43 CFR Part 3800 - Mining Claims Under the General Mining Laws

****THIS PACKET DOES NOT CONTAIN ALL SECTIONS OF 43 CFR 3800****

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NOTE: **PART 3710 – PUBLIC LAW 167;** **ACT OF JULY 23, 1955** Authorized the United States Government to manage the surface estate and surface resources embraced within a mining claim located on lands governed by Public Law 167 (P.L. 167). A mining claim located on P.L. 167 lands gives the mining claimant only the right to the mineral estate and so much of the surface estate as needed to conduct development or mining operations. The P.L. 167 notation on BLM's Master Title Plats denotes the Government's right to manage the surface estate and resources on these lands. For further information about P.L. 167 read **TITLE 43 of the CODE OF FEDERAL REGULATIONS, PART 3710, Subpart(s) 3710 through 3714.**	**NOTE:** Since October 1, 1994, Congress has imposed a moratorium on BLM acceptance of any new mineral patent applications. Until the moratorium is lifted, the BLM will not accept any new applications.

PART 3800—MINING CLAIMS UNDER THE GENERAL MINING LAWS

Subpart 3800—General

§ 3800.6 Am I required to pay any fees to use the surface of public lands for mining purposes?

You must pay all processing fees, location fees, and maintenance fees specified in 43 CFR parts 3800 and 3830. Other than the processing, location and maintenance fees, you are not required to pay any other fees to the BLM to use the surface of public lands for mining purposes.

Subpart 3802—Exploration and Mining, Wilderness Review Program

§ 3802.0-1 Purpose.

The purpose of this subpart is to establish procedures to prevent impairment of the suitability of lands under wilderness review for inclusion in the wilderness system and to prevent unnecessary or undue degradation by activities authorized by the U.S. Mining Laws and provide for environmental protection of the public lands and resources.

§ 3802.0-2 Objectives.

The objectives of this subpart are to:

(a) Allow mining claim location, prospecting, and mining operations in lands under wilderness review pursuant to the U.S Mining Laws, but only in a manner that will not impair the suitability of an area for inclusion in the wilderness system unless otherwise permitted by law; and

(b) Assure management programs that reflect consistency between the U.S. Mining Laws, and other appropriate statutes.

§ 3802.0-6 Policy.

Under the 1872 Mining Law (30 U.S.C. 22 et seq.), a person has a statutory right consistent with other laws and Departmental regulations, to go upon the open (unappropriated and unreserved) public lands for the purpose of mineral prospecting, exploration, development, and extraction. The Federal Land Policy and management Act requires the Secretary to regulate mining operations in lands under wilderness review to prevent impairment of the suitability of these areas for inclusion in the wilderness system. However, mining operations occurring in the same manner and degree that were being conducted on October 21, 1976, may continue, even if they are determined to be impairing. Mining activities not exceeding manner and degree shall be regulated only to prevent undue and unnecessary degradation of public lands.

§ 3802.0-7 Scope.

(a) These regulations apply to mining operations conducted under the United States mining laws, as they affect the resources and environment or wilderness suitability of lands under wilderness review.

(b) These regulations apply to means of access across public land for the purpose of conducting operations under the U.S. mining laws.

Subpart 3809—Surface Management

§ 3809.1 What are the purposes of this subpart?

The purposes of this subpart are to:

(a) Prevent unnecessary or undue degradation of public lands by operations authorized by the mining laws. Anyone intending to develop mineral resources on the public lands must prevent unnecessary or undue degradation of the land and reclaim disturbed areas. This subpart establishes procedures and standards to ensure that operators and mining claimants meet this responsibility; and

(b) Provide for maximum possible coordination with appropriate State agencies to avoid duplication and to ensure that operators prevent unnecessary or undue degradation of public lands.

§ 3809.2 What is the scope of this subpart?

(a) This subpart applies to all operations authorized by the mining laws on public lands where the mineral interest is reserved to the United States, including Stockraising Homestead lands as provided in §3809.31(d) and (e). When public lands are sold or exchanged under 43 U.S.C. 682(b) (Small Tracts Act), 43 U.S.C. 869 (Recreation and Public Purposes Act), 43 U.S.C. 1713 (sales) or 43 U.S.C. 1716 (exchanges), minerals reserved to the United States continue to be removed from the operation of the mining laws unless a subsequent land-use planning decision expressly restores the land to mineral entry, and BLM publishes a notice to inform the public.

(b) This subpart does not apply to lands in the National Park System, National Forest System, and the National Wildlife Refuge System; acquired lands; or lands administered by BLM that are under wilderness review, which are subject to subpart 3802 of this part.

(c) This subpart applies to all patents issued after October 21, 1976 for mining claims in the California Desert Conservation Area, except for any patent for which a right to the patent vested before that date.

(d) This subpart does not apply to private land except as provided in paragraphs (a) and (c) of this section. For purposes of analysis under the National Environmental Policy Act of 1969, BLM may collect information about private land that is near to, or may be affected by, operations authorized under this subpart.

(e) This subpart applies to operations that involve locatable minerals, including metallic minerals; some industrial minerals, such as gypsum; and a number of other non-metallic minerals that have a unique property which gives the deposit a distinct and special value. This subpart does not apply to leasable and salable minerals. Leasable minerals, such as coal, phosphate, sodium, and potassium; and salable minerals, such as common varieties of sand, gravel, stone, and pumice, are not subject to location under the mining laws. Parts 3400, 3500 and 3600 of this title govern mining operations for leasable and salable minerals.

[65 FR 70112, Nov. 21, 2000, as amended at 66 FR 54860, Oct. 30, 2001]

PART 3810—LANDS AND MINERALS SUBJECT TO LOCATION

Subpart 3811—Lands Subject to Location and Purchase

§ 3811.1 Lands: General.

Vacant public surveyed or unsurveyed lands are open to prospecting, and upon discovery of mineral, to location and purchase. The Act of June 4, 1897 (30 Stat. 36), provides that "any mineral lands in any forest reservation which have been or which may be shown to be such, and subject to entry under the existing mining laws of the United States and the rules and regulations applying thereto, shall continue to be subject to such location and entry," notwithstanding the reservation. This makes mineral lands in the forest reserves in the public land states, subject to location and entry under the general mining laws in the usual manner. Lands entered or patented under the Stockraising homestead law (title to minerals and the use of the surface necessary for mining purposes can be acquired), lands entered under other agricultural laws but not perfected, where prospecting can be done peaceably are open to location.

§ 3811.2-1 States where locations may be made.

(a) Mining locations may be made in the States of Alaska, Arizona, Arkansas, California, Colorado, Florida, Idaho, Louisiana, Mississippi, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming.

(b) The laws of the United States relating to mining claims were extended to Alaska by section 8 of the Act of May 17, 1884 (23 Stat. 26), and sections 15, 16, and 26 of the Act of June 6, 1900 (31 Stat. 327, 329; 48 U.S.C. 119, 120, 381–383) again, in terms, extended the mining laws of the United States and all right incident thereto, to the State, with certain further provisions with respect to the acquisition of claims there under.
(c) The law in respect to placer claims in Alaska was modified and amended by the Act of August 1, 1912 (37 Stat. 242) and section 4 of that Act was amended by the Act of March 3, 1925 (43 Stat. 1118).
(d) By the Act of May 4, 1934 (43 Stat. 663; 48 U.S.C. 381a) the Acts of August 1, 1912, and March 3, 1925, were repealed and the general mining laws of the United States applicable to placer mining claims were declared to be in full force and effect in the State.

§ 3811.2-2 Lands in national parks and monuments.
The Mining in the Parks Act (16 U.S.C. 1901 et seq.), effectively withdrew all National Parks and Monuments from location and entry under the General Mining Law of 1872, as amended. Since September 28, 1976, all National Parks and Monuments and other units of the National Park System have been closed to the location of mining claims and sites under the General Mining Law of 1872, as amended. Valid existing rights are recognized, but access and permission to operate mining claims and sites within units of the National Park System are now governed by 36 CFR part 9.
[59 FR 44856, Aug. 30, 1994]

§ 3811.2-3 Lands in Indian reservations.
All lands contained within the boundaries of an established Indian Reservation are withdrawn from all location, entry, and appropriation under the General Mining Law of 1872, as amended. All minerals on Indian Reservations may only be acquired by lease pursuant to the Act of May 11, 1938 (25 U.S.C. 396a), the Act of March 3, 1909 (25 U.S.C. 396), or the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.). The regulations governing the mineral leasing of Indian lands are found in 25 CFR Chapter I Subchapter I.
[59 FR 44857, Aug. 30, 1994]

§ 3811.2-4 Lands in national forests.
For mining claims in national forests, see §3811.1.

§ 3811.2-6 Lands in powersite withdrawals.
Mining claims may be located on powersite withdrawals subject to the provisions of part 3730 of this chapter.

§ 3811.2-9 Lands under Color of Title Act.
Lands patented under the Color of Title Act (43 U.S.C. 1068), by exchange under the Taylor Grazing Act (43 U.S.C. 415g) and by Forest Exchanges (16 U.S.C. 485) with mineral reservation to the United States, are subject to appropriation under the mining or mineral leasing laws for the reserved materials. See Group 2200 and subpart 2540 of this chapter. Minerals in acquired lands of the United States are not subject to mining location but the minerals therein may be acquired in accordance with the regulations contained in part 3500.

Subpart 3813—Disposal of Reserved Minerals Under the Act of July 17, 1914

§ 3813.0-3 Authority.
The Act of July 20, 1956 (70 Stat. 592), which amended the Act of July 17, 1914 (38 Stat. 509; 30 U.S.C. sec. 122), was enacted to permit the disposal of certain reserved mineral deposits under the mining laws of the United States.

§ 3813.1 Minerals reserved by the Act of July 17, 1914, subject to mineral location, entry and patenting.
The Act of July 17, 1914 (38 Stat. 509; 30 U.S.C. sec. 122), as amended by the act of July 20, 1956 (70 Stat. 592), provides in part as follows:

* * * such deposits to be subject to disposal by the United States only as shall be hereafter expressly directed by law: Provided, however, That all mineral deposits heretofore or hereafter reserved to the United States under this Act which are subject, at the time of application for patent to valid and subsisting rights acquired by discovery and location under the mining laws of the United States made prior to the date of the Mineral Leasing Act of February 25, 1920 (41 Stat. 437), shall hereafter be subject to disposal to the holders of those valid and subsisting rights by patent under the mining laws of the United States in force at the time of such disposal. Any person qualified to acquire the reserved deposits may enter upon said lands with a view of prospecting for the same upon the approval of the Secretary of the Interior of a bond or undertaking to be filed with him as security for the payment of all damages of the crops and improvements on such lands by reason of such prospecting, the measure of any such damage to be fixed by agreement of parties or by a court of competent jurisdiction. Any person who has acquired from the United States the title to or the right to mine and remove the reserved deposits, should the United States dispose of the mineral deposits in lands, may re-enter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining and removal of the minerals there from; and mine and remove such minerals, upon payment of damages caused thereby to the owner of the land, or upon giving a good and sufficient bond or undertaking therefore in an action instituted in any competent court to ascertain and fix said damages:

§ 3813.2 Minerals subject to disposition.
The Act of July 20, 1956, applies only to any mineral deposit discovered and located under the U.S. mining laws prior to February 25, 1920, and reserved to the United States under the Act of July 17, 1914 (38 Stat. 509; 30 U.S.C. 122), and which, at the time of application for mineral patent, is subject to valid and subsisting rights under the said mining laws. Only that mineral deposit together with the right to use the surface to prospect for, mine, and remove the said deposit shall, on or after July 20, 1956, be subject to disposal to the holders of such valid and subsisting rights by patent under the mining laws in force at the time of such disposal. "Oil" reserved under the Act of 1914 has been held to include oil shale. See 52 L.D. 329.

§ 3813.3 Provisions of the mineral patent.
(a) Each patent issued under the Act of July 20, 1956, shall specifically name the discovered mineral deposit which had been reserved to the United States under the Act of July 17, 1914, and shall recite that, in accordance with the reservation in the land patent, the mineral patentee and its successors (or his heirs and assigns, if a person) shall have the right to prospect for, mine and remove the mineral deposit for which the patent is issued.

(b) If, when it is determined that mineral deposit is subject to patenting under the mining laws pursuant to the Act of July 20, 1956, there is a subsisting mineral lease or permit covering such deposit, the mineral patent shall be issued subject to the mineral lease or permit for so long as rights under the lease or permit shall exist, the patentee being substituted for the United States as lessor or permittor and the patentee being entitled to all revenues derived subsequent to the issuance of patent from any such lease or permit.

Subpart 3814—Disposal of Reserved Minerals Under the Stockraising Homestead Act

§ 3814.1 Mineral reservation in entry and patent; mining and removal of reserved deposits; bonds.
(a) Section 9 of the Act of December 29, 1916 (39 Stat. 864; 43 U.S.C. 299), provides that all entries made and patents issued under its provisions shall contain a reservation to the United States of all coal and other minerals in

the lands so entered and patented, together with the right to prospect for, mine, and remove the same; also that the coal and other mineral deposits in such lands shall be subject to disposal by the United States in accordance with the provisions of the coal and mineral land laws in force at the time of such disposal.

(b) Said section 9 also provides that any person qualified to locate and enter the coal or other mineral deposits, or having the right to mine and remove the same under the laws of the United States, shall have the right at all times to enter upon the lands entered or patented under the Act, for the purpose of prospecting for the coal or other mineral therein, provided he shall not injure, damage, or destroy the permanent improvements of the entry man or patentee and shall be liable to and shall compensate the entry man or patentee for all damages to the crops on the land by reason of such prospecting. Under the Act of June 21, 1949 (30 U.S.C. 54), a mineral entry man on a stockraising or other homestead entry or patent is also held liable for any damage that may be caused to the value of the land for grazing by such prospecting for, mining, or removal of minerals except that vested rights existing prior to June 21, 1949, are not impaired.

(c) It is further provided in said section 9 that any person who has acquired from the United States the coal or other mineral deposits in any such land or the right to mine and remove the same, may reenter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining or removal of the coal, or other minerals, first, upon securing the written consent or waiver of the homestead entry man or patentee; or, second, upon payment of the damages to crops or other tangible improvements to the owner thereof under agreement; or, third, in lieu of either of the foregoing provisions, upon the execution of a good and sufficient bond or undertaking to the United States for the use and benefit of the entry man or owner of the land, to secure payment of such damages to the crops or tangible improvements of the entry man or owner as may be determined and fixed in an action brought upon the bond or undertaking in a court of competent jurisdiction against the principal and sureties thereon. This bond on Form 3814 must be executed by the person who has acquired from the United States the coal or other mineral deposits reserved, as directed in said section 9, as principal, with two competent individual sureties, or a bonding company which has complied with the requirements of the Act of August 13, 1894 (28 Stat. 279; 6 U.S.C. 6–13), as amended by the Act of March 23, 1910 (36 Stat. 241; 6 U.S.C. 8, 9), and must be in the sum of not less than $1,000. Qualified corporate sureties are preferred and may be accepted as sole surety. Except in the case of a bond given by a qualified corporate surety there must be filed therewith affidavits of justification by the sureties and a certificate by a judge or clerk of a court of record, a United States district attorney, a United States commissioner, or a United States postmaster as to the identity, signatures, and financial competency of the sureties. Said bond, with accompanying papers, must be filed with the authorized officer of the proper office, and there must also be filed with such bond evidence of service of a copy of the bond upon the homestead entry man or owner of the land.

(d) If at the expiration of 30 days after the receipt of the aforesaid copy of the bond by the entry man or owner of the land, no objections are made by such entry man or owner of the land and filed with the authorized officer against the approval of the bond by them, he may, if all else be regular, approve said bond. If, however, after receipt by the homestead entry man or owner of the lands of copy of the bond, such homestead entry man or owner of the land timely objects to the approval of the bond by said authorized officer, the said officer will immediately give consideration to said bond, accompanying papers, and objections filed as aforesaid to the approval of the bond, and if, in consequence of such consideration he shall find and conclude that the proffered bond ought not to be approved, he will render decision accordingly and give due notice thereof to the person proffering the bond, at the same time advising such person of his right of appeal to the Director of the Bureau of Land Management from the action in disapproving the bond so filed and proffered. If, however, the authorized officer, after full and complete examination and consideration of all the papers filed, is of the opinion that the proffered bond is a good and sufficient one and that the objections interposed as provided herein against the approval thereof do not set forth sufficient reasons to justify him in refusing to approve said proffered bond, he will, in writing, duly notify the homestead entry man or owner of the land of his decision in this regard and allow such homestead entry man or owner of the land 30 days in which to appeal to the Director of the Bureau of Land Management. If appeal from the adverse decision of the authorized officer be not timely filed by the person proffering the bond, the authorized officer will indorse upon the bond "disapproved" and other appropriate notations, and close the case. If, on the other hand, the homestead entry man or owner of the lands fails to timely appeal from the decision of the authorized officer adverse to the contentions of said homestead entry man or owners of the lands, said authorized officer may, if all else be regular, approve the bond.

(e) The coal and other mineral deposits in the lands entered or patented under the Act of December 29, 1916, will become subject to existing laws, as to purchase or lease, at any time after allowance of the homestead entry unless the lands or the coal or other mineral deposits are, at the time of said allowance, withdrawn or reserved from disposition.
[35 FR 9743, June 13, 1970, as amended at 41 FR 29122, July 15, 1976]

§ 3814.2 Mineral reservation in patent; conditions to be noted on mineral applications.

(a) There will be incorporated in patents issued on homestead entries under this Act the following:
Excepting and reserving, however, to the United States all the coal and other minerals in the lands so entered and patented, and to it, or persons authorized by it, the right to prospect for, mine, and remove all the coal and other minerals from the same upon compliance with the conditions, and subject to the provisions and limitations, of the Act of December 29, 1916 (39 Stat. 862).

(b) Mineral applications for the reserved deposits disposable under the Act must bear on the face of the same, before being signed by the declarant or applicant and presented to the authorized officer the following notation: Patents shall contain appropriate notations declaring same subject to the provisions of the Act of December 29, 1916 (39 Stat. 862), with reference to disposition, occupancy, and use of the land as permitted to an entry man under said Act.
[35 FR 9743, June 13, 1970]

Subpart 3816—Mineral Locations in Reclamation Withdrawals

§ 3816.1 Mineral locations.
The Act of April 23, 1932 (47 Stat. 136; 43 U.S.C. 154), authorizes the Secretary of the Interior in his discretion to open to location, entry and patent under the general mining laws with reservation of rights, ways and easements, public lands of the United States which are known or believed to contain valuable deposits of minerals and which are withdrawn from development and acquisition because they are included within the limits of withdrawals made pursuant to section 3 of the reclamation Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 416).

§ 3816.2 Application to open lands to location.
Application to open lands to location under the Act may be filed by a person, association or corporation qualified to locate and purchase claims under the general mining laws. The

application must be executed in duplicate and filed in the proper office, must describe the land the applicant desires to locate, by legal subdivision if surveyed, or by metes and bounds if unsurveyed, and must set out the facts upon which is based the knowledge or belief that the lands contain valuable mineral deposits, giving such detail as the applicant may be able to furnish as to the nature of the formation, kind and character of the mineral deposits. Each application must be accompanied by the filing fee for application to open lands to location found in the fee schedule in §3000.12 of this chapter.
[35 FR 9744, June 13, 1970, as amended at 72 FR 50889, Sept. 5, 2007]

§ 3816.3 Recommendations of Bureau of Reclamation to open lands.
When the application is received in the Bureau of Land Management, if found satisfactory, the duplicate will be transmitted to the Bureau of Reclamation with request for report and recommendation. In case the Bureau of Reclamation makes an adverse report on the application, it will be rejected subject to right of appeal.

§ 3816.4 Recommendations as to reservations and contract form.
If in the opinion of the Bureau of Reclamation the lands may be opened under the Act without prejudice to the rights of the United States, the report will recommend the reservation of such ways, rights and easements considered necessary or appropriate, and/or the form of contract to be executed by the intending locator or entry man as a condition precedent to the vesting of any rights in him, which may be necessary for the protection of the irrigation interests.

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

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).

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.

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.

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.

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?
** SEE TABLE #1 **

§ 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

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 end lines 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

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 recorded or 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

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.
[70 FR 52030, Sept. 1, 2005]

PART 3835—WAIVERS FROM ANNUAL MAINTENANCE FEES

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?
** See TABLE #2 **

§ 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:

** See TABLE #3 **

§ 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

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.