



4310-84-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3000

[L13100000 PP0000 LLWO310000; L1990000 PO0000 LLWO320000]

RIN 1004-AE29

Minerals Management: Adjustment of Cost Recovery Fees

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This final rule amends the Bureau of Land Management (BLM) mineral resources regulations to update some fees that cover the BLM's cost of processing certain documents relating to its minerals programs and some filing fees for mineral-related documents. These updated fees include those for actions such as lease renewals and mineral patent adjudications.

DATES: This final rule is effective October 1, 2012.

ADDRESSES: You may send inquiries or suggestions to Director (630), Bureau of Land Management, 2134LM, 1849 C Street N.W., Washington, D.C., 20240; Attention: RIN 1004-AE29.

FOR FURTHER INFORMATION CONTACT: Steven Wells, Chief, Division of Fluid Minerals, 202-912-7143, or Faith Bremner, Regulatory Affairs Analyst, 202-912-7441. Persons who use a telecommunications device for the deaf (TDD) may leave a message for these individuals with the Federal Information Relay Service (FIRS) at 1-800-877-8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

I. Background

The BLM has specific authority to charge fees for processing applications and other documents relating to public lands under Section 304 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. 1734. In 2005, the BLM published a final cost recovery rule (70 FR 58854) establishing or revising certain fees and service charges, and establishing the method it would use to adjust those fees and service charges on an annual basis.

At 43 CFR 3000.12(a), the regulations provide that the BLM will annually adjust fees established in Subchapter C according to changes in the Implicit Price Deflator for Gross Domestic Product (IPD-GDP), which is published quarterly by the U.S. Department of Commerce. See also 43 CFR 3000.10. This final rule will allow the BLM to update these fees and service charges by October 1 of this year, as required by the 2005 regulation. The fee recalculations are based on a mathematical formula. The public had an opportunity to comment on this procedure during the comment period on the original cost recovery rule, and this new rule simply administers the procedure set forth in those regulations. Therefore, the BLM has changed the fees in this final rule without providing opportunity for additional notice and comment. The Department of the Interior, therefore, for good cause finds under 5 U.S.C. 553(b)(B) and (d)(3) that notice and public comment procedures are unnecessary and that the rule may be effective less than 30 days after publication.

II. Discussion of Final Rule

The BLM publishes a fee update rule each year, which becomes effective on October 1 of that year. The fee updates are based on the change in the IPD-GDP from the 4th Quarter of one calendar year to the 4th Quarter of the following calendar year. This fee update rule is based on the change in the IPD-GDP from the 4th Quarter of 2010 to the 4th Quarter of 2011, thus reflecting the rate of inflation over four calendar quarters.

The fee is calculated by applying the IPD-GDP to the base value from the previous year's rule, also known as the "existing value." This calculation results in an updated base value. The updated base value is then rounded to the closest multiple of \$5, or to the nearest cent for fees under \$1, to establish the new fee.

Under this rule, 31 fees will remain the same and 17 fees will increase. Seven of the fee increases will amount to \$5 each. The largest increase, \$65, will be applied to the fee for adjudicating a mineral patent application containing more than 10 claims, which will increase from \$2,875 to \$2,940. The fee for adjudicating a patent application containing 10 or fewer claims will increase by \$30 – from \$1,440 to \$1,470.

The calculations that resulted in the new fees are included in the table below:

FIXED COST RECOVERY FEES FY13	Existing Fee¹	Existing Value²	IPD-GDP Increase³	New Value⁴	New fee⁵
Document/Action					
Oil & Gas (parts 3100, 3110, 3120, 3130, 3150)					
Noncompetitive lease application	\$ 380	\$ 382.32	\$ 8.33	\$ 390.65	\$ 390
Competitive lease application	150	148.37	3.23	151.60	150
Assignment and transfer of record title or operating rights	85	85.59	1.87	87.46	85
Overriding royalty transfer, payment out of production	10	11.41	0.25	11.66	10
Name change, corporate merger or transfer to heir/devisee	200	199.71	4.35	204.06	205
Lease consolidation	420	422.25	9.21	431.46	430
Lease renewal or exchange	380	382.32	8.33	390.65	390
Lease reinstatement, Class I	75	74.17	1.62	75.79	75
Leasing under right-of-way	380	382.32	8.33	390.65	390
Geophysical exploration permit application — Alaska	25	-----	-----	-----	25 ⁶
Renewal of exploration permit – Alaska	25	-----	-----	-----	25 ⁷
Geothermal (part 3200)					
Noncompetitive lease application	380	382.32	8.33	390.65	390
Competitive lease application	150	148.37	3.23	151.60	150
Assignment and transfer of record title or operating rights	85	85.59	1.87	87.46	85

¹ The Existing Fee was established by the 2011 (Fiscal Year 2012) cost recovery fee update rule published September 23, 2011 (76 FR 59058), effective October 1, 2011.

² The Existing Value is the figure from the New Value column in the previous year's rule.

³ From 4th Quarter 2010 to 4th Quarter 2011, the IPD-GDP increased by 2.18 percent. The value in the IPD-GDP Increase column is 2.18 percent of the Existing Value.

⁴ The sum of the Existing Value and the IPD-GDP Increase is the New Value.

⁵ The New Fee for Fiscal Year 2013 is the New Value rounded to the nearest \$5 for values equal to or greater than \$1, or to the nearest penny for values under \$1.

⁶ Section 365 of the Energy Policy Act of 2005 (Pub. L. 109-58) directed in subsection (i) that “the Secretary shall not implement a rulemaking that would enable an increase in fees to recover additional costs related to processing drilling-related permit applications and use authorizations.” In the 2005 cost recovery rule, the BLM interpreted this prohibition to apply to geophysical exploration permits. 70 FR 58854 – 58855. While the \$25 fees for geophysical exploration permit applications for Alaska and renewals of exploration permits for Alaska pre-dated the 2005 cost recovery rule and were not affected by the Energy Policy Act prohibition, the BLM interprets the Energy Policy Act provision as prohibiting it from increasing this \$25 fee.

⁷ The BLM interprets the Energy Policy Act prohibition discussed in footnote 6, above, as prohibiting it from increasing this \$25 fee, as well.

FIXED COST RECOVERY FEES FY13	Existing Fee¹	Existing Value²	IPD-GDP Increase³	New Value⁴	New fee⁵
Document/Action					
Name change, corporate merger or transfer to heir/devisee	200	199.71	4.35	204.06	205
Lease consolidation	420	422.25	9.21	431.46	430
Lease reinstatement	75	74.17	1.62	75.79	75
Nomination of lands	105	106.82	2.33	109.15	110
plus per acre nomination fee	0.11	0.10682	0.00233	0.10915	0.11
Site license application	55	57.06	1.24	58.30	60
Assignment or transfer of site license	55	57.06	1.24	58.30	60
Coal (parts 3400, 3470)					
License to mine application	10	11.41	0.25	11.66	10
Exploration license application	315	313.84	6.84	320.68	320
Lease or lease interest transfer	65	62.78	1.37	64.15	65
Leasing of Solid Minerals Other Than Coal and Oil Shale (parts 3500, 3580)					
Applications other than those listed below	35	34.24	0.75	34.99	35
Prospecting permit application amendment	65	62.78	1.37	64.15	65
Extension of prospecting permit	105	102.71	2.24	104.95	105
Lease modification or fringe acreage lease	30	28.54	0.62	29.16	30
Lease renewal	490	490.74	10.70	501.44	500
Assignment, sublease, or transfer of operating rights	30	28.54	0.62	29.16	30
Transfer of overriding royalty	30	28.54	0.62	29.16	30
Use permit	30	28.54	0.62	29.16	30
Shasta and Trinity hardrock mineral lease	30	28.54	0.62	29.16	30
Renewal of existing sand and gravel lease in Nevada	30	28.54	0.62	29.16	30
Multiple Use; Mining (part 3700)					
Notice of protest of placer mining operations	10	11.41	0.25	11.66	10
Mining Law Administration (parts 3800, 3810, 3830, 3850, 3860, 3870)					
Application to open lands to location	10	11.41	0.25	11.66	10
Notice of location	15	17.11	0.37	17.48	15
Amendment of location	10	11.41	0.25	11.66	10
Transfer of mining claim/site	10	11.41	0.25	11.66	10
Recording an annual FLPMA filing	10	11.41	0.25	11.66	10
Deferment of assessment work	105	102.71	2.24	104.95	105
Recording a notice of intent to locate mining claims on Stockraising Homestead Act lands	30	28.54	0.62	29.16	30
Mineral patent adjudication					
(more than 10 claims)	2,875	2,875.95	62.70	2,938.65	2,940
(10 or fewer claims)	1,440	1,437.96	31.35	1,469.31	1,470
Adverse claim	105	102.71	2.24	104.95	105

FIXED COST RECOVERY FEES FY13	Existing Fee¹	Existing Value²	IPD-GDP Increase³	New Value⁴	New fee⁵
Document/Action					
Protest	65	62.78	1.37	64.15	65
Oil Shale Management (parts 3900, 3910, 3930)					
Exploration license application	300	301.02	6.56	307.58	310
Application for assignment or sublease of record title or overriding royalty	60	61.23	1.33	62.56	65

Source for Implicit Price Deflator for Gross Domestic Product data: U.S. Department of Commerce, Bureau of Economic Analysis (April 27, 2012).

III. How Fees Are Adjusted

Each year, the figures in the Existing Value column in the table above (not those in the Existing Fee column) are used as the basis for calculating the adjustment to these fees. The Existing Value is the figure from the New Value column in the previous year's rule. In the case of fees that were not in the table the previous year, or that had no figure in the New Value column the previous year, the Existing Value is the same as the Existing Fee. Because the new fees are derived from the new values—rounded to the nearest \$5 or the nearest penny for fees under \$1—adjustments based on the figures in the Existing Fee column would lead to significantly over- or under-valued fees over time. Accordingly, fee adjustments are made by multiplying the annual change in the IPD-GDP by the figure in the Existing Value column. This calculation defines the New Value for this year, which is then rounded to the nearest \$5 or the nearest penny for fees under \$1, to establish the New Fee.

IV. Procedural Matters

Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and the Office of Management and Budget has not reviewed this rule under Executive Order 12866.

The BLM has determined that the rule will not have an annual effect on the economy of \$100 million or more. It will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The changes in today's rule are much smaller than those in the 2005 final rule, which did not approach the threshold in Executive Order 12866. For instructions on how to view a copy of the analysis prepared in conjunction with the 2005 final rule, please contact one of the persons listed in the **FOR FURTHER INFORMATION CONTACT** section above.

This rule will not create inconsistencies or otherwise interfere with an action taken or planned by another agency. This rule does not change the relationships of the onshore minerals programs with other agencies' actions. These relationships are included in agreements and memoranda of understanding that would not change with this rule.

In addition, this final rule does not materially affect the budgetary impact of entitlements, grants, or loan programs, or the rights and obligations of their recipients. This rule does apply an inflation factor that increases some existing user fees for processing documents associated with the onshore minerals programs. However, most of these fee increases are less than 3 percent and none of the increases materially affect the budgetary impact of user fees.

Finally, this rule will not raise novel legal issues. As explained above, this rule simply implements an annual process to account for inflation that was adopted by and explained in the 2005 cost recovery rule.

The Regulatory Flexibility Act

This final rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). A Regulatory Flexibility Analysis is not required. Accordingly, a Small Entity Compliance Guide is not required. For the purposes of this section, a small entity is defined by the Small Business Administration (SBA) for mining (broadly inclusive of metal mining, coal mining, oil and gas extraction, and the mining and quarrying of nonmetallic minerals) as an individual, limited partnership, or small company considered to be at arm's length from the control of any parent companies, with fewer than 500 employees. The SBA defines a small entity differently, however, for leasing Federal land for coal mining. A coal lessee is a small entity if it employs not more than 250 people, including people working for its affiliates.

The SBA would consider many, if not most, of the operators the BLM works with in the onshore minerals programs to be small entities. The BLM notes that this final rule does not affect service industries, for which the SBA has a different definition of “small entity.”

The final rule may affect a large number of small entities since 17 fees for activities on public lands will be increased. However, the BLM has concluded that the effects will not be significant. Most of the fixed fee increases will be less than 3 percent as a result of this final rule. The adjustments result in no increase in the fee for the

processing of 31 documents relating to the BLM’s minerals programs. The highest adjustment, in dollar terms, is for adjudications of mineral patent applications involving more than 10 mining claims, which will be increased by \$65. For the 2005 final rule, the BLM completed a threshold analysis, which is available for public review in the administrative record for that rule. For instructions on how to view a copy of that analysis, please contact one of the persons listed in the **FOR FURTHER INFORMATION CONTACT** section above. The analysis for the 2005 rule concluded that the fees would not have a significant economic effect on a substantial number of small entities. The fee increases implemented in today’s rule are substantially smaller than those provided for in the 2005 rule.

The Small Business Regulatory Enforcement Fairness Act

This final rule is not a “major rule” as defined at 5 U.S.C. 804(2). The final rule will not have an annual effect on the economy greater than \$100 million; it will not result in major cost or price increases for consumers, industries, government agencies, or regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. For the 2005 final rule, which established the fee adjustment procedure that this rule implements, the BLM completed a threshold analysis, which is available for public review in the administrative record for that rule. The fee increases implemented in today’s rule are substantially smaller than those provided for in the 2005 rule.

Executive Order 13132, Federalism

This final rule will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. In accordance with Executive Order 13132, therefore, we find that the final rule does not have significant federalism effects. A federalism assessment is not required.

The Paperwork Reduction Act of 1995

These regulations contain information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the BLM submitted a copy of the proposed information collection requirements to the Office of Management and Budget (OMB) for review. The OMB approved the information collection requirements under the following Control Numbers:

Oil and Gas

- (1) 1004-0034 which expires July 31, 2015;
- (2) 1004-0137 which expires October 31, 2014;
- (3) 1004-0162 which expires July 31, 2015;
- (4) 1004-0185 which expires November 30, 2012;

Geothermal

- (5) 1004-0132 which expires December 31, 2013;

Coal

- (6) 1004-0073 which expires June 30, 2013;

Mining Claims

- (7) 1004-0025 which expires March 31, 2013;
- (8) 1004-0114 which expires August 31, 2013; and

Leasing of Solid Minerals Other Than Oil Shale

- (9) 1004-0121 which expires February 28, 2013.

Takings Implication Assessment (Executive Order 12630)

As required by Executive Order 12630, the BLM has determined that this rule will not cause a taking of private property. No private property rights will be affected by

a rule that merely updates fees. The BLM therefore certifies that this final rule does not represent a governmental action capable of interference with constitutionally protected property rights.

Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the BLM finds that this final rule will not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Executive Order.

The National Environmental Policy Act (NEPA)

The BLM has determined that this final rule is administrative and involves only procedural changes addressing fee requirements. In promulgating this rule, the government is conducting routine and continuing government business of an administrative nature having limited context and intensity. Therefore, it is categorically excluded from environmental review under section 102(2)(C) of NEPA, pursuant to 43 CFR 46.205 and 46.210(c) and (i). The final rule does not meet any of the 12 criteria for exceptions to categorical exclusions listed at 43 CFR 46.215.

Pursuant to Council on Environmental Quality (CEQ) regulation and the environmental policies and procedures of the Department of the Interior, the term “categorical exclusions” means categories of actions “which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of [CEQ] regulations (§1507.3) and for which, therefore, neither an environmental assessment nor an environmental impact statement is required.” 40 CFR

1508.4; see also BLM National Environmental Policy Act Handbook H-1790-1, Ch. 4, at 17 (Jan. 2008).

The Unfunded Mandates Reform Act of 1995

The BLM has determined that this final rule is not significant under the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 et seq., because it will not result in State, local, private sector, or tribal government expenditures of \$100 million or more in any one year, 2 U.S.C. 1532. This rule will not significantly or uniquely affect small governments. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act.

Consultation and Coordination with Indian Tribal Governments (Executive Order 13175)

In accordance with Executive Order 13175, the BLM has determined that this final rule does not include policies that have tribal implications. A key factor is whether the rule would have substantial direct effects on one or more Indian tribes. The BLM has not found any substantial direct effects. Consequently, the BLM did not utilize the consultation process set forth in Section 5 of the Executive Order.

Information Quality Act

In developing this rule, the BLM did not conduct or use a study, experiment, or survey requiring peer review under the Information Quality Act (Pub. L. 106-554).

Effects on the Nation's Energy Supply (Executive Order 13211)

In accordance with Executive Order 13211, the BLM has determined that this final rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The distribution of or use of energy would not be unduly affected by this

final rule. It merely adjusts certain administrative cost recovery fees to account for inflation.

Author

The principal author of this rule is Faith Bremner of the Division of Regulatory Affairs, Bureau of Land Management.

List of Subjects in 43 CFR Part 3000

Public lands--mineral resources, Reporting and recordkeeping requirements.

Marcilynn A. Burke
Acting Assistant Secretary
Land and Minerals Management

For reasons stated in the preamble, the Bureau of Land Management amends 43 CFR Chapter II as follows:

PART 3000 – MINERALS MANAGEMENT: GENERAL

1. The authority citation for part 3000 continues to read as follows:

Authority: 16 U.S.C. 3101 et seq.; 30 U.S.C. 181 et seq., 301–306, 351–359, and 601 et seq.; 31 U.S.C. 9701; 40 U.S.C. 471 et seq.; 42 U.S.C. 6508; 43 U.S.C. 1701 et seq.; and Pub. L. 97–35, 95 Stat. 357.

Subpart 3000 – General

2. Amend § 3000.12 by revising paragraph (a) to read as follows:

§ 3000.12 What is the fee schedule for fixed fees?

(a) The table in this section shows the fixed fees that you must pay to the BLM for the services listed for Fiscal Year 2013. These fees are nonrefundable and must be included with documents you file under this chapter. Fees will be adjusted annually according to the change in the Implicit Price Deflator for Gross Domestic Product (IPD-GDP) by way of publication of a final rule in the Federal Register and will subsequently be posted on the BLM Web site (<http://www.blm.gov>) before October 1 each year. Revised fees are effective each year on October 1.

FY 2013 PROCESSING AND FILING FEE TABLE

Document/Action	FY 2013 Fee
Oil & Gas (parts 3100, 3110, 3120, 3130, 3150)	
Noncompetitive lease application	\$390
Competitive lease application	150
Assignment and transfer of record title or operating rights	85
Overriding royalty transfer, payment out of production	10
Name change, corporate merger or transfer to heir/devisee	205
Lease consolidation	430
Lease renewal or exchange	390
Lease reinstatement, Class I	75
Leasing under right-of-way	390

Document/Action	FY 2013 Fee
Geophysical exploration permit application – Alaska	25
Renewal of exploration permit – Alaska	25
Geothermal (part 3200)	
Noncompetitive lease application	390
Competitive lease application	150
Assignment and transfer of record title or operating rights	85
Name change, corporate merger or transfer to heir/devisee	205
Lease consolidation	430
Lease reinstatement	75
Nomination of lands	110
plus per acre nomination fee	0.11
Site license application	60
Assignment or transfer of site license	60
Coal (parts 3400, 3470)	
License to mine application	10
Exploration license application	320
Lease or lease interest transfer	65
Leasing of Solid Minerals Other Than Coal and Oil Shale (parts 3500, 3580)	
Applications other than those listed below	35
Prospecting permit application amendment	65
Extension of prospecting permit	105
Lease modification or fringe acreage lease	30
Lease renewal	500
Assignment, sublease, or transfer of operating rights	30
Transfer of overriding royalty	30
Use permit	30
Shasta and Trinity hardrock mineral lease	30
Renewal of existing sand and gravel lease in Nevada	30
Multiple Use; Mining (part 3730)	
Notice of protest of placer mining operations	10
Mining Law Administration (parts 3800, 3810, 3830, 3850, 3860, 3870)	

Document/Action	FY 2013 Fee
Application to open lands to location	10
Notice of location*	15
Amendment of location	10
Transfer of mining claim/site	10
Recording an annual FLPMA filing	10
Deferment of assessment work	105
Recording a notice of intent to locate mining claims on Stockraising Homestead Act lands	30
Mineral patent adjudication	2,940 (more than 10 claims) 1,470 (10 or fewer claims)
Adverse claim	105
Protest	65
Oil Shale Management (parts 3900, 3910, 3930)	
Exploration license application	310
Application for assignment or sublease of record title or overriding royalty	65

*To record a mining claim or site location, you must pay this processing fee along with the initial maintenance fee and the one-time location fee required by statute. 43 CFR part 3833.

* * * * *

[FR Doc. 2012-22217 Filed 09/07/2012 at 8:45 am; Publication Date: 09/10/2012]