

extralateral rights. See II *Lindley on Mines* § 339, 3rd ed. 1916. The cases cited in the comments also state this rule, but do not address the issue of enlargement of claims by amendment.

Several comments suggested that the regulations should allow other amendments after land is withdrawn other than reducing acreage. The available case law does not permit other kinds of amendments of the claim itself. We have amended this section to make it clear that you may correct clerical errors in your filings, such as mistakes in your land descriptions or in other filing documentation, but that you may change the actual boundaries or move the monuments of your claim on withdrawn land only to reduce the size of the claim or site.

Section 3833.22 *How Do I Amend My Location?*

Several comments questioned BLM's authority to void claims if the claimants did not record completed amendments within 90 days after recording the amendment in the local recording office. Upon reconsideration, we have removed this provision and restored the provision from the old regulations, which says that we will not recognize the changes in your claim (just the original location documents) until you file them properly.

Subpart C—Filing Transfers of Interest

Section 3833.31 *What Is a Transfer of Interest?*

Several comments addressed the applicability of community property rights to unpatented mining claims. Upon further analysis, we have removed this provision; as proposed, it only applied to the patenting process, which is not the subject of this regulation.

Another comment asked if we intended this section to apply to mortgages, liens, leases, etc. The answer is no, as explained previously in the preamble discussion of section 3830.2.

Section 3833.32 *How Do I Transfer a Mining Claim or Site?*

Several comments noted that the legal effects of recordings and filings of legal documents (deed, grants, etc.) are a state law issue. We agree and have rewritten this section (as paragraph (a) of a section combining sections 3833.32 and 3833.33 of the proposed rule) to provide that state law governs transfers of mining claims and sites and determines the effective date of a transfer.

Subpart D—Defective Filings

Section 3833.91 *What Defects Cannot Be Cured Under This Part?*

We removed paragraph (d), which provided that you cannot forfeit a claim already void or forfeited, because it merely repeated section 3833.21(b)(2).

Several comments objected to paragraph (e), which would void a claim that is more than 10 percent larger than the statutory maximum size. We have removed this provision from the final rule.

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 location fee, initial maintenance fee, annual \$100 maintenance fee, and oil shale placer claim fee.

Sections 3834.12 through 3834.14 go through the procedures for and effects of paying the maintenance fee.

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

Subpart A—Fee Payment

Section 3834.11 *Which Fees Must I Pay to Maintain a Mining Claim or Site and When Do I Pay Them?*

Several comments found the language in paragraphs (a) and (b) to be imprecise and ambiguous, especially as to what period of time the annual maintenance fee covers. They suggested alternative phrasing in some places. After careful analysis, BLM has amended paragraphs (a) and (b), in some cases adopting the suggested phrasing, to make this section more clear.

Section 3834.12 *How Will BLM Know Which Mining Claims or Sites I am Paying the Fees For?*

Several comments pointed out that the claimant does not always have the serial number when it is time to pay the annual maintenance fee. We amended this provision to say that your list of claims for which you are paying must include the serial numbers of the claims if BLM has informed you that we have assigned serial numbers.

Section 3834.13 *Will BLM Prorate Annual Maintenance or Oil Shale Fees?*

One comment suggested rephrasing this provision to emphasize that the full annual maintenance fee is required even if the claimant held the claim for only

one day in the assessment year. We adopted this suggestion in the final rule.

Section 3834.14 *May I Obtain a Waiver From These Fees?*

One comment objected to a lack of waiver rights for oil shale mining claims. This is a statutory requirement over which BLM has no discretion. Unless you filed a patent application and received a first half of mineral entry final certificate before October 24, 1992, the Energy Policy Act of 1992 (30 U.S.C. 242) requires the payment of an annual \$550 fee and a FLPMA filing of a notice of intent to hold. The comment also asked whether, after a mineral patent is issued, an oil shale mining claim is still subject to the annual fee. The answer is no.

Section 3834.23 *When Do I Start Paying The Adjusted Fees?*

One comment addressed the timing of fee adjustments. We have not made any changes to this section because it reflects the statutory language.

Part 3835—Waivers From Annual Maintenance Fees

Section 3835.1 provides general information about fee waivers and their applicability. Sections 3835.10 through 3835.11 address general filing requirements for waivers, while section 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
- Mineral patent applicants, under certain circumstances.

Sections 3835.14 through 3835.17 establish the conditions and the process—

- For obtaining a small miner waiver in the assessment year following the assessment year of location,
- For filing a waiver one year and paying the maintenance fee the next,
- For paying the maintenance fee one year and filing a waiver the next assessment year, and
- For obtaining a waiver for claims or sites on National Park System lands.

Section 3835.20 addresses whether waivers continue when a claim is transferred. It explains that a waiver is still effective if the transferee also qualifies for the waiver. If not, the required maintenance fees are due by the September 1st following the date of transfer.

Sections 3835.30 through 3835.34 describe annual FLPMA documents and