

location. All other systems on annual monitoring and subpart H systems serving 500–3,300 are required to take individual TTHM and HAA5 samples (instead of a dual sample set) at the locations with the highest TTHM and HAA5 concentrations, respectively. For systems serving fewer than 500 people, only one location with a dual sample set per monitoring period is needed if the highest TTHM and HAA5 concentrations occur at the same location and month.

\* \* \* \* \*

■ 11. Section 141.704 is amended by revising paragraphs (a) introductory text and (b) introductory text to read as follows:

**§ 141.704 Analytical methods.**

(a) *Cryptosporidium*. Systems must analyze for *Cryptosporidium* using *Method 1623: Cryptosporidium and Giardia in Water by Filtration/IMS/FA*, 2005, United States Environmental Protection Agency, EPA-815-R-05-002 or *Method 1622: Cryptosporidium in Water by Filtration/IMS/FA*, 2005, United States Environmental Protection Agency, EPA-815-R-05-001, which are incorporated by reference, or alternative methods listed in Appendix A to subpart C of this part. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy of these methods online from <http://www.epa.gov/safewater/disinfection/lt2> or from the United States Environmental Protection Agency, Office of Ground Water and Drinking Water, 1201 Constitution Ave., NW., Washington, DC 20460 (Telephone: 800-426-4791). You may inspect a copy at the Water Docket in the EPA Docket Center, 1301 Constitution Ave., NW., Washington, DC (Telephone: 202-566-2426) or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

\* \* \* \* \*

(b) *E. coli*. System must use methods for enumeration of *E. coli* in source water approved in § 136.3(a) of this chapter or alternative methods listed in Appendix A to subpart C of this part.

\* \* \* \* \*

**PART 143—NATIONAL SECONDARY DRINKING WATER REGULATIONS**

■ 12. The authority citation for part 143 continues to read as follows:

**Authority:** U.S.C. 300f, 300g-1, 300g-2, 300g-3, 300g-4, 300g-5, 300g-6, 300j-4, 300j-9, and 300j-11.

■ 13. Section 143.4 is amended by revising the introductory text preceding the table in paragraph (b) to read as follows:

**§ 143.4 Monitoring.**

\* \* \* \* \*

(b) Measurement of pH, copper and fluoride to determine compliance under § 143.3 may be conducted with one of the methods in § 141.23(k)(1). Analyses of aluminum, chloride, foaming agents, iron, manganese, odor, silver, sulfate, total dissolved solids (TDS) and zinc to determine compliance under § 143.3 may be conducted with the methods in the following table or alternative methods listed in Appendix A to subpart C of part 141. Criteria for analyzing aluminum, copper, iron, manganese, silver and zinc samples with digestion or directly without digestion, and other analytical test procedures are contained in *Technical Notes on Drinking Water Methods*, EPA-600/R-94-173, October 1994. This document is available from the National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419 or <http://www.epa.gov/nscep/>.

\* \* \* \* \*

[FR Doc. E9-14598 Filed 6-26-09; 8:45 am]

**BILLING CODE 6560-50-P**

**DEPARTMENT OF THE INTERIOR**

**Bureau of Land Management**

**43 CFR Part 3830**

[LLW03200000-L1999000.PP0000]

**RIN 1004-AE09**

**Required Fees for Mining Claims or Sites**

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

**ACTION:** Final rule.

**SUMMARY:** The Bureau of Land Management (BLM) is promulgating this final rule to make statutorily authorized adjustments to its location and maintenance fees for unpatented mining claims, mill sites, and tunnel sites. These adjustments reflect changes in the Consumer Price Index (CPI), which is

published by the Bureau of Labor Statistics.

**DATES:** The final rule is effective June 29, 2009.

**ADDRESSES:** You may mail inquiries to the Bureau of Land Management—Solid Minerals Division, Room 501 LS, 1849 C Street, NW., Washington, DC 20240-0001.

**FOR FURTHER INFORMATION CONTACT:** Rick Deery in the Solid Minerals Division at (202) 452-0353. For assistance in reaching Mr. Deery, persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1 (800) 877-8339, 24 hours a day, 7 days a week.

**SUPPLEMENTARY INFORMATION:**

- I. Background
- II. Discussion of the Final Rule
- III. Procedural Matters

**I. Background**

The Mining Law of 1872 allows individuals and corporations to prospect for mineral deposits in public lands, and stake (or “locate”) a claim on the deposits discovered. Historically, annual assessment work and related filings have been required by statute in order to maintain an unpatented mining claim or site. 30 U.S.C. 28–28e; 43 U.S.C. 1744(a) and (c).

Beginning in fiscal year 1993, mining claimants have been required to pay an annual “maintenance” fee in lieu of performing annual assessment work and making annual filings. Mining claimants locating new claims or sites must also pay a one-time location fee. See 30 U.S.C. 28f–28k.

This rule implements 30 U.S.C. 28j(c), which authorizes adjustments to the location and annual maintenance fees “to reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor every 5 years after August 10, 1993, or more frequently if the Secretary determines an adjustment to be reasonable.” Section 28j(c) also requires that mining claimants be provided “notice of any adjustment made under this subsection not later than July 1 of any year in which the adjustment is made,” and that any fee adjustment “shall begin to apply the first assessment year which begins after adjustment is made.”

As enacted in 1993, the one-time location fee was \$25, and the annual maintenance fee was \$100 per mining claim or site. In 2004, the BLM increased the amount of the location and maintenance fees to \$30 and \$125 respectively, based on the change in the CPI from September 1, 1993 to December 31, 2003. 69 FR 40294–40296

(July 1, 2004). The BLM has not adjusted the location and maintenance fees since 2004, but has promulgated two rules that have affected other aspects of the table of charges and fees at 43 CFR 3830.21, the regulation that is amended in this rule. For example, a new regulation issued in 2005 (43 CFR 3000.12) provides for a variety of processing fees, some of which are included in the table at section 3830.21. 70 FR 58873 (Oct. 7, 2005); see also 72 FR 50882 (Sept. 5, 2007).

The adjustments made in this rule are based upon the change in the CPI from December 31, 2003 to December 31, 2008, as reported by the Bureau of Labor Statistics in the CPI Detailed Report, Data for December 2008, Table 24C. Historical Chained Consumer Price Index for All Urban Consumers (C-CPI-U): U.S. city average, all items (<http://www.bls.gov/cpi/cpid0812.pdf>). The calculated change is 11.93 percent from December 31, 2003 through December 31, 2008. A calculated value for the fees was obtained by inflating the location and maintenance fees established in the 2004 rulemaking by 11.93 percent.

The new location fee is \$34, and the new maintenance fee is \$140 per mining claim or site. The new location fee is based on rounding the calculated value to the nearest \$1. The maintenance fee is based on rounding the calculated value to the nearest \$5.

Mining claimants must pay the new location fee for any mining claim or site located after the effective date of this final rule. Mining claimants must pay the new maintenance fee to maintain mining claims and sites starting from the 2010 maintenance year. These fees are due on or before September 1, 2009. Under 43 CFR 3834.23, mining claimants who have already submitted maintenance fees for the 2010 maintenance year will be given an opportunity to pay the additional amount without penalty upon notice from BLM.

## II. Discussion of the Final Rule

The BLM is adopting this final rule solely to adjust the location and maintenance fee amounts in section 3830.21. The BLM for good cause finds under 5 U.S.C. 553(b)(3)(B) that notice and an opportunity for public comment for this rule are unnecessary, and that this rule may properly take effect upon publication. The reason is that this rule implements a statutory requirement to adjust the location and annual maintenance fees at least every 5 years, and the last adjustment was made in 2004. The statute specifies the method of calculation of the fee adjustments and prescribes the form and manner of

notice of the fee adjustment. The BLM has no discretion to exercise in complying with this statutory mandate. The BLM also determines under 5 U.S.C. 553(d) that there is good cause to place the rule into effect on the date of publication, because the adjustments made in the rule are explicitly authorized by statute.

This final rule contains only the specific amendments necessary to conform to the requirements of the statute. The amendments appear as modifications of the fee transaction table at 43 CFR 3830.21 to change the amount of the location and annual maintenance fees required to be paid for each mining claim, mill site, or tunnel site.

## III. Procedural Matters

### *Executive Order 12866, Regulatory Planning and Review*

In accordance with the criteria in Executive Order 12866, BLM has determined that this rule is not a significant regulatory action.

- The 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. The fee adjustment does not change the substance of current mining claim administration within the BLM. The total amount of fees to be collected, including the effects of the adjustment, is estimated to be \$61 million annually, of which approximately \$7 million will be attributable to the adjustments made in this rule.

- This rule will not create inconsistencies with other agencies' actions. It does not change the relationships of the BLM to other agencies and their actions.

- This rule will not materially affect entitlements, grants, loan programs, or the rights and obligations of their recipients. The rule does not address any of these programs.

- This rule will not raise novel legal or policy issues because it makes no major substantive changes in the regulations. The Constitutionality of the location and maintenance fees has been challenged in the Federal courts. The courts have consistently upheld the fee legislation and implementing regulations.

### *Regulatory Flexibility Act*

The BLM certifies that 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.*) The rule will have a minor impact because the fees paid by small entities will be adjusted. However, the fee adjustment is authorized by statute and the BLM has no discretion in the form or manner of making the adjustments. A final Regulatory Flexibility Analysis is not required, and a Small Entity Compliance Guide is not required. For the purposes of this section a "small entity" is an individual, limited partnership, or small company, at "arm's length" from the control of any parent companies, with fewer than 500 employees for business concerns engaged in mining or less than \$7 million in revenue for business concerns providing support activities for mining. This definition accords with Small Business Administration regulations at 13 CFR 121.201.

### *Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

- Will not have an annual effect on the economy of \$100 million or more. The revised regulation will not materially alter current BLM policy. The fee adjustments are authorized by statute. The total amount of fees collected, including the effects of the adjustment, is estimated to be \$61 million annually, of which \$7 million is attributable to the adjustments made in this rule.

- Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

- Will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

### *Unfunded Mandates Reform Act*

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

- This rule will not "significantly or uniquely" affect small governments. A Small Government Agency Plan is unnecessary.

- This rule will not produce a Federal mandate of \$100 million or greater in any year. It is not a "significant regulatory action" under the Unfunded Mandates Reform Act. The changes implemented in this rule do not require anything of any non-Federal governmental entity.

*Executive Order 12630, Takings*

In accordance with Executive Order 12630, the BLM finds that the rule does not have takings implications. A takings implication assessment is not required. This rule does not substantially change BLM policy. Nothing in this rule constitutes a taking. The Federal courts have heard a number of suits challenging the imposition of the rental and maintenance fees as a taking of a right, or, alternatively, as an unconstitutional tax. The courts have upheld the fee legislation and the BLM regulations as a proper exercise of Congressional and Executive authorities.

*Executive Order 13132, Federalism*

The final rule will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, the BLM has determined that the final rule does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

*Executive Order 12988, Civil Justice Reform*

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

*Paperwork Reduction Act*

The Office of Management and Budget has approved the information collection requirements in the regulation that this final rule is amending, under the Paperwork Reduction Act of 1995, 44

U.S.C. 3501 *et seq.*, and has assigned clearance number 1004-0114.

*National Environmental Policy Act*

The BLM has determined that this final rule is of a procedural nature, and part of the routine administration of the fee legislation. Therefore, this rule is categorically excluded from environmental review under Section 102(2)(C) of the National Environmental Policy Act, pursuant to 43 CFR 46.210(i). In addition, this rule does not present any of the 12 extraordinary circumstances listed in 43 CFR 46.215. Pursuant to the Council on Environmental Quality regulations (40 CFR 1508.4) and 43 CFR 46.205, the term "categorical exclusion" means a category of actions which do not individually or cumulatively have a significant effect on the human environment and that have been found to have no such effect in procedures adopted by a Federal agency and for which neither an environmental assessment nor an environmental impact statement is required.

*Executive Order 13175, Consultation and Coordination With Indian Tribal Governments*

In accordance with Executive Order 13175, we have considered the impact of this rule on the interests of Tribal governments. Because this rule does not specifically involve Indian reservation lands, government-to-government relationships will remain unaffected.

*Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

This rule is not a significant energy action. It will not have an adverse effect on energy supplies. To the extent that the rule affects the mining of energy minerals (*i.e.*, uranium and other

fissionable metals), the rule applies only a statutory adjustment of the mining claim location and maintenance fees that the BLM has been collecting for many years. It will not significantly change financial obligations of the mining industry.

*Authors*

The principal author of this final rule is Rick Deery in the Solid Minerals Division, Washington Office, BLM, assisted by Jean Sonneman in the Regulatory Affairs Division, Washington Office, BLM.

**List of Subjects in 43 CFR Part 3830**

Land Management Bureau, Mineral royalties, Mines, Public lands—mineral resources, Reporting and recordkeeping requirements, Maintenance fees.

■ For the reasons stated in the preamble, and under the authority of 30 U.S.C. 28f–28k, as amended by Public Law 110–161, Division F, part 3830, Group 3800, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as follows:

**PART 3830—LOCATION OF MINING CLAIMS**

■ 1. The authority citation for part 3830 continues to read as follows:

**Authority:** 18 U.S.C. 1001, 3571; 30 U.S.C. 22 *et seq.*, 242, 611; 31 U.S.C. 9701; 43 U.S.C. 2, 1201, 1212, 1457, 1474, 1701 *et seq.*; 44 U.S.C. 3501 *et seq.*; 115 Stat. 414.

**Subpart D—BLM Service Charge and Fee Requirements**

■ 2. Revise § 3830.21 to read as follows:

**§ 3830.21 What are the different types of service charges and fees?**

The following table lists service charges, maintenance fees, location fees, and oil shale fees (all cross-references refer to this chapter):

Transaction	Amount due per mining claim or site	Waiver available
(a) Recording a mining claim or site location (part 3833).	(1) A total sum which includes .....  (i) the processing fee for notices of location found in the fee schedule in § 3000.12 of this chapter. (ii) A one-time \$34 location fee. (iii) An initial \$140 maintenance fee.	No.
(b) Amending a mining claim or site location (§ 3833.20).	The processing fee for amendment of location found in the fee schedule in § 3000.12 of this chapter.	No.
(c) Transferring a mining claim or site (§ 3833.30) ....	The processing fee for transfer of mining claim/site found in the fee schedule in § 3000.12 of this chapter.	No.
(d) Maintaining a mining claim or site for one assessment year (part 3834).	A \$140 annual maintenance fee .....	Yes, see part 3835.
(e) Recording an annual FLPMA filing (§ 3835.30) ....	The processing fee for recording an annual FLPMA filing found in the fee schedule in § 3000.12 of this chapter.	No.

Transaction	Amount due per mining claim or site	Waiver available
(f) Submitting a petition for deferment of assessment work (§ 3836.20).	The processing fee for deferment of assessment work found in the fee schedule in § 3000.12 of this chapter.	No.
(g) Maintaining an oil shale placer mining claim (§ 3834.11(b)).	An annual \$550 fee .....	No.
(h) Recording a notice of intent to locate mining claims on Stockraising Homestead Act Lands (part 3838).	The filing fee for recording a notice of intent to locate mining claims on Stock Raising Homestead Act Lands found in the fee schedule in § 3000.12 of this chapter.	No.

Dated: June 18, 2009.

**Ned Farquhar,**

*Acting Assistant Secretary of the Interior,  
Land and Minerals Management.*

[FR Doc. E9-15248 Filed 6-26-09; 8:45 am]

BILLING CODE 4310-84-P

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

**44 CFR Part 65**

[Docket ID FEMA-2008-0020]

**Changes in Flood Elevation Determinations**

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Final rule.

**SUMMARY:** Modified Base (1% annual-chance) Flood Elevations (BFEs) are finalized for the communities listed below. These modified BFEs will be used to calculate flood insurance premium rates for new buildings and their contents.

**DATES:** The effective dates for these modified BFEs are indicated on the following table and revise the Flood Insurance Rate Maps (FIRMs) in effect for the listed communities prior to this date.

**ADDRESSES:** The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** William R. Blanton Jr., Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-3151.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency

(FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified BFEs have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Assistant Administrator for Mitigation has resolved any appeals resulting from this notification.

The modified BFEs are not listed for each community in this notice. However, this final rule includes the address of the Chief Executive Officer of the community where the modified BFEs determinations are available for inspection.

The modified BFEs are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified BFEs are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood

insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings. The changes in BFEs are in accordance with 44 CFR 65.4.

*National Environmental Policy Act.* This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

*Regulatory Flexibility Act.* As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601-612, a regulatory flexibility analysis is not required.

*Regulatory Classification.* This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

*Executive Order 13132, Federalism.* This final rule involves no policies that have federalism implications under Executive Order 13132, Federalism.

*Executive Order 12988, Civil Justice Reform.* This final rule meets the applicable standards of Executive Order 12988.

**List of Subjects in 44 CFR Part 65**

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

■ Accordingly, 44 CFR part 65 is amended to read as follows:

**PART 65—[AMENDED]**

■ 1. The authority citation for part 65 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

**§ 65.4 [Amended]**

■ 2. The tables published under the authority of § 65.4 are amended as follows: