

§ 3835.32

43 CFR Ch. II (10–1–06 Edition)

(c) If part 3836 of this chapter does not require you to perform assessment work, either because you located the claim during the current assessment year or because BLM has deferred assessment work, you must submit a notice of intent to hold under §§3835.32 and 3835.33 of this part as an annual FLPMA document filing. You must

state in the notice of intent to hold either that BLM has deferred the assessment work requirement or that you located the claim during the current assessment year.

(d) The following table describes the circumstances under which you must file annual FLPMA documents:

Your situation	Affidavit of assessment work required	Notice of intent to hold required
(1) You have paid annual maintenance fees.	No	No.
(2) You have an oil shale placer claim ...	No	Yes, by December 30 of each year you must pay the \$550 oil shale fee.
(3) You have a small miner waiver that covers mining claims.	Yes, by December 30 for each assessment year you obtained a small miner waiver.	Yes, but only as described in paragraph (c) of this section.
(4) You have a small miner waiver that covers mill or tunnel sites.	No affidavit assessment work is required for mill or tunnel sites.	Yes, notices of intent to hold are required for mill and tunnel sites.
(5) You have a Soldiers and Sailor's Civil Relief Act Waiver.	No	No.
(6) You have a reclamation waiver	No	Yes.
(7) You have a waiver because you have been denied access.	No	Yes.
(8) You have a deferment of assessment work.	No	Yes, but only as described in paragraph (c) of this section.
(9) You have applied for a mineral patent and BLM has issued a final certificate.	No	No.

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

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

When you submit an affidavit of assessment work as required in §3835.31(d), you must include the following:

- (a) The name and, if available, the BLM serial number of the claim for which you did assessment work;
- (b) Any known changes in the mailing addresses of the claimants;
- (c) A processing fee for each mining claim affected. (See the table of service charges and fees in §3830.21 of this chapter); and
- (d) An exact legible reproduction or duplicate, other than microfilm or other electronic media, of either:
 - (1) The affidavit of assessment work that you filed or will file in the county where the claim is located; or
 - (2) The report of geological, geochemical, and geophysical surveys you filed in the county where the claim is

located, as provided for in part 3836 of this chapter.

[68 FR 61064, Oct. 24, 2003, as amended at 70 FR 58879, Oct. 7, 2005]

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

When you submit a notice of intent to hold as required in §3835.31(d), you must include the following:

- (a) An exact legible reproduction or duplicate of a letter or other notice with signatures of one or more of the claimants or their agent that states your intention to hold the mining claims or sites for the calendar year in which the assessment year ends, and that you filed or will file a notice of intent to hold in the county where the claim is located;
- (b) If applicable:
 - (1) A copy of a BLM decision granting a deferment of the annual assessment work;
 - (2) A copy of a pending petition for deferment of the annual assessment work including the date you submitted the petition; or

(3) Any other documentation in the notice of intent to hold supporting why you are filing a notice of intent to hold instead of an assessment work filing;

(c) The name and, if available, the BLM serial number of the mining claim or site;

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

(e) A processing fee for each mining claim or site affected. (See the table of service charges and fees in §3830.21 of this chapter.)

[68 FR 61064, Oct. 24, 2003, as amended at 70 FR 58879, Oct. 7, 2005]

Subpart D—Defective Waivers and FLPMA Filings

§ 3835.90 Failure to comply with this part.

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

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

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

(a) If you fail to submit a qualified waiver request (see §3835.1) and also fail to pay an annual maintenance fee by September 1st, you forfeit the affected mining claims or sites.

(b) If you fail to list any mining claims or sites that you and all related parties own on your small miner waiver request and fail to pay an annual maintenance fee by September 1st, you forfeit the unlisted mining claims or sites.

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

(d) If you, a co-claimant, or any related parties, submit small miner waiver requests for more than 10 mining claims or sites and fail to pay the \$100 maintenance fee for each claim on or before the due date, you forfeit the mining claims and sites and you may be subject to criminal penalties under 18 U.S.C. 1001.

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

(a) BLM will send you a notice describing the defect by certified mail-return receipt requested at the most recent address you gave us on—

(1) Your notice or certificate of location;

(2) An address correction you have filed with BLM;

(3) A valid transfer document filed with BLM; or

(4) The waiver request form.

(b) If the certified mail is delivered to your most recent address of record, this constitutes legal service even if you do not actually receive the notice or decision. (See 43 CFR 1810.2.)

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

PART 3836—ANNUAL ASSESSMENT WORK REQUIREMENTS FOR MINING CLAIMS

Subpart A—Performing Assessment Work

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