

cents for each acre and 5 cents for each fractional part of an acre embraced in the location for deposit with the Treasury of the United States to the credit of the Tohono O'Odham Tribe as yearly rental. Failure to make the required annual rental payment in advance each year until an application for patent has been filed for the claim shall be deemed sufficient grounds for invalidating the claim. The payment of annual rental must be made to the superintendent or other officer in charge of the reservation each year on or prior to the anniversary date of the mining location.

(c) Where a mining claim is located within the reservation, the locator shall pay to the superintendent or other officer in charge of the reservation damages for the loss of any improvements on the land in such a sum as may be determined by the Secretary of the Interior to be a fair and reasonable value of such improvements, for the credit of the owner thereof. The value of such improvements may be fixed by the Commissioner, Bureau of Indian Affairs, with the approval of the Secretary of the Interior, and payment in accordance with such determination shall be made within 1 year from date thereof.

(d) At the time of filing with the manager an application for mineral patent for lands within the Tohono O'Odham Indian Reservation the applicant shall furnish, in addition to the showing required under the general mining laws, a statement from the superintendent or other officer in charge of the reservation, that he has deposited with the proper official in charge of the reservation for deposit in the Treasury of the United States to the credit of the Tohono O'Odham Tribe a sum equal to \$1 for each acre and \$1 for each fractional part of an acre embraced in the application for patent in lieu of annual rental, together with a statement from the superintendent or other officer in charge of the reservation that the annual rentals have been paid each year and that damages for loss of improvements, if any, have been paid.

(e) The Act provides that in case patent is not acquired the sum deposited in lieu of annual rentals shall be refunded. Where patent is not acquired,

such sums due as annual rentals but not paid during the period of patent application shall be deducted from the sum deposited in lieu of annual rental. Applications for refund shall be filed in the office of the manager and should follow the general procedure in applications for repayment.

(f) Water reservoirs, charcos, water holes, springs, wells, or any other form of water development by the United States or the Tohono O'Odham Indians shall not be used for mining purposes under the terms of the said Act of August 28, 1937, except under permit from the Secretary of the Interior approved by the Tohono O'Odham Indian Council.

(g) A mining location may not be located on any portion of a 10 acre legal subdivision containing water reservoirs, charcos, water holes, springs, wells or any other form of water development by the United States or the Indians except under a permit from the Secretary of the Interior approved by the Tohono O'Odham Indian Council which permit shall contain such stipulations, restrictions, and limitations regarding the use of the land for mining purposes as may be deemed necessary and proper to permit the free use of the water thereon by the United States or the Tohono O'Odham Indians.

(h) The term *locator* wherever used in this section shall include and mean his successors, assigns, grantees, heirs, and all others claiming under or through him.

[35 FR 9747, June 13, 1970, as amended at 62 FR 65378, Dec. 12, 1997]

### **Subparts 3826–3827 [Reserved]**

## **PART 3830—LOCATING, RECORDING, AND MAINTAINING MINING CLAIMS OR SITES; GENERAL PROVISIONS**

### **Subpart A—Introduction**

Sec.

- 3830.1 What is the purpose of parts 3830–3839?
- 3830.2 What is the scope of parts 3830–3839?
- 3830.3 Who may locate mining claims?
- 3830.5 Definitions.

**Bureau of Land Management, Interior****§ 3830.2****Subpart B—Providing Information to BLM**

3830.8 How will BLM use the information it collects and what does it estimate the burden is on the public?

3830.9 What will happen if I record a document with BLM that I know contains false, erroneous, or fictitious information or statements?

**Subpart C—Mining Law Minerals**

3830.10 Locatable minerals.

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3830.20 Payment of service charges, location fees, initial maintenance fees, annual maintenance fees, and oil shale fees.

3830.21 What are the different types of service charges and fees?

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3830.23 What types of payment will BLM accept?

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**Subpart E—Failure To Comply With These Regulations**

3830.90 Failure to comply with these regulations.

3830.91 What happens if I fail to comply with these regulations?

3830.92 What special provisions apply to oil placer mining claims?

3830.93 When are defects curable?

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3830.95 What if I pay only part of the service charges, location fees, or first-year maintenance fees for newly-recorded claims or sites?

3830.96 What if I pay only part of the service charges and fees for oil shale claims or previously-recorded mining claims or sites?

3830.97 What if I pay only part of the service charges for a notice of intent to locate mining claims on SRHA lands?

**Subpart F—Appeals**

3830.100 How do I appeal a final decision by BLM?

AUTHORITY: 18 U.S.C 1001, 3571; 30 U.S.C. 22, 28, 28k, 242, 611; 31 U.S.C. 9701; 43 U.S.C. 2, 1201, 1212, 1457, 1474, 1740, 1744; 115 Stat. 414; Pub. L. 112-74, 125 Stat. 786.

SOURCE: 68 FR 61064, Oct. 24, 2003, unless otherwise noted.

**Subpart A—Introduction****§ 3830.1 What is the purpose of parts 3830–3839?**

In this part 3830, references to “these regulations” are references to parts 3830 through 3839 of this chapter.

(a) These regulations describe the steps you, as a mining claimant, must take regarding mining claims or sites on the Federal lands under Federal law, to—

- (1) Locate (see part 3832 of this chapter);
- (2) Maintain (see parts 3834 through 3836 of this chapter);
- (3) Amend (see part 3833, subpart B, of this chapter); and
- (4) Transfer (see part 3833, subpart C, and part 3835, subpart B, of this chapter) mining claims or sites on the Federal lands under Federal law.

(b) These regulations apply to—

- (1) Lode and placer mining claims (see part 3832, subpart B, of this chapter);
- (2) Mill sites (see part 3832, subpart C, of this chapter);
- (3) Tunnel sites (see part 3832, subpart D, of this chapter);
- (4) Oil shale claims (see § 3830.92);
- (5) Location of uncommon varieties of mineral materials (see § 3830.12(b));
- (6) Delinquent co-claimants (see part 3837 of this chapter); and
- (7) Mining claims and tunnel sites on Stockraising Homestead Act lands (see part 3838 of this chapter).

(c) In addition to these regulations, there are State law requirements that apply to you. If any State law conflicts with the requirements in these regulations, you must still comply with these regulations. These regulations do not describe State law requirements.

**§ 3830.2 What is the scope of these regulations?**

These regulations govern locating, recording, and maintaining mining claims, mill sites, and tunnel sites on all Federal lands. These regulations do not authorize locating any new mining claims on Federal lands closed to mineral entry, including units of the National Park Service.

### § 3830.3

(a) You must follow the recording and maintenance requirements in this part even if BLM has actual knowledge of the existence of your mining claims or sites through other means.

(b) Part 3838 of this chapter describes supplemental procedures for locating mining claims or sites on land subject to the Stockraising Homestead Act, 43 U.S.C. 291–299.

(c) BLM is not the official recording office for ancillary documents concerning mining claims or sites, including but not limited to, leases, wills, judgments, liens, option agreements, and grubstake contracts.

#### § 3830.3 Who may locate mining claims?

Persons qualified to locate mining claims or sites under this part include:

(a) United States citizens who have reached the age of discretion under the law of their State of residence;

(b) Legal immigrants who have filed an application for citizenship with the proper Federal agency;

(c) Business entities organized under the laws of any state, including but not limited to corporations and partnerships; or

(d) Duly constituted and appointed agents acting on behalf of locator(s) qualified under paragraph (a), (b), or (c) of this section.

#### § 3830.5 Definitions.

*Aliquot part* means a legal subdivision of a section of a township and range, except fractional lots, by division into halves or quarters.

*Amendment* means the act of making a change in a previously recorded mining claim or site as described in § 3833.21 of this chapter.

*Annual FLPMA documents* means either a notice of intent to hold, or an affidavit of assessment work, as prescribed in section 314(a) of FLPMA (43 U.S.C. 1744(a)). The term “proof of labor” (commonly used to describe this document) means the same as “affidavit of assessment work” as used in this part. See parts 3835 and 3836 of this chapter for further information.

*Assessment year* means a period of 12 consecutive months beginning at 12 noon on September 1 each year. See

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part 3836 of this chapter for further information.

*Bench placer claim* means a placer mining claim located on terraces or former floodplains made of gravel or sediment or both on the valley wall or slope above the current riverbed, and created when the river previously was at a higher topographic level than now.

*BLM State Office* means the Bureau of Land Management State Office listed in § 1821.10 of this chapter having jurisdiction over the land in which the mining claims or sites are situated. The Northern District Office in Fairbanks may also receive and accept documents, filings, and fees for mining claims or sites in Alaska.

*Claimant* means the person under state or Federal law who is the owner of all or any part of an unpatented mining claim or site.

*Closed to mineral entry* means the land is not available for the location of mining claims or sites because Congress, BLM, or another surface managing agency has withdrawn or otherwise segregated the lands from the operation of the General Mining Law, often subject to valid existing rights.

*Control* means actual control, legal control, or the power to exercise control, through or by common directors, officers, stockholders, a voting trust, or a holding company or investment company, or any other means. BLM may determine, based on evidence that we find adequate, that a stockholder who is not an officer or director, or who is not a majority shareholder, of a company or corporation exercises control as defined in these regulations.

*Discovery* means that a mining claimant has found a valuable mineral deposit.

*Federal lands* means any lands or interest in lands owned by the United States, subject to location under the General Mining Law, including, but not limited to, those lands within forest reservations in the National Forest System and wildlife refuges in the National Wildlife Refuge System.

*Filed* means a document is—

(a) Received by BLM on or before the due date; or

(b)(1) Postmarked or otherwise clearly identified as sent on or before the

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due date by a *bona fide* mail delivery service, and

(2) Received by the appropriate BLM state office either:

(i) Within 15 calendar days after the due date; or

(ii) On the next business day after the 15th day, if the 15th day is not a business day (see subpart 1822 of this chapter).

*Final certificate* means a form that BLM issues during its processing of a mineral patent application. (In 1999, BLM changed this form from two-part form to a single form that BLM completes toward the end of the patenting process.) The form indicates that BLM has reviewed the mineral patent application and conducted a validity determination and concluded that the applicant has:

(a) Met all of the paperwork requirements;

(b) Published notice of the patent application and received no adverse claims;

(c) Paid the purchase price; and

(d) Discovered a valuable mineral deposit on mining claims or located mill sites on lands that are not mineral-in-character and are properly used or occupied.

*FLPMA* means the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1701 *et seq.*).

*Forfeit* or *forfeiture* means the voidance or invalidation of an unpatented mining claim or site. The terms "abandoned and void", "null and void," "void ab initio" and "forfeited" have the same effect in these regulations.

*General Mining Law* means the Act of May 10, 1872, as amended, (codified as 30 U.S.C. 22–54).

*Gulch placer claim* means a placer claim located on the bed of a river contained within steep, nonmineral canyon walls. The form of the river valley and nonmineral character of the valley walls preclude the location of the claim by aliquot parts and a metes and bounds description is necessary.

*Local recording office* means the county or state government office established under state law where you are usually required to record all legal documents including, but not limited to, deeds and wills.

*Location fee* means the one-time fee that 30 U.S.C. 28g requires you to pay for all new mining claims and sites at the time you record them with BLM. See § 3830.21 for the table of fees.

*Maintenance fee* means the initial or annual fee that 30 U.S.C. 28f requires you to pay to hold and maintain mining claims or sites. See § 3830.21 for the table of fees.

*Metes and bounds* means a method of describing a parcel of land that does not conform to the rectangular U.S. Public Land Survey System, using compass bearings and distances from a known point to a specified point on the parcel and then by using a continuous and sequential set of compass bearings and distances beginning at the point of beginning, continuing along and between the corners or boundary markers of the parcel's outer perimeter, until returning to the point of beginning.

*Mineral-in-character* means land that is known, or can reasonably be inferred from the available geologic evidence, to contain:

(a) Valuable minerals subject to location under the general mining law for purpose of locating mining claims or sites;

(b) Mineral materials for purposes of disposal under part 3600 of this chapter.

*Mineral Leasing Acts* means the Mineral Leasing Act of [February 25,] 1920, as amended (30 U.S.C. 181 *et seq.*); the Geothermal Steam Act of 1970, as amended (30 U.S.C. 1001 *et seq.*); the Mineral Leasing Act for Acquired Lands of 1947, as amended, (30 U.S.C. 351 *et seq.*); and including all Acts referenced in 30 U.S.C. 505. The definition pertains to all minerals that BLM administers under Groups 3100, 3200, 3400, and 3500 of this chapter.

*Mineral materials* means those materials that—

(a) BLM may sell under the Mineral Materials Act of July 31, 1947 (30 U.S.C. 601–604), as amended by the Surface Resources Act of 1955 (30 U.S.C. 601, 603, and 611–615); and

(b) BLM administers under part 3600 of this chapter.

*Multiple Mineral Development Act* means the Act of August 13, 1954, as amended (30 U.S.C. 521–531).

*Nonmineral land* means land that is not mineral-in-character.

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*Open to mineral entry* means that the land is open to the location of mining claims or sites under the General Mining Law.

*Patent* means a document conveying title to Federal surface and/or minerals.

*Recording* means the act of filing a notice or certificate of location with the local recording office and BLM, as required by FLPMA.

*Related party* means:

(a) The spouse and dependent children of the claimant as defined in section 152 of the Internal Revenue Code of 1986; or

(b) A person who controls, is controlled by, or is under common control with the claimant.

*Segregate or segregation* means the Department of the Interior has closed the affected lands to mineral entry or withdrawn the affected lands from mining claim location, land transactions, or other uses as specified in a statute, regulation, or public land order affecting the land in question. The land remains segregated until the statutory period has expired, BLM ends the segregation under § 2091.2-2 of this chapter, or the Department of the Interior removes the notation of segregation from its records, whichever occurs first.

*Service charge* means an administrative fee that BLM assesses under this part to cover the cost of processing documents.

*Site* means either an unpatented mill site authorized under 30 U.S.C. 42 or a tunnel site authorized under 30 U.S.C. 27.

*Small miner* means a claimant who, along with all related parties, holds no more than 10 mining claims or sites on Federal lands on the date annual maintenance fees are due, and meets the additional requirements of part 3835 of this chapter.

*Split estate lands* means that lands where United States owns the mineral estate as part of the public domain, but not the surface.

*Surface Resources Act* means the Act of July 23, 1955 (30 U.S.C. 601, 603, and 611-615).

*Unpatented mining claim* means a lode mining claim or a placer mining claim located and maintained under the Gen-

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eral Mining Law for which BLM has not issued a mineral patent under 30 U.S.C. 29.

### Subpart B—Providing Information to BLM

#### § 3830.8 How will BLM use the information it collects and what does it estimate the burden is on the public?

(a) The Office of Management and Budget has approved the collections of information contained in parts 3830-3838 of this chapter under 44 U.S.C. 3501 *et seq.* and has assigned clearance number 1004-0114.

(b) BLM will use the information collected to:

(1) Keep records of mining claims or sites;

(2) Maintain ownership records to those mining claims or sites;

(3) Determine the geographic location of the mining claims or sites recorded for proper land management purposes; and

(4) Determine which mining claims or sites the claimant wishes to continue to hold under applicable Federal statutes.

(c) BLM estimates that the public reporting burden for this information averages 8 minutes per response. This burden includes time for reviewing instructions, searching existing records, gathering and maintaining the data collected, and completing and reviewing the information collected.

(d) Send any comments on information collection, including your views on the burden estimate and how to reduce the burden, to: the Information Collection Clearance Officer (WO-630), Bureau of Land Management, Eastern States Office, 7450 Boston Boulevard, Springfield, Virginia 22153; and the Office of Management and Budget, Paperwork Reduction Project, 1004-0114, Washington, D.C. 20503.

#### § 3830.9 What will happen if I file a document with BLM that I know contains false, erroneous, or fictitious information or statements?

If you file a document that you know contains false, erroneous, or fictitious information or statements, you may be subject to criminal penalties under 18

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U.S.C. 1001 and 43 U.S.C. 1212. The maximum penalty is 5 years in prison and/or a fine of \$250,000.

**Subpart C—Mining Law Minerals****§ 3830.10 Locatable minerals.****§ 3830.11 Which minerals are locatable under the General Mining Law?**

Minerals are locatable if they are:

- (a) Subject to the General Mining Law;
- (b) Not leasable under the Mineral Leasing Acts; and
- (c) Not salable under the Mineral Materials Act of 1947 and Surface Resources Act of 1955, 30 U.S.C. 601–615 (see parts 3600 through 3620 of this chapter).

**§ 3830.12 What are the characteristics of a locatable mineral?**

(a) Minerals are locatable if they meet the requirements in § 3830.11 and are:

- (1) Recognized as a mineral by the scientific community; and
- (2) Found on Federal lands open to mineral entry.

(b) Under the Surface Resources Act, certain varieties of mineral materials are locatable if they are uncommon because they possess a distinct and special value. As provided in *McClarty v. Secretary of the Interior*, 408 F.2d 907 (9th Cir. 1969), we determine whether mineral materials have a distinct and special value by:

(1) Comparing the mineral deposit in question with other deposits of such minerals generally;

(2) Determining whether the mineral deposit in question has a unique physical property;

(3) Determining whether the unique property gives the deposit a distinct and special value;

(4) Determining whether, if the special value is for uses to which ordinary varieties of the mineral are put, the deposit has some distinct and special value for such use; and

(5) Determining whether the distinct and special value is reflected by the higher price that the material commands in the market place.

(c) Block pumice having one dimension of 2 or more inches is an uncommon variety of mineral material under the Surface Resources Act, and is subject to location under the mining laws.

(d) Limestone of chemical or metallurgical grade, or that is suitable for making cement, is subject to location under the mining laws.

(e) Gypsum suitable for the manufacture of wall board or plaster, or uses requiring a high state of purity, is subject to location under the mining laws.

**Subpart D—BLM Service Charge and Fee Requirements****§ 3830.20 Payment of service charges, location fees, initial maintenance fees, annual maintenance fees and oil shale fees.****§ 3830.21 What are the different types of service charges and fees?**

The following table lists service charges, maintenance fees, location fees, and oil shale fees (all cross-references refer to this chapter):

Transaction	Amount due per mining claim or site	Waiver available
(a) Recording a mining claim or site location (part 3833)	A total sum which includes: (1) The processing fee for notices of location found in the fee schedule in § 3000.12 of this chapter; (2) A one-time \$49 location fee; and (3)(i) For lode claims, mill sites and tunnel sites, an initial \$200 maintenance fee; or (ii) For placer claims, an initial \$200 maintenance fee for each 20 acres of the placer claim or portion thereof.	No.
(b) Amending a mining claim or site location (§ 3833.20)	The processing fee for amendment of location found in the fee schedule in § 3000.12 of this chapter	No.
(c) Transferring a mining claim or site (§ 3833.30)	The processing fee for transfer of mining claim/site found in the fee schedule in § 3000.12 of this chapter	No.

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Transaction	Amount due per mining claim or site	Waiver available
(d) Maintaining a mining claim or site for one assessment year (part 3834)	(1) For lode claims, mill sites and tunnel sites, an annual maintenance fee of \$200 must be paid on or before September 1 each year (2) For placer claims, a \$200 annual maintenance fee for each 20 acres of the placer claim or portion thereof must be paid on or before September 1 each year.	Yes. See part 3835.
(e) Recording an annual FLPMA filing (§ 3835.30)	The processing fee for recording an annual FLPMA filing found in the fee schedule in § 3000.12 of this chapter	No.
(f) Submitting a petition for deferment of assessment work (§ 3836.20)	The processing fee for deferment of assessment work found in the fee schedule in § 3000.12 of this chapter	No.
(g) Maintaining an oil shale placer mining claim (§ 3834.11(b))	An annual \$550 fee	No.
(h) Recording a notice of intent to locate mining claims on Stockraising Homestead Act Lands (part 3838)	The filing fee for recording a notice of intent to locate mining claims on Stock Raising Homestead Act Lands found in the fee schedule in § 3000.12 of this chapter	No.

[74 FR 30961, June 29, 2009, as amended at 77 FR 44158, July 27, 2012; 79 FR 36664, June 30, 2014; 84 FR 31222, July 1, 2019; 89 FR 54367, July 1, 2024]

**§ 3830.22 Will BLM refund service charges or fees?**

(a) BLM will not refund service charges, except for overpayments.

(b) BLM will refund maintenance and location fees if:

(1) At the time you or your predecessor in interest located the mining claim or site, the location was on land not open to mineral entry or otherwise not available for mining claim or site location; or

(2) At the time you paid the fees, the mining claim or site was void.

(c) BLM will apply maintenance and location fee overpayments to future years if you so request.

**§ 3830.23 What types of payment will BLM accept?**

(a) BLM will accept the following types of payments:

(1) U.S. currency;

(2) Postal money order payable in U.S. dollars to the Department of the Interior—Bureau of Land Management;

(3) Check or other negotiable instrument payable in U.S. dollars to the Department of the Interior—Bureau of Land Management;

(4) Valid credit card that is acceptable to the BLM; or

(5) An authorized debit from a declining deposit account with BLM.

(i) You may maintain a declining deposit account with the BLM State Of-

fice where your mining claims or sites are recorded.

(ii) BLM will deduct service charges and fees or add overpayments to the account only when you authorize us to do so.

(b) If the issuing institution of your check, negotiable instrument, or credit card refuses to pay and it is not because the institution made a mistake, BLM will treat the service charges and fees as unpaid.

**§ 3830.24 How do I make payments?**

(a) You or your representative may bring payments to the BLM State Office by close of business on or before the due date.

(b) If you use a credit card—

(1) On or before the due date, you must send or fax a written authorization, bearing your signature; or

(2) You may authorize BLM to use your credit card by telephone if you can satisfactorily establish your identity.

(c) You may send payments using a *bona fide* mail delivery service.

(1) The payment must be postmarked or clearly identified by the mail delivery service as being sent on or before the due date; and

(2) The BLM State Office must receive the payment no later than 15 calendar days after the due date.

**Bureau of Land Management, Interior****§ 3830.93****§ 3830.25 When do I pay for recording a new notice or certificate of location for a mining claim or site?**

You must pay the service charge, location fee, and initial maintenance fee, in full, as provided in § 3830.21 of this chapter, at the time you record new notices or certificates of location with BLM.

**Subpart E—Failure To Comply With These Regulations****§ 3830.90 Failure to comply with these regulations.****§ 3830.91 What happens if I fail to comply with these regulations?**

(a) You will forfeit your mining claims or sites if you fail to—

(1) Record a mining claim or site within 90 days after you locate it;

(2) Pay the location fee or initial maintenance fee within 90 days after you locate it;

(3) Pay the annual maintenance fee on or before the due date;

(4) Submit a small miner waiver request on or before the due date (see § 3835.1) and also fail to pay the annual maintenance fee on or before the due date;

(5) List any claims or sites that you own on your small miner waiver request and fail to pay an annual maintenance fee for the missing claims or sites on or before the due date;

(6) Cure any defects in your timely small miner waiver request or pay the maintenance fee within the allowed time after BLM notifies you of the defects;

(7) File an annual FLPMA filing on or before the due date, as applicable; or

(8) Submit missing documentation or a complete payment after BLM notifies you that a filing or payment you made was defective, within the time allowed in the BLM notice.

(b) You will forfeit your mining claim or site if you locate your mining claim or site on lands closed to mineral entry at the time you locate it.

(c) Even if you forfeit your mining claims or sites, you remain responsible for—

(1) All reclamation and performance requirements imposed by subparts 3802, 3809, or 3814 of this chapter; and

(2) All other legal responsibilities imposed by other agencies or parties who have management authority over surface or subsurface operations.

(d) Under the circumstances described in §§ 3830.93 through 3830.97, you may cure a failure to comply with these regulations.

**§ 3830.92 What special provisions apply to oil placer mining claims?**

(a) Under 30 U.S.C. 188(f), you, as an oil placer mining claimant, may seek to convert an oil placer mining claim to a noncompetitive oil and gas lease under section 17(e) of the Mineral Leasing Act (30 U.S.C. 226(e)), if:

(1) BLM declared your oil placer mining claim abandoned and void under section 314 of FLPMA;

(2) Your failure to comply with section 314 of FLPMA was inadvertent, justifiable, or not due to lack of reasonable diligence;

(3) You or your predecessors in interest validly located the unpatented oil placer mining claim before February 25, 1920;

(4) The claim has been or is currently producing or is capable of producing oil or gas; and

(5) You have submitted a petition asking BLM to issue a noncompetitive oil and gas lease. Your petition must include the required rental and royalty payments, including back rental and royalty accruing from the statutory date of abandonment of the oil placer mining claim.

(b) If BLM chooses to issue a noncompetitive oil and gas lease, the lease will be effective on the date that BLM declared your unpatented oil placer mining claim abandoned and void.

**§ 3830.93 When are defects curable?**

(a) If there is a defect in your compliance with a statutory requirement, the defect is incurable if the statute does not give the Secretary authority to permit exceptions (see §§ 3830.91 and 3833.91 of this chapter). If your payment, recording, or filing has incurable defects, the affected mining claims or sites are statutorily forfeited.

(b) If there is a defect in your compliance with a regulatory, but not statutory, requirement, the defect is curable. You may correct curable defects

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when BLM gives you notice. If you fail to cure the defect within the time BLM allows, you will forfeit your mining claims or sites.

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

### § 3830.94 How may I cure a defect in my compliance with these regulations?

(a)(1) When BLM determines that you have filed any document that is defective or underpaid a fee or service charge, BLM will send a notice to you by certified mail-return receipt requested at the address you gave on:

(i) Your notice or certificate of location;

(ii) An address correction you have filed with BLM; or

(iii) A valid transfer document filed with BLM.

(2) The notice provided for in paragraph (a)(1) of this section constitutes legal service even if you do not actually receive the notice or decision. See § 1810.2 of this chapter.

(b) If you have filed any defective document other than a defective fee waiver request, you must cure the defects within 30 days of receiving BLM's notification of the defects.

(c) If you have submitted a defective fee waiver request, you must cure the defects or pay the annual maintenance fees within 60 days of receiving BLM's notification of the defects.

(d) If BLM does not receive the requested information in the time allowed, or if the matter is statutorily not curable, you will receive a final decision from BLM that you forfeited the affected mining claims or sites.

### § 3830.95 What if I pay only part of the service charges, location fees, or first year maintenance fees for newly-recorded claims or sites?

(a) If you pay only part of the service charges, maintenance fees, or location fees when recording new claims or sites, BLM will—

(1) Assign serial numbers to each mining claim or site;

(2) Treat the partial payment as payment of location and maintenance fees and apply the partial payment to the mining claims or sites in serial number order until the money runs out; and

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(3) Send a notice to you that you must pay any outstanding service charges as described in § 3830.94. For example, BLM will apply the money to cover the location and maintenance fees for as many mining claims or sites as possible. BLM will return any remaining certificates or notices for which we cannot apply full payment of location and maintenance fees. BLM will apply any remaining funds as service charges in serial number order until the money runs out. BLM will then notify you if you must pay any outstanding service charges for mining claims or sites for which you paid location and maintenance fees, as provided in § 3830.94.

(b) If you want to resubmit the new location notices or certificates that BLM returned to you, you must do so with the complete service charges, location fees and maintenance fees within 90 days of the original date of location of the claim or site as defined under state law, or you will forfeit the affected mining claims or sites.

(c) BLM will not record your mining claims or sites until you pay the full amount of all charges and fees for those claims or sites.

### § 3830.96 What if I pay only part of the service charges and fees for oil shale claims or previously-recorded mining claims or sites?

(a) If you pay only part of the service charges due for any document filings or only part of the annual maintenance fees, or oil shale fees, for previously-recorded mining claims or sites, or any combination of these fees and charges, absent other instructions from you, BLM will apply the partial payment in serial number order until the money runs out.

(b) For any claims or sites for which there are no funds in your partial payment to pay the maintenance fees, oil shale fees, or location fees, you will forfeit the mining claims or sites not covered by your partial payment unless you submit the additional funds necessary to complete the full payment by the due date.

(c) For any claims or sites for which there are no funds in your partial payment to pay the service charges, BLM will send a notice to you that you must

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pay the outstanding service charges as described in § 3830.94.

**§ 3830.97 What if I pay only part of the service charges for a notice of intent to locate mining claims on SRHA lands?**

For notices of intent to locate mining claims (NOITL) under the Stockraising Homestead Act (see part 3838 of this chapter for information regarding the Stockraising Homestead Act and NOITLs), BLM will not accept a NOITL unless we receive your payment of the required service charges. BLM will return the NOITL to you without taking any further action. See § 3830.21 of this part for the amount of the service charge for a NOITL.

**Subpart F—Appeals****§ 3830.100 How do I appeal a final decision by BLM?**

If you are adversely affected by a BLM decision under parts 3830–3839, you may appeal the decision in accordance with parts 4 and 1840 of this title.

**PART 3831—MINERAL LANDS AVAILABLE FOR LOCATING MINING CLAIMS OR SITES [RESERVED]****PART 3832—LOCATING MINING CLAIMS OR SITES****Subpart A—Locating Mining Claims or Sites**

Sec.

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- 3832.10 Procedures for locating mining claims or sites.
- 3832.11 How do I locate mining claims or sites?
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AUTHORITY: 30 U.S.C. 22 *et seq.*; 43 U.S.C. 2, 1201, 1457, 1740, 1744.

SOURCE: 68 FR 61069, Oct. 24, 2003, unless otherwise noted.

**Subpart A—Locating Mining Claims or Sites****§ 3832.1 What does it mean to locate mining claims or sites?**

(a) Locating a mining claim or site means:

- (1) Establishing the exterior lines of a mining claim or site on lands open to mineral entry to identify the exact land claimed; and

- (2) Recording a notice or certificate of location as required by state and Federal law and by this part.

(b) You will find—

- (1) Location requirements in this part;

- (2) Recording requirements in part 3833 of this chapter;

- (3) Requirements for transferring an interest in a mining claim or site in § 3833.30 of this chapter; and

- (4) Annual fee requirements for mining claims and sites in parts 3834, 3835, and 3836 of this chapter.

**§ 3832.10 Procedures for locating mining claims or sites.****§ 3832.11 How do I locate mining claims or sites?**

(a) You must follow both state and Federal law.