

**DEPARTMENT OF THE INTERIOR****Bureau of Land Management****43 CFR Groups 3000, 3100, 3200, 3400, 3500, 3600, and 3800****[WO-610-4111-02-24 1A]****RIN: 1004-AC64****Oil and Gas Leasing; Geothermal Resources Leasing; Coal Management; Management of Solid Minerals Other Than Coal; Mineral Materials Disposal; and Mining Claims Under the General Mining Laws****AGENCY:** Bureau of Land Management, Interior.**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would amend Bureau of Land Management (BLM) mineral resources regulations to increase many fees and to impose new fees to cover BLM's costs of processing certain documents relating to its minerals programs. This would include costs for actions such as environmental studies, monitoring activities, and others. When necessary, the proposed rule would add citations to BLM's authority to charge fees. The proposed fee changes are BLM's response to recommendations made by the Department of the Interior's Office of the Inspector General (OIG) in a 1988 report. This report was part of a 1980s presidential initiative which called for all Federal agencies to charge appropriate user fees for agency services, consistent with the law. The OIG recommended that BLM collect fees for processing minerals-related documents whenever possible. The primary purpose of this rulemaking is to charge those who benefit from these minerals programs, rather than the general public, the costs of BLM minerals document processing.

**DATES:** Comments on the proposed rule must be received by February 13, 2001 to be assured of consideration.

**ADDRESSES:** You may mail comments to Bureau of Land Management, Administrative Record, Room 401 LS, 1849 C Street, NW, Washington, D.C. 20240. You may also hand-deliver comments to BLM at Room 401, 1620 L Street, NW, Washington, D.C. For information about filing comments electronically, see the **SUPPLEMENTARY INFORMATION** section under "Electronic access and filing address."

**FOR FURTHER INFORMATION CONTACT:** For questions about fluid minerals (oil, gas, geothermal steam) call Kermit Witherbee at (202) 452-0335. For questions about solid minerals

including coal call Brenda Aird at (202) 452-0350.

**SUPPLEMENTARY INFORMATION:**

- I. Public Comment Procedures and Information
- II. Background
- III. Discussion of Proposed Rule
- IV. Procedural Matters

**I. Public Comment Procedures and Information***Electronic Access and Filing Address*

You may view an electronic version of this proposed rule at BLM's Internet home page: [www.blm.gov](http://www.blm.gov). You may also comment via the Internet to: [WOCComment@blm.gov](mailto:WOCComment@blm.gov). Please also include "Attention: AC-06" and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at (202) 452-5030.

*Written Comments*

Written comments on the proposed rule should be specific, should be confined to issues pertinent to the proposed rule, and should explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the proposal which the commenter is addressing. BLM may not necessarily consider or include in the Administrative Record for the final rule comments which BLM receives after the close of the comment period (See **DATES**) or comments delivered to an address other than those listed above (See **ADDRESSES**). Comments, including names, street addresses, and other contact information of respondents, will be available for public review at BLM's offices at 1620 L Street, N.W., Washington, D.C. during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday, except Federal holidays. Individual respondents may request confidentiality. If you wish to request that BLM consider withholding your name, street address, and other contact information (such as: Internet address, FAX or phone number) from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. BLM will honor requests for confidentiality on a case-by-case basis to the extent allowed by law. BLM will make available for public inspection in their entirety all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses.

**II. Background***What Laws Authorize BLM to Charge for its Document Processing Costs?*

Federal agencies are generally authorized to do this by the Independent Offices Appropriation Act of 1952 (IOAA), 31 U.S.C. 9701.

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. "Public lands" in FLPMA means all lands or interests in land owned by the United States and administered by BLM, excluding outer continental shelf lands and Native American lands. 43 U.S.C. 1702(e). BLM interprets this definition to mean that a mineral lease or mineral materials disposal administered by BLM, or a mining claim (for which BLM determines validity), even in land where the surface is administered by another agency, is an "interest in land" for the purposes of FLPMA.

[Before BLM disposes of mineral materials or issues a mineral lease on these lands, if the surface managing agency also exercises considerable authority over the mineral estate, that estate may not be sufficiently under the administrative control of BLM to qualify as "public lands" for purposes such as exchanges. However, once BLM issues a mineral lease or proceeds with a mineral materials disposal, we are administering an interest in the lands, and that interest now falls under the FLPMA definition of "public lands." Since the Secretary of the Interior has primary jurisdiction over determining the validity of mining claims, and BLM administers the mineral estate covered by those claims, mining claims also qualify as public lands under FLPMA. Of course, BLM also has authority under the IOAA to collect fees for processing documents related to its administration of the mineral estate in these instances.]

The IOAA and section 304 of FLPMA authorize BLM to charge applicants for the cost of processing documents through rulemaking, which BLM is proposing to do through this rule. The IOAA also states that these charges should pay for the agency services as much as possible.

*What Policy Documents Deal with Charging Applicants for Processing Costs?*

These policies are explained in the Office of Management and Budget (OMB) Circular A-25, "User Charges," and the Department of the Interior Departmental Manual, Part 346, "Cost Recovery."

### *What is the Basic Policy of these Documents?*

The general federal policy is that a charge "will be assessed against each identifiable recipient for special benefits derived from Federal activities beyond those received by the general public." (OMB Circular A-25.) The Department of the Interior Manual mirrors this policy (346 DM 1.2 A.) Certain activities may be exempted from these fees under certain conditions set out at 346 DM 1.2 C.

### *What Does "Cost Recovery" Mean in this Rulemaking?*

It means reimbursement to BLM of its costs of processing a document by charging a fee to the applicant/beneficiary.

### *What is the Office of the Inspector General (OIG)?*

This is an office within the Department of the Interior which studies Departmental economy and efficiency, and makes recommendations for improvement.

### *What OIG Reports Affected This Rulemaking?*

OIG reports No. 89-25 (1988) and 95-I-379 (1995).

### *What Did the 1988 OIG Report (No. 89-25) Recommend?*

The report recommended that BLM:

- List all the minerals-related document types for which it had authority to charge BLM processing costs to the applicant;
- Determine the BLM processing cost for each type of document and count how many were processed;
- Establish exemption standards and apply them to each type of document on the list;
- Prepare and maintain exemption documentation for exempted document types; and
- Establish and collect processing cost fees for all non-exempt types of documents.

### *How Did BLM Begin Gathering Data in Response to the Report?*

BLM first conducted an inventory of about 130 types of documents in all onshore energy and mineral program areas: fluid minerals (including geothermal) resources leasing and operations; solid leasable minerals (coal and non-energy minerals) leasing and operations; mining law administration (locatable minerals); and mineral materials (salable minerals such as sand and gravel).

From this inventory BLM listed the types of documents for which it

appeared we had authority to collect processing fees, and those that appeared to be exempt. BLM developed exemption standards in 1989 comprised of the first four exemption categories in the Departmental Manual and two additional categories: documents primarily benefitting the public and documents related to appeals.

### *How did BLM Analyze its Costs for Types of Documents That Appeared to be Eligible for Processing Fees?*

We started with a pilot analysis in the Montana State Office, then surveyed all BLM State Offices in 1990. To ensure that the State Offices used the same data-gathering approach, the BLM Washington Office gave all State Offices a copy of Part 346 of the Departmental Manual, three types of standard forms to record the data, and detailed instructions previously tested for clarity in the Montana pilot analysis.

### *Were There Differences in the Processing Costs and Number of Document Filings Processed for Each State Office?*

Yes. BLM's preliminary review of the data showed large cost differences among offices for processing certain types of documents as well as big differences in the numbers of documents filed and processed. For example, office processing costs for a mineral materials noncompetitive sale application ranged from \$234 to \$4,773. [The 1995 OIG report, discussed below, cites the low end of the range for this document as \$81.64. 1995 OIG Audit Report, p. 3. BLM has been unable to determine the source of this figure.] As discussed below, BLM reconsidered the State Offices' estimated costs for noncompetitive sales applications and determined that the differences in estimates were attributable to unique site- or sale-specific factors.

Similarly, the number of mining law affidavits of assessment filed in State Offices for Fiscal Years 1988-1990 varied from about 2,761 to 251,564. For certain mineral-related document types, some offices had no activity during the three years sampled.

### *What Did BLM do to Reconcile the Differences in the Data?*

BLM decided to use a "weighted" average rather than a simple average to determine a BLM-wide processing cost for each type of document. This method gave greater weight to the processing cost data from State Offices with a heavy workload, and thus more expertise, in processing a particular type of document.

Between 1995 and 1999, we re-analyzed much of the data, conducted spot checks to verify its continued validity, and adjusted it to current prices.

### *What did the OIG's Follow-up Report Find?*

The report (No. 95-I-379, January 1995) found that, of the five recommendations in the 1988 OIG report, BLM had implemented the first, third, and fourth recommendations, had partially implemented the second recommendation to determine the cost and number of each document filing processed, and had not yet implemented the fifth recommendation to establish and collect BLM processing cost fees for non-exempt types of documents. The OIG sent BLM a draft of this report to which we responded in August 1994. We later met with the OIG and discussed issues raised by the report, including the issue of guidance and standards in data gathering. We also provided supplemental information to the OIG in December 1994 to resolve the issue.

### *What Observations and Recommendations Did the 1995 OIG Report Make?*

The OIG noted the wide variations in estimates of the time and cost needed to process types of documents among various BLM State Offices, and made two recommendations to BLM from the draft report. First, BLM should develop document processing standards, request cost information from State Offices based on these standards and analyze and resolve significant differences in the collected data, particularly for types of documents which have major impacts on the total amount of money that BLM can recover. Secondly, BLM should expedite the establishment and collection of fees for processing types of documents which have major impacts on the total amount of money that BLM can recover, and continue efforts to establish and collect fees for other types of documents.

The report went on to say that in the supplemental information provided in December 1994, BLM told the OIG that it had developed guidance/standards "which were used by all state offices to achieve uniformity in data gathering and reporting." It also said that BLM had stated we would establish a multi-program team to continue examining fees to establish a consistent cost recovery program. Based on our responses to the draft report, the final 1995 OIG report concluded that "we consider both recommendations resolved but not implemented."

### *How did BLM Respond to the 1995 Report?*

After the 1995 report was issued, BLM created a team to update its processing cost data, with priority given to establishing and collecting fees for types of documents with a significant impact on the total amount of money that we can recover. To update the existing data and verify its accuracy, the team gathered new estimates of the number of annual filings, updated processing cost estimates, and assigned BLM minerals experts to review the data in their specialties.

### *How did BLM Analyze the 1990 Cost Data for Oil, Gas, and Geothermal in Response to the 1995 OIG Report?*

BLM's fluid minerals program re-analyzed this data, comparing the data and identifying the appropriate job position, salary level, and time needed for each step indicated in BLM oil, gas, and geothermal Handbooks to process each type of document. The 1990 data was also based on the steps in the Handbooks. Based on this analysis, we calculated a direct cost (see discussion of direct/indirect costs below) for each step of the process, which was then adjusted to 1995 salary rates without a locality factor. Indirect costs were later added. We used these cost figures in this proposed rule as the actual cost estimates for oil and gas and geothermal document types, from which the fees were determined. This method was used for oil and gas and geothermal because the assigned program expert believed it would yield accurate cost estimates.

### *How did BLM update the 1990 Cost Data for Mineral Materials, Coal, Nonenergy Leasable Minerals, and Mining Law in Response to the 1995 OIG Report?*

We spot checked the data by resubmitting it to selected State Offices which often process these particular categories of documents. We also sent these offices a summary of the cost data that office had previously submitted for these types of documents, along with the BLM-wide weighted average cost for each of them. We requested that the State Offices review the cost data and report whether that data, adjusted to current prices, remained reasonable. We also requested that the State Office re-estimate costs for that state if it found the re-examined adjusted cost data to be unreasonable for that time period. This re-examination verified the current validity of BLM's data and ensured that figures which varied significantly among offices had not been submitted in error. We used this method for these

programs because our program experts believed it would yield accurate data and be cost-effective.

Also, in mineral materials, the team reconsidered the State Offices' estimated costs for non-competitive sale applications which the 1995 report had highlighted. The team determined that the differences among State Offices were largely caused by unique site- or sale-specific factors, such as the amount and nature of surface disturbance (for example, whether the sales are from existing or new pits, and how much material is to be removed); the impact on other surface resources (which may vary even within the same area); and National Environmental Policy Act (NEPA) analysis.

To bring the figures in line with 1999 prices, BLM adjusted them to the Implicit Price Deflator for Gross Domestic Product for 1998 (the most recent year available) published by the U.S. Department of Commerce, which economists generally consider to be the most reliable general price index.

### *How Has BLM Implemented the 1995 OIG Recommendations?*

As explained above, BLM resolved the first part of the OIG's first recommendation about what standards we used by sending the OIG information in response to the draft report about our use of concrete standards in data collection. BLM updated the proposed fees and updated, analyzed, and verified the data, which responded to the second part of the OIG's first recommendation. This rule proposes to implement the first part of the second 1995 OIG recommendation: BLM would collect fees for types of documents that have a significant impact on the amount of money BLM can recover. This proposed rule covers only some of the documents for which BLM has the authority to recover costs. BLM intends to continue to work on establishing and collecting fees for other documents as well, including those addressed in the Solicitor's Dec. 5, 1996 M Opinion on this subject (M-36987). This satisfies the second part of the OIG's second recommendation.

## **III. Discussion**

### *What Kinds of Fees Would This Rule Create?*

This rule would establish fixed fees and fees based on BLM's case-by-case processing costs. A fixed fee remains the same for each document of a particular type. How BLM set these fixed fees is explained below. A fee based on BLM's case-by-case processing costs would be

calculated by tracking the ongoing costs of processing an individual document.

Fixed fee amounts set by rulemaking would not be appealable to the Interior Board of Land Appeals (IBLA) because rulemaking actions are binding on the Department. Case-by-case fees could be appealed in accordance with the Department's general appeals rule at 43 CFR Part 4. BLM would not continue processing a document while an appeal is pending unless the applicant paid the fee under protest. In that case, if the final decision were that the fee was too high, BLM would refund the overpayment. See 43 U.S.C. 1734(c).

## **The FLPMA Factors**

### *How Did BLM Set These Fees?*

Section 304(b) of the Federal Land Policy and Management Act (FLPMA) lists six factors (the FLPMA "reasonableness" factors) that BLM must consider in deciding what is a reasonable processing fee. They are:

(1) BLM's actual costs to process a document. This does not include management overhead, which means costs of BLM State Directors and Washington office staff, except when a member of this group works on a specific authorization like a lease. Actual costs include (but are not limited to) such costs as money spent on special studies, environmental impact statements and other analysis, and monitoring exploration activities, development, construction, production, operation, maintenance, or termination of an authorized facility.

(2) The monetary value, or objective worth, of the right or privilege that the applicant seeks.

(3) The efficiency with which BLM processes a document, meaning with a minimum of waste by carefully managing agency expenses and time.

(4) Whether any of BLM's processing costs, for things such as studies or data collection, benefit the general public or the federal government, rather than just the applicant. This is referred to in the statute as "benefit of the general public interest."

(5) Whether the project provides any significantly valuable tangible improvement, such as a road, or other direct service to the public. This is referred to in the statute as "public service." However, a negative factor, such as an adverse impact on wildlife or surface drainage, may prevent an improvement from being a public service. Data collection that we need to monitor an activity is not a public service.

(6) Any other relevant factors.

### *How Did BLM Consider the FLPMA Factors?*

We considered each of the FLPMA factors for each type of document for which we are proposing a fixed fee in this rule. We first estimated the actual cost for a type of document and then considered each of the other FLPMA factors to see if any of them might cause a fee to be set at less than actual cost. If so, we then considered whether any of the remaining factors acted as an enhancing factor that would mitigate against setting the fee at less than actual cost. We then decided the amount of the fee, which cannot be more than our processing cost. For most minerals actions in this proposal this method resulted in fees set at our actual processing cost.

This weighing of the factors would also be applied to fees that are determined on a case-by-case basis. For those fees, BLM would give the applicant an estimate of the proposed fee after estimating the actual cost of processing the individual document and considering the other FLPMA factors. The applicant could then comment on the proposed fee. We would consider the applicant's comments and any work to be performed by the applicant, and give the applicant a final fee estimate. We could re-estimate reasonable costs whenever necessary. If the fee is set at less than our actual costs because of one of the FLPMA factors, processing could not proceed until funding for the shortfall became available through the BLM budget, contributions by the applicant, or other means.

In considering the FLPMA factors we found several trends. First, the monetary value of the right or privilege was much greater than the processing cost. Also, our document processing procedures, which are based on standard steps in internal BLM Handbooks, are reasonably efficient.

We also found that none of the studies or data collection performed as part of BLM's document processing significantly benefits the general public. [The courts have held that processing which an agency is required to perform in connection with a specific request (for example, before approving a permit) provides a special benefit to an applicant, even if it also provides some benefit to the public. See, e.g., *Mississippi Power & Light Co. v. United States Nuclear Regulatory Comm'n*, 601 F.2d 223 (5th Cir. 1979), *cert. denied* 444 U.S. 1102 (1980).] We found that any small benefit to the public provided by the processing of fixed fee documents in this rulemaking is speculative and outweighed by the

monetary value to the applicant of the right or privilege.

Furthermore, the applicant's project usually provides little or no service to the public. If a project provides a small public service, it will usually be outweighed by the monetary value to the applicant of the right or privilege. Finally, there are usually no other relevant factors.

### **Actual Costs**

#### *Did BLM Consider Figuring and Charging Processing Costs on a Case-by-Case Basis for Every Type of Document?*

Yes. We decided not to do this because it would require enormous effort and expense. Also, when we can reliably estimate costs for routine services, we believe applicants benefit from knowing fees in advance. We will therefore determine costs on a case-by-case basis only for types of documents where the average processing cost may not be a reasonably accurate estimate because costs may differ significantly in each case.

#### *How Does BLM Figure Its Costs to Process a Document?*

Actual costs are the sum of both direct and indirect costs. Direct costs include such things as labor, material and equipment; BLM's measurement of direct costs is explained below. Indirect costs include items like rent and overhead, excluding State Director and Washington Office management overhead.

For an example of how BLM would determine the sum of direct and indirect costs, suppose the measured direct cost of processing a document is \$200. To estimate the indirect cost for processing that document, the BLM office would use a ratio already determined in its accounting system—perhaps, ten to one, meaning for every \$10 of direct costs there would be \$1 of indirect costs. BLM would then estimate the indirect cost using the ratio and direct cost figures. In this example, since the direct cost was \$200 and the ratio is ten to one, the indirect cost is \$20. BLM then would add the direct and indirect cost figures to arrive at the actual cost figure of \$220 to process the document. This method is generally accepted in the private and public sectors.

When we set fees at actual cost in the proposed rule, we rounded the cost figures down to the nearest zero or five for amounts over \$10. For example, a cost figure of \$157 was rounded down to \$155 and a figure of \$153 was rounded down to \$150. For amounts under \$10, we rounded the cost figures down to the nearest dollar. We did not

round any cost figures up, to avoid charging more than actual processing costs.

#### *For What Types of Documents Would BLM Measure Actual Costs on a Case-by-Case Basis?*

- Geophysical exploration applications for oil and gas;
- Competitive lease applications for coal;
- Royalty rate reduction applications for coal;
- Logical mining unit applications and applications for LMU modifications for coal;
- Applications for lease modifications for coal;
- Prospecting permit applications for non-energy leasable minerals;
- Preference right lease applications for non-energy leasable minerals;
- Competitive lease applications for non-energy leasable minerals;
- Royalty rate reduction applications for non-energy leasable minerals;
- Non-competitive sale applications for mineral materials;
- Competitive sale applications for mineral materials;
- Lease or sales applications when an Environmental Impact Statement (EIS) is required;
- Mining plans of operations when an EIS is required; and
- Mineral validity examinations/reports (includes field mapping, field sampling, assays, determination of reserves and marketability, etc.).

#### *What Would Case-by-Case Fee Calculations Include?*

They would include all costs we incur while processing your document, such as the costs of studies BLM conducts to comply with legal requirements like environmental laws, the mineral leasing laws, or the Mining Law of 1872. For a mineral validity examination/report, the mineral examiner would consider the cost to the claimant of the examination and report along with other costs of doing business in evaluating whether the claimant has made a valuable discovery of minerals on the claim. This is because the cost of a mineral exam/report is a business cost similar to the cost of complying with environmental requirements, which is significant in deciding whether there has been a discovery. See *United States v. Pittsburgh Pacific Co.*, 30 IBLA 388, 84 I.D. 282, 290 (1977); *United States v. Kosanke Sand Corp.*, 12 IBLA 282, 298–99, 80 I.D. 538, 546–47 (1973) (on reconsideration).

Also, although current proposed section 3800.5 refers to applicants for a plan of operations or a mineral patent

“under this part,” *i.e.*, 43 CFR Part 3800, BLM may provide in the final rule that BLM will also recover costs of validity examinations and reports performed in connection with plan of operations applications that are submitted under other parts of the CFR as well, such as 36 CFR Part 9 (which implements the Mining in the Parks Act).

*How Would the Proposed Fees Be Applied to Documents that BLM is Already Processing?*

If BLM accepted your documents before the final rules were in effect, and fees for such documents would have been subject to fixed fees under the new rules, you would not be required to pay such fees. If we accepted your document prior to a final rule, and fees for such a document would be calculated on a case-by-case basis under the new rule,

you would be charged fees on that basis for any processing work that must still be done after the final regulations went into effect. This is because filing an application will not exempt you from subsequent regulations. See *Hannifin v. Morton*, 444 F.2d 200, 202–203 (10th Cir. 1971). You would not be charged for the processing that took place prior to the regulations going into effect, however, unless a prior regulation or agreement required it.

*Did BLM Consider Figuring and Charging Processing Costs on a Case-by-Case Basis for Every Type of Document?*

Yes. We decided not to do this because it would require enormous effort and expense. Also, when we can reliably estimate costs for routine services, we believe applicants benefit from knowing fees in advance. We will

therefore determine costs on a case-by-case basis only for types of documents where the average processing cost may not be a reasonably accurate estimate because costs may differ significantly in each case. To illustrate the case-by-case variation of BLM’s processing cost, costs for processing a “noncompetitive mineral material sales” range from \$282 to \$5,747 with an average cost of \$2,350.

*How Did BLM Measure its Direct Actual Costs for Types of Documents it Proposes not to Measure on a Case-by-Case Basis?*

We used an agency-wide average cost figure for each type of document. This is a reasonable approximation of our actual processing cost for that document type, as well as an efficient method of measuring the cost.

*What are the New Proposed Fixed Fees?*

Category-Fixed Fee	Existing fee	Proposed fee
<b>Oil and Gas:</b>		
Noncompetitive lease application .....	\$75	\$305
Competitive lease application .....	75	120
Assignment and transfer .....	25	70
Name change, corporate merger or transfer to heir/devisee .....	0	160
Lease consolidation .....	0	335
Lease renewals or exchanges .....	75	305
Lease reinstatement, Class 1 .....	25	60
Leasing under right-of-way .....	75	305
<b>Geothermal:</b>		
Noncompetitive lease application .....	75	305
Competitive lease application .....	0	120
Assignment and transfer .....	50	70
Name change, corporate merger or transfer to heir/devisee .....	0	160
Lease reinstatement .....	0	60
<b>Nonenergy Leasable:</b>		
Prospecting Permit application amendment .....	0	50
Extension of Prospecting Permit .....	0	80
Lease Renewals .....	25	390
<b>Mining Law Administration:</b>		
Notice of Location .....	10	15
Amendment to location .....	5	10
Transfer of Interest .....	5	10
Affidavit of Assessment Work .....	5	10
Notice of Intent to Hold .....	5	10
Deferment of Assessment .....	25	80
Mineral Patent Adjudication .....	0	2,290
Adverse claim .....	10	80
Protest .....	10	50

*What Data Did BLM Use to Calculate the Average Cost?*

We used the data collected from State Offices in 1990, as analyzed and updated in 1995–1996 and in 1999. In the areas of oil and gas and geothermal, we used our re-analyzed direct cost estimate, to which indirect costs were added, as the average cost figure. In other areas, we used the weighted average cost, which included indirect costs, as the average cost figure.

*What Processing Steps are Included in the Fixed Fees?*

**Oil & Gas**

For noncompetitive lease applications, fixed fees would include receiving, validating, and entering data; examining land availability; sorting parcels (*i.e.*, developing parcel configuration/acreage); preparing stipulations; preparing sale notices; noting title records; preparing and conducting sale auctions; preparing

lease decisions, and entering and transmitting data updates.

For competitive lease applications, fixed fees would include preparing sale notices; noting title records; preparing and conducting sale auctions; preparing lease decisions; and entering and transmitting data updates. This fee does not at this point include steps leading to sorting parcels, *i.e.* developing parcel configuration/acreage, and preparing stipulations.

For assignments and transfers, fixed fees would include receiving,

validating, and entering data; examining assignment and transfer forms; reviewing leases and bonds; and approving, entering, and transmitting updates. For assignments and transfers due to name changes, corporate mergers, or transfer to an heir or devisee, fixed fees would include receiving, validating, and entering data; examining requests; determining successors-in-interest or other special requirements; reviewing leases and bonds; preparing decisions; and entering and transmitting updates.

For transfers of overriding royalties or payments out of production, fixed fees would include receiving, validating, and entering data.

For lease consolidations, fixed fees would include receiving, validating, and entering data; examining requests, lease term conditions, and productions; preparing new leases and decisions; and entering and transmitting updates.

For lease renewals, fixed fees would include receiving, validating, and entering data; examining requests and lease forms for compliance; preparing decisions; and entering and transmitting updates.

For Class 1 lease reinstatements, fixed fees would include receiving, validating, and entering data; examining eligibility; preparing decisions; and entering and transmitting updates.

#### Geothermal

For noncompetitive lease applications, fixed fees would include receiving, validating, and entering data; examining land availability; sorting parcels (*i.e.*, developing parcel configuration/acreage); preparing stipulations; preparing sale notices; noting title records; preparing and conducting sale auctions; preparing lease decisions; and entering and transmitting data updates.

For competitive lease applications, fixed fees would include preparing sale notices; noting title records; preparing and conducting sale auctions; preparing lease decisions; and entering and transmitting data updates. This fee does not at this point include steps leading to sorting parcels, *i.e.* developing parcel configuration/acreage, and preparing stipulations.

For assignments and transfers, fixed fees would include receiving, validating, and entering data; examining assignment and transfer forms; reviewing leases and bonds; and approving, entering, and transmitting updates. For assignments and transfers due to name changes, corporate mergers, or transfer to an heir or devisee, fixed fees would include receiving, validating, and entering data; examining

requests; determining successors-in-interest or other special requirements; reviewing leases and bonds; preparing decisions; and entering and transmitting updates.

For lease reinstatements, fixed fees would include receiving, validating, and entering data; examining eligibility; preparing decisions; and entering and transmitting updates.

#### Nonenergy Leasable Minerals

For prospecting permit application amendments, fixed fees would include receiving, validating, and entering data; examining requests and rental payments; and entering and transmitting updates.

For prospecting permit extensions, fixed fees would include receiving, validating, and entering data; examining requests and diligence; and approving, entering, and transmitting updates.

For lease renewals, fixed fees would include receiving, validating, and entering data; examining requests; determining changes in bonds and stipulations; preparing decisions; and entering and transmitting updates.

#### Mining Law Administration

For notices of location, fixed fees would include receiving data and validating land status; collecting statutory fees; and entering data.

For amendments to a location, fixed fees would include receiving, validating, and entering data.

For a mineral patent adjudication, fixed fees would include receiving and entering data; examining mineral surveys, statements required by statute, initial descriptions of geology and mineral evidence, and status of adverse claims; ensuring sufficiency of title evidence (title opinion or abstract with certified copies of location certificates and all amendments); publishing legal notices; receiving and examining final proofs and statements for sufficiency; accepting purchase monies; forwarding the application to the Secretary for review; and issuing decisions. Fixed fees would not include the cost of a mineral examination and report.

For assignments and transfers, fixed fees would include receiving, validating, and entering data.

For affidavits of assessment work, fixed fees would include receiving, validating, and entering data.

For notices of intent to hold, fixed fees would include receiving, validating, and entering data.

For deferments of assessment work, fixed fees would include receiving and entering data; examining requests; determining eligibility; approving or rejecting requests; entering and

transmitting updates; and issuing decisions.

For adverse claims, fixed fees would include receiving and entering data; examining evidence; accepting or denying claims; and issuing decisions.

For protests, fixed fees would include receiving and entering data; examining evidence; and issuing decisions either to dismiss or accept a protest. Fixed fees would not include costs associated with adjudications to correct errors or omissions uncovered by a protest.

#### *How Would BLM Deal With Increased Costs Due to Inflation?*

We would adjust the fees periodically to the Implicit Price Deflator, discussed above, to bring them in line with current costs. We chose this method because the alternative is to collect data periodically to adjust fees to inflation, which is inefficient, costly, and impractical. When we do adjust fees, we will publish them in the **Federal Register**.

#### *Might BLM Adjust its Average Cost Figures and Revise Fees in the Future for Reasons Other Than Inflation?*

Yes. The fees in this rule do not include certain internal steps for which we believed costs could not be recovered when we initially collected data. For example, the costs for processing an oil and gas or geothermal competitive lease sale parcel do not include the steps required to prepare an individual sale parcel prior to preparing the sale notice, because we assumed those costs were not recoverable. However, the Solicitor's Dec. 5, 1996 Opinion on cost recovery concluded that we can recover costs for those steps, so in future rules we will propose fees that attempt to capture these costs and other costs not captured here so that fees will accurately reflect our reasonable costs. We may also amend fees when we receive new data or have another reason to believe that fees do not accurately reflect reasonable costs.

#### **Monetary Value of the Right or Privilege**

##### *Did BLM Calculate Exact Figures for Monetary Values in Setting the Proposed Fixed Fees?*

No. We decided not to try to calculate exact figures either by document type or on a case-by-case basis because that would involve extensive time and resources, and because we can reasonably judge the magnitude of these values relative to our costs. We have considered monetary value in terms of fairness rather than precise figures before, in the preamble to the 1986 rights of way regulations (51 FR 26836).

*How Did BLM Decide the Monetary Value of the Right or Privilege Granted by a Fixed Fee Document?*

We relied on the monetary value of past similar rights or privileges, which we believe is a good yardstick. We reviewed each type of document, and compared the proposed processing fee for a given type of document with our knowledge of the historical values of rights or privileges granted similar to those sought by the applicant. In each case, we believe the value of the right or privilege is clearly so much greater than the processing cost that a fee set at the average actual cost would not significantly impact the proposed project. Please note, the only fixed fee in this proposed rule that exceeds \$390 is for the administrative processing of a mineral patent application (excluding the cost of the mineral examination and report), for which the proposed fee is \$2,290. All other proposed fees range from \$9 to \$390. The costs this rule would recover pertain to documents related to the development of commercial minerals, so it is not surprising that the monetary value of the right or privilege is greater than these proposed fees. Therefore, we did not reduce any fees as a result of this factor. We will consider monetary value for case-by-cases fees in a similar manner.

*What About Leases Which Are Found After Exploration To Have Less Value Than Previously Thought?*

BLM bases its decision about the value of the right or privilege on monetary value at the time the lease application is submitted. All leases have relatively large monetary value before exploration compared to the proposed fees. The intrinsic value of the opportunity afforded by a lease to explore for minerals is shown by the willingness of industry to pay large sums before exploration for bonus bids (for coal leases), for lease transfers, and for exploration activities such as drilling. We therefore decided that it is reasonable to charge a fee equal to our processing costs for all lease applications.

*How Did BLM Consider the Value of Requests for Lease Sales, Requests for Sales, or Expressions of Interest?*

In accordance with the Solicitor's Dec. 5, 1996 Opinion on cost recovery, BLM considers that its processing costs to prepare parcels for sale or lease sale benefit three classes of beneficiaries: the party who requests that the parcel be included in the sale or lease sale; all parties who bid on the parcel; and the successful bidder.

While the party who requests that a parcel be included in a sale or lease sale benefits by influencing the selection of parcels offered, we believe this benefit is greatly outweighed by the benefits to the bidder who ultimately obtains the lease or sales contract and can develop the minerals on the parcel. Similarly, while all bidders get the chance to be considered for a lease or sales contract, BLM believes this benefit is greatly outweighed by the benefits to the bidder who obtains the lease or sales contract. We would therefore charge all processing costs to prepare a parcel for lease or sale to the successful bidder.

**The Efficiency Factor**

*What Did BLM Consider When It Looked at Efficiency in Relation to the Proposed Fixed Fees?*

We wanted to be sure that the process of collecting fees is not itself overly costly. For example, we would not collect cost data on a case-by-case basis for each document processed because that kind of cost tracking is simply inefficient—employees' tracking time spent on each document just adds to the processing costs.

We looked for other ways to establish fees and decided that for most documents in this rulemaking, it was more efficient and sufficiently reliable to set a fixed fee. As discussed above, when fixed fees would be unreliable or unreasonable, we would track costs on a case-by-case basis.

*Did BLM Determine That the Documents for Which Fees Are Charged in This Rulemaking Are Processed Efficiently?*

Yes. The processing procedures are based on standardized steps in BLM Handbooks in order to eliminate duplication and extraneous procedures. These detailed and measurable processing steps were developed to be efficient.

**Public Benefit Factor**

*Are There Some BLM Activities That Only Benefit the Public and Do Not Benefit Any Particular Applicant?*

Yes. Activities that only benefit the public are those that are not done in connection with processing a particular document. These would include studies which BLM is required to perform whether or not it receives an application or other document processing request, such as land use planning studies and programmatic environmental analyses prepared by an agency at its own instigation. We would not recover the costs of such studies from applicants. Therefore, BLM did not consider studies or data that only benefit the public when it considered the public benefit

factor in establishing the fixed fees proposed in this rule.

*If Processing a Document Requires That a Study Be Done, Does That Study Always Benefit the Applicant?*

Yes. Courts have held that if the processing of an application requires that a study be done, the performance of that study necessarily benefits the applicant. *See, e.g., Mississippi Power & Light Co. v. United States Nuclear Regulatory Comm'n*, 601 F.2d 223, 231 (5th Cir. 1979). The most obvious benefit is that the application can be approved and the applicant can then operate. If a study is required, we cannot approve an application unless the study is performed, and if we do not approve an application, the applicant cannot take the action for which it seeks approval.

There are other potential benefits, as were pointed out in the preamble to BLM's 1986 rights-of-way regulations:

Public comment on environmental issues often helps to [defuse] political opposition to a project. An environmental impact statement may uncover an environmentally acceptable alternative which may allow an otherwise unacceptable project to be built. Special studies of seismic and climatic conditions sometimes reveal that the applicant's original proposal would not meet necessary engineering standards or is otherwise flawed. When an accident is prevented or money saved because higher standards are used, an applicant benefits because the [project] is not interrupted. These types of benefits are difficult to measure and may not be apparent until after a project has been completed and has operated for many years.

51 FR 26836, 26837–38. These benefits of environmental studies are also applicable to minerals actions. Although they are speculative, substantial benefits such as these can exist.

*How Did BLM Consider the Public Benefit From Its Document Processing?*

Possible public benefits from BLM processing activities such as studies or data collection are also speculative. For example, studies related to document processing often provide natural resource information about an area, and this is sometimes a public benefit, but its value or whether there will be a benefit at all is not predictable. BLM concluded that document processing for types of fixed fee documents in this rulemaking does not usually produce studies or data significantly beneficial to the public.

Also, except for fees determined on a case-by-case basis, BLM determined that for each type of document in this



rulemaking the monetary value to the applicant outweighs the possible benefit of such studies to the public. BLM analysts used their knowledge of the historical values of such cases to make these determinations. We have therefore decided that this factor does not warrant setting any fee in this rulemaking at less than its actual processing cost.

#### Public Service Factor

*How Is a Project's Service to the Public (Public Service) Different From Benefits the General Public Derives From BLM's Processing (Public Benefit)?*

A project's service to the public concerns whether the applicant's project itself, as opposed to BLM's processing the related documents, provides some significant direct service or benefit to the general public. This is referred to in the statute as "public service." Examples would be improvements such as roads, trails, or recreation facilities. But not every improvement provided by a project is considered a public service. A negative impact on such things as wildlife or surface drainage may prevent BLM from considering an improvement as a public service.

*Does Exploration Data Shared With the Government for Purposes Other Than Monitoring Constitute a Public Service?*

Yes. Applicants for prospecting permits for nonenergy minerals are required to share with the government the mineral resource data obtained from exploration. If the information is valuable for mineral development, we expect the prospecting permit holder will use it. In that case, the monetary value of the information to the permittee would far outweigh its benefit to the public.

We considered that even information which is not valuable to the prospecting permit holder for mineral development may still provide a small geological or geophysical information benefit to the government, which could sometimes be used in types of resource management such as land classifications. However, because there is very little information obtained in this way and because its use is unpredictable, the potential benefits of the information to the public are too small to warrant an adjustment to the proposed fee.

*Do Projects in This Proposed Rule Subject to a Fixed Fee Generally Provide a Public Service?*

No. Large projects could include road construction, but such roads are rarely open to the public or built to public safety standards. Also, they must eventually be removed. These roads also

often do not serve the public interest because they cause erosion and drainage problems and, if opened to the public, can bring too many people into sensitive areas. Thus, for fixed fee documents, the possibility of such a public service is too remote and speculative to warrant charging a fee less than actual costs. If any projects do provide such a public service, it is more likely to be those that require an environmental impact statement. For those projects, we will consider all of the reasonableness factors, including public service, on a case-by-case basis.

#### Other Factors

*Are There any Other Factors That Made it Reasonable to Set a Fee in This Proposed Rulemaking at Less Than Actual Cost?*

Yes. Protests of mineral patent applications provide a benefit to BLM by reducing the potential for error in the patent process. The fee for processing patent protests was therefore set at \$50, which is less than BLM's actual processing cost of \$255.

BLM did not find other factors that made it reasonable to adjust fees set in this proposed rulemaking. When BLM charges fees on a case-by-case basis, applicants could raise other factors during the fee-setting process.

[Please note, the proposed regulatory language below is based on regulations as they now exist. However, BLM has recently proposed changes to parts 3100 (oil & gas) and 3809 (surface management) of this title. We may need to change any final regulations which result from this proposal to fit with new regulations at those parts, should BLM issue final rules in either program.]

#### IV. Procedural Matters

##### *National Environmental Policy Act*

BLM has determined that this proposed rule is administrative and involves only procedural changes addressing fee requirements. Therefore, it is categorically excluded from environmental review under section 102(2)(C) of the National Environmental Policy Act, pursuant to 516 Departmental Manual (DM) 2.3A and 516 DM 2, Appendix 1, Item 1.10. In addition, the proposed rule does not meet any of the 10 criteria for exceptions to categorical exclusions listed in 516 DM 2, Appendix 2. Pursuant to Council on Environmental Quality regulations (40 CFR 1508.4) 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 no such effect in procedures adopted by a Federal agency and therefore require neither an environmental assessment nor an environmental impact statement.

##### *Paperwork Reduction Act*

This rule does not contain information collection requirements that the Office of Management and Budget must approve at this time under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* This rule potentially affects the following information requirements approved under the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*:

1004-0025, Mineral Surveys, Mineral Patent Applications, Adverse Claims, Protests, and Contests;  
1003-0034, Oil and Gas Lease Transfers;  
1004-0073, Coal Management;  
1004-0074, Oil and Gas and Geothermal Resources Leasing;  
1004-0103, Mineral Materials Disposal;  
1004-0114, Payment and Recordation of Location Notices and Annual Filings for Mining Claims, Mill Sites, Tunnel Sites;  
1004-0121, Leasing of Solid Minerals Other Than Coal and Oil Shale;  
1004-0132, Geothermal Resources Operations: General;  
1004-0134, Onshore Oil and Gas Operations: Non-form items;  
1004-0135, Sundry Notices and Reports on Wells;  
1004-0136, Oil and Gas Applications for Permits to Drill;  
1004-0137, Oil and Gas Well Completion or Recompletion Report and Log;  
1004-0145, Oil and Gas Exploration and Leasing;  
1004-0160, Geothermal Leasing Reports;  
1004-0162, Oil and Gas Geophysical Exploration Operations;  
1004-0169, Use and Occupancy under the Mining Laws;  
1004-0176, Surface Management Regulations at 3802 and 3809; and  
1004-0184, Onshore Oil and Gas Leasing and Operations.

This rule affects the information collections just listed not by decreasing or increasing the information requirements described in these collections but by establishing or changing the costs of filing the applications and reports included in these collections. When this rule becomes final, BLM will file change notices with the Office of Management and Budget (OMB), Form 83c, to reflect the new or changed fees established by the final rule.



### *Regulatory Flexibility Act*

This 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," as defined by the Small Business Administration for mining (broadly inclusive of metal mining, coal mining, oil and gas extraction, and the mining and quarrying of nonmetallic minerals) is 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 of federal land for coal mining: a coal lessor is a small entity if it employs not more than 250 people, including people working for its affiliates. SBA would consider many of the operators the BLM works with in the onshore minerals programs small entities. [We note that this proposed rule does not affect service industries, for which the SBA has a different definition of "small entity."]

The proposed rule will affect a large number of small entities since nearly all of them will face fee increases for activities on public lands. However, we have concluded that the effects will not be significant. As discussed in an analysis prepared by BLM and available as an attachment to our Record of Compliance for this proposed rule, when the total fees paid by these entities are expressed as a percentage of their sales value it is clear that the relative size and effect of the fees are very small and that they will have no measurable effect on these entities.

For example, we estimate that under this rule oil and gas operators on public lands would pay an extra \$2,052,000 in fees annually, but the small operators in the oil & gas program generate sales of \$2.9 billion to \$4.8 billion annually, so the increased fees would be 0.04% to 0.07% of sales, even assuming small operators bore the entire fee increase. The small operators developing mineral materials on public lands generate \$60 million to \$99 million in annual sales, while the total fees for the mineral materials industry would rise by about \$866,000, or 0.875% to 1.443% of sales. This is the highest percentage of sales versus increased fees.

Additionally, for mineral materials, based on data for FY96, FY97, FY98, this proposed rule would affect on average only about 13.5% of the

disposals on public lands. The rule would not affect the remaining 86.5% of disposals, consisting of small sales from community pits, and common use areas, and free use permits to government entities and non-profit organizations. And, of course, this rule would not affect small operators on non-public lands.

Finally, we note that most of the proposed fees are charged only once and, therefore, the impact is spread over several years of industry production. This has the effect of lessening the impact even further. Also, leasable and mineral materials sales are for fair market value, so we can expect bonus bids to decline in order to offset and neutralize the new or increased costs.

Due to the size of the proposed fee increase, it is worth discussing mineral patent adjudication and associated mineral examination fees and their possible effect on small entities. These fees apply to hardrock mineral patent applications under the Mining Law of 1872, which, when approved, result in a transfer of title from the United States to the mining claimant. Patenting is a voluntary process and is not required under the law. Mining claimants who have found a valuable mineral discovery on the public lands and properly located a claim may mine and market the minerals on the claim without a patent and without paying any royalties to the United States.

Fixed fees for patent applications are set in this proposed rule at \$2,290 for adjudication of title and sufficiency of the application, plus a case-by-case fee for the actual mineral examination of the mining claims or sites in the application. Although this is an appreciable increase, it is not significant compared to the capital expenditures associated with many hard rock mining ventures, which may range from hundreds of thousands of dollars for small operations to hundreds of millions of dollars for large ventures. The smaller the entity, the more likely it is that the application will seek to patent fewer mining claims, reducing the time needed for BLM's mineral examination. Because fees for the mineral examination are based largely on a case-by-case tracking of our actual time and the costs to us, applications with fewer claims will generally be charged fees at the low end of the possible range.

BLM is also operating under a moratorium for processing any new mineral patent applications and a Congressional Five-Year Plan (Public Law 104-134) which required the Secretary to establish a plan for how the Department would complete its review

of 90% of grandfathered mineral patent applications by September 30, 2001. Because of the patenting moratorium, future activity in the adjudication and mineral examination of mineral patent applications is expected to decline significantly in the near future and thus these fees will be rarely applied. Moreover, because claimants have a recognized property interest in a valid unpatented mining claim and can enjoy the benefits of mining and marketing from their claims without ever applying for a patent, a claimant could avoid these fees simply by not filing a patent application even if the moratorium were lifted.

For many document types, BLM will establish charges on a case-by-case basis. In these situations, the applicant/operator has the opportunity to present data to BLM on the reasonableness of the fees (the Federal Land Policy and Management Act lists six factors which the BLM must consider in setting a reasonable processing fee, discussed above). If, for example, the entity is small and has a small operation, the monetary value factor may cause BLM to reduce the fee(s). When the entity is small but has large operations that are high in monetary value, it must have access to large amounts of capital and the increased fees will not have a significant detrimental effect. In any case, the entities may appeal case-by-case fees if they believe BLM is being unreasonable in its calculations.

### *Unfunded Mandates Reform Act*

This proposed rulemaking will not result in any unfunded mandate to state, local, or tribal governments in the aggregate, or to the private sector, of \$100 million or more in any one year.

### *Executive Order 13132*

In accordance with Executive Order 13132, the proposed rule does not have significant effects on federalism, and therefore a federalism assessment is not required. The proposed rule does not change the role or responsibilities between Federal, state, and local government entities. The rule does not relate to the structure and role of states and will not have direct, substantive, or significant effects on states. It may result in a slight decrease in bonus bids which BLM shares on a 50-50 basis with the states. However, the effect would be negligible over the life of a lease.

### *Executive Order 12630*

The proposed rule does not represent a government action capable of interfering with constitutionally protected property rights. The rule has no bearing on property rights, but only

concerns recovery of government processing costs for actions which benefit certain entities who acquire rights and extract publicly-owned resources. Therefore, the Department of the Interior has determined that the rule would not cause a taking of private property or require further discussion of takings implications under this Executive Order.

#### *Executive Order 12866*

In accordance with the criteria in Executive Order 12866, the BLM has determined that this rule is not a significant regulatory action. The Office of Management and Budget (OMB) makes the final determination under Executive Order 12866. BLM has determined that the rule does not meet any of the criteria for a significant regulatory action. The proposed rule will not have an annual effect on the economy of \$100 million or more or 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. This determination is based on an analysis which BLM prepared in conjunction with this proposed rule.

This rule will not create inconsistencies with other agencies' actions. This rule does not change the relationships of the onshore minerals programs with other agencies' actions. These relationships are all encompassed in agreements and memoranda of understanding that will not change with this proposed rule.

In addition, this rule will not materially affect the budgetary impact of entitlements, grants, loan programs or the rights and obligations of their recipients. However, this rule does propose to increase existing fees, and create new fees, for processing documents associated with the onshore minerals programs. This occurs as a result of recommendations by the OIG (Report Nos. 89-25 and 95-I-379) as well as the policy of the Independent Offices Appropriation Act of 1952 (IOAA), 31 U.S.C. 9701 and the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. 1734. The IOAA and section 304 of FLPMA authorize BLM to charge applicants the cost of processing documents through rulemaking; in addition, the IOAA states that these charges should cover the agency's costs for these services to the degree practicable. The OIG reports documented the budgetary impact of delaying collection of fees to reimburse agency costs and strongly admonished BLM to collect the fees proposed in this

rule. Finally, this rule will not raise novel legal or policy issues. Some of the proposed rule may be controversial (e.g., increased or new fees), but the issues are not novel. Some have been tried in the past and some are currently in use by some State governments.

#### *Executive Order 12988*

In accordance with Executive Order 12988, BLM finds that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. BLM consulted with the Department of the Interior's Office of the Solicitor throughout the drafting process.

#### *Author*

The principal authors of this rule are Durga Rimal, Roger Haskins, and John Bebout of Solids Group, and Mary Nagel and John Broderick of Fluids Group, assisted by Christopher Fontecchio of the Regulatory Affairs Group, Bureau of Land Management, Department of the Interior, 1849 C Street, NW., Room 501L, Washington, DC 20240; Telephone: 202-452-0372, and Ken Fitzpatrick of BLM's Eastern States Office.

Dated: March 14, 2000.

**Sylvia V. Baca,**

*Assistant Secretary, Land and Minerals Management.*

**Note:** This document was received by the Office of the Federal Register on December 8, 2000.

#### **List of Subjects**

##### *43 CFR Part 3000*

Public lands-mineral resources, Reporting and recordkeeping requirements.

##### *43 CFR Part 3100*

Government contracts, Mineral royalties, Oil and gas exploration, Public lands-mineral resources, Reporting and recordkeeping requirements, Surety bonds.

##### *43 CFR Part 3110*

Government contracts, Oil and gas exploration, Public lands-mineral resources, Reporting and recordkeeping requirements.

##### *43 CFR Part 3120*

Government contracts, Oil and gas exploration, Public lands-mineral resources, Reporting and recordkeeping requirements.

##### *43 CFR Part 3130*

Alaska, Government contracts, Mineral royalties, Oil and gas exploration, Oil and gas reserves, Public

lands-mineral resources, Reporting and recordkeeping requirements, Surety bonds.

##### *43 CFR Part 3150*

Administrative practice and procedure, Alaska, Oil and gas exploration, Public lands mineral resources, Reporting and recordkeeping requirements, Surety bonds.

##### *43 CFR Part 3200*

Geothermal energy, Government contracts, Mineral royalties, Public lands-mineral resources, Reporting and recordkeeping requirements, Surety bonds.

##### *43 CFR Part 3220*

Geothermal energy, Government contracts, Public lands-mineral resources, Reporting and recordkeeping requirements.

##### *43 CFR Part 3240*

Geothermal energy, Government contracts, Mineral royalties, Public lands-mineral resources, Reporting and recordkeeping requirements, Water resources.

##### *43 CFR Part 3470*

Coal, Government contracts, Mineral royalties, Mines, Public lands-mineral resources, Reporting and recordkeeping requirements, Surety bonds.

##### *43 CFR Part 3500*

Government contracts, Mineral royalties, Public lands-mineral resources, Reporting and recordkeeping requirements, Surety bonds.

##### *43 CFR Part 3510*

Public lands-mineral resources, Reporting and recordkeeping requirements.

##### *43 CFR Part 3520*

Government contracts, Public lands-mineral resources.

##### *43 CFR Part 3530*

Public lands-mineral resources.

##### *43 CFR Part 3540*

Public lands-mineral resources.

##### *43 CFR Part 3550*

Public lands-mineral resources.

##### *43 CFR Part 3560*

Government contracts, Mineral royalties, Public lands-mineral resources, Surety bonds.

##### *43 CFR Part 3570*

Government contracts, Mineral royalties, Mines, Public lands-mineral resources, Reporting and recordkeeping requirements, Surety bonds.

**43 CFR Part 3580**

Administrative practice and procedure, Mines, Public lands-mineral resources, Surety bonds.

**43 CFR Part 3590**

Administrative practice and procedure, Indian lands-mineral resources, Mineral royalties, Mines, Public lands-mineral resources, Reporting and recordkeeping requirements.

**43 CFR Part 3600**

Public lands-mineral resources, Reporting and recordkeeping requirements.

**43 CFR Part 3610**

Government contracts, Public lands-mineral resources, Reporting and recordkeeping requirements, Surety bonds.

**43 CFR Part 3800**

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

**43 CFR Part 3830**

Public lands-mineral resources, Location of Mining Claims, Reporting and recordkeeping requirements.

**43 CFR Part 3850**

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

**43 CFR Part 3860**

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

**43 CFR Part 3870**

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

Accordingly, for the reasons we explained in the preamble and the authorities stated below BLM proposes to amend 43 CFR Groups 3000, 3100, 3200, 3400, 3500, 3600, and 3800 as follows:

**Group 3000—Minerals Management****PART 3000—MINERALS MANAGEMENT GENERAL**

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

**Authority:** 16 U.S.C. 3101 *et seq.*; 30 U.S.C. 181 *et seq.* and 351–359; 31 U.S.C. 483a; 40 U.S.C. 471 *et seq.*; 42 U.S.C. 6508; 43 U.S.C. 1701 *et seq.*; 30 U.S.C. 301–306; and Pub. L. 97–35, 95 Stat 357.

**Subpart 3000—General**

2. A new § 3000.10 is added to read as follows:

**§ 3000.10 What do I need to know about fees in general?**

(a) Fees must be included as required with documents filed under this subchapter. Fees may be statutorily-set fees, relatively nominal filing fees, or processing fees intended to reimburse BLM for its reasonable processing costs. For processing fees, BLM takes into account the factors in section 304(b) of the Federal Land Policy and Management Act (FLPMA) (43 U.S.C. 1734(b)) before deciding a fee. BLM considers the factors for each type of document when the processing fee is a fixed fee, and for each document when the fee is decided on a case-by-case basis, as explained in 43 CFR 3000.11.

(b) BLM will not accept a document that is submitted without the proper filing or processing fee amounts except for documents where the fee will be set on a case-by-case fee basis. Fees are not refundable except as provided for case-by-case fees in 43 CFR 3000.11. BLM will keep your fixed filing or processing fee as a service charge even if the document is rejected or withdrawn completely or partially.

3. A new § 3000.11 is added to read as follows:

**§ 3000.11 When and how does BLM charge me processing fees on a case-by-case basis?**

(a) Fees in this subchapter are designated as either case-by-case fees or fixed fees. However, if BLM decides at any time that a document designated for a fixed fee will have a unique processing cost, such as the preparation of an Environmental Impact Statement, we may set the fee under the case-by-case procedures in this section.

(b) BLM may, in our discretion, allow you, the applicant, to do all or part of any special study according to standards we specify.

(c) For case-by-case fees BLM measures the ongoing processing cost for each individual document and considers the factors in section 304(b) of FLPMA on a case-by-case basis according to the following procedures:

(1) Before performing any case processing, we will give you an estimate of the proposed fee for reasonable processing costs after we consider the FLPMA section 304(b) factors.

(2) You may comment on the proposed fee.

(3) We will then give you the final estimate of the processing fee amount after considering your comments and any BLM-approved work you will do.

(i) If we encounter unanticipated expenses or lower processing costs than anticipated, we will re-estimate our reasonable processing costs following the procedure in paragraphs (c)(1), (c)(2), and (c)(3) of this section.

(ii) If the fee is less than BLM's actual costs, as a result of consideration of the FLPMA section 304(b) factors, we will not process the document until funding for the shortfall is available either through appropriated funds or other means. You may pay the shortfall by contributing funds, and once processing is complete we will refund any money to you that we did not spend on processing costs.

(4)(i) We will periodically estimate what our reasonable processing costs will be for a specific period and will bill you for that period. BLM will not process a document further until this bill amount is paid.

(ii) If a periodic payment turns out to be more or less than BLM's reasonable processing costs for the period, we will adjust the next billing accordingly or make a refund. Do not deduct any amount from a payment without our prior written approval.

(5) You must pay the entire fee before we will issue the final document.

(6) You may appeal BLM's estimated processing costs in accordance with 43 CFR Part 4. We will not process the document further until the appeal is resolved, in accordance with paragraph (c)(4)(i) of this section, unless you pay the fee under protest while the appeal is pending. In that case, if the appeal results in a decision that the fee was too high, we will refund the overpayment in accordance with paragraph (c)(4)(ii) of this section.

(d) Unless otherwise directed by statute, we will periodically adjust fees according to the Implicit Price Deflator for Gross Domestic Product, which is published annually by the U.S. Department of Commerce for the previous year. BLM will publish these fee changes in the **Federal Register**.

**Group 3100—Oil and Gas Leasing****PART 3100—OIL AND GAS LEASING**

4. The authority citation for part 3100 is revised to read as follows:

**Authority:** 30 U.S.C. 181 *et seq.* and 351–359; and 43 U.S.C. 1733 and 1740.

**Subpart 3105—Cooperative Conservation Provisions**

5. Section 3105.6 is amended by revising the first sentence and adding a new sentence after the first sentence as follows:

**§ 3105.6 Consolidation of leases.**

BLM may approve consolidation of leases if it determines that there is sufficient justification and it is in the public interest. Each application for a consolidation of leases must include the payment of a processing fee of \$335.\* \* \*

**Subpart 3106—Transfers by Assignment, Sublease, or Otherwise**

6. Section 3106.3 is revised to read as follows:

**§ 3106.3 Fees.**

Each transfer of record title or of operating rights (sublease) for each lease must include the payment of a processing fee of \$70. Each request for a transfer to an heir or devisee, request for a change of name, or notification of a corporate merger under § 3106.8, must include the payment of a processing fee of \$160. Each transfer of overriding royalty or payment out of production must include the payment of a processing fee of \$9 for each lease to which it applies.

7. Section 3106.4–3 is amended by revising paragraph (d) to read as follows:

**§ 3106.4–3 Mass transfers.**

\* \* \* \* \*

(d) Include with your mass transfer a processing fee payment of \$70 for each such interest transferred for each lease.

**§ 3106.8–1 [Amended]**

8. Section 3106.8–1(a) is amended by removing the sentence “No filing fee is required.” and adding in its place a new sentence to read: “Include a processing fee payment of \$160 with your request to transfer lease rights.”

9. Section 3106.8–2 is amended by removing the sentence “No filing fee is required.” and adding in its place a new sentence to read: “Include a processing fee payment of \$160 with your notice of name change.”

**§ 3106.8–2 [Amended]**

10. Section 3106.8–3 is amended by removing the sentence “No filing fee is required.” and adding in its place a new sentence to read: “Include a processing fee payment of \$160 with your notification of a corporate merger.”

**§ 3106.8–3 [Amended]****Subpart 3107—Continuation, Extension or Renewal****§ 3107.7 [Amended]**

11. Section 3107.7 is amended by removing the next to the last sentence and adding in its place two new sentences to read: “The lessee must file an application to exchange a lease for a

new lease, in triplicate, at the proper BLM office. The application must show full compliance by the applicant with the terms of the lease and applicable regulations, and must include the payment of a processing fee of \$305.”

12. Section 3107.8–2 is revised to read as follows:

**§ 3107.8–2 Application.**

File your application to renew your lease in triplicate in the proper BLM office at least 90 days, but not more than 6 months, before your lease expires. Include a processing fee payment of \$305.

**Subpart 3108—Relinquishment, Termination, Cancellation**

13. Section 3108.2–2(a) is amended by revising the first sentence of paragraph (a)(3) to read as follows:

**§ 3108.2–2 Reinstatement at existing rental and royalty rates: Class I reinstatements.**

(a) \* \* \*

(3) A petition for reinstatement, a processing fee of \$60, and the required rental, including any back rental that has accrued from the date of the termination of the lease, are filed with the proper BLM office within 60 days after receipt of Notice of Termination of Lease due to late payment of rental. \* \* \*

\* \* \* \* \*

**Subpart 3109—Leasing Under Special Acts**

14. Section 3109.1–2 is revised by removing the first three sentences and adding in their place the following:

**§ 3109.1–2 Application.**

No approved form is required for an application to lease oil and gas deposits underlying a right-of-way. The right-of-way owner or his/her transferee must file the application in the proper BLM office. Include a processing fee payment of \$305. If the transferee files an application it must also include an executed transfer of the right to obtain a lease. \* \* \*

**PART 3110—NONCOMPETITIVE LEASES**

15. The authority citation for part 3110 is revised to read as follows:

**Authority:** 16 U.S.C. 3101 *et seq.*; 30 U.S.C. 181 *et seq.* and 351–359; 31 U.S.C. 483a; 43 U.S.C. 1701 *et seq.*; and Pub. L. 97–35, 95 Stat. 357.

**Subpart 3110—Noncompetitive Leases**

16. Section 3110.4(a) is amended by revising the fourth and sixth sentences to read as follows:

**§ 3110.4 Requirements for offer.**

(a) \* \* \* The original copy of each offer must be typed or printed plainly in ink, signed in ink and dated by the offeror or an authorized agent, and must include the payment of the first year's rental and a processing fee of \$305.

\* \* \* A noncompetitive offer to lease a future interest applied for under § 3110.9 must include a processing fee payment of \$305. \* \* \*

\* \* \* \* \*

**PART 3120—COMPETITIVE LEASES**

17. The authority citation for part 3120 is revised to read as follows:

**Authority:** 16 U.S.C. 3101 *et seq.*; 30 U.S.C. 181 *et seq.* and 351–359; 40 U.S.C. 471 *et seq.*; 43 U.S.C. 1701 *et seq.*; and the Attorney General's Opinion of April 2, 1941 (40 Op. Attny. Gen. 41).

18. Section 3120.5–2 is amended by revising paragraph (b)(3) to read as follows:

**§ 3120.5–2 Payments required.**

\* \* \* \* \*

(b) \* \* \*

(3) A processing fee of \$120 per parcel.

\* \* \* \* \*

**PART 3130—OIL AND GAS LEASING; NATIONAL PETROLEUM RESERVE, ALASKA**

19. The authority citation for part 3130 is revised to read as follows:

**Authority:** 42 U.S.C. 6508 and 1701 *et seq.*

20. Section 3132.3(a) is amended by revising the first sentence and adding a new sentence after the first sentence to read as follows:

**§ 3132.3 Payments.**

(a) Make payments of bonuses including deferred bonuses, first year's rental, other payments due upon lease issuance, and fees to BLM's Alaska State Office. Before we issue a lease, the highest bidder must pay a processing fee of \$120 in addition to other remaining bonus and rental payments. \* \* \*

\* \* \* \* \*

**Subpart 3135—Transfers, Extensions and Consolidations**

21. Section 3135.1–2(a)(2) is amended by revising the first two sentences to read as follows:

**§ 3135.1–2 Requirements for filing of transfers.**

\* \* \* \* \*

(a)(1) \* \* \*

(2) An application for approval of any instrument which the regulations

require you to file must include a processing fee payment of \$70. Any document which the regulations in this part do not require you to file but which you submit for record purposes must also include a processing fee payment of \$70 per lease affected. \* \* \*

\* \* \* \* \*

22. Section 3135.1–6(a) is amended by adding a sentence at the end as follows:

**§ 3135.1–6 Consolidation of leases.**

(a) \* \* \* Include with each request for a consolidation of leases a processing fee payment of \$335.

\* \* \* \* \*

**PART 3150—ONSHORE OIL AND GAS GEOPHYSICAL EXPLORATION**

23. The authority citation for part 3150 is revised read as follows:

**Authority:** 16 U.S.C. 3101 *et seq.*; 30 U.S.C. 181 *et seq.* and 351–359; 31 U.S.C. 483a; 42 U.S.C. 6504 and 6508; and 43 U.S.C. 1701 *et seq.*

24. Section 3151.1 is amended by adding a new sentence between the second and third sentences to read as follows:

**§ 3151.1 Notice of intent to conduct oil and gas geophysical exploration operations.**

\* \* \* BLM will charge a processing fee on a case-by-case basis as described in § 3000.11. \* \* \*

25. Section 3152.1 is amended by removing the last sentence and adding in its place the following:

**§ 3152.1 Application for oil and gas geophysical exploration permit.**

\* \* \* \* \*

The application must be submitted to the Field Office Manager of the proper BLM office. BLM will charge a processing fee on a case-by-case basis as described in § 3000.11.

**Group 3200—Geothermal Resource Leasing**

**PART 3200—GEOTHERMAL RESOURCE LEASING**

26. The authority citation for part 3200 is revised to read as follows:

**Authority:** 30 U.S.C. 1001–1027; and 43 U.S.C. 1733 and 1740.

**Subpart 3204—Noncompetitive Leasing**

**§ 3204.12 [Amended]**

27. Section 3204.12 is amended by revising the first sentence to read as follows:

Submit a non-refundable processing fee of \$305 for each lease offer, and an advance rent in the amount of \$1 per acre (or fraction of an acre). \* \* \*

**Subpart 3205—Competitive Leasing**

**§ 3205.16 [Amended]**

28. Section 3205.16(a) is amended by removing the word “and” in paragraph (a)(3), redesignating paragraph (a)(4) as

paragraph (a)(5), and adding a new paragraph (a) (4) to read as follows:

(a) \* \* \*

(4) The processing fee of \$120; and

\* \* \* \* \*

**Subpart 3210—Additional Lease Information**

29. Section 3210.12 is amended by adding a new sentence at the end of the section to read as follows:

**§ 3210.12 May I consolidate leases?**

\* \* \* You must include payment of a \$335 processing fee with your request to consolidate leases.

**Subpart 3211—Fees, Rent, and Royalties**

30. Section 3211.10 is amended by revising the section heading, the table heading, paragraph (b) introductory text, and entries (1) and (3), by redesignating entries (4) through (9) as entries (5) through (10) and by adding a new entry (4) to read as follows:

**§ 3211.10 What are the fees, rent, and minimum royalties for leases?**

\* \* \* \* \*

(b) Use the following table to determine the fees, rents and minimum royalties owed for your lease:

**FEES, RENT, AND ROYALTIES**

Type	Competitive leases	Noncompetitive leases
(1) Lease Application Processing fee .....	\$120	\$305 (includes future interest leases)
* * *	*	*
(3) Transfer of Record Title or Operating Rights .....	70	70
(4) Transfer of Interest to Heir or Devisee, Name Change, or Notification of Corporate Merger.	160	160

**Subpart 3213—Relinquishment, Termination, Cancellation, and Expiration.**

31. Section 3213.19 is revised to read as follows:

**§ 3213.19 What must I do to have my lease reinstated?**

Send BLM a petition requesting reinstatement. Your petition must include the serial number for each lease

and an explanation of why the delay in payment was justifiable, rather than due to a lack of diligence. In addition to your petition, you must also include any past rent owed, any rent which has accrued from the termination date, and a processing fee of \$60.

**Subpart 3216—Transfers**

32. Section 3216.14 is revised to read as follows:

**§ 3216.14 What fees and forms does a transfer require?**

With each transfer request send us the correct form, if required, and pay the transfer processing fee. When you calculate your fee, make sure it covers the full amount. For example, if you are transferring record title for three leases, submit \$210 with the application. Use the following chart to determine forms and fees:

Type of form	Specific form required?	Form No.	Number of copies	Transfer fee (per lease)
(a) Record Title .....	Yes .....	3000–3	2 executed copies .....	\$70
(b) Operating Rights .....	Yes .....	3000–3(a)	2 executed copies .....	70
(c) Estate Transfers .....	No .....	N/A	1 List of Leases .....	160

Type of form	Specific form required?	Form No.	Number of copies	Transfer fee (per lease)
(d) Corporate mergers .....	No .....	N/A	1 List of Leases .....	160
(e) Name Changes .....	No .....	N/A	1 List of Leases .....	160

## PART 3470—COAL MANAGEMENT PROVISIONS AND LIMITATIONS

33. The authority citation for part 3470 is revised to read as follows:

**Authority:** 30 U.S.C. 189 and 359; and 43 U.S.C. 1733 and 1740.

### Subpart 3473—Fees, Rentals, and Royalties

#### §§ 3473.2–1 and 3473.2–2 [Removed]

34. Sections 3473.2–1 and 3473.2–2 are removed and section 3473.2 is revised to read as follows:

#### § 3473.2 General fee provisions.

(a) An application for a license to mine must include payment of a filing fee of \$10. BLM may waive the filing fee for applications filed by relief agencies as provided in § 3440.1–1(b) of this chapter.

(b) An application for an exploration license must include payment of a filing fee of \$250.

(c) An instrument of transfer of a lease or an interest in a lease must include payment of a filing fee of \$50.

(d) BLM will charge applicants for a royalty rate reduction a processing fee

on a case-by-case basis as described in § 3000.11.

(e) BLM will charge applicants for logical mining unit formation or modification a processing fee on a case-by-case basis as described in § 3000.11.

(f) BLM will charge the successful applicant for a competitive coal lease a processing fee on a case-by-case basis as described in § 3000.11.

(g) BLM will charge the successful applicant for modification of a coal lease a processing fee on a case-by-case basis as described in § 3000.11.

## PART 3500—LEASING OF SOLID MINERALS OTHER THAN COAL AND OIL SHALE

35. The authority citation for part 3500 continues to read as follows:

**Authority** U.S.C. 552; 30 U.S.C. 189 and 192c; 43 U.S.C. 1733 and 1740; and sec. 402, Reorganization Plan No. 3 of 1946 (5 U.S.C. appendix).

### Subpart 3500—Leasing of Solid Minerals Other Than Coal and Oil Shale: General

36. Section 3501.1(e) is revised by adding a new first sentence to read as follows:

#### § 3501.1 What is the authority for this part?

\* \* \* \* \*

(e) *Fees.* Section 304 of the Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 1734) authorizes the Secretary to establish reasonable filing and service fees for applications and other documents relating to the public lands. \* \* \*

### Subpart 3504—Fees, Rental, Royalty and Bonds

37. A new § 3504.10 is added to read as follows:

#### § 3504.10 What fees must I pay?

(a) *Filing fees.* Include a non-refundable filing fee of \$25 with each application you submit to BLM that is not charged a processing fee as described in paragraph (b) of this section. Exploration license applications do not require a fee except as provided in part 2920 of this chapter.

(b) *Processing fees.* The following table shows processing fees for various documents.

Document	Processing Fee
(1) Prospecting permit application .....	case-by-case basis as described in § 3000.11.
(2) Prospecting permit application amendment .....	\$50.
(3) Prospecting permit extension .....	\$80.
(4) Preference right lease application .....	case-by-case basis as described in § 3000.11.
(5) Successful competitive lease application .....	case-by-case basis as described in § 3000.11.
(6) Lease renewal application .....	\$390.
(7) Application to waive, suspend, or reduce your rental, minimum royalty, or royalty rate.	case-by-case basis as described in § 3000.11.
(8) Future or fractional interest lease application .....	case-by-case basis as described in § 3000.11.

38. Section 3504.12(a) is revised to read as follows:

#### § 3504.12 What payments do I send to BLM and what payments do I send to MMS?

(a) *Fees and rentals.* (1) Pay all filing and processing fees, all first-year rentals, and all bonus bids for leases to the BLM State office which manages the lands you are interested in. Make your instruments payable to the Department of the Interior—Bureau of Land Management. (2) Pay all second-year and subsequent rentals and all other payments for leases to the Minerals

Management Service. See 30 CFR part 218 for MMS's payment procedures.

\* \* \* \* \*

### Subpart 3505—Prospecting Permits

39. Section 3505.12 is revised to read as follows:

#### § 3505.12 How do I obtain a prospecting permit?

Deliver three copies of the BLM application form to the BLM office with jurisdiction over the lands you are interested in. Include the first year's rental with your application. You will also be charged a processing fee, which BLM will determine on a case-by-case

basis as described in § 3000.11. For more information on fees and rentals, see subpart 3504 of this part.

40. Section 3505.30 is amended by removing the last sentence and by revising the second full sentence to read as follows:

#### § 3505.30 May I amend or change my application after I file it?

\* \* \* \* \* You must include the rental for any added lands and a processing fee of \$50 with your amended application. \* \* \*

41. Section 3505.31 is amended by revising the last sentence to read as follows:

**§ 3505.31 May I withdraw my application after I file it?**

\* \* \* BLM will retain any fees associated with processing already performed on the application.

42. Section 3505.50 is amended by redesignating paragraphs (a), (b), and (c) as paragraphs (1), (2), and (3), respectively, redesignating the introductory text as paragraph (a), and adding paragraph (b) to read as follows:

**§ 3505.50 How will I know if BLM has approved or rejected my application?**

\* \* \* \* \*

(b) If we reject your application, we will refund your rental payment. We will retain any fees associated with processing already performed on the application.

**§ 3505.51 [Removed]**

43. Section 3505.51 is removed.

44. Section 3505.64 is amended by revising the last sentence to read as follows:

**§ 3505.64 How do I apply for an extension?**

\* \* \* Include your processing fee of \$80 and the first year's rental, in accordance with §§ 3504.10, 3504.15, and 3504.16 of this part.

**Subpart 3507—Preference Right Lease Applications**

45. Section 3507.16 is revised to read as follows:

**§ 3507.16 Is there a fee or payment required with my application?**

Yes. You must submit the first year's rent with your application according to the provisions in § 3504.15. BLM will also charge a processing fee on a case-by-case basis as described in § 3000.11.

**Subpart 3508—Competitive Lease Applications**

46. Section 3508.21 is amended by adding a new paragraph (c) to read as follows:

**§ 3508.21 What happens if I am the successful bidder?**

\* \* \* \* \*

(c) BLM will charge you a processing fee on a case-by-case basis as described in § 3000.11.

**Subpart 3509—Fractional and Future Interest Lease Applications**

47. Section 3509.16 is amended by removing the second sentence and adding a new last sentence to read as follows:

**§ 3509.16 How do I apply for a future interest lease?**

\* \* \* BLM will charge you a processing fee on a case-by-case basis as described in § 3000.11.

48. Section 3509.30 is amended by revising the last sentence to read as follows:

**§ 3509.30 May I withdraw my application for a future interest lease?**

\* \* \* BLM will retain any fees associated with processing already performed on the application.

49. Section 3509.46 is amended by removing the second sentence and adding a new last sentence to read as follows:

**§ 3509.46 How do I apply for a fractional interest prospecting permit or lease?**

\* \* \* BLM will charge you a processing fee on a case-by-case basis as described in § 3000.11.

50. Section 3509.51 is amended by revising the last sentence to read as follows:

**§ 3509.51 May I withdraw my application for a fractional interest prospecting permit or lease?**

\* \* \* BLM will retain any fees associated with processing already performed on the application.

**Subpart 3511—Lease Terms and Conditions**

51. Section 3511.27 is amended by revising the last sentence to read as follows:

**§ 3511.27 How do I renew my lease?**

\* \* \* Send us three copies of your application together with the \$390 processing fee and an advance rental payment of \$1 per acre or fraction of an acre.

**Subpart 3513—Waiver, Suspension or Reduction of Rental and Minimum Royalties**

52. Subpart 3513 is amended by adding § 3513.16 to read as follows:

**§ 3513.16 Do I have to pay a fee when I apply for a waiver, suspension, or reduction of rental, minimum royalty, production royalty, or minimum production?**

Yes, BLM will charge you a processing fee on a case-by-case basis, as described in § 3000.11.

**Group 3600—Mineral Materials Disposal****PART 3600—MINERAL MATERIALS DISPOSAL: GENERAL****PART 3610—SALES**

53. The authority citation for part 3610 is revised to read as follows:

**Authority:** U.S.C. 601 and 602; and 43 U.S.C. 1733 and 1740.

**Subpart 3610—Mineral Material Sales**

54. Section 3610.1–1 is amended by redesignating the existing text as paragraph (a) and adding paragraph (b) to read as follows:

**§ 3610.1–1 Request for sale.**

(a) \* \* \*

(b) Each requestor for a sale, other than from a community pit or common use area, must pay a processing fee as provided in § 3610.2–1(a) or § 3610.3–4(e) before BLM awards the contract.

55. Section 3610.2–1 is amended by revising the section heading and adding at the end of paragraph (a) a new sentence to read as follows:

**§ 3610.2–1 Limitations in volume and fees.**

(a) \* \* \* BLM will charge the purchaser a processing fee on a case-by-case basis as described in § 3000.11.

\* \* \* \* \*

56. Section 3610.3–4 is amended by adding paragraph (e) to read as follows:

**§ 3610.3–4 Bid deposits.**

\* \* \* \* \*

(e) BLM will charge the successful bidder a processing fee on a case-by-case basis as described in § 3000.11.

**PART 3800—MINING CLAIMS UNDER THE GENERAL MINING LAWS****Subpart 3800—General**

57. The authority citation for part 3800 is revised to read as follows:

**Authority:** 16 U.S.C. 351 and 460y–4; 30 U.S.C. 22 and 28k; 31 U.S.C. 9701; and 43 U.S.C. 1201 and 1740.

54. Part 3800 is amended by adding new subpart 3800, to read as follows:

**Subpart 3800—General****§ 3800.5 Fees**

(a) An applicant for a plan of operations under this part must pay a processing fee on a case-by-case basis as described in § 3000.11 whenever BLM decides that approval of the plan of operations requires the preparation of an Environmental Impact Statement.

(b) An applicant for a plan of operations or a mineral patent under



this part, or a notice operator who may not conduct operations under this part until a validity examination is performed, must pay a processing fee on a case-by-case basis as described in § 3000.11 for any validity examination and report performed in connection with the application or notice.

### **PART 3830—LOCATION OF MINING CLAIMS**

58. The authority citation for part 3830 is revised to read as follows:

**Authority:** 16 U.S.C. 1901 and 1907; 30 U.S.C. 22, 28 and 242; 31 U.S.C. 9701; 43 U.S.C. 1201, 1740 and 1744; 50 U.S.C. Appendix 565; Pub. L. 103–23, 107 Stat. 60; and Pub. L. 103–66, 107 Stat. 405.

### **Subpart 3833—Recordation of Mining Claims, Mill Sites, and Tunnel Sites and Payment of Service Charges; and Payment of Rental Fees**

#### **§ 3833.1 Recordation of Mining Claims.**

59. Section 3833.1–4 is amended by revising paragraphs (a), (c), (d), and (e) as follows:

#### **§ 3833.1–4 Service charges and location fees.**

(a) As the applicant you must include payment of a \$15 processing fee for each notice or certificate of location of a mining claim, mill site, or tunnel site filed for recordation.

(b) \* \* \*

(c) Annual filings submitted under § 3833.2 must include payment of a \$10 processing fee for each mining claim, mill site, or tunnel site. You do not have to pay a processing fee when paying a maintenance fee under § 3833.1–5 or filing a maintenance fee waiver under § 3833.1–7.

(d) For amendments to a previously recorded notice or certificate of location, you must submit a \$10 processing fee for each mining claim, mill site, or tunnel site.

(e) For each transfer of interest document filed under § 3833.3, you must submit a \$10 processing fee for each mining claim, mill site, or tunnel site.

\* \* \* \* \*

### **PART 3850—ASSESSMENT WORK**

60. The authority is revised to read as follows:

**Authority:** 30 U.S.C. 22 *et seq.* and 28–28k; 50 U.S.C. Appendix 565; and Pub. L. 103–66, 107 Stat. 405.

### **Subpart 3852—Deferment of Assessment Work**

61. Section 3852.2 is amended by revising the last sentence of paragraph (a) as follows:

#### **§ 3852.2 Filing of petition for deferment, contents.**

(a) \* \* \* Each petition must include payment of a \$80 processing fee.

\* \* \* \* \*

### **PART 3860—MINERAL PATENT APPLICATIONS**

62. The authority citation for part 3860 is revised to read as follows:

**Authority:** 5 U.S.C. 22 *et seq.* and 552.

63. Part 3860 is amended by adding new subpart 3860 to read as follows:

### **Subpart 3860—General**

#### **§ 3860.1 Fees.**

(a) Each mineral patent application must include payment of a \$2,290 processing fee to cover BLM's preliminary application processing costs.

(b) BLM will charge a separate processing fee on a case-by-case basis as described in § 3000.11 to cover its processing costs for the mineral examination and report.

### **Subpart 3862—Lode Mining Claim Patent Applications**

64. Section 3862.1–2 is revised to read as follows:

#### **§ 3862.1–2 Fees.**

An applicant for a lode mining claim patent must pay fees as described in § 3860.1 of this part.

### **Subpart 3863—Placer Mining Claim Patent Applications**

65. Section 3863.1 is amended by adding new paragraph (c) to read as follows:

#### **§ 3863.1 Placer mining claim patent applications: General.**

\* \* \* \* \*

(c) An applicant for a placer mining claim patent must pay fees as described in § 3860.1 of this part.

### **Subpart 3864—Millsite Patents**

#### **§ 3864.1 Millsite patents: General.**

66. Section 3864.1–5 is added to read as follows:

#### **§ 3864.1–5 Fees.**

An applicant for a millsite patent must pay fees as described in § 3860.1 of this part.

### **PART 3870—ADVERSE CLAIMS, PROTESTS, AND CONFLICTS**

67. The authority citation for part 3870 is added to read as follows:

**Authority:** 30 U.S.C. 30; and 43 U.S.C. 1201 and 1457.

### **Subpart 3871—Adverse Claims**

68. Section 3871.1 is amended by revising paragraph (d) as follows:

#### **§ 3871.1 Filing of claim.**

\* \* \* \* \*

(d) Each adverse claim filed must include an \$80 processing fee.

### **Subpart 3872—Protests, Contests, and Conflicts**

69. In § 3872.1 paragraph (b) is revised to read as follows:

#### **§ 3872.1 Protest against mineral applications.**

\* \* \* \* \*

(b) A protest by any party, except a Federal agency, must include payment of a \$50 processing fee.

[FR Doc. 00–31748 Filed 12–14–00; 8:45 am]

BILLING CODE 4310–84–P

### **FEDERAL COMMUNICATIONS COMMISSION**

### **47 CFR Parts 1, 21, 61, 73, 74 and 76**

[OMD Docket No. 00–205; FCC 00–421]

### **Adoption of a Mandatory FCC Registration Number**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rules.

**SUMMARY:** The Commission proposes to amend its rules to require persons and entities doing business with the agency to obtain a unique identifying number, called the FCC Registration Number (FRN), through the Commission Registration System (CORES), and to provide the number when doing business with the agency. The FRN requirement is being proposed to better manage the Commission's financial systems and comply with various statutes governing the financial management of agency accounts.

**DATES:** The agency must receive comments on or before January 16, 2001, and reply comments on or before January 29, 2001.

**FOR FURTHER INFORMATION CONTACT:** Mark A. Reger, Chief Financial Officer (202) 418–1924 (policy and technical issues); Laurence H. Schecker, Office of