



4310-84-P

**DEPARTMENT OF THE INTERIOR**

**Bureau of Land Management**

**43 CFR Part 3000**

**[16X.LLWO310000.L13100000.PP0000]**

**RIN 1004-AE47**

**Minerals Management: Adjustment of Cost Recovery Fees**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Final rule.

**SUMMARY:** This final rule updates the fees set forth in the Bureau of Land Management (BLM) mineral resources regulations for the processing of certain minerals program-related actions. It also adjusts certain filing fees for minerals-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, 2016.

**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-AE47.

**FOR FURTHER INFORMATION CONTACT:** Steven Wells, Chief, Division of Fluid Minerals, 202-912-7143; Mitchell Leverette, Chief, Division of Solid Minerals, 202-912-7113; or Mark Purdy, Regulatory Affairs, 202-912-7635. 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's minerals program published a final cost recovery rule (70 FR 58854) establishing or revising fees and service charges imposed in connection with the processing of certain minerals program-related actions (2005 Cost Recovery Rule). In addition to establishing the fees and charges, the 2005 Cost Recovery Rule also established the method the BLM 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 (43 CFR parts 3000-3900) 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 updates those fees and service charges consistent with that direction. The fee adjustments in this rule are based on the mathematical formula set forth in the 2005 Cost Recovery Rule. The public had an opportunity to comment on that adjustment procedure as part of the 2005 rulemaking. Accordingly, the Department of the Interior 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 fee adjustments in this rule may be effective less than 30 days after publication. See 43 CFR 3000.10(c).

## **II. Discussion of Final Rule**

The BLM's minerals program publishes a fee update rule each year, which becomes effective on October 1. As set forth in the 2005 Cost Recovery Rule, the fee updates are based on the change in the IPD-GDP from the 4<sup>th</sup> Quarter of one calendar year to the 4<sup>th</sup> Quarter of the following calendar year. In this case, the fee update rule is based on the change in the IPD-GDP from the 4<sup>th</sup> Quarter of 2014 to the 4<sup>th</sup> Quarter of 2015 and reflects 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 for fees equal to or greater than \$1, or to the nearest cent for fees under \$1, to establish the new fee.

Under this rule, 30 fees will remain the same and 18 fees will increase. Of the 18 fees that are being increased by this rule, 15 of the increases are equal to \$5 each. The largest increase, \$35, will be applied to the fee for adjudicating a mineral patent application containing more than 10 claims, which will increase from \$3,075 to \$3,110. The fee for adjudicating a patent application containing 10 or fewer claims will increase by \$20, from \$1,535 to \$1,555. The "plus per acre nomination fee" for geothermal development will increase from \$0.11 to \$0.12.

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

<b>FIXED COST RECOVERY FEES FY17</b>	<b>Existing Fee<sup>1</sup></b>	<b>Existing Value<sup>2</sup></b>	<b>IPD-GDP Increase<sup>3</sup></b>	<b>New Value<sup>4</sup></b>	<b>New fee<sup>5</sup></b>
<b>Document/Action</b>					
<b>Oil &amp; Gas (parts 3100, 3110, 3120, 3130, 3150)</b>					
Noncompetitive lease application	\$ 410	\$ 408.656	\$ 4.5770	\$ 413.2334	\$ 415
Competitive lease application	160	158.591	1.7762	160.3668	160
Assignment and transfer of record title or operating rights	90	91.486	1.0246	92.5106	95
Overriding royalty transfer, payment out of production	10	12.196	0.1366	12.3326	10
Name change, corporate merger or transfer to heir/devisee	215	213.467	2.3908	215.8580	215
Lease consolidation	450	451.337	5.0550	456.3921	455
Lease renewal or exchange	410	408.656	4.5770	413.2334	415
Lease reinstatement, Class I	80	79.279	0.8879	80.1672	80
Leasing under right-of-way	410	408.656	4.5770	413.2334	415
Geophysical exploration permit application - Alaska <sup>6</sup>	25	-----	-----	-----	25
Renewal of exploration permit - Alaska <sup>7</sup>	25	-----	-----	-----	25

<sup>1</sup> The Existing Fee was established by the 2015 (Fiscal Year 2016) cost recovery fee update rule published September 30, 2015 (80 FR 58625), effective October 1, 2015.

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

<sup>3</sup> From 4<sup>th</sup> Quarter 2014 (109.067) to 4<sup>th</sup> Quarter 2015 (110.286), the IPD-GDP increased by 1.12 percent. The value in the IPD-GDP Increase column is 1.12 percent of the Existing Value.

<sup>4</sup> The sum of the Existing Value and the IPD-GDP Increase is the New Value.

<sup>5</sup> The New Fee for Fiscal Year 2016 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.

<sup>6</sup> 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.

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

<b>FIXED COST RECOVERY FEES FY17</b>	<b>Existing Fee<sup>1</sup></b>	<b>Existing Value<sup>2</sup></b>	<b>IPD-GDP Increase<sup>3</sup></b>	<b>New Value<sup>4</sup></b>	<b>New fee<sup>5</sup></b>
<b>Document/Action</b>					
<b>Geothermal (part 3200)</b>					
Noncompetitive lease application	410	408.6565	4.5770	413.2334	415
Competitive lease application	160	158.5906	1.7762	160.3668	160
Assignment and transfer of record title or operating right	90	91.4859	1.0246	92.5106	95
Name change, corporate merger or transfer to heir/devisee	215	213.4672	2.3908	215.8580	215
Lease consolidation	450	451.3371	5.0550	456.3921	455
Lease reinstatement	80	79.2793	0.8879	80.1672	80
Nomination of lands	115	114.1784	1.2788	115.4572	115
Plus per acre nomination fee	0.11	0.11418	0.0013	0.1155	0.12
Site license application	60	60.9906	0.6831	61.6737	60
Assignment or transfer of site license	60	60.9906	0.6831	61.6737	60
<b>Coal (parts 3400, 3470)</b>					
License to mine application	10	12.1960	0.1366	12.3326	10
Exploration license application	335	335.4592	3.7571	339.2163	340
Lease or lease interest transfer	65	67.1047	0.7516	67.8562	70
<b>Leasing of Solid Minerals Other Than Coal and Oil Shale (parts 3500, 3580)</b>					
Applications other than those listed below	35	36.5987	0.4099	37.0086	35
Prospecting permit amendment	65	67.1047	0.7516	67.8562	70
Extension of prospecting permit	110	109.7853	1.2296	111.0149	110
Lease modification or fringe acreage lease	30	30.5060	0.3417	30.8477	30
Lease renewal	525	524.5451	5.8749	530.4200	530
Assignment, sublease, or transfer of operating rights	30	30.5060	0.3417	30.8477	30
Transfer of overriding royalty	30	30.5060	0.3417	30.8477	30
Use permit	30	30.5060	0.3417	30.8477	30
Shasta and Trinity hardrock mineral lease	30	30.5060	0.3417	30.8477	30
Renewal of existing sand and gravel lease in Nevada	30	30.5060	0.3417	30.8477	30
<b>Multiple Use; Mining (Group 3700)</b>					
Notice of protest of placer mining operations	10	12.1960	0.1366	12.3326	15
<b>Mining Law Administration (parts 3800, 3810, 3830, 3850, 3860, 3870)</b>					
Application to open lands to location	10	12.1960	0.1366	12.3326	10

<b>FIXED COST RECOVERY FEES FY17</b>	<b>Existing Fee<sup>1</sup></b>	<b>Existing Value<sup>2</sup></b>	<b>IPD-GDP Increase<sup>3</sup></b>	<b>New Value<sup>4</sup></b>	<b>New fee<sup>5</sup></b>
<b>Document/Action</b>					
Notice of Location	20	18.2886	0.2048	18.4935	20
Amendment of location	10	12.1960	0.1366	12.3326	10
Transfer of mining claim/site	10	12.1960	0.1366	12.3326	10
Recording an annual FLPMA filing	10	12.1960	0.1366	12.3326	10
Deferment of assessment work	110	109.7853	1.2296	111.0149	110
Recording a notice of intent to locate mining claims on Stockraising Homestead Act lands	30	30.5060	0.3417	30.8477	30
Mineral Patent adjudication (more than ten claims)	3,075	3,074.0626	34.4295	3108.4921	3,110
(ten or fewer claims)	1,535	1,537.0153	17.2146	1,554.2298	1,555
Adverse claim	110	109.7853	1.2296	111.0149	110
Protest	65	67.1047	0.7516	67.8562	70
<b>Oil Shale Management (parts 3900, 3910, 3930)</b>					
Exploration License Application	320	321.7561	3.6037	325.3597	325
Assignment or sublease of record title or overriding royalty	65	65.4479	0.7330	66.1809	65

Source for Implicit Price Deflator for Gross Domestic Product data: U.S. Department of Commerce, Bureau of Economic Analysis (March 25, 2016).

### **III. How Fees Are Adjusted**

The figures in the Existing Fee column in the table above represent the base value of the existing fee (shown in the Existing Value column) rounded to the closest multiple of \$5 for fees equal to or greater than \$1, or to the nearest cent for fees under \$1. In calculating the annual adjustment to the fee, however, the BLM begins with the unrounded base fee, represented in the Existing Value column. 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 rounding the new values to the closest multiple of \$5 for fees equal to or

greater than \$1, or to the nearest cent 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 for fees equal to or greater than \$1, 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 will 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 applies an inflationary adjustment factor to existing user fees for processing certain actions associated with the onshore minerals programs. However, most of these fee increases are less than 2 percent, and none of the increases materially affects the budgetary impact of any of the affected fees or charges.

Finally, this rule will not raise novel legal or policy 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.). As a result a Regulatory Flexibility Analysis is not required. The Small Business Administration defines small entities as individual, limited partnerships, or small companies considered to be at arm's length from the control of any parent companies if they meet the following size requirements as established for each North American Industry Classification System (NAICS) code:

- Iron ore mining (NAICS code 212210): 750 or fewer employees
- Gold ore mining (NAICS code 212221): 1,500 or fewer employees
- Silver ore mining (NAICS code 212222): 250 or fewer employees
- Lead ore mining (NAICS code 212231): 750 or fewer employees
- Copper ore mining (NAICS code 212234): 1,500 or fewer employees

- Uranium-Radium-Vanadium ore mining (NAICS code 212291): 250 or fewer employees
- All Other Metal ore mining (NAICS code 212299): 750 or fewer employees
- Bituminous Coal and Lignite Surface Mining (NAICS code 212111) – 1,250 or fewer employees
- Bituminous Coal Underground Mining (NAICS code 212112) – 1,500 or fewer employees
- Crude Petroleum and Natural Gas Extraction (NAICS code 211111) – 1,250 or fewer employees
- Natural Gas Liquid Extraction (NAICS code 211112) – 750 or fewer employees
- All Other Non-Metallic Mineral Mining (NAICS code 212399) – 500 or fewer employees

The SBA standards were adjusted as of February 26, 2016, per 13 CFR 121.104.

The SBA would consider many, if not most, of the operators with whom the BLM works 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 because 18 fees for activities on public lands will be increased. However, most of the fee increases will be less than 2 percent. The adjustments result in no increase in the fees for processing 30 actions 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; that fee will increase by \$35. Accordingly, the BLM has concluded that the economic effect of the rule's changes will not be significant, even for small entities. For the 2005 Cost Recovery Rule, the BLM completed a Regulatory Flexibility Act 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. Accordingly, a Small Entity Compliance Guide is not required.

#### 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, the BLM therefore finds that the final rule does not have federalism implications, and a federalism assessment is not required.

## The Paperwork Reduction Act of 1995

This rule does not contain information collection requirements that require a control number from the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521). After the effective date of this rule, the new fees may affect the non-hour burdens associated with the following control numbers:

### Oil and Gas

- (1) 1004-0034 which expires July 31, 2018;
- (2) 1004-0137 which expires January 31, 2018;
- (3) 1004-0162 which expires October 31, 2018;
- (4) 1004-0185 which expires March 31, 2019;

### Geothermal

- (5) 1004-0132 which expires December 31, 2016;

### Coal

- (6) 1004-0073 which expires August 31, 2016<sup>8</sup>;

### Mining Claims

- (7) 1004-0025 which expires March 31, 2019;
- (8) 1004-0114 which expires October 31, 2016; and

### Leasing of Solid Minerals Other Than Oil Shale

- (9) 1004-0121 which expires August 31, 2016.<sup>8</sup>

## Takings Implication Assessment (Executive Order 12630)

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<sup>8</sup> A request for renewal is pending with the Office of Management and Budget.

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 qualifies as a routine financial transaction and a regulation of an administrative, financial, legal, or procedural nature that is categorically excluded from environmental review under 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. Therefore, neither an environmental assessment nor an environmental impact statement is required in connection with the rule (40 CFR 1508.4).

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. Specifically, the rule would not have substantial direct effects on one or more Indian tribes. 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 (Public Law 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. It merely adjusts certain administrative cost recovery fees to account for inflation.

Author

The principal author of this rule is Mark Purdy 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.

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Amanda C. Leiter

Acting Assistant Secretary

Land and Minerals Management

For reasons stated in the preamble, the Bureau of Land Management amends 43 CFR part 3000 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 2017. 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 2017 PROCESSING AND FILING FEE TABLE**

<b>Document/Action</b>	<b>FY 2017 Fee</b>
<b>Oil &amp; Gas (parts 3100, 3110, 3120, 3130, 3150)</b>	
Noncompetitive lease application	\$415
Competitive lease application	160
Assignment and transfer of record title or operating rights	95
Overriding royalty transfer, payment out of production	10
Name change, corporate merger or transfer to heir/devisee	215
Lease consolidation	455
Lease renewal or exchange	415
Lease reinstatement, Class I	80
Leasing under right-of-way	415
Geophysical exploration permit application – Alaska	25
Renewal of exploration permit – Alaska	25
<b>Geothermal (part 3200)</b>	
Noncompetitive lease application	415
Competitive lease application	160
Assignment and transfer of record title or operating rights	95
Name change, corporate merger or transfer to heir/devisee	215
Lease consolidation	455
Lease reinstatement	80
Nomination of lands	115
plus per acre nomination fee	0.12
Site license application	60
Assignment or transfer of site license	60
<b>Coal (parts 3400, 3470)</b>	
License to mine application	10
Exploration license application	340
Lease or lease interest transfer	70

<b>Document/Action</b>	<b>FY 2017 Fee</b>
<b>Leasing of Solid Minerals Other Than Coal and Oil Shale (parts 3500, 3580)</b>	
Applications other than those listed below	35
Prospecting permit application amendment	70
Extension of prospecting permit	110
Lease modification or fringe acreage lease	30
Lease renewal	530
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
<b>Public Law 359; Mining in Powersite Withdrawals: General (part 3730)</b>	
Notice of protest of placer mining operations	15
<b>Mining Law Administration (parts 3800, 3810, 3830, 3850, 3860, 3870)</b>	
Application to open lands to location	10
Notice of location*	20
Amendment of location	10
Transfer of mining claim/site	10
Recording an annual FLPMA filing	10
Deferment of assessment work	110
Recording a notice of intent to locate mining claims on Stockraising Homestead Act lands	30
Mineral patent adjudication	3,110 (more than 10 claims)  1,555 (10 or fewer claims)
Adverse claim	110
Protest	70
<b>Oil Shale Management (parts 3900, 3910, 3930)</b>	
Exploration license application	325

<b>Document/Action</b>	<b>FY 2017 Fee</b>
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.

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[FR Doc. 2016-22841 Filed: 9/22/2016 8:45 am; Publication Date: 9/23/2016]