

TITLE 30--MINERAL LANDS AND MINING

CHAPTER 2--MINERAL LANDS AND REGULATIONS IN GENERAL

Sec. 22. Lands open to purchase by citizens

Except as otherwise provided, all valuable mineral deposits in lands belonging to the United States, both surveyed and unsurveyed, shall be free and open to exploration and purchase, and the lands in which they are found to occupation and purchase, by citizens of the United States and those who have declared their intention to become such, under regulations prescribed by law, and according to the local customs or rules of miners in the several mining districts, so far as the same are applicable and not inconsistent with the laws of the United States.

(R.S. Sec. 2319.)

Codification

R.S. Sec. 2319 derived from act May 10, 1872, ch. 152, Sec. 1, 17 Stat. 91.

Words ``Except as otherwise provided,`` were editorially supplied on authority of act Feb. 25, 1920, ch. 85, 41 Stat. 437, popularly known as the Mineral Lands Leasing Act, which is classified to chapter 3A (Sec. 181 et seq.) of this title.

Short Title

Sections 22 to 24, 26 to 28, 29, 30, 33 to 35, 37, 39 to 43, and 47 of this title are based on sections of the Revised Statutes which are derived from act May 10, 1872, ch. 152, 17 Stat. 91, popularly known as the ``General Mining Act of 1872``.

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Sec. 23. Length of claims on veins or lodes

Mining claims upon veins or lodes of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits, located prior to May 10, 1872, shall be governed as to length along the vein or lode by the customs, regulations, and laws in force at the date of their location. A mining claim located after the 10th day of May 1872, whether located by one or more persons, may equal, but shall not exceed, one thousand five hundred feet in length along the vein or lode; but no location of a mining claim shall be made until the discovery of the vein or lode within the limits of the claim located. No claim shall extend more than three hundred feet on each side of the middle of the vein at the surface, nor shall any claim be limited by any mining regulation to less than twenty-five feet on each side of the middle of the vein at the surface, except where adverse rights existing on the 10th day of May 1872 render such limitation necessary. The end lines of each claim shall be parallel to each other.

(R.S. Sec. 2320.)

Codification

R.S. Sec. 2320 derived from act May 10, 1872, ch. 152, Sec. 2, 17 Stat. 91.

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Sec. 24. Proof of citizenship

Proof of citizenship, under sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, may consist, in the case of an individual, of his own affidavit thereof; in the case of an association of persons unincorporated, of the affidavit of their authorized agent, made on his own knowledge, or upon information and belief; and in the case of a corporation organized under the laws of the United States, or of any State or Territory thereof, by the filing of a certified copy of their charter or certificate of incorporation.

(R.S. Sec. 2321.)

References in Text

Sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, referred to in text, were in the original ``this chapter'', meaning chapter 6 of title 32 of the Revised Statutes, consisting of R.S. Secs. 2318 to 2352.

Codification

R.S. Sec. 2321 derived from act May 10, 1872, ch. 152, Sec. 7, 17 Stat. 94.

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Sec. 25. Affidavit of citizenship

Applicants for mineral patents, if residing beyond the limits of the district wherein the claim is situated, may make any oath or affidavit required for proof of citizenship before the clerk of any court of record or before any notary public of any State or Territory.

(Apr. 26, 1882, ch. 106, Sec. 2, 22 Stat. 49.)

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Sec. 26. Locators' rights of possession and enjoyment

The locators of all mining locations made on any mineral vein, lode, or ledge, situated on the public domain, their heirs and assigns, where no adverse claim existed on the 10th day of May 1872 so long as they comply with the laws of the United States, and with State, territorial, and local regulations not in conflict with the laws of the United States governing their possessory title, shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations, and of all veins, lodes, and ledges throughout their entire depth, the top or apex of which lies inside of such surface lines extended downward vertically, although such veins, lodes, or ledges may so far depart from a perpendicular in their course downward as to extend outside the vertical side lines of such surface locations. But their right of possession to such outside parts of such veins or ledges shall be confined to such portions thereof as lie between vertical planes drawn downward as above described, through the end lines of their locations, so continued in their own direction that such planes will intersect such exterior parts of such veins or ledges. Nothing in this section shall authorize the locator or possessor of a vein or lode which extends in its downward course beyond the vertical lines of his claim to enter upon the surface of a claim owned or possessed by another.

(R.S. Sec. 2322.)

#### Codification

R.S. Sec. 2322 derived from act May 10, 1872, ch. 152, Sec. 3, 17 Stat. 91.

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Sec. 27. Mining tunnels; right to possession of veins on line with; abandonment of right

Where a tunnel is run for the development of a vein or lode, or for the discovery of mines, the owners of such tunnel shall have the right of possession of all veins or lodes within three thousand feet from the face of such tunnel on the line thereof, not previously known to exist, discovered in such tunnel, to the same extent as if discovered from the surface; and locations on the line of such tunnel of veins or lodes not appearing on the surface, made by other parties after the commencement of the tunnel, and while the same is being prosecuted with reasonable diligence, shall be invalid; but failure to prosecute the work on the tunnel for six months shall be considered as an abandonment of the right to all undiscovered veins on the line of such tunnel.

(R.S. Sec. 2323.)

#### Codification

R.S. Sec. 2323 derived from act May 10, 1872, ch. 152, Sec. 4, 17 Stat. 92.

Short Title

This section is popularly known as the Tunnel Site Act.

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Sec. 28-1. Inclusion of certain surveys in labor requirements of mining claims; conditions and restrictions

The term ``labor'', as used in the third sentence of section 28 of this title, shall include, without being limited to, geological, geochemical and geophysical surveys conducted by qualified experts and verified by a detailed report filed in the county office in which the claim is located which sets forth fully (a) the location of the work performed in relation to the point of discovery and boundaries of the claim, (b) the nature, extent, and cost thereof, (c) the basic findings therefrom, and (d) the name, address, and professional background of the person or persons conducting the work. Such surveys, however, may not be applied as labor for more than two consecutive years or for more than a total of five years on any one mining claim, and each such survey shall be nonrepetitive of any previous survey on the same claim.

(Pub. L. 85-876, Sec. 1, Sept. 2, 1958, 72 Stat. 1701.)

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Sec. 28-2. Definitions

As used in section 28-1 of this title,

(a) The term ``geological surveys'' means surveys on the ground for mineral deposits by the proper application of the principles and techniques of the science of geology as they relate to the search for and discovery of mineral deposits;

(b) The term ``geochemical surveys'' means surveys on the ground for mineral deposits by the proper application of the principles and techniques of the science of chemistry as they relate to the search for and discovery of mineral deposits;

(c) The term ``geophysical surveys'' means surveys on the ground for mineral deposits through the employment of generally recognized equipment and methods for measuring physical differences between rock types or discontinuities in geological formations;

(d) The term ``qualified expert'' means an individual qualified by education or experience to conduct geological, geochemical or geophysical surveys, as the case may be.

(Pub. L. 85-876, Sec. 2, Sept. 2, 1958, 72 Stat. 1701.)

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Sec. 28. Mining district regulations by miners: location, recordation, and amount of work; marking of location on ground; records; annual labor or improvements on claims pending issue of patent; co-owner's succession in interest upon delinquency in

contributing proportion of expenditures; tunnel as lode  
expenditure

The miners of each mining district may make regulations not in conflict with the laws of the United States, or with the laws of the State or Territory in which the district is situated, governing the location, manner of recording, amount of work necessary to hold possession of a mining claim, subject to the following requirements: The location must be distinctly marked on the ground so that its boundaries can be readily traced. All records of mining claims made after May 10, 1872, shall contain the name or names of the locators, the date of the location, and such a description of the claim or claims located by reference to some natural object or permanent monument as will identify the claim. On each claim located after the 10th day of May 1872, that is granted a waiver under section 28f of this title, and until a patent has been issued therefor, not less than \$100 worth of labor shall be performed or improvements made during each year. On all claims located prior to the 10th day of May 1872, \$10 worth of labor shall be performed or improvements made each year, for each one hundred feet in length along the vein until a patent has been issued therefor; but where such claims are held in common, such expenditure may be made upon any one claim; and upon a failure to comply with these conditions, the claim or mine upon which such failure occurred shall be open to relocation in the same manner as if no location of the same had ever been made, provided that the original locators, their heirs, assigns, or legal representatives, have not resumed work upon the claim after failure and before such location. Upon the failure of any one of several coowners to contribute his proportion of the expenditures required hereby, the coowners who have performed the labor or made the improvements may, at the expiration of the year, give such delinquent co-owner personal notice in writing or notice by publication in the newspaper published nearest the claim, for at least once a week for ninety days, and if at the expiration of ninety days after such notice in writing or by publication such delinquent should fail or refuse to contribute his proportion of the expenditure required by this section, his interest in the claim shall become the property of his co-owners who have made the required expenditures. The period within which the work required to be done annually on all unpatented mineral claims located since May 10, 1872, including such claims in the Territory of Alaska, shall commence at 12 o'clock meridian on the 1st day of September succeeding the date of location of such claim.

Where a person or company has or may run a tunnel for the purposes of developing a lode or lodes, owned by said person or company, the money so expended in said tunnel shall be taken and considered as expended on said lode or lodes, whether located prior to or since May 10, 1872; and such person or company shall not be required to perform work on the surface of said lode or lodes in order to hold the same as required by this section. On all such valid claims the annual period ending December 31, 1921, shall continue to 12 o'clock meridian July 1, 1922.

(R.S. Sec. 2324; Feb. 11, 1875, ch. 41, 18 Stat. 315; Jan. 22, 1880, ch. 9, Sec. 2, 21 Stat. 61; Aug. 24, 1921, ch. 84, 42 Stat. 186; Pub. L. 85-736, Sec. 1, Aug. 23, 1958, 72 Stat. 829; Pub. L. 103-66, title X, Sec. 10105(b), Aug. 10, 1993, 107 Stat. 406.)

Codification

R.S. Sec. 2324 derived from act May 10, 1872, ch. 152, Sec. 5, 17 Stat. 92.

#### Amendments

1993--Pub. L. 103-66 inserted ``that is granted a waiver under section 28f of this title,'' after ``On each claim located after the 10th day of May 1872,''.

1958--Pub. L. 85-736 changed period for doing annual assessment work on unpatented mineral claims, substituting ``1st day of September'' for ``1st day of July''.

#### Admission of Alaska as State

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

#### Assessment Work Years, 1957-58 and 1958-59

Section 2 of Pub. L. 85-736 provided that the period commencing in 1957 for the performance of annual assessment work under this section shall end at 12 o'clock meridian on the 1st day of July 1958, and the period commencing in 1958 for the performance of such annual assessment work shall commence at 12 o'clock meridian on the 1st day of July 1958, and shall continue to 12 o'clock meridian on Sept. 1, 1959.

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Sec. 28a. Omitted

#### Codification

Section, act June 29, 1950, ch. 404, 64 Stat. 275, provided for extension of time of annual assessment work, on mining claims in the United States, including Alaska, for period commencing July 1, 1949, until 12 o'clock noon Oct. 1, 1950, and also provided for commencement of assessment work or improvements required for year ending 12 o'clock noon July 1, 1951, immediately following 12 o'clock noon July 1, 1950. See sections 28b to 28e of this title.

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Sec. 28b. Annual assessment work on mining claims; temporary deferment; conditions

The performance of not less than \$100 worth of labor or the making

of improvements aggregating such amount, which labor or improvements are required under the provisions of section 28 of this title to be made during each year, may be deferred by the Secretary of the Interior as to any mining claim or group of claims in the United States upon the submission by the claimant of evidence satisfactory to the Secretary that such mining claim or group of claims is surrounded by lands over which a right-of-way for the performance of such assessment work has been denied or is in litigation or is in the process of acquisition under State law or that other legal impediments exist which affect the right of the claimant to enter upon the surface of such claim or group of claims or to gain access to the boundaries thereof.

(June 21, 1949, ch. 232, Sec. 1, 63 Stat. 214.)

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###### Sec. 28c. Length and termination of deferment

The period for which said deferment may be granted shall end when the conditions justifying deferment have been removed: Provided, That the initial period shall not exceed one year but may be renewed for a further period of one year if justifiable conditions exist: Provided further, That the relief available under sections 28b to 28e of this title is in addition to any relief available under any other Act of Congress with respect to mining claims.

(June 21, 1949, ch. 232, Sec. 2, 63 Stat. 215.)

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###### Sec. 28d. Performance of deferred work

All deferred assessment work shall be performed not later than the end of the assessment year next subsequent to the removal or cessation of the causes for deferment or the expiration of any deferments granted under sections 28b to 28e of this title and shall be in addition to the annual assessment work required by law in such year.

(June 21, 1949, ch. 232, Sec. 3, 63 Stat. 215.)

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###### Sec. 28e. Recordation of deferment

Claimant shall file or record or cause to be filed or recorded in the office where the notice or certificate of location of such claim or group of claims is filed or recorded, a notice to the public of claimant's petition to the Secretary of the Interior for deferment under sections 28b to 28e of this title, and of the order or decision disposing of such petition.

(June 21, 1949, ch. 232, Sec. 4, 63 Stat. 215.)

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Sec. 28f. Fee

(a) Claim maintenance fee

The holder of each unpatented mining claim, mill, or tunnel site, located pursuant to the mining laws of the United States, whether located before, on or after August 10, 1993, shall pay to the Secretary of the Interior, on or before September 1 of each year for years 2004 through 2008, a claim maintenance fee of \$100 per claim or site \1\ Such claim maintenance fee shall be in lieu of the assessment work requirement contained in the Mining Law of 1872 (30 U.S.C. 28-28e) \2\ and the related filing requirements contained in section 1744(a) and (c) of title 43.

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\1\ So in original. Probably should be followed by a period.

\2\ See References in Text note below.

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(b) Time of payment

The claim maintenance fee payable pursuant to subsection (a) of this section for any assessment year shall be paid before the commencement of the assessment year, except that for the initial assessment year in which the location is made, the locator shall pay the claim maintenance fee at the time the location notice is recorded with the Bureau of Land Management. The location fee imposed under section 28g of this title shall be payable not later than 90 days after the date of location.

(c) Oil shale claims subject to claim maintenance fees under Energy Policy Act of 1992

This section shall not apply to any oil shale claims for which a fee is required to be paid under section 2511(e)(2) of the Energy Policy Act of 1992 (Public Law 102-486; 106 Stat. 3111; 30 U.S.C. 242).

(d) Waiver

(1) The claim maintenance fee required under this section may be waived for a claimant who certifies in writing to the Secretary that on the date the payment was due, the claimant and all related parties--

(A) held not more than 10 mining claims, mill sites, or tunnel sites, or any combination thereof, on public lands; and

(B) have performed assessment work required under the Mining Law of 1872 (30 U.S.C. 28-28e) \1\ to maintain the mining claims held by the claimant and such related parties for the assessment year ending on noon of September 1 of the calendar year in which payment of the claim maintenance fee was due.

(2) For purposes of paragraph (1), with respect to any claimant, the term ``related party'' means--



(A) the spouse and dependent children (as defined in section 152 of title 26), of the claimant; and

(B) a person who controls, is controlled by, or is under common control with the claimant.

For purposes of this section, the term control includes actual control, legal control, and the power to exercise control, through or by common directors, officers, stockholders, a voting trust, or a holding company or investment company, or any other means.

(3) If a small miner waiver application is determined to be defective for any reason, the claimant shall have a period of 60 days after receipt of written notification of the defect or defects by the Bureau of Land Management to: (A) cure such defect or defects, or (B) pay the \$100 claim maintenance fee due for such period.

(Pub. L. 103-66, title X, Sec. 10101, Aug. 10, 1993, 107 Stat. 405; Pub. L. 105-240, Sec. 116, Sept. 25, 1998, 112 Stat. 1570; Pub. L. 105-277, div. A, Sec. 101(e) [title I], Oct. 21, 1998, 112 Stat. 2681-231, 2681-235; Pub. L. 107-63, title I, [(1)], Nov. 5, 2001, 115 Stat. 418; Pub. L. 108-108, title I, Nov. 10, 2003, 117 Stat. 1245.)

#### References in Text

The mining laws of the United States, referred to in subsec. (a), are classified generally to this title.

The Mining Law of 1872 (30 U.S.C. 28-28e), referred to in subsecs. (a) and (d)(1)(B), probably means act May 10, 1872, ch. 152, 17 Stat. 91, as amended. That act was incorporated into the Revised Statutes as R.S. Secs. 2319 to 2328, 2331, 2333 to 2337, and 2344, which are classified to sections 22 to 24, 26 to 28, 29, 30, 33 to 35, 37, 39 to 42, and 47 of this title. For complete classification of R.S. Secs. 2319 to 2328, 2331, 2333 to 2337, and 2344 to the Code, see Tables.

#### Codification

Pub. L. 108-108, which directed the amendment of section 28 of title 30, United States Code, ``in section 28f(a)'', was executed by making the amendment to section 10101 of Pub. L. 103-66, which is classified to this section, to reflect the probable intent of Congress. See 2003 Amendment note below.

Pub. L. 107-63, which directed the amendment of section 28f of title 30, United States Code, was executed by making the amendment to section 10101 of Pub. L. 103-66, which is classified to this section, to reflect the probable intent of Congress. See 2001 Amendment note below.

Pub. L. 105-277, which directed the amendment of section 28f of title 30, United States Code, was executed by making the amendment to section 10101 of Pub. L. 103-66, which is classified to this section, to reflect the probable intent of Congress. See 1998 Amendment notes below.

#### Amendments

2003--Subsec. (a). Pub. L. 108-108 substituted ``for years 2004 through 2008'' for ``for years 2002 through 2003''. See Codification note above.

2001--Subsec. (a). Pub. L. 107-63 added first sentence and struck out former first sentence which read as follows: ``The holder of each

unpatented mining claim, mill, or tunnel site, located pursuant to the mining laws of the United States, whether located before or after August 10, 1993, shall pay to the Secretary of the Interior, on or before September 1 of each year for years 1999 through 2001, a claim maintenance fee of \$100 per claim or site.' See Codification note above.

1998--Subsec. (a). Pub. L. 105-277 added first sentence and struck out former first sentence which read as follows: ``The holder of each unpatented mining claim, mill, or tunnel site located pursuant to the mining laws of the United States before October 1, 1998 shall pay the Secretary of the Interior, on or before September 1, 1999 a claim maintenance fee of \$100 per claim site.' See Codification note above.

Pub. L. 105-240 substituted ``The holder of each unpatented mining claim, mill, or tunnel site located pursuant to the mining laws of the United States before October 1, 1998 shall pay the Secretary of the Interior, on or before September 1, 1999 a claim maintenance fee of \$100 per claim site.' for ``The holder of each unpatented mining claim, mill or tunnel site located pursuant to the Mining Laws of the United States, whether located before or after August 10, 1993, shall pay to the Secretary of the Interior, on or before August 31 of each year, for years 1994 through 1998, a claim maintenance fee of \$100 per claim.''

Subsec. (d)(3). Pub. L. 105-277 added par. (3). See Codification note above.

#### Similar Provisions

Similar provisions were contained in Pub. L. 102-381, title I, Oct. 5, 1992, 106 Stat. 1378, 1379.

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##### Sec. 28g. Location fee

Notwithstanding any other provision of law, for every unpatented mining claim, mill or tunnel site located after August 10, 1993, and before September 30, 2008, pursuant to the Mining Laws of the United States, the locator shall, at the time the location notice is recorded with the Bureau of Land Management, pay to the Secretary of the Interior a location fee, in addition to the claim maintenance fee required by section 28f of this title, of \$25.00 per claim.

(Pub. L. 103-66, title X, Sec. 10102, Aug. 10, 1993, 107 Stat. 406; Pub. L. 105-277, div. A, Sec. 101(e) [title I], Oct. 21, 1998, 112 Stat. 2681-231, 2681-235; Pub. L. 107-63, title I, [(2)], Nov. 5, 2001, 115 Stat. 419; Pub. L. 108-108, title I, Nov. 10, 2003, 117 Stat. 1245.)

#### References in Text

The Mining Laws of the United States, referred to in text, are classified generally to this title.

#### Codification

Pub. L. 108-108, which directed the amendment of section 28 of title 30, United States Code, ``in section 28g'', was executed by making the amendment to section 10102 of Pub. L. 103-66, which is classified to this section, to reflect the probable intent of Congress. See 2003 Amendment note below.

Pub. L. 107-63, which directed the amendment of section 28f(a) of title 30, United States Code, in section 28g, was executed by making the amendment to section 10102 of Pub. L. 103-66, which is classified to this section, to reflect the probable intent of Congress. See 2001 Amendment note below.

Pub. L. 105-277, which directed the amendment of section 28g of title 30, United States Code, was executed by making the amendment to section 10102 of Pub. L. 103-66, which is classified to this section, to reflect the probable intent of Congress. See 1998 Amendment note below.

#### Amendments

2003--Pub. L. 108-108 substituted ``2008'' for ``2003''. See Codification note above.

2001--Pub. L. 107-63 substituted ``2003'' for ``2001''. See Codification note above.

1998--Pub. L. 105-277 substituted ``2001'' for ``1998''. See Codification note above.

#### Similar Provisions

Similar provisions were contained in Pub. L. 102-381, title I, Oct. 5, 1992, 106 Stat. 1378, 1379.

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##### Sec. 28h. Co-ownership

The co-ownership provisions of the Mining Law of 1872 (30 U.S.C. 28) \1\ shall remain in effect, except that in applying such provisions, the annual claim maintenance fee required under this Act shall, where applicable, replace applicable assessment requirements and expenditures.

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\1\ See References in Text note below.  
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(Pub. L. 103-66, title X, Sec. 10103, Aug. 10, 1993, 107 Stat. 406.)

#### References in Text

The Mining Law of 1872 (30 U.S.C. 28), referred to in text, probably means act May 10, 1872, ch. 152, 17 Stat. 91, as amended. That act was incorporated into the Revised Statutes as R.S. Secs. 2319 to 2328, 2331, 2333 to 2337, and 2344, which are classified to sections 22 to 24, 26 to 28, 29, 30, 33 to 35, 37, 39 to 42, and 47 of this title. For complete classification of R.S. Secs. 2319 to 2328, 2331, 2333 to 2337, and 2344 to the Code, see Tables.

This Act, referred to in text, is Pub. L. 103-66, Aug. 10, 1993, 107 Stat. 312, known as the Omnibus Budget Reconciliation Act of 1993. The annual claim maintenance fee required under this Act probably refers to the fee required under section 28f of this title. For complete classification of this Act to the Code, see Tables.

#### Similar Provisions

Similar provisions were contained in Pub. L. 102-381, title I, Oct. 5, 1992, 106 Stat. 1378, 1379.

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#### Sec. 28i. Failure to pay

Failure to pay the claim maintenance fee or the location fee as required by sections 28f to 28k of this title shall conclusively constitute a forfeiture of the unpatented mining claim, mill or tunnel site by the claimant and the claim shall be deemed null and void by operation of law.

(Pub. L. 103-66, title X, Sec. 10104, Aug. 10, 1993, 107 Stat. 406.)

#### Similar Provisions

Similar provisions were contained in Pub. L. 102-381, title I, Oct. 5, 1992, 106 Stat. 1378, 1379.

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#### Sec. 28j. Other requirements

##### (a) Federal Land Policy and Management Act requirements

Nothing in sections 28f to 28k of this title shall change or modify the requirements of section 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)), or the requirements of section 314(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(c)) related to filings required by section 314(b), and such requirements shall remain in effect with respect to claims, and mill or tunnel sites for which fees are required to be paid under this section.

##### (b) Omitted

##### (c) Fee adjustments

(1) The Secretary of the Interior shall adjust the fees required by sections 28f to 28k of this title to reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics of the

Department of Labor every 5 years after August 10, 1993, or more frequently if the Secretary determines an adjustment to be reasonable.

(2) The Secretary shall provide claimants notice of any adjustment made under this subsection not later than July 1 of any year in which the adjustment is made.

(3) A fee adjustment under this subsection shall begin to apply the first assessment year which begins after adjustment is made.

(Pub. L. 103-66, title X, Sec. 10105, Aug. 10, 1993, 107 Stat. 406.)

#### Codification

Section is comprised of section 10105 of Pub. L. 103-66. Subsec. (b) of section 10105 of Pub. L. 103-66 amended section 28 of this title.

#### Similar Provisions

Similar provisions were contained in Pub. L. 102-381, title I, Oct. 5, 1992, 106 Stat. 1378, 1379.

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##### Sec. 28k. Regulations

The Secretary of the Interior shall promulgate rules and regulations to carry out the terms and conditions of sections 28f to 28k of this title as soon as practicable after August 10, 1993.

(Pub. L. 103-66, title X, Sec. 10106, Aug. 10, 1993, 107 Stat. 407.)

#### Similar Provisions

Similar provisions were contained in Pub. L. 102-381, title I, Oct. 5, 1992, 106 Stat. 1378, 1379.

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Sec. 29. Patents; procurement procedure; filing: application under oath, plat and field notes, notices, and affidavits; posting plat and notice on claim; publication and posting notice in office; certificate; adverse claims; payment per acre; objections; nonresident claimant's agent for execution of application and affidavits

A patent for any land claimed and located for valuable deposits may be obtained in the following manner: Any person, association, or corporation authorized to locate a claim under sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, having claimed and located a piece of land for such purposes, who has, or have, complied with the terms of sections 21, 22

to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title, and section 661 of title 43, may file in the proper land office an application for a patent, under oath, showing such compliance, together with a plat and field notes of the claim or claims in common, made by or under the direction of the Director of the Bureau of Land Management, showing accurately the boundaries of the claim or claims, which shall be distinctly marked by monuments on the ground, and shall post a copy of such plat, together with a notice of such application for a patent, in a conspicuous place on the land embraced in such plat previous to the filing of the application for a patent, and shall file an affidavit of at least two persons that such notice has been duly posted, and shall file a copy of the notice in such land office, and shall thereupon be entitled to a patent for the land, in the manner following: The register of the land office, upon the filing of such application, plat, field notes, notices, and affidavits, shall publish a notice that such application has been made, for the period of sixty days, in a newspaper to be by him designated as published nearest to such claim; and he shall also post such notice in his office for the same period. The claimant at the time of filing this application, or at any time thereafter, within the sixty days of publication, shall file with the register a certificate of the Director of the Bureau of Land Management that \$500 worth of labor has been expended or improvements made upon the claim by himself or grantors; that the plat is correct, with such further description by such reference to natural objects or permanent monuments as shall identify the claim, and furnish an accurate description, to be incorporated in the patent. At the expiration of the sixty days of publication the claimant shall file his affidavit, showing that the plat and notice have been posted in a conspicuous place on the claim during such period of publication. If no adverse claim shall have been filed with the register of the proper land office at the expiration of the sixty days of publication, it shall be assumed that the applicant is entitled to a patent, upon the payment to the proper officer of \$5 per acre, and that no adverse claim exists; and thereafter no objection from third parties to the issuance of a patent shall be heard, except it be shown that the applicant has failed to comply with the terms of sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43. Where the claimant for a patent is not a resident of or within the land district wherein the vein, lode, ledge, or deposit sought to be patented is located, the application for patent and the affidavits required to be made in this section by the claimant for such patent may be made by his, her, or its authorized agent, where said agent is conversant with the facts sought to be established by said affidavits.

(R.S. Sec. 2325; Jan. 22, 1880, ch. 9, Sec. 1, 21 Stat. 61; Mar. 3, 1925, ch. 462, 43 Stat. 1144, 1145; 1946 Reorg. Plan No. 3, Sec. 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

#### References in Text

Sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, referred to in text, were in the original ``this chapter'', meaning chapter 6 of title 32 of the Revised Statutes, consisting of R.S. Secs. 2318 to 2352.

#### Codification

R.S. Sec. 2325 derived from act May 10, 1872, ch. 152, Sec. 6, 17 Stat. 92.

#### Amendments

1925--Act Mar. 3, 1925, affected words, in first sentence of text, now reading ``United States supervisor of surveys,'' and words, in next to last sentence of text, now reading ``register of the proper land office.'' Those words formerly read ``United States surveyor general'' and ``register and receiver of the proper land office,'' respectively. This act abolished the office of surveyor general, and transferred to and consolidated with the Field Surveying Service, under the jurisdiction of the U.S. Supervisor of Surveys, the administration, equipment, etc., of such office, and consolidated the offices and functions of the register and receiver.

#### Transfer of Functions

Director of the Bureau of Land Management substituted for United States Supervisor of Surveys wherever appearing. In the establishment of The Bureau of Land Management by Reorg. Plan No. 3 of 1946, Sec. 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees, the office of Supervisor of Surveys was abolished and the functions and powers were transferred to the Secretary of the Interior, to be performed by such officers or agencies of the Department as might be designated by the Secretary. Under that authority, the functions and powers formerly exercised by the Supervisor of Surveys were delegated to the Chief Cadastral Engineer, subject to the supervision of the Director of the Bureau of Land Management. In the general reorganization and realignment of functions of the Bureau, the office of the Chief Cadastral Engineer was abolished, and the functions of that office have been delegated to the Director of the Bureau of Land Management. See 43 C.F.R. Sec. 9180.0-3(a)(1).

Office of register of district land office abolished and all functions of register transferred to Secretary of the Interior, or to officers and agencies of Department of the Interior as Secretary may designate, by Reorg. Plan No. 3 of 1946, Sec. 403, set out in the Appendix to Title 5.

See also Transfer of Functions note set out under section 1 of this title.

### TITLE 30--MINERAL LANDS AND MINING

#### CHAPTER 2--MINERAL LANDS AND REGULATIONS IN GENERAL

Sec. 30. Adverse claims; oath of claimants; requisites; waiver; stay of land office proceedings; judicial determination of right of possession; successful claimants' filing of judgment roll, certificate of labor, and description of claim in land office, and acreage and fee payments; issuance of patents for entire or partial claims upon certification of land office proceedings and judgment roll; alienation of patent title

Where an adverse claim is filed during the period of publication, it

shall be upon oath of the person or persons making the same, and shall show the nature, boundaries, and extent of such adverse claim, and all proceedings, except the publication of notice and making and filing of the affidavit thereof, shall be stayed until the controversy shall have been settled or decided by a court of competent jurisdiction, or the adverse claim waived. It shall be the duty of the adverse claimant, within thirty days after filing his claim, to commence proceedings in a court of competent jurisdiction, to determine the question of the right of possession, and prosecute the same with reasonable diligence to final judgment; and a failure so to do shall be a waiver of his adverse claim. After such judgment shall have been rendered, the party entitled to the possession of the claim, or any portion thereof, may, without giving further notice, file a certified copy of the judgment roll with the register of the land office, together with the certificate of the Director of the Bureau of Land Management that the requisite amount of labor has been expended or improvements made thereon, and the description required in other cases, and shall pay to the register \$5 per acre for his claim, together with the proper fees, whereupon the whole proceedings and the judgment roll shall be certified by the register to the Director of the Bureau of Land Management, and a patent shall issue thereon for the claim, or such portion thereof as the applicant shall appear, from the decision of the court, to rightly possess. If it appears from the decision of the court that several parties are entitled to separate and different portions of the claim, each party may pay for his portion of the claim, with the proper fees, and file the certificate and description by the Director of the Bureau of Land Management whereupon the register shall certify the proceedings and judgment roll to the Director of the Bureau of Land Management, as in the preceding case, and patents shall issue to the several parties according to their respective rights. Nothing herein contained shall be construed to prevent the alienation of the title conveyed by a patent for a mining claim to any person whatever.

(R.S. Sec. 2326; Mar. 3, 1925, ch. 462, 43 Stat. 1144, 1145; 1946 Reorg. Plan No. 3, Sec. 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

#### Codification

R.S. Sec. 2326 derived from act May 10, 1872, ch. 152, Sec. 7, 17 Stat. 93.

#### Amendments

1925--Act Mar. 3, 1925, affected words, in third and fourth sentences of text, now reading ``United States supervisor of surveys'', and words, in third sentence of text, now reading ``pay to the register \$5 per acre.'' Such words formerly read ``surveyor-general'', and ``pay to the receiver five dollars per acre'', respectively. Such act is treated more fully in notes under section 29 of this title.

#### Transfer of Functions

Director of the Bureau of Land Management substituted for United States Supervisor of Surveys following the words ``certificate of the'' in sentence beginning ``After such judgment'' and following the words ``description by the'' in sentence beginning ``If it appears''. In the



establishment of the Bureau of Land Management by Reorg. Plan No. 3 of 1946, Sec. 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees, the office of Supervisor of Surveys was abolished and the functions and powers were transferred to the Secretary of the Interior, to be performed by such officers or agencies of the Department as might be designated by the Secretary. Under that authority, the functions and powers formerly exercised by the Supervisor of Surveys were delegated to the Chief Cadastral Engineer, subject to the supervision of the Director of the Bureau of Land Management. In the general reorganization and realignment of functions of the Bureau, the office of the Chief Cadastral Engineer was abolished, and the functions of that office have been delegated to the Director of the Bureau of Land Management. See 43 C.F.R. Sec. 9180.0-3(a)(1).

``Director of the Bureau of Land Management'' was substituted for ``Commissioner of the General Land Office'' following the words ``register to the'' in sentence beginning ``After such judgment'' and in sentence beginning ``If it appears'' following the words ``judgment roll to the'' on authority of Reorg. Plan No. 3 of 1946, set Sec. 403, set out in the Appendix to Title 5. Section 403 of Reorg. Plan No. 3 of 1946, abolished the office of the Commissioner of the General Land Office and consolidated the functions of the General Land Office with the Grazing Service to form the Bureau of Land Management.

Office of register of district land office abolished and all functions of register transferred to Secretary of the Interior, or to officers and agencies of Department of the Interior as Secretary may designate, by Reorg. Plan No. 3 of 1946, Sec. 403, set out in the Appendix to Title 5.

## TITLE 30--MINERAL LANDS AND MINING

### CHAPTER 2--MINERAL LANDS AND REGULATIONS IN GENERAL

Sec. 31. Oath: agent or attorney in fact, beyond district of claim

The adverse claim required by section 30 of this title may be verified by the oath of any duly authorized agent or attorney in fact of the adverse claimant cognizant of the facts stated; and the adverse claimant, if residing or at the time being beyond the limits of the district wherein the claim is situated, may make oath to the adverse claim before the clerk of any court of record of the United States or of the State or Territory where the adverse claimant may then be, or before any notary public of such State or Territory.

(Apr. 26, 1882, ch. 106, Sec. 1, 22 Stat. 49.)

## TITLE 30--MINERAL LANDS AND MINING

### CHAPTER 2--MINERAL LANDS AND REGULATIONS IN GENERAL

Sec. 32. Findings by jury; costs

If, in any action brought pursuant to section 30 of this title, title to the ground in controversy shall not be established by either party, the jury shall so find, and judgment shall be entered according

to the verdict. In such case costs shall not be allowed to either party, and the claimant shall not proceed in the land office or be entitled to a patent for the ground in controversy until he shall have perfected his title.

(Mar. 3, 1881, ch. 140, 21 Stat. 505.)

## TITLE 30--MINERAL LANDS AND MINING

### CHAPTER 2--MINERAL LANDS AND REGULATIONS IN GENERAL

#### Sec. 33. Existing rights

All patents for mining claims upon veins or lodes issued prior to May 10, 1872, shall convey all the rights and privileges conferred by sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43 where no adverse rights existed on the 10th day of May, 1872.

(R.S. Sec. 2328.)

#### References in Text

Sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, referred to in text, were in the original ``this chapter'', meaning chapter 6 of title 32 of the Revised Statutes, consisting of R.S. Secs. 2318 to 2352.

#### Codification

R.S. Sec. 2328 derived from act May 10, 1872, ch. 152, Sec. 9, 17 Stat. 94.

Provision of this section respecting prosecution of applications for patents for mining claims in General Land Office, pending May 10, 1872, was omitted from the Code.

## TITLE 30--MINERAL LANDS AND MINING

### CHAPTER 2--MINERAL LANDS AND REGULATIONS IN GENERAL

#### Sec. 34. Description of vein claims on surveyed and unsurveyed lands; monuments on ground to govern conflicting calls

The description of vein or lode claims upon surveyed lands shall designate the location of the claims with reference to the lines of the public survey, but need not conform therewith; but where patents have been or shall be issued for claims upon unsurveyed lands, the Director of the Bureau of Land Management in extending the public survey, shall adjust the same to the boundaries of said patented claims so as in no case to interfere with or change the true location of such claims as they are officially established upon the ground. Where patents have issued for mineral lands, those lands only shall be segregated and shall be deemed to be patented which are bounded by the lines actually marked, defined, and established upon the ground by the monuments of the official survey upon which the patent grant is based, and the Director of the Bureau of Land Management in executing subsequent patent surveys, whether upon surveyed or unsurveyed lands, shall be governed

accordingly. The said monuments shall at all times constitute the highest authority as to what land is patented, and in case of any conflict between the said monuments of such patented claims and the descriptions of said claims in the patents issued therefor the monuments on the ground shall govern, and erroneous or inconsistent descriptions or calls in the patent descriptions shall give way thereto.

(R.S. Sec. 2327; Apr. 28, 1904, ch. 1796, 33 Stat. 545; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, Sec. 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

#### Codification

R.S. Sec. 2327 derived from act May 10, 1872, ch. 152, Sec. 8, 17 Stat. 94.

#### Amendments

1925--Act Mar. 3, 1925, affected words now reading ``United States supervisor of surveys'' in first and second sentences of text. These words formerly read ``the surveyor-general.'' This act abolished the office of surveyor general, and transferred to and consolidated with the Field Surveying Service, under the jurisdiction of the U.S. Supervisor of Surveys, the administration, equipment, etc., of such office.

#### Transfer of Functions

Director of the Bureau of Land Management, substituted for United States Supervisor of Surveys wherever appearing. In the establishment of the Bureau of Land Management by Reorg. Plan No. 3 of 1946, Sec. 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees, the office of Supervisor of Surveys was abolished and the functions and powers were transferred to the Secretary of the Interior, to be performed by such officers or agencies of the Department as might be designated by the Secretary. Under that authority, the functions and powers formerly exercised by the Supervisor of Surveys were delegated to the Chief Cadastral Engineer, subject to the supervision of the Director of the Bureau of Land Management. In the general reorganization and realignment of functions of the Bureau, the office of the Chief Cadastral Engineer was abolished, and the functions of that office have been delegated to the Director of the Bureau of Land Management. See 43 C.F.R. Sec. 9180.0-3(a)(1).

See also note set out under section 1 of this title.

### TITLE 30--MINERAL LANDS AND MINING

#### CHAPTER 2--MINERAL LANDS AND REGULATIONS IN GENERAL

Sec. 35. Placer claims; entry and proceedings for patent under provisions applicable to vein or lode claims; conforming entry to legal subdivisions and surveys; limitation of claims; homestead entry of segregated agricultural land

Claims usually called ``placers,'' including all forms of deposit,

excepting veins of quartz, or other rock in place, shall be subject to entry and patent, under like circumstances and conditions, and upon similar proceedings, as are provided for vein or lode claims; but where the lands have been previously surveyed by the United States, the entry in its exterior limits shall conform to the legal subdivisions of the public lands. And where placer claims are upon surveyed lands, and conform to legal subdivisions, no further survey or plat shall be required, and all placer-mining claims located after the 10th day of May 1872, shall conform as near as practicable with the United States system of public-land surveys, and the rectangular subdivisions of such surveys, and no such location shall include more than twenty acres for each individual claimant; but where placer claims cannot be conformed to legal subdivisions, survey and plat shall be made as on unsurveyed lands; and where by the segregation of mineral land in any legal subdivision a quantity of agricultural land less than forty acres remains, such fractional portion of agricultural land may be entered by any party qualified by law, for homestead purposes.

(R.S. Secs. 2329, 2331; Mar. 3, 1891, ch. 561, Sec. 4, 26 Stat. 1097.)

#### Codification

R.S. Sec. 2329 derived from act July 9, 1870, ch. 235, Sec. 12, 16 Stat. 217.

R.S. Sec. 2331 derived from act May 10, 1872, ch. 152, Sec. 10, 17 Stat. 94.

#### Submerged Lands Act

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

### TITLE 30--MINERAL LANDS AND MINING

#### CHAPTER 2--MINERAL LANDS AND REGULATIONS IN GENERAL

Sec. 36. Subdivisions of 10-acre tracts; maximum of placer locations; homestead claims of agricultural lands; sale of improvements

Legal subdivisions of forty acres may be subdivided into ten-acre tracts; and two or more persons, or associations of persons, having contiguous claims of any size, although such claims may be less than ten acres each, may make joint entry thereof; but no location of a placer claim, made after the 9th day of July 1870, shall exceed one hundred and sixty acres for any one person or association of persons, which location shall conform to the United States surveys; and nothing in this section contained shall defeat or impair any bona fide homestead claim upon agricultural lands, or authorize the sale of the improvements of any bona fide settler to any purchaser.

(R.S. Sec. 2330; Mar. 3, 1891, ch. 561, Sec. 4, 26 Stat. 1097.)

#### Codification

R.S. Sec. 2330 derived from act July 9, 1870, ch. 235, Sec. 12, 16 Stat. 217.

### Submerged Lands Act

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

## TITLE 30--MINERAL LANDS AND MINING

### CHAPTER 2--MINERAL LANDS AND REGULATIONS IN GENERAL

Sec. 37. Proceedings for patent where boundaries contain vein or lode; application; statement including vein or lode; issuance of patent: acreage payments for vein or lode and placer claim; costs of proceedings; knowledge affecting construction of application and scope of patent

Where the same person, association, or corporation is in possession of a placer claim, and also a vein or lode included within the boundaries thereof, application shall be made for a patent for the placer claim, with the statement that it includes such vein or lode, and in such case a patent shall issue for the placer claim, subject to the provisions of sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, including such vein or lode, upon the payment of \$5 per acre for such vein or lode claim, and twenty-five feet of surface on each side thereof. The remainder of the placer claim, or any placer claim not embracing any vein or lode claim, shall be paid for at the rate of \$2.50 per acre, together with all costs of proceedings; and where a vein or lode, such as is described in section 23 of this title, is known to exist within the boundaries of a placer claim, an application for a patent for such placer claim which does not include an application for the vein or lode claim shall be construed as a conclusive declaration that the claimant of the placer claim has no right of possession of the vein or lode claim; but where the existence of a vein or lode in a placer claim is not known, a patent for the placer claim shall convey all valuable mineral and other deposits within the boundaries thereof.

(R.S. Sec. 2333.)

### References in Text

Sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, referred to in text, were in the original ``this chapter'', meaning chapter 6 of title 32 of the Revised Statutes, consisting of R.S. Secs. 2318 to 2352.

### Codification

R.S. Sec. 2333 derived from act May 10, 1872, ch. 152, Sec. 11, 17 Stat. 94.

## TITLE 30--MINERAL LANDS AND MINING

## CHAPTER 2--MINERAL LANDS AND REGULATIONS IN GENERAL

### Sec. 38. Evidence of possession and work to establish right to patent

Where such person or association, they and their grantors, have held and worked their claims for a period equal to the time prescribed by the statute of limitations for mining claims of the State or Territory where the same may be situated, evidence of such possession and working of the claims for such period shall be sufficient to establish a right to a patent thereto under sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, in the absence of any adverse claim; but nothing in such sections shall be deemed to impair any lien which may have attached in any way whatever to any mining claim or property thereto attached prior to the issuance of a patent.

(R.S. Sec. 2332.)

#### References in Text

Sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, referred to in text, were in the original ``this chapter'', meaning chapter 6 of title 32 of the Revised Statutes, consisting of R.S. Secs. 2318 to 2352.

#### Codification

R.S. Sec. 2332 derived from act July 9, 1870, ch. 235, Sec. 13, 16 Stat. 217.

#### Submerged Lands Act

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

## TITLE 30--MINERAL LANDS AND MINING

### CHAPTER 2--MINERAL LANDS AND REGULATIONS IN GENERAL

#### Sec. 39. Surveyors of mining claims

The Director of the Bureau of Land Management may appoint in each land district containing mineral lands as many competent surveyors as shall apply for appointment to survey mining claims. The expenses of the survey of vein or lode claims, and the survey and subdivision of placer claims into smaller quantities than one hundred and sixty acres, together with the cost of publication of notices, shall be paid by the applicants, and they shall be at liberty to obtain the same at the most reasonable rates, and they shall also be at liberty to employ any United States deputy surveyor to make the survey. The Director of the Bureau of Land Management shall also have power to establish the maximum charges for surveys and publication of notices under sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section

661 of title 43; and, in case of excessive charges for publication, he may designate any newspaper published in a land district where mines are situated for the publication of mining notices in such district, and fix the rates to be charged by such paper; and, to the end that the Director may be fully informed on the subject, each applicant shall file with the register a sworn statement of all charges and fees paid by such applicant for publication and surveys, together with all fees and money paid the register of the land office, which statement shall be transmitted, with the other papers in the case, to the Director of the Bureau of Land Management.

(R.S. Sec. 2334; Mar. 3, 1925, ch. 462, 43 Stat. 1144, 1145; 1946 Reorg. Plan No. 3, Sec. 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

#### References in Text

Sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, referred to in text, were in the original ``this chapter'', meaning chapter 6 of title 32 of the Revised Statutes, consisting of R.S. Secs. 2318 to 2352.

#### Codification

R.S. Sec. 2334 derived from act May 10, 1872, ch. 152, Sec. 12, 17 Stat. 95.

#### Amendments

1925--Act Mar. 3, 1925, affected words in first sentence of text, now reading ``The United States supervisor of surveys,'' and words in third sentence of text, now reading ``money paid the register of the Land Office.'' Such words formerly read ``the surveyor-general of the United States,'' and ``and money paid the register and the receiver of the land-office.'' Such act is treated more fully in note under section 29 of this title.

#### Transfer of Functions

Director of the Bureau of Land Management substituted for United States Supervisor of Surveys in sentence beginning ``The Director of the Bureau of Land Management may appoint''. In the establishment of the Bureau of Land Management by Reorg. Plan No. 3 of 1946, Sec. 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees, the office of Supervisor of Surveys was abolished and the functions and powers were transferred to the Secretary of the Interior, to be performed by such officers or agencies of the Department as might be designated by the Secretary. Under that authority, the functions and powers formerly exercised by the Supervisor of Surveys were delegated to the Chief Cadastral Engineer, subject to the supervision of the Director of the Bureau of Land Management. In the general reorganization and realignment of functions of the Bureau, the office of the Chief Cadastral Engineer was abolished, and the functions of that office have been delegated to the Director of the Bureau of Land Management. See 43 C.F.R. Sec. 9180.0-3(a)(1).

In sentence beginning ``The Director of the Bureau of Land Management shall also have power'', ``Director of the Bureau of Land

Management'' substituted for ``Commissioner of the General Land Office'' in two instances and ``Director'' for ``Commissioner'' on authority of Reorg. Plan No. 3 of 1946, Sec. 403, set out in the Appendix to Title 5. Section 403 of Reorg. Plan No. 3 of 1946, abolished the office of the Commissioner of the General Land Office and consolidated the functions of the General Land Office with the Grazing Service to form the Bureau of Land Management.

Office of register of district land office abolished and all functions of register transferred to Secretary of the Interior, or to officers and agencies of Department of the Interior as Secretary may designate, by Reorg. Plan No. 3 of 1946, Sec. 403, set out in the Appendix to Title 5.

See also note set out under section 1 of this title.

## TITLE 30--MINERAL LANDS AND MINING

### CHAPTER 2--MINERAL LANDS AND REGULATIONS IN GENERAL

#### Sec. 40. Verification of affidavits

All affidavits required to be made under sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title, and section 661 of title 43 may be verified before any officer authorized to administer oaths within the land district where the claims may be situated, and all testimony and proofs may be taken before any such officer, and, when duly certified by the officer taking the same, shall have the same force and effect as if taken before the register of the land office. In cases of contest as to the mineral or agricultural character of land, the testimony and proofs may be taken as herein provided on personal notice of at least ten days to the opposing party; or if such party cannot be found, then by publication of at least once a week for thirty days in a newspaper, to be designated by the register of the land office as published nearest to the location of such land; and the register shall require proof that such notice has been given.

(R.S. Sec. 2335; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, Sec. 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

#### References in Text

Sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, referred to in text, were in the original ``this chapter'', meaning chapter 6 of title 32 of the Revised Statutes, consisting of R.S. Secs. 2318 to 2352.

#### Codification

R.S. Sec. 2335 derived from act May 10, 1872, ch. 152, Sec. 13, 17 Stat. 95.

#### Amendments

1925--Act Mar. 3, 1925, affected words in first sentence of text, now reading ``before the register of the land office.'' Such words formerly read ``before the register and receiver of the land-office.''



Such act is treated more fully in note under section 29 of this title.

#### Transfer of Functions

Office of register of district land office abolished and all functions of register transferred to Secretary of the Interior, or to officers and agencies of Department of the Interior as Secretary may designate, by Reorg. Plan No. 3 of 1946, Sec. 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees.

See also note set out under section 1 of this title.

### TITLE 30--MINERAL LANDS AND MINING

#### CHAPTER 2--MINERAL LANDS AND REGULATIONS IN GENERAL

##### Sec. 41. Intersecting or crossing veins

Where two or more veins intersect or cross each other, priority of title shall govern, and such prior location shall be entitled to all ore or mineral contained within the space of intersection; but the subsequent location shall have the right-of-way through the space of intersection for the purposes of the convenient working of the mine. And where two or more veins unite, the oldest or prior location shall take the vein below the point of union, including all the space of intersection.

(R.S. Sec. 2336.)

#### Codification

R.S. Sec. 2336 derived from act May 10, 1872, ch. 152, Sec. 14, 17 Stat. 96.

### TITLE 30--MINERAL LANDS AND MINING

#### CHAPTER 2--MINERAL LANDS AND REGULATIONS IN GENERAL

##### Sec. 42. Patents for nonmineral lands: application, survey, notice, acreage limitation, payment

###### (a) Vein or lode and mill site owners eligible

Where nonmineral land not contiguous to the vein or lode is used or occupied by the proprietor of such vein or lode for mining or milling purposes, such nonadjacent surface ground may be embraced and included in an application for a patent for such vein or lode, and the same may be patented therewith, subject to the same preliminary requirements as to survey and notice as are applicable to veins or lodes; but no location made on and after May 10, 1872, of such nonadjacent land shall exceed five acres, and payment for the same must be made at the same rate as fixed by sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43 for the superficies of the lode. The owner of a quartz mill or reduction works,

not owning a mine in connection therewith, may also receive a patent for his mill site, as provided in this section.

(b) Placer claim owners eligible

Where nonmineral land is needed by the proprietor of a placer claim for mining, milling, processing, beneficiation, or other operations in connection with such claim, and is used or occupied by the proprietor for such purposes, such land may be included in an application for a patent for such claim, and may be patented therewith subject to the same requirements as to survey and notice as are applicable to placers. No location made of such nonmineral land shall exceed five acres and payment for the same shall be made at the rate applicable to placer claims which do not include a vein or lode.

(R.S. Sec. 2337; Pub. L. 86-390, Mar. 18, 1960, 74 Stat. 7.)

#### References in Text

Sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, referred to in subsec. (a), were in the original ``this chapter'', meaning chapter 6 of title 32 of the Revised Statutes, consisting of R.S. Secs. 2318 to 2352.

#### Codification

R.S. Sec. 2337 derived from act May 10, 1872, ch. 152, Sec. 15, 17 Stat. 96.

#### Amendments

1960--Pub. L. 86-390 designated existing provisions as subsec. (a) and added subsec. (b).

### TITLE 30--MINERAL LANDS AND MINING

#### CHAPTER 2--MINERAL LANDS AND REGULATIONS IN GENERAL

Sec. 43. Conditions of sale by local legislature

As a condition of sale, in the absence of necessary legislation by Congress, the local legislature of any State or Territory may provide rules for working mines, involving easements, drainage, and other necessary means to their complete development; and those conditions shall be fully expressed in the patent.

(R.S. Sec. 2338.)

#### Codification

R.S. Sec. 2338 derived from act July 26, 1866, ch. 262, Sec. 5, 14 Stat. 252.

#### Submerged Lands Act

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

## TITLE 30--MINERAL LANDS AND MINING

### CHAPTER 2--MINERAL LANDS AND REGULATIONS IN GENERAL

Secs. 44, 45. Omitted

#### Codification

Section 44, R.S. Sec. 2341; act Mar. 3, 1891, ch. 561, Sec. 4, 26 Stat. 1097, provided for extension of provisions of Homestead laws to citizens of United States who had prior to 1874 located on lands designated prior to 1866 as mineral lands, and improved them for agricultural purposes, provided no valuable mineral deposits had been discovered thereon.

Section 45, R.S. Sec. 2342; act Mar. 3, 1891, ch. 561, Sec. 4, 26 Stat. 1097, provided for setting apart the lands as agricultural.

## TITLE 30--MINERAL LANDS AND MINING

### CHAPTER 2--MINERAL LANDS AND REGULATIONS IN GENERAL

Sec. 46. Additional land districts and officers

The President is authorized to establish additional land districts, and to appoint the necessary officers under existing laws, wherever he may deem the same necessary for the public convenience in executing the provisions of sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43.

(R.S. Sec. 2343.)

#### References in Text

Sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, referred to in text, were in the original ``this chapter'', meaning chapter 6 of title 32 of the Revised Statutes, consisting of R.S. Secs. 2318 to 2352.

#### Codification

R.S. Sec. 2343 derived from act July 26, 1866, ch. 262, Sec. 7, 14 Stat. 252.

#### Delegation of Functions

For delegation to the Secretary of the Interior of authority vested in the President by this section, see Ex. Ord. No. 10250, June 5, 1951, 16 F.R. 5385, set out as a note under section 301 of Title 3, The President.

## Submerged Lands Act

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

### TITLE 30--MINERAL LANDS AND MINING

#### CHAPTER 2--MINERAL LANDS AND REGULATIONS IN GENERAL

##### Sec. 47. Impairment of rights or interests in certain mining property

Nothing contained in sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43 shall be construed to impair in any way, rights or interests in mining property acquired under laws in force prior to July 9, 1870; nor to affect the provisions of the act entitled ``An act granting to A. Sutro the right-of-way and other privileges to aid in the construction of a draining and exploring tunnel to the Comstock lode, in the State of Nevada'', approved July 25, 1866.

(R.S. Sec. 2344.)

#### References in Text

Sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, referred to in text, were in the original ``this chapter'', meaning chapter 6 of title 32 of the Revised Statutes, consisting of R.S. Secs. 2318 to 2352.

#### Codification

R.S. Sec. 2344 derived from acts July 9, 1870, ch. 235, Sec. 17, 16 Stat. 218; May 10, 1872, ch. 152, Sec. 16, 17 Stat. 96.

## Submerged Lands Act

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.