

DEPARTMENT OF THE INTERIOR**Bureau of Land Management****43 CFR Parts 3730, 3810, 3820, 3830–3840, and 3850****[WO–620–1430–00–24 1A]****RIN 1004–AD31****Locating, Recording, and Maintaining Mining Claims or Sites; and Extension of Currently Approved Information Collection, OMB Approval Number 1004–0114****AGENCY:** Bureau of Land Management, Interior.**ACTION:** Proposed rule and notice and request for comment on information collection.

SUMMARY: The Bureau of Land Management (BLM) is proposing this rule to amend regulations on locating, recording, and maintaining mining claims or sites. In this proposed rule, BLM is seeking to amend regulations to respond to a recent law that continues to require claimants to pay location and maintenance fees on unpatented mining claims or sites and to provide annual maintenance fee waivers to small miners until September 30, 2001. BLM collected these fees and provided for waivers under the existing regulations based on a previous law that expired on September 30, 1998. The new law—

Moves the annual payment and waiver filing deadline from August 31 to September 1 to coincide with the beginning of the assessment year;

Allows time to cure a small miner waiver application defect; and

Allows maintenance fee payment after the payment deadline instead of forfeiting a claim or site in an incurable waiver.

In addition to making these changes in the regulations, the proposed rule would streamline the regulations by consolidating provisions on location, recording, and maintenance of mining claims or sites in one CFR part, clarifying conflicting language, eliminating duplication, and removing obsolete provisions. These revisions are part of BLM's overall effort to rewrite regulations in plain language to make them easier for the public to use and understand.

The BLM is also taking this opportunity to announce its intention to request an extension of its current approval to collect certain information from holders of unpatented mining claims, mill, and tunnel sites.

DATES: Proposed rule: You should submit your comments by October 26,

1999. In developing a final rule, BLM may not consider comments postmarked or received in person or by electronic mail after this date.

Proposed information collection renewal: You should submit your comments by October 26, 1999. BLM may not consider comments postmarked or received by electronic mail after the above date in the decision-making process on the proposed information collection.

ADDRESSES: Please comment separately on the proposed rule or the information collection renewal. You may hand-deliver comments on the proposed rule or the proposed information collection renewal to Bureau of Land Management, Administrative Record, Room 401, 1620 L St., NW, Washington, DC, or mail comments to Bureau of Land Management, Administrative Record, Room 401LS, 1849 C St., NW, Washington, DC 20240. For information about filing comments electronically, see the **SUPPLEMENTARY INFORMATION** section under "Public Comment Procedures" and "Electronic access and filing address."

FOR FURTHER INFORMATION CONTACT: Roger Haskins in the Solid Minerals Group at (202)452–0355 or Ted Hudson in Regulatory Affairs at (202)452–5042. For assistance in reaching the above contacts, individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1-(800)877–8339 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

- I. Public Comment Procedures
- II. Background
- III. Discussion of Proposed Rule
- IV. Section-by-Section Analysis
- V. Procedural Matters

I. Public Comment Procedures*General Comment Procedures*

Comments on the proposed rule or the information collection should be specific, should be confined to issues pertinent to the proposed rule, and should explain the reason for any recommended change. Where possible, your comments should reference the specific section or paragraph of the proposal that you are addressing. BLM may not necessarily consider or include in the Administrative Record for the final rule comments that BLM receives after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

Please submit your comments on issues related to the proposed rule or information collection renewal, in writing, according to the **ADDRESSES**

section above. Please comment separately on the proposed rule or on the information collection renewal. Your comments should explain the need for any changes you recommend and, where possible, refer to specific sections or paragraphs in the proposed rule.

BLM will make your comments, including your name and address, available for public review at the "L Street" address listed in **ADDRESSES** above during regular business hours (7:45 a.m. to 4:15 p.m., Monday through Friday, except Federal holidays). BLM will also post all comments on its home page (<http://www.blm.gov>) at the end of the comment period.

Under certain conditions, BLM can keep your personal information confidential. You must prominently state your request for confidentiality at the beginning of your comment. BLM will consider withholding your name, street address, and other identifying information on a case-by-case basis to the extent allowed by law. BLM will make available to the public all submissions from organizations and businesses and from individuals identifying themselves as representatives or officials of organizations or businesses.

Electronic Access and Filing Address

You may view an electronic version of this proposed rule at BLM's Internet home page: www.blm.gov. You may also comment via the Internet to: WComment@blm.gov. Please also include "Attention: AD31" for the proposed rule or "Attention: 1004–0114" for the proposed information collection renewal, and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at (202) 452–5030.

Comments on Rule Format

We also welcome your comments on how we could make this proposed rule easier to understand, including answers to the following questions:

- Are the requirements clearly stated?
- Does it contain unclear technical language or jargon?
- Does the format aid or reduce its clarity?
- Would it be easier to understand if it were divided into more sections?
- Is the description in the "supplementary information" section helpful?

Please send format comments to the Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C St., NW, Washington, DC 20240, or e-mail them to Execsec@ios.doi.gov.

II. Background

BLM has primary responsibility for the administration of mining claims or sites on Federal lands. At the end of fiscal year (FY) 1998, there were 289,054 mining claims and sites maintained on the Federal lands. During FY 1998, claimants recorded 34,756 new mining claims and sites. In addition, BLM processed 4,121 waiver documents containing 27,498 mining claims and sites and processed 256,593 annual maintenance fee transactions. BLM also collected a total of \$29,968,000 in location and maintenance fees. BLM deposits these collected fees into a special fund, and Congress appropriates money to BLM from the fund to pay for the personnel and operations of the Mining Law Administration program which includes, among other things, mining claim recording and fee collection, processing patent applications and plans of operations, inspecting operations and enforcing the regulations.

A. Mining Claims or Sites

A mining claim, which can be either lode or placer, comprises a parcel of Federal land that contains a valuable mineral deposit. In contrast, a mill site is located on non-mineral land and used to support a lode or placer mining claim operation or support itself independent of a particular claim. A tunnel site contains a tunnel to a lode mine or is used to discover unknown lode mineral deposits. See 30 U.S.C. 22–42.

A mineral entry occurs when a patent applicant has met all patenting requirements for the mining claims or mill sites that are included in a mineral patent application. This means that except for the confirmation of a discovery of a valuable mineral deposit or validation of proper use and occupancy, a claimant of a mining claim or mill site is otherwise qualified to receive a mineral patent to the lands applied for. However, in the context of land withdrawals, the term “closed to mineral entry” means only that the lands are withdrawn from mining claim or site location under the General Mining Law.

B. Current Regulations

Organization of the Current Regulations

Regulations on location, recording, and maintenance of mining claims or sites are scattered throughout Groups 3700 and 3800. BLM and the General Land Office (GLO), BLM's predecessor, created them piece by piece since 1939, when the first Code of Federal Regulations (CFR) was issued. Past

practice of the BLM and GLO was to create a new subpart if Congress amended the General Mining Law or passed new laws affecting mining claims or sites. For this reason, current regulations are disjointed and contain conflicting or duplicative information. This rule is BLM's first attempt to consolidate, clarify, and eliminate duplications in these regulations.

Other Regulations Related to This Rule.

This rule concerns the location, recording, and maintenance of mining claims and associated mineral rights on the Federal lands of the United States that are subject to the General Mining Law. In order to obtain permission to occupy or disturb the surface or subsurface of your mining claims or sites, you must follow the Surface Management regulations of the surface management agency.

- For BLM administered lands, you must follow 43 CFR part 3715, 3802, 3809, or 3814 as applicable.
- On National Forest lands, you must follow 36 CFR part 228.
- On National Park System lands, you must follow 36 CFR part 9.
- In addition, most States have mining and reclamation permits that you must obtain before beginning surface disturbing operations on Federal lands.

To apply for a mineral patent for your mining claim or mill site, you must follow the regulations at 43 CFR part 3860. However, due to a Congressional budget moratorium in effect since September 30, 1994, BLM cannot accept any new mineral patent applications until Congress removes the moratorium.

Previously Proposed Rules Related to This Rule

Since 1992, Congress has passed three short-term laws requiring claimants to pay various fees when locating, recording, and maintaining mining claims or sites. As the collector of the fees, BLM has implemented each of these laws by amending its regulations. This proposed rule would implement the third of these short-term laws—the Interior and Related Agencies Appropriation Act for Fiscal Year 1999 (the FY99 Act) (section (e) of Pub. L. 105–277, 112 Stat. 2681–232, 2681–235, 30 U.S.C. 28g–28k), enacted on October 21, 1998. Before that, on August 10, 1993, Congress enacted Pub. L. 103–66, 107 Stat. 405, 30 U.S.C. 28f–k, which required claimants to pay a \$25 one-time location fee and a \$100 annual maintenance fee per claim or site, and added qualifiers for small miner waivers. To implement the 1993 Act, BLM published a rule amending 43 CFR

parts 3730, 3821, 3833, and 3850 on August 30, 1994, at 59 FR 44857. The 1993 Act expired on September 30, 1998.

Earlier, on October 5, 1992, Congress enacted Pub. L. 102–381, 106 Stat. 1374, 1378–1379, which required claimants to pay mining claim rental fees of \$100 per claim or site and provided exemptions for claimants with approved notices or plans of operations for actual exploration work or mineral production. To implement this Act, BLM published a rule amending 43 CFR parts 3730, 3821, 3833, and 3850 on July 15, 1993, at 58 FR 38197. The Act expired on September 30, 1994, and was superseded by the 1993 Act.

The successive statutes also changed some of the pertinent terminology: Rental fees in the 1992 Act became maintenance fees in the 1993 Act, and exemptions became waivers.

C. Statutory History

Originally, all commercially valuable minerals were locatable under the General Mining Law, 30 U.S.C. 21 *et seq.* Congress has, over time, added minerals to, or removed minerals from, the General Mining Law through amendments and the passage of the Mineral Leasing Act, 30 U.S.C. 181 *et seq.*, the Geothermal Steam Act, 30 U.S.C. 1001 *et seq.*, and the Surface Resources Act, 30 U.S.C. 601, 603. As a result, locatable minerals are defined by the intersection of these statutes with the General Mining Law. The Federal Land Policy and Management Act (FLPMA), 43 U.S.C. 1701 *et seq.*, affects location, recording, and maintenance of mining claims or sites through its broad directive to the Secretary of the Interior to manage all public lands. In addition, Congress requires special procedures for locating or maintaining claims or sites that fall under the Stockraising Homestead Act or the Energy Policy Act.

1. The Federal Land Policy and Management Act

The Federal Land Policy and Management Act of 1976 (FLPMA) gives the Secretary broad-ranging authority to manage all public lands. This Act resulted from Congress completely overhauling the entire public land management system of the United States. Relevant sections in FLPMA:

- Require recording all mining claims or sites with BLM, and maintenance of those claims or sites, or they are forfeited (section 314, 43 U.S.C. 1744);
- Make knowing disregard or circumvention of any regulation issued under the authority of FLPMA a Federal offense (section 303, 43 U.S.C. 1733).

2. The General Mining Law

How to locate minerals under the General Mining Laws

The General Mining Laws, as amended, which generally comprises chapters 2, 11, 12, 12A, 15, 16, and 20, and section 161 of title 30 of the United States Code, are the primary statutes governing disposition of minerals on Federal lands by location. Locating claims or sites has five elements:

- Discovering a valuable mineral deposit
- Locating mining claims or sites
- Recording mining claims or sites
- Maintaining mining claims or sites
- Patenting mining claims or sites

Claimants who comply with the first four elements gain a right of possession to the deposit, or a right to explore for, extract and develop the minerals. This right includes the use of the surface for exploration, mineral development, mineral extraction, and uses reasonably incident to exploration, extraction, and development. This right is a property interest and may be bought, sold, transferred, leased, rented, devised or inherited. The Federal Government retains ownership and title to the land, even while a claimant is developing the mineral deposit. On lands where the United States is not the owner of the surface estate, which is the situation on Stockraising Homestead Act lands, the surface owner retains title to the surface of the land and BLM administers the mineral estate reserved to the United States. Under certain circumstances, a claimant may qualify for a mineral patent and receive title to the land.

3. Mineral Leasing Act

The Mineral Leasing Act allows leasing of the Federal lands for development of certain types of minerals. The Act made several minerals that were once locatable or not available under the General Mining Law leasable after February 25, 1920, including:

- Oil and gas
- Coal
- Potassium, sodium, and phosphate
- Oil shale, tar sands, native asphalt, solid and semisolid bitumen
- Oil recovered from oil sands after the deposit is mined or quarried
- Sulphur in Louisiana and New Mexico that belongs to the U.S.

4. Mineral Materials Act and Surface Resources Act

The Mineral Materials Act and the Surface Resources Act govern sale of mineral materials on Federal land. These mineral materials include petrified wood and common variety

mineral materials. Common variety mineral materials were locatable until July 23, 1955, when the Surface Resources Act made all deposits of common varieties of sand, stone, gravel, pumice, pumicite, and cinders salable and therefore no longer locatable. Uncommon varieties of mineral materials, which have distinct and special value, are still locatable under the General Mining Law.

5. Stockraising Homestead Act and the Homestead Act

Claimants must follow additional procedures when seeking to locate mining claims or sites on lands which were patented under the Stockraising Homestead Act (SRHA) of 1916 (43 U.S.C. 291–299) or, in some instances, the Homestead Act (43 U.S.C. 161–284). The United States owns only the mineral estate in these lands.

Under the Homestead Act, the United States granted land patents (or title) to homesteaders who wanted to enter and cultivate the land. However, in some situations, particularly in the arid West, some land was not suitable for traditional crop farming. The SRHA allowed homesteaders to use the land for grazing, instead of traditional farming. For those who already had an application (entry) under the Homestead Act but could not meet the cultivation and irrigation requirements, the SRHA permitted conversion of the Homestead entry into an SRHA entry. These converted patents were issued under the Homestead Act. However, unlike other Homestead Act patents which granted title to both the surface and mineral estates, the converted patents conveyed title to the surface estate only and reserved the mineral estate to the United States under the SRHA.

Thus, certain lands that appear to have been patented under the authority of the Homestead Act after December 29, 1916, were patented under the SRHA with a Federal mineral estate reservation. Mining claims or tunnel sites may be located on these reserved mineral estates. However, since the United States is not the surface owner of the land, claimants must notify both the surface owner and BLM before locating mining claims or tunnel sites.

Congress enacted amendments to the Stockraising Homestead Act in 1993 that impose notification requirements on anyone other than the surface owner who wants to enter Stockraising Homestead Act lands to explore for minerals and locate mining claims. Act of April 16, 1993; Pub. L. 103–23; 43 U.S.C. 299(b).

6. Energy Policy Act

The Energy Policy Act (30 U.S.C. 242) no longer requires assessment work for oil shale placer claims. Instead, it requires payment of an annual \$550 fee for most oil shale claims, and requires an annual filing of a notice of intent to hold. In cases where \$550 is due, the claimant is not required to pay an additional maintenance fee.

7. Federal Oil and Gas Royalty Management Act

The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 188(f)) provides that a claimant may seek to convert an oil placer mining claim that was validly located before February 24, 1920, to a noncompetitive oil and gas lease. This lease would be effective as of the date the mining claim is deemed abandoned because the claimant failed to comply with section 314 of FLPMA. The claimant's failure must be inadvertent, justifiable, or not due to his or her lack of reasonable diligence.

8. State Laws

Most States have passed their own laws about mining claim location, recording, and annual maintenance as authorized by the General Mining Law. In addition to BLM's regulations, these State law requirements will apply to you.

III. Discussion of Proposed Rule

Organization of the Proposed Rule

This proposed rule would consolidate information about locating, recording, and maintaining mining claims or sites. Two parts would be reserved so that other related information may eventually be relocated into this part. These reserved parts will address mineral lands available for location and recording, and notification requirements under special Acts.

Proposed part 3830 contains several sections. Each of the sections, located directly under part 3830 (in sections numbered 3830.xx), contains general information that is applicable throughout part 3830 and the succeeding parts 3831 through 3839. In old regulations, BLM used section numbers in the format xxxx.0-x for the sections providing this general information. To conform more closely with the standard numbering system for the Code of Federal Regulations, we eliminated the zero and dash.

To make regulations on mining claims or sites easier to use, this rule organizes sections within each part so that:

• Sections xxxx.1-xxxx.9 are introductory sections containing general information applicable to the part;

• Sections xxxx.x0, such as xxxx.10, xxxx.20, and xxxx.30, mark the beginning of new topic areas within the part;

• Sections under these "new topic" sections, such as xxxx.12, xxxx.26, or xxxx.38, are related to the topic areas; and

• Sections xxxx.90-xxxx.99 tell you how to cure defects in your compliance with the requirements in that part.

Why BLM is Proposing This Rule

BLM is proposing this rule for two reasons:

• To implement the Interior and Related Agencies Appropriation Act for Fiscal Year 1999 (the FY99 Act), section (e) of Pub. L. 105-277, 112 Stat. 2681-232, 2681-235, 30 U.S.C. 28f-28k, enacted by Congress on October 21, 1998; and

• To make it easier for you, as claimants and other interested persons, to find and understand relevant requirements.

How the FY99 Act Changes BLM's Current Requirements

The FY99 Act does not change the requirements that all claimants pay a one-time \$25 location fee and a \$100 annual maintenance fee, or the provision for small miner and other waivers. BLM had collected these fees and waivers under the Interior and Related Agencies Appropriations Act for Fiscal Year 1994 (Pub. L. 103-66; 107 Stat. 405), which expired on September 30, 1998. The FY99 Act extends BLM's authority from October 1, 1998, to September 30, 2001. This rule reflects this extension.

The Act makes two important changes. First, it moves the annual payment deadline to September 1, which is the first day of the assessment year.

Second, the FY99 Act gives claimants more time to cure defective small miner waiver applications. Under current regulations, if you, as a claimant, filed a waiver application on time and received notification that the waiver was defective you had 30 days from the notification date to cure the defect. You also had the option of paying the maintenance fee instead of curing the defect as long as the payment deadline had not passed. If the payment deadline had passed and you failed to cure the defect within 30 days, you forfeited the claims or sites. Since waiver applications and maintenance fees are both due on the same date, you rarely had the option of paying the

maintenance fee instead of curing the defect. Therefore, if the defect was incurable, you generally forfeited the claims or sites.

Under the FY99 Act, you have 60 days instead of 30 days after receiving written notification from BLM to cure a defective small miner waiver application. The FY99 Act also gives you the option to pay the maintenance fee instead of curing the defect during this 60-day period, regardless of whether the payment deadline has passed. These changes required under the FY99 Act affect payments due to BLM on September 1, 1999. Because the entire rulemaking process will not be finished by that date, BLM is adopting an interim final rule to make these changes. Elsewhere in this issue of the **Federal Register**, you will find that interim final rule that makes these changes, and only these changes, in the context of the existing regulations. You may also comment on that interim final rule as stated in its preamble, but the changes contained in it are effective on publication so that new deadlines will be in place for the opening of the next assessment year. Once this proposed rule is published in final form, it will supersede the interim final rule. If comments on the interim final rule require urgent changes, we will make them in an expedited, separate, final rule.

How This Proposed Rule Streamlines and Clarifies the Regulations

BLM seeks to improve regulations on mining claims or sites by making them easier to use and understand. First, this rule would make it easier for the public to find and follow regulations on mining claims or sites by consolidating most of the regulations about mining claim or site location, recording, and maintenance in one part, 43 CFR part 3830. These regulations are currently scattered throughout Groups 3700 (Multiple Use Mining) and 3800 (Mining Claims under the General Mining Laws). Two parts in the series of parts beginning with 3830 would be reserved so that BLM can redesignate other regulations, including those on special mining act requirements and mineral lands availability, in future rulemakings.

Eventually, BLM plans to consolidate all mining claim requirements, except for mineral patenting and surface management requirements, into part 3830. Mineral survey and patenting regulations will stay in part 3860. BLM wants to assist you in finding the information you need by combining all mining claim and site information into one part.

Second, this rule would make regulations easier to understand by removing conflicts in requirements, eliminating duplication, and removing outdated or inapplicable provisions. Some of the language in existing regulations dates back to the late 1890s and we must remove them if they are unnecessary or rewrite them in plain language.

Effect of the Streamlining and Clarifying Changes

The organizational changes in this proposed rule are not intended to make a significant change in the meaning of the regulations in any way. BLM wants to make the regulations easier for the public to use and understand.

IV. Section-by-Section Analysis

This section-by-section analysis will briefly outline how the new regulations would be organized and highlight the few minor substantive changes. Although the following paragraphs use descriptive rather than conditional language in most cases to describe the proposed regulations, none of the following descriptions will be effective unless and until promulgated in a final rule. (Of course, to the extent that this analysis reflects reorganization rather than substantive amendment, many of the provisions described here are already in effect.)

The chart below provides a map of the proposed numbering changes to help guide you through the new consolidated part. The column on the left shows the section numbers in this proposed rule, and the column on the right shows the sections from which the proposed provisions are derived or states that they are new. Sections ending in "0" are generally introductory sections leading into a series of related substantive sections.

Proposed regulations	Existing regulations
PART 3830	
3830.1	New; 3833.01.
3830.2	3832; 3833.0-1; 3833.5(e).
3830.3	New; 3833.0-3.
3830.5	New; 3833.0-5.
3830.6	3833.5(g).
3830.9	3833.0-9.
3830.10	
3830.11	3811.1; 3812.1.
3830.12	New; 3711; 3812.1.
3830.20.	
3830.21	New; 3833.1-1; 3833.1-4; 3833.1-5; 3852.2.
3830.22	3833.1-1.
3830.23	3833.1-3; 3833.1-4.
3830.24	3833.1-3; 3833.0-5(m).
3830.25	3833.1-3.
3830.90	

Proposed regulations	Existing regulations	Proposed regulations	Existing regulations
3830.91	New.	3835.13	3833.1–6(a)–(d); 3833.1–7(d) & (e).
3830.92	3833.4(f).	3835.14	New; 3833.1–6; 3833.1–7(d); 3851.1(b).
3830.93	New; 3833.5(f).	3835.15	New; 3833.1–7(d); 3833.2–2(c).
3830.94	New; 3833.4(b); 3833.4(c); 3833.5(d); 3833.5(f).	3835.16	New; 3833.1–6(b); 3833.2–2(c); 3851.1; 3851.3.
3830.95	New; 3833.1–3(b); 3833.4(a).	3835.20	New; 3833.1–5(g).
3830.96	3833.1–3(d); 3833.4(b).	3835.30	New; 3833.0–5(n); 3833.2–3(c); 3851.1.
3830.97	3833.5(h).	3835.31	New; 3833.0–5(n); 3833.2–3(c); 3851.1.
PART 3832		3835.32	3833.1–5(e) & (f); 3833.1–6(b)–(d) & (f).
3832.1	New.	3835.33	3833.2–4.
3832.10		3835.34	3833.2–4(c); 3833.2–5.
3832.11	3831.1; 3833.1–2(b); 3841.4–4; 3841.4–5; 3841.4–6.	3835.90	
3832.20		3835.91	3833.2–3(a) and (b); 3833.4(a).
3832.21	3812.1; 3842.2; 3842.4.	3835.92	3833.4(a).
3832.22	3841.4–1; 3841.4–2; 3842.1–2.	3835.93	New.
3832.30		PART 3836	
3832.31	New; 3844.	3836.10	
3832.32	New; 3844.	3836.11	3851.1(b)–(c).
3832.33	New; 3844.	3836.12	New; 3851.2.
3832.34	New; 3844.	3836.13	3851.2.
3832.40		3836.14	3851.2.
3832.41	New; 3843.	3836.15	3833.4(a); 3851.3.
3832.42	3843.	3836.20	New; 3852.0–3.
3832.43	3843.	3836.21	3852.1.
3832.44	3843.1.	3836.22	3852.2.
3832.45	New; 3843.	3836.23	3852.3.
3832.90		3836.24	3852.4.
3832.91	New; 3841.4–2	3836.25	3833.1–7(e); 3852.5.
PART 3833		PART 3837	
3833.1	New; 3833.0–1; 3833.0–2; 3833.4(d).	3837.10	
3833.10		3837.11	3851.4(a) and (d).
3833.11	3833.1–2(a); 3833.1–2(b)(1)–(4); 3833.5(c).	3837.20	
3833.20		3837.21	New; 3851.4(b).
3833.21	New; 3833.0–5(p).	3837.22	3851.4(a).
3833.22	New; 3833.0–5(p).	3837.23	New; 3851.4(b).
3833.30		3837.24	New; 3851.4.
3833.31	3833.3.	3837.30	New.
3833.32	New; 3833.3(c).	PART 3838	
3833.33	3833.3(a).	3838.1	New.
3833.34	New; 3842.1–1.	3838.2	New.
3833.90		3838.10	
3833.91	New; 3833.4(a); 3833.5(a).	3838.11	New; 3833.0–3(g); 3833.1–2(c) & (d).
3833.92	New; 3833.4(c).	3838.12	New; 3833.1–2(d).
3833.93	3833.5(f).	3838.13	New; 3833.1–2(d).
PART 3834		3838.14	3833.0–3(g); 3833.1–2(c).
3834.10		3838.15	3833.0–3(g); 3833.1–2(c).
3834.11	3833.1–5(b) & (e).	3838.16	3833.1–2(c).
3834.12	3833.1–5(a), (b), & (e).	3838.90	
3834.13	3833.1–5(c).	3838.91	New; 3833.4(a).
3834.14	New; 3833.1–5(a) & (d).	Part 3730—Public Law 359; Mining in Powersite Withdrawals: General	
3834.20		Cross references in § 3734.1 are amended to reflect the reorganization of part 3830.	
3834.21	3833.1–5(h).		
3834.22	3833.1–5(h)(1).		
3834.23	New; 3833.1–5(h)(2).		
PART 3835			
3835.1	New; 3833.1–5 & 3833.1–6.		
3835.10			
3835.11	New; 3833.1–7(d).		
3835.12	3833.1–6(a)–(d) & (f); 3833.1–7(c).		

Part 3810—Lands and Minerals Subject to Location

The description of minerals that are subject to location, subpart 3812, would be removed. This information can now be found in § 3830.11, “Which minerals are locatable under the mining law?”

Part 3820—Areas Subject to Special Mining Laws

Cross references in §§ 3821.2 and 3821.3 are amended to reflect the reorganization of part 3830.

Part 3830—Locating, Recording, and Maintaining Mining Claims or Sites; General Provisions

Proposed §§ 3830.1 through 3830.94 contain provisions that generally apply to all the regulations in parts 3830 through 3839. You should refer back to these sections on general policies and procedures when you follow regulations in this part.

Sections 3830.1, 3830.2, and 3830.3 outline the purpose, scope, and authority for this part. Section 3830.5 contains definitions that are important to understand in this series of parts. Section 3830.8 discusses information collection requirements. Section 3830.9 describes the penalties for filing a document with BLM that you know contains false, erroneous, or fictitious information or statements.

Section 3830.11 and 3830.12 describe which minerals are locatable under the mining law and subject to the regulations under this part.

Sections 3830.20 through 3830.24 explain payment procedures for various fees and service charges required in part 3830. Section 3830.21 contains a table describing the fees and service charges and when they are due. Section 3830.22 describes when BLM will refund fees you have paid. Section 3830.23 explains the forms of payment BLM will accept. Section 3830.24 tells you how you can get your payments to BLM. Section 3830.25 explains when you should pay for a new location.

Sections 3830.91 through 3830.96 describe what happens if you fail to comply with this part, the types of defects that may affect claims and sites, and the procedures you must follow if you want to cure defects. Section 3830.97 describes appeal procedures and cross-references other regulations, including appeals regulations found in parts 4 and 1840 of this title, that outline procedures for appealing to the Interior Board of Land Appeals.

In addition to this general section on defects, most parts also contain sections xxxx.90 through xxxx.9x, which identify the types of defects that you

may encounter specifically to that part, and tell you whether they can be cured and how to cure them.

Part 3831—Mineral Lands Available for the Location of Mining Claims or Sites [Reserved]

This part is reserved so that BLM may consolidate all information on the lands that are available for the mining claim and site location. This information is currently found in 43 CFR parts 3730, 3740, 3810, and 3820 and will likely be moved to this part in future rulemakings.

Part 3832—Locating Mining Claims or Sites [Added]

This part consolidates location requirements, currently found in 43 CFR subpart 3831 and part 3840, for lode and placer mining claims and mill and tunnel sites.

Section 3832.1 defines what location is. Sections 3832.10 through 3832.12 describe general procedures for locating mining claims or sites. Sections 3832.20 through 3832.22 provide specific requirements for lode and placer mining claims. Section 3821.21 discusses, among other things, claims located as building stone placer, oil placer, or saline placer claims on lands chiefly valuable for those minerals. The issue of what "chiefly valuable" means is currently before the Secretary in a case entitled *U.S. v. United Mining Corp.* If the Secretary decides that case before this rule is issued in final form, the final rule may reflect the outcome of that decision. This rule proposes to prevent claimants from circumventing the limitation on the number of millsite acres a claimant may locate under § 3832.32 by limiting the millsite acreage you may locate to 5 acres per associated 20 acre parcel of lode or placer claim lands. Sections 3832.30 through 3832.34 contain specific requirements for dependent and independent or custom mill sites. In accordance with the Mining Law, this rule proposes to make it clear that you may not locate more than an aggregate of 5 acres of mill site land for each associated placer or lode mining claim. The provision allowing a maximum of 5 acres of mill site land for each lode or placer mining claim held is contained in 30 U.S.C. 42, and derives from the Lode Law of 1866 (14 Stat. 251). This requirement was recently reviewed and Solicitor's Opinion M-36988 reaffirmed it on November 7, 1997. Sections 3832.40 through 3832.45 contain specific requirements for tunnel sites. Sections 3832.90 and 3832.91 specify when and how you can correct defects in your location of claims or sites.

Part 3833—Recording Mining Claims or Sites [Added]

This part walks you through the Federal process for recording a mining claim or site.

Section 3833.1 describes what it means to record mining claims and sites and why you must record your mining claims and sites. The recording process provides BLM with a record of claims and sites.

Sections 3833.10 and 3833.11 outline the procedures for recording mining claims and sites. Specifically, § 3833.11 describes how you record mining claims and sites. Some of this information may be the same information that you used to locate your claim in part 3832.

Sections 3833.20 through 3833.23 describe when and how you may amend the record of a previously located mining claim or site. Sections 3833.30 through 3833.35 cover transfers of mining claims or sites.

Finally, §§ 3833.90 through 3833.93 describe how to cure certain defects in your recording of mining claims or sites.

Part 3834—Required Fees for Mining Claims or Sites

This part guides you through annual maintenance of your claims or sites. It describes what you must do each year to maintain your mining claims or sites properly to avoid forfeiting them. Section 3834.11 describes the annual \$100 maintenance fee, the fee waiver, and the consequences for failing to pay. Sections 3834.12 through 3834.14 go through the procedures for and effects of paying the maintenance fee. These sections contain two of the five changes in our regulations resulting from the passage of the Interior and Related Agencies Appropriation Act for Fiscal Year 1999 (the FY99 Act), which Congress passed on October 21, 1998. First, BLM is revising these regulations to reflect the new statutory basis for BLM to collect location and maintenance fees from October 1, 1998, through September 30, 2001. BLM's previous statutory authority expired on September 30, 1998. Second, Congress moved the annual payment deadline from August 31 to September 1. Since assessment years begin every September 1, it makes sense to require payment on the first day of the assessment year instead of one day earlier.

Section 3834.11 also describes the \$550 fee that you must pay for most oil shale placer claims, instead of the \$100 maintenance fee. Most oil shale placer claims have different requirements because of the Energy Policy Act of 1992 (30 U.S.C. 242). Claimants who hold oil shale claims, except those who filed a

patent application and received a first half final certificate for an oil shale claim by the date of enactment of the Energy Policy Act, must pay an annual fee of \$550 for each oil shale claim and file a notice of intent to hold, which is due every year by December 30.

Sections 3834.20 through 3834.23 outline when and how the Secretary may adjust the amount of the maintenance and location fees.

Part 3835—Waivers From Annual Fees

Section 3835.1 provides general information about fee waivers and their applicability. Sections 3835.10 through 3835.12 address general filing requirements for waivers, while § 3835.13 lists specific types of waivers, their duration, and how you should renew them. Five types of waivers are available to claimants who are—

- Small miners,
- Military personnel under the Soldiers and Sailors' Relief Act,
- Performing reclamation,
- Denied access, or
- Applicants for a mineral patent (but only under certain circumstances).

The third of the five changes to our regulations resulting from the FY99 Act is found in these sections. The change is that the deadline for filing a waiver request is now September 1 instead of August 31.

Sections 3835.14 through 3835.16 establish the conditions for obtaining a small miner waiver in the assessment year following the assessment year of location, for filing a waiver in one year and paying the maintenance fee the next, and for paying the maintenance fee in one year and switching to a waiver the next assessment year.

Section 3825.20 addresses whether waivers continue when a claim is transferred. It explains that a waiver is still good if the transferee also qualifies for the waiver.

Sections 3835.30 through 3835.34 describe annual FLPMA filings and when they are required. An annual FLPMA filing is either the submission of an affidavit of assessment work when it is required as a condition of a waiver, or the submission of a notice of intent to hold when an affidavit of assessment work cannot be filed.

As in the earlier parts, §§ 3835.90 through 3835.93 describe the procedures to cure certain defects if you have any in your waiver application. Here in § 3835.93 you will find the fourth and fifth of the five changes to our regulations resulting from the FY99 Act. The FY99 Act gives you 60 days instead of 30 days to cure defective small miner waiver applications if BLM receives them by the payment deadline.

The FY99 Act also gives you the opportunity to pay the maintenance fee if the defective small miner waiver applications cannot be cured within 60 days after the payment deadline.

Part 3836—Annual Assessment Work Requirements for Mining Claims

This part consolidates the provisions of current part 3851 on performing and recording assessment work, which is sometimes a condition for a maintenance fee waiver. Sections 3836.10 through 3836.15 identify the types of work that qualify as assessment work, and tell you how to record the work. Section 3836.16 discusses what happens if you fail to perform assessment work. If you are a qualified small miner, and you have been denied access to your claims, you may petition BLM to defer assessment work as outlined in §§ 3836.20 through 3836.25.

Part 3837—Acquiring a Delinquent Co-Claimant's Interests in a Mining Claim or Site

This part consolidates the procedures in current subpart 3851 and 30 U.S.C. 28 for acquiring the interests of a delinquent co-claimant in a mining claim or site when the co-claimant has failed to contribute a proportionate share of the assessment work, expenditures, or maintenance fees. Section 3837.10 states the conditions for acquisition and §§ 3837.20 through 3837.24 lay out the steps for acquisition. Section 3837.30 provides guidance in the event of a dispute between co-claimants.

Part 3838—Special Procedures for Locating and Recording Mining Claims and Tunnel Sites on Stockraising Homestead Act Lands

This part contains special procedures for exploring for minerals and locating, recording, and maintaining mining claims or tunnel sites located on or under Stockraising Homestead Act (SRHA) lands. If you want to locate mining claims on SRHA lands, you must take these special steps before locating, recording, and maintaining mining claims or tunnel sites under this part. These procedures are required by the Act of April 16, 1993; Public Law 103-23; 43 U.S.C. 299(b). The Act took effect on October 13, 1993.

Sections 3838.1 and 3838.2 describe what SRHA lands are, and why claims or sites on them require special procedures. Sections 3838.10 through 3838.14 and § 3838.16 discuss the procedures for exploring for minerals and locating mining claims on SRHA lands. Specifically, you must record a notice of intent to locate mining claims

(NOITL) with BLM, and serve a copy of the NOITL on the surface owners. You must wait 30 days before entering the lands to explore for minerals or locate any mining claims. Section 3838.15 describes the benefits you receive when you file a NOITL, while §§ 3838.90 and 3838.91 state the consequences of failing to file a NOITL.

Part 3839—Special Laws, in Addition to FLPMA, that Require Recording or Notice

This part is reserved for future consolidation of regulations about recording and notice requirements and contest procedures under certain special laws. The current regulations are found in 43 CFR parts 3710, 3730, 3740, 3810, and 3820. These parts cover surface rights determinations under the Surface Resources Act of 1955; permission to use or occupy placer mining claims located in power site withdrawals under the Mining Claim Rights Restoration Act of 1955; conflict resolution between mining claims and mineral leases under the Multiple Mineral Development Act of 1954; and timber use on O&C lands in Oregon by mining claimants.

Part 3840—Nature and Classes of Mining Claims

BLM proposes to move the provisions of part 3840, which describe the types of claims or sites and how to locate and record them, to parts 3832 and 3833. See the conversion chart earlier in this preamble.

Part 3850—Assessment Work

BLM proposes to move the provisions of part 3850, which describes assessment work requirements, to part 3836.

V. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

In accordance with the criteria in Executive Order 12866, BLM has determined that this rule is not a significant regulatory action. The Office of Management and Budget (OMB) makes the final determination under Executive Order 12866.

- The rule will not have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. These changes do not significantly change the substance of current mining claim administration within BLM. The annual revenue received from the collection of the congressionally mandated oil shale,

maintenance, and location fees has averaged \$32 million since August of 1993. This rule would not change the fee amounts and thus will not have a significant impact on fees collected.

- This rule will not create inconsistencies with other agencies' actions. It does not change the relationships of BLM to other agencies and their actions.

- This rule will not materially affect entitlements, grants, loan programs, or the rights and obligations of their recipients. The rule does not address any of these programs.

- This rule will not raise novel legal or policy issues because it makes no major substantive changes in the regulations. The Constitutionality of the rental and maintenance fees has been challenged in the Federal Courts.

The Courts have consistently upheld the 1992 and 1993 Acts and their implementing regulations.

Regulatory Flexibility Act

We certify that this rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) The rule will not have an impact because the fees paid by small entities will not change. A final Regulatory Flexibility Analysis is not required, and a Small Entity Compliance Guide is not required.

For the purposes of this section a "small entity" is an individual, limited partnership, or small company, at "arm's length" from the control of any parent companies, with fewer than 500 employees or less than \$5 million in revenue. This definition accords with Small Business Administration regulations at 13 CFR 121.201.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

- Does not have an annual effect on the economy of \$100 million or more. As explained above, the revised regulations will not materially alter current BLM policy or the fees paid by mining claimants.

- Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The changes implemented by this rule are likely to leave all other economic aspects of BLM unaffected.

- Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or

the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

- This rule will not “significantly or uniquely” affect small governments. A Small Government Agency Plan is unnecessary.
- This rule will not produce a Federal mandate of \$100 million or greater in any year. It is not a “significant regulatory action” under the Unfunded Mandates Reform Act. The changes implemented in this rule do not require anything of any non-Federal governmental entity.

Executive Order 12630, Takings

In accordance with Executive Order 12630, the rule does not have takings implications. A takings implication assessment is not required. This rule does not substantially change BLM policy. Nothing in this rule constitutes a taking. The Federal Courts have heard a number of suits challenging the imposition of the rental and maintenance fees as a taking of a right, or, alternatively, as an unconstitutional tax. The Courts have upheld the 1992 and 1993 Acts and the BLM rules as a proper exercise of Congressional and Executive authorities.

Executive Order 12612, Federalism

In accordance with Executive Order 12612, BLM finds that the rule does not have significant Federalism effects. A Federalism assessment is not required. This rule does not change the role or responsibilities between Federal, State, and local governmental entities, nor does it relate to the structure and role of States or have direct, substantive, or significant effects on States.

Executive Order 12988, Civil Justice Reform

In accordance with Executive Order 12988, BLM finds that the rule does not unduly burden the judicial system and therefore meets the requirements of sections 3(a) and 3(b)(2) of the Order. BLM consulted with the Department of the Interior's Office of the Solicitor throughout the drafting process.

Paperwork Reduction Act

The Office of Management and Budget has approved the information collection requirements in the proposed rule under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*, and has assigned clearance number 1004-0114.

This rule does not require a new information collection under the

Paperwork Reduction Act. However, the existing OMB approval of the information collection under ICB 1004-0114 expires in September 1999.

Therefore, BLM is applying for renewal of the approval at this time, using this proposed rule as an opportunity to notify the public. This is necessary because this rule proposes to change the numbering of the regulations in certain respects, and simply renewing the existing approval without change would lead to confusion and misapprehension. BLM has prepared an OMB form 83-I, which has been approved by the Office of Policy Analysis, Department of the Interior. This rule makes no changes to the approved information collection required to implement the Act other than conforming section numbers where necessary.

The existing approval pertains to the current edition of these regulations at 43 CFR parts 3730, 3820, 3830, and 3850. This proposed rule consolidates these parts into 43 CFR part 3830. The information to be collected remains the same. There are no changes in the form or types of information to be collected, or in the amounts of fees required to be paid by the mining claimants. The BLM will continue to use form 3830-2 “Maintenance Fee Payment Waiver Certification” and form 3814-4 “Notice of Intent to Locate a Lode or Placer Mining Claim and/or a Tunnel Site(s) on Lands Patented Under the Stockraising Homestead Act of 1916, as amended by the Act of April 16, 1993.” Form number 3814-4 will be renumbered as form 3830-3 with no other changes. The revision and consolidation effort affects the numbering system of the regulations and therefore the form as well.

National Environmental Policy Act

We have analyzed this rule in accordance with the criteria of the National Environmental Policy Act and 318 DM 2.2(g) and 6.3(D). Since no substantial changes are proposed, this rule does not constitute a major Federal action significantly affecting the quality of the human environment.

Because this rule does not substantially change BLM's overall management objectives or environmental compliance requirements, it would have no impact or only marginally affect, the following critical elements of the human environment as defined in Appendix 5 of the BLM National Environmental Policy Act Handbook (H-1790-1): Air quality, areas of critical environmental concern, cultural resources, Native American religious concerns, threatened or endangered species, hazardous or solid waste, water quality, prime and

unique farmlands, wetlands, riparian zones, wild and scenic rivers, environmental justice, and wilderness.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, “Government-to-Government Relations with Native American Tribal Governments” (59 FR 22951) and 512 DM 2, we have considered the impact of this rule on the interests of Tribal governments. Because this rule does not specifically involve Indian reservation lands, we believe that the government-to-government relationships will remain unaffected.

The principal author of this proposed rule is Roger Haskins in the Solid Minerals Group, assisted by Ted Hudson in the Regulatory Affairs Group, Washington Office, BLM.

List of Subjects

43 CFR Part 3730

Administrative practice and procedure; Mines; Public lands—mineral resources; Reporting and recordkeeping requirements; Surety bonds.

43 CFR Part 3810

Mines, Public lands—mineral resources; Reporting and recordkeeping requirements

43 CFR Part 3820

Mines; Monuments and memorials; National forests; National parks; Public lands—mineral resources; Reporting and recordkeeping requirements; Surety bonds; Wilderness areas.

43 CFR Part 3830

Maintenance fees; Mines; Public lands—mineral resources; Reporting and recordkeeping requirements.

43 CFR Part 3831

Mines; Public lands—mineral resources; Reporting and recordkeeping requirements.

43 CFR Part 3832

Mines; Public lands—mineral resources; Reporting and recordkeeping requirements.

43 CFR Part 3833

Mines; Public lands—mineral resources; Reporting and recordkeeping requirements.

43 CFR Part 3834

Maintenance fees; Mines; Public lands—mineral resources; Reporting and recordkeeping requirements.

43 CFR Part 3835

Mines; Public lands—mineral resources; Reporting and recordkeeping requirements.

43 CFR Part 3836

Assessment work; Mines; Public lands—mineral resources; Reporting and recordkeeping requirements.

43 CFR Part 3837

Assessment work; Mines; Public lands—mineral resources; Reporting and recordkeeping requirements.

43 CFR Part 3838

Homesteads; Mines; Public lands—mineral resources; Reporting and recordkeeping requirements.

43 CFR Part 3839

Mines; Public lands—mineral resources; Reporting and recordkeeping requirements.

43 CFR Part 3840

Mines; Public lands—mineral resources.

43 CFR Part 3850

Mines; Public lands—mineral resources.

For the reasons stated in the preamble, and under the authority of section (e) of the Act of October 21, 1998 (Pub. L. 105-277; 112 Stat. 2681-232, 2681-235); sections 441 and 2478 of the Revised Statutes, as amended (43 U.S.C. 1201 and 1457); section 2319 of the Revised Statutes, as amended (30 U.S.C. 22); sections 310 and 314 of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1740 and 1744); and the Act of April 16, 1993 (43 U.S.C. 299(b)); parts 3730, 3810, 3820, 3830, 3840, and 3850, Groups 3700 and 3800, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations are proposed to be amended as follows:

PART 3710—PUBLIC LAW 167; ACT OF JULY 23, 1955

1. Add an authority citation for part 3710 to read as follows:

Authority: 30 U.S.C. 22 *et seq.*; 30 U.S.C. 611-615; 43 U.S.C. 1201; 43 U.S.C. 1740.

PART 3730—PUBLIC LAW 359; MINING IN POWERSITE WITHDRAWALS: GENERAL

2. Revise the authority citation for part 3730 to read as follows:

Authority: 30 U.S.C. 22 *et seq.*; 30 U.S.C. 28f-k; 30 U.S.C. 621-625; 43 U.S.C. 1201; 43 U.S.C. 1740; 43 U.S.C. 1744.

Subpart 3734—Location and Assessment Work**§ 3734.1 [Amended]**

3. Amend § 3734.1 as follows:

- a. By removing in line nine of paragraph (a) the citation “§§ 3833.1, 3833.3, 3833.4, and 3833.5” and substituting the citation “part 3833”;
- b. By removing in line 12 of paragraph (a) the citation “subpart 3833” and substituting the citation “part 3830”;
- c. By removing in line 18 of paragraph (a) the citation “§ 3833.5(c)” and adding “part 3833”;
- d. By removing in line 4 of paragraph (c) the word “shall” and adding the words “may choose to either”;
- e. By removing in line 6 of paragraph (c) the citation “§ 3833.0-5(u)” and adding the citation “part 3835”;
- f. By adding in line 7 of paragraph (c) a semi-colon “;” after the word “title”; and
- g. By removing the number “3833” in the last line of paragraph (c) and adding the number “3834”.

PART 3810—LANDS AND MINERALS SUBJECT TO LOCATION

4. The authority citation for part 3810 continues to read as follows:

Authority: 30 U.S.C. 22 *et seq.*; 43 U.S.C. 1201; 43 U.S.C. 1740.

Subpart 3812—Minerals Under the Mining Laws [Removed]

5. Remove subpart 3812 in its entirety.

PART 3820—AREAS SUBJECT TO SPECIAL MINING LAWS

6. Revise the authority citation for part 3820 to read as follows:

Authority: 30 U.S.C. 22 *et seq.*; 43 U.S.C. 1201; 43 U.S.C. 1740; 62 Stat. 162.

Subpart 3821—O and C Lands**§ 3821.2 [Amended]**

7. Amend § 3821.2 as follows:

- a. By removing in lines eight and nine the citations “§§ 3833.1, 3833.3, 3833.4, and 3833.5” and adding the citation “part 3833”;
- b. By removing in line 12 the citation “subpart 3833” and adding the citation “part 3830 through part 3839”; and
- c. By removing the phrase “3833.5 of this title” in line 18 and adding the phrase “part 3833 of this chapter.”

§ 3821.3 [Amended]

8. Amend § 3821.3 as follows:

- a. By removing in line 3 the word “shall” and inserting the word “may either” in its place;
- b. By removing in line 5 the comma “,” after the word “work” and adding

the phrase “if qualified as a small miner under part 3835 of this title.”; and

c. By removing in the last line the phrase “subpart 3833 of this title” and adding the phrase “part 3834 of this chapter.”

9.–10. Revise part 3830 to read as follows:

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

Sec.

Subpart A—Introduction

3830.1 What is the purpose of this part?

3830.2 What is the scope of these regulations?

3830.3 Who may locate mining claims?

3830.5 Definitions.

Subpart B—Providing Information to BLM

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

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

Subpart C—Mining Law Minerals

3830.10 Locatable minerals.

3830.11 Which minerals are locatable under the mining law?

3830.12 What are characteristics of a locatable mineral?

Subpart D—BLM Service Charge and Fee Requirements

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

3830.21 What are the different types of charges and fees?

3830.22 Will BLM refund service charges and fees?

3830.23 What type of payment will BLM accept?

3830.24 How do I make payments?

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

Subpart E—Failure To Comply With This Part

3830.90 Failure to comply with the regulations in this part.

3830.91 What happens if I fail to comply with the requirements in this part?

3830.92 What special provisions apply to oil placer mining claims?

3830.93 When are defects curable?

3830.94 How do I cure a defect in my compliance with the requirements in this part?

3830.95 What if I pay only part of the service charges, location fees, oil shale fees, or maintenance fees?

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

Subpart F—Appeals

3830.100 How do I appeal a final decision by BLM?

Authority: 43 U.S.C. 2, 1201, 1740, 1744; 30 U.S.C. 22 *et seq.*; 30 U.S.C. 611; 31 U.S.C. 9701; 43 U.S.C. 1457; 18 U.S.C. 1001, 3571; sec. (e) of Pub. L. 105-277, 112 Stat. 2681-232, 2681-235; 44 U.S.C. 3501 *et seq.*; 30 U.S.C. 242.

Subpart A—Introduction**§ 3830.1 What is the purpose of this part?**

(a) This part introduces you to the regulations that describe the steps you as a mining claimant must take to locate, hold, maintain, and transfer a lode or placer mining claim, mill site, or tunnel site located on the Federal lands under Federal law. These regulations are in this part and parts 3831 through 3839 of this chapter (hereinafter “these regulations”).

(b) These regulations do not provide guidance on State law. In addition to these regulations, there are State law requirements that will apply to you.

§ 3830.2 What is the scope of these regulations?

These regulations govern all mining claims, mill sites, and tunnel sites on Federal land and units of the National Park System.

(a) You must follow the recording and maintenance requirements in these regulations 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.

§ 3830.3 Who may locate mining claims?

Persons qualified to locate mining claims or sites under these regulations include:

(a) United States citizens who have reached the age of discretion, under the law of the State of residence;

(b) Legal immigrants who have declared their intention to become a citizen;

(c) Corporations organized under the laws of any State; or

(d) Duly constituted and appointed agents acting on behalf of qualified locators.

§ 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. The smallest non-lotted aliquot part that BLM will recognize is a two-and-a-half-acre parcel.

Amended location means a location that amends an earlier valid location as described further in § 3833.21 of this chapter.

Annual FLPMA filing 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* means the same as “affidavit of assessment work” as used in this part.

Assessment year means a period of 12 consecutive months beginning at 12:00 noon on September 1 each year.

Bench placer claim means a placer mining claim located on gravel and sediment benches on the valley wall above the current riverbed 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 § 1821.2-1(d) 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 record documents, filings, and fees for mining claims or sites in Alaska.

Claimant means the person, under State or Federal law, who holds 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 under the General Mining Law.

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 consider a stockholder who is not an officer or director, or who is not a majority shareholder, of a publicly traded company or corporation to exercise control as defined in this regulation upon an adequate factual demonstration.

Copy of the official record means a legible duplicate, except microfilm, of the document filed under State law in the local jurisdiction where the mining claims or sites are located.

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, but excluding those lands within the units of the National Park System.

File or filed means that a document is received and date stamped by the BLM State Office during official business hours.

Filing period means the time period established in law or regulation during which you must provide documents and fees to the BLM State Office. If the last day of the filing period falls on a day when the office is officially closed, a document received the next day the office is open to the public is filed within the filing period. A document is filed on time if it is postmarked or clearly identified as being transmitted on or before the due date by a bona fide mail delivery service and received by the BLM State Office within 15 calendar days after the due date.

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” and “forfeited” mean the same thing.

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, non-mineral canyon walls. The form of the river valley and non-mineral 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 all legal documents, deeds, wills, etc., are required to be recorded before they are given legal effect.

Location fee means the one-time fee required by 30 U.S.C. 28g for all new mining claims and sites at the time BLM records them.

Metes and bounds means a method of describing a parcel of land by 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.

Maintenance fee means the initial or annual fee required by 30 U.S.C. 28f to hold and maintain mining claims or sites.

Mineral-in-character means the land is known, or can be reasonably inferred from the available geologic evidence, to contain valuable minerals subject to location under the General Mining Law.

Mineral land means the same as mineral-in-character.

Mineral Leasing Acts means the Mineral Leasing Act of February 25,

1920, as amended (30 U.S.C. 181 *et seq.*); the Geothermal Steam Act of 1970, as amended (30 U.S.C. 1001 *et seq.*); the Acquired Land Leasing Act of 1947 (30 U.S.C. 351 *et seq.*); and as further defined in 30 U.S.C. 505. The definition pertains to all minerals that BLM administers under Groups 3100, 3200, 3400, and 3500 of this chapter.

Mineral materials means those materials that may be sold under the Mineral Materials Act of July 31, 1947 (30 U.S.C. 601–604), as amended by the Surface Resources Act of 1955 (30 U.S.C. 601, 603, and 611–615) and administered under parts 3600, 3610, and 3620 of this chapter.

Multiple Mineral Development Act means the Act of August 13, 1954 (30 U.S.C. 521–531).

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 land.

Related party means:

(1) The spouse and dependent children of the claimant as defined in section 152 of the Internal Revenue Code of 1986; or

(2) 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 removed the affected lands from mining claim location and entry, land transactions, or other uses as specified in the statute or regulation authorizing the segregation of the land in question. The land remains segregated until the statutory period has expired 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 to cover the cost of processing documents that this part requires to be filed and processed.

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 the United States has conveyed the surface estate to another person and retained the mineral estate.

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 held under the General Mining Law for which a mineral patent has not been issued 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 is the burden on the public?

(a) The Office of Management and Budget has approved the collections of information contained in this part 3830 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 claim holders wish 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 (DW 101), Bureau of Land Management, Denver Federal Center, Building 40, P.O. Box 25047, Lakewood, CO, 80225–0047; and the Office of Management and Budget, Paperwork Reduction Project, 1004–0114, Washington, DC 20503.

§ 3830.9 What will happen if I file a document with BLM that I 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 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 part 3600 *et seq.* of this chapter).

§ 3830.12 What are characteristics of a locatable mineral?

(a) Minerals are locatable if they are:

- (1) Recognized as a mineral by the scientific community;
- (2) Found on Federal lands open to mineral entry; and
- (3) Found in a quantity and quality to constitute a valuable mineral deposit. A claimant has discovered a valuable deposit of locatable minerals if there is a reasonable prospect of success in—

- (i) Developing a valuable mine; and
- (ii) Making a profit on the sale of the minerals contained in the deposit being mined.

(b) Under the Surface Resources Act, certain varieties of mineral materials are locatable if they are uncommon because they have a distinct and special value.

(1) A distinct and special value is determined by:

- (i) Comparing the mineral deposit in question with other deposits of that mineral, and
- (ii) Finding a unique physical property in the mineral deposit.

(2) If the use for the mineral is ordinary, the deposit must have some distinct and special value for that use.

(3) The distinct and special value must be reflected by the mineral's higher price in the marketplace, or the reduced cost of its mining so that the claimant's profit is substantially greater.

(c) Block pumice having one dimension of 2 or more inches is an uncommon variety of mineral material under the Surface Resources Act.

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 charges and fees?

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

Transaction	Amount due per mining claim or site	Waiver available
(a) Recording a mining claim or site location (part 3833)	(1) A total of \$135, including: (i) A \$10 service charge (i) A one-time \$25 location fee (iii) An initial \$100 maintenance fee	No.
(b) Amending a mining claim or site location (§ 3833.20)	A \$5 service charge	No.
(c) Transferring a mining claim or site (§ 3833.30)	A \$5 service charge	No.
(d) Maintaining a mining claim or site for one assessment year (part 3834).	\$100 annual maintenance fees	Yes, see Part 3835.
(e) Recording an annual filing (§ 3835.30)	A \$5 service charge	No.
(f) Submitting petition for deferment of assessment work (§ 3836.30).	A \$25 service charge	No.
(g) Maintaining an oil shale placer mining claim (§ 3834.12)	Annual \$550 fees	No.
(h) Recording a notice of intent to locate mining claims on Stockraising Homestead Act Lands (part 3838).	A \$25 service charge	No.

§ 3830.22 Will BLM refund service charges and fees?

(a) BLM will not refund service charges.

(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.

§ 3830.23 What type of payment will BLM accept?

(a) BLM will accept the following types of payments:

- (1) U.S. currency;
- (2) Postal money order payable 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 with your authorization.

(b) If you use a credit card—
(i) You must send or fax a written authorization, bearing your signature, to use your credit card; or

(ii) You may authorize BLM to use your credit card by telephone if you can satisfactorily establish your identity.

(c) If the issuing institution of your check, negotiable instrument, or credit card refuses to pay and it is not because it made a mistake, BLM will treat the service charges and fees as unpaid.

§ 3830.24 How do I make payments?

(a) You may bring payments to the BLM State Office by close of business on or before the due date; or

(b) 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 at the time you record new notices or certificates of location.

Subpart E—Failure To Comply With This Part

§ 3830.90 Failure to comply with the regulations in this part.

§ 3830.91 What happens if I fail to comply with the requirements in this part?

(a) You will forfeit your mining claims or sites if you fail to comply with any of the requirements in this part, unless the defect is curable and you comply with the procedures in §§ 3830.93 through 3830.960.

(b) Even if you forfeit your mining claims or sites, you remain responsible for—

(1) All reclamation and performance requirements imposed by parts 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.

§ 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 24, 1920;

(4) The claim has been or is currently producing or is capable of producing oil or gas; and

(5) You have filed a petition for issuance of a noncompetitive oil and gas lease, together with the required rental and royalty, 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 requirement imposed by statute, the defect is incurable if the statute does not give the Secretary authority to permit exceptions. If your payment or filing has incurable defects, the affected mining claims or sites are statutorily forfeited.

(b) If there is a defect in your compliance with requirements imposed by regulation, but not by statute, 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.

(c) Your mining claims or sites are null and void from the beginning under the General Mining Law if you locate on lands withdrawn from mineral entry at the time of location. You cannot cure this defect.

§ 3830.94 How do I cure a defect in my compliance with the requirements in this part?

(a) (1) BLM will send a notice to you by certified mail—return receipt requested at the address given—

(i) On your notice or certificate of location,

(ii) On an address correction you have filed with BLM, or (iii) on 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.

(b) If you have filed a defective document or an incomplete payment, other than a defective fee waiver request, you must cure the defects within 30 days of receiving BLM notification of the defects.

(c) If you have filed a defective fee waiver request, you must cure the defects or pay the annual maintenance fees within 60 days of receiving BLM 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, oil shale fees, or maintenance fees?

(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 or petition for deferment of assessment work in the order it is received; and

(2) Apply the partial payment to the mining claims or sites or petitions in serial number order until the money runs out. For example, BLM will apply the money to cover as many complete costs as possible per mining claim or site, including the service charge, the location fee and the initial maintenance fee per claim or site.

(b) If you have submitted insufficient funds for recording new claims or sites and want to resubmit the new location notices or certificates with the proper payment of the required fees, you must do so within 90 days of the original date of location of the claim or site as defined under State law or the affected mining claims or sites will be forfeited.

(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.

(d) 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 that is filed without 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.

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

(a) If you pay only part of the service charges due for document filings or only part of the annual maintenance or oil shale fees for previously recorded mining claims or sites, 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 service charges, 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.

Subpart F—Appeals**§ 3830.100 How do I appeal a final decision by BLM?**

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

PART 3831—MINERAL LANDS AVAILABLE FOR THE LOCATION OF MINING CLAIMS OR SITES [RESERVED]

11. Add and reserve part 3831.

12. Add part 3832 to read as follows:

PART 3832—LOCATING MINING CLAIMS OR SITES

Sec.

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

Subpart A—Locating Mining Claims or Sites

3832.10 Procedures for locating mining claims or sites.

3832.11 How do I locate mining claims or sites?

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

Subpart B—Types of Mining Claims

3832.20 Lode and placer mining claims.

3832.21 How do I locate a lode or placer claim?

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

Subpart C—Mill Sites

3832.30 Mill sites.

3832.31 What is a mill site?

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

3832.33 How do I locate a mill site?

3832.34 What must I use my mill site for?

Subpart D—Tunnel Sites

3832.40 Tunnel sites.

3832.41 What is a tunnel site?

3832.42 How do I locate a tunnel site?

3832.43 How may I use a tunnel site?

3832.44 Do I have rights to any minerals within a tunnel site I have located?

3832.45 How do I obtain any minerals discovered within a tunnel site I have located?

Subpart E—Defective Locations

3832.90 Defects in the location of mining claims and sites.

3832.91 May I amend a mining claim or site location if it exceeds the size limitations in this part?

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

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

(a) Locating a mining claim or site means:

(1) Discovering a valuable mineral deposit;

(2) Establishing the exterior lines of a mining claim or site on lands open to mineral entry to identify the exact land claimed; and

(3) 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.

Subpart A—Locating Mining Claims and Sites

§ 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) You must—
 - (1) Discover a valuable mineral deposit before locating a lode or placer claim;
 - (2) Stake and monument the corners of a mining claim or site which meets the size limitations described in § 3832.22 of this part;
 - (3) Post public notice of location on the claim or site which 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 located;
 - (4) Record the public 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) You must describe the land by State, meridian, township, range, and section by aliquot part within the quarter section. Use an official survey plat or other U.S. Government map which is based on a surveyed or protracted U.S. Public Land Survey System in order to obtain this land description. If you cannot describe the land by aliquot part, 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.
- (2) You must file a topographical map published by the U.S. Geological Survey with a depiction of the claim or site. As an alternative, you may file a narrative or sketch describing the claim or site and referencing a tie to a natural object,

permanent monument or topographic, hydrographic, or man-made feature. You must show or describe 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.

- (i) 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.

- (ii) You are not required to employ a professional surveyor or engineer.

- (b) *Lode claims.* You must describe lode claims by metes and bounds beginning at the discovery point on the claim and including a reference 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—

- (i) Are on unsurveyed Federal lands;

- (ii) Are gulch or bench placer claims; or

- (iii) Are bounded by other mining claims or non-mineral 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, as described in Snow Flake Fraction Placer, 37 L.D. 250 (1908):

- (i) A location by one or two persons must fit within the exterior boundaries of a square 40-acre tract;

- (ii) A location by three or four persons must fit within the exterior boundaries of two square 40-acre contiguous tracts;

- (iii) A location by five or six persons must fit within the exterior boundaries

of three square contiguous 40-acre tracts; and

- (iv) A location by seven or eight persons must fit within the exterior boundaries of four square contiguous 40-acre tracts.

Subpart B—Types of Mining Claims

§ 3832.20 Lode and placer mining claims.

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

- (a) *Lode claims.* (1) You may locate a lode claim if you have discovered a valuable mineral deposit that:

- (i) Occurs as veins, lodes, or other rock in place;

- (ii) Contains gold, silver, cinnabar, lead, tin, copper, zinc, fluorite, barite, or other similar valuable mineral; and

- (iii) Does not occur in bedded form or as placer, alluvial (deposited by water), eluvial (deposited by wind), colluvial (deposited by gravity), or aqueous deposits.

- (2) If the minerals are contained within a vein, lode, or ledge and extend through the sidelines of your lode claim, you have extra-lateral rights to pursue the down-dip extension of the vein, lode, or ledge as projected parallel to the end lines and outside the sideline boundaries of your lode claim if—

- (i) The long axis of the lode claim is substantially parallel to the course of the vein, lode, or ledge; and

- (ii) The top or apex of the vein, lode, or ledge lies within vertical planes defined by the sidelines of the lode claim.

- (3) 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 must 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) You may locate a placer claim if:

- (i) you have discovered a valuable mineral deposit that is not a lode deposit,

- (ii) each ten-acre aliquot part is mineral in character, and

- (iii) the deposit is—

- (A) River sands or gravels bearing gold or valuable detrital minerals;

- (B) Hosted in soils, alluvium (deposited by water), eluvium (deposited by wind), colluvium (deposited by gravity), talus, or other rock not in its original place;

- (C) Bedded gypsum, limestone, cinders, pumice, and similar mineral deposits; or

(D) A mineral-bearing brine not subject to the leasing acts where a mineral otherwise subject to the General Mining Law is extracted.

(2) Some minerals must by law be located as placer mining claims, including building stone deposits (30 U.S.C. 161) and petroleum claims (oil placer claims) located before February 25, 1920.

(3) If you have located a building stone placer claim, oil placer claim or saline placer claim, the lands on which you located the claim must be chiefly valuable for the development of the discovered mineral deposit.

§ 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. Each lode claim is limited to a maximum of 1500 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 must not exceed 20 acres in size.

(2) An association placer claim must not exceed 20 acres per locator with up to eight co-locators allowed in an association. For example, three co-locators may jointly locate a 60-acre association placer claim. You may not use the names of other persons as dummies 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 nonmineral land not contiguous to a vein or lode that you can locate and 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 holder.

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

A mill site must not exceed 5 acres in size. You may locate more than one mill site, so long as you do not locate more than an aggregate of 5 acres of mill site land for each 20-acre parcel of patented or unpatented placer or lode mining claims associated with that mill site land, regardless of the number of lode or placer claims located in the 20-acre parcel.

§ 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 tract of land, you may not locate a mill site on that land.

§ 3832.34 What may I use my mill site for?

Dependent and independent mill sites may be used or occupied for:

(a) Placement of grinding, crushing, or milling and reduction facilities (for example, smelting, electro-winning, roasters, autoclaves, leachate recovery, and similar facilities);

(b) Mine administrative and support buildings, warehouses and maintenance buildings, electrical plants and substations;

(c) Tailings ponds and leach pads;

(d) Rock and soil dumps;

(e) Water and process treatment plants; and

(f) Any other use that is reasonably incident to mine development and operation, except for uses supporting reclamation or closure of a mine.

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 stakes or monuments on the surface along the boundary lines of

the tunnel at proper intervals from the face of the tunnel for 3,000 feet or to the end of the tunnel, whichever is shorter; and

(c) 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 § 3832.28(c) of this part).

§ 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 Do I have rights to any minerals within a tunnel site I have located?

(a) If you located your tunnel site in good faith, you have the possessory right to any blind veins, ledges, or lodes cut, discovered, or intersected by your tunnel if—

(1) They are located within a radius of 1,500 feet from the tunnel axis; and

(2) They 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 fail to work on it for more than six (6) consecutive months, you will lose your right to all unclaimed, undiscovered veins, lodes, or ledges on your tunnel site.

§ 3832.45 How do I obtain any minerals discovered within a tunnel site I have located?

(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 may I amend a mining claim or site location if it exceeds the size limitations in this part?**

(a) You may correct defects in your location of a mining claim or mill site by filing an amended notice of location (see § 3833.20 of this chapter on conditions allowing amendments and how to record them.) You may amend a mining claim or mill site only if it is oversized by 10 percent or less. However, a claim or site that exceeds statutory maximum dimensions by more than 10 percent is void as of the date you located it.

(b) For placer claims or mill sites 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 is the rule developed for determining maximum allowable acreage for placer claims where the excess acreage is less than the deficiency would be if the smallest legal subdivision is excluded from the location or entry. The rule applies only to surveyed public lands. In no case may the use of the rule result in obtaining acreage in excess of what is allowable under the applicable law. (See Henry C. Tingley, 8 Land Dec. 205 (1889)).

13. Add part 3833 to read as follows:

PART 3833—RECORDING MINING CLAIMS AND SITES

Sec.

3833.1 Why must I record mining claims and sites?

Subpart A—Recording Process

3833.10 Procedures for recording mining claims and sites.

3833.11 How do I record mining claims and sites?

Subpart B—Amending Recorded Mining Claims and Sites

3833.20 Amending previously recorded mining claims and sites.

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

3833.22 How do I record an amendment?

Subpart C—Recording Transfers

3833.30 Recording transfers of mining claims and sites.

3833.31 What is a transfer?

3833.32 How do I transfer a mining claim or site?

3833.33 What does BLM require me to do if I am the transferee of a mining claim or site?

3833.34 How may I transfer, sell, or otherwise convey an association placer mining claim?

Subpart D—Defective Records

3833.90 Defects in recordation and transfer of mining claims and sites.

3833.91 What defects cannot be cured under this part?

3833.92 What happens if I do not record a transfer of interest on time?

3833.93 What if BLM does not promptly notify me of a defect in my recording or other status of my mining claim or site?

Authority: 43 U.S.C. 2, 1201, 1457, 1740, 1744; 30 U.S.C. 22 *et seq.*; 30 U.S.C. 621–625; 62 Stat. 162, 112 Stat. 2681–235.

PART 3833—RECORDING MINING CLAIMS AND SITES**§ 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 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 required by this chapter, does not make a claim or site valid if it is not otherwise valid under applicable law. They also do not establish any property rights for the claimant unless the claimant has complied with all applicable law.

Subpart A—Recording Process**§ 3833.10 Procedures for recording mining claims and sites.****§ 3833.11 How do I record mining claims and sites?**

(a) You must file in the BLM State Office and the local recording office a copy of the official record, notice, or certificate of location, whichever is required by State law, by the 90th day after the date of location. If there is no such requirement under State law (as in Arkansas), you 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;
- (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 non-refundable service charge, location fee, and initial maintenance fee as provided in § 3830.21 of this chapter.

(d) When you record a mining claim or site as required by this part, you still must comply with any other separate recording requirements which may exist 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 recording requirements of those Acts under subpart 3821 of this chapter for O and C Lands and part 3730 of this chapter for Powersite Withdrawals.

Subpart B—Amending Recorded Mining Claims and Sites**§ 3833.20 Amending previously recorded mining claims and sites.****§ 3833.21 When may I amend a recorded notice or certificate of location?**

(a) You may amend a recorded notice or certificate of location if—

- (1) The original location is valid; and
- (2) There are defects or omissions 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.

(b) You may not amend a 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 or boundaries after the land is closed to mineral entry, unless you are reducing the size of the mining claim or site.

§ 3833.23 How do I record an amendment?

(a) You must record an amended location certificate with BLM within 90 days after amending the location. Failure to record an amended location within this time conclusively constitutes abandonment of the claim or site.

(b) You must pay a non-refundable service charge for each claim or site amended. See the table of fees and service charges in § 3830.21 of this chapter.

(c) An amended location notice is effective back to the original location date. The amendment takes effect when you record it with the local recording office under State law. However, we will not recognize an amended location until it also is recorded with BLM.

Subpart C—Recording Transfers

§ 3833.30 Recording transfers of mining claims or sites.

§ 3833.31 What is a transfer?

Transfers include selling, assigning, passing through inheritance, or otherwise conveying ownership or legal interest in a mining claim or site. Unpatented mining claims or sites are not subject to State community property laws.

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

You must follow State law and procedures for transferring a mining claim or site. The transfer is effective on the date it is properly executed under State law and recorded in the local recording office. Recording with BLM does not determine the date of transfer.

§ 3833.33 What does BLM require me to do if I am the transferee of a mining claim or site?

(a) You must file in the BLM State Office a notice of the transfer that includes:

- (1) The serial number BLM assigned to the claim or site when the notice or certificate of location was originally recorded (the person who transferred your 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 was used to transfer the interest in the claim or site under State law.

(b) BLM will notify only the claim holder 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 claim holder of record with BLM.

(c) You must pay a non-refundable service charge per mining claim or site transferred. See the table of fees and service charges in § 3830.21 of this chapter.

§ 3833.34 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 claim holders. 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 must have either—

- (a) Discovered a valuable mineral deposit before the transfer; or
- (b) Reduced the acreage of the claim, if necessary, so that the 20-acre per locator limit is met.

Subpart D—Defective Records

§ 3833.90 Defects in recordation and transfer of mining claims and sites.

§ 3833.91 What defects cannot be cured under this part?

Defects that cannot be cured and therefore result in forfeiture of mining claims or sites are:

- (a) Failing to record a mining claim or site within 90 days after location;
- (b) Failing to pay the location fee or initial maintenance fee within 90 days of location;
- (c) Locating a mining claim or site on lands closed to mineral entry at the time of location;
- (d) Filing an amendment to a void or forfeited mining claim or site; and
- (e) Recording a mining claim or site that exceeds the statutory maximum dimensions or acreage by more than ten (10) percent.

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

Even if your transfer has been recorded 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 record 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.

§ 3833.94 What if BLM does not promptly notify me of a defect in my recording or other status of my mining claim or site?

Even if BLM does not immediately notify you when you have filed a defective recording with BLM that is incurable, the mining claim or site is still forfeited by law.

14. Add part 3834 to read as follows:

PART 3834—REQUIRED FEES FOR MINING CLAIMS OR SITES

Subpart A—Fee Payment

Sec.

- 3834.10 Paying annual maintenance and oil shale fees.
- 3834.11 Which fees must I pay to maintain a mining claim or site and when do I pay them?
- 3834.12 How will BLM know which mining claims or sites I am paying the fees for?
- 3834.13 Will BLM prorate annual maintenance or oil shale fees?
- 3834.14 May I obtain a waiver from these fees?

Subpart B—Fee Adjustment

- 3834.20 Adjusting location and maintenance fees.
- 3834.21 How will BLM adjust the location and maintenance fees?
- 3834.22 How will I know that BLM has adjusted the location and maintenance fees?
- 3834.23 When do I start paying the adjusted fees?

Authority: 43 U.S.C. 1201, 1740; 30 U.S.C. 28f; 112 Stat. 2681–235 *et seq.*; 30 U.S.C. 242.

Subpart A—Fee Payment

§ 3834.10 Paying annual maintenance 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).*—(1) *Initial maintenance fee.* When you first record a mining claim or site with BLM, you must pay 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 that assessment year. The assessment year begins at 12:00 noon on September 1 of each year.

(b) *Oil shale placer claims.* (1) Under the Energy Policy Act of 1992, 30 U.S.C. 242, if you hold an oil shale claim, you must pay an annual \$550 fee, and file a notice of intent to hold, each year on or before December 30 (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):

- (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) 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 which mining claims or sites I am paying the fees for?

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 BLM serial number. You must also state which assessment year you are paying for.

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

BLM will not prorate annual maintenance or rental fees if you hold a mining claim or site for only part of a year. You must pay an 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 \$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 Consumer Price Index (CPI).

§ 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 impose the adjusted fees beginning on September 1st of the same year.

§ 3834.23 When do I start paying the adjusted fees?

(a) 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 1st immediately following the date BLM published its notice about the adjustment.

(b) For previously recorded mining claims and sites, you must pay the adjusted maintenance fee on or before the September 1st immediately following the date BLM published its notice about the adjustment.

15. Add part 3835 to read as follows:

PART 3835—WAIVERS FROM ANNUAL FEES

Sec.

3835.1 What is a waiver?

Subpart A—Filing Requirements

3835.10 Filing requirements for a waiver.

3835.11 How do I file for a waiver?

3835.12 Types of waivers and additional filing requirements.

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

3835.14 May I file for a small miner waiver for the assessment year immediately following the assessment year in which I located the mining claim or site?

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

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?

3835.15 What must a qualified small miner do if he pays the maintenance fee in one assessment year and applies for a waiver for the following assessment year?

3835.16 What must a qualified small miner do if he obtains a waiver in one assessment year and pays the maintenance fee for the following assessment year?

Subpart B—Conveying Mining Claims of Sites Under Waiver

3835.20 Transferring, selling, passing through inheritance, or otherwise conveying mining claims or sites for which a waiver has been granted.

Subpart C—Annual FLPMA Filings

3835.30 Annual FLPMA filings.

3835.31 When do I submit an annual FLPMA filing?

3835.32 What type of annual FLPMA filing is required?

3835.33 What should I include when I submit an affidavit of assessment work?

3835.34 What should I include when I submit a notice of intent to hold?

Subpart D—Defective Waivers and FLPMA Filings

3835.90 Failure to comply with this part.

3835.91 What if I fail to submit annual FLPMA filings?

3835.92 What if I fail to submit a qualified waiver request?

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

Authority: 112 Stat. 2861–235; 30 U.S.C. 22, 28, 28f–28k; 43 U.S.C. 2, 1201, 1457, 1740, 1744; 50 U.S.C. App. 501, 565.

§ 3835.1 What is a waiver?

(a) Under certain conditions, you may obtain a waiver from the annual maintenance fee requirements. You cannot get a waiver from service charges, the location fee, the initial maintenance fee, or the \$550 oil shale fee.

(b) If you get a small miner waiver, you must perform annual assessment work and file annual FLPMA filings. You will find more information about annual FLPMA filings in § 3835.30 of this part, and about assessment work in part 3836 of this chapter.

Subpart A—Filing Requirements

§ 3835.10 Filing requirements for a waiver.

§ 3835.11 How do I file for a waiver?

(a) You must file a waiver certification form on or before September 1 of each year for which you are seeking a waiver. You may have an agent file a waiver certification form on your behalf if you file or have filed a power of attorney or other legal documentation which shows that the agent is acting on your behalf.

(b) You must include in all waiver certification forms:

(1) The names and addresses of all claimants who maintain an interest in the mining claims or sites listed on the waiver certification form;

(2) The original signatures of all claimants of the mining claims or sites for which you request a waiver;

(3) The names of the mining claims or sites for which you request a waiver;

(4) The serial numbers BLM assigned to the mining claims or sites; and

(5) The fee deadline for which you want a waiver.

(c) You must also file additional information for certain waivers as specified in § 3835.12 of this part.

§ 3835.12 Types of waivers and their additional filing requirements.

The following table lists the types of waivers available, how you qualify for them, and the procedures for requesting them:

Type	Qualification	Waiver certification requirements
(a) Small Miner	(1)(i) All related parties must hold no more than a total of 10 mining claims or sites nationwide, not including oil shale claims. (ii) All co-claimants must also qualify for the small miner waiver.	(2) Include a declaration that: (i) You and all related parties hold no more than a total of 10 mining claims and sites nationwide; and (ii) You have completed or will complete assessment work by September 1 of the assessment year just ending.
(b) Soldiers' and Sailors' Civil Relief Act.	(1) You and all co-claimants must be military personnel on active duty status.	(2) File a notice of active military service or entry into active military service.
(c) Reclamation	(1) Your mining claims or sites are undergoing final reclamation under subparts 3802, 3809, or 3814; and you do not intend to continue mining, milling, or processing operations on those sites.	(2) File a certified statement that: (i) States you are reclaiming the mining claims or sites; (ii) States your intent to end mining operations on the claims or sites permanently; and (iii) 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	(1) 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..	(2)(i) File a certified statement that you have received a declaration of taking or a notice of intent to take from NPS or other Federal agency or have been denied access to your mining claim or site; and (ii) Submit copies of all official documents you have received that demonstrate the declaration or taking, notice of intent to take or denial of access.
(e) Mineral Patent Application.	(1) You have filed an application for a mineral patent under part 3860 and the Secretary has granted you mineral entry.	(2) No additional information required.

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

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

Type of waiver	Duration	Renewal requirements
(a) Small Miner	One assessment year	Apply for a small miner waiver by each September 1.
(b) Soldiers' and Sailors' Civil Relief Act.	Until six months after you are released from active duty status or from a military hospital, whichever is later.	Your waiver is automatically renewed if you continue to meet the qualifications.
(c) Reclamation	One assessment year	Apply for waiver certification by each September 1.
(d) Denial of Access	One assessment year.	Apply for a reclamation waiver by each September 1.
(e) Mineral Patent Application with Mineral Entry.	Until patent issues or mineral entry is canceled. BLM will not refund previously deposited annual maintenance fees to a mineral patent applicant.	None. If mineral entry is canceled, you must pay the required fees beginning on the September 1 immediately following the cancellation or file for a different waiver if you qualify.

§ 3835.14 How do I file for a small miner waiver for the assessment year immediately following the assessment year in which I located the mining claim or site?

(a) In order to obtain a small miner waiver for the assessment year immediately following the assessment year of location, you must—

- (1) (i) File the waiver request on or before September 1, or
- (ii) 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

(2) Make an annual FLPMA filing in order to comply with FLPMA. For a waiver filing, you must file on or before December 30, a notice of intent to hold the mining claim or site because 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—

- (i) Conform to §§ 3835.32 and 3835.34 of this part;
- (ii) State that you are filing the waiver for the assessment year after the

assessment year in which you located the mining claim or site; and

(iii) State that you did not have to perform assessment work for the assessment year in which you located the claim or site.

§ 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?

(a) You must file a notice of intent to hold under §§ 3835.32 and 3835.34 of this part on or before the December 30 immediately following the September 1st that you applied for a waiver;

(b) You must also perform the required assessment work in the assessment year for which the maintenance fee was waived; and

(c) You must file an affidavit of assessment work on or before the December 30 immediately following the close of the assessment year in which you performed the assessment work.

§ 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 the fee was waived and record an affidavit of assessment work on or before December 30 immediately following the close of the assessment year for which the fee was waived; and

(b) You must pay the maintenance fee by the proper deadline for the following assessment year.

Subpart B—Conveying Mining Claims or Sites Under Waiver

§ 3835.20 Transfer, sale, inheritance, or other conveyance of mining claims or sites already subject to a waiver.

If you purchase, inherit, or otherwise obtain mining claims or sites that are subject to a waiver, then if—

(a) You also qualify for the waiver, BLM will transfer the waiver to you; or

(b) You do not also qualify for the waiver, you must pay an annual maintenance fee at the time you file a notice of transfer with BLM for the assessment year the transfer was effective under State law. You must pay the annual maintenance fee by the September 1 following the effective date of the transfer or forfeit the mining claims or sites.

Subpart C—Annual FLPMA Filings

§ 3835.30 Annual FLPMA filings.

§ 3835.31 When do I submit an annual FLPMA filing?

(a) You must submit your annual FLPMA filings on or before the

December 30 of the calendar year in which the assessment year ends.

(b) If part 3836 of this chapter requires you to perform assessment work, you must file an affidavit of assessment work as an annual FLPMA filing. You do not need to complete assessment work in the assessment year when you located your claim.

(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 3835.34 of this part as an annual FLPMA 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.

§ 3835.32 What type of annual FLPMA filing is required?

The following table describes FLPMA filing requirements according to the situation:

Your situation	Affidavit of assessment work required	Notice of intent to hold required
(a) You have paid annual maintenance fees	No	No.
(b) You have an oil shale placer claims	No	Yes, by December 30 of each year if you must pay the \$550 oil shale fee.
(c) You have a small miner waiver which covers mining claims.	Yes, each year beginning the calendar year in which the first assessment year ends which follows the assessment year in which the claim was located.	Yes, only one time, by the December 30 after the assessment year in which the claim was located.
(d) You have a small miner waiver which covers mining claims and mill or tunnel sites.	Only for the mining claims, not the mill or tunnel sites.	Only for the mill or tunnel sites, not the mining claims.
(e) You have a Soldiers and Sailor's Civil Relief Act Waiver.	No	No.
(f) You have a reclamation waiver	No	Yes.
(g) You have a waiver because you have been denied access.	No	Yes.
(h) You have applied for a mineral patent	Yes, for mining claims, until date of mineral entry.	Yes, for mill sites, until date of mineral entry.

§ 3835.33 What should I include when I submit an affidavit of assessment work?

You must include the following:

(a) The BLM serial number of the mining claim for which you did assessment work;

(b) Any known changes in the mailing addresses of the claimants;

(c) A non-refundable service charge for each mining claim or site affected (see the table of charges in § 3830.21 of this chapter); and

(d) An exact legible reproduction or duplicate, other than microfilm, of either:

(1) The evidence of assessment work performed under State law for record; or

(2) The geological, geochemical, and geophysical surveys provided for in part 3836 of this chapter.

§ 3835.34 What should I include when I submit a notice of intent to hold?

You must include the following:

(a) A letter or other notice with original signatures of all of the

claimants, as specified in § 3835.31 of this part, which states your intention to hold the mining claims or sites for the calendar year in which the assessment year ends;

(b) If applicable:

(1) A copy of the 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 filed the petition; or

(3) Any documents supporting why you are filing a notice of intent to hold instead of an assessment work filing.

(c) The BLM serial number of the mining claim or site;

(d) Any known changes in the mailing addresses of the claimants; and

(e) A non-refundable service charge for each mining claim or site affected. (See the table of service charges in § 3830.21 of this chapter.)

Subpart D—Defective Waivers and FLPMA Filings

§ 3835.90 Failure to comply with this part.

§ 3835.91 What if I fail to submit annual FLPMA filings?

If you fail to make a required annual FLPMA filing on time, you forfeit the affected mining claims or sites.

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

(a) If you fail to submit a qualified waiver request and fail to pay an annual maintenance fee on time, you forfeit the affected mining claims or sites.

(b) If you fail to list the 10 or fewer mining claims or sites on your small miner waiver request and fail to pay an annual maintenance fee on time, you forfeit those mining claims or sites.

(c) If you fail to cure any defects in your waiver request or pay the maintenance fee within the allowed time, you forfeit the affected mining claims or sites.

(d) If a mining claim or site is held by more than one person and one of the co-claimants does not qualify for a small miner waiver, all of the co-claimants forfeit the affected mining claim or site.

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

(a) BLM will send a notice to you by certified mail-return receipt requested at the address given—

(1) on your notice or certificate of location,

(2) on an address correction you have filed with BLM,

(3) on a valid transfer document filed with BLM, or

(4) on the waiver 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.

(c) You must cure the defective waiver or pay the annual maintenance fees within 60 days of receiving BLM notification of the defects.

16. Add part 3836 to read as follows:

PART 3836—ANNUAL ASSESSMENT WORK REQUIREMENTS FOR MINING CLAIMS

Sec.

Subpart A—Performing Assessment Work

3836.10 Performing assessment work.

3836.11 What are the general requirements for performing assessment work?

3836.12 What work qualifies as assessment work?

3836.13 What are geological, geochemical, or geophysical surveys?

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

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

Subpart B—Deferring Assessment Work

3836.20 Deferring assessment work.

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

3836.22 How do I petition for deferment?

3836.23 After BLM sends me a decision regarding my petition, what else must I do to obtain a deferment?

3836.24 How long is a deferment granted?

3836.25 When must I complete my deferred assessment work?

Authority: 30 U.S.C. 22, 28, 28b-28e; 50 U.S.C. App. 501, 565; 43 U.S.C. 2, 1201, 1457, 1740.

Subpart A—Performing Assessment Work

§ 3836.10 Performing assessment work.

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

(a) You must spend \$100 in labor or improvements for each claim every assessment year if you obtain a small miner waiver from the annual maintenance fee requirement.

(b) You may perform assessment work on one or several claims of a group of contiguous lode or placer claims that you hold in common and which cover the same mineral deposit. 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 which 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 which are done by, among other things, sampling soils, waters, and bedrock to identify areas of anomalous mineral values and quantities.

(c) Geophysical surveys are surveys of the physical characteristics of mineral deposits which 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 spectral surveys.

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

(a) The surveys must be conducted by qualified experts and verified in a detailed report filed in the county or recording district office where the claim is recorded. A qualified expert is an individual qualified by education or 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.

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

If you fail to comply substantially with the requirements of this part, BLM may void your claim.

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.

(b) If BLM grants you a deferment, you have merely deferred doing the assessment work. You still must complete the assessment work for that assessment year after the deferment period ends.

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

You must have a mining claim that—

- (a) You cannot enter or gain access to because it is surrounded by lands over which BLM has denied a right-of-way;
- (b) Is in the process of being acquired under State law; or
- (c) You cannot enter or gain access to because of some other legal impediment.

§ 3836.22 How do I petition for deferment?

In order to apply for deferment—

(a) You must file a petition in duplicate 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 copy of the small miner waiver certification form you filed for the previous maintenance fee deadline.

(b) If you are filing the petition because BLM or another party has denied you a right-of-way, you must also describe—

- (1) The nature and ownership of the land 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 subdivisions 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 filing the petition because of other legal impediments to your access to the claim, you must describe the legal impediments and file copies of any documents you have which 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 file with BLM.

(f) The petition you file with BLM and the original notice you file with the local recording office must be signed by at least one of the claimants of each of the mining claims for which you request a deferment.

(g) You must pay a non-refundable service charge with each petition. (See the table of fees and charges in § 3830.21 of this chapter.)

§ 3836.23 After BLM sends me a decision regarding my petition, what else must I do to obtain a deferment?

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

§ 3836.24 How long may a deferment 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 requested 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.

§ 3836.25 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 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.

17. Add part 3837 to read as follows:

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

Sec.

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

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

3837.11 How may I acquire a delinquent co-claimant's interest in a mining claim or site?

Subpart B—Acquisition procedures

3837.20 Acquisition.

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

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

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

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

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

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

Authority: 43 U.S.C. 2, 1201, 1457; 50 U.S.C. App. 501, 565; 30 U.S.C. 28.

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

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

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

(a) You may acquire a co-claimant's interest in a mining claim or site under the following circumstances:

(1) You are a co-claimant who has performed the assessment work, made improvements, or paid the maintenance fees required under parts 3834 and 3836 of this chapter;

(2) Your co-claimant fails to contribute a proportionate share of the assessment work, expenditures, or maintenance fees by the end of the assessment year concerned;

(3) You notify the delinquent co-claimant of the failed obligation as provided in § 3837.21 of this part; and

(4) After 90 days following the date of the notice or the end of the publication, if the delinquent co-claimant fails or refuses to contribute a proportionate share of the assessment work, expenditures, or maintenance fees, the remaining co-claimants acquire the delinquent co-claimant's share in the mining claim or site.

(b) You may not acquire a co-claimant's interest in a mining claim or site if the co-claimant is on active military duty.

Subpart B—Acquisition Procedures

§ 3837.20 Acquisition.

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

(a) You must give the delinquent co-claimant written notice by mail using certified mail, return receipt requested, or by personal service, or

(b) If, after diligent search, you cannot locate the delinquent co-claimant, you must publish notification in a newspaper nearest the location of the claims or sites at least once a week for 90 days.

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

The delinquent co-claimant has—

(a) 90 days from the date on which the co-claimant receives written notice by mail or personal service to contribute a proportionate share of the assessment work, expenditures, or maintenance fees; or

(b) 90 days after the date on which the 90-day newspaper publication period ends to contribute a proportionate share of the assessment work, expenditures, or maintenance fees.

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

You must submit—

(a) Evidence that you properly notified the delinquent co-claimant;

(b) An originally signed and dated statement by all the compliant co-claimants that the delinquent co-claimant failed to contribute the proper proportion of assessment work, expenditures, or maintenance fees within the period fixed by the statute; and

(c) A non-refundable service charge for a transfer of interest, as found in the table of fees in § 3830.21 of this chapter.

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

(a) If you gave written notice to the delinquent co-claimant by personal service, you must sign and submit a notarized affidavit explaining how and when you delivered the written notice to the delinquent co-claimant.

(b) If you gave written notice to the delinquent co-claimant by mail, you must submit—

(1) A copy of the notice you mailed to the delinquent co-claimant; and

(2) A copy of the signed U.S. Postal Service return receipt from the registered or certified envelope in which you sent the notice to the delinquent co-claimant.

(c) If you published the notice in a newspaper, you must submit:

(1) A statement from the newspaper publisher describing the publication, including the beginning and ending dates of publication;

(2) A printed copy of the published notice; and

(3) A notarized affidavit attesting that you conducted a diligent search for the delinquent co-claimant, you could not locate the delinquent co-claimant, and therefore notification by publication was necessary.

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

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

If co-claimants are engaged in a dispute regarding the acquisition of a delinquent co-claimant's interests—

(a) The co-claimants must resolve the dispute, without BLM involvement, in a court of competent jurisdiction or other proceeding as permitted within the State where the disputed claims are located.

(b) The co-claimants must file with BLM a certified copy of the judgment, decree, or settlement agreement resolving the dispute before BLM will update its records.

18. Add part 3838 to read as follows:

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

Sec.

Subpart A—General Provisions

3838.1 What are SRHA lands?

3838.2 How are SRHA lands different from other Federal lands?

Subpart B—Locating and Recording Mining Claims and Tunnel Sites

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

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

3838.12 What do I include in a NOITL on SRHA lands?

3838.13 What restrictions are there on recording a NOITL on SRHA lands?

3838.14 What does BLM do when I record a NOITL on SRHA lands?

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

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

Subpart C—Compliance Problems

3838.90 Failure to comply with this part?

3838.91 What if I fail to comply with this part?

Authority: 43 U.S.C. 299(b), 1201, 1457, 1740, 1744; 30 U.S.C. 22 *et seq.*

Subpart A—General Provisions

§ 3838.1 What are SRHA lands?

SRHA lands are lands that were—

(a) Patented under the Stockraising Homestead Act of 1916, as amended (30 U.S.C. 54 and 43 U.S.C. 299); or

(b) Originally entered under the Homestead Act, as amended, and patented under the SRHA after December 29, 1916.

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

(a) The United States owns the mineral estate of SRHA lands, but not the surface estate. Patents issued under the SRHA, and Homestead Act entries patented under the SRHA, reserved the mineral estate to the United States.

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

Subpart B—Locating and Recording Mining Claims and Tunnel Sites

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

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

(a) You must—

(1) Record a notice of intent to locate mining claims (NOITL) with the proper BLM State Office that is responsible for the affected mineral estate and submit a non-refundable service charge for processing (see the table of fees in § 3830.21 of this chapter);

(2) Serve a copy of the NOITL on the surface owner(s) of record, by registered or certified mail, return receipt requested; and

(3) Record proof that you served a copy of the NOITL on the surface owner with BLM to complete the recordation of a NOITL.

(b) You can record the NOITL and serve a copy of the NOITL on the surface owner at the same time.

(c) If you want to explore parcels of land that are owned by different people, you must file a separate NOITL for each parcel of land.

(d) You must—

(1) Wait 30 days after you serve the surface owner with the NOITL before entering the lands to explore for minerals or locate a mining claim or tunnel site; and

(2) Follow procedures for locating mining claims and tunnel sites in part 3832 of this chapter, recording mining claim and tunnel sites in part 3833 of this chapter, and annual maintenance of mining claims in parts 3834 and 3835 of this chapter.

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

A NOITL must include:

(a) The names, mailing address, and telephone numbers of everyone who is filing the NOITL.

(b) Information about the surface owners, including:

(1) The names, mailing addresses, and telephone numbers of all surface owners of the tract of land you want to enter;

(2) Evidence from the current edition of the county or borough tax rolls that the names of the surface owners you file are the current owners of the surface estate;

(3) A description of the lands covered by the NOITL, including:

(i) The total number of acres to the nearest whole acre; and

(ii) A map and legal land description to the nearest 5-acre subdivision or lot based on a U.S. Public Land Survey of the lands you want to explore, including access routes; and

(4) A brief description of the proposed mineral activities, including:

(i) The name, mailing address, and telephone number of the person who will be managing the activities and

(ii) A list of the dates on which the activities will take place.

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

(a) You or your affiliates may not file NOITLs for more than 1,280 acres of land owned by a single surface owner.

(b) You or your affiliates may not file NOITLs for more than 6,400 acres of land in any one State.

(c) Your NOITL will expire 90 days after you record it with BLM, unless you file a plan of operations with BLM before the end of the 90-day period.

(d) After your NOITL expires, you are not allowed to record another NOITL for

the same lands until 30 days after the expiration of the previously-filed NOITL.

(e) Only those persons whose names are listed on the properly recorded NOITL will be allowed to explore for minerals or locate mining claims or tunnel sites on the lands covered by the NOITL.

§ 3838.14 What will BLM do when I record a NOITL on SRHA lands?

When BLM accepts a properly completed and executed NOITL, we will note the official land status records. The date that BLM accepts the NOITL will be the effective date of the notation.

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

(a) For 90 days after BLM accepts your NOITL:

(1) You may enter the lands covered by the NOITL to explore for minerals and locate mining claims;

(2) You may cause only minimal disturbance of the surface resources on the lands covered by the NOITL;

(3) You must not use mechanized earthmoving equipment, explosives, or toxic or hazardous materials; and

(4) You must not construct roads or drill pads.

(b) For 90 days after BLM accepts your NOITL, no other person, including the surface owner, may:

(1) file a NOITL for any lands included in your NOITL;

(2) explore for minerals or locate a mining claim on the lands included in your NOITL; or

(3) file an application to acquire any interest under section 209 of FLPMA in the lands included in your NOITL.

(c) If you file a plan of operations with BLM, as provided in section 1 of the Act of April 16, 1993, 43 U.S.C. 299(b),

before the end of the 90-day period, BLM will extend the effects of the 90-day period until BLM approves or denies a plan of operations.

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

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

Subpart C—Compliance Problems**§ 3838.90 Failure to comply with this part.****§ 3838.91 What if I fail to comply with this part?**

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

PART 3839—SPECIAL LAWS, IN ADDITION TO FLPMA, THAT REQUIRE RECORDING OR NOTICE [RESERVED]

19. Add and reserve part 3839.

PART 3840—NATURE AND CLASSES OF MINING CLAIMS [REMOVED]

20. Remove part 3840 in its entirety.

PART 3850—ASSESSMENT WORK [REMOVED]

21. Remove part 3850 in its entirety.

Dated: July 26, 1999.

Sylvia V. Baca,

Acting Assistant Secretary of the Interior.

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