

**Appendix 4**  
**Exceptions to ANILCA 810 Evaluations**  
**3809 Surface Management of Mining**  
Compliance with ANILCA Section 810

43 CFR Section 3809 contains the surface management procedures to be followed by the BLM with regard to actions that are carried out under existing mineral laws. The objectives of the 3809 regulations are to prevent unnecessary or undue degradation, provide protection of the non-mineral resources of the Federal lands, provide for reclamation, and provide for coordination with state agencies. The regulation defines three levels of activities: Casual Use that requires no permit; Notice-level Operations, which consist of a disturbance of five acres or less and is intended for exploration activities only; and Plan-level Operations, which are situations where more than five acres will be disturbed and mechanized mining will occur.

**Casual Use**

A Section 810 Evaluation is not required for casual use, which is defined as activities ordinarily resulting in no or negligible disturbance of the public lands or resources. For example, the collection of geochemical, rock, soil, or mineral specimens using hand tools; hand panning; or non-motorized sluicing. It may include use of small portable suction dredges, and also generally includes use of metal detectors, gold spears and other battery-operated devices for sensing the presence of minerals.

**Notice-level Operations**

Section 810 Evaluations are not required for Notice-level Operations, because these activities are allowed under existing mining laws, and are not at the discretion of the Authorized Officer to modify or prohibit. Notice-level Operations are currently defined in 3809.21 as exploration activities causing surface disturbance of five acres or less of public lands on which reclamation has not been completed, and are activities in which the claimant only needs to provide Notice to the BLM within 15 days of the start of their Operations. In Alaska, ongoing mining on five acres or less with mechanized equipment is treated as a Notice-level action—as long as the claimant does not allow their claim to lapse. If the claim lapses and the applicant applies for a new claim, then Notice can only be given for exploration, and all mechanized mining falls under Plan-level Operations.

**Plan-level Operations**

An 810 Evaluation shall be prepared on all Plan-level Operations, which are defined as all operations that are greater than casual use, and do not conform to the definition of Notice-level Operations. In Alaska, Plan-level Operations require an environmental review, and usually result in an EA or DNA. As such, the ANILCA 810 process outlined for these two types of environmental review, above, should be followed. In situations where a finding of “may significantly restrict” occurs, and the Plan of Operation cannot be modified to prevent the significant restriction, further guidance from the State Office is required. Plan-level Operations may require an EIS; and if this be the case, then the analyst should follow the guidance for preparing a Section 810 Evaluation for an EIS, above.