

Assessment year end 9/1/xx	FLPMA filing due 12/30/xx	Assessment year end 9/1/xx+1	FLPMA filing due 12/30/xx+1	Assessment year end 9/1/xx+2	FLPMA filing due 12/30/xx+2	Assessment year end 9/1/xx+3	FLPMA filing due 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 paid the maintenance fee.	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 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.	If you paid the maintenance fee.	You must file Proof of Labor for assessment year Sept. xx to Sept. xx+1.	If you asserted small-miner waiver.	You must file Notice of Intent to Hold your claim or site.	If you the paid the maintenance fee.	You must file Proof of Labor for assessment year Sept. xx+2 to Sept. xx+3.

Section 3835.17 What Additional Requirements Must I Fulfill To Obtain a Small Miner Waiver for My Mining Claims or Sites on National Park System Lands?

A comment from the National Park Service asked that we add provisions instructing miners how to comply with waiver and assessment work requirements for mining claims on NPS lands, and provided language to serve that purpose. We have substantially adopted the recommended language. Your plan of operations must be approved by the NPS before you can begin, and your assessment work must further the goal of developing the mineral deposit. If NPS does not approve the plan in time to qualify for a small miner waiver, the final rule gives you three options: pay the maintenance fees; petition for a deferment of assessment work; or file for a lack of access waiver.

Subpart B—Conveying Mining Claims or Sites Under Waiver

Section 3835.20 Transferring, Selling, Inheriting, or Otherwise Conveying Mining Claims or Sites Already Subject to a Waiver.

This section explains whether BLM will continue to apply a waiver to a mining claim after the person who first qualified for the waiver transfers it to another claimant. One comment stated that if a miner with a small miner waiver performs the required assessment work and then transfers a claim to a miner who does not qualify for a waiver, the second miner should not have to pay the maintenance fee. The argument is that the work done on the claim should have been effective for the whole assessment year and therefore should have excused the claim from the maintenance fee requirement.

When a small miner conveys a claim to a claimant who does not qualify for a small miner waiver, the status of the claim changes immediately upon the transfer, and the waiver no longer applies. To retain the claim for the current assessment year, the transferee must pay the maintenance fee for the newly acquired claim. Under this scenario, assessment work previously

done to hold the claim is not an acceptable alternative to paying the maintenance fee, as the comment seems to be saying. Doing assessment work is never an optional alternative to paying the maintenance fee for claimants who own more than 10 claims or sites.

Another comment found paragraph (b) as proposed to be confusing. We have amended the paragraph to explain to claimants who do not qualify for a waiver what they must do to maintain a claim that they obtain from someone who did qualify for a waiver.

Subpart C—Annual FLPMA Filings

Section 3835.31 When Do I File an Annual FLPMA Document?

Several comments stated that the proposed language of sections 3835.31 and 3835.32 was ambiguous and confusing. Some offered substitute language. They stated that we omitted crucial information that claims could be forfeited if the claimant did not record an affidavit of assessment work or notice of intention to hold in the local recording office before the statutory deadline. They also criticized some imprecise wording as to where annual FLPMA filings must be filed, and what year is meant by “December 30th of the calendar year in which the assessment year ends.” They questioned the meaning of “current assessment year” in paragraph (c). They disputed a statement in paragraph (a) that you must submit a FLPMA filing by December 30th of the calendar year in which the assessment year ends, saying that this contradicted the statutory provision that paying the maintenance fee satisfies the FLPMA filing requirement.

We have combined sections 3835.31 and 3835.32 in the final rule to clarify when you must make filings and what filing is required under various circumstances. We have also amended the table that describes the filing requirements and deadlines.

One comment suggested adding a “situation” to the table now in paragraph (d) of this section. It would describe what happens if you have a deferment of assessment work: the regulations would not require an affidavit of assessment work, but you would have to file a notice of intent to

hold. We have added this situation to the table, with a reference to paragraph (c) of this section, which describes this situation and the actions you must take.

One comment stated that paragraph (h) in the table was inaccurate because it did not account for the fact that most claimants would be paying the maintenance fee. The comment suggested that the provision should merely state BLM does not require an affidavit or notice after you obtain the mineral entry final certificate. We have amended paragraph (h) as suggested by the comment.

Section 3835.32 What Should I Include When I Submit an Affidavit of Assessment Work?

This section appeared as section 3835.33 in the proposed rule. Several comments stated that the regulatory text was not specific and clear enough in this section as to what form and type of assessment work documents have to be filed. The comments focused on what we meant by evidence of assessment work, by a copy of the surveys that you must file with BLM, and what documents need to be recorded in the local recording office, and offered alternative language. We have revised the section to be even more specific. We make it clear that FLPMA allows you to submit a detailed report of geological, geochemical, and geophysical surveys and reports, as provided in 30 U.S.C. 28–1, in lieu of an affidavit of assessment work.

Section 3835.33 What Should I Include When I Submit a Notice of Intent To Hold?

This section appeared as section 3835.34 in the proposed rule. Two comments addressing the section noted that FLPMA does not require the signatures of all claim holders on a Notice of Intent to Hold (NOI), as required in the proposed rule. The comment is correct and the language has been revised to require that one or more co-owners must sign the NOI to make it effective.

The comments also stated that the regulations did not clearly include the FLPMA requirement that the document you file with BLM must be a copy of the