

when they are required to be filed. Annual FLPMA documents include affidavits of assessment work when required as a condition of a waiver, or notices of intent to hold the claim when an affidavit of assessment work cannot be filed.

As in the earlier parts, sections 3835.90 through 3835.93 describe the procedures to cure certain defects if you have any in your waiver request.

Subpart A—Filing Requirements

Upon reviewing the public comments, and after carefully reviewing this subpart, we reorganized it somewhat in the final rule, and replaced proposed section 3835.1 with the table explaining waiver qualification requirements from proposed section 3835.12.

Section 3835.10 How Do I File for a Waiver?

This section appeared as section 3835.11 in the proposed rule. Comments suggested modifications in this section to make it read more clearly, particularly as to what assessment year is covered by a waiver request, and who must sign the request if an agent submits it. BLM has amended this section by adding language making it clear that the waiver request maintains the claim for the assessment year that begins on the date the waiver request is due and stating that a request submitted by an agent must include the agent's original signature, not necessarily that of the claimant.

Another comment asked whether BLM would provide forms that claimants must use to request a waiver. BLM makes BLM form number 3830–2 (Small Miner Waivers) available in all of its state offices, and its use is required in order to request a waiver from payment of annual maintenance fees.

Sections 3835.11 What Special Filing and Reporting Requirements Pertain to the Different Types of Waivers?

This section appeared as section 3835.12 in the proposed rule, in tabular form. In the final rule, we present this provision in the form of text; the table added little to aid understanding. Several comments addressed this section, seeking clarity as to what year the waiver request must cover, and stating that assessment work is not

required in every year of the life of a mining claim. For example, assessment work is not required in the year of location. We have amended the language in light of these suggestions, using the term “the applicable assessment year” and adding the qualification “required by the Mining Law of 1872” to the provision for what assessment work must be certified in your small miner waiver request.

Section 3835.12 What Are My Obligations Once I Receive a Waiver?

This section is new in the final rule, based on comments that the FLPMA filing requirements are very confusing and should not be summarily dealt with in a section on waiver requirements. This section provides the necessary cross-references to the annual filing procedures you must follow to maintain claims for which you have a waiver from the maintenance fee.

The waiver qualification table in this section in the proposed rule now appears in section 3835.1 in the final rule.

Section 3835.13 How Long Do the Waivers Last and How do I Renew Them?

One comment pointed out a drafting error in the table in this section, where we inadvertently switched the renewal requirements for two of the waiver types. We have corrected the error in the final rule.

Section 3835.14 How Do I File for a Small Miner Waiver for Newly-Recorded Mining Claims?

Comments found this section confusing, especially in light of provisions later in this subpart. We have removed redundant provisions from this section, and added a cross-reference to sections 3835.31 through 3835.34, to make it clear when you must make filings under Section 314 of FLPMA for a newly-located claim or site if you have also submitted a waiver request at the time of recording the claim or site.

Section 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?

Some of the comments on this section betrayed such a lack of understanding of

its meaning that it became clear to us that it was confusing and we needed to clarify the section. Following a suggestion in one comment, we added introductory text (1) telling you that you must submit a waiver request, and (2) cross-referring to the appropriate regulatory guidance for doing so. We also reworded the rest of the section to try to make it clearer. The section should not be read, as one comment interpreted it (perhaps with tongue in cheek), to require you to do “twice the normal amount of assessment work during the first assessment year for which your maintenance fee was waived.”

Section 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?

One comment said that this section was incorrect, that it should have required you to do the assessment work for the year before the year for which you obtained a waiver, rather than the year for which you obtained a waiver. While it is true that you must do assessment work for the year before you obtain a waiver, you must obtain a new waiver each year, having done the assessment work during each preceding assessment year as you go along. Of course, this amounts to a requirement that during every year covered by a waiver you must do assessment work, plus the year before your initial waiver request. Thus, if, for whatever reason, you wish to or are required to pay the maintenance fee in a subsequent year, the present year must necessarily be covered by a waiver, and you must do the assessment work for that year, “the assessment year for which the fee was waived.” We made no substantive change in this provision. The following table shows how the provision works, based on four possible scenarios that may describe the affected miner's situation; in the table, “xx” refers to the current calendar year:

Assessment year end	FLPMA filing due	Assessment year end	FLPMA filing due	Assessment year end	FLPMA filing due	Assessment year end	FLPMA filing due
9/1/xx	12/30/xx	9/1/xx+1	12/30/xx+1	9/1/xx+2	12/30/xx+2	9/1/xx+3	12/30/xx+3
If you paid the maintenance fee.	No FLPMA filing necessary.	If you asserted small-miner waiver.	You must file Notice of Intent to Hold your claim or site.	If you asserted small-miner waiver.	You must file Proof of Labor for assessment year Sept. xx+1 to Sept. xx+2.	If you asserted small-miner waiver.	You must file Proof of Labor for assessment year Sept. xx+2 to Sept. xx+3.
If you asserted small-miner waiver.	You must file Proof of Labor for assessment year Sept. xx – 1 to Sept. xx.	If you paid the maintenance fee.	You must file Proof of Labor for assessment year Sept. xx to Sept. xx+1.	If you paid the maintenance fee.	No FLPMA filing necessary.	If you paid the maintenance fee.	No FLPMA filing necessary.