Title 43: Public Lands: Interior

PART 3830—LOCATING, RECORDING, AND MAINTAINING MINING CLAIMS OR SITES; GENERAL PROVISIONS

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Authority: 18 U.S.C. 1001, 3571; 30 U.S.C. 22 *et seq.* , 242, 611; 31 U.S.C. 9701; 43 U.S.C. 2, 1201, 1212, 1457, 1474, 1701 *et seq.* ; 44 U.S.C. 3501 *et seq.* ; 115 Stat. 414.

Source: 68 FR 61064, Oct. 24, 2003, unless otherwise noted.

Subpart A—Introduction

§ 3830.1 What is the purpose of parts 3830–3839?

In this part 3830, references to "these regulations" are references to parts 3830 through 3839 of this chapter.
(a) These regulations describe the steps you, as a mining claimant, must take regarding mining claims or sites on the Federal lands under Federal law, to—
(1) Locate (see part 3832 of this chapter);
(2) Maintain (see parts 3834 through 3836 of this chapter);
(3) Amend (see part 3833, subpart B, of this chapter); and
(4) Transfer (see part 3833, subpart C, and part 3835, subpart B, of this chapter) mining claims or sites on the Federal lands under Federal law.
(b) These regulations apply to—
(1) Lode and placer mining claims (see part 3832, subpart B, of this chapter);
(2) Mill sites (see part 3832, subpart C, of this chapter);
(3) Tunnel sites (see part 3832, subpart D, of this chapter);
(4) Oil shale claims (see §3830.92);
(5) Location of uncommon varieties of mineral materials (see §3830.12(b));
(6) Delinquent co-claimants (see part 3837 of this chapter); and
(7) Mining claims and tunnel sites on Stockraising Homestead Act lands (see part 3838 of this chapter).
(c) In addition to these regulations, there are State law requirements that apply to you. If any State law conflicts with the requirements in these regulations, you must still comply with these regulations. These regulations do not describe State law requirements.

§ 3830.2 What is the scope of these regulations?

These regulations govern locating, recording, and maintaining mining claims, mill sites, and tunnel sites on all Federal lands. These regulations do not authorize locating any new mining claims on Federal lands closed to mineral entry, including units of the National Park Service.
(a) You must follow the recording and maintenance requirements in this part even if BLM has actual knowledge of the existence of your mining claims or sites through other means.
(b) Part 3838 of this chapter describes supplemental procedures for locating mining claims or sites on land subject to the Stockraising Homestead Act, 43 U.S.C. 291–299.
(c) BLM is not the official recording office for ancillary documents concerning mining claims or sites, including but not limited to, leases, wills, judgments, liens, option agreements, and grubstake contracts.

§ 3830.3 Who may locate mining claims?

Persons qualified to locate mining claims or sites under this part include:
(a) United States citizens who have reached the age of discretion under the law of their State of residence;
(b) Legal immigrants who have filed an application for citizenship with the proper Federal agency;
(c) Business entities organized under the laws of any state, including but not limited to corporations and partnerships; or
(d) Duly constituted and appointed agents acting on behalf of locators qualified under paragraph (a), (b), or (c) of this section.

§ 3830.5 Definitions.

Aliquot part means a legal subdivision of a section of a township and range, except fractional lots, by division into halves or quarters.

Amendment means the act of making a change in a previously recorded mining claim or site as described in §3833.21 of this chapter.

Annual FLPMA documents means either a notice of intent to hold, or an affidavit of assessment work, as prescribed in section 314(a) of FLPMA (43 U.S.C. 1744(a)). The term "proof of labor" (commonly used to describe this document) means the same as "affidavit of assessment work" as used in this part. See parts 3835 and 3836 of this chapter for further information.

Assessment year means a period of 12 consecutive months beginning at 12 noon on September 1 each year. See part 3836 of this chapter for further information.

Bench placer claim means a placer mining claim located on terraces or former floodplains made of gravel or sediment or both on the valley wall or slope above the current riverbed, and created when the river previously was at a higher topographic level than now.

BLM State Office means the Bureau of Land Management State Office listed in §1821.10 of this chapter having jurisdiction over the land in which the mining claims or sites are situated. The Northern District Office in Fairbanks may also receive and accept documents, filings, and fees for mining claims or sites in Alaska.

Claimant means the person under state or Federal law who is the owner of all or any part of an unpatented mining claim or site.

Closed to mineral entry means the land is not available for the location of mining claims or sites because Congress, BLM, or another surface managing agency has withdrawn or otherwise segregated the lands from the operation of the General Mining Law, often subject to valid existing rights.

Control means actual control, legal control, or 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. BLM may determine, based on evidence that we find adequate, that a stockholder who is not an officer or director, or who is not a majority shareholder, of a company or corporation exercises control as defined in these regulations.

Discovery means that a mining claimant has found a valuable mineral deposit.

Federal lands means any lands or interest in lands owned by the United States, subject to location under the General Mining Law, including, but not limited to, those lands within forest reservations in the National Forest System and wildlife refuges in the National Wildlife Refuge System.

Filed means a document is—

(a) Received by BLM on or before the due date; or

(b)(1) Postmarked or otherwise clearly identified as sent on or before the due date by a *bona fide* mail delivery service, and

(2) Received by the appropriate BLM state office either:

(i) Within 15 calendar days after the due date; or

(ii) On the next business day after the 15th day, if the 15th day is not a business day (see subpart 1822 of this chapter).

Final certificate means a form that BLM issues during its processing of a mineral patent application. (In 1999, BLM changed this form from two-part form to a single form that BLM completes toward the end of the patenting process.) The form indicates that BLM has reviewed the mineral patent application and conducted a validity determination and concluded that the applicant has:

(a) Met all of the paperwork requirements;

(b) Published notice of the patent application and received no adverse claims;

(c) Paid the purchase price; and

(d) Discovered a valuable mineral deposit on mining claims or located mill sites on lands that are not mineral-in-character and are properly used or occupied.

FLPMA means the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1701 *et seq.*).

Forfeit or *forfeiture* means the voidance or invalidation of an unpatented mining claim or site. The terms "abandoned and void", "null and void," "void ab initio" and "forfeited" have the same effect in these regulations.

General Mining Law means the Act of May 10, 1872, as amended, (codified as 30 U.S.C. 22–54).

Gulch placer claim means a placer claim located on the bed of a river contained within steep, nonmineral canyon walls. The form of the river valley and nonmineral character of the valley walls preclude the location of the claim by aliquot parts and a metes and bounds description is necessary.
Local recording office means the county or state government office established under state law where you are usually required to record all legal documents including, but not limited to, deeds and wills.
Location fee means the one-time fee that 30 U.S.C. 28g requires you to pay for all new mining claims and sites at the time you record them with BLM. See §3830.21 for the table of fees.
Maintenance fee means the initial or annual fee that 30 U.S.C. 28f requires you to pay to hold and maintain mining claims or sites. See §3830.21 for the table of fees.
Metes and bounds means a method of describing a parcel of land that does not conform to the rectangular U.S. Public Land Survey System, using compass bearings and distances from a known point to a specified point on the parcel and then by using a continuous and sequential set of compass bearings and distances beginning at the point of beginning, continuing along and between the corners or boundary markers of the parcel's outer perimeter, until returning to the point of beginning.
Mineral-in-character means land that is known, or can reasonably be inferred from the available geologic evidence, to contain:
(a) Valuable minerals subject to location under the general mining law for purpose of locating mining claims or sites;
(b) Mineral materials for purposes of disposal under part 3600 of this chapter.
Mineral Leasing Acts means the Mineral Leasing Act of [February 25,] 1920, as amended (30 U.S.C. 181 *et seq.*); the Geothermal Steam Act of 1970, as amended (30 U.S.C. 1001 *et seq.*); the Mineral Leasing Act for Acquired Lands of 1947, as amended, (30 U.S.C. 351 *et seq.*); and including all Acts referenced in 30 U.S.C. 505. The definition pertains to all minerals that BLM administers under Groups 3100, 3200, 3400, and 3500 of this chapter.
Mineral materials means those materials that—
(a) BLM may sell under the Mineral Materials Act of July 31, 1947 (30 U.S.C. 601–604), as amended by the Surface Resources Act of 1955 (30 U.S.C. 601, 603, and 611–615); and
(b) BLM administers under part 3600 of this chapter.
Multiple Mineral Development Act means the Act of August 13, 1954, as amended (30 U.S.C. 521–531).
Nonmineral land means land that is not mineral-in-character.
Open to mineral entry means that the land is open to the location of mining claims or sites under the General Mining Law.
Patent means a document conveying title to Federal surface and/or minerals.
Recording means the act of filing a notice or certificate of location with the local recording office and BLM, as required by FLPMA.
Related party means:
(a) The spouse and dependent children of the claimant as defined in section 152 of the Internal Revenue Code of 1986; or
(b) A person who controls, is controlled by, or is under common control with the claimant.
Segregate or segregation means the Department of the Interior has closed the affected lands to mineral entry or withdrawn the affected lands from mining claim location, land transactions, or other uses as specified in a statute, regulation, or public land order affecting the land in question. The land remains segregated until the statutory period has expired, BLM ends the segregation under §2091.2–2 of this chapter, or the Department of the Interior removes the notation of segregation from its records, whichever occurs first.
Service charge means an administrative fee that BLM assesses under this part to cover the cost of processing documents.
Site means either an unpatented mill site authorized under 30 U.S.C. 42 or a tunnel site authorized under 30 U.S.C. 27.
Small miner means a claimant who, along with all related parties, holds no more than 10 mining claims or sites on Federal lands on the date annual maintenance fees are due, and meets the additional requirements of part 3835 of this chapter.
Split estate lands means that lands where United States owns the mineral estate as part of the public domain, but not the surface.
Surface Resources Act means the Act of July 23, 1955 (30 U.S.C. 601, 603, and 611–615).

Unpatented mining claim means a lode mining claim or a placer mining claim located and maintained under the General Mining Law for which BLM has not issued a mineral patent under 30 U.S.C. 29.

Subpart B—Providing Information to BLM

§ 3830.8 How will BLM use the information it collects and what does it estimate the burden is on the public?

(a) The Office of Management and Budget has approved the collections of information contained in parts 3830–3838 of this chapter under 44 U.S.C. 3501 *et seq.* and has assigned clearance number 1004–0114.
(b) BLM will use the information collected to:
(1) Keep records of mining claims or sites;
(2) Maintain ownership records to those mining claims or sites;
(3) Determine the geographic location of the mining claims or sites recorded for proper land management purposes; and
(4) Determine which mining claims or sites the claimant wishes to continue to hold under applicable Federal statutes.
(c) BLM estimates that the public reporting burden for this information averages 8 minutes per response. This burden includes time for reviewing instructions, searching existing records, gathering and maintaining the data collected, and completing and reviewing the information collected.
(d) Send any comments on information collection, including your views on the burden estimate and how to reduce the burden, to: the Information Collection Clearance Officer (WO–630), Bureau of Land Management, Eastern States Office, 7450 Boston Boulevard, Springfield, Virginia 22153; and the Office of Management and Budget, Paperwork Reduction Project, 1004–0114, Washington, D.C. 20503.

§ 3830.9 What will happen if I file a document with BLM that I know contains false, erroneous, or fictitious information or statements?

If you file a document that you know contains false, erroneous, or fictitious information or statements, you may be subject to criminal penalties under 18 U.S.C. 1001 and 43 U.S.C. 1212. The maximum penalty is 5 years in prison and/or a fine of $250,000.

Subpart C—Mining Law Minerals

§ 3830.10 Locatable minerals.

§ 3830.11 Which minerals are locatable under the General Mining Law?

Minerals are locatable if they are:
(a) Subject to the General Mining Law;
(b) Not leasable under the Mineral Leasing Acts; and
(c) Not salable under the Mineral Materials Act of 1947 and Surface Resources Act of 1955, 30 U.S.C. 601–615 (see parts 3600 through 3620 of this chapter).

§ 3830.12 What are the characteristics of a locatable mineral?

(a) Minerals are locatable if they meet the requirements in §3830.11 and are:
(1) Recognized as a mineral by the scientific community; and
(2) Found on Federal lands open to mineral entry.
(b) Under the Surface Resources Act, certain varieties of mineral materials are locatable if they are uncommon because they possess a distinct and special value. As provided in *McClarty* v. *Secretary of the Interior,* 408 F.2d 907 (9th Cir. 1969), we determine whether mineral materials have a distinct and special value by:
(1) Comparing the mineral deposit in question with other deposits of such minerals generally;
(2) Determining whether the mineral deposit in question has a unique physical property;
(3) Determining whether the unique property gives the deposit a distinct and special value;

(4) Determining whether, if the special value is for uses to which ordinary varieties of the mineral are put, the deposit has some distinct and special value for such use; and
(5) Determining whether the distinct and special value is reflected by the higher price that the material commands in the market place.
(c) Block pumice having one dimension of 2 or more inches is an uncommon variety of mineral material under the Surface Resources Act, and is subject to location under the mining laws.
(d) Limestone of chemical or metallurgical grade, or that is suitable for making cement, is subject to location under the mining laws.
(e) Gypsum suitable for the manufacture of wall board or plaster, or uses requiring a high state of purity, is subject to location under the mining laws.

Subpart D—BLM Service Charge and Fee Requirements

§ 3830.20 Payment of service charges, location fees, initial maintenance fees, annual maintenance fees and oil shale fees.

§ 3830.21 What are the different types of service charges and fees?

The following table lists service charges, maintenance fees, location fees, and oil shale fees (all cross-references refer to this chapter):

Transaction	Amount due per mining claim or site	Waiver available
(a) Recording a mining claim or site location (part 3833)	(1) A total sum which includes	No.
	(i) the processing fee for notices of location found in the fee schedule in §3000.12 of this chapter	
	(ii) A one-time $34 location fee	
	(iii) An initial $140 maintenance fee	
(b) Amending a mining claim or site location (§3833.20)	The processing fee for amendment of location found in the fee schedule in §3000.12 of this chapter	No.
(c) Transferring a mining claim or site (§3833.30)	The processing fee for transfer of mining claim/site found in the fee schedule in §3000.12 of this chapter	No.
(d) Maintaining a mining claim or site for one assessment year (part 3834)	A $140 annual maintenance fee	Yes, see part 3835.
(e) Recording an annual FLPMA filing (§3835.30)	The processing fee for recording an annual FLPMA filing found in the fee schedule in §3000.12 of this chapter	No.
(f) Submitting a petition for deferment of assessment work (§3836.20)	The processing fee for deferment of assessment work found in the fee schedule in §3000.12 of this chapter	No.
(g) Maintaining an oil shale placer mining claim (§3834.11(b))	An annual $550 fee	No.
(h) Recording a notice of intent to locate mining claims on Stockraising Homestead Act Lands (part 3838)	The filing fee for recording a notice of intent to locate mining claims on Stock Raising Homestead Act Lands found in the fee schedule in §3000.12 of this chapter	No.

[74 FR 30961, June 29, 2009]

§ 3830.22 Will BLM refund service charges or fees?

(a) BLM will not refund service charges, except for overpayments.

(b) BLM will refund maintenance and location fees if:
(1) At the time you or your predecessor in interest located the mining claim or site, the location was on land not open to mineral entry or otherwise not available for mining claim or site location; or
(2) At the time you paid the fees, the mining claim or site was void.
(c) BLM will apply maintenance and location fee overpayments to future years if you so request.

§ 3830.23 What types of payment will BLM accept?

(a) BLM will accept the following types of payments:
(1) U.S. currency;
(2) Postal money order payable in U.S. dollars to the Department of the Interior—Bureau of Land Management;
(3) Check or other negotiable instrument payable in U.S. dollars to the Department of the Interior—Bureau of Land Management;
(4) Valid credit card that is acceptable to the BLM; or
(5) An authorized debit from a declining deposit account with BLM.
(i) You may maintain a declining deposit account with the BLM State Office where your mining claims or sites are recorded.
(ii) BLM will deduct service charges and fees or add overpayments to the account only when you authorize us to do so.
(b) If the issuing institution of your check, negotiable instrument, or credit card refuses to pay and it is not because the institution made a mistake, BLM will treat the service charges and fees as unpaid.

§ 3830.24 How do I make payments?

(a) You or your representative may bring payments to the BLM State Office by close of business on or before the due date.
(b) If you use a credit card—
(1) On or before the due date, you must send or fax a written authorization, bearing your signature; or
(2) You may authorize BLM to use your credit card by telephone if you can satisfactorily establish your identity.
(c) You may send payments using a *bona fide* mail delivery service.
(1) The payment must be postmarked or clearly identified by the mail delivery service as being sent on or before the due date; and
(2) The BLM State Office must receive the payment no later than 15 calendar days after the due date.

§ 3830.25 When do I pay for recording a new notice or certificate of location for a mining claim or site?

You must pay the service charge, location fee, and initial maintenance fee, in full, as provided in §3830.21 of this chapter, at the time you record new notices or certificates of location with BLM.

Subpart E—Failure To Comply With These Regulations

§ 3830.90 Failure to comply with these regulations.

§ 3830.91 What happens if I fail to comply with these regulations?

(a) You will forfeit your mining claims or sites if you fail to—
(1) Record a mining claim or site within 90 days after you locate it;
(2) Pay the location fee or initial maintenance fee within 90 days after you locate it;
(3) Pay the annual maintenance fee on or before the due date;
(4) Submit a small miner waiver request on or before the due date (see §3835.1) and also fail to pay the annual maintenance fee on or before the due date;
(5) List any claims or sites that you own on your small miner waiver request and fail to pay an annual maintenance fee for the missing claims or sites on or before the due date;

(6) Cure any defects in your timely small miner waiver request or pay the maintenance fee within the allowed time after BLM notifies you of the defects;
(7) File an annual FLPMA filing on or before the due date, as applicable; or
(8) Submit missing documentation or a complete payment after BLM notifies you that a filing or payment you made was defective, within the time allowed in the BLM notice.
(b) You will forfeit your mining claim or site if you locate your mining claim or site on lands closed to mineral entry at the time you locate it.
(c) Even if you forfeit your mining claims or sites, you remain responsible for—
(1) All reclamation and performance requirements imposed by subparts 3802, 3809, or 3814 of this chapter; and
(2) All other legal responsibilities imposed by other agencies or parties who have management authority over surface or subsurface operations.
(d) Under the circumstances described in §§3830.93 through 3830.97, you may cure a failure to comply with these regulations.

§ 3830.92 What special provisions apply to oil placer mining claims?

(a) Under 30 U.S.C. 188(f), you, as an oil placer mining claimant, may seek to convert an oil placer mining claim to a noncompetitive oil and gas lease under section 17(e) of the Mineral Leasing Act (30 U.S.C. 226(e)), if:
(1) BLM declared your oil placer mining claim abandoned and void under section 314 of FLPMA;
(2) Your failure to comply with section 314 of FLPMA was inadvertent, justifiable, or not due to lack of reasonable diligence;
(3) You or your predecessors in interest validly located the unpatented oil placer mining claim before February 25, 1920;
(4) The claim has been or is currently producing or is capable of producing oil or gas; and
(5) You have submitted a petition asking BLM to issue a noncompetitive oil and gas lease. Your petition must include the required rental and royalty payments, including back rental and royalty accruing from the statutory date of abandonment of the oil placer mining claim.
(b) If BLM chooses to issue a noncompetitive oil and gas lease, the lease will be effective on the date that BLM declared your unpatented oil placer mining claim abandoned and void.

§ 3830.93 When are defects curable?

(a) If there is a defect in your compliance with a statutory requirement, the defect is incurable if the statute does not give the Secretary authority to permit exceptions (*see* §§3830.91 and 3833.91 of this chapter). If your payment, recording, or filing has incurable defects, the affected mining claims or sites are statutorily forfeited.
(b) If there is a defect in your compliance with a regulatory, but not statutory, requirement, the defect is curable. You may correct curable defects when BLM gives you notice. If you fail to cure the defect within the time BLM allows, you will forfeit your mining claims or sites.
[68 FR 61064, Oct. 24, 2003; 68 FR 74197, Dec. 23, 2003]

§ 3830.94 How may I cure a defect in my compliance with these regulations?

(a)(1) When BLM determines that you have filed any document that is defective or underpaid a fee or service charge, BLM will send a notice to you by certified mail-return receipt requested at the address you gave on:
(i) Your notice or certificate of location;
(ii) An address correction you have filed with BLM; or
(iii) A valid transfer document filed with BLM.
(2) The notice provided for in paragraph (a)(1) of this section constitutes legal service even if you do not actually receive the notice or decision. See §1810.2 of this chapter.
(b) If you have filed any defective document other than a defective fee waiver request, you must cure the defects within 30 days of receiving BLM's notification of the defects.

(c) If you have submitted a defective fee waiver request, you must cure the defects or pay the annual maintenance fees within 60 days of receiving BLM's notification of the defects.
(d) If BLM does not receive the requested information in the time allowed, or if the matter is statutorily not curable, you will receive a final decision from BLM that you forfeited the affected mining claims or sites.

§ 3830.95 What if I pay only part of the service charges, location fees, or first year maintenance fees for newly-recorded claims or sites?

(a) If you pay only part of the service charges, maintenance fees, or location fees when recording new claims or sites, BLM will—
(1) Assign serial numbers to each mining claim or site;
(2) Treat the partial payment as payment of location and maintenance fees and apply the partial payment to the mining claims or sites in serial number order until the money runs out; and
(3) Send a notice to you that you must pay any outstanding service charges as described in §3830.94.
For example, BLM will apply the money to cover the location and maintenance fees for as many mining claims or sites as possible. BLM will return any remaining certificates or notices for which we cannot apply full payment of location and maintenance fees. BLM will apply any remaining funds as service charges in serial number order until the money runs out. BLM will then notify you if you must pay any outstanding service charges for mining claims or sites for which you paid location and maintenance fees, as provided in §3830.94.
(b) If you want to resubmit the new location notices or certificates that BLM returned to you, you must do so with the complete service charges, location fees and maintenance fees within 90 days of the original date of location of the claim or site as defined under state law, or you will forfeit the affected mining claims or sites.
(c) BLM will not record your mining claims or sites until you pay the full amount of all charges and fees for those claims or sites.

§ 3830.96 What if I pay only part of the service charges and fees for oil shale claims or previously-recorded mining claims or sites?

(a) If you pay only part of the service charges due for any document filings or only part of the annual maintenance fees, or oil shale fees, for previously-recorded mining claims or sites, or any combination of these fees and charges, absent other instructions from you, BLM will apply the partial payment in serial number order until the money runs out.
(b) For any claims or sites for which there are no funds in your partial payment to pay the maintenance fees, oil shale fees, or location fees, you will forfeit the mining claims or sites not covered by your partial payment unless you submit the additional funds necessary to complete the full payment by the due date.
(c) For any claims or sites for which there are no funds in your partial payment to pay the service charges, BLM will send a notice to you that you must pay the outstanding service charges as described in §3830.94.

§ 3830.97 What if I pay only part of the service charges for a notice of intent to locate mining claims on SRHA lands?

For notices of intent to locate mining claims (NOITL) under the Stockraising Homestead Act (see part 3838 of this chapter for information regarding the Stockraising Homestead Act and NOITLs), BLM will not accept a NOITL unless we receive your payment of the required service charges. BLM will return the NOITL to you without taking any further action. See §3830.21 of this part for the amount of the service charge for a NOITL.

Subpart F—Appeals

§ 3830.100 How do I appeal a final decision by BLM?

If you are adversely affected by a BLM decision under parts 3830–3839, you may appeal the decision in accordance with parts 4 and 1840 of this title.

PART 3832—LOCATING MINING CLAIMS OR SITES

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Authority: 30 U.S.C. 22 *et seq.* ; 43 U.S.C. 2, 1201, 1457, 1740, 1744.

Source: 68 FR 61069, Oct. 24, 2003, unless otherwise noted.

Subpart A—Locating Mining Claims or Sites

§ 3832.1 What does it mean to locate mining claims or sites?

(a) Locating a mining claim or site means:
(1) Establishing the exterior lines of a mining claim or site on lands open to mineral entry to identify the exact land claimed; and
(2) Recording a notice or certificate of location as required by state and Federal law and by this part.
(b) You will find—
(1) Location requirements in this part;
(2) Recording requirements in part 3833 of this chapter;
(3) Requirements for transferring an interest in a mining claim or site in §3833.30 of this chapter; and
(4) Annual fee requirements for mining claims and sites in parts 3834, 3835, and 3836 of this chapter.

§ 3832.10 Procedures for locating mining claims or sites.

§ 3832.11 How do I locate mining claims or sites?

(a) You must follow both state and Federal law.
(b) Your lode or placer claim is not valid until you make a discovery within the boundaries of the claim.
(c) To locate a claim or site, you must—
(1) Make certain that the land on which you are locating the claim or site is Federal land that is open to mineral entry
(2) Stake and monument the corners of a mining claim or site which meets applicable state monumenting requirements and the size limitations described in §3832.22 for lode and placer claims, §3832.32 for mill sites, and §3832.42 for tunnel sites;
(3) Post the notice of location in a conspicuous place on the claim or site. The notice must include:
(i) The name or names of the locators;
(ii) The date of the location; and
(iii) A description of the claim or site;
(iv) The name or number of the claim or site, or both, if the claim or site has both;
(4) Record the notice or certificate of location in the local recording office and the BLM State Office with jurisdiction according to the procedures in part 3833;
(5) Follow all other relevant state law requirements; and
(6) Comply with the specific requirements for lode claims, placer claims, mill sites, or tunnel sites in this part.

§ 3832.12 When I record a mining claim or site, how do I describe the lands I have claimed?

(a) *General requirements.* (1) All claims and sites. You must describe the land by state, meridian, township, range, section and by aliquot part to the quarter section. To obtain the land description, you must use an official survey plat or other U.S. Government map that is based on the surveyed or protracted U.S. Public Land Survey System. If you cannot describe the land by aliquot part (*e.g.,* the land is unsurveyed), you must provide a metes and bounds description that fixes the position of the claim corners with respect to a specified claim corner, discovery monument, or official survey monument. In all cases, your description of the land must be as compact and regular in form as reasonably possible and should conform to the U.S. Public Land Survey System and its rectangular subdivisions as much as possible; and
(2)(i) You must file either—
(A) A topographical map published by the U.S. Geological Survey with a depiction of the claim or site; or
(B) A narrative or sketch describing the claim or site and tying the description to a natural object, permanent monument or topographic, hydrographic, or man-made feature.
(ii) You must show on a map or sketch the boundaries and position of the individual claim or site by aliquot part within the quarter section accurately enough for BLM to identify the mining claims or sites on the ground.
(iii) You may show more than one claim or site on a single map or describe more than one claim or site in a single sketch—
(A) If they are located in the same general area; and
(B) If the individual mining claims or sites are clearly identified.
(iv) You are not required to employ a professional surveyor or engineer to establish the location's position on the ground.
(b) *Lode claims.* You must describe lode claims by metes and bounds beginning at the discovery point on the claim and include a tie to natural objects or permanent monuments including:
(1) Township and section survey monuments;
(2) Official U.S. mineral survey monuments;
(3) Monuments of the National Geodetic Reference System;
(4) The confluence of streams or point of intersection of well-known gulches, ravines, or roads, prominent buttes, and hills; or
(5) Adjoining claims or sites.

(c) *Placer claims.* (1) You must describe placer claims by aliquot part and complete lots using the U.S. Public Land Survey System and its rectangular subdivisions except when placer claims are—
(i) On unsurveyed Federal lands;
(ii) Gulch or bench placer claims; or
(iii) Bounded by other mining claims or nonmineral lands.
(2) For placer mining claims that are on unsurveyed Federal lands or are gulch or bench placer claims:
(i) You must describe the lands by protracted survey if the BLM has a protracted survey of record; or
(ii) You may describe the lands by metes and bounds, if a protracted survey is not available or if the land is not amenable to protraction.
(3) If you are describing an association placer claim by metes and bounds, you must meet the following requirements, according to the number of persons in your association, as described in *Snow Flake Fraction Placer,* 37 Pub. Lands Dec. 250 (1908), in order to keep your claim in compact form and not split Federal lands into narrow, long or irregular shapes:
(i) A location by 1 or 2 persons must fit within the exterior boundaries of a square 40-acre parcel;
(ii) A location by 3 or 4 persons must fit within the exterior boundaries of 2 square 40-acre contiguous parcels;
(iii) A location by 5 or 6 persons must fit within the exterior boundaries of 3 square contiguous 40-acre parcels; and
(iv) A location by 7 or 8 persons must fit within the exterior boundaries of 4 square contiguous 40-acre parcels.

Subpart B—Types of Mining Claims

§ 3832.20 Lode and placer mining claims.

§ 3832.21 How do I locate a lode or placer mining claim?

(a) *Lode claims.* (1) Your lode claim is not valid until you have made a discovery.
(2) *Locating a lode claim.* You may locate a lode claim for a mineral that:
(i) Occurs as veins, lodes, ledges, or other rock in place;
(ii) Contains base and precious metals, gems and semi-precious stones, and certain industrial minerals, including but not limited to gold, silver, cinnabar, lead, tin, copper, zinc, fluorite, barite, or other valuable deposits; and
(iii) Does not occur as bedded rock (stratiform deposits such as gypsum or limestone) or is not a deposit of placer, alluvial (deposited by water), eluvial (deposited by wind), colluvial (deposited by gravity), or aqueous origin.
(3) *Establishing extralateral rights.* If the minerals are contained within a vein, lode, or ledge and the vein, lode, or ledge extends through the endlines of your lode claim, you have extra-lateral rights to pursue the down-dip extension of the vein, lode, or ledge to the point where the vein, lode, or ledge intersects a vertical plain projected parallel to the end lines and outside the sideline boundaries of your lode claim if—
(i) The top or apex of the vein, lode, or ledge lies on or under the surface within the interior boundaries of the lode claim; and
(ii) The long axis, and therefore the side lines, of the lode claim are substantially parallel to the course of the vein, lode, or ledge.
(4) *Preserving extralateral rights.* In order to preserve your extralateral rights, you should determine, if possible, the general course of the vein in either direction from the point of discovery in order to mark the correct boundaries of the claim. You should expose the vein, lode, or ledge by—
(i) Tracing the vein or lode on the surface; or
(ii) Drilling a hole, sinking a shaft, or running a tunnel or drift to a sufficient depth.
(b) *Placer claims.* (1) Your placer claim is not valid until you have made a discovery.
(2) Each 10-acre aliquot part of your placer claim must be mineral-in-character.
(3) You may locate a placer claim for minerals that are—
(i) River sands or gravels bearing gold or valuable detrital minerals;
(ii) Hosted in soils, alluvium (deposited by water), eluvium (deposited by wind), colluvium (deposited by gravity), talus, or other rock not in its original place;
(iii) Bedded gypsum, limestone, cinders, pumice, and similar mineral deposits; or

(iv) Mineral-bearing brine (water saturated or strongly impregnated with salts and containing ancillary locatable minerals) not subject to the mineral leasing acts where a mineral subject to the General Mining Law can be extracted as the primary valuable mineral.
(4) Building stone deposits must by law be located as placer mining claims (30 U.S.C. 161). If you have located a building stone placer claim, the lands on which you located the claim must be chiefly valuable for mining building stone.

§ 3832.22 How much land may I include in my mining claim?

(a) *Lode claims.* Lode claims must not exceed 1,500 by 600 feet. If there is a vein, lode, or ledge, each lode claim is limited to a maximum of 1,500 feet along the course of the vein, lode, or ledge and a maximum of 300 feet in width on each side of the middle of the vein, lode, or ledge.
(b) *Placer claims.* (1) An individual placer claim may not exceed 20 acres in size.
(2) An association placer claim may not exceed 160 acres. Within the association, each person or business entity may locate up to 20 acres. To obtain the full 160 acres, the association must consist of at least eight co-locators. You may locate smaller association claims. Thus, three co-locators may jointly locate an association placer claim no larger than 60 acres. You may not use the names of other persons as dummy locators (fictitious locators) to locate an association placer claim for your own benefit.

Subpart C—Mill Sites

§ 3832.30 Mill sites.

§ 3832.31 What is a mill site?

A mill site is a location of nonmineral land not contiguous to a vein or lode that you can use for activities reasonably incident to mineral development on, or production from, the unpatented or patented lode or placer claim with which it is associated.
(a) A dependent mill site is used for activities that support a particular patented or unpatented lode or placer mining claim or group of mining claims.
(b) An independent or custom mill site—
(1) Is not dependent on a particular mining claim but provides milling or reduction processing for nearby lode mines or a lode mining district;
(2) Is used to mill, process, and reduce either—
(i) Ores for other miners on a contractual basis; or
(ii) Ores that are purchased by the independent or custom mill site owner.
(3) You may not have a custom or independent mill site for processing materials from placer mining claims.

§ 3832.32 How much land may I include in my mill site?

The maximum size of an individual mill site is 5 acres. You may locate more than one mill site per mining claim if you use each site for at least one of the purposes described in §3832.34 of this part. You may locate only that amount of mill site acreage that is reasonably necessary to be used or occupied for efficient and reasonably compact mining or milling operations.

§ 3832.33 How do I locate a mill site?

(a) You may locate a mill site in the same manner as a lode or placer mining claim, except that—
(1) It must be on land that is not mineral-in-character; and
(2) You must use or occupy each two and a half acre portion of a mill site in order for that portion of the mill site to be valid.
(b) If the United States does not own the surface estate of a particular parcel of land, you may not locate a mill site on that land under the General Mining Law or the Stockraising Homestead Act (see part 3838 of this chapter).

§ 3832.34 How may I use my mill site?

(a) Upon obtaining authorization under the surface management regulations of the surface managing agency, you may use and occupy dependent mill sites for:
(1) Placement of grinding, crushing, or milling facilities (such as rod and ball mills, cone crushers, and floatation cells) and reduction facilities (such as smelting, electro-winning, roasters, autoclaves, and leachate recovery);
(2) Mine administrative and support buildings, warehouses and maintenance buildings, electrical plants and substations;
(3) Tailings ponds and leach pads;
(4) Rock and soil dumps;
(5) Water and process treatment plants; and
(6) Any other use that is reasonably incident to mine development and operation, except for uses exclusively supporting reclamation or mine closure.
(b) Upon obtaining authorization under the surface management regulations of the surface managing agency, you may use and occupy independent mill sites for processing metallic minerals from lode claims using:
(1) Quartz or stamp mills; or
(2) Reduction works, including placement of grinding, crushing, or milling facilities (such as rod and ball mills, cone crushers, and floatation cells), reduction facilities (such as smelting, electro-winning, roasters, autoclaves, and leachate recovery), tailings ponds, and leach pads.

Subpart D—Tunnel Sites

§ 3832.40 Tunnel sites.

§ 3832.41 What is a tunnel site?

A tunnel site is a subsurface right-of-way under Federal land open to mineral entry. It is used for access to lode mining claims or to explore for blind or undiscovered veins, lodes, or ledges not currently claimed or known to exist on the surface.

§ 3832.42 How do I locate a tunnel site?

You may locate a tunnel site by:
(a) Erecting a substantial post, board, or monument at the face of the tunnel, which is the point where the tunnel enters cover;
(b) Placing a location notice or certificate on the post, board, or monument that includes:
(1) The names of the claimants;
(2) The actual or proposed course or direction of the tunnel;
(3) The height and width of the tunnel; and
(4) The course and distance from the face or starting point to some permanent well-known natural objects or permanent monuments, in the same manner as required to describe a lode claim (see §3832.12(a) and (b)); and
(c) Placing stakes or monuments on the surface along the boundary lines of the tunnel at proper intervals as required under state law from the face of the tunnel for 3,000 feet or to the end of the tunnel, whichever is shorter.
[68 FR 61064, Oct. 24, 2003; 68 FR 74197, Dec. 23, 2003]

§ 3832.43 How may I use a tunnel site?

You may use the tunnel site for subsurface access to a lode claim or to explore for and acquire previously unknown lodes, veins, or ledges within the confines of the tunnel site.

§ 3832.44 What rights do I have to minerals within my tunnel site?

(a) If you located your tunnel site in good faith, you may acquire the right to any blind veins, ledges, or lodes cut, discovered, or intersected by your tunnel, by locating a lode claim, if they—
(1) Are located within a radius of 1,500 feet from the tunnel axis; and
(2) Were not previously known to exist on the surface and within the limits of your tunnel.
(b) Your site is protected from other parties making locations of lodes within the sidelines of the tunnel and within the 3,000-foot length of the tunnel, unless such lodes appear upon the surface or were previously known to exist.
(c) You must diligently work on the tunnel site. If you cease working on it for more than 6 consecutive months, you will lose your right to possess all unknown, undiscovered veins, lodes, or ledges that your tunnel may intersect.

§ 3832.45 How do I obtain any minerals that I discover within my tunnel site?

(a) Even if you have located the tunnel site, you must separately locate a lode claim to acquire the possessory right to a blind vein, lode, or ledge you have discovered within the boundaries of the tunnel site sidelines.
(b) The date of location of your lode claim is retroactive to the date of location of your tunnel site.

Subpart E—Defective Locations

§ 3832.90 Defects in the location of mining claims and sites.

§ 3832.91 How do I amend a mining claim or site location if it exceeds the size limitations?

(a) You may correct defects in your location of a mining claim, mill site, or tunnel site by filing an amended notice of location (see §3833.20 of this chapter on conditions allowing amendments and how to record them.)
(b) For placer claims or mill sites that you located using an irregular survey or lotting of irregular sections, you may use the "Rule of Approximation" to determine allowable acreage. The Rule of Approximation applies only to surveyed public lands. It was developed to determine maximum allowable acreage for land entries (placer claims in this part) where the excess acreage is less than the difference would be if the smallest legal subdivision is excluded from the location or entry. In no case may you use the rule to obtain more acreage than allowed under the applicable law. (See *Henry C. Tingley,* 8 Pub. Lands Dec. 205 (1889)).

PART 3833—RECORDING MINING CLAIMS AND SITES

Section Contents

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§ 3833.11 How do I record mining claims and sites?

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§ 3833.21 When may I amend a notice or certificate of location?
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§ 3833.30 Filing transfers of interest in mining claims or sites.
§ 3833.31 What is a transfer of interest?
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Subpart D—Defective Filings

§ 3833.90 Defects in recordings or filings for mining claims and sites.
§ 3833.91 What defects cannot be cured under this part?
§ 3833.92 What happens if I do not file a transfer of interest?

Authority: 30 U.S.C. 22 *et seq.* , 621–625; 43 U.S.C. 2, 1201, 1457, 1701 *et seq.* ; 62 Stat. 162; 115 Stat. 414.
Source: 68 FR 61071, Oct. 24, 2003, unless otherwise noted.

Subpart A—Recording Process

§ 3833.1 Why must I record mining claims and sites?

FLPMA requires you to record all mining claims and sites with BLM and the local recording office in order to maintain a mining claim or site under the General Mining Law.
(a) If you fail to record a mining claim or site with the BLM and the local recording office by the 90th day after the date of location, it is abandoned and void by operation of law.
(b) Recording a mining claim or site, filing any other documents with BLM, or paying fees or service charges, as this part requires, does not make a claim or site valid if it not otherwise valid under applicable law.

§ 3833.10 Procedures for recording mining claims and sites.

§ 3833.11 How do I record mining claims and sites?

(a) You must record in the proper BLM State Office a copy of the notice of certificate of location that you recordedor will record in the local recording office by the 90th day after the date of location. If there is no recording requirement under state law (as in Arkansas), you still must record a document with BLM and the local recording office that contains the information required by this part.
(b) Your notice or certificate of location must include:
(1) The name or number, or both, of the claim or site;
(2) The names and current mailing addresses of the locators of the claim;
(3) The type of claim or site;
(4) The date of location; and
(5) A complete description of the lands you have claimed as required in part 3832 of this chapter.
(c) When you record a notice or certificate of location, you must pay a processing fee, location fee, and initial maintenance fee as provided in §3830.21 of this chapter.
(d) When you record a mining claim or site under this part, you still must comply with any other separate recording requirements existing under other Federal law. However, notices or certificates of location that you mark as being recorded under the Act of April 8, 1948, or the Act of August 11, 1955, satisfy the additional filing requirements of those Acts under subpart 3821 of this chapter for Oregon and California Revested Wagon Road Grant Lands (O & C Lands) and part 3730 of this chapter for Powersite Withdrawals.
[68 FR 61071, Oct. 24, 2003, as amended at 70 FR 58879, Oct. 7, 2005]

Subpart B—Amending Mining Claims and Sites

§ 3833.20 Amending mining claims and sites.

§ 3833.21 When may I amend a notice or certificate of location?

(a) You may amend a notice or certificate of location if—
(1) BLM recognizes the original location as a properly recorded and maintained mining claim or site; and

(2) There are omissions or other defects in the original notice or certificate of location that you need to correct or clarify; or
(3) You need to correct the legal land description of the claim or site, the mining claim name, or accurately describe the position of discovery or boundary monuments or similar items; or
(4) You need to reposition the sidelines of your lode claim so that they are parallel to the discovered lode, ledge, or vein, if there are no intervening rights to the land; or
(5) You are reducing the size of the mining claim or site.
(b) You may not amend a notice or certificate of location to—
(1) Transfer any interest or add owners;
(2) Relocate or re-establish mining claims or sites you previously forfeited or BLM declared void for any reason;
(3) Change the type of claim or site; or
(4) Enlarge the size of the mining claim or site.
(c) You may not amend legal descriptions of mining claims or sites after the land is closed to mineral entry, unless—
(1) You are reducing the size of the mining claim or site;
(2) You need to correct or clarify defects or omissions in the original notice or certificate of location;
(3) You need to correct the legal land description of the claim or site, the mining claim name; or
(4) You need to submit an accurate description of the position of discovery or boundary monuments or similar items.

§ 3833.22 How do I amend my location?

(a) You must record an amended location certificate or notice with BLM within 90 days after you record the amended notice or certificate in the local recording office. BLM will not recognize any amendment to your mining claim until you file it properly.
(b) You must pay a processing fee for each claim or site you amend. See the table of fees and service charges in §3830.21 of this chapter.
(c) An amended location notice or certificate relates back to the original location date. The amendment takes effect when you record it with the local recording office under state law or such other time as provided by state law.
[68 FR 61071, Oct. 24, 2003, as amended at 70 FR 58879, Oct. 7, 2005]

Subpart C—Filing Transfers of Interest

§ 3833.30 Filing transfers of interest in mining claims or sites.

§ 3833.31 What is a transfer of interest?

A transfer of interest is a sale, assignment, transfer through inheritance, or conveyance of total or partial ownership or legal interest in a mining claim or site.

§ 3833.32 How do I transfer a mining claim or site?

(a) State law governs transferring mining claims or sites. A transfer is effective in the manner and on the date provided by state law, not the date you file it with BLM.
(b) You must file in the BLM State Office a notice of the transfer that includes:
(1) The name and, if available, the serial number BLM assigned to the claim or site when the notice or certificate of location was originally recorded (the person who transferred you ownership or legal interest should have this number);
(2) Your name and current mailing address; and
(3) A copy of the legal instrument or document that you used to transfer the interest in the claim or site under state law.
(c) For each mining claim or site transferred, each transferee must pay the full processing fee specified in the table of service charges and fees in §3830.21 of this chapter.

(d) BLM will notify the claimant of record with BLM of any action it takes regarding a mining claim or site. If BLM is required by law to give a claimant notice of any new legal requirements, BLM has properly given notice by sending the notice to the claimant of record with BLM.
[68 FR 61071, Oct. 24, 2003, as amended at 70 FR 58879, Oct. 7, 2005]

§ 3833.33 How may I transfer, sell, or otherwise convey an association placer mining claim?

You may transfer, sell, or otherwise convey an association placer mining claim at any time to an equal or greater number of mining claimants. If you want to transfer an association placer claim to an individual or an association that is smaller in number than the association that located the claim, you—
(a) Must have discovered a valuable mineral deposit before the transfer; or
(b) Upon notice from BLM, you must reduce the acreage of the claim, if necessary, so that you meet the 20-acre per locator limit.

Subpart D—Defective Filings

§ 3833.90 Defects in recordings or filings for mining claims and sites.

§ 3833.91 What defects cannot be cured under this part?

Defects or other problems that cannot be cured and therefore result in forfeiture of your mining claims or sites are:
(a) Failing to record a mining claim or site within 90 days after you locate it;
(b) Failing to pay the location fee or initial maintenance fee within 90 days after you locate it; and
(c) Locating a mining claim or site on lands withdrawn from mineral entry at the time you locate it.

§ 3833.92 What happens if I do not file a transfer of interest?

Even if you record your transfer or amendment with the local recording office, BLM will not recognize the interest you acquire, or send you notice of any BLM action, decision, or contest, regarding the mining claim or site until you file the transfer with BLM (see §1810.2 of this chapter). The Department will treat the last owner of record as the responsible party for maintaining the mining claim or site until you file a transfer notice. You cannot claim that BLM failed to give you notice of any BLM action, decision, or contest regarding a mining claim or site if you failed to file a transfer notice showing that you have an interest in the mining claim or site, before BLM took the action, made the decision, or issued a contest complaint.

PART 3834—REQUIRED FEES FOR MINING CLAIMS OR SITES

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§ 3834.20 Adjusting location and maintenance fees.
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§ 3834.23 When do I start paying the adjusted fees?

Authority: 43 U.S.C. 1201, 1740; 30 U.S.C. 28f; 115 Stat 414; 30 U.S.C. 242.

Source: 68 FR 61073, Oct. 24, 2003, unless otherwise noted.

Subpart A—Fee Payment

§ 3834.10 Paying maintenance, location, and oil shale fees.

§ 3834.11 Which fees must I pay to maintain a mining claim or site and when do I pay them?

(a) *All mining claims or sites (except oil shale placer claims).* Paying the maintenance fee(s) in lieu of performing assessment work satisfies the requirements of the mining law and FLPMA. See §3830.21 for fee amounts.
(1) *Location fee and initial maintenance fee.* When you first record a mining claim or site with BLM, you must pay a location fee and an initial maintenance fee for the assessment year in which you located the mining claim or site.
(2) *Annual maintenance fee.* You must pay an annual maintenance fee on or before September 1st of each year in order to maintain a mining claim or site for the upcoming assessment year.
(b) *Oil shale placer claims.* (1) Under the Energy Policy Act of 1992, 30 U.S.C. 242, if you own an oil shale placer claim, you must pay an annual $550 fee and file a notice of intent to hold, with the applicable service charge, each calendar year on or before December 30—
(i) If you elected to maintain an oil shale placer claim;
(ii) If you elected to apply for limited patent; or
(iii) If you filed a patent application for an oil shale placer claim but did not receive a first half final certificate on or before October 24, 1992.
(2) See part 3835 of this chapter for notice of intent to hold requirements, and the table of fees and service charges in §3830.21 of this chapter.
(3) You need not pay the annual $550 fee, or file a notice of intent to hold, if you filed a patent application and received a first half of the mineral entry final certificate on or before October 24, 1992.

§ 3834.12 How will BLM know for which mining claims or sites I am paying the fees?

When you pay any fees to BLM, you must include a list of the mining claims or sites that you are paying for by claim name, and by the BLM serial number if BLM has notified you what the serial numbers are.

§ 3834.13 Will BLM prorate annual maintenance or oil shale fees?

BLM will not prorate annual maintenance or oil shale fees if you hold a mining claim or site for only part of a year. You must pay the full annual fee even if you hold the claim or site for just one day in an assessment year.

§ 3834.14 May I obtain a waiver from these fees?

(a) No waivers are available for the initial maintenance fee or the annual $550 oil shale fee.
(b) You may request a waiver from annual maintenance fees under certain circumstances. See part 3835 of this chapter.

Subpart B—Fee Adjustment

§ 3834.20 Adjusting location and maintenance fees.

§ 3834.21 How will BLM adjust the location and maintenance fees?

BLM will adjust the location and maintenance fees at least every 5 years, based upon the CPI, as required by 30 U.S.C. 28j(c), or at any other time as required by other statute.
[70 FR 52030, Sept. 1, 2005]

§ 3834.22 How will I know that BLM has adjusted location and maintenance fees?

BLM will publish a notice in the Federal Register about the adjustment on or before July 1st of a given year in order to make the adjusted fees due on September 1st of the same year.

§ 3834.23 When do I start paying the adjusted fees?

(a) In the case of a CPI adjustment required by 30 U.S.C. 28j(c), you must pay the adjusted initial maintenance and location fees when you record a new mining claim or site located on or after the September 1 that immediately follows the date BLM published its notice about the adjustment.
(b) In the case of adjustments required by other statute, you must pay the adjusted initial maintenance and location fees for a new mining claim or site as provided in the statute.
(c) For previously recorded mining claims and sites, you must pay the CPI-based adjusted maintenance fee on or before the September 1 that immediately follows the date BLM published its notice about the adjustment.
(d) Notwithstanding 43 CFR 3830.91(a)(3) and 3830.96, in any year in which BLM adjusts the maintenance and location fees, if you pay the fees timely, but pay an amount based on the fee in effect immediately before the adjustment was made, BLM will send you a notice, as provided in §3830.94, giving you 30 days in which to pay the additional amount required to meet the adjusted fees. If you do not pay the additional amount due within 30 days after the date you received the notice, you will forfeit the affected mining claims or sites.

PART 3835—WAIVERS FROM ANNUAL MAINTENANCE FEES

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§ 3835.15 If I qualify as a small miner, how do I apply for a waiver if I paid the maintenance fee in the last assessment year?
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Authority: 30 U.S.C. 22, 28, 28f–28k; 43 U.S.C. 2, 1201, 1457, 1701 *et seq.* ; 50 U.S.C. App. 501, 565; 115 Stat. 414.

Source: 68 FR 61073, Oct. 24, 2003, unless otherwise noted.
Subpart A—Filing Requirements

§ 3835.1 How do I qualify for a waiver?

(a) Under certain conditions, you may qualify for a waiver from the annual maintenance fee requirements. You cannot obtain a waiver from service charges, the location fee, the initial maintenance fee, or the $550 oil shale fee.
(b) The following table lists the types of waivers available and how you qualify for them (detailed requirements for each category appear in §3835.10):

Type of waiver	Qualifications
(a) Small Miner	All related parties must hold no more than a total of 10 mining claims or sites nationwide, not including oil shale claims; and All co-claimants must qualify for the small miner waiver.
(b) Soldiers' and Sailor's Civil Relief Act	You and all co-claimants must be military personnel on active duty status.
(c) Reclamation	Maintenance fees are waived for your mining claims or sites that are undergoing final reclamation under subparts 3802, 3809, or 3814, if you do not intend to continue mining, milling, or processing operations on those sites.
(d) Denial of Access	You have received a declaration of taking or a notice of intent to take from the National Park Service (NPS) or other Federal agency; or the United States has otherwise denied you access to your mining claim or site.
(e) Mineral Patent Application	You have submitted an application for a mineral patent under part 3860 and the Secretary has granted you a final certificate.

§ 3835.10 How do I request a waiver?

(a) You must submit BLM's waiver certification form on or before September 1 of each assessment year for which you are seeking a waiver. You must submit your waiver on or before September 1 for BLM to exempt your claims or sites from the annual maintenance fee requirement that is due on the same date. You may have an agent submit a waiver form on your behalf if you file or have filed with BLM a power of attorney or other legal documentation which shows that the agent is acting on your behalf.
(b) All waiver requests must include:
(1) The names and addresses of all claimants who maintain an interest in the mining claims or sites listed on the waiver document;
(2) The original signatures of the claimants of the mining claims or sites who are requesting the waiver, or the original signature of the authorized agent of the owner or owners of those mining claims or sites;
(3) The names of the mining claims or sites for which you request a waiver;
(4) The serial numbers, if available, that BLM assigned to the mining claims or sites; and
(5) The date the maintenance fee was due from which you are seeking a waiver.

§ 3835.11 What special filing and reporting requirements pertain to the different types of waivers?

(a) *Small miner waivers.* Small miner waiver requests must include a declaration that:

(1) You and all related parties hold no more than a total of 10 mining claims and sites nationwide;
(2) You have completed or will complete all assessment work required by the General Mining Law and part 3836 of this chapter to maintain your claims by the end of the applicable assessment year.
(3) If you were not required to perform assessment work in the previous assessment year, you must include the reason why assessment work was not required in your certification, whether it is because:
(i) Your claim was located in that assessment year;
(ii) You paid a maintenance fee to maintain your claim during that assessment year;
(iii) Assessment work was deferred for that year; or
(iv) Any other reason recognized under Federal law.
(b) *Soldiers' and Sailors' Civil Relief Act waivers.* Your application for waiver must include a notice of active military service or entry into active military service. You must also notify BLM in writing when you leave active duty status.
(c) *Reclamation waivers.* Your application must include a certified and/or notarized statement that:
(1) States that you are reclaiming the mining claims or sites;
(2) States your intent to end mining operations on the claims or sites permanently; and
(3) References a reclamation plan that you submitted to BLM or that BLM approved; or references a reclamation plan approved by a surface managing agency other than BLM.
(d) *Denial-of-access waivers.* (1) Your application must include a statement that you have received a declaration of taking or a notice of intent to take from the National Park Service or other Federal agency or have otherwise been denied access to your mining claim or site in writing by the surface management agency or a court.
(2) You must submit copies of all official documents you have received that demonstrate the declaration of taking, notice of intent to take, or denial of access.
(3) Applying for National Park Service (NPS) approval of a complete plan of operations does not justify your denial-of-access waiver. While the NPS is reviewing your plan of operations, or if the NPS disapproves it but has not denied you access, or issued a declaration of taking or a notice of intent to take, you must pay the annual maintenance fee.
(e) *Contest actions.* If the Secretary contests your mining claim or site under part 4 of this title, you must maintain the mining claim or site until the Department of the Interior issues a final decision.
(f) *Appeals.* If you forfeit your mining claim or site and you file an appeal under part 4 of this title and the Interior Board of Land Appeals stays BLM's voidance decision, you must maintain your mining claim or site through the appeals process.

§ 3835.12 What are my obligations once I receive a waiver?

If BLM allows you the waiver, you must then perform annual assessment work on time and file annual FLPMA documents. You will find more information about annual FLPMA documents in §3835.30 of this part, and about assessment work in part 3836 of this chapter.

§ 3835.13 How long do the waivers last and how do I renew them?

The following table states how long waivers last and explains how to renew them:

Type of waiver	Duration	Renewal requirements
(a) Small Miner	One assessment year	Apply for a small miner waiver by each September 1.
(b) Soldiers' and Sailors' Civil Relief Act	Until six months after you are released from active duty status or from a military hospital, whichever is later	Your waiver is automatically renewed if you continue to meet the qualifications. You must notify BLM when you leave active duty status.
(c) Reclamation	One assessment year	Apply for a reclamation waiver by each September 1.
(d) Denial of Access	One assessment year	Apply for waiver certification by each September 1.

(e) Mineral Patent Application with Final Certificate	Until patent issues or the final certificate is canceled. BLM will not refund previously deposited annual maintenance fees to a mineral patent applicant	None. If the final certificate is canceled, you must pay the required fees beginning on the September 1 immediately following the cancellation or file a different form of waiver if you qualify.

§ 3835.14 How do I submit a small miner waiver request for newly-recorded mining claims?

In order to obtain a small miner waiver for newly-recorded mining claims, you must—
(a)(1) Submit the waiver request on or before September 1; or
(2) If the mining claim or site was located before September 1 and recorded after September 1 in a timely manner, you must submit the waiver request at the time of recording the mining claim or site with BLM, and
(b) File on or before the December 30 immediately following the September 1st for which you applied for a waiver a notice of intent to hold the mining claim or site. The Mining Law does not require you to perform assessment work in the assessment year in which you locate a mining claim. The notice of intent to hold must conform to §§3835.31 through 3835.33.
[68 FR 61064, Oct. 24, 2003; 68 FR 74197, Dec. 23, 2003]

§ 3835.15 If I qualify as a small miner, how do I apply for a waiver if I paid the maintenance fee in the last assessment year?

You must submit a waiver request complying with §3835.10 before the assessment year begins for which you wish to obtain a waiver. In addition, you must—
(a) Make a FLPMA filing, in the form of a notice of intent to hold under §§3835.31 and 3835.33 of this part on or before December 30th immediately following the submission of a waiver request;
(b) Perform your assessment work in the assessment year for which BLM waived the maintenance fee; and
(c) Make a FLPMA filing in the form of an affidavit of assessment work under §§3835.31 and 3835.33 of this part on or before the December 30th immediately following the close of the assessment year in which you performed assessment work.
[68 FR 61064, Oct. 24, 2003; 68 FR 74197, Dec. 23, 2003]

§ 3835.16 If I am a qualified small miner, and I obtained a waiver in one assessment year, what must I do if I want to pay the maintenance fee for the following assessment year?

(a) You must perform the required assessment work in the assessment year for which you obtained a waiver from payment of the annual maintenance fee, and file the annual FLPMA document required by the December 30th immediately following the payment of the maintenance fee; and
(b) You must pay the maintenance fee by the proper deadline for the following assessment year.

§ 3835.17 What additional requirements must I fulfill to obtain a small miner waiver for my mining claims or sites on National Park System lands?

(a) Before performing assessment work on National Park System lands, you must submit and obtain the National Park Service (NPS)'s approval of a complete plan of operations in compliance with regulations at 36 CFR parts 6 and 9. Your proposed activities must further the ultimate commercial mineral development of each claim, such as delineation of the mineral deposit or commencement of production. Once you submit a proposed plan, NPS will evaluate the plan, conduct a validity exam if necessary, and either approve or disapprove the plan.
(b)(1) If NPS approves your plan of operations, by the September 1 on which you want to submit a small miner waiver request you must:
(i) Post a reclamation bond with NPS;
(ii) Begin the approved activity; and
(iii) Submit a waiver request complying with §3835.10 before the assessment year begins for which you wish to obtain a waiver.

(2) By December 30, you must file your affidavit of assessment work for the mining claims and a notice of intent to hold for your mill or tunnel sites.
(c) If NPS does not approve your proposed plan of operations by July 1, to allow you sufficient time to conduct assessment work before September 1, you may—
(1) Pay BLM the maintenance fees by September 1;
(2) Petition BLM before September 1 for a deferment of assessment work; or
(3) Submit a request for a lack of access waiver.

Subpart B—Conveying Mining Claims or Sites Under Waiver

§ 3835.20 Transferring, selling, inheriting, or otherwise conveying mining claims or sites already subject to a waiver.

(a) If you purchase, inherit, or otherwise obtain mining claims or sites that are subject to a waiver, you must also qualify for the waiver in order for BLM to continue to apply the waiver to the mining claims you have received in the transfer; or
(b) If you purchase, inherit, or otherwise obtain mining claims or sites that are subject to a waiver and you do not qualify for the waiver, you must pay the annual maintenance fee by the September 1 following the date the transfer became effective under state law.

Subpart C—Annual FLPMA Documents

§ 3835.30 Annual FLPMA documents.

§ 3835.31 When do I file an annual FLPMA document?

(a) If you must file an annual FLPMA document as required in paragraph (d) of this section, you must file your annual FLPMA documents with BLM on or before the December 30th of the calendar year in which the assessment year ends. (For example, if the assessment year ends on September 1, 2003, you must file your annual FLPMA document no later than December 30, 2003.)
(b) If part 3836 of this chapter requires you to perform assessment work, you must file an affidavit of assessment work. You do not need to complete assessment work in the assessment year when you located your claim. (For example, if you locate a claim on September 2, 2002, you first need to perform assessment work sometime between September 2, 2003, and September 1, 2004.)
(c) If part 3836 of this chapter does not require you to perform assessment work, either because you located the claim during the current assessment year or because BLM has deferred assessment work, you must submit a notice of intent to hold under §§3835.32 and 3835.33 of this part as an annual FLPMA document filing. You must state in the notice of intent to hold either that BLM has deferred the assessment work requirement or that you located the claim during the current assessment year.
(d) The following table describes the circumstances under which you must file annual FLPMA documents:

Your situation	Affidavit of assessment work required	Notice of intent to hold required
(1) You have paid annual maintenance fees	No	No.
(2) You have an oil shale placer claim	No	Yes, by December 30 of each year you must pay the $550 oil shale fee.
(3) You have a small miner waiver that covers mining claims	Yes, by December 30 for each assessment year you obtained a small miner waiver	Yes, but only as described in paragraph (c) of this section.
(4) You have a small miner waiver that covers mill or tunnel sites	No affidavit assessment work is required for mill or tunnel sites	Yes, notices of intent to hold are required for mill and tunnel sites.

(5) You have a Soldiers and Sailor's Civil Relief Act Waiver	No	No.
(6) You have a reclamation waiver	No	Yes.
(7) You have a waiver because you have been denied access	No	Yes.
(8) You have a deferment of assessment work	No	Yes, but only as described in paragraph (c) of this section.
(9) You have applied for a mineral patent and BLM has issued a final certificate	No	No.

[68 FR 61064, Oct. 24, 2003; 68 FR 74197, Dec. 23, 2003]

§ 3835.32 What should I include when I submit an affidavit of assessment work?

When you submit an affidavit of assessment work as required in §3835.31(d), you must include the following:
(a) The name and, if available, the BLM serial number of the claim for which you did assessment work;
(b) Any known changes in the mailing addresses of the claimants;
(c) A processing fee for each mining claim affected. (See the table of service charges and fees in §3830.21 of this chapter); and
(d) An exact legible reproduction or duplicate, other than microfilm or other electronic media, of either:
(1) The affidavit of assessment work that you filed or will file in the county where the claim is located; or
(2) The report of geological, geochemical, and geophysical surveys you filed in the county where the claim is located, as provided for in part 3836 of this chapter.
[68 FR 61064, Oct. 24, 2003, as amended at 70 FR 58879, Oct. 7, 2005]

§ 3835.33 What should I include when I submit a notice of intent to hold?

When you submit a notice of intent to hold as required in §3835.31(d), you must include the following:
(a) An exact legible reproduction or duplicate of a letter or other notice with signatures of one or more of the claimants or their agent that states your intention to hold the mining claims or sites for the calendar year in which the assessment year ends, and that you filed or will file a notice of intent to hold in the county where the claim is located;
(b) If applicable:
(1) A copy of a BLM decision granting a deferment of the annual assessment work;
(2) A copy of a pending petition for deferment of the annual assessment work including the date you submitted the petition; or
(3) Any other documentation in the notice of intent to hold supporting why you are filing a notice of intent to hold instead of an assessment work filing;
(c) The name and, if available, the BLM serial number of the mining claim or site;
(d) Any known changes in the mailing addresses of the claimants; and
(e) A processing fee for each mining claim or site affected. (See the table of service charges and fees in §3830.21 of this chapter.)
[68 FR 61064, Oct. 24, 2003, as amended at 70 FR 58879, Oct. 7, 2005]

Subpart D—Defective Waivers and FLPMA Filings

§ 3835.90 Failure to comply with this part.

§ 3835.91 What if I fail to file annual FLPMA documents?

If you fail to file an annual FLPMA document by December 30, as required in §3835.31(d), you forfeit the affected mining claims or sites.

§ 3835.92 What if I fail to submit a timely waiver request?

(a) If you fail to submit a qualified waiver request (see §3835.1) and also fail to pay an annual maintenance fee by September 1st, you forfeit the affected mining claims or sites.
(b) If you fail to list any mining claims or sites that you and all related parties own on your small miner waiver request and fail to pay an annual maintenance fee by September 1st, you forfeit the unlisted mining claims or sites.
(c) If you fail to cure any defects in your timely waiver request or pay the maintenance fee within the allowed time after BLM notifies you of the defects, you forfeit the affected mining claims or sites.
(d) If you, a co-claimant, or any related parties, submit small miner waiver requests for more than 10 mining claims or sites and fail to pay the $100 maintenance fee for each claim on or before the due date, you forfeit the mining claims and sites and you may be subject to criminal penalties under 18 U.S.C. 1001.

§ 3835.93 What happens if BLM finds a defect in my waiver request?

(a) BLM will send you a notice describing the defect by certified mail-return receipt requested at the most recent address you gave us on—
(1) Your notice or certificate of location;
(2) An address correction you have filed with BLM;
(3) A valid transfer document filed with BLM; or
(4) The waiver request form.
(b) If the certified mail is delivered to your most recent address of record, this constitutes legal service even if you do not actually receive the notice or decision. (See 43 CFR 1810.2.)
(c) You must cure the defective waiver or pay the annual maintenance fees within 60 days of receiving BLM notification of the defects, or forfeit the claim or site.

PART 3836—ANNUAL ASSESSMENT WORK REQUIREMENTS FOR MINING CLAIMS

Section Contents

Subpart A—Performing Assessment Work

§ 3836.10 Performing assessment work.
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Subpart B—Deferring Assessment Work

§ 3836.20 Deferring assessment work.
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§ 3836.27 When must I complete my deferred assessment work?

Authority: 30 U.S.C. 22, 28, 28b–28e; 43 U.S.C. 2, 1201, 1457, 1701 *et seq.* ; 50 U.S.C. App. 501, 565.
Source: 68 FR 61077, Oct. 24, 2003, unless otherwise noted.

Subpart A—Performing Assessment Work

§ 3836.10 Performing assessment work.

§ 3836.11 What are the general requirements for performing assessment work?

(a) Beginning in the assessment year that begins after you locate your mining claim, you must expend $100 in labor or improvements for each claim for each assessment year preceding the date on which you file for a small miner waiver.
(b) You may perform assessment work on:
(1) Each individual claim;
(2) One or more claims in a group of contiguous lode or placer claims that you own or hold an interest in and that cover the same mineral deposit; or
(3) Adjacent or nearby lands if the work supports development of the minerals on the claim(s).
(c) Your total expenditure must equal at least $100 per claim.

§ 3836.12 What work qualifies as assessment work?

Assessment work includes, but is not limited to—
(a) Drilling, excavations, driving shafts and tunnels, sampling (geochemical or bulk), road construction on or for the benefit of the mining claim; and
(b) Geological, geochemical, and geophysical surveys.

§ 3836.13 What are geological, geochemical, or geophysical surveys?

(a) Geological surveys are surveys of the geology of mineral deposits. These are done by, among other things, taking mineral samples, mapping rock units, mapping structures, and mapping mineralized zones.
(b) Geochemical surveys are surveys of the chemistry of mineral deposits. They are done by, among other things, sampling soils, waters, and bedrock to identify areas of anomalous mineral values and quantities that may in turn identify mineral deposits.
(c) Geophysical surveys are surveys of the physical characteristics of mineral deposits to measure physical differences between rock types or physical discontinuities in geological formations. These surveys include, among other things, magnetic and electromagnetic surveys, gravity surveys, seismic surveys, and multispectral surveys.

§ 3836.14 What other requirements must geological, geochemical, or geophysical surveys meet to qualify as assessment work?

(a) Qualified experts must conduct the surveys and verify the results in a detailed report filed in the county or recording district office where the claim is recorded. A qualified expert is a geologist or mining engineer qualified by education and experience to conduct geological, geochemical, or geophysical surveys.
(b) You must record the report on the surveys with BLM and the local recording office, as provided in part 3835 of this chapter. This report must set forth fully the following:
(1) The location of the work performed in relation to the point of discovery and boundaries of the claim;
(2) The nature, extent, and cost of the work performed;
(3) The basic findings of the surveys; and
(4) The name, address, and professional background of persons conducting the work and analyzing the data.
(c) You may not count these surveys as assessment work for more than 2 consecutive years or for more than a total of 5 years on any one mining claim.
(d) No survey may repeat any previous survey of the same claim and still qualify as assessment work.

§ 3836.15 What happens if I fail to perform required assessment work?

If you are required to perform assessment work and—

(a) You fail to perform the assessment work as required in this part, your claim is open to relocation by a rival claimant as if no location had ever been made; or
(b) You fail substantially to perform the assessment work as required in this part and the land is withdrawn from mineral entry or the mineral for which the claim was located is no longer subject to the Mining Law, BLM may declare your claim forfeited.

Subpart B—Deferring Assessment Work

§ 3836.20 Deferring assessment work.

(a) Under some circumstances, you may obtain a temporary deferment that relieves you from performing annual assessment work on your mining claims. You may include more than one mining claim in one deferment petition if the claims are contiguous.
(b) If BLM grants you a deferment, you have merely deferred doing the assessment work. You still must complete that assessment work for that assessment year after the deferment period ends, as provided in §3836.27.

§ 3836.21 How do I qualify for a deferment of assessment work on my mining claims?

You qualify for a deferment of assessment work if—
(a) You have a mining claim or group of mining claims that you cannot enter or gain access to because—
(1) The claims are surrounded by lands owned by others, including BLM, and the land owner has refused to give you a right-of-way or you are in litigation regarding the right-of-way or in the process of acquiring the right-of-way under state law; or
(2) Some other legal impediment prevents your access.
(b) You have received a declaration of taking or notice of intent by the Federal Government to take the claim.

§ 3836.22 How do I qualify for a deferment of assessment work on my mining claims that are on National Park System (NPS) lands?

Correspondence from NPS merely denying your Plan of Operations for incompleteness or inadequacy will not suffice for a deferment of assessment work. To qualify for a deferment of assessment work on claims situated on NPS lands—
(a) You must obtain a letter from NPS stating that—
(1) NPS received and found your proposed Plan of Operations to be complete;
(2) NPS cannot act on the plan until it conducts a validity exam; and
(3) NPS anticipates completing the validity exam after the assessment year ends.
(b) You must send NPS's letter to BLM, along with other documents and information that BLM requires (see §3836.23) to support your petition for deferment of assessment work.

§ 3836.23 How do I petition for deferment of assessment work?

In order to apply for deferment—
(a) You must submit a petition with the BLM State Office that includes:
(1) The names of the claims;
(2) The BLM serial numbers assigned to the claims;
(3) The starting date of the one-year period of the requested deferment; and
(4) A statement that you plan to file a small miner waiver form by September 1st.
(b) If you are submitting the petition because BLM or another party has denied you a right-of-way, you must also describe—
(1) The ownership and nature of the land, including topography, vegetation, surface water, and existing roads, over which you were seeking a right-of-way to reach your claims;
(2) The land over which you are seeking a right-of-way by legal subdivision if the land is surveyed;
(3) Why present use of the right-of-way is denied or prevented;
(4) The steps you have taken to acquire the right to cross the lands; and

(5) Whether any other right-of-way is available and if so, why it is not feasible to use that right-of-way.
(c) If you are submitting the petition because of other legal impediments to your access to the claim, you must describe the legal impediments and submit copies of any documents you have that evidence the legal impediments.
(d) You must record in the local recording office a notice that you are petitioning BLM for a deferment of assessment work.
(e) You must attach a copy of the notice required by paragraph (d) of this section to the petition you submit to BLM.
(f) At least one of the claimants of each of the mining claims for which you request a deferment must sign:
(1) The petition you submit to BLM; and
(2) The original notice you record with the local recording office.
(g) You must pay a processing fee with each petition. (See the table of service charges and fees in §3830.21 of this chapter.)
[68 FR 61077, Oct. 24, 2003, as amended at 70 FR 58879, Oct. 7, 2005]

§ 3836.24 If BLM approves my petition, what else must I do to obtain a deferment of assessment work?

You must record a copy of BLM's decision regarding your petition in the local recording office.

§ 3836.25 What if BLM denies my petition for deferment of assessment work?

If BLM denies your petition for deferment of assessment work, and the assessment year has ended, BLM will give you 60 days from the date you receive the BLM decision denying the petition in which to pay the maintenance fee to maintain your claim.

§ 3836.26 How long may a deferment of assessment work last?

(a) BLM may grant a deferment for up to one assessment year. However, the deferment ends automatically if the reason for the deferment ends.
(b) The deferment period will begin on the date you request in the petition unless BLM's approval sets a different date.
(c) You may petition to renew the deferment for one additional assessment year if a valid reason for a deferment continues. BLM cannot renew your deferment of assessment work more than once.

§ 3836.27 When must I complete my deferred assessment work?

(a) You may begin the deferred assessment work any time after the deferment ends. However, you must complete it before the end of the following assessment year. For example, if your deferment ends on July 15, 2008, you must complete all the deferred assessment work by September 1, 2009, in addition to completing the regular assessment work due on that date.
(b) You may also choose to pay the annual maintenance fees for the years deferred instead of performing the deferred assessment work.

PART 3837—ACQUIRING A DELINQUENT CO-CLAIMANT'S INTERESTS IN A MINING CLAIM OR SITE

Section Contents

Subpart A—Conditions for Acquiring a Delinquent Co-Claimant's Interests in a Mining Claim or Site

§ 3837.10 Conditions for acquiring a delinquent co-claimant's interests.
§ 3837.11 When may I acquire a delinquent co-claimant's interests in a mining claim or site?

Subpart B—Acquisition Procedures

§ 3837.20 Acquisition.
§ 3837.21 How do I notify the delinquent co-claimant that I want to acquire his or her interests?
§ 3837.22 How long does a delinquent co-claimant have after notification to contribute a proportionate share of the assessment work, expenditures, or maintenance fees?
§ 3837.23 How do I notify BLM that I have acquired a delinquent co-claimant's interests in a mining claim or site?
§ 3837.24 What kind of evidence must I submit to BLM to show I have properly notified the delinquent co-claimant?

Subpart C—Resolving Co-Claimant Disputes About Acquiring a Delinquent Co-Claimant's Interests

§ 3837.30 Disputes about acquiring a delinquent co-claimant's interests.

Authority: 43 U.S.C. 2, 1201, 1457; 50 U.S.C. App. 501, 565; 30 U.S.C. 28.
Source: 68 FR 61078, Oct. 24, 2003, unless otherwise noted.

Subpart A—Conditions for Acquiring a Delinquent Co-Claimant's Interests in a Mining Claim or Site

§ 3837.10 Conditions for acquiring a delinquent co-claimant's interests.

§ 3837.11 When may I acquire a delinquent co-claimant's interests in a mining claim or site?

(a) You may acquire a co-claimant's interest in a mining claim or site under the following circumstances:
(1) You are a co-claimant who has performed the assessment work, made improvements, or paid the maintenance fees required under parts 3834 and 3836 of this chapter;
(2) Your co-claimant fails to contribute a proportionate share of the assessment work, expenditures, or maintenance fees by the end of the assessment year concerned;
(3) You notify the delinquent co-claimant of the alleged delinquency as provided in §3837.21; and
(4) If, within 90 days following the date the delinquent co-claimant received the notice provided for under §3837.21 or 90 days following the end of the publication period described in §3837.21, the delinquent co-claimant fails or refuses to contribute a proportionate share of the assessment work, expenditures, or maintenance fees, the remaining co-claimants acquire the delinquent co-claimant's share in the mining claim or site.
(b) You may not acquire a co-claimant's interest in a mining claim or site if the co-claimant is on active military duty.

Subpart B—Acquisition Procedures

§ 3837.20 Acquisition.

§ 3837.21 How do I notify the delinquent co-claimant that I want to acquire his or her interests?

(a) You must give the delinquent co-claimant written notice by mail using registered or certified mail, return receipt requested, or by personal service; or
(b) If, after diligent search, you cannot locate the delinquent co-claimant, you must publish notification in a newspaper nearest the location of the claims or sites at least once a week for 90 days.

§ 3837.22 How long does a delinquent co-claimant have after notification to contribute a proportionate share of the assessment work, expenditures, or maintenance fees?

The delinquent co-claimant must contribute a proportionate share of the assessment work, expenditures, or maintenance fees within 90 days after the date on which—
(a) The co-claimant received written notice by mail or personal service; or

(b) The 90-day newspaper publication period ended.

§ 3837.23 How do I notify BLM that I have acquired a delinquent co-claimant's interests in a mining claim or site?

If you acquire a delinquent co-claimant's interests in a mining claim or site, you must submit—
(a) Evidence that you properly notified the delinquent co-claimant;
(b) An originally signed and dated statement by all the compliant co-claimants that the delinquent co-claimant failed to contribute the proper proportion of assessment work, expenditures, or maintenance fees within the period fixed by the statute; and
(c) A non-refundable service charge for a transfer of interest, as found in the table of fees in §3830.21 of this chapter.

§ 3837.24 What kind of evidence must I submit to BLM to show I have properly notified the delinquent co-claimant?

(a) If you gave written notice to the delinquent co-claimant by personal service, you must sign and submit a notarized affidavit explaining how and when you delivered the written notice to the delinquent co-claimant.
(b) If you gave written notice to the delinquent co-claimant by mail, you must submit:
(1) A copy of the notice you mailed to the delinquent co-claimant; and
(2) A copy of the signed U.S. Postal Service return receipt from the registered or certified envelope in which you sent the notice to the delinquent co-claimant.
(c) If you published the notice in a newspaper, you must submit:
(1) A statement from the newspaper publisher or the publisher's authorized representative describing the publication, including the beginning and ending dates of publication;
(2) A printed copy of the published notice; and
(3) A notarized affidavit attesting that you conducted a diligent search for the delinquent co-claimant, you could not locate the delinquent co-claimant, and therefore notification by publication was necessary.

Subpart C—Resolving Co-Claimant Disputes About Acquiring a Delinquent Co-Claimant's Interests

§ 3837.30 Disputes about acquiring a delinquent co-claimant's interests.

If co-claimants are engaged in a dispute regarding the acquisition of a delinquent co-claimant's interests—
(a) The co-claimants must resolve the dispute, without BLM involvement, in a court of competent jurisdiction or proceeding as permitted within the state where the disputed claims are located.
(b) The co-claimants must file with BLM a certified copy of the judgment, decree, or settlement agreement resolving the dispute before BLM will update its records.

PART 3838—SPECIAL PROCEDURES FOR LOCATING AND RECORDING MINING CLAIMS AND TUNNEL SITES ON STOCKRAISING HOMESTEAD ACT (SRHA) LANDS

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Authority: 43 U.S.C. 299(b), 1201, 1457, 1740, 1744; 30 U.S.C. 22 *et seq.*
Source: 68 FR 61079, Oct. 24, 2003, unless otherwise noted.

Subpart A—General Provisions

§ 3838.1 What are SRHA lands?

SRHA lands are lands that were—
(a) Patented under the Stockraising Homestead Act of 1916, as amended (30 U.S.C. 54 and 43 U.S.C. 299); or
(b) Originally entered under the Homestead Act of 1862, as amended, and patented under the SRHA after December 29, 1916.

§ 3838.2 How are SRHA lands different from other Federal lands?

SRHA lands are different from other Federal lands in that the United States owns the mineral estate of SRHA lands, but not the surface estate. Patents issued under the SRHA, and Homestead Act entries patented under the SRHA, reserved the mineral estate to the United States along with the right to enter, mine, and remove any reserved minerals that may be present in the mineral estate.

§ 3838.3 What rules must I follow to explore for minerals and locate mining claims on SRHA lands?

(a) The regulations in this part describe how to notify the surface owner before exploring for minerals or locating a mining claim on the mineral estate of SRHA lands.
(b) If you own the surface estate of SRHA lands and want to explore for minerals or locate a mining claim on the Federally-reserved mineral estate, you do not need to follow the requirements in this part, but you must follow the requirements in parts 3832, 3833, 3834 and 3835 of this chapter.

Subpart B—Locating and Recording Mining Claims and Tunnel Sites on SRHA Lands

§ 3838.10 Procedures for locating and recording a mining claim or tunnel site on SRHA lands.

§ 3838.11 How do I locate and record mining claims or tunnel sites on SRHA lands?

(a) You must—
(1) Submit a notice of intent to locate mining claims form (NOITL), which you may obtain from BLM, with the proper BLM State Office and submit a non-refundable service charge for processing the NOITL (see the table of fees in §3830.21 of this chapter);
(2) Serve a copy of the NOITL on the surface owner(s) of record, by registered or certified mail, return receipt requested; and
(3) Submit proof to BLM that you served a copy of the NOITL on the surface owner(s) to complete submission of a NOITL with BLM.
(b) You can submit the NOITL to BLM and serve a copy of the NOITL on the surface owner(s) at the same time.

(c) If you want to explore parcels of land that are owned by different people, you must submit a separate NOITL for each parcel of land.
(d) You must—
(1) Wait 30 days after you serve the surface owner(s) with the NOITL before entering the lands to explore for minerals or locate a mining claim or tunnel site; and
(2) Follow procedures for locating mining claims and tunnel sites in part 3832, recording mining claim and tunnel sites in part 3833, and annual maintenance of mining claims in parts 3834 and 3835 of this chapter.

§ 3838.12 What must I include in a NOITL on SRHA lands?

A NOITL must include:
(a) The names, mailing address, and telephone numbers of everyone who is filing the NOITL. An agent may file the NOITL on behalf of others as long as the NOITL is accompanied with proof that the agent is authorized to act on behalf of the others.
(b) Information about the surface owners, including:
(1) The names, mailing addresses, and telephone numbers of all known surface owners of the parcel of land you want to enter;
(2) Evidence of surface ownership of all parcels covered by the NOITL obtained from the tax records of the local government. The evidence must show the name of the persons paying the taxes, and must contain a legal description of the taxed parcel.
(3) A description of the lands covered by the NOITL, including:
(i) The total number of acres to the nearest whole acre; and
(ii) A map and legal land description to the nearest 5-acre subdivision or lot based on a U.S. Public Land Survey of the lands covered by the NOITL, including access routes; and
(4) A brief description of the proposed mineral activities, including:
(i) The name, mailing address, and telephone number of the person who will be managing the activities, and
(ii) A list of the dates on which the activities will take place.

§ 3838.13 What restrictions are there on submitting a NOITL on SRHA lands?

(a) At any one time, you or your affiliates may not hold NOITLs for more than 1,280 acres of land owned by a single surface owner in any one state.
(b) At any one time, you or your affiliates may not hold NOITLs for more than 6,400 acres of land in any one state.
(c) Your NOITL will expire 90 days after you submit it with BLM, unless you submit to BLM a plan of operations that complies with part 3809 of this chapter within the 90-day period.
(d) After your NOITL expires, you are not allowed to submit another NOITL for the same lands until 30 days after the expiration of the previously-filed NOITL.
(e) Only those persons whose names are listed on the properly-submitted NOITL, or their agents, will be allowed to explore for minerals or locate mining claims or tunnel sites on the lands covered by the NOITL.
(f) For purposes of this section, the term "affiliates" means, with respect to any person, any other person which controls, is controlled by, or is under common control with, such person.

§ 3838.14 What will BLM do when I submit a NOITL for SRHA lands?

When BLM accepts a properly completed and executed NOITL, we will note the official land status records. The 90-day segregation period begins the day we receive a complete NOITL.

§ 3838.15 How do I benefit from properly submitting a NOITL on SRHA lands?

(a) For a 90-day period after you submit a NOITL with BLM and 30 days after you give notice to the surface owner:
(1) You may enter the lands covered by the NOITL to explore for minerals and locate mining claims (see §3838.10 for location procedures);

(2) You may cause only minimal disturbance of the surface resources on the lands covered by the NOITL;
(3) You must not use mechanized earthmoving equipment, explosives, or toxic or hazardous materials; and
(4) You must not construct roads or drill pads.
(b) For 90 days after BLM accepts your NOITL, no other person, including the surface owner, may—
(1) Submit a NOITL for any lands included in your NOITL;
(2) Explore for minerals or locate a mining claim on the lands included in your NOITL; or
(3) File an application to acquire any interest under section 209 of FLPMA and part 2720 of this chapter in the lands included in your NOITL.
(c) If you file a plan of operations under subpart 3809 of this chapter with BLM, as provided in Section 1 of the Act of April 16, 1993, 43 U.S.C. 299(b), within the 90-day period, BLM will extend the effects of the 90-day period until BLM approves or denies the plan of operations under subpart 3809.
(d) Before you conduct mineral activities, you must post a bond or other financial guarantee to cover completion of reclamation (see subpart 3809 of this chapter), compensation to the surface owner for permanent damages to the surface and loss or impairment of the surface, and to cover permanent loss of income due to reduction in the owner's use of the land.

§ 3838.16 What happens if the surface owner of the SRHA lands changes?

If the surface owner transfers all or part of the surface to a new owner after you have recorded a NOITL and served it on the surface owner, you do not have to serve a copy of the NOITL on the new surface owners.

Subpart C—Compliance Problems

§ 3838.90 Failure to comply with this part.

§ 3838.91 What if I fail to comply with this part?

If you fail to comply with the requirements in this part, the NOITL is void. Mining claims or tunnel sites located under a void NOITL are null and void from the beginning and we will cancel them.