

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

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maintain the mining claim or site until the Department of the Interior issues a final decision.

(f) *Appeals.* If you forfeit your mining claim or site and you file an appeal under part 4 of this title and the Interior Board of Land Appeals stays BLM's voidance decision, you must maintain your mining claim or site through the appeals process.

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

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

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

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

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

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

In order to obtain a small miner waiver for newly-recorded mining claims, you must—

(a)(1) Submit the waiver request on or before September 1; or

(2) If the mining claim or site was located before September 1 and recorded after September 1 in a timely manner, you must submit the waiver request at the time of recording the mining claim or site with BLM, and

(b) File on or before the December 30 immediately following the September 1st for which you applied for a waiver a notice of intent to hold the mining claim or site. The Mining Law does not require you to perform assessment work in the assessment year in which you locate a mining claim. The notice of intent to hold must conform to §§3835.31 through 3835.33.

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

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

You must submit a waiver request complying with §3835.10 before the assessment year begins for which you wish to obtain a waiver. In addition, you must—

(a) Make a FLPMA filing, in the form of a notice of intent to hold under §§3835.31 and 3835.33 of this part on or before December 30th immediately following the submission of a waiver request;

(b) Perform your assessment work in the assessment year for which BLM waived the maintenance fee; and

(c) Make a FLPMA filing in the form of an affidavit of assessment work under §§3835.31 and 3835.33 of this part on or before the December 30th immediately following the close of the assessment year in which you performed assessment work.

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