



DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3000

[212L1109AF.LLHQ300000.L13100000.PP0000]

RIN 1004-AE81

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 on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may send inquiries or suggestions to Director (630), Bureau of Land Management, 760 Horizon Drive, Grand Junction, CO 81506; Attention: RIN 1004-AE81.

FOR FURTHER INFORMATION CONTACT: Sheila Mallory, Acting Chief, Division of Fluid Minerals, 775-287-3293, smallory@blm.gov; Lindsey Curnutt, Chief, Division of Solid Minerals, 775-824-2910, lcurnutt@blm.gov; or Faith Bremner, Regulatory Analyst, Division of Regulatory Affairs, fbremner@blm.gov. Persons who use a telecommunications device for the deaf (TDD) may leave a message for these individuals with the Federal Relay Service (FRS) at 1-800-877-8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

I. Background

The BLM has 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) that established new fees or revised fees and service charges for processing documents related to its minerals programs (“2005 Cost Recovery Rule”). In addition, the 2005 Cost Recovery Rule also established the method the BLM would use to adjust those fees and service charges for inflation on an annual basis.

The regulations at 43 CFR 3000.12(a) 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 final 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 final rule may be effective less than 30 days after publication. See 43 CFR 3000.10(c).

II. Discussion of Final Rule

As set forth in the 2005 Cost Recovery Rule, the fee updates are based on the change in the IPD-GDP. The BLM’s minerals program publishes the updated cost recovery fees annually, at the start of each fiscal year (FY).

This final rule updates the current (FY 2021) cost recovery fees for use in FY 2022. The current fees were set by the cost recovery fee rule published on October 9, 2020 (85 FR 64056), effective October 9, 2020. The update in this final rule adjusts the FY 2021 fees based on the change in the IPD-GDP from the 4th Quarter of 2019 to the 4th Quarter of 2020.

Under this final rule, 33 fees will remain the same and 15 fees will increase. Of the 15 fees that are being increased by this final rule, 12 fees will increase by \$5 each, and one fee will increase by \$10. The largest increase, \$45, will be applied to the fee for adjudicating a mineral patent application containing more than 10 claims, which will increase from \$3,340 to \$3,385. The fee for adjudicating a patent application containing 10 or fewer claims will increase by \$20, from \$1,670 to \$1,690. It is important to note that the “real” values of the fees are not actually increasing, since real values account for the effect of inflation. In real terms, the values of the fees are simply being adjusted to account for the changes in the prices of goods and services produced in the United States.

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

FIXED COST RECOVERY FEES	Existing Fee¹ (FY 2021)	Existing Value²	IPD-GDP Increase³	New Value⁴	New Fee⁵ (FY 2022)
Oil & Gas (parts 3100, 3110, 3120, 3130, 3150)					
Noncompetitive lease application	\$ 445	\$ 444.321	\$ 5.598	\$ 449.919	\$ 450
Competitive lease application	170	172.431	2.172	174.603	175
Assignment and transfer of record title or operating rights	100	99.470	1.253	100.723	100
Overriding royalty transfer, payment out of production	15	13.260	0.167	13.427	15
Name change, corporate merger or transfer to heir/devisee	230	232.096	2.924	235.020	235
Lease consolidation	490	490.726	6.183	496.909	495
Lease renewal or exchange	445	444.321	5.598	449.919	450
Lease reinstatement, Class I	85	86.197	1.086	87.283	85
Leasing under right-of-way	445	444.321	5.598	449.919	450
Geophysical exploration permit application - Alaska	25	27.142	0.341	27.483	25
Renewal of exploration permit - Alaska	25	27.142	0.341	27.483	25
Geothermal (part 3200)					
Noncompetitive lease application	445	444.321	5.598	449.919	450
Competitive lease application	170	172.431	2.172	174.603	175
Assignment and transfer of record title or operating right	100	99.470	1.253	100.723	100
Name change, corporate merger or transfer to heir/devisee	230	232.096	2.924	235.020	235
Lease consolidation	490	490.726	6.183	496.909	495
Lease reinstatement	85	86.197	1.086	87.283	85
Nomination of lands	125	124.143	1.564	125.707	125
Plus per acre nomination fee	0.12	0.122	0.001	0.123	0.12
Site license application	65	66.313	0.835	67.148	65
Assignment or transfer of site license	65	66.313	0.835	67.148	65
Coal (parts 3400, 3470)					
License to mine application	15	13.260	0.167	13.427	15
Exploration license application	365	364.735	4.595	369.330	370
Lease or lease interest transfer	75	72.960	0.919	73.879	75

¹ The Existing Fee was established by the 2020 (FY 2021) cost recovery fee update rule published on October 9, 2020 (85 FR 64056), effective October 9, 2020.

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

³ From 4th Quarter 2019 (112.950) to 4th Quarter 2020 (114.368), the IPD-GDP increased by 1.26 percent. The value in the IPD-GDP Increase column is 1.26 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 FY 2022 is the "New Value" rounded to the nearest \$5 for values equal to or greater than \$1, or rounded to the nearest penny for values under \$1.

FIXED COST RECOVERY FEES	Existing Fee¹ (FY 2021)	Existing Value²	IPD-GDP Increase³	New Value⁴	New Fee⁵ (FY 2022)
Leasing of Solid Minerals Other Than Coal and Oil Shale (parts 3500, 3580)					
Applications other than those listed below	40	39.792	0.501	40.293	40
Prospecting permit amendment	75	72.960	0.919	73.879	75
Extension of prospecting permit	120	119.366	1.504	120.870	120
Lease modification or fringe acreage lease	35	33.168	0.417	33.584	35
Lease renewal	570	570.323	7.186	577.509	580
Assignment, sublease, or transfer of operating rights	35	33.168	0.417	33.585	35
Transfer of overriding royalty	35	33.168	0.417	33.585	35
Use permit	35	33.168	0.417	33.585	35
Shasta and Trinity hardrock mineral lease	35	33.168	0.417	33.585	35
Renewal of existing sand and gravel lease in Nevada	35	33.168	0.417	33.585	35
Multiple Use; Mining (Group 3700)					
Notice of protest of placer mining operations	15	13.260	0.167	13.427	15
Mining Law Administration (parts 3800, 3810, 3830, 3850, 3860, 3870)					
Application to open lands to location	15	13.260	0.167	13.427	15
Notice of location	20	19.884	0.250	20.134	20
Amendment of location	15	13.260	0.167	13.427	15
Transfer of mining claim/site	15	13.260	0.167	13.427	15
Recording an annual FLPMA filing	15	13.260	0.167	13.427	15
Deferment of assessment work	120	119.366	1.504	120.870	120
Recording a notice of intent to locate mining claims on Stockraising Homestead Act lands	35	33.168	0.417	33.585	35
Mineral patent adjudication (more than ten claims)	3,340	3,342.351	42.113	3,384.464	3,385
(ten or fewer claims)	1,670	1,671.158	21.056	1,692.214	1,690
Adverse claim	120	119.366	1.504	120.870	120
Protest	75	72.960	0.919	73.879	75
Oil Shale Management (parts 3900, 3910, 3930)					
Exploration license application	350	349.837	4.407	354.244	355
Assignment or sublease of record title or overriding royalty	70	71.159	0.896	72.055	70

III. How Fees Are Adjusted

The BLM took the base values (or “existing values”) upon which it derived the FY 2021 cost recovery fees (or “existing fees”) and multiplied them by the percent change in the IPD-GDP (1.26 percent for this update) to generate the “IPD-GDP increases” (in dollars). The BLM then added the “IPD-GDP increases” to the “existing values” to generate the “new values.” The BLM then calculated the “new fees” by 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. The “new fees” are the updated cost recovery fees for FY 2022.

The source for IDP-GDP data is the U.S. Department of Commerce, Bureau of Economic Analysis, specifically, “Table 1.1.9. Implicit Price Deflators for Gross Domestic Product,” which the BLM accessed on May 13, 2021, on the web at <https://apps.bea.gov/iTable/iTable.cfm?reqid=19&step=2#reqid=19&step=3&isuri=1&1921=survey&1903=13>.

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 final rule under Executive Order 12866.

The BLM has determined that this final 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 this rule are much smaller than those in the 2005 Cost Recovery 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 Cost Recovery Rule, please contact one of the persons listed in the **FOR FURTHER INFORMATION CONTACT** section above.

This final 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.

Finally, this final rule will not raise novel legal or policy issues. As explained earlier, 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 (SBA) 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
- 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 Extraction (NAICS code 211120): 1,250 or fewer employees
- Natural Gas Extraction (NAICS code 211130): 1,250 or fewer employees
- All Other Non-Metallic Mineral Mining (NAICS code 212399): 500 or fewer employees

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 15 fees for activities on public lands will be increased. The adjustments result in no increase in the fees for processing 33 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 \$45. It is important to note that the “real” values of the fees are not actually increasing, since real values account for the effect of inflation. In real terms, the values of the fees are simply being adjusted to account for the changes in the prices of goods and services produced in the United States. 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 Cost Recovery Rule concluded that the fees would not have a significant economic effect on a substantial number of small entities. The fee increases implemented in this rule are substantially smaller than those provided for in the 2005 Cost Recovery 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 final 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 August 31, 2021;⁶
- (2) 1004-0137, which expires October 31, 2021;
- (3) 1004-0162, which expires October 31, 2021;
- (4) 1004-0185, which expires December 31, 2021;

Geothermal

- (5) 1004-0132, which expires July 31, 2023;

Coal

- (6) 1004-0073, which expires April 30, 2023;

Mining Claims

- (7) 1004-0025, which expires February 28, 2022;
- (8) 1004-0114, which expires April 30, 2023; and

Leasing of Solid Minerals Other Than Oil Shale

- (9) 1004-0121, which expires October 31, 2022.

Takings Implication Assessment (Executive Order 12630)

As required by Executive Order 12630, the BLM has determined that this final 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)

⁶ A renewal request for control number 1004-0034 was submitted to the Office of Management and Budget on May 5, 2021.

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

Author

The principal author of this final 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.

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 must be paid to the BLM for the services listed for Fiscal Year (FY) 2022. These fees are nonrefundable and must be included with documents filed 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 website (<https://www.blm.gov>) before October 1 each year.

Revised fees are effective each year on October 1.

Table 1 to Paragraph (a) -- FY 2022 Processing and Filing Fee Table

Document/Action	FY 2022 Fee
Oil & Gas (parts 3100, 3110, 3120, 3130, 3150)	
Noncompetitive lease application	\$450
Competitive lease application	175
Assignment and transfer of record title or operating rights	100
Overriding royalty transfer, payment out of production	15
Name change, corporate merger or transfer to heir/devisee	235
Lease consolidation	495
Lease renewal or exchange	450
Lease reinstatement, Class I	85
Leasing under right-of-way	450
Geophysical exploration permit application – Alaska	25
Renewal of exploration permit – Alaska	25
Geothermal (part 3200)	
Noncompetitive lease application	450
Competitive lease application	175
Assignment and transfer of record title or operating rights	100
Name change, corporate merger or transfer to heir/devisee	235
Lease consolidation	495
Lease reinstatement	85
Nomination of lands	125
plus per acre nomination fee	0.12
Site license application	65
Assignment or transfer of site license	65
Coal (parts 3400, 3470)	
License to mine application	15
Exploration license application	370
Lease or lease interest transfer	75
Leasing of Solid Minerals Other Than Coal and Oil Shale (parts 3500, 3580)	
Applications other than those listed below	40
Prospecting permit application amendment	75
Extension of prospecting permit	120
Lease modification or fringe acreage lease	35
Lease renewal	580
Assignment, sublease, or transfer of operating rights	35
Transfer of overriding royalty	35
Use permit	35

Document/Action	FY 2022 Fee
Shasta and Trinity hardrock mineral lease	35
Renewal of existing sand and gravel lease in Nevada	35
Public Law 359; Mining in Powersite Withdrawals: General (part 3730)	
Notice of protest of placer mining operations	15
Mining Law Administration (parts 3800, 3810, 3830, 3860, 3870)	
Application to open lands to location	15
Notice of location ¹	20
Amendment of location	15
Transfer of mining claim/site	15
Recording an annual FLPMA filing	15
Deferment of assessment work	120
Recording a notice of intent to locate mining claims on Stockraising Homestead Act lands	35
Mineral patent adjudication	3,385 (more than 10 claims) 1,690 (10 or fewer claims)
Adverse claim	120
Protest	75
Oil Shale Management (parts 3900, 3910, 3930)	
Exploration license application	355
Application for assignment or sublease of record title or overriding royalty	70

¹To record a mining claim or site location, this processing fee along with the initial maintenance fee and the one-time location fee required by statute (43 CFR part 3833) must be paid.

* * * * *

Laura Daniel-Davis,
*Principal Deputy Assistant Secretary,
Land and Minerals Management.*

