 223 (1983).	Brinkerhoff, Zula G., 75 IBLA 179 (1983); modified, Santa Fe Mining, Inc., 79 IBLA 48 (1984).
Ameloo, Gregory, Sr., 21 IBLA 230 (1975); vacated, (On Recon.), 60 IBLA 101 (1981).	Brinton, John C., Estate of, 25 IBLA 283 (1976); vacated in part, 71 IBLA 160 (1983).
Ameloo, Serafina, 22 IBLA 104 (1975); vacated, (On Recon.), 64 IBLA 97 (1982).	Bumble Bee Seafoods, Inc., 65 IBLA 391 (1982); overruled to extent inconsistent, Rosender Mining Co., 84 IBLA 60 (1984).
Angalak, Catherine, 23 IBLA 91 (1975); vacated & remanded, (On Recon.), 65 IBLA 317 (1982).	Caldwell, Clair K., 42 IBLA 139 (1979); overruled to extent inconsistent, Harvey A. Clifton et al., 60 IBLA 29 (1981).

FIGURE 56. *Table of Suits for Judicial Review*  
*(Quinquennial Index-Digest 1980-1984)*

TABLE OF SUITS FOR JUDICIAL REVIEW OF DEPARTMENTAL DECISIONS BOTH PUBLISHED AND UNPUBLISHED		CXXIII	
<u>Page(s)</u>		<u>Page(s)</u>	
Ademick v. Watt	CXC1	Atlantic Richfield Co. v. Horton	CXLVIII, CXLVII
Adams v. Andrus	CXLVII	Atlantic Richfield Co. v. Watt	CXLXIX
Adams v. Watt	CXLVII	Attocknia v. Udall	CXLVIII
Adams v. Witmer	CXLXXII	Atwood v. Udall	CLXXX
Adler Construction Co. v. U.S.	CXLVII	Austin v. Thompson	CLXXI
Adonkus v. Watt	CXLVII	Artac Exploration & Development Co. v. DOI	CLIV
Ahrens v. Andrus	CLVII	Babcock v. Secretary	CXLVIII
Akers v. DOI	CXLVII	Babcock v. Udall	CXLVIII
Alaska v. ANCAS	CLVI	Babington v. Udall	CXLVIII
Alaska v. Andrus	CXLVII	Baciaralli v. Horton	CLIV
Alaska v. Lestanhof	CXLVII	Bader Coal Co. v. Andrus	CXLIX
Alaska v. 13.9 Acres of Land	CXLVII	Bagley v. Udall	CXLIX
Albrechtsen v. Horton	CLXII	Baker v. DOI	CXLIX
Alautian/Fribilof Islands Ass'n v. Powers	CXLVII	Baker v. U.S.	CLXXII
Alexander v. Andrus	CXLVII	Baldwin v. Horton	CXLIX
Alexander v. Friswell	CXLVII	Ball Brothers Sheep Co. v. Horton	CXLIX
Alexander v. Secretary	CLXXII	Ballard E. Spencer Trust, Inc. v. Horton	CXLIX
Alexander v. Watt	CXLVII	Barrash v. McKay	CXLIX
Alker v. Watt	CLVI	Barnard-Curtiss Co. v. U.S.	CXLIX
Allan v. Horton	CXLVIII	Barnett v. Watt	CXLIX
Allen v. Udall	CXLVII	Barrows v. Hickal	CLXXIX
Allied Contractors, Inc. v. U.S.	CXLVIII	Bartell v. Andrus	CLXXIII
Altax Oil Corp. v. Watt	CXLVIII	Barton v. Horton	CXLIX
Amerada Hess Corp. v. Horton	CLXXVII	Barton v. Udall	CXC
American Coal Co. v. DOI	CXLVIII	Bass Enterprises Production Co. v. Andrus	CXLIX
American Telephone & Telegraph Co. v. DOI	CXLVIII	Battle Mountain Co. v. Udall	CXLIX, CLV
Anadarko Production Co. v. Watt	CXLVIII	Bay Construction Co. v. U.S.	CXLIX
Anderson v. Horton	CLXXII, CXC	Beard v. Andrus	CLXXII
Anderson v. Udall	CLXXIII	Beatty v. BLM	CLXXII
Arjay Oil Co. v. Andrus	CXLVIII	Belknap v. Watt	CL
Arnold v. Horton	CLXXIX	Bender v. Watt	CL
Ashley v. Andrus	CXLVIII	Bennett v. Klappe	CL
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FIGURE 57. *Table of Opinions Reported*  
(*Quinquennial Index-Digest 1980-1984*)

	<u>Page(s)</u>		<u>Page(s)</u>
Annual Review, Revision & Reapproval of 5-year OCS Oil & Gas Leasing Programs, M-36932 (Jan. 5, 1981), 88 I.D. 20	882	Effect of the Federal Land Policy & Management Act on the Right-of-Way Application for the Middle Fork of the Powder River Reservoir, M-36900 (Supp. 1) (June 27, 1983), 90 I.D. 345	931, 937, 938
Application of Eagle Protection & Migratory Bird Treaty Acts to Reserved Indian Hunting Rights, M-36936 (June 15, 1981), 88 I.D. 586	431	Federal Water Pollution Control Act—Sec. 404 Compliance for Projects Funded in Part by State & Local Entities, M-36915 (Supp. 1) (June 2, 1983), 90 I.D. 255	142, 637, 1062
Application of the Endangered Species Act to Native Americans with Treaty Hunting and Fishing Rights, M-36926 (Nov. 4, 1980), 87 I.D. 525	219, 434	Geothermal Leasing in Designated Wilderness Areas, M-36937 (June 11, 1981), 88 I.D. 813	14, 15, 380, 382, 1090
Authorization for Oil & Gas Leasing on the National Petroleum Reserve—Alaska, M-36940 (Oct. 15, 1981), 91 I.D. 1	69, 454, 637, 1007	Gulf of Mexico Exemption from Sec. 25 of the Outer Continental Shelf Lands Act, <i>As Amended</i> , M-36923 (Nov. 5, 1980), 87 I.D. 544	884
Bureau of Land Management Wilderness Review & Valid Existing Rights (The), M-36910 (Supp.) (Oct. 5, 1981), 88 I.D. 909	359	Indian Country Status of Mississippi Choctaw School Lands, M-36933 (Jan. 19, 1981), 88 I.D. 333	432
Clarification of Authorities & Responsibilities for Identifying & Protecting Cultural Resources on the Outer Continental Shelf, M-36928 (Nov. 24, 1980), 87 I.D. 593	632, 635, 881	Indian Tribal Status under the Bald Eagle Protection Act, M-36924 (Feb. 26, 1981), 88 I.D. 338	134, 431
Cumulative Impacts under Sec. 7 of the Endangered Species Act, M-36905 (Supp.) (Aug. 28, 1981), 88 I.D. 903	219	New OCS Utilization Rules—Authority of the Secretary to Segregate Partially Unleased Offshore Leases, M-36927 (Dec. 16, 1980), 87 I.D. 616	875, 881, 884, 885
M-36938 (Aug. 27, 1981), 88 I.D. 903	220	Nonreserved Water Rights—United States Compliance With State Law, M-36914 (Supp. 1) (Sept. 11, 1981), 88 I.D. 1055	1061, 1062
Effect of Mining Claims on Secretarial Authority to Issue Prospecting Permits & Preference Right Leases for Coal & Phosphate (Modifying Solicitor's Opinion M-36893 of Aug. 2, 1977, & its Supplement of Nov. 19, 1979, on the same subject); The "Unleaded, Undeveloped" Lease, M-36893 (Supp. 1) (Jan. 8, 1981), 88 I.D. 247	149, 632, 893	On-Structure, Deep Stratigraphic Test Wells, M-36922 (Oct. 29, 1980), 87 I.D. 517	882
Effect of the Crude Oil Windfall Profit Tax Act of 1980 on the States' Share of Federal Oil Royalties, M-36929 (Dec. 30, 1980), 87 I.D. 661	456, 852	Orean Development Co. v. Leo Culler (On Reconsideration), M-26604 (Apr. 25, 1983), 90 I.D. 223	117, 530, 568, 574, 1046

FIGURE 58. *Table in Index Digest Giving Cross-References from U.S. Statutes at Large Citations to IBLA Decisions (and Decisions Issued by Other Boards) and Solicitor's Opinions*

TABLES OF U.S. STATUTES AT LARGE, REVISED STATUTES AND U.S. CODES		CMFV	
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2 STAT:		13 STAT:	
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3 STAT:		14 STAT:	
556	84 IBLA 306 (Jan. 7, 1985)	page 79	48 IBLA 118 (May 30, 1980) 85 76 IBLA 301, 90 I.D. 464 (1983) 218 51 IBLA 3 (Oct. 28, 1980) 239 45 IBLA 232 (Feb. 4, 1980) 61 IBLA 8 (Dec. 29, 1981) 72 IBLA 261, 90 I.D. 189 (1983) 78 IBLA 46, 90 I.D. 550 (1983) 242 76 IBLA 349 (Oct. 24, 1983) 79 IBLA 237 (Mar. 1, 1984) 81 IBLA 279 (June 12, 1984) 243 81 IBLA 279 (June 12, 1984) 251 59 IBLA 1, 88 I.D. 925 (1981) 76 IBLA 301, 90 I.D. 464 (1983) 76 IBLA 349 (Oct. 24, 1983) 77 IBLA 80 (Nov. 9, 1983) 5 OHA 286 (Mar. 16, 1984) 253 5 ANCAR 307, 88 I.D. 629 (1981) 7 ANCAR 188, 89 I.D. 346 (1982) 65 IBLA 391 (July 25, 1982) 82 IBLA 165 (Aug. 6, 1984) 74 IBLA 275 (July 25, 1983) 77 IBLA 80 (Nov. 9, 1983) 77 IBLA 270 (Nov. 20, 1983) M-36914 (Supp.), 88 I.D. 253 (1981) M-36914 (Supp. I), 88 I.D. 1055 (1981) 5 OHA 286 (Mar. 16, 1984) 292 64 IBLA 27 (May 6, 1982) 72 IBLA 197 (Apr. 19, 1983) 82 IBLA 253 (Aug. 28, 1984) 294 64 IBLA 27 (May 6, 1982) 544 72 IBLA 197 (Apr. 19, 1983)
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	79 IBLA 148 (Feb. 23, 1984)	page 151 -----	79 IRLA 81 (Feb. 16, 1984)
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	80 IBLA 354, 91 I.D. 212 (1984)	2340 -----	65 IBLA 391 (July 23, 1982)
2276 -----	78 IBLA 255, 91 I.D. 14 (1984)		M-36914 (Supp.), 88 I.D. 253 (1981)
	80 IBLA 354, 91 I.D. 212 (1984)		M-36914 (Supp. I), 88 I.D. 1055 (1981)
2289 -----	87 IRLA 9 (Sept. 1, 1982)	2382 -----	76 IBLA 301, 90 I.D. 464 (1983)
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2306 -----	72 IBLA 197 (Apr. 19, 1983)		58 IBLA 108 (Sept. 24, 1981)
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	51 IRLA 301, 87 I.D. 628 (1980)		67 IBLA 97 (Sept. 13, 1982)
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2331 -----	49 IRLA 317 (Aug. 20, 1980)		77 IBLA 270 (Nov. 30, 1983)
2332 -----	59 IRLA 1, 88 I.D. 925 (1981)		82 IRLA 165 (Aug. 4, 1984)
2337 -----	7 ANCAR 106, 89 I.D. 293 (1982)	3689 -----	M-36942, 88 I.D. 1090 (1981)
2339 -----	76 IRLA 60 (Sept. 21, 1983)		
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	77 IRLA 80 (Nov. 9, 1983)		
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sec. 301	12 IBLA 49, 90 I.D. 474 (1983)	552(a)(1)	10 IBIA 146, 89 I.D. 508 (1982)
452-458e	IBCA-1234-12-78 (Apr. 14, 1982)		10 IBIA 173 (Oct. 15, 1982)
504	9 IBIA 281, 89 I.D. 241 (1982)		10 IBIA 189 (Oct. 15, 1982)
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	79 IBIA 182, 91 I.D. 138 (1984)		10 IBIA 221 (Oct. 15, 1982)
504(a)(1)	IBCA-1672-4-83, 90 I.D. 379 (1983)		10 IBIA 237 (Oct. 15, 1982)
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504(b)(1)(C)	-79 IBIA 182, 91 I.D. 138 (1984)		10 IBIA 334 (Oct. 15, 1982)
551	11 IBIA 285, 90 I.D. 389 (1983)		10 IBIA 350 (Oct. 15, 1982)
	30 IBIA 309 (Sept. 30, 1980)		10 IBIA 366 (Oct. 15, 1982)
	64 IBIA 175 (May 26, 1982)		10 IBIA 382 (Oct. 15, 1982)
	64 IBIA 285 (June 4, 1982)		10 IBIA 399 (Oct. 15, 1982)
	82 IBIA 14 (July 3, 1984)		10 IBIA 416 (Oct. 15, 1982)
	3 ISBMA 44, 88 I.D. 394 (1981)		10 IBIA 432 (Oct. 15, 1982)
551-559	12 IBIA 80, 90 I.D. 521 (1983)		10 IBIA 448 (Oct. 15, 1982)
551(4)	9 IBIA 263, 89 I.D. 200 (1982)		11 IBIA 168, 90 I.D. 168 (1983)
	10 IBIA 146, 89 I.D. 508 (1982)		12 IBIA 80, 90 I.D. 521 (1983)
	10 IBIA 173 (Oct. 15, 1982)		55 IBIA 171 (June 11, 1981)
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	10 IBIA 269 (Oct. 15, 1982)		10 IBIA 205 (Oct. 15, 1982)
	10 IBIA 285 (Oct. 15, 1982)		10 IBIA 221 (Oct. 15, 1982)
	10 IBIA 301 (Oct. 15, 1982)		10 IBIA 237 (Oct. 15, 1982)
	10 IBIA 318 (Oct. 15, 1982)		10 IBIA 253 (Oct. 15, 1982)
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	10 IBIA 382 (Oct. 15, 1982)		10 IBIA 318 (Oct. 15, 1982)
	10 IBIA 399 (Oct. 15, 1982)		10 IBIA 334 (Oct. 15, 1982)
	10 IBIA 416 (Oct. 15, 1982)		10 IBIA 350 (Oct. 15, 1982)
	10 IBIA 432 (Oct. 15, 1982)		10 IBIA 366 (Oct. 15, 1982)
	10 IBIA 448 (Oct. 15, 1982)		10 IBIA 382 (Oct. 15, 1982)
	12 IBIA 80, 90 I.D. 521 (1983)		10 IBIA 399 (Oct. 15, 1982)
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551(5)	3 ISBMA 44, 88 I.D. 394 (1981)		12 IBIA 116 (Dec. 9, 1983)
551(6)	3 ISBMA 44, 88 I.D. 394 (1981)		12 IBIA 119, 90 I.D. 539 (1983)
551(7)	3 ISBMA 44, 88 I.D. 394 (1981)		12 IBIA 110, 90 I.D. 536 (1983)
551(8)	3 ISBMA 44, 88 I.D. 394 (1981)		55 IBIA 171 (June 11, 1981)
551(12)	3 ISBMA 44, 88 I.D. 394 (1981)		55 IBIA 171 (June 11, 1981)
551(13)	3 ISBMA 44, 88 I.D. 394 (1981)		60 IBIA 293 (Dec. 18, 1981)
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FIGURE 61. Sample "M" Opinion Selected for Publication in an I.D. Volume.

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NUMBER

271 THE EXTENT TO WHICH THE NATIONAL HISTORIC PRESERVATION ACT REQUIRES CULTURAL RESOURCES TO BE IDENTIFIED AND CONSIDERED IN THE GRANT OF A FEDERAL RIGHT-OF-WAY  
December 6, 1979 27

**THE EXTENT TO WHICH THE NATIONAL HISTORIC PRESERVATION ACT REQUIRES CULTURAL RESOURCES TO BE IDENTIFIED AND CONSIDERED IN THE GRANT OF A FEDERAL RIGHT-OF-WAY\***

M-36917  
December 6, 1979

**1. National Historic Preservation Act: Generally—Rights-of-Way: Conditions and Limitations.**

Sec. 106 of the National Historic Preservation Act requires an agency granting a right-of-way over Federal lands for a pipeline or other linear project to (1) identify potentially affected cultural resources; (2) consult regarding such effect with the Advisory Council on Historic Preservation; and (3) to consider these cultural resources in making or denying the grant. A rule of reason applies as to the scope of the lands to be inventoried, and the degree of effort required.

**2. National Historic Preservation Act: Applicability—Rights-of-Way: Generally—Rights-of-Way: Conditions and Limitations.**

The grant of a right-of-way over Federal land for a pipeline or other linear project is a Federal undertaking which requires the authorizing agency to comply with sec. 106 of the National Historic Preservation Act, as implemented by 36 CFR Part 800.

**3. National Historic Preservation Act: Applicability—Rights-of-Way: Conditions and Limitations.**

Sec. 106 of the National Historic Preservation Act requires an agency grant-

ing a right-of-way over Federal lands for a pipeline or other linear project to identify and consider cultural resources on non-Federal lands affected by construction activities on Federal lands. 36 CFR 800.4(a).

**4. National Historic Preservation Act: Applicability—Rights-of-Way: Conditions and Limitations.**

Sec. 106 of the National Historic Preservation Act requires an agency granting a right-of-way over Federal lands for a pipeline or other linear project to identify and consider cultural resources on non-Federal lands which may foreseeably be affected by the grant of the right-of-way. A rule of reason applies in determining the extent of non-Federal lands on which cultural resources are to be identified, and the degree of effort required. 36 CFR 800.4(a).

**5. National Historic Preservation Act: Applicability—Rights-of-Way: Conditions and Limitations.**

In the grant of a right-of-way over Federal lands for a pipeline or other linear project, the scope of lands to which the requirements of sec. 106 of the National Historic Preservation Act apply may be analogous to the scope of lands to be considered pursuant to sec. 102 of the National Environmental Policy Act.

Western Slope Gas Co., 40 IBLA 280, reconsideration denied, 43 IBLA 259 (1979), overruled in pertinent part.

TO: SECRETARY  
FROM: DEPUTY SOLICITOR  
SUBJECT: THE EXTENT TO WHICH THE NATIONAL HISTORIC PRESERVATION ACT REQUIRES CULTURAL RESOURCES TO BE IDENTIFIED AND

87 I.D. No. 2

\*Not in chronological order.



Citation to "M" Opinion (unpublished):

*BLM's Survey Authority with Respect to Acquired Lands, M-12345 (January 21, 1981).*

(Note: rather than writing out the title of the opinion, the phrase *Solicitor's Opinion* can be substituted.)

If an "M" opinion is published, always cite the published source. Example: *Solicitor's Opinion, M-36917, 87 I.D. 27 (1979).*

Access to published "M" opinions is through the *Index-Digests* of the Department of Interior.

#### DECISIONS BY BLM FIELD OFFICE OFFICIALS AND ADMINISTRATIVE LAW JUDGES (ALJs)

District and State Office decisions are generally informal "letter" decisions, copies of which are not formally distributed. Such decisions are not binding as precedents. Depending on the type case, administrative appeals are normally made directly to IBLA or to ALJs in the Hearings Division of the Office of Hearings and Appeals.

ALJs write opinions on factual issues only. Their opinions are not binding as precedents. Appeal from a decision issued by an ALJ in the Hearings Division is made to the IBLA. ALJ decisions are distributed in photo-reproduced form to Department of the Interior offices.

#### FEDERAL COURT DECISIONS

There are two basic categories of Federal courts: trial courts (sometimes referred to as lower courts) and appellate courts (also called higher courts or courts of review). Matters relating to legal disputes between two or more parties are usually filed in State trial courts. Matters involving the Federal Government, the U.S. Constitution, Federal laws, and diversity of citizenship (a citizen from Louisiana suing a citizen from Texas) usually end up in Federal district courts. Municipal matters are filed in the respective city or municipal court.

#### HOW A LAWSUIT OR CASE CAN BECOME CASE LAW

After a suit is filed and jurisdiction is determined, the case may be set for trial with or without a jury in the proper court. If a jury has been requested by either party, at the end of the trial the jury will decide questions relating to facts, e.g., has a surveyor accurately resurveyed the lines in question in accordance with the original survey? The judge, on the other hand, decides (rules on) legal issues, e.g., is a citizen bound by a BLM resurvey?

After the trial, if certain legal conditions have been met, the losing party has the right to appeal the case to the next highest court with appellate jurisdiction, such as from Federal district court to a Federal circuit court of appeals.

#### COURT SYSTEM

TYPE COURT	FEDERAL	STATE
Trial Courts (Lower Courts)	U.S. District Courts	Municipal Justice of the Peace County District Special, e.g., Probate
Intermediate Appellate Courts	U.S. Courts of Appeal (Circuit Courts)	Courts of Appeal (not all states have this intermediate court)
Highest Appellate Court	U.S. Supreme Court	State Supreme Court

## CASE LAW

### REPORTS AND REPORTERS

Each year, almost 50,000 appellate cases are printed in reporters, bringing the total of published cases now to over 3 million. In the reporters, these cases are reported chronologically and published officially by courts and agencies and unofficially by private companies. Most unofficially published reporters are published by two companies: West Publishing Company, St. Paul, Minnesota, and Lawyers Cooperative Publishing Company, Rochester, New York.

Features of Reporters: Each volume generally contains the following:

- Table of Cases
- Table of Judges
- Cases by Court
- Statutes, Rules Construed
- Headnotes
- Opinions

West Reporters also feature the following:

- Headnotes with the West Key Number
- References
- Statutes Construed
- Words and Phrases
- Digest Section

### UNITED STATES REPORTS

Decisions issued by the United States Supreme Court are published in several reporters, most notable *United States Reports*. (U.S.). This set is published officially by the Government Printing Office. Decisions are first published in slip opinions, then in advance sheets, and finally in permanently bound volumes. For each court term, the advance sheets cumulate about 1,300 to 1,500 pages. These pages are later published in bound volumes, typically four to five volumes per year. (See figure 63.)

Each volume contains orders and opinions of the court, including chamber opinions of the court. Each U.S. Supreme Court justice is assigned one or more United States Courts of Appeals, i.e. circuit courts to monitor. At times the justices sit on these courts of appeals when the U.S. Supreme Court is recessed. Chamber opinions,

therefore, are written by a Supreme Court Justice when sitting on a court of appeals. Each volume of the *United States Reports* has a table of cases and a subject index.

From 1789 to 1874 the reports were cited by the name of the actual court reporters (referred to as "nominative reports"), e.g. 1 Dallas 1. Since 1875, the *U.S. Reports* have been cited by U.S. volume and page number. In 1875, the earlier volumes of the *U.S. Reports* were renumbered by U.S. volume 1-91. So, 1 Dallas 1 is the same as 1 U.S. 1.

### Citation to U.S. Reports:

*Leo Sheep Co. v. United States*,  
400 U.S. 668 (1979)

/		\
Vol.	Page #	Year

This citation is only to the official *United States Reports* and is used when citing Supreme Court decisions in documents filed in the Federal court system. Generally, no parallel citations to other U.S. Supreme Court case publications are permitted in the Federal court system. Parallel citations, however, are permitted in other courts, such as in State courts. When parallel citations are allowed, the official citation always precedes the unofficial citation.

Two sets of reporters of Supreme Court decisions are published unofficially by private companies. The *United States Supreme Court Reports, Lawyers' Edition* (L.Ed), 1st and 2nd series is published unofficially by Lawyers Cooperative Publishing Company, and the *Supreme Court Reporter* (S.Ct.) is published unofficially by the West Publishing Company.

### SUMMARY

Title: *United States Reports* (U.S.)

Publisher: Volume 1-256, Various Private Publishers. Volume 257 (1922) to present. Government Printing Office

Composition of Set: The *United States Reports* constitutes a complete file of all United States Supreme Court written opinions. It is the official publication. Some *per curiam* opinions are included in this official set, but a larger percentage can be found in the unofficial *Supreme Court Reporter* or the unofficial *Lawyer's Edition*.

Arrangement of Materials: The texts of appellate decisions included in the *United States Reports* are presented in chronological order. There is no subject-arranged file.

Finding Aids: The publishers of the *United States Reports* provide no subject digest of the complete set. Digests from commercial sources, however, can be used.

Currency of the Set: The *United States Reports* is a constantly growing file. As a new decision is rendered, it is published as a "slip decision." When slip decisions are published, they are issued in a paper bound advance sheet. When enough advance sheets have been issued, the cases are re-issued in a new, permanent bound volume, which is added to the permanent set.

Currency and Validity of Information: The bound volumes of the *United States Reports* are published less promptly than are those for *Lawyer's Edition* or the *Supreme Court Reporter*. For the text of the most current decisions, most researchers rely on the *U.S. Supreme Court Bulletin* (Commerce Clearing House) and *United States Law Week* (Bureau of National Affairs). Use of either of these unofficial loose-leaves to cover periods following the latest advance sheets provides the researcher access to a full file of opinions. To ascertain how a case is being used in later cases, consult *Shepard's United States Citations*.

Title Variances: The first 90 volumes of the *United States Reports* were originally issued under the names of individual reporters. Although these nominative reports have since been renumbered as volumes in the *United States Reports* set, citations in the old form are still encountered.

#### Special Features:

1. Each volume of the *United States Reports* includes a list of the justices on the court during the time covered by that volume.
2. Each volume of the *United States Reports* includes an alphabetical listing of the cases in that volume. The alphabetizing is done by first named party to the action.
3. Each volume of the *United States Reports* includes a digest that provides subject access to the decisions in that volume.
4. In addition to the text of the opinion, the following information is included for each case:
  - a. Name of case
  - b. Date of decision
  - c. Docket number of case
  - e. Names of attorneys
  - f. Names of justices who wrote individual opinions.

#### FEDERAL REPORTER

This set, published unofficially by West, is part of the National Reporter System. Because no official report exists for courts of appeals cases, the *Federal Reporter* is the only place where all United States Courts of Appeals cases are published. *The Federal Reporter* is published in two series: first series-volume 1-300 and second series-volume 301 to date. Current volumes of the *Federal Reporter 2d* contain all of the published cases of the courts of appeals from the 12 federal judicial circuits in the United States (see figure 62). The Tenth Circuit, for example, includes the states of Colorado, Kansas, New Mexico, Oklahoma, Utah, and Wyoming.

In addition to cases from the courts of appeals, the *Federal Reporter 2d* includes decisions from the United States Court of Claims, the Court of Customs and Patent Appeals, and the Temporary Emergency Court of Appeals.

## CASE LAW

Decisions in the *Federal Reporter 2d* are first published in advance sheets, which are later replaced by bound volumes. Each volume contains the same features common to West reporters: table of judges, table of cases, cases by court, statutes and rules construed, words and phrases, a digest section, and the opinions of the courts.

### Citation to Federal Reporter:

*United States v. Hudspeth*, 384  
F.2d 683 (9th Cir. 1967).

For circuit court case citations, include as part of the citation the circuit in from which the case originated, (e.g., 9th Cir.).

A complete case citation must always indicate the court rendering the decision, (See figures 64-65 for elements of a published federal court decision.)

## SUMMARY

Title: *Federal Reporter* (F.; F.2d)

Publisher: West Publishing Company

Composition of Set: The *Federal Reporter*, First and Second Series constitutes a complete file of the written opinions of Federal intermediate appellate courts since the set's beginning in 1880. In addition, the *Federal Reporter* included opinions of Federal district courts until 1931, when West Publishing Company began to offer the *Federal Supplement* specifically for that purpose. The set is part of the *National Reporter System*. Such materials are not officially published.

Arrangement of Materials: The text of the appellate decisions included in the *Federal Reporter* are reported in chronological order. There is no subject-arranged file.

Finding Aids: West Publishing Company does not publish a separate digest to provide subject access to this individual set of books but does publish digests that provide coverage of all Federal units of the *National Reporter System* and the *American Digest System*.

Currency of the Set: The *Federal Reporter* is a constantly growing file. As a new decision is rendered, it is incorporated in a weekly advance sheet. When enough advance sheets are cumulated they are bound into permanent volumes.

Currency and Validity of Information: The bound volumes and advance sheets of the *Federal Reporter*, taken together, constitute a complete file of the available written opinions of intermediate appellate federal courts since 1880. For the text of opinions before 1880, consult *Federal Cases*. To determine how a case is being used in later cases, consult *Shepard's Federal Citations*.

### Special Features:

1. Each volume of the *Federal Reporter* includes a list of the judges of the courts covered by the volume.
2. Each volume includes an alphabetical listing of the cases included in that volume.
3. Each volume includes a digest that provides subject access to the decisions within that volume.
4. In addition to the text of the opinion, the following elements are included for each case:
  - a. Name of case
  - b. Date of decision
  - c. Docket number of case
  - d. Summary of case and headnotes that provide appropriate West Key Numbers
  - e. Names of attorneys
  - f. Names of judges who wrote the individual opinions.
5. Each volume contains a table of statutes construed in that volume.
6. Each volume contains a "Words and Phrases" section that shows, in alphabetical order, both legal and nonlegal words or phrases that have been judicially defined in that volume.

## FEDERAL SUPPLEMENT

An appeal taken from a decision rendered by the IBLA would be filed in a U.S. District Court. Federal judicial districts are subdivisions of the federal judicial circuits. Each state has at least one federal district court, and larger states may have several district courts.

As with the Federal Courts of Appeals, federal district court cases are not officially published. The *Federal Supplement*, first published in 1933, is published in only one series, volume 1 to date. Before 1933, cases now published in the *Federal Reporter* were included in the *Federal Reporter*, 1st series and in *Federal Cases*.

Published unofficially by West, volumes of the *Federal Supplement* contain trial court decisions selected for publication from the United States district courts.

The federal district court decisions published in the *Federal Supplement* are exceptions to the rule that only appellate court cases and not trial cases are published. In federal district courts, the federal district judges have the discretion of whether to publish an opinion in cases litigated in their courts. The judges, not the publisher, make the choice. Published are cases that may set precedent or unique cases involving legal issues not dealt with before. Cases designated for publication first appear in the *Federal Supplement* advance sheets. These advance sheets are later replaced by bound volumes with the same features common to a West reporter. In district court case citations, include as part of the citation the district court from which the case originated (e.g., E.D.N.Y., which means Eastern District of New York).

## Citation to Federal Supplement:

*Riley v. Ambach*, 508 F.Supp.  
1222 (E.D.N.Y. 1980).

States that are not subdivided into districts are cited as follows: *Lima v. United States*, 508 F.Supp. 897, (D.Colo. 1980). This citation shows that this case was tried in

Colorado and that Colorado has only one federal judicial district.

## SUMMARY

Title: *Federal Supplement* (F. Supp.)

Publisher: West Publishing Company

Composition of Set: The *Federal Supplement* contains selected opinions from federal district courts since 1933—materials that are not officially published. The materials had previously been published in the *Federal Reporter*. Although the *Federal Supplement* has no official competition, other unofficial publications provide competing services. Major looseleaf services are often accompanied by case files that include cases originating in federal district courts. You may thus choose looseleaf services when seeking a case that was not included in the *Federal Supplement*.

Arrangement of Materials: Federal district court opinions in the *Federal Supplement* are reported in chronological order. No subject-arranged file is provided.

Finding Aids: The *Federal Supplement* does not have a separate digest to provide subject access to this individual set of books. West Publishing Company does, however, publish digests that provide coverage of all federal units of the *National Reporter System* and the *American Digest System*.

Currency of the Set: The *Federal Supplement* is a constantly growing file. As a new decision is rendered, it is incorporated in weekly advance sheets. Advance sheets are cumulated into permanent bound volumes.

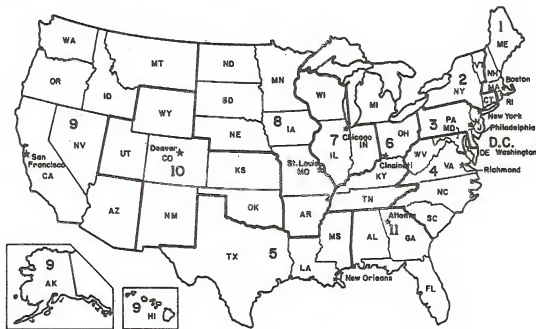
Currency and Validity of Information: The bound volumes and advance sheets of the *Federal Supplement* taken together constitute the most extensive file of written opinions of the federal district courts. For the text of such materials before 1933, consult the *Federal Reporter*. For materials before 1880, consult *Federal Cases*.

## CASE LAW

### Special Features:

1. Each volume of the *Federal Supplement* includes a list of the judges of the courts during the time covered by the volume.
2. In each volume of the *Federal Supplement*, cases are listed alphabetically by the first named party to the action.
3. Each volume of the *Federal Supplement* includes a digest that provides subject access to the decisions included in that volume.
4. In addition to the text of the opinion, the following are included for each case:
  - a. Name of case
  - b. Date of decision
  - c. Docket number of case
  - d. Summary of case and headnotes that provide appropriate West Key Numbers.
  - e. Names of attorneys
  - f. Names of the judges who wrote the individual opinions.
5. Each volume contains a table of statutes construed in that volume.
6. Each volume contains a "Words and Phrases" section that shows, in dictionary order, legal and nonlegal words or phrases that have been judicially defined in that volume.

FIGURE 62. *The Twelve Federal Judicial Circuits*



\* There are twelve Federal Judicial Circuits, eleven plus D.C.

FIGURE 63. *United States Reports*

PAGE NO.

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OCTOBER TERM, 1983

VOLUME

Syllabus

467 U. S.

SYNOPSIS OF  
STATEMENT  
OF FACTS (i.e.,  
PERTINENT  
BACKGROUND  
INFORMATION)

SOUTH-CENTRAL TIMBER DEVELOPMENT, INC. v.  
WUNNICKE, COMMISSIONER, DEPARTMENT OF  
NATURAL RESOURCES OF ALASKA, ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR  
THE NINTH CIRCUIT

No. 82-1608. Argued February 29, 1984—Decided May 22, 1984

Pursuant to an Alaska statute, the Alaska Department of Natural Resources published a notice that it would sell certain timber from state lands under a contract requiring "primary manufacture" (partial processing) of the timber within Alaska before the successful bidder could ship it outside of the State. Petitioner, an Alaska corporation engaged in the business of purchasing timber and shipping the logs into foreign commerce, does not operate a mill in Alaska and customarily sells unprocessed logs. When it learned that the primary-manufacture requirement was to be imposed on the sale of state-owned timber involved here, petitioner filed an action in Federal District Court seeking an injunction on the ground that the requirement violated the negative implications of the Commerce Clause under which States may not enact laws imposing substantial burdens on interstate and foreign commerce unless authorized by Congress. The District Court agreed and issued an injunction, but the Court of Appeals reversed. That court found it unnecessary to reach the question whether, standing alone, the requirement would violate the Commerce Clause, because it found implicit congressional authorization in the federal policy of imposing a primary-manufacture requirement on timber taken from federal land in Alaska.

HOLDING

*Held:* The judgment is reversed, and the case is remanded.  
683 F. 2d 890, reversed and remanded.

JUSTICE WHITE delivered the opinion of the Court with respect to Parts I and II, concluding that the Court of Appeals erred in holding that Congress has authorized Alaska's primary-manufacture requirement. Although there is a clearly delineated federal policy, endorsed by Congress, imposing primary-manufacture requirements as to timber taken from federal lands in Alaska for export from the United States or for shipment to other States, in order for a state regulation to be removed from the reach of the dormant Commerce Clause as being authorized by Congress, congressional intent must be unmistakably clear. The requirement that Congress affirmatively contemplate otherwise invalid state legislation is mandated by the policies underlying dormant Com-

FIGURE 64. *Federal Reporter*

FEDERAL  
REPORTER  
CITATION

UNITED STATES v. HUDSPETH

683

Cite as 284 F.2d 683 (1967)

Leonard A. Peto, pro se.

Roy L. Reardon, New York City (John C. Diller, Simpson, Thacher & Bartlett, Emil N. Levin, Abraham L. Bienstock, and Sidney O. Friedman, New York City, on the brief), for appellees.

Before HAYS, ANDERSON and FEINBERG, Circuit Judges.

PER CURIAM:

This is an action under the Sherman and Clayton Acts, 16 U.S.C. § 1 et seq., for treble damages. In the district court defendants were granted summary judgment on the ground that plaintiff's claim is barred by the applicable statute-of limitations. We affirm.

[1, 2] Peto instituted this action in March 1968 alleging that defendants have established a monopoly in the professional hockey industry and that they conspired to prevent plaintiff from constructing and operating a hockey arena which would have competed with defendants' enterprises. Section 4B of the Clayton Act, 15 U.S.C. § 15b, bars actions not commenced within four years after the cause of action accrued. A "right of action for a civil conspiracy under the antitrust laws accrues from the commission of the last overt act causing injury or damage." *Garellick v. Goerlich's, Inc.*, 323 F.2d 854, 856 (6th Cir. 1963). In the material submitted in opposition to the motion for summary judgment plaintiff failed to establish that there was any triable issue as to the occurrence within four years of the time the action was commenced of any overt act in furtherance of the alleged conspiracy.

[3, 4] Plaintiff resorts to the provisions of Section 5(b) of the Clayton Act, 15 U.S.C. § 16(b), in an effort to bring himself within the statutory period of limitation. Under Section 5(b) the statute of limitations is tolled for a private action which is "based in whole or in part on any matter complained of" in a proceeding brought by the United States. Plaintiff cites *United States v. International Boxing Club of N. Y. Inc.*, 150

F.Supp. 397 (S.D.N.Y.1967), aff'd, 358 U.S. 242, 79 S.Ct. 245, 3 L.Ed.2d 270 (1969), as having the effect of tolling the statute applicable to his claim. But the government's suit must bear "a real relation to the private plaintiff's claim for relief." *Leh v. General Petroleum Corp.*, 382 U.S. 54, 59, 86 S.Ct. 203, 15 L.Ed.2d 134 (1965). Comparing the claims asserted in the present case with those asserted in the *International Boxing Club* case, we find that the conspiracies to which they refer are entirely different, involve different sports activities and cover different periods of time. The only similarity between the two actions is found in the fact that some of the defendants are the same. This is obviously insufficient to provide a ground for tolling the statute of limitations.

The judgment is affirmed.



ELEMENTS OF  
A PUBLISHED  
CASE

STYLE OR  
NAME OF CASE

DOCKET  
NUMBER  
ASSIGNED  
TO CASE  
BY COURT

COURT

DATE OF  
DECISION

CASE  
SYNOPSIS  
(EXPLAINS  
NATURE  
OF CASE)

UNITED STATES of America,  
Appellant,

v.

John HUDSPETH et al., Appellees.

John HUDSPETH et al., Appellants,

v.

UNITED STATES of America,  
Appellee.

Nos. 20906, 20906.

United States Court of Appeals

Ninth Circuit.

Sept. 11, 1967.

Action by government for damages for cutting and removing timber from lands allegedly federally owned. The United States District Court for the District of Oregon, John F. Kilkenny, J., entered judgment of dismissal without prejudice to right of government to insti-



FIGURE 65. *Federal Reporter*

HOLDING OF  
THE COURT

DECISION OF  
COURT (THE  
COURT OF  
APPEALS  
AFFIRMED  
THE TRIAL  
COURT'S  
DECISION)

DIGEST TOPIC  
AND KEY  
NUMBER

INDEX TO  
DISCUSSION  
OF POINT  
IN TEXT OF  
OPINION

HEADNOTE  
OR SYLLABUS  
(SUMMARY  
OF PART OF  
THE OPINION)

684

384 FEDERAL REPORTER, 2d SERIES

tute an action based on a certain survey, and the government appealed. The Court of Appeals, Browning, Circuit Judge, held that evidence supported finding that surveyor instructed by Secretary of Interior to resurvey portion of township in which defendants allegedly cut and removed timber from federally owned lands had not accurately retraced the original lines.

Affirmed.

1. Courts  $\text{\textcircled{C}}405.9(2)$

Although district court's findings and conclusions in action by government for damages for cutting and removal of timber from lands allegedly federally owned were general, they were sufficient, in context of the whole record, to review the basis for the decision and thus permit review.

2. Boundaries  $\text{\textcircled{C}}57(3)$

Evidence supported finding that surveyor instructed by Secretary of Interior to resurvey portion of township in which defendants allegedly cut and removed timber from federally owned lands had not accurately retraced the original lines.

3. Appeal and Error  $\text{\textcircled{C}}109$

It is ordinarily inappropriate to reverse upon a ground not submitted to district court, and this is true though the appellant be the United States.

4. Appeal and Error  $\text{\textcircled{C}}109$

Reversal of judgment unfavorable to government was not appropriate on basis of contentions not made in district court.

5. Boundaries  $\text{\textcircled{C}}40(1)$

Constitutional Law  $\text{\textcircled{C}}72$

The accuracy of surveys of public lands before their disposition is committed exclusively to the Executive Branch, but in disputes with or between private owners after disposition by the government, the questions of where the lines run by such survey lie on the ground and whether any particular tract is on one side or the other of the line are factual and are always open to inquiry in the courts.

6. Public Lands  $\text{\textcircled{C}}25$

Generally, a resurvey of public lands is evidence, though not conclusive, of location of the original line.

7. Courts  $\text{\textcircled{C}}406.1(13)$

The government could not on its appeal fault trial court for proceeding as both parties had requested to determine as a fact issue whether the government had accurately resurveyed a certain township in accordance with original surveys, in action for damages for alleged cutting and removing of timber from federally owned lands.

8. Courts  $\text{\textcircled{C}}405.9(9)$

Remand for consideration of new issues rather than dismissal may be appropriate where dismissal would obviously result in plain miscarriage of justice.

9. Courts  $\text{\textcircled{C}}405.9(9)$

Remand by Court of Appeals of government's unsuccessful damages action for consideration of new issues was not appropriate on theory that dismissal would obviously result in plain miscarriage of justice, where district court's dismissal had been without prejudice to new trial.

10. Federal Civil Procedure  $\text{\textcircled{C}}1837$

The public interest in obtaining redress for past destruction of public property and in fixing boundary of public lines against future trespass justified discretionary dismissal without prejudice to new trial of government's action for damages for cutting and removing timber from lands federally owned according to resurvey not binding on defendants who admitted that some trespass had occurred.

11. Public Lands  $\text{\textcircled{C}}15$

A good faith mistake as to location of boundary between public and private lands will not exonerate a trespasser who cuts timber on what actually is public land.

12. Public Lands  $\text{\textcircled{C}}15$

The government, which sought to recover damages for cutting and removing timber from lands allegedly federally owned, had burden of establishing that

CASE LAW

REVIEW EXERCISE 3

1. IBLA is an abbreviation for \_\_\_\_\_, which is part of the Office of \_\_\_\_\_, Department of the Interior.
2. Except for land classification decisions and situations involving property rights and/or factual issues, there is presently within the Department a \_\_\_\_\_ step administrative appeal process for adjudicative decisions issued by BLM State or District Offices.
3. In addition to important decisions issued by the IBLA, the Interior Decisions (I.D.s) include certain solicitor's memorandum opinions as well as certain selected decisions from other review boards within the Office of Hearings and Appeals.  
True \_\_\_\_\_ False \_\_\_\_\_
4. Explain the difference between an unpublished and a published IBLA decision.
5. Which of the following is a citation to an unpublished IBLA decision?  
(a) Paul N. Scherbel, 58 IBLA 52 (1981)  
(b) J. Williams, 90 IBLA 321, 92 I.D. 475 (1985)
6. What does IBLA 85-637 signify?
7. BLM District and State Office decisions that are not formally distributed are not binding precedents.  
True \_\_\_\_\_ False \_\_\_\_\_
8. Decisions issued by U.S. District Courts are printed in the \_\_\_\_\_.  
Decisions issued by U.S. Courts of Appeals are printed in the \_\_\_\_\_.
9. Decisions issued by the U.S. Supreme Court are printed in *U.S. Code Congressional and Administrative News*.  
True \_\_\_\_\_ False \_\_\_\_\_
10. The \_\_\_\_\_ is a subject matter digest of certain important IBLA decisions and Solicitor's memorandum opinions as well as decisions issued by other review boards of the Office of Hearings and Appeals.



### REVIEW EXERCISE 3 - ANSWERS

1. Interior Board of Land Appeals; Hearings and Appeals page 59
2. One page 59
3. True page 60
4. A published decision eventually is reprinted in the hardback publication, *Interior Decisions* (or I.Ds.) page 60
5. *Paul N. Scherbel*, 58 IBLA 52 (1981) page 60
6. IBLA 85-637 is a IBLA docket number. The number 637 shows that his case was the 637th appeal filed during fiscal year 1985. page 60
7. True page 81
8. *Federal Supplement*; *Federal Reporter* (2nd series) page 83-84
9. False. They are printed in the U.S. Reports. page 82
10. Index Digests of the Department of the Interior page 60

## OTHER INTERIOR- & BLM-RELATED ADMINISTRATIVE MATERIALS

### PUBLIC LAND ORDERS (PLOs)

PLOs are orders signed by the Secretary or Assistant Secretary of the Interior, withdrawing lands from the operation of some of the public land laws or revoking withdrawals. For a list of PLOs, see the Appendix-Table of Public Land Orders, contained in the 43 CFR.

### INSTRUCTION MEMORANDA AND INFORMATION BULLETINS

The BLM Washington Office formally issues two types of directives to the field: the instruction memorandum and the information bulletin. (See figures 66 and 67.) An information bulletin (IB) disseminates information. An instruction memorandum instructs or directs some action and may interpret existing instructions, regulations, and policies. Both types of memoranda are filed in looseleaf binders by year and memorandum number. If an instruction memorandum contains permanent guidance, the direction contained therein will eventually be incorporated into revisions of the BLM Manual and Handbook.

To access memoranda issued as directives, consult the Directives Index, which is issued monthly. At the end of a fiscal

year, an annual issue is published. In addition to containing information relating to the expiration date of a directive, the index (which is arranged in numerical order by directive number) also contains information relating to the subject/function code, the office code of the originating office, and to whom the directive was sent. (See figure 68.)

The Directives Index also contains information relating to Director's Office instruction memoranda and information bulletins as well as BLM Manual releases and forms. (See figures 69-71.)

### PRIVATE PUBLICATIONS RELATED TO DEPARTMENT OF THE INTERIOR MATTERS

Rocky Mountain Mineral Law  
Foundation

- i. Gower Federal Service
- ii. Rocky Mountain Institute

#### Looseleaf Services

Several looseleaf services report on BLM matters, including *Environment Reporter* (Bureau of National Affairs), *Energy Management* (Commerce Clearing House), and *Oil and Gas Reporter* (Southwestern Legal Foundation).

## SECTION 5

### OTHER INTERIOR- & BLM-RELATED ADMINISTRATIVE MATERIALS

#### INTERIOR- & BLM-RELATED MATERIALS

The *Departmental Manual* is an internal reference work that contains the organizational structure of agencies within the Department, delegations of authority, standards, procedures, and policies. The *Departmental Manual* for the Department of the Interior defines BLM policies and responsibilities as well as the policies and responsibilities of other agencies within the Department. Departmental manuals are cited only for internal purposes.

#### Citation to a Departmental Manual:

##### 101 DM 6.1A

(References are to part, *Departmental Manual*, chapter, and section numbers.)

#### BLM MANUAL SYSTEM

BLM manuals contain written policies, objectives, and procedures, as well as technical information, circulars, and general information needed for efficient operation and function of each BLM office. Three series of manuals have been published: (1) the manual before 1964, (2) the manual covering 1964-1970, and (3) the current Manual, 1971 to date.

The BLM Manual System consists of manuals and related handbooks that contain permanent written policy and procedural instruction for BLM employees, material having continued application to BLM programs. Instructions in BLM manuals are mandatory unless the text states otherwise. The manuals contain BLM policy and program direction. In most cases, the main audience consists of program managers.

Handbooks are the source of detailed instructions needed to carry out policy and direction described in the manuals. The main audience of handbooks consists of

specialists, technicians, and clerks.

The manual sections and handbooks must not conflict but must combine to form a complete set of instructions. Both have equal force and effect and are structured systems tied together by the subject-function code.

In the current BLM Manual, the organizational numbering for the subject-function classification system is from BLM Manual 1220. Appendix 1 to BLM Manual 1220 contains BLM's numerical filing system. Appendix 2 is the alphabetical index to the subject-function classification system, which represents BLM's major functions. These major headings are further divided into subheadings to represent subfunctions. Each heading has a number code that ties related sections of the regulations and the *BLM Manual* to correspondence file categories, forms, and report numbers.

All BLM official or general correspondence not involving applications or other types of serialized cases contains a reference code based on the subject-function classification system. The correspondence is then maintained in central files by subject-function code. BLM's Washington Office occasionally changes the subject-function classification system and sends these changes to other BLM offices as memoranda. Local offices adapt certain parts of the system to better serve their local needs.

#### Citation to BLM Manual:

##### BLM 9230.81

(Functions Heading from 43 CFR)

9230 -- Trespass

8--(Subfunction Headings by BLM)

8--Doing Business with Trespassers.

81--Persons Subject to Restrictions.

FIGURE 66. *Instruction Memorandum No. 85-535*

## United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
WASHINGTON, D.C. 20240

July 3, 1985

IN REPLY  
REFER TO:  
1260 (621)Relates to  
IM 85-455Instruction Memorandum No. 85-535  
Expires 9/30/86

To: All State Directors, and Service Center Director

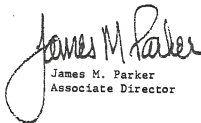
From: Director

Subject: Implementation of the Automated Bond File System

In preparation for full implementation of the automated bond file system, Instruction Memorandum (IM) 85-455 dated May 23, 1985, outlined the dates of training and initial data entry of bond information for all State Offices.

This IM is being issued to set a deadline date of October 1, 1985, for all data to be entered into the system for multiple statewide and nationwide bonds. This deadline date is necessary to allow the multiple statewide information to become accessible to all offices. Entry of the data for all other statewide bond information should be completed as soon as possible after the nationwide bond information is ready for use.

An evaluation of the automated bond file system will be completed in early FY 1986. After the evaluation is complete, a decision will be made concerning the future discontinuation of the manual systems.



James M. Parker  
Associate Director

OTHER INTERIOR- & BLM-RELATED ADMINISTRATIVE MATERIALS

FIGURE 67. Information Bulletin No. 86-190



United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
WASHINGTON, D.C. 20240

IN REPLY  
REFER TO:  
3000 (621)

May 15, 1986

Information Bulletin No. 86-190

To: All State Directors  
From: Director  
Subject: Summary Disposition Procedures by the Interior Board of Land Appeals (IBLA)

This is to advise you that the IBLA has recently commenced disposing of certain appeal cases involving issues on which well-established precedent exists. According to a memorandum received by the Washington Office from the IBLA, there will be routine screening of the Board's docket for appeals that are suitable for summary disposition. Although the Board will be issuing orders of summary disposition on its own initiative, the Bureau is at liberty to file a motion for summary disposition in any case that it feels lacks any substantive basis.

At the present, the IBLA is disposing of mining claim recordation cases by summary disposition orders, but in the near future plans to dispose of various oil and gas leasing appeals in the same manner. We will keep you apprised in the future of the specific oil and gas leasing issues that will be handled by summary disposition.

Questions concerning this matter should be addressed to Mary Linda Ponticelli, Division of Fluid Mineral Leasing, FTS 653-2190.

Jeffrey F. Zabler  
Deputy Assistant Director - Energy and Mineral  
Resources/Fluids  
Acting



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

DIRECTIVES INDEX

Issue Date	November 30, 1986
Issue No.	87-2
Period Covered	November 1 to 30, 1986

CIRCULATE A COPY OF THIS INDEX TO ALL USING OFFICIALS TO ASSURE THAT ONLY CURRENT DIRECTIVES OR FORMS ARE USED

Each type of directive in the *Directives Index* is identified by a letter prefix. To compile a complete running index to all current directives, separate the pages and interfile by type and numerical order with previous issuances.

LETTER PREFIX	TYPE OF DIRECTIVE IN THIS ISSUANCE
A	Instruction Memos
B	Information Bulletins
C	Director's Office Instruction Memo
D	Director's Office Information Bulletin
E	Manual Releases
F	Forms

FIGURE 68. *Directives Index-List of Types of Directives*

Form 1221-12 (March 1986)

SECTION 5

## OTHER INTERIOR &amp; BLM-RELATED ADMINISTRATIVE MATERIALS

FIGURE 68. Directives Index-List of Types of Directives (continued)

DOB	INSTRUCTION	SUBJECT	SUBJ/FUNCT	ORIG	Q	DATE	IS	DATE	EXP	RECIPIENTS
87-02	06-588 CH 1	EVALUATION AND DEMONSTRATION OF RIPARIAN AREA MANAGEMENT ACTIVITIES	1737	221	110386	093087	SD's			
	87-051 CH 1	MINERAL LEASING ON NATIONAL FOREST SYSTEM LANDS	3000	620	103186	093087	SD's			
	87-091	REQUEST FOR NOMINATIONS	1400-410	680	110486	043087	SD's			
	87-092	PRESCRIBED FIRE WORKSHOP	9210	740	110386	013187	SD's, SCD, BLM D-BIFC			
	87-093	HISTORICAL LAND AND WATER CONSERVATION FUND ACQUISITION DATA	2100	330	110386	013187	SD - CA, MT, NM, OR			
	87-094	INTERAGENCY DISPATCH COORDINATION CENTER STUDY	9210	740	110386	093087	SD's, SCD, BLM D-BIFC			
	87-095	INTERAGENCY AVIATION ACCIDENT PREVENTION PROGRAM	9400	740	110386	093087	SD's, SCD, BLM D-BIFC			
	87-096	FILM DISTRIBUTION CONTRACT FY 87	1120	130	110486	093087	SD's			
	87-097	JOINT COMMITTEE ON PRINTING REPORTS	1551	854	110486	123186	SD's, SCD, BLM D-BIFC			
	87-098	FY 86 ANNUAL SUMMARY OF RECORDS AND REFERENCE HOLDING REPORT	1272	771	110486	013187	WO Division and Office Chiefs, SD's, SCD, BLM D-BIFC			
	87-099	REVIEW OF DRAFT MANUAL SECTION 3160-12	3103 3160	632	110486	013187	SD's			
	87-100	GRAZING USE INCREASES IN WILDERNESS STUDY AREAS	8550	342	110586	093087	SD's (except 1000)			
	87-101	CONTRACTING OFFICERS AUTHORIZED REPRESENTATIVE SELECTION AND ACCOUNTABILITY	1510 9100	852 730	110586	093087	AD's			
	87-102	ADDITION OF TAKE PRIDE IN AMERICA LOGO TO BUREAU OFFICE LETTERHEAD	1551	854	110686	093087	SD's, SCD, BLM D-BIFC			
	87-103	BUREAUWIDE AUTOMATED PROCUREMENT PLAN	1510	852	110686	093087	WO Officials, SD's, SCD, BLM D-BIFC			
	87-104	CANNABIS PIPE ELEMENT FOR SPECIAL AGENTS IN CHARGE	9260.3	711	110686	093087	SD's			
	87-105	NOMINATION OF AGENDA TOPICS INSTRUCTORS AND PARTICIPANTS FOR TRAINING 8000-1	1400-410	341	110686	022887	SD's			

Issued: 87-2  
Date: 11/30/86  
Page: A-7

FIGURE 69. Directives Index- List of Manual Releases

MANUAL RELEASES

Rel. 1-1465 10/31/86	1619 - Activity Plan Coordination
Rel. 6-99 10/20/86	6129 - Environmental Education Areas Inventory
Rel. 6-100 10/20/86	6221 - Primitive Areas
Rel. 6-101 10/20/86	6254 - National Trails System
Rel. 9-268 10/22/86	9182 - Wastewater Treatment

Issue: 87-2  
Date: 11/30/86  
Page: E-5

## OTHER INTERIOR- &amp; BLM-RELATED ADMINISTRATIVE MATERIALS

FIGURE 70. Directives Index-List of New, Revised, or Obsolete Forms

NOTICE OF NEW, REVISED, OR OBSOLETE FORMS									
FORM NUMBER	DATE	LIST		TITLE	NEW REVISED OBSOLETE	OLD NUMBER (if superseded)	INITIAL DISTRIBUTION	DESTROY PREVIOUS EDITIONS	
		PAGE	SHEET					YES	NO
1260-1	7/82		X	ADP Management Information System (ADP Equipment Owned or Leased)  Use form 1260-4 in its place. Refer to Manual Section 1262 - Standards for further guidance.  Program Office: Information Resources, WO-77D Contact: John Webber, Jr. (FIS) 653-8853					
1520-40	3/71			Receipt for Property Replaced by OF-290, "Receipt for Property Fire Suppression." Refer to Manual Section 1111 for further information.  Program Office: Property Management (WO-853) Contact: Bob Palmer (FIS) 343-5751					

USDI BLM  
Form 1221-9a  
(March 1977)

GPO 520-571

Issue	87-2
Date	11/30/86
Page	F-6

FIGURE 71. Directives Index-Update or Status of Forms

STATUS OF FORMS			
FORM NUMBER	FORM DATE	TITLE	REMARKS
1370-13	10/80	Aging Analysis Schedule	<p>Pending revision. Anticipate delivery of printed copies to PWDS by September 1987.</p> <p>Program Office: Financial Mgmt. Systems                      Contact: Stanley Kophart, FTS-343-6743</p>
1370-14	10/80	Aging Analysis Summary	<p>Pending revision. Anticipate delivery of printed copies to PWDS by September 1987.</p> <p>Program Office: Financial Mgmt. Systems                      Contact: Stanley Kophart, FTS-343-6743</p>

USDI-BLM  
 Form 1221-9b  
 (November 1986)

Issue	R7-2
Date	11/30/86
Page	F-7

OTHER INTERIOR- & BLM-RELATED ADMINISTRATIVE MATERIALS



**REVIEW EXERCISE ANSWER:**

1. NOTE: There are several ways to find the popular name of a statute.

(a) Fencing Act (Public Lands).

43 U.S.C. 1061-1066 (23Stat. 321)

(b) *U.S. Code* (1982 edition, vol. 19)  
Popular Names and Tables, Acts Cited by Popular Name, page 663 under Fencing Act (Public Lands).

or

U.S.C.A. General Index, Popular Name Table for Acts of Congress, under Fencing Act (Public Lands).





**REVIEW EXERCISE ANSWER:**

2. (a) 43 U.S.C. 774  
Protection of surveyor by marshal
- (b) 43 U.S.C.A., index  
Surveyors, Marshall required to protect,  
Section 774 page 648

or

U.S.C. General Index S-Z (1982 edition, Vol. 25)

Surveyors

Deputies

Marshall required to protect, 43 U.S.C. 774

or

UNITED STATES MARSHALLS

Surveyor, duty to protect, 43 U.S.C. 774

3. What do the following abbreviations mean?

- (a) OHA
  
- (b) 9th Cir.
  
- (c) LSA

**REVIEW EXERCISE ANSWER:**

3.
  - (a) Office of Hearings and Appeals.
  - (b) U.S. District Court of Appeals for the Ninth Judicial Circuit.
  - (c) List of CFR Sections Affected.

FINAL EXERCISE

4. (a) Find the definition of "surface coal mining operations" in Title 43 of the CFR.
- (b) Explain where and how you found the answer.

**REVIEW EXERCISE ANSWER:**

4. (a) Defined in 30 CFR 700.5
- (b) Found in CFR; consult index volume under surface coal mining operations.

or

Found in the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95-87, 81 Stat. 445. The Act can also be found in 30 U.S.C. 1201 *et seq.* by consulting the Popular Name Table in the U.S.C. or U.S.C.A.

or

by looking for "surface coal mining operations" in the General Index of the U.S.C. or U.S.C.A.

The definition is found at 30 U.S.C. 1291 (28) (1982 edition).

## FINAL EXERCISE

5. You want to read a particular public land order, which was issued 3 years ago, but cannot locate it in central files. Assuming you have the particular PLO number, where else could you look for it?

**REVIEW EXERCISE ANSWER:**

5. Look in 43 CFR, Appendix - Table of Public Land Orders. In the 1986 edition of 43 CFR, this table begins on page 124 in the volume entitled Part 4000 to End. Use the table to locate a corresponding citation to the particular *Federal Register* volume and page number where the PLO is printed. Once you locate that issue, you can read the text.



**FINAL EXERCISE**

6. In 43 CFR, locate the table "Alphabetical List of Agencies Appearing in the CFR." Find the CFR title, subtitle, or chapter number for the Office of Energy. Give the CFR citation.

REVIEW EXERCISE ANSWER:

6. Look under:

(1) Energy, Office of,  
Department of Agriculture..... 7, XXIX

or

(2) Agriculture Department  
Energy, Office of..... 7, XXIX

NOTE: This office is within the Department of the Agriculture, not the Department of Energy as one may suspect.

7. Find regulation 43 CFR 3500.7-Land use plans and environmental considerations (Part 3500-Leasing of Solid Minerals Other Than Coal and Oil Shale).

- (a) What is the original regulatory source and date for this regulation?
- (b) What statutory requirements must be complied with before a lease or permit is issued?

Explain how you found the answers.

**REVIEW EXERCISE ANSWER:**

7. (a) 51 FR 15213, April 22, 1986;  
The original source and date are listed at the beginning of each CFR Subpart. (See 43 CFR, 1986 edition, page 617.) If a Subpart has been changed, the latest source is listed at the end of each section.
- (b) The National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* This statute is replaced at 3500.7(b).

FINAL EXERCISE

8. You have the following information about a Federal law that has been codified and published in the *U.S. Code*:

Enacted August 14, 1985 as Public Law 85-641.

- (a) Find the *U.S. Code* citation and explain the procedure you used to locate it.
- (b) What is the subject covered by the statute you found in the *U.S. Code*?
- (c) What is the *U.S. Statutes at Large* citation to this public law? Where did you find this citation?

**REVIEW EXERCISE ANSWER:**

8. (a) 43 U.S.C. 321
- (b) Found by looking at Tables volumes of U.S.C. or U.S.C.A. for parallel citations from Public Laws to *U.S. Code* citations. First find 1958, then August 14, 85-641. Read across. The parallel table gives the U.S.C. citation as 43, Section 321.
- (c) 43 U.S.C. 321. Desert Land Entries. Entry Right generally; extent of right to appropriate waters.
- (d) 72 Stat. 596. Found at end of Section 321 or in parallel table used in (b) above.

## 9. True or False

- (a) Every regulation and notice published in the *Federal Register* will eventually be reprinted in the *Code of Federal Regulations*.
- (b) *The Directives Digest Bulletin* published by the Office of Hearings and Appeals (OHA) is a useful reference aid because it arranges by topic decisions issued by the IBLA as well as other boards that comprise the OHA.
- (c) The *Federal Reporter*, 1st and 2nd series, contains the text of decisions issued by U.S. District Courts.

REVIEW EXERCISE ANSWER:

9. (a) FALSE. Notices will not be reprinted in the *Code of Federal Regulations*.
- (b) FALSE. *The Index-Digests* is the source for this information of the Department of the Interior.
- (c) FALSE. *The Federal Supplement* is the correct reference. The *Federal Reporter* contains the text of decisions issued by U.S. District Courts of Appeals.



10. TRUE or FALSE:

- (a) Like an instruction memorandum, an information bulletin is effective for approximately 6 months.
  
- (b) The U.S. Supreme Court is highly selective in determining which appeals it will review from U.S. District Courts.
  
- (c) Those decisions formerly known as old published Land Decisions changed in 1930 to the title Interior Decisions or I.D.s.

REVIEW EXERCISE ANSWER:

10. (a) FALSE. An information bulletin has no expiration date. The information it contains is generally considered pertinent.
- (b) FALSE. Only decisions issued by a U.S. District Court of Appeals can be reviewed by the Supreme Court.
- (c) TRUE.

## PARTICIPANT'S EVALUATION OF WORKBOOK

Note: Completed copies of this form is to be sent to Phoenix Training Center.

Circle the numeral that best describes your reaction. Your thoughtful response will help us to improve the package when revised. Thank you.

A. How would you rate the effectiveness of this workbook in helping you to achieve the following objectives?

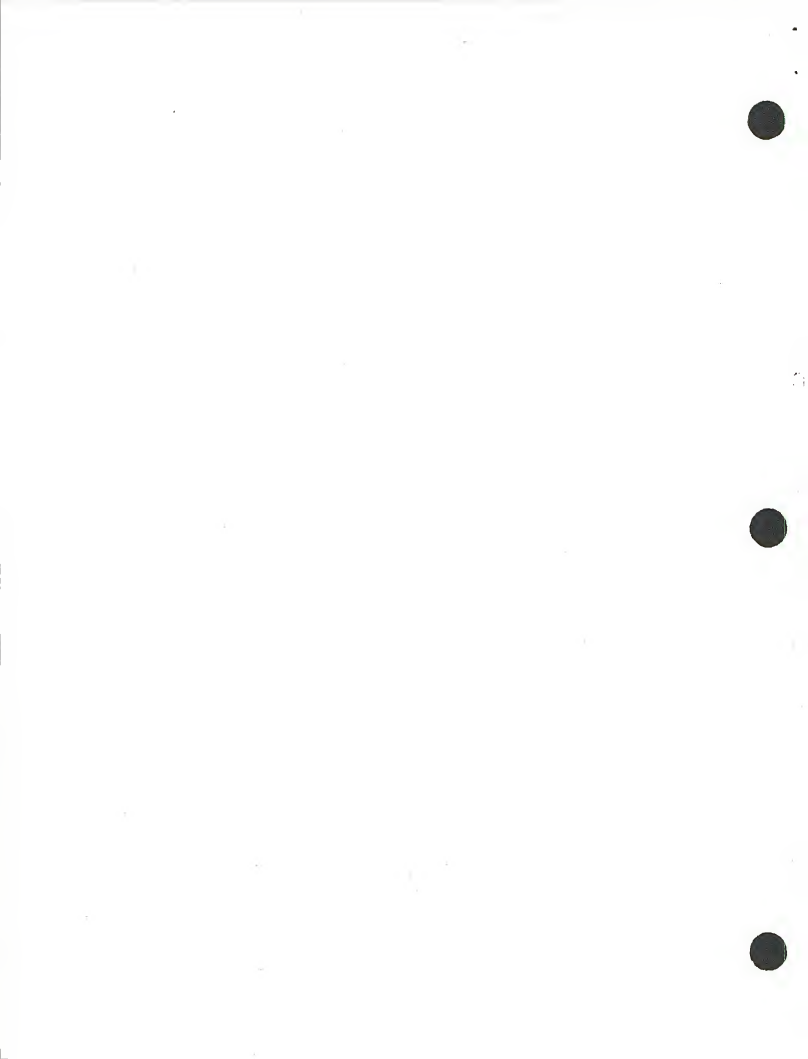
	Not Effective	Somewhat Effective			Effective
	1	2	3	4	5
1. Locate administrative and legal source materials?	1	2	3	4	5
2. Accurately cite source materials used for case processing?	1	2	3	4	5
3. Use basic finding aids or indices to locate administrative and legal source materials?	1	2	3	4	5
4. Define basic terminology used in various source materials?	1	2	3	4	5

B. If you have any suggestions for improvement of this workbook, please describe them on the reverse side of this form and return the form to the Phoenix Training Center.

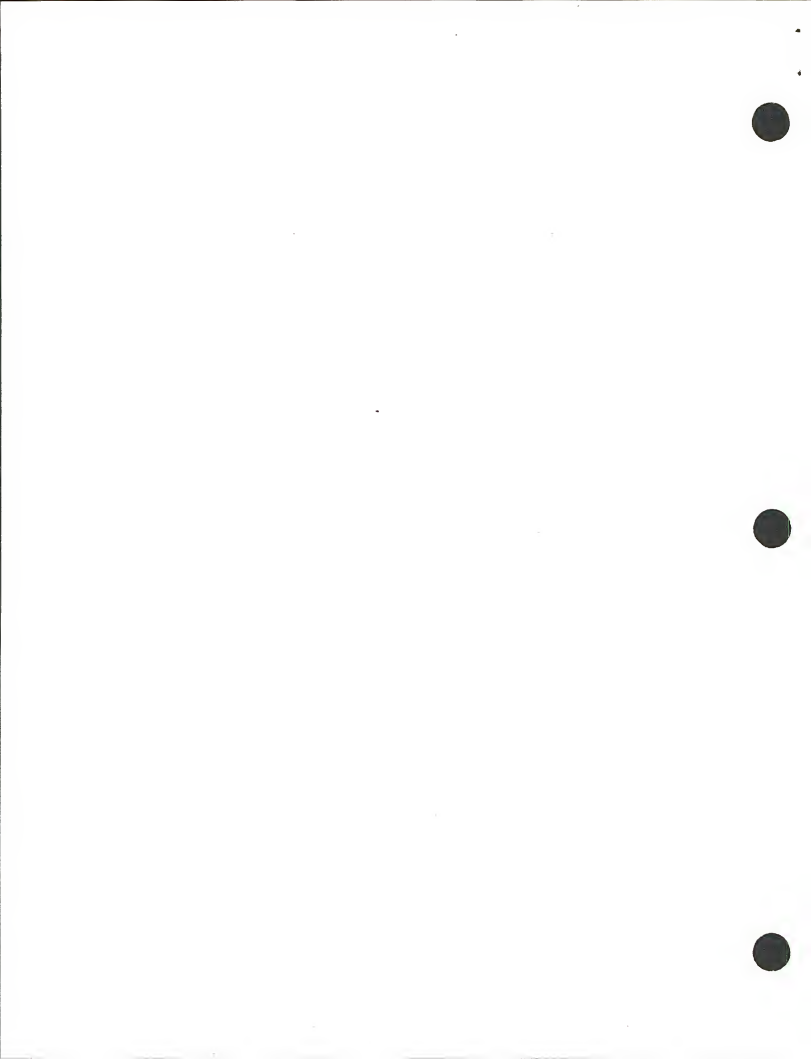
Manager's Course Guide Numbers  
2000-ST-4  
3000-ST-4

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