

**Additional Guidance Regarding the Adjudication of Maintenance
Fees for Placer Mining Claims Paid in Accordance with
Sec. 430 of the Consolidated Appropriations Act, 2012**

- 1. Q: When necessary to declare a claim null and void in part due to the land not being open to location, it might be difficult to determine the correct acreage of the remaining land if the portion declared null and void is irregular (land in a wilderness area for example). How do we note accurate acreage in these instances?**

A: Acreages may have to be estimated and when possible, a cadastral person should be contacted to help determine the acreage. This will be an internal decision but every effort should be taken to determine a close estimated acreage based on the resources available in the office.

- 2. Q: If two people locate an association placer claim, but using the rule of approximation, exceed the allowed 40 acres, will the claimants have to pay for the additional portion beyond the 40 acres?**

A: Yes. The Consolidated Appropriation Act, 2012 (FY2012 Act) requires that the maintenance fee be paid on each 20 acres or portion thereof. So, if a claim exceeds the allowed acreage and the rule of approximation is applied, the claimants will be required to pay for the additional portion, regardless of the amount over the allowed acreage.

- 3. Q: How should the states handle one-locator placer claims that were located by a metes and bounds description and exceed 20 acres?**

A: Placer mining claims are only allowed to be 20 acres unless the claim is an association placer claim. If the claim is not intended to be an association placer claim, then the claimant should amend down to 20 acres if the rule of approximation cannot be applied.

- 4. Q: Are the states going to be required to check the acreage immediately after a new claim is filed to make certain they have the correct acreage on the certification of location?**

A: Office policy will determine when land status is to be completed. However, mining law adjudicators will need to verify acreage somehow so that it can be entered into the Legacy Rehost 2000 (LR2000). If the acreage is not included on the notice of location, the adjudicator will have to verify acreage either by reviewing the master title plat, survey records, or Legal Land Description in LR2000, so that the acreage of the claim can be entered as accurately as possible into LR2000. Without the acreage entered in LR2000, there will be no programmatic completion in LR2000 of the maintenance fee payment due.

5. **Q: If at a later time, an adjudicator determines the acreage on the certificate or notice of location is not correct, will the claimant be allowed to cure their initial maintenance fee payment or will the claimant have to amend to exclude the additional acreage?**

A: It depends on the timing. If the new location was received prior to December 31, 2012, the claimant will be allowed to cure the initial maintenance fee payment or amend the claim to the lesser acreage. If the claim is received after December 31, 2012, the recordation will be rejected since the full fee was not received. If there is time left in the 90-day filing period, the claimant can be told they can refile as long as they submit the full fees within the 90-day filing period.

6. **Q: What is the time period that claimants will be allowed to cure a deficient maintenance fee payment for placer mining claims?**

*A: **New Claims:** We will offer claimants who timely pay the full amount of the fee required by the previous regulations (\$140 per claim or site) the opportunity to cure a deficient initial maintenance fee payment for a new placer mining claim through December 31, 2012. Claimants will be sent a 30-day cure notice that states they are required to do one of the following: (1) pay the remainder of the fee; (2) amend the acreage of the claim to reduce to a lower acreage; or (3) relinquish the claim in its entirety. After December 31, 2012, the recordation of any new claim received without the full fees will be rejected.*

***Existing Claims:** A deficient annual maintenance fee payment timely received for the 2013 assessment year will be acceptable as long as it is at least \$140 per claim. The claimant will be sent a 30-day notice to cure the deficiency with the same options to cure the payment as those listed above under New Claims.*

***Note:** If the claimant chooses to relinquish a new or existing claim in its entirety after receiving a 30-day cure notice, a refund of the initial maintenance fee and location fee for a new claim or the deficient annual maintenance fee for an existing claim will be initiated.*

7. **Q: If a claimant paid the maintenance fee for the 2013 assessment year (or any subsequent year) based on the previous rate of \$140 per claim before the new regulations were published, will they be required to pay the new fee?**

A: Yes. If the maintenance fee for the 2013 assessment year or any subsequent assessment year was received prior to the publication of the Interim Final Rule and is insufficient under the new regulations, the claimant will be sent a 30-day notice to cure the deficiency as outlined in Question 6.

8. **Q: Why will new placer mining claims located in the 2012 assessment year require the maintenance fee at the new rate since the fees for the 2012 assessment year for existing claims had already been paid at the rate of \$140 per claim?**

A: Congress mandated that maintenance and location fees would be adjusted at least every 5 years based on the Consumer Price Index (CPI) (30 U.S.C. 28j(c)). Adjustments based on

the CPI apply the first assessment year after the adjustment is made. The change in the way the maintenance fee is calculated for placer mining claims is not an adjustment based on the CPI and was established by the FY2012 Act. The new way of calculating fees for placer mining claims is a statutory change and will be implemented immediately upon publication of the Interim Final Rule, which more than likely will occur during the 2012 assessment year. Therefore, those new placer mining claims received for recordation on or after the date the Interim Final Rule is published will require the initial maintenance fee at the new rate. The date the new claims are received for recordation (not the location date) will determine if the claimant pays the previous or new fee. For instance, if the Interim Final Rule is published on July 15, 2012, any new placer mining claim received for recordation on or after that date will require the maintenance fee at the new rate.

9. Q: Will the Information Access Center (IAC) be responsible for determining the correct maintenance fees due for payments made in person in the IAC?

A: The IAC will be responsible for making certain the claimant knows how much is due for new claims. For existing claims, LR2000 has been modified to programmatically calculate the maintenance fee due based on the acreage in the claim (entered into LR2000 by the mining law adjudicator). Claimants will be able to access this information through various reports in LR2000.

10. Q: If a claimant pays only \$140 for a 40-acre association placer claim and the deadline has passed, does he lose the entire claim or only 20 acres? If he is allowed to keep 20 acres, will we require an amended location notice or partial relinquishment which indicates which 20 acres he is keeping?

A: It depends on which "deadline" is being referred to in the question. If the claimant was issued a 30-day notice to cure and the 30-day time period (deadline) has passed, then a new recordation would be rejected, or for an existing claim, the annual filing document would be returned unrecorded and the claim would be forfeited since the claimant had not responded within the time allowed.

If a new location for a placer claim is received after December 31, 2012, and full payment of the initial maintenance fee is not received, the recordation will be rejected and a refund of the initial maintenance fee and location fee will be initiated. If time remains in the 90-day filing period, a claimant can refile their claim with the proper fees.

If an annual maintenance fee payment is made for a single claim over 20 acres for an assessment year after the 2013 assessment year and the claimant only pays \$140, there will be no opportunity for the claimant to cure the payment or reduce the acreage of the claim if there is not sufficient time to contact the claimant before September 1. If the claimant submits an amendment or partial relinquishment that reduces the size of the claim to 20 acres or less prior to September 1, the amendment or partial relinquishment will be processed and the \$140 applied. If a payment is processed after September 1, there will be no opportunity to cure because any documents, such as an amendment or partial relinquishment, would have to be received on or before September 1.

11. Q: How will the mining law adjudicator apply an annual maintenance fee if there is a shortage because of the varying acreage in claims?

A: Again, this depends on the time frame. If the payment was timely received for the 2013 assessment year, \$140 will be applied to each claim and the claimant will be given a 30-day notice to cure for all the claims having insufficient fees. At that time, the claimant can decide to pay the full maintenance fee for all the claims, reduce the acreage in some or all of the claims, or relinquish some or all of the claims.

If annual maintenance fees are received for assessment years subsequent to the 2013 assessment year and there is a shortage because of the varying acreage in claims, the mining law adjudicator will apply the money received to each claim in serial number order until the money runs out. The remaining claims with no payment will be declared forfeited and void. If time remains before September 1, the adjudicator can contact the claimant and advise them of the shortage.

12. Q: How should the states handle refunds for insufficient, but timely paid initial maintenance fees, location fees, and processing fees?

A: After the cure period (December 31, 2012), the recordation of a new placer mining claim will be rejected if the full fees are not received, giving the claimant the option of relocating with the full acreage and paying the full maintenance fee. Only the maintenance fee and location fee will be refunded.

13. Q: Do the new fee requirements apply to lodes, mill sites, or tunnel sites?

A: No. There is no change to the fees for lodes, mill sites, and tunnel sites. Claimants will continue to pay \$140 per lode claim, mill site, or tunnel site.

14. Q: Is there any change in the requirements regarding waivers?

A: No. There is no change to the requirements or qualifications for a waiver. As long as a claimant holds 10 or fewer claims, the requirements are still the same if the claimant qualifies. A placer mining claim, regardless of the size, is still considered one mining claim for the purposes of filing a waiver.

15. Q: If a claimant has already paid the maintenance fee for 2013 at the rate of \$140 for a placer claim that is over 20 acres, if that claimant has 10 claims or less and can qualify as a small miner, can that claimant change his mind and file the waiver on or before September 1 and request a refund of his \$140 per claim?

A: Yes, as long as the waiver is received on or before the due date and the claimant is determined to be qualified for the waiver.