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**43 CFR Ch. II (10–1–06 Edition)**

location fees for a new mining claim or site as provided in the statute.

(c) For previously recorded mining claims and sites, you must pay the CPI-based adjusted maintenance fee on or before the September 1 that immediately follows the date BLM published its notice about the adjustment.

(d) Notwithstanding 43 CFR 3830.91(a)(3) and 3830.96, in any year in which BLM adjusts the maintenance and location fees, if you pay the fees timely, but pay an amount based on the fee in effect immediately before the adjustment was made, BLM will send you a notice, as provided in §3830.94, giving you 30 days in which to pay the additional amount required to meet the adjusted fees. If you do not pay the additional amount due within 30 days after the date you received the notice, you will forfeit the affected mining claims or sites.

[70 FR 52030, Sept. 1, 2005]

**PART 3835—WAIVERS FROM ANNUAL MAINTENANCE FEES**

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**Subpart A—Filing Requirements**

**§ 3835.1 How do I qualify for a waiver?**

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

(b) The following table lists the types of waivers available and how you qualify for them (detailed requirements for each category appear in §3835.10):

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

**Bureau of Land Management, Interior**

**§ 3835.11**

Type of waiver	Qualifications
(e) Mineral Patent Application.	You have submitted an application for a mineral patent under part 3860 and the Secretary has granted you a final certificate.

**§ 3835.10 How do I request a waiver?**

(a) You must submit BLM’s waiver certification form on or before September 1 of each assessment year for which you are seeking a waiver. You must submit your waiver on or before September 1 for BLM to exempt your claims or sites from the annual maintenance fee requirement that is due on the same date. You may have an agent submit a waiver form on your behalf if you file or have filed with BLM a power of attorney or other legal documentation which shows that the agent is acting on your behalf.

(b) All waiver requests must include:

- (1) The names and addresses of all claimants who maintain an interest in the mining claims or sites listed on the waiver document;
- (2) The original signatures of the claimants of the mining claims or sites who are requesting the waiver, or the original signature of the authorized agent of the owner or owners of those mining claims or sites;
- (3) The names of the mining claims or sites for which you request a waiver;
- (4) The serial numbers, if available, that BLM assigned to the mining claims or sites; and
- (5) The date the maintenance fee was due from which you are seeking a waiver.

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

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

- (1) You and all related parties hold no more than a total of 10 mining claims and sites nationwide;
- (2) You have completed or will complete all assessment work required by the General Mining Law and part 3836 of this chapter to maintain your claims by the end of the applicable assessment year.
- (3) If you were not required to perform assessment work in the previous assessment year, you must include the

reason why assessment work was not required in your certification, whether it is because:

- (i) Your claim was located in that assessment year;
- (ii) You paid a maintenance fee to maintain your claim during that assessment year;
- (iii) Assessment work was deferred for that year; or
- (iv) Any other reason recognized under Federal law.

(b) *Soldiers’ and Sailors’ Civil Relief Act waivers.* Your application for waiver must include a notice of active military service or entry into active military service. You must also notify BLM in writing when you leave active duty status.

(c) *Reclamation waivers.* Your application must include a certified and/or notarized statement that:

- (1) States that you are reclaiming the mining claims or sites;
- (2) States your intent to end mining operations on the claims or sites permanently; and
- (3) References a reclamation plan that you submitted to BLM or that BLM approved; or references a reclamation plan approved by a surface managing agency other than BLM.

(d) *Denial-of-access waivers.* (1) Your application must include a statement that you have received a declaration of taking or a notice of intent to take from the National Park Service or other Federal agency or have otherwise been denied access to your mining claim or site in writing by the surface management agency or a court.

(2) You must submit copies of all official documents you have received that demonstrate the declaration of taking, notice of intent to take, or denial of access.

(3) Applying for National Park Service (NPS) approval of a complete plan of operations does not justify your denial-of-access waiver. While the NPS is reviewing your plan of operations, or if the NPS disapproves it but has not denied you access, or issued a declaration of taking or a notice of intent to take, you must pay the annual maintenance fee.

(e) *Contest actions.* If the Secretary contests your mining claim or site under part 4 of this title, you must