Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: August 16, 2005.

Ann C. Agnew,

Executive Secretary to the Department.

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3834

[WO–620–1990–00–24 1A]

RIN 1004–AD75

Mining Claim and Site Maintenance and Location Fees—Fee Adjustment

AGENCY: Bureau of Land Management, Interior.

ACTION: Interim rule.

SUMMARY: The Bureau of Land Management (BLM) is publishing this interim rule to amend regulations found at 43 CFR part 3834, subpart B, related to adjustments of the fees required to be paid for mining claims and mill sites, so as to clarify that mining claimants may cure the filing of an insufficient payment of fees when the fees have changed through any means, including a Consumer Price Index (CPI) adjustment or other statutorily required adjustment.

DATES: The interim rule is effective September 1, 2005.

ADDRESSES: Inquiries may be addressed to the to Bureau of Land Management, Solid Minerals Group, Room 501 LS, 1849 C Street, NW., Washington, DC 20240–001.

FOR FURTHER INFORMATION CONTACT: Roger Haskins in the Solid Minerals Group at (202) 452–0355. 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

On July 1, 2004, the Department of the Interior adjusted the location and maintenance fees for mining claims and sites based upon the CPI, as required by the Mining Law. See 69 FR 40294. The Department increased the location fee from $25 to $30 and increased the annual maintenance fee from $100 to $125. The Interior and Related Agencies Appropriations Act for fiscal year 2005, Division E, Title I, Section 120 of Public Law 108–447 of December 8, 2004, directed the Department of the Interior to roll back these location and maintenance fees for mining claims and sites to their pre-July 2004 level. This meant that, as of December 8, 2004, the location fee was rolled back from $30 to $25 per new location and the annual maintenance fee was rolled back from $125 to $100 per mining claim or site.

However, the 2005 Appropriations Act also provided that the fees would return to their increased levels when the Department met certain conditions, including establishing a plan of operations tracking system and filing a report with Congress regarding the length of time it takes the Department to approve proposed mining plans of operations and recommending steps to reduce current delays. As described in the **Federal Register** on July 1, 2005 (70 FR 38192) the Department met these conditions on June 30, 2005. Therefore, in accordance with the terms of the 2005 Appropriations Act, the fees returned to the rates established in 2004 on June 30, 2005. Mining claim holders must pay a $30 location fee and a $125 maintenance fee for all mining claims and sites recorded on or after June 30, 2005. In addition, the annual maintenance fee due on or before September 1, 2005, is $125 per mining claim or site.

BLM noted in the July 1, 2005, **Federal Register** notice that the regulation at 43 CFR 3834.23(c) provides that, if a mining claimant timely pays pre-increase fees, the BLM will provide notice to the claimant and an opportunity to pay the difference. BLM noted that although the fee increase at issue in the July 1, 2005, **Federal Register** notice was not directly a CPI-based increase, the 2004 increase that has been restored was CPI-based. Therefore, BLM noted that it believed that the cure provisions of the rule will apply if a claimant timely pays at least $100 for a claim or site on or before September 1, 2005. However, the BLM noted that it would publish an additional rule before September 1, 2005, further clarifying that mining claimants may cure the filing of an insufficient payment of fees when the fees have changed through any means, including a Consumer Price Index (CPI) adjustment or other statutorily required adjustment. The purpose of this interim rule is to amend the regulations found at 43 CFR part 3834, subpart B, to make this clarification.

II. Discussion of the Interim Rule

Why the Rule Is Being Published on a Interim Basis

BLM is adopting this interim rule to clarify that mining claimants may cure the filing of an insufficient payment of fees when the fees have changed through means other than a CPI adjustment. The existing provision found at 43 CFR 3834.23(b) provides that, after BLM adjusts the fees to reflect a change in the CPI, as required by the Mining Law, claimants who pay the fees timely, but pay the pre-adjustment amount, will be given an opportunity to cure that insufficient payment. This rule will make this curing provision applicable whenever Congress enacts any other statutes that require an adjustment of the fees.

The Department of the Interior, for good cause, finds under 5 U.S.C. 553(b)(B) that notice and public procedure are unnecessary and contrary to the public interest. The clarification to the curing provision is a reasonable and equitable administrative way in which to handle fee adjustments and to avoid inadvertent loss of mining claims due to lack of actual notice of an adjustment. It is in the public interest to provide such equitable means for a mining claimant to be able to cure an underpayment of the fees when the claimant has shown an intent to maintain the claim by paying the pre-adjusted fee amount in a timely manner. This will avoid the disruption of mining operations that would be caused if the mining claimant unintentionally loses their mining claim or site due to a minimal underpayment of fees.

We also determine under 5 U.S.C. 553(d) that there is good cause to place the rule into effect on the date of publication, because a fee adjustment has already occurred and the deadline for filing the adjusted fees for all existing mining claims and sites is September 1, 2005. This rule will make it clear that the BLM will give any claimant who pays the pre-adjusted fee amount in a timely fashion an opportunity to pay the additional amount within 30 days. As such, it grants temporary exemption to the immediate forfeiture of a mining claim due to failure to timely pay fees.

Organization of the Interim Rule

This interim rule amends existing regulations at Subpart B of Part 3834. The existing regulations apply to fee adjustments made in accordance with the CPI, as required by the Mining Law. The amendment will apply to fee adjustments made in accordance with other statutes.

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 Office of Management and Budget (OMB) makes the final determination under Executive Order 12866.

- 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 cure provision does not change the substance of current mining claim administration within BLM.
- This rule will not create inconsistencies with other agencies' actions. It does not change the relationships of 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 cure provision avoids any potential takings liability to BLM due to a fee adjustment beyond the control of the BLM.

Regulatory Flexibility Act

We certify 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 underpaid fees by small entities will be a curable defect. 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 or less than $5 million in revenue. 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:

- Does not have an annual effect on the economy of $100 million or more. As explained in section I above, the revised regulations will not materially alter current BLM policy. The cure provision avoids any potential adverse effects on the economy.
- Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. This rule may affect the cost to locate, record, or maintain a mining claim or site.
- Does 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 rule does not have takings implications. A takings implication assessment is not required. Nothing in this rule constitutes a taking. This rule will avoid any takings liability that would otherwise arise by not making an underpayment curable. This rule does not substantially change BLM policy.

Executive Order 12612, Federalism

In accordance with Executive Order 12612, BLM finds that the rule does not have significant Federalism effects. A Federalism assessment is not required. This rule does not change the role or responsibilities between Federal, State, and local governmental entities, nor does it relate to the structure and role of States or have direct, substantive, or significant effects on States.

Executive Order 12988, Civil Justice Reform

In accordance with Executive Order 12988, BLM finds 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. BLM consulted with the Department of the Interior's Office of the Solicitor throughout the drafting process.

Paperwork Reduction Act

The BLM has determined this rulemaking does not contain any new information collection requirements that the Office of Management and Budget (OMB) must approve under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The OMB has approved the information collection requirements in the regulations under OMB control number 1004–0114, which expires December 31, 2006.

National Environmental Policy Act

We have analyzed this rule in accordance with the criteria of the National Environmental Policy Act and 318 DM 2.2(g) and 6.3(D). The amended cure provision in this rule is in response to an Act of Congress and allows mining claimants to cure their underpayment of fees that have been adjusted according to the CPI or an Act of Congress. The full effects of the rulemaking that this provision amends are discussed at 68 FR 61063 and those conclusions are adopted here. Therefore, this rule is categorically excluded from the need to prepare an Environmental Analysis. Because this rule does not substantially change BLM's overall management objectives or environmental compliance requirements, it would have no impact on, or only marginally affect, the following critical elements of the human environment as defined in Appendix 5 of the BLM National Environmental Policy Act Handbook (H–1790–1): air quality, areas of critical environmental concern, cultural resources, Native American religious concerns, threatened or endangered species, hazardous or solid waste, water quality, prime and unique farmlands, wetlands, riparian zones, wild and scenic rivers, environmental justice, and wilderness.

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 Indian reservation lands are not available for the location of mining claims or sites, this rule does not specifically involve government-to-government relationships. These 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 may save mining claims or sites that would otherwise be forfeited for the late payment of insufficient location and/or maintenance fees. It will not change financial obligations of the mining industry.

Authors

The principal author of this interim rule is Roger Haskins in the Solid Minerals Group, assisted by Frank Bruno in the Regulatory Affairs Group, Washington Office, BLM.

List of Subjects in 43 CFR Part 3834

Maintenance fees; mines; public lands—mineral resources; reporting and record keeping requirements.

Dated: August 26, 2005.

Chad Calvert,

Acting Assistant Secretary, Land and Minerals Management.

■ For the reasons stated in the preamble, and under the authority of sections 441 and 2478 of the Revised Statutes, as amended (43 U.S.C. 1201 and 1457); and sections 2319 and 2324 of the Revised Statutes, as amended (30 U.S.C. 22 and 28); part 3834, Group 3800, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as follows:

PART 3834—REQUIRED FEES FOR MINING CLAIMS OR SITES

■ 1. The authority citation for part 3834 continues to read as follows:

Authority: 30 U.S.C. 28f; 30 U.S.C. 242; 43 U.S.C. 1201, 1740; 115 Stat 414.

Subpart B—Fee Adjustment

■ 2. Revise § 3834.21 to read as follows:

§ 3834.21 How will BLM adjust the location and maintenance fees?

BLM will adjust the location and maintenance fees at least every 5 years, based upon the CPI, as required by 30 U.S.C. 28j(c), or at any other time as required by other statute.

■ 3. Revise § 3834.23 to read as follows:

§ 3834.23 When do I start paying the adjusted fees?

(a) In the case of a CPI adjustment required by 30 U.S.C. 28j(c), you must pay the adjusted initial maintenance and location fees when you record a new mining claim or site located on or after the September 1 that immediately follows the date BLM published its notice about the adjustment.

(b) In the case of adjustments required by other statute, you must pay the adjusted initial maintenance and location fees for a new mining claim or site as provided in the statute.

(c) For previously recorded mining claims and sites, you must pay the CPI-based adjusted maintenance fee on or before the September 1 that immediately follows the date BLM published its notice about the adjustment.

(d) Notwithstanding 43 CFR 3830.91(a)(3) and 3830.96, in any year in which BLM adjusts the maintenance and location fees, if you pay the fees timely, but pay an amount based on the fee in effect immediately before the adjustment was made, BLM will send you a notice, as provided in § 3830.94, giving you 30 days in which to pay the additional amount required to meet the adjusted fees. If you do not pay the additional amount due within 30 days after the date you received the notice, you will forfeit the affected mining claims or sites.

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DEPARTMENT OF DEFENSE

48 CFR Parts 225 and 252

[DFARS Case 2004–D034]

Defense Federal Acquisition Regulation Supplement; Restrictions on Totally Enclosed Lifeboat Survival Systems

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to remove text addressing restrictions on the acquisition of totally enclosed lifeboat survival systems. The restrictions are based on fiscal year 1994 and 1995 appropriations act provisions, that are no longer considered applicable, and other statutory provisions that apply only to the Navy.

DATES: Effective September 1, 2005.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, Defense Acquisition Regulations Council, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0328; facsimile (703) 602–0350. Please cite DFARS Case 2004–D034.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule removes DFARS 225.7008, Restrictions on totally enclosed lifeboat survival systems, and the corresponding contract clause at DFARS 252.225–7039. These restrictions implement Section 8124 of the Fiscal Year 1994 DoD Appropriations Act (Pub. L. 103–139), Section 8093 of the Fiscal Year 1995 DoD Appropriations Act (Pub. L. 103–335), and 10 U.S.C. 2534. The fiscal year 1994 and 1995 appropriations act restrictions are no longer considered applicable. 10 U.S.C. 2534 applies to the acquisition of totally enclosed lifeboats that are components of naval vessels. Since this restriction impacts only the Navy, and 10 U.S.C. 2534(h) specifies that DoD may not use contract clauses or certifications, but must use management and oversight techniques, to implement this restriction, DFARS coverage for implementation of this restriction is considered unnecessary.

DoD published a proposed rule at 70 FR 14628 on March 23, 2005. DoD received no comments on the proposed rule. Therefore, DoD has adopted the proposed rule as a final rule without change.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the domestic source restrictions of 10 U.S.C. 2534 still apply to the acquisition of totally enclosed lifeboats that are components of naval vessels. 10 U.S.C. 2534 requires that DoD acquire such lifeboats only if the manufacturer is part of the national technology and industrial base.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*