

## § 282.14

leasehold, no payment of rental or minimum royalty shall be due for or during the period of the directed suspension and the time for the lessee specify royalty free period of a period of reduced royalty pursuant to § 281.28(b) of this subchapter will be extended for the period of directed suspension. If under the provisions of paragraphs (b) (2), (3), and (4) of this section the Director, with respect to a lease on which there has been no production, directs the suspension of operations on the entire leasehold, no payment of rental shall be due during the period of the directed suspension.

(2) If under the provisions of this section, the Director grants the request of a lessee for a suspension of production or other operations, the lessee's obligations to pay rental, minimum royalty, or royalty shall continue to apply during the period of the approved suspension, unless the Director's approval of the lessee's request for suspension authorizes the payment of a lesser amount during the period of approved suspension. If under the provision of this section, the Director grants a lessee's request for a suspension of production or other operations for a lease which includes provisions for a time period which the lessee may specify during which production from the leasehold would be royalty free or subject to a reduced royalty obligation pursuant to § 281.28(b) of this subchapter, the time during which production from a leasehold may be royalty free or subject to a reduced royalty obligation shall not be extended unless the Director's approval of the suspension specifies otherwise.

(3) If the lease anniversary date falls within a period of suspension for which no rental or minimum royalty payments are required under paragraph (a) of this section, the prorated rentals or minimum royalties are due and payable as of the date the suspension period terminates. These amounts shall be computed and notice thereof given the lessee. The lessee shall pay the amount due within 30 days after receipt of such notice. The anniversary date of a lease shall not change by reason of any period of lease suspension or rental or royalty relief resulting therefrom.

## 30 CFR Ch. II (7-1-10 Edition)

### § 282.14 Noncompliance, remedies, and penalties.

(a)(1) If the Director determines that a lessee has failed to comply with applicable provisions of law; the regulations in this part; other applicable regulations; the lease; the approved Delineation, Testing, or Mining Plan; or the Director's orders or instructions, and the Director determines that such noncompliance poses a threat of immediate, serious, or irreparable damage to the environment, the mine or the deposit being mined, or other valuable mineral deposits or other resources, the Director shall order the lessee to take immediate and appropriate remedial action to alleviate the threat. Any oral orders shall be followed up by service of a notice of noncompliance upon the lessee by delivery in person to the lessee or agent, or by certified or registered mail addressed to the lessee at the last known address.

(2) If the Director determines that the lessee has failed to comply with applicable provisions of law; the regulations in this part; other applicable regulations; the lease; the requirements of an approved Delineation, Testing, or Mining Plan; or the Director's orders or instructions, and such noncompliance does not pose a threat of immediate, serious, or irreparable damage to the environment, the mine or the deposit being mined, or other valuable mineral deposits or other resources, the Director shall serve a notice of noncompliance upon the lessee by delivery in person to the lessee or agent or by certified or registered mail addressed to the lessee at the last known address.

(b) A notice of noncompliance shall specify in what respect(s) the lessee has failed to comply with the provisions of applicable law; regulations; the lease; the requirements of an approved Delineation, Testing, or Mining Plan; or the Director's orders or instructions, and shall specify the action(s) which must be taken to correct the noncompliance and the time limits within which such action must be taken.

(c) Failure of a lessee to take the actions specified in the notice of noncompliance within the time limit specified shall be grounds for a suspension

of operations and other appropriate actions, including but not limited to the assessment of a civil penalty of up to \$10,000 per day for each violation that is not corrected within the time period specified (43 U.S.C. 1350(b)).

(d) Whenever the Director determines that a violation of or failure to comply with any provision of the Act; or any provision of a lease, license, or permit issued pursuant to the Act; or any provision of any regulation promulgated under the Act probably occurred and that such apparent violation continued beyond notice of the violation and the expiration of the reasonable time period allowed for corrective action, the Director shall follow the procedures concerning remedies and penalties in subpart N, Remedies and Penalties, of part 250 of this title to determine and assess an appropriate penalty.

(e) The remedies and penalties prescribed in this section shall be concurrent and cumulative, and the exercise of one shall not preclude the exercise of the other. Further, the remedies and penalties prescribed in this section shall be in addition to any other remedies and penalties afforded by any other law or regulation (43 U.S.C. 1350(e)).

#### § 282.15 Cancellation of leases.

(a) Whenever the owner of a nonproducing lease fails to comply with any of the provisions of the Act, the lease, or the regulations issued under the Act, and the default continues for a period of 30 days after mailing of notice by registered or certified letter to the lease owner at the owner's record post office address, the Secretary may cancel the lease pursuant to section 5(c) of the Act, and the lessee shall not be entitled to compensation. Any such cancellation is subject to judicial review as provided by section 23(b) of the Act.

(b) Whenever the owner of any producing lease fails to comply with any of the provisions of the Act, the lease, or the regulations issued under the Act, the Secretary may cancel the lease only after judicial proceedings pursuant to section 5(d) of the Act, and the lessee shall not be entitled to compensation.

(c) Any lease issued under the Act, whether producing or not, may be can-

celed by the Secretary upon proof that it was obtained by fraud or misrepresentation and after notice and opportunity to be heard has been afforded to the lessee.

(d) The Secretary may cancel a lease in accordance with the following:

(1) Cancellation may occur at any time if the Secretary determines after a hearing that—

(i) Continued activity pursuant to such lease would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral (in areas leased or not leased), to the national security or defense, or to the marine, coastal, or human environment;

(ii) The threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time; and

(iii) The advantages of cancellation outweigh the advantages of continuing such lease in force.

(2) Cancellation shall not occur unless and until operations under such lease shall have been under suspension or temporary prohibition by the Secretary, with due extension of any lease term continuously for a period of 5 years or for a lesser period upon request of the lessee;

(3) Cancellation shall entitle the lessee to receive such compensation as is shown to the Secretary as being equal to the lesser of—

(i) The fair value of the canceled rights as of the date of cancellation, taking account of both anticipated revenues from the lease and anticipated costs, including costs of compliance with all applicable regulations and operating orders, liability for cleanup costs or damages, or both, and all other costs reasonably anticipated on the lease, or

(ii) The excess, if any, over the lessee's revenue from the lease (plus interest thereon from the date of receipt to date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from date of payment to date of reimbursement),