

or sites, with reference to a reclamation plan approved by the authorized officer for plan-level activities or submitted in consultation with the authorized officer for notice-level activities, and to his or her intent to place them into permanent closure. If the surface is managed by an entity other than BLM, the claimant shall submit evidence of a final reclamation plan that conforms to the requirements of the managing entity. A certified statement of such intent and reclamation shall be filed pursuant to § 3833.1-7. The number of mining claims or sites that may properly qualify for a reclamation waiver pursuant to this paragraph is not restricted to a 10-claim limit.

(c) Pursuant to the Soldiers' and Sailors' Relief Act (50 U.S.C. Appendix 565), military personnel on active duty status may, under certain conditions, qualify for an exemption from the performance of assessment work and the payment of maintenance fees. See §§ 3833.1-7(e)(2) and 3851.6 of this title.

(d) Under the following circumstances, a waiver may be obtained from the payment of the maintenance fee for mining claims and sites:

(1) The claimant has received a declaration of taking or a notice of intent to take from the National Park Service pursuant to Sections 6 and 7 of the Act of September 28, 1976, as amended (16 U.S.C. 1905, 1906), or the Act of December 2, 1980, as amended (16 U.S.C. 3192); or the claimant has otherwise been denied access by the United States to his/her mining claims or sites.

(2) The claimant shall file proof of the above conditions for exemption, attested to as a certified statement, pursuant to § 3833.1-7, with the proper BLM office by the August 31 immediately preceding the assessment year for which a waiver is sought.

(3) The certified statement required by paragraph (d)(2) of this section, serves as a notice of intention to hold as to mining claims and sites for which the exemption is sought. In such cases, the payment of the \$5 service charge per claim or site is due upon filing the certification statement.

(e) Payment of the maintenance fee for mining claims covered by a deferment of assessment work granted by the authorized officer pursuant to 30

U.S.C. 28 (b)-(e) and subpart 3852 of this title may be deferred during the period for which the deferment is granted. Deferments are governed by the following rule. If a petition for a deferment of assessment work, as required by § 3852.2 of this title, is filed with the proper BLM office on or before August 31 for a given year, the maintenance fee need not be paid on the claims listed in the petition for deferment until the authorized officer has acted upon the petition.

(1) If the petition is granted, maintenance fees for the claims are deferred for the upcoming assessment year. At the expiration of the deferment, all deferred fees shall be paid within 30 days of the end of the deferment, unless the claimant/owner qualifies as a small miner. If the claimant/owner qualifies as a small miner, all deferred assessment work shall be performed as provided in § 3852.5 of this title upon expiration of the deferment.

(2) If the petition for deferment is denied by the authorized officer, the maintenance fees shall be paid within 30 days of receipt of the decision of the authorized officer denying the petition for deferment. Failure to pay the maintenance fees owed will result in the forfeiture of the claims contained within the petition.

(f) On mining claims for which an application for a mineral patent has been filed, and the mineral entry has been allowed, the payment of the maintenance fee is excused for the assessment years during which assessment work is not required pursuant to § 3851.5 of this title. However, no refund of previously deposited maintenance fees will be made to the mineral patent applicant.

[59 FR 44861, Aug. 30, 1994]

§ 3833.1-7 Filing requirements for the maintenance fee waiver and other exceptions.

(a) If no change in status has occurred, a small miner exemption certification previously filed for the assessment year ending at noon on September 1, 1994, under the Act of October 5, 1992 (Pub. L. 102-381, 106 Stat. 1374), and the pertinent regulations in effect on August 31, 1993, will be considered a proper certification filing for a

waiver of payment of the maintenance fee due on August 31, 1994.

(b) The affidavit of assessment work performed by a small miner claiming a maintenance fee waiver shall be filed with the proper BLM office pursuant to § 3833.2 and shall meet the requirements of § 3833.2-4.

(c) For mining claims and sites covered by a waiver, the filing of a waiver certification pursuant to any of paragraphs (a), (d), (e), or (f) of this section will satisfy the requirements for filing of a notice of intention to hold pursuant to § 3833.2-5, when such notice of intention to hold is otherwise required. In such a case the payment of the \$5 service charge per claim/site for processing the notice of intention to hold is due upon filing of the waiver statement.

(d) In order to hold mining claims or sites for the assessment year beginning at 12 o'clock noon on September 1, 1994, each small miner shall file a waiver certification on or before August 31, 1994. Each small miner shall file a waiver certification on or before August 31 each year thereafter to hold the claims each assessment year beginning at 12 o'clock noon on September 1 of the calendar year the certification is due, through August 31, 1998. The small miner shall document, as provided in this paragraph (d), the claimed waiver for each assessment year a small miner's waiver is claimed, certified, and attested to under penalty of 18 U.S.C. 1001. The statement shall contain:

(1) The mining claim and site names and BLM serial numbers assigned to the mining claims and sites held by the small miner;

(2) A declaration by the claimant and all related parties that they own no more than 10 mining claims and sites in total nationwide on the date the waiver statement is due;

(3) A declaration that specifies that the assessment work requirements have been or will be completed by the date the payment is due, which is each August 31, for the assessment year just ending;

(4) The names and addresses of all owners maintaining an interest in the mining claims and sites; and

(5) The signatures of all the owners of the mining claims and sites for which a waiver is claimed.

(e) Pursuant to the Soldiers' and Sailors' Relief Act, and § 3851.6 of this title, a military person entering active service may file, or cause to be filed, in the proper BLM office, a notice of his or her entry into active military service.

(1) The filing of the notice excuses the person from performing assessment work or paying the maintenance fees until 6 months have passed from the person's release from active duty status, or until 6 months have passed after release from a military hospital, whichever is later. To be excused from paying the maintenance fee, the person cannot hold the subject claim or site with a related party, as defined in paragraph 3833.0-5(x), who does not also qualify under the Soldiers' and Sailors' Relief Act.

(2) The notice must be filed in the assessment year that the person entered active duty status, or if active duty began prior to August 30, 1994, the notice must be filed in the assessment year that he or she wishes the benefits provided in paragraph (e)(1) of this section to take effect. If the person previously filed a notice under the Soldiers' and Sailors' Relief Act to be excused from performing assessment work, and remains qualified under that Act, he or she will automatically be exempt from paying the maintenance fee.

(3) The performance of assessment work or the payment of maintenance fees shall resume in the assessment year next following the assessment year during which the person was released from active duty or a military hospital, whichever is later.

(4) The notice shall be filed as a certified statement pursuant to paragraph (d) of this section, and shall list all mining claims and sites affected by claim/site name and BLM serial number.

[59 FR 44861, Aug. 30, 1994; 59 FR 47815, Sept. 19, 1994]

§ 3833.2 Annual filings.

§ 3833.2-1 National Park System lands.

(a) For all mining claims, mill sites, and tunnel sites located within a unit