

that today's final rule amendment will have no impact on small entities.

#### G. Paperwork Reduction Act

The OMB has approved the information collection requirements contained in the 1999 PAI Production NESHAP under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control No. 2060-0370.

This final rule amendment will have no impact on the information collection burden estimates made previously, and consequently, the ICR has not been revised. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

#### H. National Technology Transfer and Advancement Act of 1995

As noted in the proposed rule, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, Section 12(d) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

Today's action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

#### I. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801, *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency adopting the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule amendment and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this rule amendment in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

#### J. Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This final rule amendment is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

#### List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: May 23, 2002.

**Christine Todd Whitman,**  
*Administrator.*

For the reasons set out in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

#### PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

**Authority:** 42 U.S.C. 7401, *et seq.*

#### Subpart MMM—National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production

2. Section 63.1364 is amended by revising paragraph (a)(1) to read as follows:

#### § 63.1364 Compliance dates.

(a) *Compliance dates for existing sources.* (1) An owner or operator of an

existing affected source must comply with the provisions in this subpart by December 23, 2003.

\* \* \* \* \*

[FR Doc. 02-13804 Filed 5-31-02; 8:45 am]  
**BILLING CODE 6560-50-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

#### 43 CFR Parts 3730, 3820, 3830, and 3850

[WO-620-1430-00-24 1A]

**RIN 1004-AD52**

#### Locating, Recording, and Maintaining 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 amend regulations on locating, recording, and maintaining mining claims or sites. In this rule, BLM amends its regulations to respond to a recent law extending until September 30, 2003, the provisions that require claimants to pay location and annual maintenance fees for unpatented mining claims or sites, and allow qualified "small miners" to seek a waiver from the annual maintenance fee. BLM has collected these fees and provided for waivers under the existing regulations based on previous laws, the most recent of which expired on September 30, 2001. The final rule is necessary to describe and publicize the statutory extension of the fee requirement, and to remove conflicts between the current regulations and the new statute.

**EFFECTIVE DATE:** This administrative final rule is effective June 3, 2002.

**ADDRESSES:** You may mail suggestions or inquiries to Bureau of Land Management, Solid Minerals Group, Room 501 LS, 1849 C Street, NW., Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:** Roger Haskins in the Solid Minerals Group at (202) 452-0355. For assistance in reaching Mr. Haskins, 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 Administrative Final Rule
- III. Procedural Matters

## I. Background

Since 1992, Congress has required mining claimants to pay certain fees when locating, recording, and maintaining mining claims or sites on public lands. In order to collect the fees, BLM has promulgated regulations to implement the statutory fee requirements.

On October 5, 1992, Congress enacted the first fee requirements in the Interior and Related Agencies Appropriations Act for Fiscal Year 1993 (the FY93 Act). Public Law 102-381, 106 Stat. 1374, 1378-1379. The FY93 Act required claimants to pay two \$100 rental fee payments per mining claim or site by August 31, 1993, in order to hold the claim for the 1992 and 1993 assessment years. It allowed certain claimants to seek an exemption from the fee requirement if the claimant held ten or fewer claims or sites, had an approved notice or plan of operations for actual exploration work or mineral production, and had less than ten acres of unclaimed surface disturbance. BLM implemented the FY93 Act by promulgating regulations at 43 CFR parts 3730, 3821, 3833, and 3850 (1993). 58 FR 38197 (July 15, 1993).

On August 10, 1993, Congress enacted the Omnibus Budget Reconciliation Act (the FY94 Act). Public Law 103-66, 107 Stat. 405, 30 U.S.C. 28f-k. The FY94 Act required claimants to pay an annual \$100 maintenance fee by August 31 of each year beginning in 1994 and ending in 1998. The FY94 Act also required claimants to pay a \$25 fee when locating any new mining claims. The FY94 Act allowed claimants to seek a waiver from the maintenance fee if the claimant and all related parties held ten or fewer mining claims or sites. To implement the FY94 Act, BLM amended 43 CFR parts 3730, 3821, 3833, and 3850 (1994). 59 FR 44857 (August 30, 1994).

On October 21, 1998, Congress enacted the Interior and Related Agencies Appropriation Act for Fiscal Year 1999 (the FY99 Act). Public Law 105-277, 112 Stat. 2681-232, 2681-235, 30 U.S.C. 28f-28k. The FY99 Act moved the payment deadline from August 31 to September 1 and extended the fee requirements until 2001. The Act also provided a means by which a claimant who had filed for a waiver from the fee could either cure a defective fee waiver application or pay the fee after the deadline if the application could not be cured.

On November 5, 2001, Congress enacted the Interior and Related Agencies Appropriation Act for Fiscal Year 2002 (the FY02 Act). Public Law 107-63, 115 Stat. 414, 30 U.S.C. 28f-

28k. This final rule implements the requirements of the FY02 Act. The FY02 Act extends the fee requirements through 2003.

## II. Discussion of the Final Rule

### *Why the Rule Is Being Published as a Final Rule*

BLM is adopting this final rule solely to amend its regulations to implement the mining law fee provisions of the FY02 Act. We are not making any other changes in this rule.

The Department of the Interior finds under 5 U.S.C. 553(b)(3)(B) that for good cause notice and public procedure for this rule are unnecessary and this rule may properly take effect upon publication. The FY02 Act merely extends previously-existing fee requirements until 2003. This rule will implement this statutory fee extension as Congress requires.

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 the matters addressed in the rule are explicitly required by statute.

### *Changes Made by the FY02 Act in BLM's Current Requirements*

The FY02 Act does not change the requirements that mining claimants (1) pay \$25 when locating a new mining claim or site; (2) pay a \$100 maintenance fee per year for each mining claim or site; or (3) meet certain qualifications in order to obtain a waiver from the maintenance fee requirement. BLM collected these fees under its current regulations but was authorized to do so only until September 30, 2001. In the FY02 Act, Congress authorized BLM to continue to collect these fees until September 30, 2003. This rule implements this extension.

## Organization of the Final Rule

This final rule amends the existing regulations. It contains only the specific amendments necessary to implement the FY02 Act. Most of the amendments appear as line-by-line edits. While this presentation may be somewhat difficult to follow, especially if you do not have the Code of Federal Regulations containing the existing regulations, we have chosen this method to make it clear that we are not making changes beyond those needed to implement the FY02 Act.

The only change we have made in these line-by-line edits is to change the expiration date of the regulations from 2001 to 2003.

## III. Procedural Matters

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

In accordance with the criteria in Executive Order 12866, the Office of Management and Budget (OMB) 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 extensions of the fee requirements do not change the substance of BLM's current mining claim administration. The annual revenue received from the collection of the congressionally-mandated oil shale, maintenance, and location fees has averaged \$26 million since October 1998. This rule will not change the fee amounts and thus will not have a significant impact on fees collected.

- This rule will not create inconsistencies with other agencies' actions. It does not change BLM's relationship with 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 rental and maintenance fees has been challenged in the Federal courts. The Courts have consistently upheld the FY03 and FY04 Acts and their implementing regulations.

### *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 not have an impact because the fees paid by small entities will not change. The rule merely extends the authority for collecting them. 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 1 above, the revised regulations will not materially alter current BLM policy or the fee amounts paid by mining claimants.
- 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 does not change the cost to locate, record, or maintain a mining claim.

• 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. This rule does not substantially change BLM policy. Nothing in this rule constitutes a taking. Federal courts have concluded that the rental and maintenance fee statutes and regulations do not cause a taking of any property interests.

*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.

*Paperwork Reduction Act*

The Office of Management and Budget has approved the information collection requirements in the regulations that this administrative final rule is extending, 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*

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). Since the rule only extends BLM's authority to collect certain fees, this rule does not constitute a major Federal action significantly affecting the quality of the human environment. See the Environmental Analysis and Finding of No Significant Impact dated April 17, 2002.

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 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 only

extends BLM's statutory authority for collecting mining claim location and maintenance fees that BLM has been collecting for many years. It will not change financial obligations of the mining industry.

*Authors*

The principal author of this administrative final rule is Roger Haskins in the Solid Minerals Group, assisted by Ted Hudson in the Regulatory Affairs Group, Washington Office, BLM.

**List of Subjects**

**43 CFR Part 3730**

Administrative practice and procedure; mines; public lands-mineral resources; reporting and recordkeeping requirements; surety bonds.

**43 CFR Part 3820**

Mines; monuments and memorials; national forests; national parks; public lands-mineral resources; reporting and recordkeeping requirements; surety bonds; wilderness areas.

**43 CFR Part 3830**

Maintenance fees; mines; public lands-mineral resources; reporting and recordkeeping requirements.

**43 CFR Part 3850**

Mines; public lands-mineral resources.

Dated: April 24, 2002.

**Tom Fulton,**

*Acting Assistant Secretary of the Interior.*

For the reasons stated in the preamble, and under the authority cited below, parts 3730, 3820, 3830, and 3850, Groups 3700 and 3800, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations are amended as follows:

**PART 3730—PUBLIC LAW 359; MINING IN POWERSITE WITHDRAWALS: GENERAL**

1. The authority citation for part 3730 continues to read as follows:

**Authority:** 69 Stat. 681, 30 U.S.C. 621–625; 43 U.S.C. 1701 *et seq.*; 30 U.S.C. 28f–28k, as amended.

2. Amend section 3730.0–9 by revising the last sentence of paragraph (a) to read as follows:

**§ 3730.0–9 Information collection.**

(a) \* \* \* A response is required to obtain a benefit in accordance with the Act of August 11, 1955 (30 U.S.C. 621–625), Section 314 of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1744), and 30

U.S.C. 28f–28k, as amended by the Act of November 5, 2001 (115 Stat. 414).  
 \* \* \* \* \*

#### PART 3820—AREAS SUBJECT TO SPECIAL MINING LAWS

3. The authority citation for part 3820 continues to read as follows:

**Authority:** 30 U.S.C. 22 *et seq.*; 43 U.S.C. 1201 and 1740.

#### Subpart 3821—O and C Lands

4. Revise section 3821.0–3 to read as follows:

##### § 3821.0–3 Authority.

The authorities for the regulations in this subpart are the Act of April 8, 1948 (62 Stat. 162); Section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744); and 30 U.S.C. 28f–28k, as amended by the Act of November 5, 2001 (115 Stat. 414).

#### PART 3830—LOCATION OF MINING CLAIMS

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

**Authority:** 30 U.S.C. 22, 28, and 28f–k; 43 U.S.C. 299 and 1201; 31 U.S.C. 9701; 16 U.S.C. 1901, 1907; 43 U.S.C. 1740 and 1744; 30 U.S.C. 242; 50 U.S.C. Appendix 565; 112 Stat. 2861–235; 115 Stat. 414.

6. Amend section 3833.0–3 by revising the first sentence of paragraph (a) and the first sentence of paragraph (e) to read as follows:

##### § 3833.0–3 Authority.

(a) Sections 314(a) and (b) of the Federal Land Policy and Management Act (43 U.S.C. 1744), and 30 U.S.C. 28f–28k, as amended by the Act of November 5, 2001 (115 Stat. 414), require the recordation of unpatented mining claims, mill sites, and tunnel sites, and the filing of information concerning annual assessment work performed on unpatented mining claims in the proper BLM office within specified time periods. \* \* \*

\* \* \* \* \*  
 (e) The Acts of October 21, 1998 (112 Stat. 2681–232, 2681–235), and November 5, 2001 (115 Stat. 414) (30 U.S.C. 28f–28k), require an annual maintenance fee of \$100 to be paid to the proper State Office of the Bureau of Land Management for each non-waived mining claim, mill site, or tunnel site.

##### § 3833.0–5 [Amended]

7. Amend section 3833.0–5 as follows:

- Remove from the second sentence of paragraph (o) the phrases “December

30, 2002,” and “the Act of October 21, 1998,” and add in their place, respectively, the phrases “December 30, 2004,” and “the Act of November 5, 2001.”

b. Remove from the first sentence of paragraph (v) the phrase “Act of October 21, 1998 (112 Stat. 2681–235)” and add in its place the phrase “Act of November 5, 2001 (115 Stat. 414)”;

c. Remove from the second sentence of paragraph (v) the phrase “September 29, 2001” and add in its place the phrase “September 29, 2003”;

d. Remove from the first sentence of paragraph (w) the phrases “Act of October 21, 1998,” and “September 30, 2001,” and add in their place, respectively, the phrases “Act of November 5, 2001,” and “September 30, 2003”; and

e. Remove from the first sentence of paragraph (y) the phrase “the Act of October 21, 1998,” and add in its place the phrase “the Act of November 5, 2001.”

##### § 3833.0–9 [Amended]

8. Amend section 3833.0–9 by removing from the last sentence of paragraph (a) the phrase “the Act of October 21, 1998 (112 Stat. 2681–235)” and adding in its place the phrase “the Act of November 5, 2001 (115 Stat. 414).”

##### § 3833.1–4 [Amended]

9. Amend section 3833.1–4 by removing from paragraph (b) the phrase “September 30, 2001” and adding in its place the phrase “September 30, 2003.”

##### § 3833.1–5 [Amended]

10. Amend section 3833.1–5 as follows:

a. Remove from the last sentence of the introductory text the date “September 1, 2002” and add in its place the date “September 1, 2004.”

b. Remove from the second sentence of paragraph (b) the date “2001” and add in its place the date “2003”.

##### § 3833.1–6 [Amended]

11. Amend section 3833.1–6 by revising the heading to read as follows:

##### § 3833.1–6 Maintenance fee waiver qualifications under the Act of November 5, 2001, and other exceptions.

##### § 3833.1–7 [Amended]

12. Amend section 3833.1–7 by removing from paragraph (d) the date “2002” and adding in its place the date “2004”.

##### § 3833.2–3 [Amended]

13. Amend section 3833.2–3 as follows:

a. Remove from the section heading the phrase “the Act of October 21, 1998” and add in its place the phrase “the Act of November 5, 2001”;

b. Remove from paragraph (d) the phrases “September 1, 2002,” and “December 30, 2003,” and add in their place, respectively, the phrases “September 1, 2004,” and “December 30, 2005”; and

c. Remove from paragraph (e) the phrases “September 1, 2001”, “September 29, 2001”, and “September 1, 2002”, and add in their place, respectively, the phrases “September 1, 2003”, “September 29, 2003”, and “September 1, 2004”.

#### PART 3850—ASSESSMENT WORK

14. The authority citation for part 3850 continues to read as follows:

**Authority:** 30 U.S.C. 22 *et seq.*; 30 U.S.C. 28–28k; 50 U.S.C. Appendix 565; 107 Stat. 405.

#### Subpart 3851—Assessment Work: General

##### § 3851.3 [Amended]

15. Amend section 3851.3 by removing from the first sentence of paragraph (c) the first instance of the word “the”.

[FR Doc. 02–13567 Filed 5–31–02; 8:45 am]  
 BILLING CODE 4310–84–P

#### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 73

[DA 02–1156; MM Docket No. 00–69; RM–9850, 9945 & 9946]

#### Radio Broadcasting Services; Cheboygan, Rogers City, Bear Lake, Bellaire, Rapid River, Manistique, Ludington, Walhalla & Onaway, MI

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The *Notice* in this proceeding requested the allotment of Channel 260C2 at Cheboygan, MI and substitution of Channel 292C2 for Channel 260C2 at Rogers City, MI, in response to a petition filed by Escanaba License Corp. *See* 65 FR 30558, May 12, 2000. The counterproposal filed jointly by D&B Broadcasting and Fort Bend Broadcasting Company requesting changes at Rogers City, Bear Lake, Bellaire, Rapid River, Manistique, Ludington and Walhalla, MI has been denied. The counterproposal filed by Northern Radio Network Corporation requesting the allotment of Channel