

43 CFR

RULES AND REGULATIONS

9753

PART 3850—ASSESSMENT WORK

Subpart 3851—Assessment Work; General

- See:
 3851.1 Assessment work;
 expenditures.
 3851.2 Inclusion of surveys in assessment
 work.
 3851.3 Failure to perform assessment
 work.
 3851.4 Determination of right of posses-
 sion between rival claimants.
 3851.5 Failure of a co-owner to contrib-
 ute to annual assessment work.
 3851.6 Annual work not required after
 patent certificate.

Subpart 3852—Deferment of Assessment Work

- 3852.1 Authority.
 3852.2 Conditions under which deferment
 may be granted.
 3852.3 Filing of petition for deferment;
 contests.
 3852.4 Notice of action on petition to be
 recorded.
 3852.5 Period for which deferment may
 be granted.
 3852.6 When deferred assessment work is
 not to be done.

Subpart 3853—Assessment Work;
General

§ 3853.1 Assessment work.

In order to hold the possessory right to a lode or placer location made after May 10, 1872, not less than \$100 worth of labor must be performed or improvements made thereon annually. The period within which the work required to be done shall commence at 12 o'clock noon on the 1st day of September succeeding the date of location of each claim. Where a lode or placer claim is held in common, the annual expenditure that would be necessary to hold all the claims may be made on any one claim. Consecutive locations are held not to be contiguous.

§ 3853.1-1 Expenditures.

The annual expenditure in the amount of \$100, required by section 1.45, 3853.1-30 U.S.C. 261, must be made upon placer as well as lode locations.

§ 3853.1-2 Inclusion of surveys in assess-
ment work.

(a) In addition to the several types of work that may fulfill the annual labor requirement, the requirement can also be satisfied by conducting residential, geochanical and geophysical surveys. B.L. 89-276, Act of September 2, 1959 (72 Stat. 1701; 30 U.S.C. 22-1-2). Such surveys must be conducted by qualified experts and verified by a detailed report filed in the county or recording district office in which the claim is located. This report must set forth fully the following:

(1) The location of the work performed in relation to the point of discovery and boundaries of the claim.

(2) Name, extent and cost of the work performed.

(3) The basic findings of the survey.

(4) The time, address and professional background of the person or persons conducting the work.

Such surveys may not be applied as labor for more than two consecutive

years or for more than a total of five years on any one mining claim. Each survey shall be nonrepetitive of any previous survey of the same claim. Such surveys will not apply toward the statutory provision requiring the expenditure of \$500 for each claim for mineral patent.

(b) As used in this section—

(1) The term "geological surveys" means surveys on the ground for mineral deposits by the proper application of the principles and techniques of the science of geology as they relate to the search for and discovery of mineral deposits;

(2) The term "geochemical surveys" means surveys on the ground for mineral deposits by the proper application of the principles and techniques of the science of chemistry as they relate to the search for and discovery of mineral deposits;

(3) The term "geophysical surveys" means surveys on the ground for mineral deposits through the employment of generally recognized equipment and methods for measuring physical differences between rock types or discontinuities in geological formations;

(4) The term "qualified expert" means an individual qualified by education or experience to conduct geological, geochemical, or geophysical surveys, as the case may be.

§ 3853.1-3 Failure to perform assessment
work.

Failure to make the expenditure or perform the labor required upon a location made before or after May 10, 1872, will subject a claim to relocation unless the original locater, his heirs, assigns, or legal representatives have resumed work after such failure and before relocation.

§ 3853.1-4 Determination of right of
possession between rival claimants.

The annual expenditure of \$100 in labor or improvements on a mining claim, required by section 2634 of the Revised Statutes (30 U.S.C. 231), with the exception of certain approximate placer locations, validated by the act of January 11, 1915 (39 Stat. 531; 30 U.S.C. 131), under which regulations were issued March 21, 1915 (39 Stat. 44 L.D. 45), solely a matter between rival or adverse claimants to the same mineral land, and goes only to the right of possession, the determination of which is committed exclusively to the courts.

§ 3853.1-5 Failure of a co-owner to con-
tribute to annual assessment work.

Upon the failure of any one of several co-owners to contribute his proportion of the required expenditure, the co-owner, who have performed the labor or made the improvements required, may, at the expiration of the year, give such delinquent co-owner notice and notice in writing, or notice by publication in the newspaper published nearest the claim at least once a week for 90 days and if upon the expiration of 90 days after such notice in writing, or upon the expiration of 180 days after the first newspaper publication of notice, the de-

linquent co-owner shall have failed to contribute his proportion to meet such expenditures or improvements, his interest in the claim by law passes to his co-owners who have made the expenditures or improvements as aforesaid. Where a claimant alleges ownership of a forfeited interest under the foregoing provision, the statement of the publisher as to the facts of publication, giving dates, and a printed copy of the notice published, should be furnished, and the claimant must state that the delinquent co-owner failed to contribute his proper proportion within the period fixed by the statute.

§ 3853.1-6 Assessment work not required
after patent certificate.

Annual expenditure is not required subsequent to entry, the date of issuing the patent certificate being the date contemplated by statute.

Subpart 3852—Deferment of
Assessment Work

§ 3852.0-3 Authority.

The act of June 21, 1949 (63 Stat. 214; 30 U.S.C. 235-c), provides for the temporary deferment in certain unavoidable contingencies of the performance of annual assessment work on mining claims held by location in the United States. The relief under this act is in addition to any other relief available under any other act of Congress with respect to the suspension of annual assessment work on mining claims.

§ 3852.1 Conditions under which defer-
ment may be granted.

The deferment may be granted where any mining claim or group of claims in the United States is surrounded by lands over which a right-of-way for the performance of assessment work has been denied or is in litigation or is in the process of acquisition under State law or where other legal impediments exist which affect the right of the claimant to enter upon the surface of such claim or group of claims or to gain access to the boundaries thereof.

§ 3852.2 Filing of petition for defer-
ment, contests.

(a) In order to obtain temporary deferment, the claimant must file with the manager of the land office for the district in which the lands are situated, a petition in duplicate requesting such deferment. No particular form of petition is required, but the applicant must attach to one copy thereof a copy of the notice to the public required by the act which shows that it has been filed or recorded in the office in which the notices or certificates of location were filed or recorded. The petition and duplicate should be signed by at least one of the owners of each of the locations involved, shall give the names of the claimants, dates of location, and the date of the beginning of the one-year period for which deferment is requested. Each petition shall be accompanied by a \$10 nonrefundable service charge.

(b) If the petition is based upon the denial of a right-of-way, it must state