



Thursday
December 3, 1998

Part II

**Department of the
Interior**

Bureau of Land Management

**43 CFR Part 3100 et al.
Onshore Oil and Gas Leasing and
Operations; Proposed Rule**

DEPARTMENT OF THE INTERIOR**Bureau of Land Management**

43 CFR Parts 3100, 3110, 3120, 3130, 3140, 3150, 3160, 3170 and 3180

[WO-310-1310-00-2I-IP]

RIN 1004-AC94

Onshore Oil and Gas Leasing and Operations

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Land Management (BLM) is proposing to revise its Federal oil and gas leasing and operations regulations. This rule uses performance standards in certain instances in lieu of the current prescriptive requirements. These proposed regulations cite industry standards and incorporate them by reference rather than repeat those standards in the rule itself. Also, BLM's onshore orders and national notices to lessees would be incorporated into these regulations to eliminate overlap with existing regulations. This rule would increase certain minimum bond amounts and would revise and replace BLM's current unitization regulations with a more flexible unit agreement process. Finally, this proposed rule would eliminate redundancies, clarify procedures and regulatory requirements, and streamline processes.

DATES: Comments: Commenters must submit comments by April 5, 1999. BLM will consider comments received or postmarked on or before this date in the preparation of the final rule.

ADDRESSES: Comments: If you wish to comment, you may hand-deliver comments to the Bureau of Land Management Administrative Record, Room 401, 1620 L Street, NW, Washington, D.C., or mail comments to the Bureau of Land Management, Administrative Record, Room 401LS, 1849 C Street, NW, Washington, D.C. 20240. Commenters may transmit comments electronically via the Internet to: WoComment@wo.blm.gov and please include in your comments the regulation identifier number AC94 and your name and return address. If you do not receive confirmation from the system that we have received your Internet message, contact us directly.

FOR FURTHER INFORMATION CONTACT: Ian Senio at (202) 452-5049 or John Duletsky at (202) 452-0337 or write to Bureau of Land Management, U.S. Department of the Interior, 1849 C

Street, NW, 401LS, Washington, D.C. 20240.

SUPPLEMENTARY INFORMATION:

- I. Public Comment Procedures
- II. Background
- III. Discussion of Proposed Rule
- IV. Procedural Matters

I. Public Comment Procedures*Written Comments*

Written comments on the proposed rule should be specific, should be confined to issues pertinent to the proposed rule, and should explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the proposal which the commenter is addressing. BLM may not necessarily consider or include in the Administrative Record for the final rule comments which BLM receives after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

You may view an electronic version of this proposed rule at BLM's Internet home page: www.blm.gov.

Comments, including names, street addresses, and other contact information of respondents, will be available for public review at this address during regular business hours (8:00 a.m. to 4:30 p.m.), Monday through Friday, except Federal holidays. BLM will also post all comments on its Internet home page (www.blm.gov) at the end of the comment period. Individual respondents may request confidentiality. If you wish to request that BLM consider withholding your name, street address, and other contact information (such as: Internet address, FAX or phone number) from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. BLM will honor requests for confidentiality on a case-by-case basis to the extent allowed by law. BLM will make available for public inspection in their entirety all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses.

II. Background

Oil and gas produced from lands managed by BLM accounted for about 5.7 percent of domestic oil production and about 10.7 percent of domestic gas production in 1996. BLM has jurisdiction and responsibility over virtually all aspects of leasing,

exploration, development, and production of oil and gas from onshore Federal oil and gas and approves and supervises most operations on Indian lands. BLM administers 52,457 Federal and Indian leases, of which nearly 23,524 are in a producing or producible status. As of December 31, 1996, there were 70,569 producing or producible wells under BLM's jurisdiction, and 2,347 new wells were drilling during the year. In 1996, more than \$6.1 billion of oil and gas and associated products were sold from Federal and Indian oil and gas leases, which generated \$665 million in royalties.

Mining Law

The Federal Government did not have an oil and gas leasing system before 1920. However, Federal oil and gas reserves could be developed under the Mining Law of 1872 (17 Stat. 91, 30 U.S.C. 22 *et seq.*) after the applicant located a placer mining claim. If the mining claim was validated by the location of a valuable discovery, the locator essentially was entitled to fee title to the lands covered by the claim. Congress soon realized that the Mining Law was not well suited for oil and gas development since it resulted in over drilling and waste of the resources. Congress passed the Mineral Leasing Act of 1920 (41 Stat. 437, 30 U.S.C. 181 *et seq.*) (MLA) and on February 25, 1920, the President signed it into law. The MLA still remains the primary authority under which the Federal Government leases the majority of Federal onshore oil and gas.

Mineral Leasing Act

There have been several amendments to the MLA that affected the Federal oil and gas leasing system, but it stayed substantially the same until the enactment of the Federal Onshore Oil and Gas Leasing Reform Act of 1987 (Pub. L. 100-203, 101 Stat. 1330-256) (Reform Act). Before the Reform Act, Federal lands within known geologic structures (KGS) of producing oil and gas fields were leased competitively to the highest qualified bidder. Lands not within a KGS were leased "over the counter" basically on a first-come and first-serve basis to qualified entities.

In 1960, BLM implemented a simultaneous leasing system in order to address concerns over the potential for fraud in the noncompetitive leasing system. Under that system, all applications for available public lands that were received within the time specified in the notice were considered as received simultaneously. Applications then were drawn randomly to determine the winner. Only

a fraction of Federal lands fell into the KGS category and most of the Federal oil and gas leases that BLM issued were issued noncompetitively through the lottery. The leasing system operated for many years before Congress and the public became concerned that BLM's leasing system was not functioning properly. The primary concern was that the Federal Government was not receiving fair market value for oil and gas resources. There was also concern that it was becoming increasingly difficult for BLM to make KGS determinations, that the leasing system was subject to fraud and abuse, and that the Bureau was not taking enough care in protecting the environment affected by development of Federal oil and gas leases.

The Reform Act

Congress passed the Reform Act on December 22, 1987, to address concerns over the existing leasing system. The principal change made by the Reform Act was to require that BLM offer competitively all lands eligible and available for Federal oil and gas leasing before leasing noncompetitively. KGS designations were eliminated, environmental provisions were added, and BLM was required to have Forest Service consent before leasing oil and gas on Forest Service lands. The Reform Act also required BLM to post a notice of the lands it proposed to include in a lease sale. It also required BLM to post a notice of proposed drilling operations to allow the public and environmental groups an opportunity to comment before BLM made a final determination. Congress dealt with fraud and abuse by making it unlawful to be involved with any plan to defeat the purposes of the Reform Act or its implementing regulations. The Reform Act also provided for severe penalties for violating these fraud provisions.

BLM has been leasing Federal oil and gas under the implementing regulations of the MLA and the Reform Act, with only technical and clarifying amendments, since the Reform Act regulations were published in the **Federal Register** on June 17, 1988 (53 FR 9214, 1988).

FOGRMA

The Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA) (30 U.S.C. 1701 *et seq.*) made a few changes to the leasing and operations aspects of BLM's oil and gas program. FOGRMA focuses mainly on royalty and rental collection but also includes provisions related to on-the-ground operations. BLM published the implementing regulations for the operations aspects of

FOGRMA on September 21, 1984 (49 FR 37356), and for the leasing aspects on July 30, 1984 (49 FR 30446). The operational regulations implementing FOGRMA prescribe standards for lessees and operators to follow when conducting operations on Federal and Indian oil and gas leases. The regulations also clarified BLM's responsibilities for inspecting operations. BLM's leasing regulations that implement FOGRMA deal mostly with royalty and rental collections and with lease reinstatement provisions for leases that terminated by operation of law.

III. Discussion of Proposed Rule

This proposed rule puts the regulations in a more logical sequence, streamlines some processes, and reduces duplication. It incorporates most of the existing oil and gas regulations and all of the existing onshore orders and national notices to lessees to make one complete document for lessees and operators to reference. Some sections of the proposed rule contain new language to correct problems, improve procedures, or clarify existing requirements. This proposal does not include regulations that deal with oil and gas drainage (see 63 FR 1936, January 13, 1998, for the proposed rule), Combined Hydrocarbon Leasing (3140), and the Oil and Gas Leasing: National Petroleum Reserve—Alaska (3130).

These regulations are written in plain language to more effectively communicate BLM regulatory requirements. Plain language uses a series of questions and answers in place of the traditional short heading and regulatory requirements. The question and answer together constitute the regulatory requirement. The proposed regulation is also organizationally different from the current regulation and presents sections in a more logical order that closely tracks leasing and operations procedures as they might occur chronologically.

Performance Standards

This proposed rule uses performance standards where possible in lieu of the current prescriptive requirements or design standards. We believe that performance standards offer operators and BLM increased flexibility to deal with unique geologic, ecological, and engineering circumstances, while at the same time protecting the environment and other Federal and Indian interests. Under the current regulations and onshore orders, operators are required to meet certain very specific and often rigid requirements set out in the

regulations and orders. This inflexible "laundry list" approach may not always work in the most efficient or even most desirable manner. BLM currently issues variances to the regulations to deal with unique geologic, ecological, and engineering situations. This is an administrative burden that BLM cannot afford under current and foreseen declining budgets. It is time consuming and expensive for operators as well.

Under current regulations, BLM ensures that an operator complies with all of the requirements of a given regulation or Order. With performance standards, our focus is no longer on a list of requirements but on the outcome or goal stated in the regulation. This goal-oriented approach better protects the public interest since operators will be held to a stated standard rather than just having to comply with a checklist. This type of regulation is also beneficial to operators because it gives them flexibility to meet the goal stated in the regulation. Finally, these performance regulations will remove some of the administrative burdens and expense caused by having to issue numerous variances to the current regulations.

We used performance standards in situations where there was little or no risk to the health of the land or public health or safety. We were careful to design a meaningful standard that protects the environment, public health and safety and preserves BLM's ability to account for Federal and Indian production. Use of performance standards was limited to specific areas that deal with oil and gas exploration and production. Please comment specifically on the performance standards proposed and whether or not there are other sections of these proposed regulations where performance standards would be appropriate.

Incorporating Industry Standards by Reference

BLM's current onshore orders contain very detailed minimum standards to regulate oil and gas drilling and production operations. In the process of incorporating the onshore orders into this proposed rule, we replaced the many detailed minimum standards with references to American Petroleum Institute (API) and American Gas Association (AGA) standards and practices. BLM and industry recognize API and AGA standards as acceptable operating practices for Federal lands. You can purchase API and AGA publications cited in this proposed rule directly from API and AGA. They will also be available for review at all of BLM's field offices with oil and gas

responsibilities. We cite specific, dated editions of API and AGA standards. Any future amendments or updates to the cited standards will not be incorporated into BLM's regulations until BLM undertakes a rulemaking to update the reference.

Changes From Existing Regulations

We propose to modify the leasing regulations by—

1. Eliminating the formal nomination process. Current regulations give BLM's Director the discretion to post a Competitive Nomination List and require the public to formally nominate lands from that list for future competitive sales. The Director has never exercised this discretion and does not plan to do so in the near future;

2. Eliminating presale offers. The intent of the Reform Act was to emphasize competition for Federal oil and gas resources. Presale offers were created by regulation and are not required by the Reform Act. Eliminating presale offers would more closely follow the intent of the Reform Act. This change would result in a more streamlined leasing process because it would remove the one-year waiting period that currently exists for filing offers on lands previously leased. Current regulations prohibit filing offers for one year from the date of expiration, termination, or cancellation of former leases;

3. Requiring that parcel integrity be maintained during the 2-year post sale window. Under this proposal, you would be able to combine more than one parcel from more than one sale notice in a lease offer. Under the existing system, an offer must include a legal land description. This proposal would simplify the filing of 2-year noncompetitive lease offers since you would be able to use the parcel number in the notice of competitive lease sale rather than listing the complete land description. It would also expedite leasing because lease stipulation revisions would not be necessary for split parcels. Post sale offers could not exceed 2,560 acres;

4. Eliminating the existing requirement that an offer for public domain minerals be for at least 640 acres. The proposal would also allow you to file an offer on lands outside of the current six square mile limit if you provide BLM a valid reason for exceeding the six square mile limit. Eliminating the 640-acre rule and amending the six square mile rule would simplify the leasing process, provide more flexibility in filing offers and provide consistency in the

competitive and noncompetitive leasing processes;

5. Reducing the number of copies of an offer that you must file from three to two. This would reduce your administrative burden and still allow BLM to process your application efficiently;

6. Limiting competitive and noncompetitive leases to 2,560 acres for the lower 48 states and 5,760 acres for Alaska. Limiting lease acreage would provide consistency between competitive and noncompetitive leases and should simplify the leasing system. Under current regulations, noncompetitive leases may be for 10,240-acres, while competitive leases are limited to 2,560 acres;

7. Considering the balance of bonus bids timely paid if the payment is "postmarked" (or its equivalent for non-U.S. mail transmittals) on or before the due date. The balance of the bonus bids is due within 10 business days after the day of the sale. Current regulations require this balance to be "submitted." We have interpreted this to mean that BLM must receive the payment on or before that date. Currently, we do not accept payments we receive after the tenth business day and BLM will not issue leases if payments for those leases are not made timely. This proposal would benefit those parties that exercise diligence in submitting the balance of their bonus bids;

8. Eliminating unit bonds. Unit bonds are unnecessary since unit operations may be covered under statewide and nationwide bonds. If existing statewide or nationwide bonds are inadequate, BLM would request an increase in those bond amounts rather than require a separate unit bond;

9. Adding a new bond for wells that are inactive for more than one year. After a well is inactive for one year, operators would be required to either increase the bond in place by \$2.00 per foot of depth per well, or pay a nonrefundable \$100 yearly fee; and

10. Increasing the dollar amount for the different types of bonds that we currently require. Individual bonds would be increased from \$10,000 to \$20,000 and the amount for statewide bonds would be increased from \$25,000 to \$75,000. Nationwide bonds would remain at \$150,000. BLM has not increased bond amounts since 1960 and the increase takes into account inflation and the fact that current bonding levels do not cover the costs associated with plugging, reclamation, and royalties.

This bond increase would not be immediate. It would be phased in as follows:

a. Parties filing new Applications for Permit to Drill and Changes of Operator subsequent to the effective date of the final rule would be required to meet the increased amounts.

b. Existing bonds with no new activity would remain at their current bond amount for two years at which time the principal must increase the bond amount. During this 2-year period, BLM could request bond increases for other reasons.

This proposal would also add a provision to allow you to apply for a reduction in the bond amount under certain circumstances;

11. Changing BLM's current policy of terminating the period of liability of bonds. BLM would cancel bonds after determining that you have met lease obligations, including proper plugging and abandonment of wells and surface reclamation. The Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 allows the Minerals Management Service (MMS) seven years to complete royalty audits. Since bonds cover royalty obligations, cancellation would be subject to concurrence from MMS that there are no outstanding royalty obligations;

12. Eliminating the need for holders of overriding royalties, production payments or similar interests, to file notice of those interests with BLM. Current regulations require you to file these documents with BLM. BLM does not currently verify these outstanding royalty interests and frequently the official lease file does not contain all outstanding transfers. Therefore, it is not an accurate record for determining outstanding interests. Eliminating the need to file these documents would save the \$25 filing fee currently required for each affected lease. If a lessee requested a royalty reduction because the lease cannot be successfully operated, BLM would then require the lessee to report the amount of outstanding overriding royalties. This is not a new requirement;

13. Eliminating the semiannual reporting of lease interests you hold under option. BLM would still request a statement of acreage you hold under option when we conduct audits of acreage holdings. This would reduce your administrative burden and still allow BLM to monitor acreage holdings;

14. Allowing a Class I reinstatement when you pay a nominal deficiency late. Current regulations state that if a rental payment is nominally deficient, the lease will not terminate if the deficiency is paid to the MMS within the specified time. The proposed change would provide flexibility in qualifying for a Class I reinstatement. Under existing regulations, such a lessee is required to

petition for a Class II reinstatement at a higher rental and royalty rate. This does not seem equitable since rental deficiencies could simply be a result of an acreage miscalculation. This rulemaking also clarifies rental payment requirements for fractional acreage amounts; and

15. Providing an increase in the percentage and dollar amount for nominal deficiencies of rental payments. Current regulations provide that a lease will not terminate if the rental deficiency is 5 percent or \$100, whichever is less. We are proposing to change that amount to 10 percent or \$200, whichever is less. This is consistent with the deficiency percentage and amount allowed when filing a noncompetitive offer.

We propose to modify the drilling, production, and enforcement regulations by—

1. Referencing published industry standards and practices instead of listing minimum standards;

2. Simplifying the procedure to calculate average daily oil production for leases with sliding and step-scale royalty rates;

3. Eliminating the provision to charge the full value of gas vented or flared that would have begun one year after BLM ordered you to capture the gas;

4. Exempting Federal oil wells that produce less than 10 Mcf per day from the obligation to obtain prior BLM approval to vent or flare;

5. Allowing bypasses around oil and gas meters under certain circumstances if sealing requirements are followed;

6. Not requiring site facility diagrams for single oil or condensate tank facilities that service a single well. This is in addition to the current facility diagram exemption for facilities processing dry gas;

7. Exempting gas wells producing 100 Mcf of gas per day or less from requirements for inspection frequency of the meter tube, determination of flowing gas temperature, calibration frequency, and tracking of static pens. These exemptions are in addition to the measurement exemptions that currently exist for low volume wells with respect to beta ratio range and differential pen tracking;

8. Requiring semiannual proving of positive displacement metering (e.g., Lease Automatic Custody Transfer) systems measuring 10,000 barrels of oil per month or less;

9. Assessing operators up to \$250 per day for each day a violation remains uncorrected after a specified abatement period. This proposal would also remove the categories of "major" and "minor" violations of existing

regulations. BLM believes this approach will simplify the enforcement process and make it more consistent, while still providing reasonable monetary incentive for operators to comply. BLM would prescribe shorter abatement periods for more serious violations;

10. Changing the system of immediate assessments for serious violations from a \$500 per day per violation assessment to a substantially increased one-time amount per violation assessment. This change would simplify the enforcement process and would be more of a deterrent for offenders;

11. Expanding the list of serious violations subject to immediate assessments to include surface disturbance without approval, habitual violation, and commingling of production without approval. These violations would be added because of the potential harm to the environment, production accountability, or public health and safety;

12. Simplifying the language for BLM's civil penalty regulations to more closely follow the provisions of the Federal Oil and Gas Royalty Management Act;

13. Revising BLM's existing oil and gas unitization regulations with a more flexible unit agreement format. The primary change to the unitization process would be an emphasis on up-front negotiation among the various interest owners and BLM. The agreement format would be flexible as long as it addressed the unit area, initial unit obligations and continuing development obligations, productivity criteria, and participating area size; and

14. Requiring a fair market value user fee for geophysical exploration on BLM lands. The user fee would not, however, be charged for geophysical exploration under a Federal oil and gas lease.

Section-by-Section Discussion

In many instances, this proposed rule does not change the policy or procedure of the current regulations and consists only of a translation from current regulatory language into plainer language. The section-by-section analysis for the proposed leasing regulations mostly describes significant changes from current BLM regulatory policy or procedure. Certain sections also describe areas where we have clarified existing procedures or policies. The section-by-section analysis for the operating regulations is more detailed because the proposed changes to the operating regulations are more complex than the proposed leasing changes. The operating regulations' discussion also provides tables that cross reference the proposed sections with existing

requirements. The discussion of the proposed regulatory text is generally a discussion of changes from current policy or procedure.

The regulations would provide the operational requirements for the exploration, development and production of oil or gas on *both* Federal and Indian lands. These regulations also apply to the leasing of Federal lands for oil or gas. However, they do not apply to the leasing of Indian lands. Also, we propose that the operating regulations would apply to oil and gas leases on lands the Federal government may acquire in the future, to the extent that they are not inconsistent with the rights granted in the original lease. The authority under which we would regulate such leases is the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*).

Part 3100—Onshore Oil and Gas Leasing and Operations: General

Subparts 3101—General, 3102—Recordkeeping, 3103—Reports, Submissions, and Notifications, and 3104—Environment and Safety

Definitions Section 3101.5 would consolidate and incorporate the definitions included in the current 3000.0-5, 3100.0-5, 3150.0-5, 3160.0-5, 3180.0-5, 3190.0-5 for easier reference and to eliminate redundancy. The definitions section would also include terms found in current onshore orders. Some of the definitions that appear in existing sections would be moved to a general definitions section proposed under the Definitions rulemaking published on November 19, 1996 (61 FR 58843).

One particularly important definition is the term "interest," which is used frequently in the rule. It is proposed that the term means only record title interest or operating rights interest (also known as working interest). Other interests such as overriding royalty interests would not be included in this definition.

Section 3101.8 would contain a chart which references those sections of these regulations where we cite and incorporate industry standards.

Subparts 3101 through 3104 would lay out general requirements and explanations of the proposed 3100 regulations. These general requirements would include—

1. Principles that underlie the regulation of Federal oil and gas leasing and operations.

2. The need for operators, lessees, and sublessees to comply with the lease terms, stipulations, conditions of approval, notices to lessees, and written or oral orders.

3. An explanation of the process for waiver, exception, and modification of stipulations and variances to the requirements imposed by these regulations.

4. A description of the surface use rights under a lease and your reporting and recordkeeping requirements.

Subpart 3101 would include a chart referencing other regulations that affect leasing or operations on Federal land and Subpart 3102 would include a list of the types of records BLM requires an operator or lessee to keep. Subpart 3103 would identify reports, submissions, and notifications BLM requires and the forms which must be used. It would also include a cross reference to the pertinent section of the regulation to which the record pertains.

Sections 3101.11 through 3101.13 would clarify the liability of various interest owners when there are many parties with an interest in a single lease. This section would state that each record title holder, each operating rights owner, the operator and the bonded parties are each fully responsible for the performance of all lease obligations (in the case of an operating rights owner just for the area or depth subject to its rights), unless provided otherwise in a particular regulation. The rule makes express what is the case under standard contract law: When two or more parties promise the same performance to the same promisee, each is bound for the whole performance thereof. Restatement of the Law of Contracts, Second § 289(1). Furthermore, when an oil and gas lessee assigns an undivided interest in his lease to another, each of them is jointly and severally liable for the performance of lease covenants. See *Hafeman v. Gem Oil Co.*, 80 N.W. 139, 163 (Nebr. 1956). BLM bonding policy since 1988 has allowed a single interest holder in a lease to provide a bond on behalf of all lessees and record title holders, reflecting BLM's understanding that by covering one such interest holder the surety has agreed to indemnify BLM for full performance of the lease obligations, up to the amount of the bond. BLM has never been authorized to agree to assume any portion of the cost of reclamation or other lessee duties, just because one interest holder is insolvent or cannot be found. The Bureau Oil and Gas National Performance Review Report dated April 27, 1995, recommended that BLM amend its regulations to make this "joint and several" liability more explicit. This regulation would be superseded where a statute or regulation concerning a particular category of obligations limits the liability of a co-lessee to its proportionate interest in the

lease, such as the Royalty Fairness and Simplification Act provides with respect to payment obligations.

Section 3101.18 would explain that lessors are responsible for drainage and would cross reference a proposed rule on oil and gas drainage that was published in the **Federal Register** on January 13, 1998 (63 FR 1936). This final rule would incorporate the drainage rule and cross reference it in this section.

Subpart 3104—Environment and Safety

Subpart 3104 would contain an explanation of what an operator must do to protect the environment when conducting operations. This subpart is not meant to describe in detail all of the environmental protection aspects of leasing. It is only an overview of the issues that are involved. The details of environmental protection are considered in several other sections of these regulations and in lease terms and conditions as well as orders and notices BLM may issue.

Subpart 3105—Lessee Qualifications

Subpart 3105 would contain requirements for lessee qualifications including when persons who are not United States citizens or who are minors may hold lease interests. This subpart would also include the maximum acreage limitations for public domain and acquired minerals that may be held by an entity which also applies to options for leases. How BLM computes chargeable acreage would be explained as well as what you must do if you exceed the acreage limitations. However, this subpart would eliminate the existing requirement that option agreements be filed with BLM. Acreage held under option remains chargeable. BLM would request outstanding option agreements for acreage audit purposes.

Subpart 3106—Fees, Rentals, and Royalties

Subpart 3106 would contain general information regarding fees, rentals, royalties and minimum royalties, acceptable forms of payment, and where to submit payments. The proposal includes charts identifying the types of payments, rental, royalty and minimum royalty rates for competitive, noncompetitive, renewal, exchange and right-of-way leases, and leases issued in lieu of unpatented oil placer mining claims. The subpart would also include provisions on waivers, suspensions, and reductions of rental and royalty.

Royalty Rates on Oil Sliding and Step-Scale Leases

Proposed regulations on determining oil royalty rates for sliding and step-scale leases are in sections 3106.50 through 3106.54. These sections would establish a new procedure to calculate average daily production. Sliding and step-scale leases have royalty rates that increase as the average daily production increases.

Proposed regulation	Existing regulation
3106.50	3162.7-4.
3106.51	
3106.52	
3106.53	
3106.54	

Sections 3106.50 through Section 3106.54 would describe a new procedure for calculating average daily oil production for the purpose of determining the correct royalty rate for a sliding-scale or step-scale lease.

The existing procedure to determine average daily production involves a complex system of identifying "countable" wells based on the number of days a well was produced, whether a well was initially or previously produced, and whether a well was shut-in for conservation purposes. Generally, the average daily production is determined by dividing the gross oil production for the month by the number of countable wells multiplied by the number of days in the month, regardless of how many days the wells actually produced. However, some leases require the gross production to be divided by actual days produced to arrive at the average production rate. You then use the resulting average daily production per well to find the corresponding royalty rate from the royalty provisions of the lease. For these types of leases, the royalty rate increases on a scale from 12½ percent to 25 percent as the average daily production per well increases.

The complex nature of the well count procedure has caused many errors by both industry and BLM in calculating or verifying the average daily production per well. The propensity for errors in the well count procedure in turn results in incorrect royalty payments, which require detailed, time consuming, and expensive audits to correct. Errors are not readily identified by either BLM or MMS because all of the information needed to verify the average production rate or royalty is not found on the monthly report of operations, Form MMS-3160.

These regulations would simplify the procedure to determine the average daily oil production. Under this proposal, gross production from a lease or agreement would be divided by the total number of days "eligible" wells are produced or used for production. Any paying well that produces oil is an eligible well, as is any injection well used to recover oil. Wells shut-in for any reason would not have a bearing on the average daily production rate. All of the information necessary to make the computation of average daily production is found on Form MMS-3160. The proposed procedure should not substantially impact royalty payments. The proposed procedure would be implemented as of the effective date of the final rule.

Stripper Oil Property Royalty Reduction

Proposed regulations on determining royalty reductions for stripper oil properties would explain the procedures on how to determine if you have a stripper oil property and, if so, how to apply to receive a royalty reduction. They would also set the reduced royalty rates for eligible production rates, provide for further royalty reductions as production declines, and allow BLM to terminate the stripper oil property royalty reduction program with proper notice.

Proposed regulation	Existing regulation
3106.60	3103.4-2(a)(1).
3106.61	3103.4-2(a)(2) through (4).
3106.62	3103.4-2(b)(2).
3106.63	3103.4-2(b)(3)(i)(B).
3106.64	3103.4-2(b)(3)(ii).
3106.65	3103.4-2(a)(1), (b)(2), (b)(3)(i) and (b)(3)(ii).
3106.66	3103.4-2(b)(3)(ii).
3106.67	3103.4-2(b)(3)(ii), (iii)(B), and (v), and 3103.4-2(b)(3)(ii), (b)(6), and (b)(7).
3106.68	3103.4-2(b)(3)(ii).
3106.69	3103.4-2(b)(3)(ii), (iii)(B), and (iii)(C).
3106.70	3103.4-2(b)(3)(iii)(A) and (B).
3106.71	
3106.72	3103.4-2(b)(3)(iii)(C) and (b)(8).
3106.73	3103.4-2(b)(3)(vi).
3106.74	

The requirements of this proposal are similar to those in existing regulations. One minor change would be in section 3106.63. That section would clarify what oil you must use when calculating your average daily production rate. It establishes what liquid hydrocarbons are considered "oil", and therefore eligible for royalty reduction, and what

is considered "condensate", which is not eligible.

Subpart 3107—Lease, Surety, and Personal Bonds

Subpart 3107 would contain general bonding information regarding who must post a bond, bond amounts, the types of acceptable bonds, and procedures for bond increases, collections, and cancellations. This subpart would generally contain existing regulatory requirements with the following exceptions.

Section 3107.14 would increase amounts for bonds. Individual bonds would increase from \$10,000 to \$20,000. The amount for a statewide bond would increase from \$25,000 to \$75,000. The nationwide bond amount would remain at \$150,000. BLM believes the increases are justified because the costs to plug a well, restore the surface, remove related facilities, reclaim roads, rights-of-ways, etc., in many cases far exceeds the present bond amounts. In addition, BLM has not increased minimum bond amounts since 1960. Applying an inflation factor to the individual and statewide bond amounts since 1960, would increase them to \$50,000 and \$135,000 respectively. For these reasons, BLM has concluded that the increase in bond amounts for individual and statewide bonds is reasonable and justified. In BLM's experience, entities that hold nationwide bonds do not pose an unacceptable risk. Therefore, we are not proposing to increase nationwide bonding.

Section 3107.50 would allow you to apply to BLM for a decrease in your bond amount. Your application must include your justification for a decrease in the bond amount. BLM would approve a decrease in your bond amount if we determine that the potential liabilities on your lease are less than the existing bond amount. Please specifically comment on the standards BLM should use to determine whether we will approve a decrease in the bond amount.

Section 3107.52 would require additional bonding for inactive wells. A significant source of orphan wells is temporarily abandoned wells. In 1995, there were more than 6,500 temporarily abandoned wells on BLM-managed lands. This is a major source of potential future liability. The \$2.00 per foot or \$100 per well fees would complement the proposed increase in individual and statewide bonds and partially cover the potential liability.

Section 3107.70 would change BLM's current policy of terminating only the period of liability of bonds. Under this proposal, BLM would cancel bonds after

determining that you met lease obligations, including proper plugging and abandonment of wells, and surface reclamation. The Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 allows MMS seven years to complete royalty audits. Since bonds cover royalty obligations, cancellation would be subject to concurrence from MMS that there are no outstanding royalty obligations.

Current section 3104.4, Unit Operator's bond, provides that a unit operator's bond may be filed in lieu of an individual, statewide or nationwide bond. This proposal would eliminate any provision for an operator of a unit to file a unit bond. This is an unnecessary requirement since BLM allows unit operations to be covered under statewide and nationwide bonds. If existing statewide or nationwide bonds are inadequate, BLM would request an increase in those bond amounts rather than require a separate unit bond.

Subpart 3108 would contain bonding information for geophysical exploration operations. This includes the types of bonds, amount of bond, bond increases, terminations, and action to be taken for nonperformance.

Part 3110—Oil and Gas Geophysical Exploration

Subparts 3110, 3112, and 3113 would contain the requirements for conducting geophysical exploration operations on Federal lands.

Proposed regulation	Existing regulation
3110.10 and 3110.11	3150.0-1.
3110.12	3150.1.
3110.13	New section.
3112.10-12 and 3112.20-3112.21.	3151.1 and 3151.2.
3113.10	3152.1.
3113.11-3113.12 and 3113.20-3113.22.	3152.3-3152.5.
3113.30-3113.31	3152.6.
3113.40	3152.7.
3113.50	3153.1.

Subpart 3110—Onshore Oil and Gas Geophysical Exploration General Provisions

This subpart would contain requirements similar to existing regulations with one exception. Section 3110.13 would require you to pay a fair market value fee (FMV) for the use of the public lands for each Notice of Intent to Conduct Oil and Gas Geophysical Exploration Operations. The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*) (FLPMA) requires that "the United States receive the fair market value of the use of the public land and

its resources unless otherwise provided for by statute." In addition, a May 1992 audit report by the U.S. Department of the Interior, Office of Inspector General (OIG), recommended that BLM establish and implement procedures to charge FMV for geophysical exploration. In order to comply with the requirements of FLPMA and the OIG recommendation, we propose to adopt a FMV for geophysical exploration. The FMV would be based on the size of the area physically affected by each individual geophysical exploration project. You would not be required to pay the FMV for a geophysical exploration project, or a portion of a project, that is conducted under a Federal oil and gas lease.

Subpart 3112—Geophysical Exploration Outside of Alaska

Sections 3112.10 through 3112.12 and 3112.20 and 3112.21 would describe the procedures you must follow to obtain authorization for geophysical exploration operations outside of Alaska. It would also implement a new provision that establishes when you must submit a notice of intent (NOI) to BLM. Under this proposal, you would submit an NOI ahead of your anticipated starting date. This time period should allow BLM time to process your NOI before the day you plan to start your geophysical exploration project. This section would describe the actions BLM would take after we receive your application. It would include a provision for a BLM field inspection to review the geophysical exploration operations proposal, would describe how and when to notify BLM that you completed operations, and explain how BLM will act on your notice.

A new requirement would be added to make sure BLM receives information to accurately determine the extent of the area affected by your geophysical exploration project and whether you are conducting any part of the project under a Federal oil and gas lease. BLM needs this information to calculate FMV. BLM would not authorize your NOI until you paid the required FMV.

Subpart 3113—Geophysical Exploration in Alaska

This subpart would contain the existing regulatory requirements with the following exceptions.

Section 3113.10 would describe what you must include in your application for an oil and gas geophysical exploration permit. This proposal replaces the detailed, who, what, and where type of information in current section 3152.1, with a general standard

for permit application requirements. This standard would provide more flexibility to deal with on-site conditions and individual geophysical exploration plans that may dictate different filing requirements.

This proposal would add a new requirement for determining FMV. This requirement would ensure BLM receives information to accurately determine the extent of the area affected by your geophysical exploration project and whether any part of the project is being conducted under a Federal oil and gas lease. BLM would not approve your permit until you paid the required FMV.

Section 3113.40 would describe what you must submit to BLM after you complete geophysical exploration operations, when you need to submit a completion report, and what action BLM takes after we receive a completion report. These sections would not include the detailed what and where type of information that is in current section 3152.7. Rather, section 3113.40 would replace the list of required information with a standard for completion reports. A standard is appropriate in this case because the information BLM needs in a completion report depends on the application filed, the terms of the permit BLM issued, and the results of your on-site activities. BLM proposes this standard because the specific requirements in a completion report are often worked out between the applicant and BLM before we issue a permit. This information may also be included in the terms of the permit.

Part 3120—Oil and Gas Leasing

Subpart 3120—Leasing

Subpart 3120 would contain requirements for competitive and noncompetitive leasing and would describe lands that are available for leasing. It would contain charts outlining the terms of different types of leases, and how to describe lands in a letter of nomination. This subpart also would include procedures for renewal and exchange leases and right-of-way leasing and would generally contain existing regulatory requirements with the following exceptions.

This proposal would eliminate presale noncompetitive lease offers. The intent of the Reform Act was to emphasize competition for Federal oil and gas resources. Presale offers were created by regulation and are not required by the Reform Act. Eliminating presale offers would expedite leasing because it would remove the existing one-year waiting period that prohibits the filing of offers for one year from the date of expiration, termination, or

cancellation of a former lease. This would result in a streamlined leasing process, reduce confusion regarding which lands are available for leasing, result in a cost savings for unnecessary filing fees accompanying offers identifying unavailable lands, and encourage competitive leasing.

This proposal would also eliminate the formal nomination procedures in existing section 3120.3. This section gives BLM's Director the discretion to post a Competitive Nomination List and requires the public to formally nominate lands from that list for future competitive sale. The Director has never exercised his discretion to implement these regulations and does not plan to do so in the near future. We therefore believe it would be appropriate to eliminate the requirements of this section.

Section 3122.21 would allow BLM to accept a late payment of bonus bid balances if you provide evidence showing the late payment was postmarked by the U.S. Postal Service, or dated as received by a courier or other delivery service, on or before the tenth business day following the day of the sale. Currently, BLM will not accept payments of bonus bid balances after the tenth business day after the sale.

Sections 3123.30 and 3123.31 would limit the acreage in noncompetitive lease offers to 2,560 acres in the lower 48 States and 5,760 acres in Alaska. Under current regulations, the 10,240-acre limitation for noncompetitive parcels exceeds the 2,560-acre limitation for competitive parcels. As a result, BLM must reconfigure parcels in order to offer the lands for competitive leasing. Limiting the acreage will provide consistency between competitive and noncompetitive leases and will simplify the leasing system.

Those sections would also require you to describe the lands in two-year noncompetitive lease offers by the parcel number indicated in the Notice(s) of Competitive Oil and Gas Lease Sale. Under the proposed rule, you would be able to combine more than one parcel from more than one sale notice in a lease offer. If you combined more than one parcel into an offer, the lands would be required to be within six square miles, unless you show BLM that a larger area is necessary. BLM will consider larger areas if we determine that is in the interest of conservation of resources. The current regulations require that lands be within six square miles. Allowing you to come in with a larger area would give you added flexibility to deal with geologic conditions.

These proposed changes would simplify the filing of two-year noncompetitive lease offers since you would not be required to use legal land descriptions in your offer, but only the parcel number. It would also expedite leasing because lease stipulation revisions would not be necessary for split parcels. The current regulations require that noncompetitive offers for public domain minerals must be a minimum of 640 acres unless the lands are isolated, i.e., there are no contiguous lands. This regulation has resulted in confusion, the loss of filing fees, loss of priority of offers, and is not required by statute. This proposal would eliminate the 640-acre filing requirement.

Section 3123.40 would reduce the number of copies of noncompetitive lease offers you must file. Two copies of a noncompetitive lease offer would be required rather than the current three copies.

Sections 3124.40 through 3124.42 would clarify current provisions that 20-year leases issued under Section 14 of the Act are in effect so long as oil or gas is produced in paying quantities.

Section 3124.44 would require you to file applications for renewal at least 90 calendar days before the lease expiration date. Existing regulations require filing at least 90 calendar days, but not more than six months, from the expiration of the lease term.

Subpart 3129—Record Title, Operating Rights, and Estate Transfers, Name Changes, and Mergers

Subpart 3129 would cover requirements for transfers of record title and operating rights interests in leases. This subpart would generally contain existing regulatory requirements with the following exceptions.

Section 3129.11 would implement a change in policy and procedure. This proposal would eliminate the requirements of current section 3106.4-2 (Transfers of other interests, including royalty interests and production payments) that requires you to file overriding royalty assignments, net profit and production payments with BLM. BLM does not check the accuracy of these transfers and does not verify outstanding royalty interests. BLM only places these documents in the lease file for record purposes. Frequently, the official lease file at BLM does not contain all outstanding transfers and is therefore not an accurate record for determining the outstanding interests. Eliminating the filing of these documents would save you the \$25 filing fee currently required for such transfers. Under these proposed regulations, if you requested a royalty reduction under section 3106.40, BLM would still require you to document the amount of outstanding overriding royalties.

Sections 3129.20 and 3129.21 would define mass transfers and would describe a change from current procedure. BLM would no longer require three originally-signed copies of mass transfers with one photocopy for each of the additional leases the transfer affects. This procedure was adopted under the 1988 regulations and is confusing to some. Under this proposed rule, you would be required to file three originals of the record title assignment and operating rights transfer forms for each affected lease. BLM would not accept photocopies of the signed documents for each additional lease the transfer affects.

Part 3130—Oil and Gas Agreements

Subpart 3130—Reservoir Management

This subpart would contain requirements for well spacing, communitization agreements, subsurface storage agreements, development contracts, compensatory royalty agreements and unit agreements. Also, the unitization subpart would change current policy and procedure and is discussed in greater detail in that subpart discussion. This proposal contains additional types of agreements that are not covered in existing regulations. These agreements would be added to identify all types of agreements acceptable under current BLM policy.

Proposed regulation	Existing regulation
3130.10	3162.3-1(a) and (b).
3130.11	3162.3-1(a).
3130.12	3162.5-2(b).
3130.13	3162.2(b).
3132.10	3161.2.
3132.11	New section.
3132.12	3105.2-2, 3105.5-4, and 3107.
3132.13 and 3132.14	New sections.
3133.10	3105.2-2.
3133.11	3105.2-3(a).
3133.12	3105.2-3(b).
3133.13 through 3133.15	3105.2-3(c).
3133.16 through 3133.18	New sections.
3134.10	3105.5-2.
3134.11	3105.5-3.
3134.12	3105.5-2.
3135.10	New section.
3135.11	3105.3 and internal BLM guidance (WO IM Number 95-146 and The Oil and Gas Development Contract Task Force Report, March 1988) on the application and use of development contracts.
3135.12	3105.3-2.
3135.13	3105.3.
3135.14 through 3135.19	New sections.
3136.10	New section.
3136.11	3100.2-1.

Well Spacing

Subpart 3130 would contain requirements substantially similar to those in existing regulations.

Subpart 3132—Oil and Gas Agreements: General

Subpart 3132 would contain requirements substantially similar to existing requirements with the following exceptions.

Section 3132.10 would set out the types of agreements which require BLM approval. The language in this section consolidates general provisions that are stated in many places throughout Federal mineral leasing laws and BLM's existing regulations.

Section 3132.12 would state the benefits you receive for fulfilling the requirements of an approved oil and gas agreement. This is a new section. However, it contains no new requirements or policy issues.

Section 3132.13 would describe when you would be required to obtain rights-of-stay for roads, facilities, or other surface uses for Federal lands excluded from an agreement by contraction or termination. This is a new section. However, it contains no new requirements or policy issues.

Section 3132.14 would state that you may include State, Indian, or private mineral interests with Federal interests in a Federal agreement. This is a new section. However, it contains no new requirements or policy issues.

Subpart 3133—Communitization Agreements

Communitization agreements are currently covered in subpart 3105. This proposal would cover the application process and how BLM would set the terms and conditions of the agreement. The subpart would contain current regulatory requirements and implements existing policy with the following exceptions.

Section 3133.11 would detail what you must submit to BLM in your application. This section would eliminate the existing requirement that the communitization agreement be signed by or on behalf of all necessary parties. Instead, this section would require you to certify, as applicant, that

all necessary parties have committed their interests to the agreement. This change was made as a result of a recommendation of BLM's Onshore Oil and Gas Performance Review to streamline the communitization process. Please specifically comment on alternative ways to submit the required information.

Section 3133.13 would require BLM to notify the operator when we make a decision on your request to communitize. It also would require the operator to notify all necessary parties of BLM's decision within 30 calendar days. This new section would clarify current administrative processes.

Subpart 3134—Subsurface Storage Agreements

This subpart contains current regulatory requirements and implements existing policy. It does contain more detail than existing regulations on subsurface storage agreements. However, it does not implement new policy or procedure.

Subpart 3135—Development Contracts

This subpart contains current regulatory requirements and implements existing policy. It does contain more detail than existing regulations on development contracts. However, it does not implement new policy or procedure.

Subpart 3136—Drainage Agreements

This subpart contains current regulatory requirements and implements existing policy. It does contain more detail than existing regulations on drainage agreements however, it does not implement new policy or procedure. One section in this subpart would cross reference another proposed rule. Proposed section 3136.10 cross references regulatory requirements in a proposed rule on oil and gas drainage that was published in the **Federal Register** on January 13, 1998 (63 FR 1936). This final rule would incorporate the drainage rule and cross reference it in this section.

Subpart 3137— Unit Agreements

BLM developed this subpart of the proposal to respond to industry concerns identified by the Bureau Oil

and Gas Performance Review and reinventing government initiatives. The public commented that the existing unitization process was inflexible and that was a limitation on increased development. Secretary Babbitt issued Secretarial Order 3199 on April 4, 1996, directing BLM to "reengineer Federal oil and gas unitization into a more efficient and flexible process." On September 30, 1998, the Secretary renewed the order until the unit regulations go into effect or September 30, 1999, whichever occurs first. BLM drafted these regulations to focus the unitization process more on what is to be accomplished rather than on how regulated entities would achieve their objectives. BLM identified the following as limitations on the effectiveness of the current unitization process—

1. The process is unnecessarily complicated and is a barrier to innovative and creative exploration and development;
2. Paying well determinations based solely on economics cause delays;
3. Allocation of unitized production is often delayed because paying well determinations cannot be made in a timely manner. This necessitates extensive corrections to production and royalty reporting;
4. The unit designation process adds unnecessary complexity to the application process; and
5. The existing model unit form (see 43 CFR 3186) contains many terms unnecessary to the Secretary's decision whether to approve a unit agreement or not.

These proposed regulations attempt to eliminate or minimize these barriers, while still meeting the intent of the Mineral Leasing Act of 1920.

These regulations would increase the flexibility of the unitization process by allowing operators and BLM to negotiate exploration and development terms before entering into a unit agreement. The focus of this new process would be to protect the public interest rather than to rely on the existing model unit agreement. This regulation would not change the terms and conditions of existing unit agreements or the way BLM administers existing agreements.

Proposed regulation	Existing regulation
3137.10 and 3137.11	3186.1.
3137.12	New section.
3137.13	3181.2 and 3186.1.
3137.14	3181.3 and 3186.1.
3137.15	3181.3.
3137.16	3186.1, sec. 20.
3137.17 and 3137.18	New sections.
3137.20	3186.1.

Proposed regulation	Existing regulation
3137.21 and 3137.22	New sections.
3137.30	3186.1, sec. 3.
3137.31 through 3137.34	New sections.
3137.40	3181.2.
3137.50 through 3137.52	3186.1, sec. 9.
3137.53	New section.
3137.54	3186.1, sections 9 and 20.
3137.55 through 3137.59	New sections.
3137.61 through 3137.66	3186.1, sec. 11.
3137.67	3181.4 and 3181.5.
3137.68	3101.3-1.
3137.69	3186.1, sec. 11.
3137.70 through 3137.73	3186.1, sec. 11.
3137.74	New section.
3137.80 and 3137.81	3186.1, sec. 8.
3137.82	3186.1, sec. 5 and 3186.3.
3137.83	3186.1, sec. 4.
3137.84	3181.5 and 3186.1, sec. 17.
3137.90	3186.1, sec. 25.
3137.91	3186.1, sec. 9.
3137.100	3186.1, sec. 20(b) and 20(d).
3137.101	3183.4(b).
3137.102	New section.
3137.110	3186.1, sec. 14.
3137.111	3181.5 and 3186.1, sec 17(b).
3137.112 through 3137.114	3186.1, sec 14.
3137.120 and 3137.130	New sections.

The primary change to the unitization process would be an emphasis on up-front negotiation among the various interest owners and BLM. Operators would be able to use any agreement format in their unit agreement as long as it addressed the following four basic issues: (1) Unit area; (2) Initial and continuing development obligations; (3) Productivity criteria and participating areas; and (4) BLM's ability to set or modify the quantity, rate and location of development and production.

The unit operator and BLM would base the negotiation of unit agreement terms on many factors. These factors may include the history of the area, the environment, economics, the number and depth of wells previously drilled in the area, the size of the area and the cost of the proposed operations.

Under these proposed regulations, BLM would accept only a limited number of additional unit agreement terms beyond the mandatory terms. If the unit agreement does not specifically address modifications, they would not be permitted unless all of the original parties or their successors to the agreement agree. The unit agreement would be considered to include all producing intervals unless the unit agreement specifies producing interval(s).

Another change from current procedure involves the creation and size of initial participating areas and additions to existing participating areas. The amount of land to be included in any participating area revision would be

specified in the unit agreement whereas currently it is not. Under existing procedure, participating areas include only specific producing intervals. An addition to an existing participating area occurs when a new well that meets the productivity criteria defined in the unit agreement is drilled outside of that participating area.

The current obligation to drill an exploratory well and subsequent wells under a plan of operations would be replaced with initial and continuing development obligations. Under this proposal, you and BLM would negotiate the initial and continuing development obligations and would include those terms in the unit agreement. These terms would define the number and frequency of wells you plan to drill or operations that would establish new unitized production. Under this proposal, the unit would automatically contract to the existing participating area(s) when you do not meet a continuing development obligation. Existing regulations allow five years for drilling and development of the unitized area before automatic elimination would occur for lands not in a participating area. This proposal would eliminate the 5-year initial drilling and development period of current regulations. BLM believes this new requirement would increase the potential for oil and gas development by encouraging operators to follow a continuous development program or risk contraction of the unit area to the participating area(s).

Paying well determinations would be replaced with well productivity criteria. This would allow the unit operator to negotiate criteria that are not tied strictly to well economics. Currently, production must cover the drilling and operating costs attributed to that well. Under this proposal, costs for that well would be considered as part of unit costs and not be required to be covered by production from that well alone. Productivity criteria must be adequate to indicate a well has established future production potential to pay for the cost of drilling, completing and operating.

Another change to the current system concerns development requirements. After unitization, operators would know the effect of development on participating areas and royalty distribution immediately, without having to wait extended periods for BLM approvals. This is because the criteria for deciding whether wells qualify to be included in a participating area would be clearly spelled out in the agreement.

Under existing regulations, operators are limited to a set time to develop the entire unit. Under the proposed regulations, the unit would not contract as long as development continued at the rate set out in the agreement. Once you meet the initial development obligations, all leases committed to a unit would continue to receive the benefits of unitization as long as the unit is productive.

Under this proposal, BLM could grant suspensions and extensions of time to

carry out the initial and continuing development obligations. In those instances, the unit operator would be required to prove to BLM that the obligations cannot be carried out due to circumstances beyond the control of the operator, despite the exercise of due care and diligence. Existing regulations contain similar provisions.

This subpart for the most part discusses new procedures and policy or new regulatory requirements. Where a given section is substantially similar to existing policy, procedure or regulatory requirement, it is not discussed.

Application

Section 3137.10 would describe the types of unit agreements the subpart covers. Up to now, BLM's regulations have not distinguished between exploratory and enhanced recovery unit agreements. Since enhanced recovery operations differ from exploratory operations, their unit obligations should differ.

Sections 3137.11 and 3137.12 would require you to negotiate with BLM on the terms of exploratory and enhanced recovery unit agreements before you apply and explains that BLM will accept any unit agreement format. Currently, BLM's regulations require that you use the unit agreement form in section 3186.1.

Section 3137.13 would explain what you must include in your unitization application.

Section 3137.14 would describe what the unit operator must certify in the unitization application. This is a new requirement. Currently, BLM requires the operator to submit signatures of all parties committed to the unit. The certification would replace the signatures which will reduce paperwork for you and BLM.

Section 3137.15 would make it clear that you are not required to file with BLM evidence that all leases have actually committed to the unit. However, BLM will require you to keep copies of the invitations to join the unit, including written reasons why parties did not join the unit.

Section 3137.16 would change existing policy and procedure. Under existing regulations, BLM approves a unit agreement effective the date of approval. If the unit does not meet the public interest requirement, the unit is void ab initio. Under the proposal, BLM would provisionally approve units and final approval would be given once you meet the public interest requirement, retroactive to the date of the provisional approval. One effect of this change would be that when a lease that is partly in and partly out of a unit area is

segregated into two leases, the provisional approval would not give the lease that is outside of the unit any benefits of unitization, including an extension, until final unit approval. Final unit approval would be given when the unit meets the public interest requirement by meeting the initial unit obligations.

Section 3137.17 would require BLM to notify the unit operator in writing when we approve the agreement. This section would also require the unit operator to notify all parties to the agreement after it receives BLM notice.

Section 3137.18 would explain that BLM will reject a unit agreement application if it does not meet the requirements of this subpart.

Mandatory Topics

Section 3137.20 would define the mandatory terms of exploratory and enhanced recovery unit agreements. Existing unit agreements contain terms that deal with the relationship between the parties committed to the unit agreement and not BLM. This proposal would also reduce the number of permissible unit agreement terms to only those that deal with the relationship between BLM and the parties committed to the unit.

Section 3137.21 would describe only mandatory terms in enhanced recovery unit agreements and exploratory unit agreements. The area you want to include in an enhanced recovery unit agreement must be fully developed at the time you make the proposal. This section also explains that "fully developed" means that you have drilled to reasonably delineate the boundaries of the reservoir. Therefore, you would not be required to include terms for initial unit obligation, participating areas, productivity criteria and unit contraction. Instead, you would be required to define enhancement obligations in an enhanced recovery unit agreement.

Section 3137.22 would prohibit terms in unit agreements other than those contained in the listed sections of the proposal. Parties to the unit could set out other terms under private agreements.

Optional Provisions

Section 3137.30 would explain that you may include optional provisions in the agreement for limiting the agreement to certain producing intervals, authorizing multiple unit operators, and providing means for unit agreement modifications. If those provisions are not included in the agreement, the agreement applies to all intervals, contemplates a single unit operator and

requires unanimous consent for modification. BLM would approve those optional provisions if you demonstrate that they promote additional development or enhance production potential. These optional provisions are not in existing regulations. However, BLM does allow for these optional provisions if operators apply and circumstances warrant that they be included. BLM would add these provisions to the regulations to clarify existing policy and procedure.

Sections 3137.31, 3137.32 and 3137.33 would set out the requirements for having multiple unit operators, the circumstances under which you may modify the terms of the unit agreement and what you must submit to BLM if you modify a unit area, or change the commitment status of a lease.

Section 3137.34 would make it clear that other agreements do not affect the terms and conditions of a Federal unit agreement.

Size and Shape

Section 3137.40 would require that the unit area consist of tracts that are contiguous at least at one point. It would explain that areas of noncommitted tracts totally within the exterior boundary of the unit are allowed and that BLM may limit the size and shape of the unit area. BLM currently has policies and procedures to deal with the size and shape of units that are similar to this section.

Development

Section 3137.50 would define initial unit obligations for exploratory unit agreements. Existing regulations require you to drill at least one well to explore for unitized substances for your initial unit obligation. As a matter of policy, one well will hold up to about 30,000 acres, depending on geology, economics and other factors. This proposal would require that you negotiate with BLM and define the number of wells necessary to determine the existence of oil and gas in the area of the unit. This proposal would also require that the unit agreement define the primary target for each well and the time between drilling those wells. This would also be subject to negotiation. Existing regulations only require you to define the primary target for the initial well and the time between drilling the well depends on whether it is a producing well or not. BLM believes that negotiation of the provisions for development would allow operators flexibility and ensures that the resources will be diligently developed.

Section 3137.51 would define what you must do to meet initial unit obligations and fulfill the public interest

requirement for an exploratory unit agreement. Before the time set out in the agreement, you must drill at least one well that establishes unit production, drill a test well to the primary target, or convince BLM that drilling the initial well(s) or future wells is unwarranted or impracticable.

Section 3137.52 would define the enhancement obligations for enhanced recovery unit agreements. The unit agreement would define that amount, type and timing of enhanced recovery operations.

Section 3137.53 would define what you must do to meet enhancement obligations and fulfill the public interest requirement for enhanced recovery unit agreements. You would be required to fulfill the provisions of section 3137.52, or prove to BLM either that enhanced recovery operations have actually increased reservoir performance or that further enhancement operations are unwarranted, impracticable or uneconomical.

Section 3137.54 would state that if you do not meet initial unit obligations or enhancement obligations, BLM's approval of the agreement is invalid and BLM will not extend the term of any lease in the unit.

Section 3137.55 would define continuing development obligations. This section would require that your program of exploration or development exceed the pace of non-unitized operations in the area near the unit. The exploration program must also represent an investment commensurate with the size of the unit agreement. BLM believes that these standards for a continuing development obligation would ensure that the resources will be diligently developed.

Section 3137.56 would describe how to define continuing development obligations in the unit agreement. Continuing development obligations occur after you complete initial development obligations, but do not include work you performed prior to unitization. This differs from existing policy in that this new provision would be negotiated up front and defined in the agreement. Currently, continuing development obligations are not defined at the outset, but are laid out after an initial discovery, in a plan of development.

Section 3137.57 would explain that continuing development may occur within or outside a participating area. Currently, starting five years after a participating area is established, you are required to drill outside established participating areas to continue the unit. This proposal would provide flexibility for operators and still encourage

additional exploratory drilling by allowing them to negotiate for additional drilling within established participating areas.

Section 3137.58 would require a unit to contract if you do not meet a continuing development obligation. Under existing regulations, if you have not drilled outside of a participating area after five years from the date the first participating area was established, the unit contracts to existing participating areas.

Section 3137.59 would require you to submit certain information to BLM after you meet continuing development obligations. You would be required to submit documentation that supports your certification. If you establish production in a well that does not meet the productivity criteria, you would be required to operate, produce, and report the well on a lease basis. This section is substantially similar to existing requirements. BLM does not currently require a certification, however, the information required would be substantially similar to the information in the current application to establish or expand a participating area.

Productivity Criteria and Participating Area

Section 3137.60 would require that productivity criteria be defined in the unit agreement. This section would require that the productivity criteria indicate future production potential sufficient to pay for the costs of drilling, completing and operating the well on a unit basis. This section would also require that the productivity criteria warrant continued production of the individual well itself and that the well must be ready to produce unitized substances. This section would explain that BLM will enlarge participating areas when you drill a well that meets the productivity criteria outside of an existing participating area. Paying well determinations would be replaced with well productivity criteria. This would allow the unit operator to negotiate criteria that are not tied strictly to well economics. Currently, production must cover the drilling and operating costs attributed to that well. Under this proposal, costs for that well would be considered as part of unit costs and not be required to be covered by the production from that well alone. Productivity criteria must be adequate to indicate a well has established future production potential to pay for the cost of drilling, completing and operating.

Section 3137.61 would describe the function or purpose of participating areas. The unit agreement allocates production to committed leases within

the participating areas in proportion to the leased surface acreage relative to the total acreage of the participating area. This is similar to existing policy and procedure.

Section 3137.62 would explain that the first well you drill after unitization that meets the productivity criteria establishes a participating area. Existing regulations use the term "production in paying quantities" as the sole acceptable productivity criteria. This section would further explain that when you establish the first participating area, lands which contain previously existing wells that meet the productivity criteria will either be added to the initial participating area or become a new participating area.

Section 3137.64 would require you to submit to BLM certification that you established unitized production, a map of the participating area, and a schedule that establishes the allocation to each interest owner in the participating area. This section is substantially similar to existing requirements. BLM does not currently require a certification. However, the information used to make that certification would be substantially similar to the information in the current application to establish or expand a participating area.

Section 3137.65 would require the size of participating area additions to be approximately the same size as the initial participating area for that interval. Currently, BLM does not require them to be the same size. Requiring the participating area additions to be the same or similar in size would simplify expansion of unit participating areas.

Unit Operations

The sections covered under the heading "Unit Operations" are substantially similar to existing regulatory requirements.

Suspensions and Extensions of Development

The sections covered under the heading "Suspensions and Extensions of Development" are substantially similar to existing regulatory requirements.

Unit Termination

The sections covered under the heading "Unit Termination" are substantially similar to existing regulatory requirements.

Royalties

The sections covered under the heading "Royalties" are substantially similar to existing regulatory requirements.

Leases and Contracts Conformed and Extended

The sections covered under the heading "Leases and Contracts Conformed and Extended" are substantially similar to existing regulatory requirements.

Change in Ownership

The section covered under the heading "Change in Ownership" is substantially similar to existing regulatory requirements.

Part 3140—Oil and Gas Lease Administration

Subpart 3140—Extensions

Subpart 3140 would contain provisions for drilling extensions, continuation of leases by production, unit production and segregations, elimination of leases from unit and communitization agreements, leases segregated by assignments, and compensatory royalty and lease payments for subsurface storage of oil or gas. This subpart would not change requirements of existing regulations, with the exception of segregations as they relate to provisional unit approval described earlier in the discussion of proposed section 3137.16.

Subpart 3141—Suspensions

Subpart 3141 would contain requirements for obtaining suspensions of operations, suspensions of production or suspensions of operations and production. Filing requirements for approval of a suspension of operations or production would be outlined. This subpart would describe the effects of a suspension on the terms of a lease and also requirements for the suspension or waiver of lease rights during pending legal proceedings. This subpart would

not change requirements of existing regulations.

Subpart 3142—Lease Terminations and Reinstatements

Subpart 3142 would contain requirements for obtaining Class I and Class II reinstatements for leases that terminate for nonpayment or late payment of rental. This subpart would also include Class III provisions for converting unpatented oil placer mining claims to noncompetitive oil and gas leases. This subpart proposes two changes from existing requirements. One change allows a Class I reinstatement for the late payment of a nominal deficiency (see section 3142.20). The other change increases the nominal deficiency amount from 5 percent or \$100, to the lesser of 10 percent or \$200, which provides consistency with the nominal deficiency amount allowed for noncompetitive offers (see section 3142.11).

Subpart 3143—Relinquishments

Subpart 3143 would generally contain existing regulatory requirements and clarifications of existing requirements pertaining to relinquishments.

Subpart 3144—Cancellations

Subpart 3144 would contain provisions for cancellations and would not change existing regulatory requirements. It would also contain existing regulatory requirements regarding bona fide purchasers.

Part 3145—Oil and Gas Drilling

Subpart 3145—Drilling and Additional Well Operations

This subpart would incorporate the requirements from existing and proposed regulations dealing with drilling and additional well operations.

The Onshore Orders referenced in this preamble that relate to the conduct of operations and appear in the charts and proposed operations regulations that follow are: Onshore Order Number 1, which was published on October 21, 1983, (48 FR 48916); Proposed Onshore Order Number 1, which was published on July 23, 1992, (57 FR 32756); Onshore Order Number 2, which was published on October 18, 1988, (53 FR 46798) (Revised on December 9, 1988, (53 FR 49661), September 27, 1989 (54 FR 39528), and January 27, 1992, (57 FR 3023)); Onshore Order Number 3, which was published on February 24, 1989, (54 FR 8056) (Revised on September 27, 1989, (54 FR 39528)); Onshore Order Number 4, which was published on February 24, 1989, (54 FR 8086); Proposed Onshore Order Number 4, which was published on March 9, 1994, (59 FR 11019); Onshore Order Number 5, which was published on February 24, 1989, (54 FR 8100) (Revised on September 27, 1989, (54 FR 39527)); Proposed Onshore Order Number 5, which was published on January 6, 1994, (59 FR 718); Onshore Order Number 6, which was published on November 23, 1990, (55 FR 48958) (Revised on January 17, 1992, (57 FR 2039 and 2136) and on February 12, 1992, (57 FR 5211)); Onshore Order Number 7, which was published on September 8, 1993, (58 FR 47354) (Revised on November 2, 1993, (58 FR 58505)); and Proposed Onshore Order Number 8, which was published on May 6, 1991, (56 FR 20568). This proposal also references Notice to Lessees (NTL) Number 3A, which was published on January 10, 1979, (44 FR 2204) and NTL Number 4A which was published on December 27, 1979 (44 FR 76600). The following is a crosswalk for this subpart.

Proposed regulation	Existing regulation	Onshore order
Application for Permit to Drill or Reenter (APD)		
3145.5	3162.1 and 3162.3-3	
3145.10	3162.3-1(c), (d) and (g)	Order Number 1, III.D.; Order Number 2, parts of I., II., III.G. and D.5.; and Proposed Order Number 1, II.B., III.B., III.C., III.E. and IV.
3145.11	3162.3-1(h), 3164.3(b) and (c)	Order Number 1, III.G.4.; and Proposed Order Number 1, III.C.2.
3145.12 and 3145.13	3162.3-1(d)(1)-(4), (e) and (f)	Order Number 1, III.C., III.G.; and Proposed Order Number 1., III.A., III.C., and III.F.3.
3145.14 .....	.....	Order Number 1, VII.A.; and Proposed Order Number 1, parts of section IV.
3145.15 .....	.....	Order Number 1, VII.B.; and Proposed Order Number 1, V.
3145.16	3162.3-1(e) and (f)	Order Number 1, Introduction and III.G.4.
3145.17 and 3145.18 .....	.....	Order Number 1, III.B.1.; and Proposed Order Number 1, III.D.
3145.19	3162.3-1(g) and (h)	Order Number 1, III.B. and III.C.; and Proposed Order Number 1, III.E., III.F.
3145.20 .....	.....	Proposed Order Number 1, III.E.
3145.21 .....	.....	Proposed Order Number 1, I.D
3145.22	3162.4-2	Order Number 1, VIII

Proposed regulation	Existing regulation	Onshore order
Technical Drilling Standards		
3145.30	3162.5-2(a)	Order Number 2, III.A.
3145.31	3162.5-2(a)	Order Number 2, III.E.
3145.32	3162.5-2(a)	Order Number 2, III.B., III.C. and III.E.; and Order Number 6, III.C.4.c.
	3162.5-3	
3145.33	3162.5-2(c)	Order Number 2, III.B.
3145.34 .....	.....	Order Number 2, III.D.
Drilling Operations in a Hydrogen Sulfide Environment		
3145.40	3162.5-3	Order Number 2, III.C.6.b; and Order Number 6, III.A., III.B., and III.C.
3145.41	3162.5-1(d)	Order Number 6, I.C., III.A., III.B., and III.C.
3145.42	3162.5-3	Order Number 6, II.S.
3145.43	3162.5-3	Order Number 6, III.C.1.c.
3145.44	3162.5-3	Order Number 6, III.C.3.a., C.3.b.
Additional Well Operations		
3145.50	3162.3-2(a) and 3162.3-3	Order Number 1, parts of IV.A., IV.B., and IV.C.; Proposed Order Number 1, part of VI.; Order Number 7, III.E.1.f., and III.F.; and Proposed Order Number 8, parts of III.A. through III.D.
3145.51	3162.3-2(a) and 3162.3-3	Order Number 1, IV.A, IV.B., and V.; Proposed Order Number 1, VI, Order Number 7, III.A.; and Proposed Order Number 8, parts of III.A. through III.D.
3145.52	3162.3-2(b) and (c) and 3162.3-3	Order Number 1, IV.A. and C.; and Proposed Order Number 1, parts of VI.
3145.53	3162.3-2(a)	Order Number 1, IV.B.; Proposed Order Number 1, VI.; and Order Number 7, III.A.
3145.54	3162.3-2	Order Number 1, IV.A. and IV.B.; and Proposed Order Number 1, VI.; Proposed Order Number 8, parts of A., B. and C.
3145.55	3162.5-1(b)	Proposed Order Number 1, VII.A.; and Proposed Order Number 8, parts of III.A.

Application for Permit to Drill or Reenter

Regulations for Application for Permit to Drill or Reenter (APD) would include filing, processing, and surface and drilling operating requirements. Generally, the sections discussed in this subpart contain changes from existing policy or procedure.

Section 3145.5 would make it clear that you must conduct all operations on Federal and Indian leases, including those that do not require BLM approval, according to the surface use and drilling standards of this subpart. BLM currently applies similar standards to workovers and additional well operations via conditions of approval. This regulation would clarify that existing policy.

Section 3145.10 would require you to submit an Application for Permit to Drill or Reenter (Form 3160-3) to BLM for review and approval before you disturb the surface or begin any drilling operations for a new well or reentry of an abandoned well. Under this section, you would be required to have a BLM-approved APD before you start any construction activity or any operation to develop a Federal or Indian lease, including activity on private surface necessary to operations on a Federal or Indian lease. This would include the need to obtain BLM approval for

horizontal or directional wells that develop any portion of a Federal or Indian lease, even if the well site is located on State or private surface.

The Reform Act requires that BLM post a public notice of Federal well proposals for 30 calendar days before we are authorized to approve it. Therefore, you should submit your well proposals to BLM at least 31 calendar days before you plan to begin drilling operations to give BLM enough time to post it. This time period would allow BLM time to process your APD before the day you plan to start drilling your well. This period also matches the filing requirement that you should follow if you are requesting a suspension of operations or production in connection with drilling a new well or reentering an abandoned well (section 3141.12 of these proposed regulations).

The Forest Service (FS) approves surface use plans on National Forest System lands (NFS). Surface use plan submittal time frames on NFS lands are longer because the FS must comply with the Reform Act and timeframes established by Section 322 of the Department of the Interior and Related Agencies Appropriation Act for Fiscal Year 1993 (P.L. 102-381, 106 Stat. 1419, 16 U.S.C. 1612 note.). The FS needs time for the public notice period

mandated by the Reform Act, a public comment period for review of environmental assessments completed for well proposals, and an appeal period. The minimum time the FS requires to process surface use plans is 120 calendar days.

Section 3145.11 would state the authority and general involvement of the FS and other Federal or State agencies in processing APD's you propose on a Federal or Indian lease where the surface is not managed by BLM or a private landowner. This section addresses BLM's limited responsibility for managing oil and gas operations on lands managed by the FS. The Reform Act limited BLM's responsibility on NFS lands to development or operational proposals involving subsurface activity, related impacts, and any appeals regarding the same. Surface use plans on NFS lands require only FS approval, and all appeals related to the surface use plan are appeals of the FS decision. Unlike existing regulations, the proposal would not require you to submit a surface use plan of operations with your APD, if the proposed drilling location is on NFS lands. Agency responsibilities under this rule and the Reform Act are determined on the basis of subsurface

(BLM) and surface (FS) authority for oil and gas operations on NFS lands.

BLM also shares responsibility for approving surface use plans on National Wildlife Refuge lands in Alaska. If your proposal involved these types of lands, the U.S. Fish and Wildlife Service would be responsible for approving surface use plans for APD's on land it manages.

Sections 3145.12 and 3145.13 would describe what information you must submit to BLM for a complete APD and what requirements you must comply with during operations. This section would require you to submit a drilling and surface use plan and also would establish standards for conducting Federal and Indian lease operations. This section would not require the prescriptive 8-point drilling plan and 13-point surface use plan of operations required by Order Number 1. Instead, it would require your plan to describe how your proposal will affect, protect, or mitigate impacts to surface and subsurface resources. This section would identify the resource concerns that BLM expects you to address in your plan and operations. This is in contrast to the approach of Order Number 1, which places more emphasis on specific information that you must submit to BLM.

The term useable water would be used in these sections and other places in section 3145.32. We defined this term as water containing less than 10,000 parts per million (ppm) of total dissolved solids. This definition is consistent with the regulations of the Environmental Protection Agency (EPA) at 40 CFR 144.3 and 146.3, for an underground source of drinking water. This is also consistent with the existing definition in Onshore Oil and Gas Order Number 2. This section would require you to submit Form 3160-3 for each new well that you propose to drill, or abandoned well you propose to reenter.

Section 3145.14 would provide for additional APD submission requirements when your well has a proposed surface location on privately-owned surface. It also would discuss conditions under which BLM may approve an APD if you are unable to reach agreement with the surface owner for access or occupancy. BLM's responsibilities under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), Endangered Species Act (16 U.S.C. 1531), and the National Historic Preservation Act (16 U.S.C. 470 *et seq.*), are essentially the same for Federal or Indian surface and split-estate lands. BLM will seek full cooperation of the private surface owner. However, the surface owner may

not veto Federal statutory requirements. Consequently, surface use agreements with private landowners must satisfy the private surface owner and meet BLM's requirements for environmental protection and mitigation. This proposed rule would also apply to horizontal or directional wells that are located on State or private surface, if the well ultimately develops Federal or Indian leases.

Section 3145.15 would provide for additional APD requirements when your proposed well is located on an Indian oil and gas lease or on surface held in trust for an Indian tribe or an individual Indian. It also describes circumstances where a surface-use agreement is not necessary.

Section 3145.16 would allow you to submit either a single APD package for each well or a field-wide APD package for several wells in a field or area of geologic or environmental similarity. You would be able to develop a field-wide plan for the drilling plan, the surface use plan, or both. If you developed a field-wide plan, it would allow you to reference already approved material when you propose future well sites. This would reduce the amount of paperwork that you would be required to submit for each APD. If your drilling or surface use plan were nearly identical to a previously approved field-wide plan, you would be required to submit information to BLM only on the items that deviate from your approved field-wide plan.

Sections 3145.17 and 3145.18 would allow you to submit a Notice of Staking (NOS) to notify BLM that you have selected a drilling location. You would submit a NOS before an APD to provide BLM the basic information on the type and location of the well you propose to drill. You would submit a NOS only if you actually intended to file an APD at a later date. Section 3145.18 would list the basic information required in a NOS application and surveying requirements that you must complete before BLM conducts a predrill inspection under a NOS.

Section 3145.19 would describe general actions BLM will take to process your APD. Order Number 1 and current regulations at sections 3162.3-1(h) and 3162.5-1 require BLM to complete processing of applications in specified timeframes. Order Number 1 also includes specific timeframes for BLM to conduct predrill inspections and to notify operators that additional information is needed. The only processing time frames included in this subpart are the 30-day public notice period required by the Reform Act and the 120-day period for surface use plan

proposals on NFS lands. The other processing time frames of current regulations are not statutory and would be eliminated by this proposal. BLM will continue to process complete applications in a timely manner.

Section 3145.20 would allow up to two extensions of 12 months for APD's. Existing regulations do not address extensions of APD's. However, current practice in many BLM offices is to grant APD extensions when justified.

Section 3145.23 would require you, within 30 calendar days after a well becomes inactive, to put the well into production or service, submit to BLM plans to conduct well work to restore production or service, submit plans to plug and abandon the well or comply with the requirements of section 3107.53. These would be new requirements. BLM has found that inactive wells often become orphan wells that BLM would eventually have to plug and abandon. This section would require operators to take action to put inactive wells back into service, plug and abandon them or provide additional bonding or pay into a fund to help mitigate costs of orphan wells. BLM believes that this is necessary to encourage operators to fulfill their lease obligations as they pertain to inactive wells.

Technical Drilling Standards

Technical drilling standards are BLM's requirements for designing and drilling wells on Federal and Indian leases. Areas covered by these sections would include well control, air drilling, well design and construction, well integrity testing, and drill stem testing.

Section 3145.30 would list the general well control requirements that you must comply with when you design and drill a well. This section would contain performance standards that would replace certain prescriptive requirements of Order Number 2. This section would also incorporate by reference the applicable American Petroleum Institute's (API) publication on well control systems. Many of the existing requirements in BLM's regulations on well control mirror the requirements in the cited API publication. This section also contains specific well control provisions that BLM believes are essential to protect surface and downhole resources and public health and safety.

Section 3145.31 would require you to follow the standards contained in the referenced API document when drilling with gas, air or mist. As noted above, many requirements in BLM's existing orders contain requirements similar to the cited API publication.

Section 3145.32 would state the performance standards for designing and drilling your well. As with the well control section, this section would require certain specific measures that BLM believes critical to resource protection and public health and safety. You must address all of the applicable requirements of this section in your APD and conduct your drilling operations accordingly. These performance standards would replace the prescriptive requirements of Order Number 2.

Section 3145.33 would require you to pressure-test all casing strings below the conductor pipe before you set the next string of casing. You also must perform a mud weight equivalency test for all exploratory wells and any part of a well approved to use a 5000 pounds per square inch blowout prevention equipment system (BOP). The proposed requirement differs from the existing Order Number 2 requirements in that it does not specify minimum test pressures or standards for a successful test. Under this proposal, testing would be performed in any manner that demonstrates that the casing or formation can withstand the maximum pressure it is likely to be subject to throughout its useful life. BLM would determine the adequacy of your testing program before approving your APD.

Drilling Operations in a Hydrogen Sulfide (H₂S) Environment

Section 3145.44 would require you to train all personnel working at the wellsite about H₂S drilling and contingency procedures according to standards contained in the referenced API publication. This section would require that training be completed at least three business days before drilling into, or before reaching a depth of 500 feet above, known or probable H₂S zones. The training frequency contained in the referenced API publication would replace the existing Order 6 requirement to have weekly H₂S and well control drills. The API standard would allow you and BLM to agree upon a training frequency commensurate with the H₂S potential. This section also states who must have appropriate personal protective breathing devices at your

wellsite and requires such equipment to comply with the standards contained in the referenced API document.

Additional Well Operations

Regulations for additional well operations would address general filing, processing and operating requirements for well operation activities that generally occur after you drill a well, including reclamation requirements. More specific information is included for some of these activities in separate subparts of this proposed rule (e.g., subpart 3155 for disposal of produced water and subpart 3159 for temporary and permanent abandonment).

Section 3145.50 would include filing requirements and a reference to the form (Sundry Notice, Form 3160-5) that you must use when applying for additional well operations that require BLM approval. The filing requirements and operating standards would parallel requirements in this subpart for drilling a new well or reentering an abandoned well.

Section 3145.51 would list additional well operations that BLM must approve before you begin them. These operations would require BLM approval, although there would be some exceptions described in other sections of this proposed rule. For example, section 3155.12 describes cases when an approval for disposal of produced water is not necessary. This section also includes standards to determine when other additional well operations, which are not specifically listed in this section, would require BLM approval. Some of these activities may be fully addressed in your approved APD. If this is the case, a Sundry Notice and a separate approval would not be necessary, unless you plan to change proposals that were part of your approved APD.

Existing regulations allow BLM to grant oral approval for plugging and abandonment of newly drilled dry holes, drilling failures and in emergency situations. This proposal would allow BLM to grant oral approvals for additional well operations that require BLM written approval. We propose this change because many of these operations are repetitive in terms of technical design, equipment use, the

time it takes to complete the operation, and surface use.

Section 3145.52 would identify when additional well operations would not require BLM approval. See the definition of "routine well maintenance" in section 3101.5 of this proposal to accurately apply these standards. This section would also contain a requirement that you notify BLM within 48-hours of actions taken to correct or contain an emergency.

Section 3145.54 would require you to submit reports, well logs, test data, and other information that may be required by a condition of approval within 30 calendar days after you complete additional well operations. A well completion report would also be necessary within 30 calendar days if a well completion occurs in a new formation.

This section would require you to submit a subsequent report on Sundry Notice, Form 3160-5, within 30 calendar days after you complete additional well operations, if you alter the existing wellbore configuration. A subsequent report would also be required if BLM requested it.

Section 3145.55 would include reclamation standards that you must follow during drilling and lease operations. Current regulations require you to submit a plan that explains how you will reclaim the disturbed area. This section would set out performance standards for recontouring, seedbed preparation and revegetation. The details of these standards would be laid out in your APD or Sundry Notice for additional lease operations and approved by BLM.

Part 3150—Oil and Gas Measurement and Operations

Subpart 3151—Production Storage and Measurement—General and Production Operations With Hydrogen Sulfide

This subpart would contain regulations on the production, storage, and measurement activities that require BLM approval. This subpart would contain requirements substantially similar to existing requirements with some exceptions.

Proposed regulation	Existing regulation	Existing order or NTL
3151.10	3162.3-2	Order Number 4 section III.E. and F.; Order Number 5 section III.D.; and Notice to Lessees (NTL)-4A.
	3162.7-2	
	3162.7-3	
3151.11	3162.7-2	Order Number 4 section III.E. and F.; Order Number 5 section III.D., NTL-4A; and BLM Manuals and Instructional Memorandums.
	3162.7-2	
	3162.7-3	
3151.12	3162.7-1(a) and (b).	Order Number 7 section III.A.3
3151.13	3162.7-1(e).	

Proposed regulation	Existing regulation	Existing order or NTL
3151.14	3162.7-1(d)	Order Number 4 section II.O.3. and section III.B.; NTL-4A sections I and II; and BLM Instructional Memoranda. NTL-4A section III.
3151.15 .....	.....
3151.16 .....	.....

Production, Storage, and Measurement—General

Section 3151.16 would list instances where you would be able to vent or flare gas royalty-free without prior BLM approval. Under this proposal you would be able to vent or flare 10,000 cubic feet or less of associated gas per

well, provided the gas is produced as part of normal oil production operations and is vented or flared in a safe manner according to applicable laws, regulations and accepted industry practice. This would be a new regulatory requirement that implements existing policy.

Production Operations With Hydrogen Sulfide

Proposed regulations on production operations with H₂S would require you to test your wells and facilities to identify the potential for H₂S and take the necessary steps to protect public health and safety and the environment.

Proposed regulation	Existing regulation	Existing orders
3151.20	3162.5-1(a) and 3162.5-3	Onshore Order Number 6 section III.A.2.b. and c. Order Number 6 section III.A.2.a., III.D.1.c., and III.D.2. Order Number 6 section III.D.2.b. through g. Order Number 6 section III.D.3.a through j. Order Number 6 section III.D.1.c.
3151.21	
3151.22	
3151.23	
3151.24	

Section 3151.22 lists the public protection requirements that would apply to storage tanks that meet the criteria in proposed section 3151.21. Many types of signs and fences satisfy the requirements to warn of danger and restrict access. The proposed section leaves out much of the existing regulatory detail regarding the visual appearance of danger signs and the type of fencing required. The proposed rule would allow BLM the flexibility to accept practices appropriate for a particular area as long as they could achieve the stated performance standard of alerting the public of the potential H₂S hazard and restricting access to production facilities.

Section 3151.23 lists the public protection requirements that would apply to completed wells and production facilities when the H₂S concentration in the gas stream is 100 ppm or more. As with proposed section 3151.22, a standard for signs and fences is proposed that would eliminate the regulatory detail that presently exists in Order Number 6. The section would require that your facility be designed and constructed in accordance with the referenced API publication and would require you to calculate the 100 and 500 ppm radii of exposure. You would also be required to implement the contingency planning procedures of the

referenced API publication when the identified standards are exceeded.

Section 3151.24 would require you to take specific actions to reduce ambient air concentrations of H₂S and sulphur dioxide if the specified thresholds for sustained ambient air concentrations are exceeded.

Subpart 3152—Site Security

This subpart would contain regulations on site security to provide for production accountability through sealing requirements, site security plans, facility diagrams, well and facility identification, recordkeeping and theft reporting.

Proposed regulation	Existing regulation	Existing orders
3152.10	3161.1(b)	Onshore Order Number 3 section I.B., I.C. Order Number 3 section III.A.1 and 2.
3152.20	3162.7-5(a) and (b) (1), (2), (4), and (5).	
3152.21 .....	.....	Order Number 3 section III.A.1.b and g; and Order Number 3 section III.A.2.a.
3152.30	3162.7-5(b) (2) and (3)	Order Number 3 section III.B. and D.
3152.40	3163	Order Number 3 section IV.
3152.50	3162.7-5	Order Number 3 section III.F. and H.
3152.51	3162.7-5(d)	Order Number 3 section III.I.
3152.52 .....	.....	.....
3152.60	3162.6.	.....
3152.70	3162.7-1(c) (1) through (4)	Order Number 4 section III.E.
3152.80	3162.7-5(b)(8)	Order Number 3 section III.E.

Site Security—General

Section 3152.10 would set site security standards for Federal and Indian oil and gas lease facilities and those facilities that store allocable production.

Storage and Sales Facilities—Seals

Section 3152.20 would contain a performance standard for when a particular valve is subject to seal requirements. The performance standard would describe the characteristics of valves you must seal. This differs from Order Number 3,

which lists specific valves that are either subject to, or exempt from, sealing requirements. This standard should give operators the flexibility to take into account local conditions or practices that may affect the need to seal a valve. This section would eliminate the list in Order Number 3 section

III.A.1.c through f and section III.A.2.a., of specific valves that need to either be sealed, or are exempt from, seal requirements.

This section also establishes the standard for how to seal valves and how to seal sealable measurement system components. This part of the section does not change existing requirements.

Section 3152.21 would describe when you must seal the valves that meet the standards in section 3152.20.

Oil and Gas Meters

Section 3152.30 would state BLM's site security requirements for oil or gas metering systems. This section describes the characteristics of components of a Lease Automatic Custody Transfer (LACT) unit you must seal. This differs from the Order Number 3 approach of listing the specific components subject to sealing. This proposal would also require BLM approval for any bypass. We recognize that meters may be used in an operation for check purposes and not for determining royalty volumes.

Federal Seals

Section 3152.40 addresses how and when BLM would seal a valve that is in violation of these regulations. The proposed rule would not change BLM's current procedure on Federal seals.

Plans and Facility Diagrams

Section 3152.50 would state what you must include in your site security plan and would require you to follow your plan for Federal facilities. As with existing Order Number 3, you would not be required to send in your site security plan unless BLM requests it.

Sections 3152.51 and 3152.52 would address what you must include in your site facility diagram and for which facilities you must prepare a diagram. This section would except the requirement for a site facility diagram where a single tank is used for collecting small volumes of oil and condensate produced from a single well. In these circumstances, the design of the facility is so simple that a diagram is unnecessary. Also, the volumes these wells produce are low and the risk for significant royalty loss is minimal. The time frame for submitting the site facility diagram is covered in the general recordkeeping section 3103.10 of this proposed rule and is not repeated here.

Well and Facility Identification

Section 3152.60 would require you to identify wells and facilities with signs that show basic information. This is a change from existing requirements in that it would eliminate the detailed

requirements of existing regulations and replace them with a standard. The standard for well and facility identification would require the sign to identify the wells and facilities so that anyone visiting the site will know the "who" (operator), "what" (lease or agreement number), and "where" (legal description) of the site.

Transporter Documentation

The section on transporter documentation contains requirements similar to existing requirements.

Theft

Section 3152.80 would address when and how you must report incidents of oil or condensate theft from your lease. BLM and the person reporting the theft would determine the level of detail needed to document the incident. Existing regulations require you to use a form to report a theft. This section would not.

Subpart 3153—Oil Measurement

This subpart on oil measurement would identify the types of measurement systems and procedures that must be used to accurately measure the quantity and quality of oil you produce.

Proposed regulation	Existing regulation	Existing order
3153.10	3162.7-2.	
3153.20	Order Number 4 section III.C.
3153.30	Order Number 4 section III.D.1 and 2.
3153.31	
3153.32	Order Number 4 section III.D.3.c.; and Proposed Order Number 4 section III.D.4.
3153.33	Order Number 4 section III.D.3.a(1) and (2); and Proposed Order Number 4 section III.D.3.a.(2).
3153.34	Order Number 4 section III.D.3.b.
3153.35	Order Number 4 section III.D.3.c(4) and section III.D.4 Proposed
3153.36	Order Number 4 section III.D.4.
3153.37	Order Number 4 section III.D.5.
3153.38	Order Number 4 section III.D.4.
3153.40	Order Number 3 section III.C.1.a and b.

Oil Measurement—General

Section 3153.10 would establish how you must measure oil produced from or allocated to a Federal or Indian lease. The proposed section requires oil to be measured by tank gauging, positive displacement metering system, or a method that you can demonstrate to BLM is equivalent in accuracy and accountability to tank gauging or a positive displacement metering system.

Tank Gauging

Section 3153.20 would contain a table that lists activities which affect volume and quality determinations if you use

tank gauging to measure oil. For each of the listed activities, the table also lists the API standards and practices that you must follow to ensure proper oil measurement. API standards are equivalent to the minimum standards that presently exist in Order Number 4 for tank gauging.

Lease Automatic Custody Transfer (LACT)

Sections 3153.30 and 3153.31 would specify how you must install, operate, and maintain a LACT system to measure oil. The section identifies the API specifications and standards that would become the regulatory requirements for

LACT systems. It also lists specific components that you must use in a LACT system, even though components are considered optional in the referenced API documents. You would not be required to retrofit LACT systems installed before the effective date of the rule to meet the requirements of the listed API references. Section 3153.31 would require that oil gravity, sediment, and water be determined in the same manner as you would for tank gauging. Incorporating the API publications by reference should be equivalent to the minimum standards that presently exist in Order Number 4 for LACT systems.

Sections 3153.32 through 3153.38 would specify: (1) how and when you must determine the composite meter factor for a LACT meter; (2) requirements for meter provers used to determine meter factors; (3) the acceptable tolerance for composite meter factors; (4) corrective action in the event of an out-of-range meter factor; (5) reporting requirements for LACT systems; and (6) how you must correct volumes if your meter factor changes between provings. These sections incorporate by reference the appropriate API references for proving a LACT. Accuracy and repeatability standards for prover meters, the meter proving process, and the LACT's meter factor are not specified in the referenced API documents. However, BLM believes these are important to volume accuracy. Therefore, the repeatability tolerances of existing Order Number 4 (five consecutive proving runs within 0.05 percent) and the tolerance for deviation of the composite meter factor (± 0.0025 between provings) would continue to be

required. The range for initial and repaired meter factors (0.9950 to 1.0050) presently in Order Number 4 has been deleted in the proposed rule. There is no evidence to support repair or replacement of a meter that does not fall within 0.9950 and 1.0050 upon installation as long as the repeatability and meter factor deviation requirements are met.

Section 3153.40 states how you would document the sale of oil from your production facility. To be consistent with API publications, the proposed section uses the term "measurement ticket" as a new standard term to refer to "run ticket" and "receipt and delivery ticket" which are terms customarily used in the oil industry to mean the same thing. This proposed section would apply to documentation of sale or removal of oil regardless of the measurement system you use.

Subpart 3154—Gas Measurement

The subpart on gas measurement would establish the performance standards for measurement systems

used to measure and report Federal and Indian gas. This subpart would also include requirements on installation, operation, and maintenance requirements for orifice metering systems. Other areas covered in this subpart would include metering systems other than orifice meters, reportable volume corrections, and gas quality measurements.

Subpart 3154 would incorporate by reference certain API standards relating to gas measurement. These standards are recognized by both BLM and industry as sound operating practices and BLM believes the cited API standards are appropriate. However, BLM is specifically seeking comment on the applicability of such industry standards as they relate to the measurement, sampling, quality determination, and frequency of meter calibration for gas produced from or allocated to Federal and Indian lands. Please also comment on the point of measurement for reporting such production for royalty purposes.

Proposed regulation	Existing regulation	Existing order
3154.10	3162.7-3	
3154.20	Order Number 5 section III.C.1-3, and 6-11.
3154.21	Order Number 5 section III.C.21.
3154.30	Order Number 5 section III.C.5.
3154.31	Proposed Order Number 5, section III.D.11.
3154.32	Order Number 5, section III.C.12-16.
3154.33	Order Number 5, section III.C.17.
3154.40	Order Number 5, sections III.B. and III.C.1 and 6; and Proposed Order Number 5, section III.C.1, 2, and 6.
3154.50	Order Number 5, section III.D.
3154.60	Order Number 5, section III.C.19 and 20; and Proposed Order Number 5, section III.D.8.
3154.70	Order Number 5, section III.E.4.

Gas Measurement—General

Section 3154.10 would establish the standards that would apply to all measurement systems that are used to measure gas from Federal and Indian lands. Any measurement system meeting these standards could be installed and used without prior BLM approval. Currently, you are required to obtain BLM approval before using anything other than an orifice meter system. BLM believes that measurement systems that meet the standards of this section would accurately measure gas to ensure proper royalty payments. Measurement systems not meeting these standards must either be approved by BLM before they are used or be modified to meet the performance standards. This section also states the base temperature and pressure at which you must report gas volumes to MMS and references MMS reporting

regulations for Federal and Indian gas. Finally, the section would list the acceptable methods to determine the volume of gas you use for beneficial purposes.

Orifice Meters—Primary Element

Section 3154.20 would identify the API standard that you must follow to install, operate, and maintain an orifice meter. This section would also supplement the API standard with additional requirements that BLM believes are essential to ensure your orifice meter measures accurately. The additional requirement that sets a 6-year meter tube inspection frequency is new and is based on recommended industry practice found in API Manual of Petroleum Measurement Standards, Chapter 20.1, "Allocation Measurement." This section would exclude the additional standards for meters measuring less than 100 Mcf

since the cost of compliance for meters measuring lower volumes would likely exceed the value of any additional Federal or Indian royalty that might result. This section would also allow orifice meters installed before the effective date of the final rule to comply with an earlier API standard. This "grandfathering" of older orifice metering systems would apply for as long as the existing system is in operation or until the system is completely replaced, whichever comes first.

Section 3154.21 would require you to make volume determinations through your orifice meter using the flow equations found in the referenced API document. BLM currently requires you to use the same equations to measure gas volumes. However, we do not currently reference the API document containing those equations.

Orifice Meters—Secondary Element

Section 3154.30 would set the required tracking range for static and differential pressures on your chart recorder. This section would modify the existing requirement of Order Number 5, Section III.C.4, by increasing the allowable range for differential pressures from the upper 66.7 percent (i.e., 2/3rds) of the chart to the upper 80 percent. (In regards to inverted charts, where the zero position is at the outer limits of the chart, the accuracy of the differential element depends on the physical distance of the pen from "zero," regardless of the type of chart you use.) BLM concluded that expanding the tracking range would not significantly decrease overall meter accuracy because the required range would still be well above the minimum differential pressure range of a given meter. This change would better accommodate wells with declining production.

This section would apply only to meters measuring more than 100 Mcf of gas per day and would exempt meters where operating conditions such as erratic flow patterns preclude tracking in the required range. The latter exemption is not presently in Order Number 5 and was added as result of BLM's experience with variance requests for meters servicing wells with erratic flow patterns.

Section 3154.31 would establish additional requirements if your secondary element uses an electronic flow computer (EFC). EFC's are not addressed in existing Order Number 5 or other BLM regulations. However, this section implements current policy. EFC requirements would be no more stringent than those for chart recorders. The current static pressure, differential pressure, and temperature would have to be displayed on a continuous basis, and the EFC would be required to have a back-up power source capable of retaining collected data for a minimum of 35 calendar days. To meet the requirement to continuously display parameters, EFC's may have either a scrolling display or a toggle switch that allows the display to be activated.

Section 3154.32 would require you to calibrate your orifice meter by following the recommended API practices for on-

site calibrations. Because it is not addressed in the referenced API standard, this section would retain the requirement of Order Number 5, section III.C.15, to test the linearity of differential and static pens at 100 percent of the element's range. This section would also require you to document calibrations of your meter.

Section 3154.33 would establish how frequently you must calibrate the secondary element of your orifice meter. Quarterly calibrations would be required only for orifice meters that measure more than an average of 100 Mcf or less per day on a monthly basis.

Orifice Meters—Low Volume Exemptions

Section 3154.40 requires orifice meters that measure an average of 100 Mcf or less per day on a monthly basis to comply with all the requirements of this subpart except for the listed items. We believe the cost for you to comply with these standards for low volume production could exceed the value of the gain in measured gas from the incremental increase in accuracy.

Some of the alternatives listed in this section are carryovers from Order Number 5. New alternatives include—

(1) Waiving the six-year inspection requirement for the meter tube. We believe that a six-year frequency of meter tube inspections for low volume meters is not needed to ensure accurate gas measurement;

(2) Allowing the use of a temperature that reasonably represents the average flowing temperature of the gas stream to calculate volumes. As long as you use a temperature that reasonably represents flowing gas temperature, you would no longer be required to submit a variance to BLM for approval to use something other than a continuous temperature recorder or an indicating thermometer, as you currently do under existing Order Number 5;

(3) Calibrating your meter at least annually rather than quarterly. BLM would pay particular attention to implementation of this exemption to ensure that less frequent calibration of low volume meters does not have an adverse impact on Federal and Indian royalty income; and

(4) Inspecting your orifice plate at least annually rather than semiannually. As with annual calibrations, BLM would monitor the impact of this requirement on measurement accuracy and royalty income.

Other Metering Systems

Section 3154.50 would deal with other metering systems and is substantially similar to existing regulatory requirements.

Volume Corrections

Section 3154.60 would deal with volume corrections and is substantially similar to existing regulatory requirements. However, the proposed rule would drop the existing requirement from Order Number 5 that volumes are to be corrected only if the volume error is more than 2 percent. This gives BLM and MMS the flexibility to require volume corrections when it is in the public interest.

Gas Quality Measurements

Section 3154.70 would require you to determine the quality of the gas you produce at least annually, or more frequently, if BLM requires it. This section would also identify—

- (1) Where you must collect your sample;
- (2) The industry standard you must follow to collect and handle samples; and
- (3) How you must determine the specific gravity and heating value of the gas sample.

This section would cite API standards for collecting and handling natural gas samples and would specify where samples are to be collected. Existing regulations do not address this issue. Implementing this section would ensure that sample collections are uniform in determining the quality and liquid content of the gas.

Subpart 3155—Produced Water Disposal

This subpart would require you to obtain BLM approval before you dispose of produced water. These sections would also require certain construction and operating practices to ensure proper disposal of produced water from Federal and Indian lands.

Proposed regulation	Existing regulation	Onshore order
3155.10	3162.5-1(b)	Order Number 7, III.A., III.B.2.
3155.11 and 3155.12	3162.5-3	Order Number 7, I.C. and requirement 1 of III.F.
3155.13		Order Number 7, III.A., III.B.1., III.B.2., III.C. and III.G.
3155.14		Order Number 7, III.B.1, III.B.2, III.C., III.B.1.a., III.B.1.b., III.B.2a, and III.B.2.b.

Proposed regulation	Existing regulation	Onshore order
3155.15 and 3155.16		Order Number 7, II.D.1., III.D.2, III.E. and requirements 4 through 9 of III.F.
3155.17		Order Number 7, requirement 11 of III.F.
3155.18		Order Number 7, III.G.1.F.
3155.19		Order Number 7, Part III.A.

Section 3155.10 would describe the reasons you must have BLM approval to dispose of produced water from a Federal or Indian well, or from a communitized or unitized private or State well for disposal into a Federal disposal facility within the same communitized or unitized area.

Sections 3155.11 and 3155.12 would describe when you need BLM approval to dispose of produced water. This proposal would add two instances to those in existing regulations that would not require BLM approval for disposal of produced water. Under this proposal, BLM would not require approval for the disposal of produced water if simultaneous injection or disposal of produced water into the same formation occurs in a producing well. This section would also eliminate the need for BLM approval for disposal of produced water if it is injected into an approved disposal well on the same Federal or Indian lease.

Section 3155.13 would describe the type of water disposal BLM allows. This section includes the requirements from III.A., Order Number 7, that lists how you must dispose of produced water from Federal and Indian leases. This section would include additional examples of disposal methods not in Order Number 7. We included these examples to show other methods available to dispose of produced water that could ultimately provide water for beneficial uses.

Section 3155.14 would describe the forms or permits you must submit to construct and operate disposal facilities, and to obtain approval for disposing of produced water. It also cites those regulations you must follow that dictate the type of information that you must submit with these forms. This section would list the BLM forms required under different surface ownership, lease status, and disposal methods.

This section would require you to submit a Sundry Notice, Form 3160-5, or other acceptable filing instrument (letter) for water disposal, unless you are drilling a Federal or Indian injection or disposal well on-lease as part of your produced water disposal plan.

In addition to BLM approval, you must have an Underground Injection Control (UIC) permit issued by the EPA, State, or Indian Tribe, according to 40

CFR parts 144 and 146, before drilling an injection well or converting an existing well to an injection well. The EPA, State or Indian Tribe also require permitting for National Pollution Discharge Elimination System permit (NPDES) facilities and the State or Indian Tribe may require permitting for constructing and operating an earthen pit. This section would provide the option to either submit a copy of these permits from other agencies to BLM, or include a reference to the location and permit name or number to BLM.

The proposed rule would also allow you to submit to BLM the same information you use to obtain a UIC permit, earthen pit or NPDES permit, if you are planning to construct or convert a Federal or Indian facility into a water disposal facility.

This section includes the conditions that would require a BLM right-of-way (R/W) or similar permit from other agencies, individuals, or Indian tribes for constructing or operating disposal facilities, roads, and pipelines. It also provides a reference to BLM's R/W regulations.

This section would require that your Sundry Notice for disposal of produced water include plans for construction of roads or pipelines on-lease if they are part of your overall disposal plan.

Sections 3155.15 and 3155.16 would describe the requirements you must follow to dispose of produced water into lined and unlined pits. These sections would incorporate the requirements of parts III.D.1. and 2., III.E., and requirements 4 through 9 of III.F. of Order Number 7. These sections would replace the extensive list of requirements found in Order Number 7 with performance standards. The performance standards would provide the flexibility to deal with different ecological and geographical conditions, changing technology, specific proposals, and local knowledge about specific design measures that are best suited to local conditions.

Order Number 7 requires you to submit a water quality analysis that tests specific parameters and also provides exceptions from this requirement. The proposed rule would allow the same water quality submittal exceptions found in Order Number 7, but the specific requirements would be

changed. This proposal would require that you provide the information on the "quality of the produced water" with your application for disposal of produced water into a pit. BLM has determined that flexibility is needed to require testing when necessary, but only for parameters that are unknown and needed to process an application for the disposal of produced water.

This section would eliminate the detailed construction and design provisions in Order Number 7. The detailed provisions in Order Number 7 would be replaced with standards that would allow you to design and obtain permits for facilities without time consuming variance requests.

Section 3155.17 would require you to submit to BLM an amended proposal to dispose of produced water if the quantity or quality of produced water changes.

Section 3155.18 would describe what you must submit to BLM to surface discharge produced water under a NPDES. This section would incorporate the requirements of Order Number 7, III.G.1.F, with the following change:

This section would require you to submit information you use to obtain an NPDES permit, if BLM requested it. This provision would streamline the permitting process in situations where existing applications for other agency permits already include information required by this section (water quality analysis, description of site facilities or surface use plans).

Section 3155.19 would explain that BLM would terminate your water disposal permit if the EPA, State, or Indian tribe cancels or suspends your disposal facility permit. This would require you to propose another disposal method to BLM.

Subpart 3156—Spills and Accidents

This subpart would require you to report spills and accidents to BLM. The term, "Spills and Accidents" would be used instead of the currently used term, "Undesirable Events."

BLM determines if hydrocarbons are avoidably or unavoidably lost even though oil and gas lessees must report this information to MMS (30 CFR, part 216, subpart B). Existing NTL-3A and this proposal do not require you to file reports with BLM of spills or discharges

in nonsensitive areas involving less than 10 barrels of liquid or 50 Mcf of gas. BLM is able to monitor spills involving less than 10 barrels of oil by tracking MMS required reports. We still would

require that you report spills on all volumes of more than 10 barrels of liquid or more than 50 Mcf of gas lost. These larger losses are cases that could involve avoidably lost hydrocarbons

and BLM will continue to make avoidable and unavoidable determinations to ensure production accountability.

Proposed regulation	Existing regulation	Onshore order or notice to lessees
3156.10	3162.5-1(c)	
3156.11	NTL-3A section I; and Order Number 7, III.H.
3156.12	NTL-3A section II., Section III.; and Order Number 7, III.H.
3156.13	NTL-3A section II., section IV.; and Order Number 7, III.A.3.
3156.14	NTL-3A section II.

Section 3156.10 would describe the actions you must take after an accident or spill that involves Federal or Indian oil or gas. These actions include corrective measures to mitigate the spill or accident, reporting to BLM the spill or accident, and BLM's approval and monitoring of your reclamation and remediation plans.

Section 3156.11 would describe the type of spills and accidents that you must report to BLM within 24 hours of an event. In addition, this section would implement several changes to the current requirements.

The proposal would require you to report the release of hazardous substances. Reporting this information to BLM would not relieve you of any other reporting required by any State or other Federal regulations.

This proposal would eliminate the existing exception to 24 hour reporting of spills of 100 barrels of liquids or more if they are contained within the firewall. This quantity of oil or water in a confined area could migrate deeper than a spill in an unconfined area and affect shallow groundwater. In addition, a confined spill would more likely attract birds and wildlife. BLM believes it is necessary to report these types of spills within 24 hours to minimize contamination and threats to wildlife.

Existing NTL-3A states that these types of spills or accidents should be

reported immediately and also states that reports must be furnished, "as soon as practical, but within a maximum of 24 hours." This section would require reports within 24 hours of the event. This proposal would change the deadline for reporting major and life threatening injuries. Existing NTL-3A requires reporting for these types of injuries within 15 days of the event. BLM believes that a major or life threatening injury is important information and should be reported within 24 hours.

Section 3156.12 would describe the type of spills and accidents that you are not required to report within 24 hours of an event and when you would be required to submit initial written reports.

This section would not include an existing requirement to submit two copies of a written report within 15 days following all spills and accidents. Instead, this section would require a written report within 10 business days after a spill or accident occurs for specific events listed, and all events that require you to notify BLM within 24 hours.

Section 3156.13 would describe what you must include in written and oral reports. These standards would contain more guidelines than NTL-3A and would require information that is

directly related to the purpose of requiring reports of spills and accidents. This would help BLM determine if loss of oil or gas is avoidable or unavoidable, if sites need to be inspected, if an approval is needed for spill remediation or reclamation, and if corrective orders or contingency plans are needed to address future events.

Section 3156.14 would describe when you must submit more than one written report of a spill or accident to BLM. Under existing regulations intermediate reports are required when BLM requests them. This proposal would require intermediate reports to allow BLM to more effectively monitor spill clean up.

Subpart 3159—Well Abandonment

This subpart would incorporate requirements from existing regulations and some proposals from proposed regulations. Proposed and existing regulations on well abandonment require you to submit a plan to BLM for approval before a well is temporarily abandoned for more than 30 calendar days and before a well is permanently abandoned. This subpart also explains how to obtain BLM approval for abandonment and sets the performance standards that you must meet when you plug a well. This subpart generally contains existing requirements with a few exceptions.

Proposed section	Existing regulation	Existing orders
3159.10	3162.3-4(c)	Proposed Order Number 8 section III.C.1. and 2.
3159.11 .....	.....
3159.20	3162.3-4(a)	
3159.21	3162.3-4(a)	Order Number 2 section III.G.
3159.22 .....	.....	Proposed Order Number 8 section III.D and Order Number 2 section III.G.
3159.23 .....	.....	Proposed Order Number 8 section III.D and Order Number 2 section III.G.
3159.24	3162.3-4(b)	
3159.25	3162.3-4	Proposed Order Number 8 section III.D.3.b.
3159.26	3161.2	Proposed Order Number 8 section III.D.1.

Temporary Abandonment

Section 3159.11 would set out the basic performance goals for temporary

abandonment operations. This section would implement existing policy that you temporarily abandon a well so that

it does not prevent proper permanent abandonment, the well bore is secured

to prevent fluid migration and the wellhead is secure at the surface.

Permanent Abandonment

Section 3159.20 would identify when you must permanently plug and abandon a well. This section also allows you to delay the permanent abandonment of your well if BLM approves it. Each approved delay may be for up to 12 months. BLM is concerned with the liability associated with temporarily abandoned wells, and therefore this proposal would impose additional bonding as a condition of approval (see sections 3107.54 and 3107.55).

Section 3159.21 would describe how to obtain BLM approval to permanently abandon a well. It would require you to submit a "Notice of Intent to Abandon" along with information on abandonment and reclamation procedures. This section would allow BLM to issue oral approvals for permanent abandonment for newly drilled dry holes, drilling failures, and in emergency situations, provided you submit a written application within five business days of BLM's oral approval. This section also explains that the FS has the authority to approve plans to reclaim the surface on lands it manages.

Section 3159.22 would set standards and incorporate by reference the minimum standards from the API's Bulletin E3 for well abandonment practices. Permanent abandonment is the final opportunity to ensure proper protection of surface and down hole resources. As such, this section would not institute a performance-based approach and it would retain the details of existing abandonment regulations.

Section 3159.26 would require you to submit a "Subsequent Report of Abandonment" (SRA) on Form 3160-5, within 30 calendar days after you complete permanent well plugging operations, including any changes that BLM approved orally. This section would also allow you to eliminate the additional notification if the SRA contains the estimated timetable for completing recontouring and reclamation procedures. If you chose not to submit the timetable for recontouring and reclamation, a "Final Abandonment Notice" (FAN), Form 3160-5, would be required to notify BLM that the site is ready for final inspection. BLM would approve the SRA or FAN after it determines that you have complied with all conditions of your abandonment and that vegetation has been established to the satisfaction of BLM or the surface management agency.

Part 3160—Oil and Gas Inspection and Enforcement

Subpart 3161—Inspections

This subpart would explain the general purposes of BLM's inspection of lease operations. The proposal would require you to allow authorized inspectors to conduct inspections of your operations. These regulations would implement provisions of FOGRMA that allow inspection of motor vehicles that transport Federal and Indian oil. This subpart contains existing regulatory requirements.

Proposed section	Existing regulations
3161.10	3161.2.
3161.11	3162.1(b) and (c).
3161.12	3162.7-1(c)(3) and (4).

Subpart 3162—Enforcement

This subpart would explain the enforcement actions BLM will take after we discover a violation. Enforcement actions include notifying you of violations in writing and providing a reasonable time to correct violations. Also, if necessary to gain compliance, BLM may order you to shut down your operations. This subpart contains existing regulatory requirements.

Proposed section	Existing regulation
3162.10	3163.1(a).
3162.11	3165.3(a).
3162.12	3163.1(a)(3).

Subpart 3163—Assessments

Under this subpart, BLM would charge you a monetary assessment if you fail to correct a violation within the time set out in BLM's notice. This subpart would also include provisions for immediate assessments for certain serious violations. Under this proposal BLM would also be able to enter your lease to correct violations at your expense and would charge you for actual loss or damage due to your noncompliance. This subpart would contain existing regulatory requirements with some exceptions.

Proposed section	Existing regulation
3163.10	3163.1(a)(1) and (2).
3163.11	3163.1(b)(1), (2), and (3).
3163.12	3163.1(e).
3163.13	3163.1(a)(4).
3163.14	3163.1(a)(6).

Section 3163.10 would allow BLM to assess a monetary assessment up to

\$250 per day for each day a violation continues beyond the abatement period. This section states that you will also be liable for civil penalties under proposed subpart 3164.

This section would eliminate existing regulatory provisions which classify violations into "major" and "minor" categories and the corresponding assessment amounts of \$500 per day for major violations and a one-time \$250 for minor violations. This section would also eliminate existing provisions which cap assessments for major violations at \$1,000 per day per lease and minor violations at \$500 per lease per inspection. There would be no caps on either the amount of assessments per day per lease or the total assessment amount that could accumulate per violation.

Section 3163.11 would contain a table that lists serious violations and a corresponding assessment amount BLM would charge you immediately when the violation is discovered. The table was compiled from the specific violations listed in existing 43 CFR 3163.1(b) (1) through (3) and adds new violations subject to immediate assessments for—

1. Conducting surface disturbance without an approved BLM permit for a Federal or Indian well, regardless of surface ownership. This would deter operators from building access roads and locations or disturbing the surface without BLM approval. This section would also add an assessment for surface disturbance on surface managed by another Federal agency or on State or privately owned surface;

2. Repeat Offenders. The "repeat offender" violation would be added in response to problem operators who, after BLM notifies them of a violation, continue to repeat that violation. This section is aimed at repeat offenders who correct a violation within the time BLM gives them to correct it, thus avoiding an assessment. However, the operator often repeats the violation and corrects it only when they are notified again by BLM of a new violation. Operators engaging in this activity often repeat a violation many times. This pattern of compliance results in excessive and unnecessary administrative cost to BLM. The proposed assessment of \$500 would be to deter those repeat violators who comply just enough to avoid assessment. The repeat offender assessment would be triggered when BLM cites you for the same type of violation four times on the same lease within a 12-month period;

3. Commingling production without BLM approval from different formations, leases, communitized areas,

units, or unit participating areas. This violation would be added because commingling without approval is a serious impediment to BLM's ability to ensure production accountability; and

4. Failure to notify BLM of H₂S concentrations as required by these proposed regulations. This violation would be added because of the serious health and safety risks hydrogen sulfide poses to both the general public and BLM inspection personnel.

In addition to expanding the list of violations that will earn an immediate assessment, BLM proposes to charge an increased, one-time assessment for any violation on the list. This would simplify the approach in current regulations which applies an assessment amount per violation per day up to a maximum amount per incident. The size of the proposed one-time assessment is set at an amount BLM believes is necessary to emphasize the seriousness of the listed violations. BLM may charge up to the proposed amounts to deal with specific circumstances.

Section 3163.12 would allow BLM to reduce or waive an assessment that you receive. You must provide your reasons in writing why BLM should reduce or waive the assessment within 30 calendar days after you receive your notice of assessment.

Section 3163.13 would authorize BLM to occupy your lease to perform necessary work to correct a violation, at your risk and expense, whenever you fail to perform the work BLM directed you to perform. If BLM performs the work to correct a violation, you would be charged for the actual cost to perform the work plus an additional 25 percent for administrative costs. This is not a change from current requirements.

Section 3163.14 would allow BLM to charge you for any loss or damage to Federal resources that result from your noncompliance. This is not a change from current requirements.

Subpart 3164—Civil Penalties

Under this subpart, you would be subject to civil penalties for violations of any statute, regulation, order, notice to lessee, lease, or permit relating to your obligations under this part. This subpart would describe the amounts of civil penalties, when you become liable for civil penalties, and notices you will receive from BLM. There are provisions for BLM to charge you immediate civil penalties for certain serious violations. BLM would also initiate cancellation of your lease if the noncompliance continues.

Proposed section	Existing regulation
3164.10	3163.2(a) and (b).
3164.11	
3164.12	3163.2 (a) and (b).
3164.13	3163.2(d) through (f).
3164.14	3163.1(a)(5) and 3163.2(k).
3164.15	3163.2(h).
3164.16	3165.3(c) and 3165.4(b)(2).
3164.17	3165(e)(2).
3164.18	3165.4(b)(1).
3164.19	3165.4(f).
3164.20	3163.4 and 3163.5(a) and (b).
3164.21	
3164.22	3163.2(a), (b), and (i).
3164.30	3163.3.

Section 3164.10 would explain that BLM may assess civil penalties under FOGRMA, as provided in existing regulations.

Section 3164.11 would describe when BLM will assess civil penalties and would explain the requirements for service of Notices of Incidents of Noncompliance (INC). These requirements are similar to existing regulations.

Section 3164.12 would explain the actions you must take after receiving an INC for civil penalties. If you receive an INC for civil penalties, you must correct the violation within 20 calendar days or you are liable for a penalty of up to \$500 per day per violation for each day the violation continues beyond the date you received the INC.

If you did not correct the violation within 40 calendar days of the initial INC, you would be liable for up to \$5,000 per violation for each day the violation continues beyond the date you received the INC.

This section would also explain that you would be able to request a hearing on the record on the INC if you did not correct the violation within 20 calendar days of your receiving the INC. Of course, you are risking an assessment of penalties if you do not correct the violations. If you did correct the violation within 20 calendar days of receiving the INC to avoid a penalty assessment, you would not have the option of requesting a "hearing on the record." However, you would be able to appeal the INC under the appeals provisions of this part if you thought BLM issued the INC erroneously.

Section 3164.13 would explain that BLM would issue INC's for serious violations. This section lists several serious violations that are set out in FOGRMA and lists their corresponding penalty amounts (see 30 U.S.C. 1719). Existing regulations cap the maximum

total penalty amount per violation. However, this proposal would not dictate, nor does FOGRMA impose, a cap on the total civil penalty amount.

Section 3164.14 would explain the action BLM would take if you do not correct a violation listed in section 3164.13. The actions BLM could take would include lease cancellation for the violations listed in sections (b) through (f) of section 3164.13. These requirements are similar to existing regulations.

Section 3164.15 would explain that you may request BLM to waive or reduce civil penalties within 30 calendar days after you receive notice of the proposed civil penalty. These requirements are similar to existing regulations.

Section 3164.16 would explain that you may request a hearing on the record for serious violations within 20 calendar days of receiving the INC. Existing regulations are similar to this provision.

Section 3164.17 would explain that penalties accrue each day until you correct the violation. Under this proposal, BLM may suspend the requirement that you correct the violations pending completion of the hearings provided for in this subpart. Existing procedure and regulations are similar to this proposal.

Section 3164.18 would explain that you may appeal a decision of the Administrative Law Judge to the Interior Board of Land Appeals. This is the same as existing regulations.

Section 3164.19 would explain that you may appeal a final order to the U.S. District Court with jurisdiction over the lands where the violation took place. This is the same as existing regulations.

Payment of Assessments and Civil Penalties

Section 3164.20 would require you to pay assessments within 30 calendar days after BLM gives you written notice and civil penalties within 30 calendar days after either a final BLM decision or a final order of a court or other legal body. This section would also provide for any civil penalties you pay to be deducted from any monies the United States owes you.

Section 3164.21 would state that BLM would charge you interest on assessment amounts that you have not paid or underpaid.

Section 3164.22 would allow BLM to deduct any assessments you have paid from any civil penalties you are required to pay under this subpart. Assessments and penalties charged to you under this part would be in addition to any assessment or penalty

you are charged for your noncompliance under other provisions of law.

Section 3164.30 would inform you that you may be liable for both civil and criminal penalties for violating these regulations. This is not a change from existing regulations.

IV. Procedural Matters

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. BLM has determined that the rule does not meet any of the criteria for a significant regulatory action, as discussed below and in the Economic Analysis.

a. The proposed 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. An economic analysis has been completed and is attached (see Economic Analysis).

b. This rule will not create inconsistencies with other agencies' actions. This rule does not change the relationships of the oil and gas program with other agencies' actions. These relationships are all encompassed in agreements and memorandums of understanding that will not change with this proposed rule.

c. This rule will not materially affect entitlements, grants, loan programs, or the rights and obligations of their recipients. However, this rule proposes to add a fair market value user fee (FMV) for the use of the public lands for geophysical exploration for each Notice of Intent to Conduct Oil and Gas Geophysical Exploration Operations. The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*) (FLPMA) requires that "the United States receive the FMV for the use of the public land and its resources unless otherwise provided for by statute." In addition, a May 1992 audit report by the U.S. Department of the Interior, Office of Inspector General (OIG), recommended that BLM establish and implement procedures to charge FMV for geophysical exploration. In order to comply with the requirements of FLPMA and the OIG recommendation, we propose to adopt a FMV for geophysical exploration. The FMV would be based on the size of the area physically affected by each

individual geophysical exploration project. You would not be required to pay the FMV for a geophysical exploration project, or a portion of a project, that is conducted under a Federal oil and gas lease. BLM will determine the amount of the user fee in a future action.

d. This rule will not raise novel legal or policy issues. Some of the proposed rules may be controversial (bonding increases, agreement rules, immediate assessments, and automatic assessments for repeated noncompliance), but they are not novel. Some have been tried in the past and others have been used by some States.

Regulatory Flexibility Act

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.*). A final Regulatory Flexibility Analysis is not required. Accordingly, a Small Entity Compliance Guide is not required.

For the purposes of this section a "small entity" is considered to be an individual, limited partnership, or small company, considered to be at "arm's length" from the control of any parent companies, with fewer than 500 employees or less than \$5 million in revenue. Mid-sized and large corporations and partnerships under their direct control have access to lines of credit and internal corporate cash flows that are not available to the "small entity." Many of the operators we work with in the oil and gas program would be considered small entities.

The only proposed change that may have the potential to affect a significant number of small entities is the increased bonding requirements. As discussed in the Economic Analysis, the costs would be negligible. The two basic changes in bonding are increases in minimum State and lease bonds, and specific fees and bond increases for shut-in and temporarily abandoned wells. Lease and well specific bonding increases are already authorized by the existing regulations. The proposed rule better enables BLM and the operator to predict what these costs will be when the operator is planning future actions. The additional bond requirements would provide an incentive to these operators to acquire the additional resources or sell their wells to other operators that can meet the obligations before BLM notifies the operator that his bond requirements have increased. Operators consider reductions of uncertainty to be a major benefit. Another benefit for many small entities is that operators

with low liabilities could qualify for a bond reduction.

While the increased minimum State and lease bonding may affect a large number of small entities, at an average of \$43 per well per year, the impact on each entity will be small (see Economic Analysis). For example, for a stripper oil well producing only five barrels per day at a profit of \$2 per barrel, the additional bonding cost would be covered by the profit from three weeks of production. Thus, there would not be a significant impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

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:

a. Does not have an annual effect on the economy of \$100 million or more, as demonstrated in the Economic Analysis.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The increase in bonding requirements will be offset by a reduction in orphan wells, thereby reducing the costs to the public of reclaiming those wells. The amount of the proposed FMV user fee for geophysical exploration is not known at this time. The amount will be determined in a separate action and the estimated economic impact will be discussed at that time. BLM plans to determine the FMV fee before the final rule is published and the economic impacts will be discussed in the final rule.

c. 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. The shift to performance standards in the operating regulations should increase innovation and productivity and thereby increase the ability of the domestic oil and gas industry to compete in the global marketplace.

Unfunded Mandates Reform Act

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

a. This rule will not "significantly or uniquely" affect small governments. A Small Government Agency Plan is not required. This proposed rule does not change the relationship of between BLM's oil and gas program and small governments.

b. This rule will not produce a Federal mandate of \$100 million or greater in any year, i.e., it is not a "significant regulatory action" under the Unfunded Mandates Reform Act (see Economic Analysis).

Takings

In accordance with Executive Order 12630, the rule does not have significant takings implications. A takings implication assessment is not required. The proposed rule would not take away or restrict an operator's right to develop an oil and gas lease in accordance with the lease terms.

Federalism

In accordance with Executive Order 12612, the rule does not have significant Federalism effects. A Federalism assessment is not required. The proposed rule does not change the role or responsibilities among Federal, State, and local governmental entities. The rule does not relate to the structure and role of States and will not have direct, substantive, or significant effects on States.

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. BLM drafted this rule in "Plain-English" to provide clear standards and to ensure that the rule is clearly written. BLM consulted with the Department of the Interior's Office of the Solicitor throughout the rule drafting process for the same reasons.

National Environmental Policy Act

BLM has prepared an environmental assessment (EA), and has made a tentative finding that the proposed rule would not constitute a major Federal action significantly affecting the quality of the human environment under section 102(2)(C) of NEPA, 42 U.S.C. 4332(2)(C). BLM anticipates making a Finding of No Significant Impact for the final rule in accordance with BLM's procedures under NEPA. BLM has placed the EA on file in BLM Administrative Record at the address specified previously (see ADDRESSES). BLM will complete an EA on the final rule and make a finding on the significance of any resulting impacts prior to promulgation of the final rule.

The proposed action would have no major impact on the human environment, either positive or negative. The revised regulations may provide some environmental benefits.

The proposed action would cause some impacts on the environment, although most of the requirements in the proposed action would cause no changes to the environment. Most of the proposed changes would not differ substantially from the existing regulations, such as the portions which are being written in plain English, or the plan to remove unnecessary procedural requirements and actions which need approval from BLM. For example, the proposal would exempt operators of Federal oil wells that produce less than 10 Mcf/day from having to obtain approval to vent or flare gas. This provision includes a performance standard that would in effect negate this exemption if the gas is economic to capture or if it cannot be vented or flared safely and according to applicable laws and regulations. The environmental impact of this provision is identical to the no action alternative because BLM almost always approves venting or flaring applications for these small gas volumes and the only reason an application would not be approved under the existing regulations would be if BLM determines that the gas is economic to capture. BLM would retain the authority to issue an order to capture gas under the provisions of the proposed action.

Under current regulations, an operator that follows all of the terms of a given regulation, theoretically, could be in compliance regardless of whether their operations meet the overriding objectives of BLM's management of the oil and gas program. By contrast, with performance standards the focus would shift from describing specific actions that dictate how operations must be conducted, to the regulation's desired outcome or goal. This goal-oriented approach would better protect the public interest and the environment because operators would be held to a sensible, stated regulatory standard. This type of regulation would also provide oil and gas operators the flexibility they seek to determine how a stated objective could be achieved, depending on specific proposals, local conditions, the operating environment and changing technology.

The substantive changes contained in this rule do not directly pertain to environmental protection measures or BLM's responsibility to comply with existing environmental laws and regulation. However, they are more likely to enhance BLM's role as a steward of the public lands than undermine it. In addition, the proposed action would only include performance standards if they would not jeopardize BLM's ability to fulfill its responsibility

to protect public health and safety and the environment. Therefore, BLM's use of performance standards, to the extent that they depart from the existing system, would not have an impact on the environment.

Changing many of the minimum standards contained in the onshore orders to references to the API standards would have no impact on the environment. Incorporating industry standards by reference does not represent a profound change, because the onshore orders currently paraphrase many of these same standards. Incorporating the standards by reference directly into the regulations simplifies how the standards are organized. Since the same standards would be used, this should not result in any impacts to the environment.

BLM's proposal to limit competitive and noncompetitive lease acreage to 2,560 acres outside Alaska and 5,760 acres in Alaska should not impact the environment. This measure would lower the acreage limit for noncompetitive leases to make it consistent with competitive leasing. The remainder of changes to the leasing regulations, with the exception of the changes to bond provisions, affect only administrative activities and would not impact the environment.

Other substantive changes would more likely result in a positive benefit to the environment, although the extent of any benefits is presently too speculative to assess. For example, raising the bonds required would not only increase an operator's incentive to prevent adverse environmental impacts, but would also provide BLM a source of funds to clean up or correct any negative impacts caused by oil and gas operations. This would reduce the BLM's and the public's exposure to future liabilities associated with plugging wells and reclaiming well sites. Raising the dollar amounts and expanding the number of types of penalties for noncompliance and removing assessment and civil penalty caps would offer additional incentives for operators to meet all environmental standards.

These and the impacts discussed in the economic analysis are the only foreseeable impacts of the proposed action. BLM recognizes that slight changes to complex regulatory schemes can have unintended downstream effects. However, whether such "ripples" would themselves lead to environmental impacts is something that cannot be meaningfully assessed at this time. Furthermore, because the program consists of leasing Federal land and permitting resource development of

Federal and Indian oil and gas, the individual actions taken under this program are themselves subject to further NEPA analysis. When actions are proposed under the oil and gas leasing and operations program, BLM will prepare all required NEPA documents.

Because the proposed action would not substantially change BLM's overall management objectives or environmental compliance requirements, the proposed rule would have no impact, or will only marginally benefit, 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 religion 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.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951) and 512 DM 2, we have identified potential effects on Indian trust resources and they are not yet addressed in this rule. BLM has consulted with the Bureau of Indian Affairs in the process of this rulemaking and plans to consult with affected tribes prior to final rulemaking. Furthermore, BLM will consider tribal views in the final rulemaking.

Accordingly:

a. We have not yet consulted with the affected tribe(s).

b. We have not yet treated and consulted with tribes on a government-to-government basis. However, we plan to before final rulemaking and the consultations will be open and candid so that the affected tribe(s) could fully evaluate the potential impact of the rule on trust resources.

c. We will fully consider tribal views in the final rulemaking.

d. We have consulted with the appropriate bureaus and offices of the Department about the potential effects of this rule on Indian tribes. We have consulted with the Bureau of Indian Affairs and the Division of Indian Affairs, Office of the Solicitor.

Economic Analysis

These regulations would increase the amount of lease and statewide performance bonds. Presently,

operations are covered by lease, statewide, or nationwide bonds with some collective bonds on units. The increased bond requirements will take effect in two years. The rule clarifies BLM's authority to increase the required bonding level for existing bonds where an operator has been delinquent in meeting his obligations to the government or where the potential costs of plugging and reclaiming the site exceed the bonds covering those operations. Increasing the penalties for noncompliance is also proposed. Both of these proposals will have minimal effects on the economy or the costs of producing oil and gas on Federal lands. The primary impact will be to avoid potential problems by:

- Increasing the probability that operators have sufficient financial capability to meet their lease obligations (i.e., if the operator can meet the higher bonding requirement, then he is more likely to have the financial means to meet his other operational requirements),

- Provide a greater incentive to the operator to properly reclaim his lease so that he can recover his bond collateral, and

- Increase the funds available to the land owner/manager if the operator defaults on his obligations.

Small operators with only a few shallow wells, where the reclamation cost is much less than the standard bond coverage, would be able to apply for a reduction in the required bond coverage. The operator must demonstrate that the costs would be less than the bond coverage in order to receive approval for a reduction in the bond requirement. The impact of this change would be to help small operators by relieving them of unnecessary bond requirements.

The purchase of manuals describing the industry standards referenced in the regulations is another cost to operators and lessees, but it is not expected to be a significant cost.

There would be no discernible economic impact on prospective and existing operations due to compliance with the standards found in this proposed rulemaking. In most cases, the cost of complying with the standards would be indistinguishable from those in the existing regulations. The use of performance standards and published industry standards in many places in these proposed rules may even reduce the cost of compliance in some cases. Overall, however, these benefits will be local in nature and be almost indistinguishable from the existing regulations.

The benefits attributable to these rules are not predictable in the usual strict benefit-cost analysis sense. Discernible changes in the ease of using and understanding the proposed regulations, as well as the elimination of duplication and confusion, will certainly benefit lessees, operators and the BLM. The reduction in the length and number of the existing regulations will also have some benefit. How much of a benefit these changes will actually have is not quantifiable.

The overall effect of the proposed rule will not create an adverse effect upon the ability of the oil and gas industry to compete in the world marketplace, nor will the proposal adversely affect investment or employment factors locally.

Discussion of Potential Impacts

Referencing Published Industry Standards

The most obvious impact associated with this change would be the cost of acquiring the publications that the rule would incorporate by reference. This cost would be borne by both industry and BLM. The total cost to acquire all 26 API publications referenced in the proposed rule would be less than \$1,500. A typical operator on a Federal lease would not need to acquire all 26 referenced publications, but only those publications that they do not already have and that directly apply to the particular activities that it conducts. We anticipate that many smaller producers would not purchase any referenced publications at all and depend on other sources to inform them of required industry standards. All BLM field offices with oil and gas responsibilities will have copies of the API publications available for review. For evaluation purposes, we will assume the average operator will spend \$300 on referenced publications.

BLM's Automated Inspection Records System (AIRS) data base lists 6,610 operators on Federal leases/agreements. This total overstates the actual number of operators due to differences in how one operator's name may be entered in the database (i.e., XYZ, Inc. and XYZ, Incorporated are counted as two different operators). Alternately, larger producers operating across multiple BLM inspection offices may acquire multiple sets of the API publications. For simplicity sake, the operator total from AIRS will be used without adjustment, making the projected cost to industry to acquire referenced documents to be \$1,983,000 (i.e., 6610 operators @ \$300/operator).

We will also assume that the 38 BLM offices (combined total of field and state offices) with responsibilities for oil and gas operations would need to acquire a complete set of the publications referenced in the proposed rule. Many BLM offices already have a majority of the API publications as in-house reference documents. Again, for simplicity's sake we will assume the entire suite of publications would be acquired by each of the 38 BLM offices for a projected cost to the Federal Government of approximately \$57,000.

BLM believes that the initial cost to industry in acquiring the API publications would be offset by the long term intangible benefits associated with incorporating API standards and practices into regulation. These intangible benefits are the value of consistency, clarity, and flexibility derived from citing widely accepted industry standards rather than the present approach of regulations that are intended to interpret those same standards. In general, adoption of industry standards results in efficiency gains by operators performing activities consistently. This same simplification will likely result in lower supply costs in the long term. Consequently, BLM believes that referencing published industry standards in regulation will have a net positive impact on industry. There are also benefits to BLM from greater compliance by industry. More consistency and compliance by industry reduces the costs of inspection and enforcement. These reduced costs would help offset the costs that BLM would incur by acquiring API publications since greater compliance by operators equates to less administrative cost to BLM.

Reduce Paperwork for Communitization Agreements

Industry contacts estimate the cost to prepare and submit a proposal to communitize Federal minerals costs an average of \$1,000 per application. BLM estimates that it expends about 20 hours to process each application at a cost of \$460. In fiscal year (FY) 95, BLM received 166 applications to communitize with a projected cost to industry of \$166,000 and a projected cost to BLM of \$92,000. The proposed rule would reduce the amount of paperwork that industry has to submit to BLM in order to communitize Federal mineral interests. Less paperwork would reduce the administrative costs both for industry and for BLM.

Simplify Procedure to Determine Average Daily Production per Well for Variable Royalty Rate Leases

For variable royalty rate leases, the average daily production per well determines what royalty rate to apply to production. Preliminary calculations using the proposed method to determine average daily production per well show it to be royalty "neutral", that is, it should not result in any more or any less royalty being paid to the United States. Hence, the only impact associated with the proposed change would be in administrative costs associated with using the proposed method versus the existing method. Although we do not have any specific estimates of how many work-hours are expended to determine the average daily production per well under either method, the proposed method, without question, would involve less time than the existing method. Less time translates to less labor costs. Reduced labor cost is a positive impact. In addition, simpler procedures are less likely to result in different interpretations. Thus, the time and effort involved in resolving disputes over interpretation of the regulations will be reduced. Both industry and BLM would benefit from the savings in labor costs.

Regulatory Exemptions for Meters Measuring 100 Mcfgpd or Less

Under the proposed rule, operators of metering facilities that are measuring 100 thousand cubic feet of gas per day (Mcfgpd) or less would not be required to:

- Perform an inspection of the meter tube every six years;
- Install a continuous temperature recorder to record flowing gas temperature;
- Calibrate the meter on a quarterly basis;
- Have the meter's static pen track within specific areas of a gas chart; or
- Maintain an overall meter uncertainty within ± 3 percent if the meter uses an electronic flow computer.

The exemptions should have a positive impact on industry by reducing the capital and operating expenses of low volume metering facilities. A reduction in operating expenses would proportionately raise the economic limit of low volume gas wells and allow for increased recovery of in-place reserves. These exemptions would also have a positive impact on the Federal Government by increasing the ultimate amount of royalty it would receive. Positive impacts specific to BLM would be a reduction in the number of variances that it would have to process

and a reduction in its costs to inspect for and enforce these standards.

Require an Annual Determination for Specific Gravity

Existing regulations call for the heating value (i.e. BTU content) of marketed gas to be determined annually, but do not specify a frequency for specific gravity determination. The proposed rule would require operators to determine specific gravity of gas at least on an annual basis. BLM assumes that most laboratories also determine the specific gravity of gas when calculating the BTU content of a gas sample. Accordingly, requiring an annual specific gravity determination for leases and agreements producing gas would not cause any increase in operating cost for producers. In that values for BTU content and specific gravity are important in determining the volume of gas produced and its quality for royalty purposes, the proposed change would have a positive impact on production accountability.

Eliminating Major/Minor Classification of Violations and Simplifying Assessment Structure

Existing regulations classify violations into two categories: major violations, which, if left uncorrected, could cause immediate, substantial, and adverse impacts to public health and safety, production accountability, or the environment; and minor violations, those violations which do not rise to the level of a major violation. For major violations, operators were liable for an assessment of up to \$500 per day if left uncorrected within a time frame specified by BLM. For minor violations, operators were liable for a one-time \$250 assessment for violations left uncorrected. The proposed rule would eliminate the major and minor classification for violations and impose a \$250 per day assessment for uncorrected violations.

This proposed change should have no impact on industry as a whole. Over the last four fiscal years, BLM had issued an average of 2,735 citations for major violations per year and 13,752 citations for minor violations per year. We estimate that less than 7 percent of the major violations and less than 1 percent of the minor violations have resulted in an assessment being issued to operators. The small number of violations that ever get to the assessment stage suggest that changing the fee structure of assessments will have a negligible impact on industry.

The potential for an assessment encourages compliance. We do not believe that changing the fee structure

for assessments will reduce the compliance rate that is observed under the existing regulations, especially with elimination of the cap on assessments and civil penalties. If anything, we believe that the proposed rule's increased assessment for those violations that are presently classified as minor violations might actually reduce the number of these kinds of violations. For this reason, the proposed rule assessment structure is likely to have a positive impact on the public. That is, fewer violations means a reduction in the potential for environmental problems.

The proposed changes to the assessment structure would have a positive impact on the Federal Government. Eliminating the classification of violations would eliminate the subjectiveness that exists with the existing system in determining whether a violation is major or minor. The proposed single daily assessment amount would be easier to administer. A simpler, more consistent approach to violation classification and assessment structure translates to reduced administrative costs to the Government.

Remove all Caps for Assessments and Civil Penalties

Per day assessments and civil penalties are currently limited to some maximum amount, limiting the incentive to the operator to correct the violation quickly. It is expected that exceeding the current caps will happen rarely, but elimination of the cap should encourage faster correction of violations. Thus, there is negligible impact on industry with some positive impact on the public and the government.

Increased, One-time Assessment for Serious Violations

Under existing regulations, certain serious violations (i.e., drilling without approval, causing surface disturbance without approval, and failure to install a blowout preventer) earned an operator an immediate assessment of \$500 per day up to a set maximum amount. In addition to the aforementioned violations, plugging a well without approval resulted in a one time \$500 assessment. The proposed rule eliminates the amount per day assessment structure for serious violations and replaces it with increased, one-time amounts.

Due to the limited number of immediate assessments issued by the BLM in any given year, we project the impact to industry of this proposed change would be negligible. Since we believe the increased assessments would represent an even greater

deterrent to serious violations, the proposed change would have a positive impact on the public. Fewer serious violations would mean less potential harm to public health and safety and the environment. Again, a simplified assessment structure would reduce the Government's administrative costs, a positive impact.

Expand List of Violations That Receive an Immediate Assessment

For the reasons mentioned in the previous section, the proposal to expand the list of serious violations that would receive an immediate assessment should have a negligible impact to industry, a positive impact on the public, and a positive impact on the Federal Government.

Streamlined Process to set up Unit Agreements

Industry contacts estimate the cost to prepare and submit a proposal for a Federal exploratory unit agreement costs an average of \$20,000 per application. BLM estimates that it expends about 40 hours to process each application at a cost of \$1280. In FY 95, BLM received 52 applications to unitize with a projected cost to industry of \$1,040,000 and a projected cost to BLM of \$42,000. The proposed rule would reduce the amount of paperwork that industry has to submit to BLM in order to unitize Federal mineral interests. Less paperwork would reduce the administrative costs both for industry and for BLM. However, the existing standardized terms would be replaced with the requirement to negotiate terms with BLM. Initially, there will be a learning curve for both BLM and operators, and the time to prepare and approve units will be longer and more expensive. However, we believe that the added expense of negotiations will be offset by the flexibility of the process whereby operators would negotiate key development terms. We also believe that over time, negotiations will be less lengthy as BLM and operators become familiar with the process.

The proposed rule stipulates that production allocations for enhanced recovery units or exploratory units with existing production will be determined at the time the agreement is made, rather than after substantial drilling is completed. While the allocations may not be as precise as under the current regulation, the predictability will enable the operators to make better economic decisions regarding the development of the unit. Some other benefits of the new process are:

- It will expedite paying well determinations since they will no longer be based on economics;
- The agreement will establish the size of initial participating areas and additions to existing participating areas. This would benefit operators by establishing participating area size without elaborate subsurface projections; and
- Paying well determinations would be replaced with productivity criteria. This would allow the operator to negotiate criteria that are not tied strictly to well economics. The use of well productivity criteria would allow the costs for that well to be considered as part of unit costs and not be required to be covered by production from that well alone.

Increased Bonding/Bond Reduction for Low Liability Operations

The proposed rule increases minimum individual lease bonds from \$10,000 to \$20,000 and statewide bonds from \$25,000 to \$75,000. Nationwide bonds are unchanged. The rule also clarifies BLM's authority to increase bonds on existing wells and leases for a variety of reasons, most having to do with unsatisfied or insufficiently bonded liabilities. BLM already has the authority to increase lease bond requirements in specific situations, but the amount has been left to BLM to determine on a case-by-case basis. With the proposed rule, both BLM and the operator can better anticipate what the additional cost will be. For instance, increasing the bond is one of the options for inactive wells (wells with no activity for 12 consecutive months). Within 30 days of a well becoming inactive, the operator must do one of the following:

- Submit additional bonding of \$2.00 per foot of total or plugged-back total depth for each well;
- Pay a non-refundable annual fee of \$100 per inactive well (this is only an option for the first six years a well is inactive);
- Put the well in production or service;
- Submit plans to conduct well work to restore production or service; or
- Submit plans to plug and abandon the well and perform reclamation.

Increased bonds or fees are necessary due to the significant unfunded liability that has fallen and continues to fall on the public in general and BLM and other land management agencies in particular. This liability is in the form of orphan oil and gas wells. Unplugged or inadequately plugged wells and unreclaimed sites on Federal lands with no responsible person or company found are left to the government to clean

up. Even if a bond is available for the well, it is frequently insufficient to cover the costs of plugging and reclamation. Furthermore, one bond may represent many wells. The Bureau Performance Review of the Oil and Gas Program included a review of bonding and unfunded liability. The March 1995 report concluded that the public was assuming too much of the risk from orphan wells. The existing regulations provided the authority to increase bonds, but did not provide guidelines on how much to increase the bond requirements. Furthermore, the operator may appeal the amount of the bond increase, adding to the costs for both BLM and the operator. The proposed rule reduces the number of situations where the operator may appeal bond increases. The bond increases in the proposed rule are based on the recommendations from that review. The goal is not to make the bonds high enough to cover all potential costs. While most wells can be plugged and abandoned for between \$10,000 and \$20,000, an individual lease bond may

cover many wells. However, we expect that the higher bonding will provide an incentive to industry to be more diligent in reclamation. The increase in the minimum State and lease bond requirements is less than the rate of inflation since the current amounts were set in 1960. However, the increase may still be an unjustified burden for small operators with only a few shallow wells. The cost of plugging these wells and reclaiming the land may be less than the \$20,000 lease minimum, or even less than the current \$10,000 lease minimum. The option for the operator to apply for a reduction in the bonding requirement helps to reduce the impact of increasing the bonding requirement on small operators and may even reduce the requirement on some leases below the current \$10,000 requirement. This will allow for the bonding requirement increase to only be applied to leases on which the potential liabilities correspond to the higher bond amounts. The following discusses bonding costs in more detail.

What does a bond cost industry? Bond premiums may be as low as 1 percent

per year, but often require some collateral such as certificates of deposit (CD's) or other security in addition to the fee. Large, low risk companies may just pay a low premium with no additional security. Requirements will be higher for higher risk companies. Operators may post CD's or other security with the government in lieu of a surety bond (approximately half of all operators on Federal lands use this option). While this costs more than the premium on a surety bond, it is less expensive than pledging security and paying a bond premium. Essentially, the cost of pledging this security is the cost of capital (as the resources could be used for other investment) minus the interest the operator receives on the security. Using the assumption that this cost difference is 3 percent and that it is applied to all existing bonds, the increased cost to industry is shown in the following table. For this estimate we assume that about 500 leases would qualify for a reduced bond and that the average required bond for them would be the current \$10,000 requirement.

Type of bonds	Number of Bonds ¹	Increased amt.	Increased cost ²
Individual	3171 - 500		\$951,300 - 150,000
	=2671	\$10,000	=801,300
Statewide	2348	50,000	3,516,000
Nationwide	807	0	0
Collective	139	0	0
Total	6465	.....	\$4,317,300

¹ From Bonding Review Report, 3/95, based on AIRS data, 10/94.

² Number of bonds × increased bond amt. × 0.03.

This averages to about \$43 for each well on Federal lands. A stripper oil well averaging 10 barrels of oil per day and selling oil at \$15 per barrel would gross \$54,750 per year and pay royalty of \$6,850. The marginal cost of production may be about \$2 per barrel, or about \$7,300 per year. An additional \$43 per year is not significant. Thus, the increased bond requirements do not impose a significant new cost on industry.

This rule defines specific costs for inactive wells, which represent the greatest risk for becoming orphan wells, by increasing the bonding by \$2.00 per foot of depth for inactive wells or charging \$100 annually per inactive well (only an option for the first six years). While this fee is equivalent to the 1 percent fee on the \$10,000 additional bonding required for a 5000-foot well, the operator would not have

to pledge additional collateral that may be required to obtain the bond. By basing the increased bond requirement on the depth, it better reflects the plugging costs for the well. This targeted increased bonding may be more significant than the across the board increase. For example, the Bonding Review estimated there were about 300 known orphan wells, 6,500 temporarily abandoned wells, and 11,000 shut-in wells on Federal lands. Assuming that 3,000 wells are classified as inactive wells and their average depth is 5,000 feet, the increased bonding would total \$900,000 (3,000 wells × 5,000' × \$2 × 3%) or about \$300 per inactive well per year. The change allows operators to better plan their operations, as it may affect the decision regarding plugging and abandoning a well versus shutting it in or temporary abandonment. Under this proposal, operators can hold

inactive wells for six years with a \$100 annual fee before having to obtain the higher bonding or taking one of the other required actions. This amount was calculated to be roughly equivalent to the cost to operators of the proposed increase in the bond due to having an inactive well.

The increased bonding represents a relatively small cost of doing business. It will be incorporated as a cost that may have some impact on decision making in field operations. The increased bond requirements for inactive wells may force some marginal wells that would be inactive under the current requirements to be plugged and abandoned more rapidly under the proposed requirements if the bond increases are higher than what would be charged under the existing regulations. However the opposite could be true, and the advantage of the proposed rule is the

certainty of the costs. While these wells could potentially produce and provide additional revenue, the amount is insignificant and less than the potential cost to the government if they become orphan wells.

Having the bonding reduction option greatly mitigates the impacts of the bonding increases on small operators.

The net impact to industry is negligible. The minor increased cost is more than offset by the gains to the public by reducing the risk of creating new orphan wells. The costs to government are also reduced by having better compliance by industry. This also represents a net gain for the environment. Overall, increased bonding represents a net positive.

Geophysical Exploration Fair Market Value Charges

The proposed rule provides for assessing a FMV charge for the use of public lands for geophysical exploration. This would only be applied to the portion of exploration on federally-owned surface estate that is not already leased for oil and gas. The amount of this FMV assessment will be determined in a separate action. Thus, the estimated economic impact will be published with that proposed action.

Paperwork Reduction Act

BLM has submitted an information collection clearance package to OMB for its approval of the information requirements contained in these proposed regulations under the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

The information collections listed below for proposed changes in the regulations have not been approved by OMB.

Proposed changes in the regulations would increase the information burden by an estimated 9,441.25 hours. For new information collection, all of which are nonform items, BLM expects the public reporting burden to be as follows:

Information Collections in This Rule That Have Not Yet Been Approved

BLM does not yet have information collection approvals from OMB for the following items. However, these are not new information collections, but are new requests for information collections for OMB information collection approval. Existing regulations require these information collections.

Leasing

Section 3121.12—The respondent must advise BLM by letter of its nominations for competitive leasing in the BLM State Office with jurisdiction

over the lands involved and provide a legal description of the nominated lands.

We estimate it will be 15 minutes to prepare a nomination list of tracts. The information is necessary to list tracts nominated by operators or the general public for a lease sale. We estimate that there will be 1,400 filings a year, for a total information collection burden of 350 hours.

Section 3124.32—For an application for lease consolidation, the respondent must identify the affected leases and justify why consolidation promotes conservation of resources that cannot be achieved through unitization or communitization.

BLM requires this information to ensure compliance with the Mineral Leasing Act, to ensure conservation of resources, and to protect the public interest. Leases are combined only when unitization or communitization are not possible or when unitization or communitization will not promote conservation of resources.

We estimate it will take approximately two hours to comply with the required information. The estimate includes time for gathering and compiling data that shows unit requirements, such as drilling and production, are met, and providing certification. We estimate 10 responses, for a total of 20 hours.

Section 3125.11—A lessee wishing to exchange its existing 20-year oil and gas lease for a new lease for the same lands must file an application for lease exchange in the BLM State Office with jurisdiction over the lands.

An exchange converts the renewal lease for the benefit of the lessee and the administrative convenience of BLM.

We estimate it will take approximately 15 minutes to comply with the application information. The estimate includes time for providing lease term information about the original lease. We estimate 25 responses, for a total of 6¼ hours.

Operations

Sections 3103.10(aa) and 3153.37—An operator must provide to BLM a lease automatic custody transfer (LACT) meter proving report.

The information is necessary for BLM to identify the LACT that was proved and where and when it was proved. The proving report contains the LACT unit identification number, its location and information regarding the results of the meter proving, including any adjustments and new meter factors.

We estimate it will take approximately 10 minutes to comply with the notices and report information

required. The estimate includes time for compiling the various data requirements. We estimate 200 notices and reports per year, for a total of 33½ hours.

Sections 3103.10(bb) and 3154.33—An operator is required to provide to BLM gas charts/meter proving reports.

The gas chart measures gas over a specified period of time that a gas well produces. These are original charts that must be submitted to BLM to allow BLM to perform independent volume calculations or integrations. Charts identify the well, lease, operator, and other information regarding the measurement system. The gas meter proving reports are the results of calibrating the recording component of the gas measurement system. These reports identify the operator, facility number, well number, specifics of the measurement system, and the results of calibrating the meter, including any adjustments that were made.

We estimate it will take approximately 15 minutes to comply with the information requirement, and one thousand reports a year, for a total of 250 hours.

Section 3103.10(dd)—The operator is required to provide to BLM notice of meter proving or calibration and must provide information regarding what meters will be calibrated, their lease and well numbers, and when the calibrations will occur.

These records and notifications are necessary to ensure proper measurement. BLM uses the information to conduct audits to determine correct volumes and to determine volume corrections when the calibration of meters indicate inaccurate measurement. The required tables, charts, and meter proving reports are generally information that a prudent operator would already require for its records in order to verify correct volumes, accurate measurement, etc. Typically, an operator needs only to reproduce such information. We estimate 5,000 such notifications per year, at five minutes each, for a total of 416⅔ hours.

Reports, Submissions and Notifications

Section 3103—The operator is required to provide oral notification that they are commencing the activities listed below. Oral notifications generally only require the operator to identify the lease and well and the anticipated starting or completion time of the operation.

The following sections reference activities that require the operator to orally notify BLM:

Section 3103.10(l)—Construction start-up.

Section 3103.10(j)—Spud notice.

Section 3103.10(m)—Running surface casing and BOP test.

Section 3103.10(o)—Reserve pit closure.

Section 3103.10(x)—Report of theft or production mishandling.

Section 3103.10(z)—Notice of LACT meter proving.

Section 3103.10(ee)—Leak detection system.

Section 3103.10(ff)—Produced water pit completion.

Section 3103.10(gg)—Report of spill or accident.

Section 3103.10(ii)—Well abandonment.

Sections 3103.10(ll) and 3145.43—Concentrations of 100 ppm or more of H₂S.

The notifications are necessary to ensure proper monitoring and inspection by BLM of lease operations.

We estimate approximately 6,000 notifications per year, at five minutes for each notification, for a total of 500 hours.

Subpart 3136—Drainage Agreements

Section 3136.10—Respondents are required to submit any drainage agreements. The agreement includes land identification, lease ownerships, mineral ownerships, and royalty allocation.

This information is necessary to ensure that Federal royalties are collected and that Federal minerals are protected from drainage by non-Federal wells.

BLM estimates there will be five agreements per year and that each one will take 10 hours to prepare and submit. The total information collection will be 50 hours.

Subpart 3137—Unit Agreements

Section 3137.13—The respondent must submit an application for unitization and include the unit agreement, a map of the unit area showing the committed leases and other tracts, a list of committed leases with legal description and other tracts, record title, working interest, acreage, an allocation schedule, if appropriate, certification of invitation to join the unit, economic, geologic, engineering and other data, depending on the type of unit.

We estimate it will take approximately 40 hours to comply with the information requirement for the application for unitization. The estimate includes time for gathering, preparing, completing, and maintaining the specified information, but not the time

required to obtain, analyze, and interpret the information normally expended as part of an exploration program without unitization. We estimate that there will be 60 unit applications made within a given year, for a total increase in the information collection burden of 2,400 hours.

Section 3137.64—To establish a participating area or to expand an existing participating area, the respondent must submit certification to BLM that unitized production has been established, and as appropriate, a map showing the participating area and total acreage, and a schedule showing the production allocation for each tract participating in production.

We estimate it will take approximately 12 hours to compile and submit the request for establishing or expanding a participating area. We estimate that there will be an average of 45 participating area applications a year for a total increase in the information collection burden of 540 hours.

Subpart 3145—Drilling

Section 3145.18—This section would require operators to apply for a Notice of Staking (NOS), which includes the information sufficient to identify lands that may be potentially affected by a planned oil or gas well. The information includes legal description, operator name, well number, surface ownership, and lease number. A map must also be included that identifies topographic features. The map would assist BLM in identifying potential problems at the proposed well location.

This information collection provides operators an opportunity to work with BLM to find the best suitable drilling site, develop site specific mitigation, and to avoid unnecessary expense when preparing drilling plans.

Although this information burden is highly variable, we estimate there will be 1,500 NOS applications a year that take 15 minutes each, for a total burden of 375 hours.

Section 3145.51(a)(3)—Reclamation of contaminated lands requires operators to provide to BLM information regarding method of remediation, location of facility or onsite remediation, soil test results, volumes of contaminated soils, and rehabilitation schedule, and request BLM approval.

This information is necessary to ensure that contaminated soils are properly remediated, to minimize environmental impacts and protect the public.

We estimate this information will take approximately five hours to compile and that there will be 100 occurrences

per year. The total information burden would be 500 hours.

Subpart 3151—Production, Storage and Measurement

Section 3151.10(c)—Applications for off-lease measurement must include justification for the off-lease measurement and information on the type and location of the off-lease measurement facility, all wells that will produce into that facility, plans for preventing losses in transporting production from the lease to the facility, and certification that any losses will be the responsibility of the operator.

This information is necessary for BLM to ensure that proper measurement occurs, that Federal interests are adequately protected, that Federal rights-of-ways are obtained, and to properly identify and locate the facilities for production accountability inspections.

We estimate 300 applications per year at one hour each, for a total increase in the information burden of 300 hours.

Section 3151.10(d)—In a request for approval of commingling, the operator must identify the affected leases, wells, producing intervals, proposed production allocations, and the quantity and quality of oil or gases that are to be combined.

This information is necessary for BLM to determine if the proposal adversely affects production accountability.

We estimate each request takes 30 minutes and that there will be 500 commingling requests per year, for a total of 250 hours.

Subpart 3164—Civil Penalties

Section 3164.15—To request a waiver or reduction of civil penalties, the operator must submit, in writing, to the appropriate BLM State office, justification for the waiver or reduction. The information is necessary so that BLM may determine whether a waiver or reduction of the civil penalty should be granted.

We estimate that the preparation of each request takes 30 minutes and that there would be 100 requests per year, for a total increase in the information collection burden of 50 hours.

New Information Collections

The following are new information collections that require OMB approval. These information collections are not in existing regulations.

Subpart 3107—Lease, Surety and Personal Bonds

Section 3107.53—Respondents are required to provide to BLM information

that justifies BLM decreasing their bond amount.

This information is to allow BLM to determine if the lease obligations associated with a given lease are less than the bond amount.

We estimate 100 responses per year that take 1 hour per response, for a total of 100 hours.

Sections 3107.56 and 3145.23—The operator is required to submit information regarding each inactive well under Federal jurisdiction. The information includes operator identification, lease and well number, location, and total and plugged-back well depths. Other information that may be needed to exempt operators from the increased bonding requirements includes plans for reworking and returning the well to production; evidence that the well is capable of producing but that it is awaiting pipeline connection, or it is uneconomic at this time to connect to a pipeline; or that the well will be plugged and abandoned. If additional bonding is needed, proof of additional bonding will be necessary, such as riders and bond numbers.

This information is necessary to ensure that adequate bond coverage exists.

We estimate 6,600 operators will provide information for 13,000 wells per year, at 30 minutes per respondent, for a total of 3,300 hours.

Send comments regarding this information collection, including suggestions for reducing the burden, to: Office of Management and Budget, Interior Desk Officer (1004-NEW), Office of Information and Regulatory Affairs, Washington, D.C. 20503, and Information Collection Clearance Officer, Bureau of Land Management, 1849 C St., N.W., Mail Stop 401 LS, Washington, D.C. 20240.

We specifically request your comments on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility, (2) the accuracy of BLM's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. BLM will analyze any comments sent in response

to the notices and include them in preparing the final rulemaking.

Approved Information Collections in This Rule

BLM currently has information collection approvals from OMB as follows:

OMB 1004-0162

Form 3150-4, Application to Conduct Oil and Gas Geophysical Exploration Operations, and Form 3150-5, Notice of Completion of Oil and Gas Exploration Operations, are approved under OMB 1004-0162, Oil and Gas Geophysical Exploration Operations. This information collection expires August 31, 1999. BLM uses Form 3150-4 to determine who is conducting specific geophysical operations on public lands and that appropriate measures are taken to protect the environment under NEPA. BLM uses Form 3150-5 to determine when oil and gas explorations operations are complete and to determine that mitigating measures have been performed to protect the environment as required under NEPA. Collectively, the information serves to maintain an accurate account of operations being conducted on public lands and who is to be held accountable if there is damage to the lands.

OMB 1004-0034

Form 3000-3, Assignment of Record Title Interest in a Lease for Oil and Gas and Geothermal Resources, and Form 3000-3a Transfer of Operating Rights (Sublease), are approved under OMB 1004-0034, Oil and Gas Lease Transfers by Assignment or Operating Rights (Sublease). The collection expires September 30, 1998. BLM uses the two forms, respectively, to transfer all or part of a record title interest, or operating rights, or overriding royalty or similar interest in an oil and gas or geothermal lease to another party under the terms of the mineral leasing laws. They identify ownership of the interest being transferred and the qualifications of the transferee to take interest.

OMB 1004-0074

Form 3000-2, Competitive Oil and Gas or Geothermal Resources Bid is approved under OMB 1004-0074, Oil and Gas and Geothermal Resources Leasing, which expires May 31, 2000. BLM uses the form to determine the highest qualified bonus bid submitted for a competitive oil and gas or geothermal resources lease on public domain and acquired lands. The information collection expires May 31, 2000.

OMB 1004-0145

BLM requires various items of information to determine eligibility of an applicant to lease, explore for, and produce oil and gas on Federal lands. These are non-form information items and are grouped and approved under OMB 1004-0145, Oil and Gas Exploration and Leasing. The collection expires July 31, 1999. BLM needs this information to process oil and gas leases, to ensure compliance with terms and conditions of various statutes, and to determine whether an entity is qualified to hold a lease. Information items that do not require a form are:

Option Acreage Chargeability. Requires a notice of option holdings that is required under the Mineral Leasing Act of 1920 (30 U.S.C. 184(d)(2)). BLM uses this information to determine acreage chargeability. The applicant must submit to BLM copies of notices of options when we request it.

Excess Acreage. The application must include a petition with justification requesting additional time to divest excess acreage.

Lease Holdings. Requires statements showing date, acreage, and the State in which each oil and gas lease is located. BLM does not routinely request this information. However, when BLM requests it, BLM uses it to determine that the lessee is in compliance with the law with respect to acreage limitations (30 U.S.C. 184(d)(2)).

Joinder Evidence Required. A statement is required as to whether or not a prospective oil and gas lessee has joined in a unit agreement if the lease is for lands within an approved unit.

Waiver, Suspension or Reduction of Rental, Royalty, or Minimum Royalty. Application or petition for such benefit is required. The information is required by law and BLM uses it to determine that development cannot be promoted or that the lease cannot be successfully operated if the rental or royalty were not waived, suspended or reduced.

Communitization Agreements. Requires copy of agreement in order to obtain permission to join in oil and gas development with other lands. The information collection has been approved by OMB under 1004-0134. BLM requires this information to confirm that the lease, or portion thereof, cannot be independently developed.

Operating, Drilling or Development Contracts. Requires statement showing interest held by the contractor and a copy of the contract. Copies of contracts are required to obtain approval to permit operators to enter into contracts with a number of lessees sufficient to justify operations on a large scale.

Subsurface Storage of Oil and Gas. Requires application to obtain BLM authorization to store oil and gas underground on Federal lands. BLM requires the information to determine if the subsurface storage avoids waste and promotes conservation of the natural resources.

Heirs and devisees. In case of the death of an offeror of a tract for a Federal lease, applicant, lessee or transferee, the regulations require a statement that heirs and devisees are qualified to hold a lease interest in accordance with the law.

Change of Name. Requires that a change of name of the lessee be reported to the proper BLM office. The notice of name change must include a list of serial numbers of the leases affected. This information is necessary for acreage chargeability purposes.

Corporate Merger. Requires notification by lessee of corporate merger along with a list of leases affected, which BLM uses to determine acreage accountability.

Renewal Leases. Requires application for renewal, but no specific form. This information requirement may be submitted on the multipurpose lease form 3100-11, which has been designated "certification only" by OMB.

Relinquishments. Requires written relinquishment by lessee of a lease or subdivision thereof, but no specific form is required.

Petition for Reinstatement. Requires petitions of reinstatement showing that failure to pay rental, or timely file required instruments, was inadvertent, justifiable, or not due to the lack of reasonable diligence on the part of the lessee. This information is required by law and BLM uses it to determine whether the petitioner is eligible for Class I, II, or III lease reinstatement.

Leasing Under Rights-of-Way. Requires application, but no specific form, for lease of lands under certain types of rights-of-way. Form 3100-11 may be used. The information is required by 30 U.S.C. 301, which authorizes the leasing of oil and gas deposits under railroads and other certain types of rights-of-way, to the owner of the right-of-way, or the entering of a compensatory royalty agreement.

Application for Oil and Gas Exploration Permit in Alaska. The information is required for any person wishing to conduct oil and gas geophysical exploration operations in Alaska as required by the Alaska National Interest Lands Conservation Act, Section 1008. BLM requires this information to determine if the

applicant complies with the terms and conditions of the law.

Collection and Submission of Data for an Exploration Permit. BLM requires this information to determine what actions and operations are intended by a exploration permittee in Alaska or on DOD lands, and that the permittee complies with the terms and conditions of the exploration permit.

Completion of Operations. Requires a completion report containing a description of the work, dates exploration was conducted, maps showing the exploration area, and a statement that the operator has complied with all terms and conditions of the permit, or outlines the corrective measures that the operator will take to rehabilitate the lands. BLM needs the information to determine that the operations are complete in order to release your bond.

OMB 1004-0134

Various data on oil and gas operations required to be submitted by the operator or operating rights owner are approved under OMB 1004-0134, Non-form Items. The collection expires November 30, 2000. The information provides data so that proposed operations may be approved; it enables BLM to monitor compliance; and it is used to grant approval to begin or alter operations or to allow operations to continue. The specific information items in this collection cover the following activities:

Drilling Plan. The drilling plan provides technical data and information about the proposed drilling, completing, and associated surface access for a well. BLM needs this information to assure that operations are technically feasible and are conducted in a manner that protects water resources and other environmental values under NEPA, and protects health and safety.

Well Markers. The marker identifies the surface location and provides detailed well information. BLM requires this information to locate wells drilled on Federal or Indian lands.

Directional Drilling. The operator must submit this information to identify whether or not there is potential for adverse impacts on adjoining leases. If drainage or lease boundary crossing is likely, the operator is required to perform a directional survey to chart the direction of the deviation and the bottom hole location. The operator must submit information about the direction of the deviation and the subsurface location of the hole.

Drilling Tests, Logs, and Surveys. Operators routinely perform tests, logs, and surveys during the normal course of business so a copy of the company

record suffices. The data consists of lithologic and quantitative logs to indicate type of mineral encountered; drill stem tests to indicate type of hydrocarbon; and possible exposure to gases such as hydrogen sulfide.

Plug and Abandon for Water Injection. Various leasing statutes require the prevention of waste and various laws require the protection of water resources and prevention of undue harm to the surface and subsurface environment. The abandonment plan delineates measures to protect water; measures to prevent escape of toxic gases (hydrogen sulfide); proof of the complete extraction of the oil or gas; any proposed secondary use of the well (water injection); possible requests to waive the requirement for well markers; and mitigation of surface disturbance. The provision for oral approval to remove a drill rig with subsequent written confirmation allows faster action and a reduction in the operator's rental expense.

Conversion to a Water Source Well. This information is required to allow BLM to approve the use of a nonproducing well as a water source well for either the operator or the operating rights owner.

Additional Gas Flaring. The regulations require the operator to conduct operations in such a manner as to prevent avoidable loss of oil and gas. The operator is liable for royalty payments for such losses. If the operator requests additional gas flaring, BLM may require a gas flaring evaluation report from the operator to justify any additional gas flaring requests.

Report of Spills, Discharges, or Other Undesirable Events. The operator must report to BLM all spills or leakages of oil, gas, produced water, toxic liquids, waste materials, etc. The operator's prompt notification enables BLM to protect public health and safety and the environment.

Disposal of Produced Water. BLM monitors the process by which the operator disposes of produced water. BLM needs the information to ensure adequate protection of public health and safety and compliance with environmental laws. The operator must describe the nature and manner in which the produced water will be disposed. The data provides the technical aspects of pit design to allow for sufficient water containment, thereby preventing unnecessary releases of produced water.

Contingency Plan. When BLM requires it, the operator must submit a contingency plan that describes procedures to be implemented to protect life, property, and the environment.

BLM may require either a copy of the Spill Prevention Control and Countermeasure Plan, which is submitted to the Environmental Protection Agency under 40 CFR 112, or another acceptable contingency plan. Plans are generally required for proposed operations in sensitive areas such as hydrogen sulfide high risk areas of Michigan, parts of Florida, Mississippi, and Wyoming, or when the nature of the proposal leads BLM to a determination that public health and safety requires such prior planning. The content of a contingency plan would depend on the nature of the potential hazard and the proximity to potentially affected population or resources.

Schematic/Facility Diagrams. The operator is responsible for documenting how the lease is developed. Most documentation is routinely prepared for company use and is therefore readily available. Within an established time of completing or modifying a facility, the operator submits schematic diagrams that depict facility functions and how oil and gas flows through the operation.

Facility diagrams are filed within 60 days after new measurement facilities are installed or existing facilities are modified or following the inclusion of the facility into a federally supervised unit or communitization agreement. The diagrams are needed to verify and account for all oil and gas produced.

Approval and Reporting of Oil in Pits. Having oil in pits is an unusual operational circumstance, except in emergency situations, and requires BLM's prior approval. Although uncommon, such production operation is reasonable under certain circumstances, and approval is on a case-by-case basis after proper justification.

Preparation of Run Tickets. The operator is required to furnish run ticket information to BLM and the Minerals Management Service, when requested, to account for the volume of production, and for royalty purposes.

Records on Seals. The operator must maintain a record of seal numbers used and document on which valves or connections they were used as well as when they were installed and removed. The seal records are needed for detection of possible theft of oil as well as the proper isolation of a tank prior to and following a sale.

Application for Suspension. In its applications for suspension of operations and/or production the operator must include a full statement of the circumstances that render the relief necessary. Leases and the laws under which they are issued require

operations and production and provide authority to suspend this requirement.

Site Security. Site security plans are required to be filed for all facilities. At the operator's option, a single plan may be completed to include all of that operator's leases within a single BLM District. Any security elements in excess of the minimum requirements that the operator wishes to implement, but wants to be held confidential, should not be filed with the BLM but must be available for inspection by BLM personnel on request. The notification can be modified from time to time as additional facilities are brought under the purview of any specific plan.

OMB 1004-0135

Form 3160-5, Sundry Notices and Reports on Wells, is approved under OMB 1004-0135. The collection expires November 30, 2000. The information an operator provides on the Sundry Notices form may be a notice of intent, a subsequent report, or a final abandonment notice and pertains to modifying operations conducted under the terms and provisions of a lease for Federal or restricted Indian lands. The data enables BLM oversight and approval prior to any modifications to existing wells.

OMB 1004-0136

Form 3160-3 Application for Permit to Drill or Reenter, is approved under OMB 1004-0136. Application for Permit to Drill, which expires November 30, 2000. The operator is required to prepare certain items such as drilling plans, diagrams, maps, and contingency and other plans, which are generally submitted with Form 3160-3. The information provides documentation that drilling and associated activities, when and if authorized, are technically and environmentally feasible and ensure proper conservation of resources. The information also provides a basis for evaluating a proposed well's feasibility and, in turn, determining whether the application should be disapproved or approved and, if approved, whether any special conditions of approval should be made part of the permit.

OMB 1004-0137

Form 3160-4, Well Completion or Recompletion Report and Log is approved under OMB 1004-0137, which expires November 30, 2000. BLM uses the information required on Form 3160-4 for technical evaluation of operations performed on a well. The form documents that the operator carried out operations in accordance with the terms and provisions of the

lease and in a technically and environmentally safe manner. Failure to collect and submit the requested information would mean that BLM would lack the necessary information to monitor compliance with authorized well activity and operations that were performed on wells.

Authors

The principal authors of this rule are Tim Abing (Milwaukee District Office), Jim Albano (Montana State Office), Lonny Bagley (Montana State Office), Shirlean Beshir (Eastern States Office), Peter Ditton (Great Falls Resource Area Office), Karen Johnson (Montana State Office), Pam Lewis, (Wyoming State Office), Robert Lopez (Utah State Office), Patty Ramstetter (Utah State Office), Sherri Thompson (Colorado State Office), Rick Wymer (New Mexico State Office), John Duletsky of BLM's Fluid Minerals Group (Washington Office) and Ian Senio of BLM's Regulatory Affairs Group (Washington Office).

List of Subjects

43 CFR Part 3100

Administrative practice and procedures, Classified information, Freedom of Information Act, Oil and gas exploration, Public lands-mineral resources, Reporting and recordkeeping requirements, Surety bonds.

43 CFR Part 3110

Alaska, Oil and gas exploration, Public lands-mineral resources, Reporting and recordkeeping requirements, Surety bonds.

43 CFR Part 3120

Government contracts, Oil and gas exploration, Public lands-mineral resources, Reporting and recordkeeping requirements, Surety bonds.

43 CFR Part 3130

Government contracts, Oil and gas exploration, Public lands-mineral resources, Reporting and recordkeeping requirements.

43 CFR Part 3140

Government contracts, Mineral royalties, Oil and gas exploration, Public lands-mineral resources, Reporting and recordkeeping requirements.

43 CFR Part 3150

Government contracts, Indians-lands, Mineral royalties, Oil and gas exploration, Public lands-mineral resources, Reporting and recordkeeping requirements.

43 CFR Part 3160

Government contracts, Indians-lands, Mineral royalties, Oil and gas exploration, Penalties, Public lands-mineral resources, Reporting and recordkeeping requirements.

43 CFR Part 3170

Government contracts, Hydrocarbons, Mineral royalties, Oil and gas exploration, Public lands-mineral resources, Reporting and recordkeeping requirements.

43 CFR Part 3180

Alaska, Government contracts, Mineral royalties, Oil and gas exploration, Oil and gas reserves, Public lands-mineral resources, Reporting and recordkeeping requirements, Surety bonds.

Accordingly, for the reasons stated in the preamble, amend Title 43, Subtitle B, Chapter II, Subchapter C, Parts 3100, 3110, 3120, 3130, 3140, 3150, 3160, and 3180 as follows:

Dated: July 23, 1998.

Bob Armstrong,

Assistant Secretary, Land and Minerals Management.

1. Revise part 3100—Oil and Gas Leasing to read as follows:

PART 3100—ONSHORE OIL AND GAS LEASING AND OPERATIONS: GENERAL

Subpart 3101—General Information**General****Sec.**

- 3101.5 What terms do I need to know to understand BLM's oil and gas regulations?
- 3101.8 Reference material.
- 3101.10 What do the regulations in parts 3100 through 3190 cover?
- 3101.11 Who must comply with the lease terms, regulations, orders, and Notices to Lessees (NTL's) BLM issues?
- 3101.12 As a record title owner, what are my obligations?
- 3101.13 As an operating rights owner, what are my rights and obligations?
- 3101.14 Does BLM warrant title to the oil and gas deposits when it issues a lease or approves subsequent lease actions or lease operations?
- 3101.15 Must I give BLM information and documentation about my lease?
- 3101.16 What requirements must I follow in addition to the regulations in parts 3100 through 3190 of these regulations?
- 3101.17 May BLM establish development and production requirements for my lease?
- 3101.18 Will I be responsible for compensating the United States or Indian lessor if my lease is being drained of oil and gas by wells on adjacent tracts?

3101.19 May I obtain relief from the requirements of these regulations or other requirements BLM developed?

3101.20 When will BLM consider a document filed?

3101.21 Are there other requirements that affect oil and gas operations on Federal or Indian lands?

3101.22 May I appeal BLM's decisions under parts 3100 through 3190?

Subpart 3102—Recordkeeping**Recordkeeping**

3102.10 What records must I keep?

3102.11 How long must I keep records?

Subpart 3103—Reports, Submissions, and Notifications**Reports, Submissions, and Notifications**

3103.10 What reports and notifications must I submit to BLM?

3103.11 If I am the record title or operating rights interest owner, what must be filed with BLM to authorize someone else to conduct operations on my lease?

Subpart 3104—Environment and Safety**Environment and Safety**

3104.10 How may I use the surface and subsurface of my lease to develop oil and gas?

3104.11 May BLM take measures to minimize adverse impacts to resource values, land uses or users not addressed in the lease stipulations and not required by statutes or regulations?

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3105.12 If I am not qualified to hold a lease, may I hold one anyway if I acquire it by descent, will, judgement or decree?

3105.13 Under what circumstances may minors acquire or hold interest in a Federal oil and gas lease?

3105.14 Under what conditions will I be prohibited from acquiring a lease or interest in a lease?

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3105.21 What is the boundary between the two leasing districts in Alaska?

3105.22 What is the acreage limitation for holding, owning or controlling oil and gas lease interests on acquired lands?

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3105.29 How does BLM compute chargeable acreage?

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- 3107.10 Who may file an oil and gas lease bond?
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- 3107.17 Is there a special bond form I must use?
- 3107.18 Is there any other documentation that I must file with a surety bond?
- 3107.19 Where must I file my bond?
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- 3107.61 As the principal on the bond, may BLM require me to restore the face amount of my bond or require me to replace my bond after BLM makes demand against it?
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- 3107.70 After I fulfill all of the lease terms and conditions, will BLM cancel my bond?
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- 3108.10 Must I file a bond before starting an exploration project?
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- 3108.13 May I use an oil and gas lease bond to cover exploration operations?
- 3108.14 Will BLM increase my bond amount?
- 3108.15 When will BLM cancel my geophysical bond?
- 3108.16 What will happen if I do not complete additional reclamation that BLM requests?
Authority: 16 U.S.C. 3150(b) and 668dd; 30 U.S.C. 189, 306 and 359; 43 U.S.C. 1201, 1732(b), 1733, 1734 and 1740; and Pub. L. 105-85.

Subpart 3101—General Information**General****§ 3101.5 What terms do I need to know to understand BLM's oil and gas regulations?**

You need to know the following terms to understand parts 3100 through 3190—

Abandonment means operations you conduct to permanently plug a well.

Access, with respect to production, means the ability to enter into any—

- (1) Tank or pipe system through a valve, valves, or combination of valves,

or tankage that would permit the removal of oil or gas; or

(2) Component in a measuring system that could affect the quality or quantity of the product being measured, without documentation.

Acquired lands means lands that the United States obtained by deed through purchase or gift, or through condemnation proceedings, including lands previously disposed of under the public land laws, excluding Indian lands.

Act means the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*).

Aliquot part means a subdivision of a section under the rectangular survey system arrived at by dividing a section into halves and quarters (e.g., 1/2 section, 1/4 section, 1/4 1/4 section) down to 40 acres, unless the acreage is a lot that may be more or less than 40 acres.

Allocated production means the proportionate share of production that is credited to a Federal or Indian lease under an approved agreement to which the lease is committed.

Association means any entity other than a corporation that is permitted under State law to hold property in its name.

Available lands means those lands not excluded from leasing by a statutory or regulatory prohibition and which the Secretary has discretion to lease.

Avoidably lost means—

(1) Produced gas you vent or flare without BLM's prior, written approval, unless otherwise allowed under parts 3100 through 3190; and

(2) Produced oil or gas lost when BLM determines that the loss occurred as a result of your—

(i) Negligence;

(ii) Failure to take all reasonable measures to prevent or to control the loss; or

(iii) Failure to comply fully with the applicable laws, lease terms, and regulations, appropriate provisions of a previously approved operating plan, or the provisions of prior written BLM orders.

Beneficial purposes means oil or gas that you produce but do not sell from your lease, communitized tract, or unitized participating area and that you use on or for the benefit of that same lease, same communitized tract, or same unitized participating area for operating or producing purposes. Examples include—

(1) Fuel you use to lift oil or gas;

(2) Fuel you use to heat oil or gas to place it in a marketable condition;

(3) Fuel you use to compress gas to place it in a marketable condition;

(4) Fuel you use to fire steam generators for the enhanced recovery of oil; or

(5) Gas you use to actuate automatic valves at wells or facilities.

BIA means the Bureau of Indian Affairs of the Department of the Interior.

Bioremediation means a treatment technology that uses a natural process in which microorganisms, primarily bacteria and fungi, chemically alter and break down organic molecules into other substances, primarily carbon dioxide and water.

BLM means any employee of the Bureau of Land Management authorized to perform the duties described in parts 3100 through 3190.

Blowout prevention equipment system (BOP) means the kill line, choke manifold, closing unit, diverter, blowout preventer, and auxiliary equipment required to operate the blowout preventer under varying rig and well conditions.

Bona fide purchaser means a person who acquired an interest in a Federal lease—

(1) In good faith;

(2) For valuable consideration; and

(3) Without notice of violation of Departmental regulations.

Bond means an agreement in writing in which a surety, or an obligor for a personal bond, guarantees performance or compliance with the lease terms.

Bond rider means any document that amends and becomes a part of an existing bond.

Bonus bid means money a successful bidder pays to the United States for a competitive oil and gas lease.

Bypass means any piping arrangement that allows oil or gas to continue on the sales or allocation lines without passing through the meter. Equipment that allows you to change the orifice plate without bleeding the pressure off the gas meter run is not a bypass.

Cancellation of a lease means revocation or nullification of a lease.

Casual use means activities that involve practices that do not ordinarily lead to any appreciable disturbance or damage to lands, resources, or improvements. Casual use includes activities that do not involve using heavy equipment or explosives and that do not involve vehicular movement except over established roads and trails. For subparts 3110 through 3113, gravity or magnetic surveys, the placement of recording equipment devices, and activities that do not involve vehicle operations that would cause significant compaction or rutting are generally considered casual use.

Commingle means combining production from different formations,

leases, communitized areas, or unit participating areas prior to sale.

Committed lease means a Federal, Indian, State or private lease where all owners of record title and all working interest owners have agreed in writing that they will abide by the terms and conditions of an agreement.

Committed in part means a lease of which only a part of the lands have been committed to an agreement.

Communitization agreement means an agreement to jointly operate a lease with one or more other leased or unleased tracts to share the benefits of production within a single spacing unit.

Completion operations means work you conduct to prepare your well for production of oil or gas or service.

Condensate means those natural gas liquids recovered in production equipment or pipelines that remain in a liquid state at atmospheric pressure and temperature, and consist primarily of pentanes and heavier hydrocarbons.

Condition of approval (COA) means a site-specific requirement BLM attaches to approved Applications for Permits to Drill or Renter (APD) or Sundry Notices and Reports (SN).

Director means the Director of the Bureau of Land Management.

Dispersion technique means a mathematical representation of the physical and chemical transportation, dilution, and transformation of H₂S gas emitted into the atmosphere.

Drainage means the migration of hydrocarbons, inert gases or associated resources from Federal or Indian lands caused by production from wells on adjacent lands.

Eligible lands means those lands available for leasing when all statutory requirements and reviews have been met.

Enhanced recovery unit means a unit created to produce oil and gas from an area that is unrecoverable by primary recovery methods.

Escape rate means the maximum volume used as the escape rate in determining the radius of exposure specified as follows:

(1) For a production facility, it is the maximum daily rate, or the best estimate of that rate, of gas you produce through that facility;

(2) For gas wells, it is the current daily absolute open-flow rate against atmospheric pressure;

(3) For oil wells, you must calculate it by multiplying the producing gas-oil ratio by the maximum daily production rate; and

(4) For a well you are drilling in a developed area, you may determine the escape rate by using offset wells completed in the interval(s) in question.

Essential personnel means those on-site personnel directly associated with the operation being conducted and necessary to maintain control of the well.

Exception means a case-by-case waiver of a lease stipulation, condition of approval, order, or lease term, that continues to apply to all other sites within the leasehold, or area covered by the original order, stipulation or condition of approval.

Exploratory unit means two or more leases operated under an agreement for the purpose of exploring for or developing the oil and gas resources of an area.

Federal lands means all lands and interests in lands owned by the United States that are subject to the mineral leasing laws, including mineral resources or mineral estates reserved to the United States in the conveyance of a surface or nonmineral estate, excluding Indian lands.

Federal lease means an onshore oil and gas lease issued under the mineral leasing laws. It does not include Indian oil and gas leases.

Gas means any fluid, excluding helium, either combustible or noncombustible, that is produced in a natural state from the earth and which maintains a gaseous or rarefied state at ordinary temperatures and pressure conditions. This includes any fluid within coal resources.

Gas well means a well for which the energy equivalent of the gas it produces, including the entrained liquid hydrocarbons, exceeds the energy equivalent of the oil it produces.

Geophysical exploration means activity relating to the search for oil or gas that results in surface disturbance or disturbance to resources or land uses. It includes, but is not limited to, geophysical operations, construction of roads and trails and cross-country transit of vehicles over the lands. It does not include core drilling for subsurface geologic information or drilling for oil or gas. However, this definition includes drilling operations necessary for placing explosive charges.

H₂S public protection plan means a written plan that provides for the safety of the potentially affected public with regard to H₂S and sulphur dioxide (SO₂).

Hazardous material: (1) Means any—

- (i) Substance, pollutant, or contaminant listed as hazardous under 42 U.S.C. 9601;
- (ii) Hazardous waste defined under 42 U.S.C. 9601;
- (iii) Extremely hazardous substances defined under 40 CFR part 355; or

(iv) Nuclear or byproduct material defined under 42 U.S.C. 2011;

(2) Does not include any petroleum products that are not otherwise specifically listed or designated as a hazardous substance under 42 U.S.C. 9601 (14). The term does not include natural gas, natural gas liquids, liquified natural gas, or synthetic gas useable for fuel (or mixture of natural gas and synthetic gas).

Hazardous substance: (1) Means any—

- (i) Substance designated under 33 U.S.C. 1321(b)(2)(A);
- (ii) Element, compound, mixture, solution, or substance designated under 42 U.S.C. 9602;
- (iii) Hazardous waste having characteristics identified under or listed under 42 U.S.C. 6921 (but not including any waste the regulation of which under the Solid Waste Disposal Act, 42 U.S.C. 6901 *et seq.*, has been suspended by Act of Congress);
- (iv) Toxic pollutant listed under 33 U.S.C. 1317(a);
- (v) Hazardous air pollutant listed under 42 U.S.C. 7412; or
- (vi) Immediately hazardous chemical substance or mixture with respect to which the Administrator of the Environmental Protection Agency has taken action under 15 U.S.C. 2606;

(2) Does not include any petroleum products that are not otherwise specifically listed or designated as a hazardous substance under this definition. The term does not include natural gas, natural gas liquids, liquified natural gas, or synthetic gas useable for fuel (or mixture of natural gas and synthetic gas).

Held by production means a lease term is extended so long as oil or gas is produced or capable of being produced in paying quantities from the lease or agreement area to which the lease is committed.

Indian lands means any lands or possessory interest in lands owned or held by any individual Indian or Alaska Native, Indian tribe, band, nation, pueblo, community, rancheria, colony, or other group, the title to which is held in trust by the United States or, as a matter of Federal law, is subject to a restriction against alienation.

Indian lease means an oil and gas lease on Indian lands issued under the regulations in Title 25 of the CFR and approved by the Secretary, or an agreement entered into under the Indian Mineral Development Act of 1982 (25 U.S.C. 2102) and the regulations in 25 CFR part 225.

Injection well means a well used to dispose of produced water or used for

primary or enhanced recovery operations of oil or gas.

Interest means ownership in a lease or future interest lease of all or a portion of the record title or operating rights.

Isolating means using one or any combination of cement, cast iron bridge plugs, or retainers, to protect, separate, or segregate usable water and mineral resources.

Lease means any contract, profit-share arrangement, joint venture or other agreement issued or approved by the United States under a mineral leasing law that authorizes exploration for, or extraction and removal of oil and gas.

Lease site means any lands on which exploration for, or extraction and removal of, oil or gas is authorized under the lease.

Lessee means any person holding record title or operating rights in a lease issued or approved by the United States.

Marketable condition means lease products that are sufficiently free from impurities and otherwise in a condition that they will be accepted by a purchaser under a sales contract typical for the field or area.

Maximum ultimate economic recovery means the recovery of oil and gas from leased lands that a prudent operator could be expected to make from that field or reservoir—

- (1) Given existing knowledge of reservoir and other pertinent facts; and
- (2) Utilizing common industry practices for primary, secondary or tertiary recovery operations.

Meter calibration means the operation by which you compare meter readings with an accepted standard and when necessary, adjust the meter so that its readings conform to that standard.

Meter uncertainty means the overall inaccuracy of a flow meter caused by the inherent errors of the flow measurement equipment.

Minimum royalty means the minimum amount of annual royalty due under the lease or under parts 3100 through 3190 after production is established.

Mishandling means unmeasured or unaccounted-for removal of production from a facility other than through theft.

Modification means a temporary or permanent change to the provisions of a lease stipulation, condition of approval, order, or lease term. It may include an exception from or alteration to a stipulation, condition of approval, order, or lease term. The modified stipulation, condition of approval, order, or lease term may apply to all or part of the leasehold or area covered by the original order or condition of approval.

National Forest System Lands (NFS) means all National Forest lands reserved or withdrawn from the public domain of the United States, or acquired through purchase, exchange, donation, or other means. It also includes the National Grasslands and land utilization projects administered by the U.S. Department of Agriculture, Forest Service, under Title III of the Bankhead-Jones Tenant Act (7 U.S.C. 1010 *et seq.*), and other lands, waters, or interests administered by the Forest Service as part of the system under 16 U.S.C. 1609.

National Pollutant Discharge Elimination System (NPDES) means a program administered by the Environmental Protection Agency, primacy State, or Indian tribe, that requires permits for the discharge of pollutants from any point source into navigable water of the United States.

Off-lease measurement means conducting measurements at a tank battery or measurement facility off the lease.

Oil means all nongaseous hydrocarbon substances other than those substances leasable as coal, oil shale or gilsonite (including all vein-type solid hydrocarbons).

Oil well means a well for which the energy equivalent of the oil it produces exceeds the energy equivalent of the gas it produces, including the entrained liquid hydrocarbons.

Operating rights (working interest) means any interest held in a lease with the right to explore for, develop, and produce leased substances.

Operating rights owner means a person who holds operating rights in a lease issued by the United States. A lessee may also be an operating rights owner in a lease if it did not transfer all of its operating rights in a lease.

Operator means any person or entity (whether a lessee or operating rights owner or an agent thereof) who has stated in writing to BLM that it is responsible under the terms and conditions of the lease for the operations conducted on the lease or portions of the lease. An operator need not be an operating rights owner.

Participating area means the lands that contain at least one well that meets the productivity criteria established in an exploratory unit agreement. A participating area may be particular to separate producing intervals or areas.

Paying well means—

(1) On a lease basis, a well with sufficient production capacity to recover the cost of day-to-day operating expenses with a profit, no matter how small; or

(2) On a unit basis, a well with sufficient production capacity to return

a reasonable profit over the cost of drilling, equipping, completing and operating that well.

Person means any individual, firm, corporation, association, partnership, trust, consortium, or joint venture.

Primary element means the equipment necessary to produce a measurable and predictable pressure drop in the gas stream. For orifice installations this includes the orifice plate, orifice plate flanges or plate holder, the meter tube or "run", thermometer well and sampling taps, and straightening vanes.

Produced water means water produced in conjunction with oil and gas production.

Producing interval means the geologic strata from which you extract hydrocarbons. It does not have to be a recognized United States Geological Survey formation. BLM may consider multiple producing intervals from a formation as one producing interval.

Production facility means any header, piping, treating, or separating equipment, water disposal pit, processing plant, measurement facility, or combination of those things and includes the approved measurement point for any lease, communitization agreement, or participating area.

Production phase means that period of time or mode of operating during which crude oil is delivered directly to or through production vessels to the storage facilities and includes all operations at the facility other than those defined by the sales phase.

Prospectively valuable deposit of minerals means any deposit of minerals, other than fluid hydrocarbons, BLM determines to have characteristics of quantity and quality that make it technologically feasible to develop and, therefore, that warrant its protection from undue damage by oil and gas operations.

Public domain lands means lands, including mineral estates, that—

- (1) Never left United States ownership;
- (2) The United States obtained in exchange for public domain lands;
- (3) Have reverted to the ownership of the United States through the operation of the public land laws; or
- (4) That Congress specifically identified as part of the public domain.

Public lands means lands or minerals that the United States may lease for oil and gas.

Reclamation means returning disturbed land and water to their former uses or other productive uses in a stable state that maintains healthy ecological conditions.

Recompletion means reentering your well to restore productivity of the original completion.

Record title means legal ownership of an oil and gas lease recorded in BLM's records.

Record title owner means the person(s) to whom BLM issued a lease or the person(s) to whom BLM approved the transfer of record title in a lease.

Routine well maintenance means work you conduct on a well without altering its configuration. It includes replacing or repairing malfunctioning equipment, clean out, or evaluation. This work includes, but is not limited to—

- (1) Cutting paraffin and hot oil treatment;
- (2) Changing rods and tubing;
- (3) Bailing sand;
- (4) Pressure surveys;
- (5) Swabbing;
- (6) Scale or corrosion treatment;
- (7) Caliper and gauge surveys;
- (8) Removing or replacing subsurface pumps, packers, or screening pipe;
- (9) Running well logs;
- (10) Fishing objects from the wellbore that must be recovered before work can proceed; and

(11) Minor casing repairs.

Sales phase means that period of time or mode of operation during which you remove crude oil or condensate from storage facilities for sale, transportation or other purposes.

Seal means a uniquely numbered device that completely secures either a valve or those components of a measuring system that affect the quality or quantity of the liquid being measured.

Secondary element means the equipment necessary to convert the pressure drop created by the primary element into a flowrate and a flow volume. More specifically—

(1) For chart recorders, this includes the meter manifold, pressure lines, differential pressure unit, static pressure element, temperature element, and chart recorder; or

(2) For electric flow computers (EFC), this includes the meter manifold, pressure lines, differential pressure, static pressure, and temperature transducers and flow computer.

Secretary means the Secretary of the Interior or the authorized representative of that office.

Shut-in with respect to wells, means any well capable of producing in paying quantities or capable of service use, but not currently producing or not being used.

Spacing means regulating the number and location of wells in a field or area.

Stipulation means additional specific terms and conditions in the lease that

change the manner in which you may conduct operations or that may otherwise modify the standard lease terms.

Surface management agency means any agency, other than BLM, with jurisdiction over the surface overlying Federal or Indian owned minerals.

Suspension means temporary relief of a lessee's obligation to perform specific functions stipulated in Federal oil and gas lease terms, laws, and regulations.

Tagging the plug means running in the hole with a string of tubing or drill pipe and placing sufficient weight on the plug to ensure its integrity.

Temporarily abandoned with respect to wells, means a well not in use.

Toxic constituents means substances in produced water in toxic concentration specified by Federal or State regulations that have harmful effects on plant or animal life. These substances include, but are not limited to, arsenic (As), barium (Ba), cadmium (Cd), hexavalent chromium (hCr), total chromium (tCr), lead (Pb), mercury (Hg), zinc (Zn), selenium (Se), benzene, toluene, ethyl benzene, and xylenes, as defined in 40 CFR part 261.

Transfer means any conveyance of an interest in a lease by assignment, sublease or otherwise. The definition includes the terms assignment and sublease.

Unavoidably lost with respect to production, means—

(1) Gas vapors that are vented from storage tanks or other low-pressure production vessels, unless BLM determines that you must retain or recover those vapors;

(2) Oil or gas lost because of line failures, equipment malfunctions, blowouts, fires, or otherwise, when BLM determines that the loss did not result from your negligence or failure to take all reasonable measures to prevent or control the loss;

(3) Gas you vent or flare during emergencies, short-term well tests, short-term production tests, or otherwise with BLM's prior written approval; and

(4) Oil which you may dispose without incurring a royalty obligation when BLM has first determined it to be waste oil and to have no economic value.

Underground injection control (UIC) program means a program the Environmental Protection Agency, primacy State, or Indian Tribe

administers under the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*), to ensure that subsurface injection does not endanger underground sources of drinking water.

Unit agreement means a BLM-approved agreement to cooperatively explore, develop, operate and share production of all or part of an oil or gas pool, field or like area, including at least one Federal lease, without regard to lease boundaries and ownership.

Unit area means all committed leases, other committed tracts and unleased Federal lands included in a BLM-approved unit. The unit area excludes any uncommitted tracts within the external boundaries of the unit.

Unit operator means the person who has stated in writing to BLM that the interest owners of the committed leases have designated it as operator for the unit area.

Unitized substances means all oil and gas production that meets productivity criteria or all oil and gas production from established participating areas.

Usable water means water that contains less than 10,000 parts per million (ppm) of total dissolved solids.

Variance means a BLM-approved alternative that meets the intent of, and allows you to comply with, a provision or standard of parts 3100 through 3190.

Waiver means a BLM-granted permanent exemption from a lease stipulation, condition of approval, order, lease term for the entire leasehold, or area covered by the original order or condition of approval.

Waste means your act or failure to act that is not sanctioned by BLM as necessary for proper development and production and that results in—

(1) A reduction in the quantity or quality of oil and gas ultimately producible from a reservoir under prudent and proper operations;

(2) Avoidable surface loss of oil or gas; or (3) An avoidable change in the quality or quantity of produced oil or gas which may result in a reduced value of such production.

Waste oil means oil or condensate that BLM determines has no economic value because it is of such poor quality that it cannot be treated and placed in a marketable condition with existing or modified lease facilities or portable equipment and cannot be profitably sold to a reclaimer.

Workover means operations you conduct to maintain, restore, or increase production or serviceability of a well in its present completion interval.

Zones known to contain hydrogen sulfide (H₂S) means a geological formation in a field where prior drilling, logging, coring, testing, or producing operations have confirmed that H₂S-bearing zones will be encountered that contain 100 ppm or more of H₂S in the gas stream; and Zones reasonably expected to contain H₂S means geological formations in the area which have not had prior drilling, but prior drilling to the same formations in similar field(s) within the same geologic basin indicates there is potential for 100 ppm or more of H₂S in the gas stream.

§ 3101.8 Reference material.

(a) *Matter incorporated by reference.* There are industry publications in part 3100 that are incorporated by reference. These publications are not specifically set out in the regulatory text but only referenced. The referenced material is part of the regulations in parts 3100 through 3190 and you must comply with it. BLM considers cited American Petroleum Institute (API) recommended practices to be mandatory. Material is incorporated as it exists in the specific document cited and BLM will publish a notice of any change in the material in the **Federal Register**. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(b) *Accessibility of materials.* You may purchase copies of the referenced materials from the American Petroleum Institute, Order Desk, 1220 L Street, N.W., Washington, D.C., 20005. Certain out-of-print or withdrawn API publications may be purchased from Global Engineering Documents, 15 Inverness Way East, P.O. Box 1154, Englewood, Colorado, 80150-1154. You may inspect copies at the Bureau of Land Management, Regulatory Affairs Group, Room 401, 1620 L Street, N.W., Washington, D.C. 20036 or at the Office of the Federal Register, 800 North Capitol St., N.W., Suite 700, Washington, D.C.

(c) *Table of material incorporated by reference.* The following table sets out publications that are incorporated by reference. The first column sets out the name of the publication and where you may purchase it. The second column lists the section(s) of these regulations in which the publication is referenced. The second column is for information only and may not be all inclusive.

Name of material (vendor)	43 CFR section where the material is incorporated
(1) API RP 55, "Recommended Practices for Conducting Oil and Gas Producing and Gas Processing Plant Operations involving Hydrogen Sulfide", Second Edition, February 15, 1995 (API Documents).	3151.23 (b) and (d).
(2) API RP 12R1, "Recommended Practice for Setting, Maintenance, Inspection, Operation and Repair of Tanks in Production Service", Fifth Edition, August 1997 (API Documents).	3153.20(a).
(3) API Manual of Petroleum Measurement Standards (MPMS), Chapter 3.1A, "Standard Practice for the Manual Gauging of Petroleum and Petroleum Products", First Edition, December 1994 or API MPMS Chapter 3.1 B, "Standard Practice for Level Measurement of Liquid Hydrocarbons in Stationary Tanks by Automatic Tank Gauging", First Edition, April 1992 (Reaffirmed January 1997). (API Documents).	3153.20(e).
(4) API MPMS, Chapter 2.2A, "Measurement and Calibration of Upright Cylindrical Tanks by the Manual Tank Strapping Method", First Edition, February 1995 (API Documents).	3153.20(b).
(5) API MPMS, Chapter 2.2B, "Calibration of Upright Cylindrical Tanks Using the Optical Reference Line Method", First Edition, March 1989 (Reaffirmed May 1996) (API Documents).	3153.20(b).
(6) API MPMS, Chapter 18.1, "Measurement Procedures for Crude Oil Gathering from Small Tanks by Truck", Second Edition, April 1997 (API Documents).	3153.20(c).
(7) API MPMS, Chapter 8.1, "Standard Practice for Manual Sampling of Petroleum and Petroleum Products", Third Edition, October 1995, (ASTM D4057), or Chapter 8.2, "Sampling of Liquid Petroleum and Petroleum Products", Second Edition, October 1995 (ANSI/ASTM D4177) (API Documents).	3153.20(d).
(8) API MPMS, Chapter 9.1, "Hydrometer Test Method for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products", (ANSI/ASTM D1298), June 1981 (Reaffirmed October 1992) (API Documents).	3153.20(f) and 3153.31.
(9) API MPMS, Chapter 7.1, "Static Temperature Determination Using Mercury-In-Glass Tank Thermometers", First Edition, February 1991. (Reaffirmed November 1996) (API Documents).	3153.20(g).
(10) API MPMS, Chapter 10.4, "Determination of Sediment and Water in Crude Oil by the Centrifuge Method (Field Procedure)", Second Edition, May 1988 (ASTM D96-88) (Reaffirmed May 1998) (API Documents).	3153.20(h) and 3153.31.
(11) API Specification 11N, "Specification for Lease Automatic Custody Transfer (LACT) Equipment", Fourth Edition, November 1, 1994 (API Documents).	3153.30(b)(1).
(12) API MPMS, Chapter 6.1, "Lease Automatic Custody Transfer (LACT) Systems", Second Edition, May 1991 (Reaffirmed July 1996) (API Documents).	3153.30 (a), (b)(2) and 3153.32(a).
(13) API MPMS, Chapter 12.2, "Calculation of Liquid Petroleum Quantities Measured by Turbine or Displacement Meters", First Edition, September 1981 (Reaffirmed May 1996) (API Documents).	3153.32(d)(1) and 3153.37(b)(1).
(14) API MPMS, Chapter 11.1, Volume I, "Table 5A—Generalized Crude Oils and JP-4, Correction of Observed API Gravity to API Gravity at 60 °F." "Table 6A—Generalized Crude Oils and JP-4, Correction of Volume to 60 °F Against API Gravity at 60 °F." (ANSI/ASTM D 1250-80), (IP 200) (API Standard 2540) August 1980 (Reaffirmed October 1993) (API Documents or ASTM Documents).	3153.32(d)(2).
(15) API MPMS, Chapter 11.2.1, "Compressibility Factors for Hydrocarbons: 0-90° API Gravity Range", First Edition, August 1984 (Reaffirmed May 1996) (API Documents).	3153.32(d)(3).
(16) API MPMS, Chapter 14.3, "Orifice Metering of Natural Gas and Other related Hydrocarbon Fluids", Second Edition, September 1985 (ANSI/API 2530) (Global Documents).	3154.20(a)(1).
(17) API MPMS, Chapter 14.3, Part 2, "Specification and Installation Requirements", Third Edition, February 1991, Reaffirmed May 1996 (ANSI/API 2530, Part 2, 1991) (API Documents).	3154.20(a)(2) and 3154.40(a)(1).
(18) API MPMS, Chapter 14.3, Part 3, "Natural Gas Applications", Third Edition, August 1992 (API Documents).	3154.21.
(19) API MPMS, Chapter 20.1, "Allocation Measurement", First Edition, September 1993 (API Documents).	3154.32 (a) and (b).
(20) API MPMS Chapter 14.1 "Collecting and Handling of Natural Gas Samples for Custody Transfer, Fourth Edition, August 1993" (API Documents).	3154.70(c).
(21) API Bulletin E3, "Well Abandonment and Inactive Well Practices for U.S. Exploration and Production Operations, Environmental Guidance Document", First Edition, January 1993 (Section 2) (API Documents).	3159.22(a).
(22) API RP 49, "Recommended Practices For Safe Drilling of Wells Containing Hydrogen Sulfide", Second Edition, April 15, 1987 (Global Documents).	3145.41(a), 3145.44 (a) and (d).
(23) API RP 53, "Recommended Practice for Blowout Prevention Equipment Systems for Drilling Wells", Third Edition, March 1997 (API Documents).	3145.30(c) and 3145.33(a)(2).
(24) API RP 54, "Recommended Practice for Occupational Safety for Oil and Gas Well Drilling and Servicing Operations," Second Edition, May 1, 1992 (API Documents).	3145.31 and 3145.34(a).

§ 3101.10 What do the regulations in parts 3100 through 3190 cover?

(a) These regulations apply to the leasing of Federal lands for oil and gas. These regulations also provide the operational requirements associated with the exploration, development and production of oil or gas on both Federal and Indian lands.

(b) The regulations relating to site security, measurement, reports of operation activities, and assessments or penalties for noncompliance with the requirements apply to your wells or facilities on State or privately-owned mineral lands committed to an agreement approved by the Department of Interior, such as a unit or

communitization agreement, in which Federal lands or Indian lands share in production.

(c) Notwithstanding the regulations in title 25 of the CFR concerning oil and gas operations on Indian leaseholds, the regulations in this part govern with respect to your conduct of oil and gas

operations, acts of noncompliance, and BLM's jurisdiction and authority.

(d) These regulations do not apply to Osage Indian lands.

§ 3101.11 Who must comply with the lease terms, regulations, orders and Notices to Lessees (NTL's) BLM issues?

Interest owners and operators must comply with the lease terms, regulations and BLM's orders and NTL's. Their agents, contractors or subcontractors must also comply. The interest owner and operator are responsible if they do not comply.

§ 3101.12 As a record title owner, what are my obligations?

(a) You are responsible for all performance on the lease, including paying any rent and royalty due. If there is more than one record title or operating rights owner, each of you is jointly and severally liable for nonmonetary lease obligations, including the obligation to protect the lease from drainage and to pay compensatory royalty that may be owed. You also are jointly and severally liable for plugging and abandonment obligations that accrue while you hold your record title interest. This means that if you own a 50 percent record title interest in the lease, BLM may hold you responsible for 100 percent of the lease obligations if your joint owner(s) defaults. However, for monetary obligations, such as paying rent and royalty, your obligation is proportionate to your interest. Therefore, if you own 25 percent of the record title interest, you are liable for only 25 percent of the rental and royalty on production.

(b) You are ultimately responsible for compliance with the lease terms and conditions regardless of who conducts actual lease operations.

§ 3101.13 As an operating rights owner, what are my rights and obligations?

(a) You have the right to enter the leased lands to conduct drilling and related operations including producing oil or gas, according to the lease terms.

(b) You have the right to authorize another party to conduct operations on the lease.

(c) You are jointly and severally liable with the other record title or operating rights holders in the lease for all nonmonetary lease obligations pertaining to that portion of the lease subject to your operating rights, and proportionately liable for monetary obligations with other operating rights holders for that portion of the lease subject to your operating rights.

§ 3101.14 Does BLM warrant title to the oil and gas deposits when it issues a lease or approves subsequent lease actions or lease operations?

If BLM issues a Federal oil and gas lease or approves your application under parts 3100 through 3190, the United States—

(a) Does not make any warranty of title, either express or implied, to the oil and gas deposits;

(b) Is under no obligation to you to either discover or dispose of any other person's claims to the oil and gas deposits or assume any obligation to defend the oil and gas lease against any claims; and

(c) Does not warrant or certify that you hold legal or equitable title to your leases which would entitle you to conduct drilling operations.

§ 3101.15 Must I give BLM information and documentation about my lease?

You must give BLM any information or documentation that BLM requests to properly administer your lease or to determine your compliance with applicable laws and regulations. This information may include, but is not limited to, information about your lease operations or production.

§ 3101.16 What requirements must I follow in addition to the regulations in parts 3100 through 3190?

BLM may—

(a) Include lease stipulations to minimize the impacts or interference that oil and gas operations may cause to other resource values, land uses or users. BLM will provide notice of the stipulations on oil and gas lease parcels before any of the lands are offered for lease. You agree to the stipulations attached to the parcel offered for lease when you bid on a competitive lease parcel or file a noncompetitive lease offer. Stipulations become a part of the terms of your lease and replace any inconsistent provisions of the standard lease form at the time of lease issuance. You must comply with the stipulations for all actions you take on the lease. Some examples of common stipulation types include—

(1) Limitations on when you may conduct operations;

(2) No surface occupancy;

(3) Other surface use restrictions; and

(4) Requirements to join an approved agreement.

(b) Impose conditions of approval on the granting of required permits or authorizations that are reasonable and necessary for the protection of resources and other uses of the land and which are consistent with lease rights;

(c) Issue NTL's to provide information or explanation as to how the regulations

in this part apply to your lease operations, or to provide alternative methods to meet the requirements of these regulations;

(d) Issue written or oral orders to you for specific lease operations. BLM will confirm an oral order in writing;

(e) Require tests and surveys to—

(1) Determine the presence, quantity, and quality of oil, gas, other minerals, or the presence or quality of water;

(2) Determine the amount and/or direction of deviation of any well from the vertical;

(3) Determine the relevant characteristics of the oil and gas reservoirs penetrated; and

(4) Demonstrate the mechanical integrity of the downhole equipment; and

(f) Require you to provide other information required for proper administration of your lease.

§ 3101.17 May BLM establish development and production requirements for my lease?

(a) BLM may direct you to drill and produce wells that will reasonably and timely develop your lease in accordance with good economic practices.

(b) After you receive written notice from BLM, you must drill and produce all wells BLM determines necessary to diligently develop your lease.

§ 3101.18 Will I be responsible for compensating the United States or Indian lessor if my lease is being drained of oil and gas by wells on adjacent tracts?

You are responsible for protecting the United States or Indian lessor from losses of royalty due to drainage if it would be economic to drill a protective well, as further provided in § [to be specified in the final rule].

§ 3101.19 May I obtain relief from the requirements of the regulations in parts 3100 through 3190 or other requirements BLM developed?

(a) BLM may grant you a variance to these regulations if your proposal meets or exceeds the objectives of the regulations involved. BLM may not waive statutory requirements.

(b) BLM may waive, except or modify stipulations, conditions of approval, orders, or terms of the lease if you submit a written request and if—

(1) BLM determines the reason for the stipulation, condition of approval, order, or term of the lease is no longer valid; or

(2) You propose an alternative that meets or exceeds the intent of the stipulation, condition of approval, order, or term of the lease.

(c) If BLM determines that a waiver, exception or modification to a lease stipulation is an issue of major public

concern, BLM will post the change for at least 30 days to allow public review. BLM will post the change in the BLM office with jurisdiction over the land in the lease and make it available for posting in the local surface management agency office before approval.

(d) BLM will not waive, modify or grant exceptions to stipulations to a lease covering lands managed by another Federal agency without that agency's concurrence.

(e) BLM will not process requests for exceptions to lease stipulations, conditions of approval or orders that concern surface use on National Forest

System (NFS) lands. You must submit requests for these exceptions to the Forest Service (FS).

§ 3101.20 When will BLM consider a document filed?

BLM considers any document required by law, regulation or decision to be timely filed —

(a) When the BLM office where it must be filed receives it on or before the date it is due during regular business hours; or

(b) If the BLM office is officially closed on the due date, the next day the office is open to the public. BLM State

Offices and the lands they administer are identified in 43 CFR 1821.2.

§ 3101.21 Are there other requirements that affect oil and gas operations on Federal or Indian lands?

You will find most of the requirements that affect oil and gas leasing (for Federal lands) and operations (for Federal and Indian lands) in this part. However, some BLM requirements are covered under other sections of title 43 of the CFR. The following table lists some, but not all, of the other regulations that may apply to your lease—

Rights-of-way across BLM managed surface	43 CFR part 2800
Production and royalty reporting requirements, and late payments—Minerals Management Service (MMS)	30 CFR parts 200 through 243.
Indian oil and gas leasing—Bureau of Indian Affairs	25 CFR parts 211, 212, 213, 225 and 227.
Proprietary or confidential information and Freedom of Information Act requests	43 CFR part 2.
BLM land use planning	43 CFR part 1600.
Surface use plans—FS	36 CFR part 228.
Special Use Authorizations—FS. (in lieu of Rights of Way)	36 CFR parts 212 and 251.
Release of hazardous substances—Environmental Protection Agency (EPA)	40 CFR part 302.
Underground Injection Control permits—EPA	40 CFR parts 144 and 146.
Spill Prevention Control and Countermeasure plan—EPA	40 CFR part 112.
Worker safety—Occupational Safety and Health Administration	29 CFR part 1910.
Late payments—MMS	30 CFR part 202.
Procedures for Tribes to request payment under cooperative agreements	43 CFR part 12, subparts A and C.
Disposal of reserved minerals under the Act of July 17, 1914 and Stockraising Homestead Act	43 CFR parts 3813 and 3814.
National Environmental Policy Act	40 CFR part 1500.
Appeal BLM decisions	43 CFR parts 4 and 1840.
Appeal FS decisions	36 CFR parts 215, 217 and 251.

§ 3101.22 May I appeal BLM's decisions under parts 3100 through 3190?

Any person adversely affected by a BLM decision under parts 3100 through 3190 may appeal the decision under 43 CFR parts 4 and 1840.

Subpart 3102—Recordkeeping

Recordkeeping

§ 3102.10 What records must I keep?

(a) You must keep accurate and complete records on all lease operations, such as, drilling, testing, producing, redrilling, deepening, repairing, plugging back, and abandoning wells, and other matters pertaining to well operations. For facilities and equipment, also keep required schematic diagrams. You must keep any records related to production accountability BLM may require.

(b) You must submit or make available complete and accurate records

to BLM when we request you to do so. Whenever you submit data, information or notification to BLM, you are certifying that it is accurate.

§ 3102.11 How long must I keep records?

(a) If you are a record title owner, an operating rights owner, or a designee for a Federal lease, you must keep accurate and complete records that pertain to all Federal lease operations, for seven years from the date you generated the record unless the time is extended under 30 CFR 212.50.

(b) If you are the lessee, operator, revenue payor, or other person under 30 U.S.C. 1713(a) for Indian leases, you must keep all records that pertain to Indian lands for six years from the date you generated them, or such longer period authorized under the Federal Oil and Gas Royalty Management Act of 1982, as amended (FOGRMA) (30 U.S.C. 1701 *et seq.*).

Subpart 3103—Reports, Submissions, and Notifications

Reports, Submissions and Notifications

§ 3103.10 What reports and notifications must I submit to BLM?

The following table includes the most common records you must keep, reports you must submit, notifications you must provide BLM, and when you must submit them. The local BLM office may adjust notification and submittal times. When a specific form is required, BLM may approve alternative methods of data submission. The records that do not require a specific BLM form, but that you still must submit, are marked "None." You also may be required to submit other records, reports and notifications not listed in the following table, but that are required by the regulations in this part.

Record	When to submit	On form	See
(a) Bond	Within 30 calendar days of filing an Applications for Permits to Drill (APD). Until an accepted bond is in place, your APD cannot be approved.	3000-4	§§ 3107.12, 3107.40 and 3107.56.

Record	When to submit	On form	See
(b) Bond or rider to State or nationwide bond.	Within five business days of filing a Notice of Intent (NOI) or Permit Application to Conduct Geophysical Exploration Operations. Your NOI cannot be approved without an accepted bond or rider to an existing accepted bond.	3000-4a .. 3104-8a	§§ 3108.10 and 3108.13.
(c) Terms and conditions for conducting geophysical exploration operations.	Return it to the BLM office having jurisdiction over the land in the application prior to starting operations.	3150-4a ..	§ 3112.11.
(d) Geophysical exploration completion report.	Within 30 calendar days after you complete geophysical operations, including reclamation activities.	3150-5	§§ 3112.20 and 3113.40.
(e) Competitive lease bid	On the day of the sale for each parcel that you were the winning bidder.	3000-2	§ 3122.15.
(f) Offer to lease	Within a reasonable time from the date of execution by the offeror or official representative.	3100-11 ..	§ 3123.20.
(g) Assignment of record title interest.	Within 90 calendar days of execution by the assignor. Filing it later can lead to unnecessary delays while BLM requests additional information.	3000-3	§ 3129.30
(h) Transfer of operating rights interest (sublease).	Within 90 calendar days of execution by the transferor. Filing it later can lead to unnecessary delays while BLM requests additional information.	3000-3a ..	§ 3129.30.
(i) Construction start-up notice ...	At least 48 hours before you start construction	Orally	Subpart 3145.
(j) Spud notice	At least 24 hours before spudding	Orally	Subpart 3145.
(k) Electric and other logs run on your well.	Within 30 calendar days after you run logs	None	§§ 3145.22 and 3145.54.
(l) Completion or Recompletion report.	Within 30 calendar days after you complete or recomplete your well.	3160-4	§§ 3145.22 and 3145.54.
(m) Running surface casing and BOP test notice.	At least 12 hours before you run surface casing and before conducting BOP tests.	Orally	§§ 3145.30 and 3145.33.
(n) Drill Stem Tests or other tests	Within 30 calendar days after you conduct tests	None	§ 3145.22.
(o) Removal of drilling fluids before reserve pit closure notice.	At least 24 hours before you remove fluids from the reserve pit.	Orally	Subpart 3145.
(p) Action to correct or contain an emergency.	Within 48 hours after the emergency occurs	None	§ 3145.52.
(q) Subsequent report of additional well operations.	Within 30 calendar days after you alter an existing well bore. Within 30 calendar days after you complete approved actions when BLM requests a report.	3160-5	§ 3145.54.
(r) Production start-up notice	Not later than five business days after you begin production, or resume production after shutting in your well for 90 calendar days or more.	3160-5	§ 3151.12.
(s) H ₂ S concentrations at production facilities.	Within five calendar days whenever tests reveal a concentration of 20 ppm, or greater (unless previously reported). Within five business days whenever the H ₂ S concentration changes by 5 percent or more from a previously reported test.	3160-5	§ 3151.20.
(t) H ₂ S Public Protection Plan	Within 60 calendar days after the criteria of § 3151.23(d) apply.	None	§ 3151.23.
(u) Site security plans	Within five business days after BLM requests a plan	None	§ 3152.50.
(v) Seal numbers, where the seals were used, date and reason for installation and removal.	Within five business days after BLM requests a report	None	§ 3152.50.
(w) Site facility diagrams	Within 60 calendar days after you complete construction, first produce, or include a well on committed non-Federal lands in a Federally supervised unit or communitization agreement, whichever happens first.	None	§ 3152.51.
(x) Reports of theft or mishandling production.	Within 24 hours after you discover the theft or mishandling.	Orally	§ 3152.80.
(y) Tank or strapping tables	Within five business days after BLM requests a copy	None	§ 3153.20.
(z) Notice of LACT Meter Proving	At least five business days before proving sales or allocation meters.	Orally	§ 3153.32.
(aa) LACT meter proving report ..	Within 10 business days after you prove the LACT meter	None	§ 3153.37.
(bb) Run tickets, gas charts	Within five business days after BLM requests a copy	None	§§ 3153.40 and 3154.30.
(cc) Records on installation, maintenance, repair, inspection, and testing of metering systems.	Within five business days after BLM requests a copy	None	Subparts 3153 and 3154.
(dd) Notice of gas meter proving or calibration schedule.	At least 10 business days before you conduct the proving or first scheduled calibration.	None	§ 3154.32.
(ee) Leak detection system notice	At least two business days before you install a produced water pit liner.	Orally	§ 3155.15.
(ff) Produced water pit completion notice.	At least two business days before you use a produced water pit.	Orally	§§ 3155.15 and 3155.16.
(gg) Spill or accident reports	Within 24 hours after the accident or spill	Orally	§ 3156.11.
(hh) Spill or accident reports	In writing within 10 business days after the spill or accident occurs.	None	§ 3156.12.
(ii) Well abandonment notice.	At least 24 hours before you start approved plugging operations. BLM may grant oral approval if you request it..	Orally	§ 3159.21.

Record	When to submit	On form	See
(jj) Encountering concentrations of 100 ppm or more of H ₂ S not anticipated.	Within 24 hours of the occurrence	3000-3 Orally	§ 3129.30. § 3145.43.

Form Description:

Form 3000-4 is an Oil and Gas or Geothermal Lease Bond.

Form 3000-4a is an Oil and Gas or Geothermal Exploration Bond.

Form 3104-8a is a State or Nationwide Oil and Gas Lease Bond Rider.

Form 3150-4a is a Terms and Conditions for Notice of Intent to Conduct Oil and Gas Geophysical Exploration Operations.

Form 3150-5 is a Notice of Completion of Oil and Gas Exploration Operations.

Form 3000-2 is a Competitive Oil and Gas or Geothermal Resources Lease Bid.

Form 3100-11 is an Offer to Lease and Lease for Oil and Gas.

Form 3000-3 is an Assignment of Record Title Interest in a Lease for Oil and Gas or Geothermal Resources.

Form 3000-3a is a Transfer of Operating Rights (sublease) in a Lease for Oil and Gas or Geothermal Resources.

Form 3160-4 is a Well Completion or Recompletion Report and Log.

Form 3160-5 is a Sundry Notices and Reports on Wells.

§ 3103.11 If I am the record title or operating rights interest owner, what must be filed with BLM to authorize someone else to conduct operations on my lease?

(a) The person you authorize to conduct operations on your lease must notify BLM in writing that it is the new operator. The new operator must identify, by number, the bond that will cover its operations.

(b) The operator may provide bond coverage on its own behalf or the operator may be covered by the lessee's bond.

Subpart 3104—Environment and Safety

Environment and Safety

§ 3104.10 How may I use the surface and subsurface of my lease to develop oil and gas?

(a) For a Federal lease, you have the right to use as much of your lease site as you reasonably need to explore, drill, mine, extract, remove and dispose of the leased resources. However, your lease may include stipulations that restrict your use of the surface or other lease areas.

(b) BLM may restrict your use of a lease with conditions of approval (COA) after lease issuance. These restrictions may include COA's pertaining to—

(1) Environmental quality and resources;

(2) Threatened and endangered species;

(3) Cultural or historic resources; and

(4) Private or other rights where the surface is either not owned by the United States or not managed by BLM.

(c) For Indian leases, see Title 25 of the CFR for rights to surface use.

(d) When the surface is privately owned or held in trust for an Indian Tribe or allottee, or managed by an agency other than BLM, you must make access arrangements with the private surface owner, agency other than BLM, or BIA and Indian mineral owner before you enter the lands to survey, stake or conduct inventories.

§ 3104.11 May BLM take measures to minimize adverse impacts to resource values, land uses or users not addressed in the lease stipulations and not required by statutes or regulations?

BLM may develop conditions of approval, consistent with your lease rights, to reduce adverse impacts to other resource values, land uses or users or to avoid unnecessary and undue degradation. These measures may include, but are not limited to—

(a) Modifying the location or design of proposed operations;

(b) Restricting the time that surface disturbance is allowed; and

(c) Specifying interim and final reclamation measures.

§ 3104.12 What measures may BLM take that are always consistent with my lease rights?

Measures that BLM may require consistent with your lease rights include, but are not limited to—

(a) Relocating proposed operations up to 660 feet, unless this would place operations off of the lease;

(b) Prohibiting new surface disturbing operations for a period up to 60 calendar days in each lease year; and

(c) Specifying reclamation measures to prevent unnecessary and undue degradation of public lands or resources.

§ 3104.13 May anyone other than BLM impose lease stipulations?

(a) When Federal oil and gas lie beneath surface that a Federal agency other than BLM manages, BLM will contact that agency to determine whether the surface management agency will impose stipulations on the lease.

(b) BLM will lease the following Federal lands only if the surface management agency agrees to leasing. BLM will include in the issued lease any stipulations the surface management agency has required as a condition of its consent to leasing—

(1) Acquired lands;

(2) Public domain lands, if the statute requires surface management agency consent or a decision that it has no objection to leasing;

(3) Lands managed by the Department of Defense; and

(4) National Forest System lands.

(c) BLM will only lease public domain lands withdrawn for the use of another Department of the Interior agency after consulting with the surface management agency. BLM may adopt recommended stipulations or decide not to lease the parcel.

(d) Where the United States has conveyed control of the surface of lands to any State, local or tribal government or agency, or educational or religious organization and reserved the oil and gas rights, BLM will give the entity holding the surface rights an opportunity to suggest stipulations necessary to protect existing surface improvements or uses. BLM may adopt or modify recommended stipulations, add stipulations, or decide not to lease the parcel.

(e) When a surface management agency has agreed that BLM may lease lands under its jurisdiction, BLM retains the right to make the final determination whether to offer the lands for lease.

§ 3104.14 What must I do to protect the environment and ensure safety when I conduct operations to develop Federal and Indian lands, or geophysical operations on Federal lands?

You must—

(a) Plan and conduct your operations and develop contingency plans that —

(1) Protect the environment;

(2) Avoid contaminating lands and waters on and adjacent to your lease; and

- (3) Ensure safe field operations;
- (b) Conduct your operations with care and diligence and in a safe manner to—
- (1) Avoid unreasonable damage to surface or subsurface resources and surface improvements; and
 - (2) Protect public health and safety;
 - (c) Maintain your equipment and facilities to—
 - (1) Provide adequate protection for public health and safety and the protection of property; and
 - (2) Avoid accidents and spills;
 - (d) Report, control and clean up spills and accidents; and
 - (e) Properly plug and abandon your wells and reclaim all lands and waters that you disturb or contaminate.

Subpart 3105—Lessee Qualifications

Lessee Qualifications

§ 3105.10 Who may hold a lease?

You may acquire and hold a lease or lease interests if you are—

- (a) A citizen of the United States;
- (b) An association (including a partnership or trust) of United States citizens;
- (c) A corporation organized under the laws of the United States or of any State or Territory of the United States; or
- (d) A municipality.

§ 3105.11 If I am not a United States citizen, may I acquire or hold an interest in a lease?

If you are not a United States citizen you may—

- (a) Not hold an interest in a lease directly or as a member of an association;
- (b) If your country does not deny similar or like privileges to United States citizens because of nationality, hold —

 - (1) Stock in a corporation which holds a lease interest;
 - (2) Stock in a corporation which holds an interest in an association which holds a lease interest; or
 - (3) An interest in an association or stock in another corporation, which in turn holds stock in a corporation which holds a lease interest.

§ 3105.12 If I am not qualified to hold a lease, may I hold one anyway if I acquire it by descent, will, judgment or decree?

If you are not qualified to hold a lease for any reason, you may acquire or hold lease interests by descent, will, judgment or decree for no longer than two years from the time you acquire it. If you hold this interest for more than the two-year period allowed, it is subject to cancellation.

§ 3105.13 Under what circumstances may minors acquire or hold interest in a Federal oil and gas lease?

(a) Minors may not directly hold or acquire leases. Whether you are a minor is determined by the laws of the State where the leased lands are located.

(b) Leases may be acquired and held by legal guardians or trustees of minors. Legal guardians or trustees must be citizens of the United States and not in violation of any statute or regulation cited in § 3105.14.

§ 3105.14 Under what conditions will I be prohibited from acquiring a lease or interest in a lease?

You are prohibited from acquiring lease interests if you are in violation of—

- (a) 43 CFR 3472.1–2(e)(1)(i), except for an assignment or transfer under subpart 3129;
- (b) Section 41 of the Act, or have been subjected to criminal penalties or to a civil order prohibiting participation in exploration, leasing or development of Federal oil and gas;

(c) Section 17(g) of the Act (30 U.S.C. 226(g)), after notice and an opportunity to comply with such requirements or standards was given and you did not comply. This means that you must not be a person, association or corporation, or any subsidiary, affiliate or person controlled by or under common control with such person, association, or corporation, during any period in which you or any subsidiary, affiliate or person controlled by, or under common control with you, failed or refused to comply in any material respect with reclamation requirements or other standards established under Section 17 of the Act (30 U.S.C. 226); and

(d) Federal acreage limitation requirements (see § 3105.20).

§ 3105.15 What must I file with BLM to establish that I meet the qualifications to hold a lease?

When you sign and submit to BLM an application, lease offer, competitive bid, assignment or transfer form, you certify that you are in compliance with the provisions of this subpart.

§ 3105.16 May BLM require me to submit additional information to determine if I meet the qualification requirements to acquire or hold an interest in a lease?

BLM may require additional information from anyone seeking to acquire or currently holding a Federal lease interest.

Acreage Limitation

§ 3105.20 What is the acreage limitation for holding, owning or controlling oil and gas lease interests on public domain lands?

(a) Except for Alaska, you may not hold, own or control more than 246,080 acres of Federal oil and gas leases or operating rights, or 200,000 acres in options, in any one State at any one time.

(b) In Alaska, you may not hold, own or control more than 300,000 acres in the northern leasing district and 300,000 acres in the southern leasing district in options, leases or operating rights.

§ 3105.21 What is the boundary between the two leasing districts in Alaska?

The boundary between the two leasing districts in Alaska begins at the northeast corner of the Tetlin National Wildlife Refuge as established on December 2, 1980 (16 U.S.C. 3101), at a point on the boundary between the United States and Canada, then northwesterly along the northern boundary of the refuge to the left limit of the Tanana River (63° 9' 38" north latitude, 142° 20' 52" west longitude), then westerly along the left limit to the confluence of the Tanana and Yukon Rivers, and then along the left limit of the Yukon River from said confluence to its principal southern mouth.

§ 3105.22 What is the acreage limitation for holding, owning or controlling oil and gas lease interests on acquired lands?

The acreage limitations for holding, owning or controlling leases of acquired lands is the same as for public domain lands (see § 3105.20). Acquired lands acreage holdings are charged separately from public domain lands acreage holdings.

§ 3105.23 What is an option agreement?

An option agreement is a contractual arrangement between two or more persons that grants a right to acquire record title or operating rights interest in a lease(s) at some future date or occurrence.

§ 3105.24 Must I file my option agreement with BLM?

You are not required to automatically file option agreements. However, BLM may require you to furnish this information for acreage audit purposes.

§ 3105.25 What effect do options have on lease acreage holding limitations?

(a) You may not hold more than 200,000 acres under option in any one State or in each of the two leasing districts in Alaska.

(b) If you hold an option, BLM charges the acreage to you against the limits in §§ 3105.20 and 3105.22.

§ 3105.26 How will BLM charge acreage holdings on lands where the United States owns a fractional interest in the mineral resource?

If your lease includes lands where the United States owns only a fractional interest in the mineral resources of the lands, BLM will charge you only with the net mineral acres owned by the United States.

§ 3105.27 What lease interests are not chargeable against acreage limitations?

BLM does not include the following acreage or interests against acreage chargeability—

- (a) Lease acreage held in leases issued under the Act of May 21, 1930;
- (b) Acreage in a future interest lease until the mineral interest vests in the United States;
- (c) Lease acreage committed to any BLM-approved cooperative or unit plan;
- (d) Leases subject to an operating, drilling or development contract BLM approved; and
- (e) Overriding royalty interests, net profits or production payments.

§ 3105.28 What if I exceed the acreage limitation?

(a) If the acreage you hold exceeds the statutory limit as a result of —

(1) The termination or contraction of a unit or cooperative plan or due to the elimination of a lease from an operating, drilling or development contract, you must reduce your holdings to the prescribed limitation within 90 calendar days from the date you first held excess acreage and provide BLM proof of the reduction; or

(2) A merger or the purchase of the controlling interest in a corporation, you must reduce your holdings to the prescribed limitation within 180 calendar days from the date you first held excess acreage and provide BLM proof of the reduction. If you require additional time to complete the divestiture of the excess acreage, you may petition the BLM office with jurisdiction over the subject leases for additional time.

(b) If BLM finds that you hold chargeable acreage in violation of the

provisions of the regulations in this part and you do not voluntarily reduce your acreage holdings to the amount of acreage allowed, BLM may seek a court order to cancel or require you to forfeit lease(s) or interests in inverse order of acquisition, until sufficient acreage has been eliminated to comply with the acreage limitation. This means that the last leases you acquired will be the first leases BLM will ask the court to cancel or require you to forfeit.

§ 3105.29 How does BLM compute chargeable acreage?

(a) BLM will aggregate all record title, operating rights and lease options you hold, own or control to determine whether you exceed the acreage limitations. If you —

(1) Own 100 percent of the record title, operating rights or options in a lease, you are charged for all of the acreage in the lease;

(2) Own an undivided interest in the record title, operating rights or options in a lease, you are charged for your proportionate part of the lease acreage;

(3) Own or control more than 10 percent of the stock of a corporation, or of the instruments of ownership or control of an association, that holds the record title, operating rights or options in a lease, you are accountable for your proportionate part of the lease acreage held by the corporation or association. If you are a corporation, you are not charged for the acreage owned by your stockholders; or

(4) Are part of a group that is not an association, and that holds, owns or controls record title, operating rights or options in a lease, you are charged proportionately.

(b) Any group of persons who holds, owns or controls a lease or leases in common may not exceed the acreage that the law allows persons to hold.

§ 3105.30 May BLM require me to provide information with respect to my acreage holdings?

BLM may require you to file a statement indicating the lease interests you hold as of a specified date by serial

number, date of issuance and number of acres for each lease in any State.

Subpart 3106—Fees, Rentals and Royalties

Fees and Rentals

§ 3106.10 What form of payment will BLM accept?

- BLM will accept payments by—
- (a) Personal, cashier and certified checks;
 - (b) Money orders;
 - (c) Electronic funds transfers; or
 - (d) Credit cards when BLM authorizes it.

§ 3106.11 Who should I pay?

Your payment must be made payable to the Department of the Interior, Bureau of Land Management (BLM) or to the Minerals Management Service (MMS), as appropriate.

§ 3106.12 Where should I submit my payments?

Submit your payments according to the following chart—

Type of payment	Submit to
(a) Filing fees for offers, transfers, first year rentals and bonus bids.	The BLM State Office with jurisdiction over the lands in your lease.
(b) Second year and subsequent rentals.	MMS.
(c)(1) Royalties and minimum royalties;	MMS.
(2) Compensatory royalty assessments on leases;	
(3) Payments due on drainage agreements; and	
(4) Subsurface storage agreement payments.	

§ 3106.13 What are the rental rates for Federal leases?

The rental rates for Federal leases are as follows—

Types of leases	Rental rate per acre or fraction of an acre
(a) Offers filed and leases issued after December 22, 1987	\$1.50 for the first five years and \$2 for the sixth and succeeding years.
(b) Leases issued from offers filed before December 22, 1987, except those leases identified in paragraphs (c) through (h) of this table.	Rental as stated in the lease or in regulations in effect at the time the offer was filed.
(c) Leases issued under the simultaneous leasing regulations, 43 CFR part 3100, subpart 3112 (contained in the 43 CFR, parts 1000 to 3199, edition revised as of October 1, 1981 and amended at 47 FR 2864 (January 20, 1982)), on or after February 19, 1982.	\$1 for the first five years and \$2 for the sixth and succeeding years.
(d) Exchange (30 U.S.C. 226(i)) and Renewal Leases issued under Sections 13 and 14 of the original Mineral Leasing Act of 1920.	\$2.
(e) Leases issued under the 1930 Right-of-Way Leasing Act (30 U.S.C. 301–306)	\$1.50 for the first five years and \$2 the sixth and succeeding years.

Types of leases	Rental rate per acre or fraction of an acre
(f) Terminated leases originally issued noncompetitively and reinstated under subpart 3142 (Class II reinstatement regulations) beginning with the termination date.	\$5. Each succeeding reinstatement will increase the rental by \$5 per acre or fraction of an acre.
(g) Terminated leases originally issued under subpart 3142 (Class III reinstatement provisions for conversion of unpatented oil placer claims) beginning with the termination date.	\$5. Each succeeding reinstatement under subpart 3142 (Class II) will increase the rental by \$5 per acre or fraction of an acre.
(h) Terminated leases originally issued competitively and reinstated under § 3142.8 (Class II reinstatement regulations) beginning with the termination date.	\$10. Each succeeding reinstatement will increase the rental by \$10 per acre or fraction of an acre.

§ 3106.14 How does BLM calculate the rental due on my lease?

Rental is calculated on a per acre or fraction of an acre basis. For example, if your lease contains 640.32 acres and the rental is \$2 per acre, you should round the acreage up to 641.00 and multiply by \$2. Your annual rental would be \$1,282.00.

§ 3106.15 If BLM assessed my nonproducing lease compensatory royalty, must I also pay rental?

You must pay rental in addition to any compensatory royalty.

§ 3106.16 What if I do not submit enough rental with my lease offer?

BLM determines the rental you filed as the total amount of money you submitted minus the required filing fee. BLM will accept your lease offer, without loss of priority, if your rental payment is deficient by not more than the lesser of—

- (a) Ten percent of the total rental due; or
- (b) \$200.

§ 3106.17 When must I pay the balance of a rental deficiency on my lease offer?

You must pay the balance to BLM within 30 calendar days from the date you receive BLM's notice of rental deficiency.

§ 3106.18 What if I do not pay the balance of the rental due within the time allowed?

BLM will—

- (a) Reject your lease offer; or

(b) Cancel your lease if it has been issued.

§ 3106.19 What if I base my deficient rental payment on an incorrect acreage advertised in the Notice of Competitive Lease Sale?

You must pay the additional rental within the time stated in BLM's deficiency notice, without loss of priority to your offer.

§ 3106.20 If the United States owns less than 100 percent of the mineral rights in my lease, must I pay rental on the gross acreage or on the net acreage?

You must pay rental on the entire lease, even if the United States owns less than 100 percent of the mineral rights in your lease.

§ 3106.21 When should I pay the second and succeeding rental payments after BLM issues my lease?

The MMS must receive your second and succeeding rental payments on or before the anniversary date of lease issuance each year.

§ 3106.22 Must I pay a full year's rental if less than a full year is left in my lease term?

If less than a full year remains in your lease term, you must pay a full year's rental.

§ 3106.23 What if MMS receives my rental payment after the date it is due?

(a) If your rental payment is late, your lease automatically terminates by operation of law. BLM will send you a termination notice.

(b) Refer to subpart 3142 for more information on terminations and reinstatements.

§ 3106.24 What if the MMS office is closed on the date that my rental payment is due?

If the MMS office is closed on the date your rental payment is due, payment it receives on the next day the office is open to the public is considered timely.

§ 3106.25 What if I incorrectly mail my second or succeeding rental payment to BLM instead of MMS?

BLM will return the rental payment to you if you incorrectly mailed your second or succeeding advance rental payment to BLM instead of MMS. If MMS does not receive your payment timely, see § 3106.23.

§ 3106.26 What will BLM do if I mail a payment due to BLM to the wrong BLM office?

If you mail any payment due to BLM to the wrong BLM office, BLM will return the payment to you. It is your responsibility to timely make your payment to the BLM office with jurisdiction over the lease(s) or lands for which you are making payment.

Royalties

§ 3106.30 What royalty must I pay after I establish production?

You must pay royalty according to the following chart—

Type of lease	Royalty rate
(a) Leases issued after December 22, 1987, including: (1) Competitive; (2) Noncompetitive; (3) Exchange; (4) Renewal; and (5) Leases issued in lieu of unpatented oil placer mining claims under subpart 3142.	12½ percent.
(b) Railroad Right-of-Way	At a minimum 12½ percent, subject to competitive bidding.
(c) Leases issued after December 22, 1987, resulting from offers or bids filed on or before December 22, 1987.	The rates identified in the lease terms or in regulations in effect on December 22, 1987
(d) Leases issued on or before December 22, 1987	The rates identified in the lease terms or in regulations in effect at the time of lease issuance.
(e) Reinstated Noncompetitive Leases.	16⅔ percent plus an additional 2 percent for each succeeding reinstatement.
(f) Reinstated Competitive leases	Not less than 4 percent above the existing royalty rate, plus an additional 2 percent for each succeeding reinstatement.

Type of lease	Royalty rate
(g) Deposits determined by BLM to be a new deposit and discovered on leases after May 27, 1941 (30 U.S.C. 226(c)), by a well drilled on a lease or committed to a unit agreement or proposed for unitization at the time of discovery.	12½ percent.
(h) Lands not believed to be within the productive limits of any producing oil and gas deposit found by the Secretary to exist on August 8, 1946, under the Act of that date (30 U.S.C. 226(c)).	12½ percent.

§ 3106.31 What is minimum royalty?

Minimum royalty is the minimum amount of money you must pay following the date you establish production in paying quantities. You must pay the minimum royalty or the

royalty due for the actual production, whichever is greater.

§ 3106.32 When must I pay the minimum royalty due on my lease?

You must pay minimum royalty at the end of each lease year after you discover oil or gas in paying quantities.

§ 3106.33 What minimum royalty must I pay on Federal leases?

You must pay minimum royalty according to the following chart—

Type of lease	Minimum royalty
(a) Leases issued on or after August 8, 1946 (excluding leases issued from offers filed after December 22, 1987).	\$1 per acre or fraction of an acre in lieu of rental.
(b) Leases issued before August 8, 1946, if the lessee files an election under Section 15 of the Act of August 8, 1946.	\$1 per acre or fraction of an acre in lieu of rental.
(c) Leases issued from offers filed after December 22, 1987	Not less than the amount of rental required for the lease.
(d) Reinstated lease	The minimum royalty indicated in paragraphs (a), (b), or (c), depending on when the lease was issued.

§ 3106.34 How does BLM determine royalty and minimum royalty if the United States owns less than a 100 percent mineral interest?

The royalty and minimum royalty is based on net acreage. Net acreage is determined as follows: Net acreage = number of acres in the lease x the percent of U.S. mineral interest.

§ 3106.35 How do I pay royalty and rental if my lease is committed to a unit agreement?

(a) If your lease is committed to a unit agreement, you must pay royalty on any production from or attributable to your lease based on the royalty terms of your lease.

(b) You must pay rental for leased lands outside the participating area, unless there is a non-unit well subject to royalty or minimum royalty.

Waiver/Suspension/Reduction of Rental/Royalty/Minimum Royalty

§ 3106.40 Will BLM waive, suspend, or reduce the rental, royalty, or minimum royalty if I cannot successfully operate my lease?

You may ask BLM to waive, suspend, or reduce your rental, royalty, or minimum royalty requirements if it is necessary to promote development. Your application must describe the relief you are requesting and include—

- (a) The lease serial number;
- (b) The names of the operating rights owners for each lease;

(c) The names of the operators for each lease;

(d) A description of the relief you are requesting;

(e) The number, location, and status of each well drilled;

(f) A statement that shows the aggregate amount of oil or gas subject to royalty for each month covering a period of at least six months immediately before the date you filed the application;

(g) The number of wells counted as producing each month and the average production per well per day;

(h) A detailed statement of expenses and costs of operating the entire lease;

(i) The income from the sale of any production;

(j) All facts tending to show whether the wells can be successfully operated under the lease royalty or rental; and

(k) The percentage of production dedicated to paying outstanding overriding royalty and payments out of production or similar interests. To receive a royalty reduction, you must reduce royalties or similar payments from your lease to an aggregate not greater than one-half the royalties due the United States.

Royalty on Oil: Sliding-Scale and Step-Scale Leases

§ 3106.50 How do I determine my royalty rate on oil I produce from a lease with a sliding-scale or step-scale royalty rate?

(a) Calculate your average daily oil production per well for your Federal lease, communitization or unit agreement, or unit participating area during the production month in accordance with §§ 3106.51 through 3106.54. The production rate you calculate for an agreement or participating area must be used for the Federal lease(s) to which you allocate production.

(b) Refer to the lease royalty schedule attached to your lease to find the oil royalty rate that corresponds to the average daily oil production you calculated. This royalty rate becomes the royalty rate you must pay on oil you produced from or that was allocated to your lease for the month.

§ 3106.51 How do I calculate average daily oil production per well for my sliding-scale or step-scale lease?

Calculate the average daily oil production per well by dividing the gross oil production from all wells you produce on your lease, communitization or unit agreement in a calendar month by the total well-days for eligible wells on your lease, communitization or unit agreement as reported on Form MMS-3160.

§ 3106.52 What wells do I include in the calculation of average daily oil production in determining the royalty rate?

- (a) To calculate average daily oil production, the wells must be—
 - (1) Paying oil wells;
 - (2) Injection wells that you use to recover oil; or
 - (3) Paying gas wells that produce oil.
- (b) All wells you use must be—
 - (1) Integral to production during the month; and
 - (2) Operated and produced as a result of routine business on your property for that month.

§ 3106.53 What is a well-day?

A well-day is any day or part of a day you use a well to produce oil or for injection purposes to recover oil.

§ 3106.54 What royalty rate must I pay on oil I carry in inventory when I sell it?

When you sell oil that was placed in inventory, you must use the royalty rate that was determined for the month in which the oil was produced. You must use a first-in-first-out approach to determine what royalty rate you apply to oil you sell from inventory.

Stripper Oil Property Royalty Reduction

§ 3106.60 What is a stripper oil property?

(a) A stripper oil property is any Federal lease or agreement that produces an average of less than 15 barrels of oil per eligible well, per well-day, for the qualifying period, determined in accordance with §§ 3106.61 through 3106.64.

(b) To determine if you have a stripper oil property, you must consider only wells that you operate on the property. If there are other operators producing wells on the same lease or agreement as you, they must make a separate stripper oil property determination based on the wells they operate.

§ 3106.61 What is an eligible well?

- (a) An eligible well is—
 - (1) A producing oil well;
 - (2) An injection well that injects a fluid, including gas, for secondary or enhanced oil recovery, including reservoir pressure maintenance operations; or
 - (3) A gas well that produces oil and less than an average of 60 Mcf of gas per day during the qualifying period under § 3106.62.

(b) All eligible wells must be operated and produced as a result of routine business for that period and for your property. You must not manipulate production to obtain a royalty reduction.

§ 3106.62 What is the qualifying period?

- (a) The initial qualifying period was from August 1, 1990 through July 31, 1991.
- (b) The current qualifying period is the first consecutive 12-month period in which your property qualifies as a stripper oil property.
- (c) If all wells on your property were shut-in for 12 consecutive months or longer, the qualifying period is the 12-month production period immediately before the shut-in.

§ 3106.63 What is considered oil for determining whether or not I have a stripper oil property?

(a) For purposes of determining if you have a stripper oil property you must include only—

- (1) Hydrocarbon liquids you produce with an API gravity of 45° or lower, regardless of the color of the liquid; and
- (2) Hydrocarbon liquids you produce with an API gravity more than 45° but less than 50° which are not light, neutral, or straw colored in appearance, unless BLM determines the liquids to be produced from an oil reservoir.

(b) All other hydrocarbon liquids you produce that do not meet the characteristics described in paragraph (a) of this section are condensate and must not be used to determine average daily oil production.

§ 3106.64 How do I calculate the average daily production rate for my property?

(a) Divide the total oil you produced from eligible wells for the 12-month qualifying period as reported on Form MMS-3160 or MMS-4054 by the total number of well days determined under § 3106.53 for those eligible wells for the same 12-month period;

(b) Round the result down to the nearest whole number (e.g., 6.7 becomes 6);

(c) If the production rate you calculate is less than 15 barrels per day, the 12-month period you used for the calculation in paragraph (a) of this section is a qualifying period and your Federal lease is eligible for a reduced royalty rate; and

(d) If your stripper oil property is in a Federal agreement, the average daily production rate you determine for the agreement is then used to determine the stripper royalty rate for the Federal lease(s) to which you allocate oil production.

§ 3106.65 What will be my royalty rate if my property qualifies as a stripper oil property?

(a) A reduced royalty rate will not relieve you of your obligation to meet the minimum royalty requirements of your lease.

(b) Once you have determined your average daily production rate for your property, use this table to determine your royalty rate—

Average barrels per day	Reduced royalty rate (percent)
0	0.5
1	1.3
2	2.1
3	2.9
4	3.7
5	4.5
6	5.3
7	6.1
8	6.9
9	7.7
10	8.5
11	9.3
12	10.1
13	10.9
14	11.7

§ 3106.66 How do I apply for a stripper royalty rate?

To apply for a stripper royalty rate—
 (a) Submit Form MMS-4377 to MMS for verification.

(b) When you submit Form MMS-4377 to MMS, you certify that you—

- (1) Did not manipulate your production rate for the qualifying and later 12-month periods to obtain the royalty rate reduction; and
- (2) Calculated the royalty rate using the instructions and procedures in the regulations in this part.

§ 3106.67 When may I start using the stripper royalty rate for my lease and how long will it be in effect?

(a) You may begin using the reduced royalty rate for your lease on the first day of the month after MMS receives your Form MMS-4377.

(b) The reduced royalty rate that you calculate for your initial qualifying period will be the maximum rate for your lease as long as the stripper oil property program is in effect.

§ 3106.68 Does the stripper royalty rate apply to condensate, gas or gas plant products?

The stripper royalty rate applies only to oil produced on your property.

§ 3106.69 How do I determine my royalty rate if my production varies?

(a) Your stripper royalty rate may vary as your production varies, but it will never go above your initial qualifying rate for the life of the stripper oil property program.

(b) At the end of each 12-month period, you must calculate a new daily production rate using the methods prescribed in § 3106.64 and the oil production and well days from eligible wells for the claim year you have just

completed to determine if your property is eligible for a royalty rate lower than your initial qualifying rate.

§ 3106.70 How do I apply for a lower royalty rate?

(a) To apply for a lower stripper royalty rate, before the end of each claim year, submit Form MMS-4377 to notify MMS of your lower royalty rate. Use §§ 3106.61 through 3106.65 to determine your new royalty rate based on the production data from the last claim year.

(b) Your lower royalty rate will be effective for one year starting with production on the first day of the month after the month in which MMS receives your notice.

(c) If you do not submit a completed Form MMS-4377 to MMS within 60 calendar days after the end of the last claim year, the royalty rate for your property will revert back to the initial qualifying period royalty rate.

(d) Even if you determine that your royalty rate for the next claim year did not change from the previous claim year, you must notify MMS using Form MMS-4377 that your royalty rate is unchanged; otherwise your royalty rate will revert back to the initial qualifying period rate.

§ 3106.71 What happens to my royalty rate if I commit my lease to a Federal agreement after I qualify for a reduced royalty on a lease basis?

If your lease qualified for a reduced stripper royalty rate, and after qualifying you commit your lease to an agreement—

(a) The royalty rate for production from or allocable to your lease under the agreement will not exceed the stripper royalty rate from your qualifying period as long as at least one of the wells on which the lease rate was calculated moves to the agreement;

(b) You must submit Form MMS-4377 under this section to continue to receive the reduced stripper royalty rate for your lease committed to the agreement; and (c) For periods beginning after the date you commit your lease to the

agreement, unless the agreement qualifies as a stripper oil property under §§ 3106.60 through 3106.71, you will not be allowed to calculate a reduced royalty rate for production from or allocable to your lease under the agreement. However, as provided in paragraph (a) of this section, the royalty rate for your lease will not exceed the stripper royalty rate from your qualifying period. Any further reduction in the royalty rate for your lease under the agreement will be due to the agreement qualifying for a lower rate at the agreement level.

§ 3106.72 What if I make an error when I calculate the stripper royalty rate for my lease?

If you make an error calculating your stripper royalty rate, MMS will calculate the correct rate for your lease and inform you of the change. Any additional royalties due are payable immediately. Late payment or underpayment charges will be assessed in accordance with 30 CFR 218.102.

§ 3106.73 What happens if I manipulate production to get a stripper royalty rate?

(a) If BLM determines that you manipulated production to obtain a stripper royalty rate, BLM will terminate your royalty rate reduction retroactively to its effective date. You may also be subject to civil or criminal penalties.

(b) You must pay the difference in royalty between the manipulated rate and the unmanipulated rate as well as any interest and underpayment charges.

§ 3106.74 How long will the stripper oil property program be in effect?

(a) BLM may terminate your reduced royalty rate if—

(1) The posted price for West Texas Intermediate crude (WTI), adjusted for inflation by BLM and MMS, remains on average above \$28 per barrel for six consecutive months; or

(2) The Secretary determines that royalty reductions under this program should terminate.

(b) BLM must give you six months notice of the termination of the program

by publishing a notice in the **Federal Register**.

Heavy Oil Property Royalty Reduction

§ 3106.80 What is a heavy oil property?

A heavy oil property is any Federal lease or agreement that produces crude oil with a weighted average gravity of less than 20 degrees as measured on the American Petroleum Institute (API) scale.

§ 3106.81 What wells can I include when I calculate a weighted average gravity?

You can include a well that you operate if—

(a) The energy equivalent of the oil produced exceeds the energy equivalent of the gas produced (including entrained liquefiable hydrocarbons); or

(b) It produces oil and less than 60 Mcf of gas per day.

§ 3106.82 How do I calculate a weighted average gravity for a property?

(a) Calculate the weighted average gravity for a property by averaging (adjusted to rate of production) the API gravities reported on your Purchaser's Statement (sales receipts).

(b) Use Purchaser's Statements for the last three calendar months before you intend to notify BLM that you want a royalty rate reduction, during each of which you had at least one sale. For example, if you make a request for a royalty reduction in October 1996 and your property—

(1) Had oil sales every month, you must use Purchaser's Statements for July, August, and September 1996;

(2) Had oil sales only once every six months in the months of March and September, you must use Purchaser's Statements for September 1995, and March and September 1996; or (3) Had multiple sales each month, you must use Purchaser's Statements for every sale during July, August, and September 1996.

(c) You must use the following equation to calculate the weighted average gravity for your property:

$$\frac{(V_1 \times G_1) + (V_2 \times G_2) + (V_n \times G_n)}{V_1 + V_2 + V_n} = \text{Weighted Average API gravity for a property}$$

Where:

V_1 = Average Production (bbls) of Well #1 over the last three calendar months of sales

V_2 = Average Production (bbls) of Well #2 over the last three calendar months of sales

V_n = Average Production (bbls) of each additional well (V_3 , V_4 , etc.) over the last three calendar months of sales

G_1 = Average Gravity (degrees) of oil produced from Well #1 over the last three calendar months of sales

G_2 = Average Gravity (degrees) of oil produced from Well #2 over the last three calendar months of sales

G_n = Average Gravity (degrees) of each additional well (G_3 , G_4 , etc.) over the last three calendar months of sales

§ 3106.83 What will be my royalty rate if my property qualifies as a heavy oil property?

Use your weighted average gravity for your property, rounded down to the nearest whole degree (e.g., 11.7° API becomes 11° API) and use the following table to determine your royalty rate—

Weighted average gravity (degrees API)	Royalty Rate (percent)
6	0.5
7	1.4
8	2.2
9	3.1
10	3.9
11	4.8
12	5.6
13	6.5
14	7.4
15	8.2
16	9.1
17	9.9
18	10.8
19	11.6
20	12.5

§ 3106.84 How do I apply to make a heavy oil reduced royalty rate effective on my Federal lease?

You must notify BLM in writing that you want a heavy oil royalty rate reduction and provide—

- (a) The BLM case number of the Federal lease for which you want a reduced rate;
- (b) The BLM case number of any communitization or unit agreement that allocates production to the lease;
- (c) Names of all operators on the lease;
- (d) The reduced royalty rate that you have determined for your lease; and
- (e) Copies of the Purchaser's Statements that document your calculations of weighted average gravity.

§ 3106.85 When will the initial heavy oil reduced royalty rate be in effect on my Federal lease?

The heavy oil reduced royalty rate will be in effect on the first day of the second month after you notify BLM as required in § 3106.84.

§ 3106.86 How long will the initial heavy oil reduced royalty rate be in effect on my Federal lease?

- (a) The reduced royalty rate will apply to all oil you produce from your lease for the next 12 months after the reduced rate becomes effective.
- (b) The reduced royalty rate will also apply for two months following the end of the initial 12-month period while you determine what your royalty rate will be for the next period under § 3106.87.

§ 3106.87 How do I determine my royalty rate after the initial reduced royalty rate period expires?

- (a) Within two months after the end of the initial 12-month period, you must—
 - (1) Calculate the weighted average oil gravity for your property for that initial 12-month period just concluded, using the formula in § 3106.82;
 - (2) Determine your royalty rate from the table in § 3106.83; and
 - (3) Notify BLM in writing, providing the information required in § 3106.84.
- (b) If you do not notify BLM as required in paragraph (a) of this section within two months after the end of any 12-month period for which you received a reduced royalty rate, the royalty rate will return to the rate in the terms of your Federal lease.

§ 3106.88 When will subsequent royalty rate reductions become effective on my Federal lease?

Any heavy oil royalty rate reductions after the initial 12-month period will become effective for oil you produce in the third month after the prior 12-month royalty reduction period ends. For example: On September 30, 1997, at the end of a 12-month royalty reduction period, you determine the weighted average API oil gravity for your property for that period just ended. You then determine your new heavy oil royalty rate by using the table in this section and notify BLM within two months. The new royalty rate would be effective December 1, 1997 through January 31, 1999. Between December 1, 1998 and January 31, 1999, you would calculate the next royalty rate based on production from December 1, 1997 through November 30, 1998, that would be effective February 1, 1999 through March 31, 2000.

§ 3106.89 What provisions apply when I begin paying royalty at a reduced rate?

- (a) The reduced royalty rate applies only to oil that is produced from or which is allocated to your Federal lease.
- (b) You may not intentionally manipulate the API gravity to obtain a reduced royalty rate.
- (c) You continue to be subject to the minimum royalty provisions of your lease.
- (d) You may be eligible for both a stripper royalty rate reduction and a heavy oil royalty rate reduction. If you are eligible for both the stripper royalty rate reduction and the heavy oil royalty rate reduction, use the lower of the two royalty rates.

§ 3106.90 What happens if I make a mistake when I calculate the reduced heavy oil royalty rate for my lease?

If you made an error calculating the heavy oil royalty rate, BLM will determine the correct rate for your lease and notify you in writing of the change. You must adjust your royalty reports and payments to MMS accordingly.

§ 3106.91 What happens if I manipulate production from my heavy oil property in order to get a reduced royalty rate?

- (a) If BLM determines that you manipulated production to obtain a heavy oil royalty rate reduction, BLM will terminate your royalty rate reduction retroactively to its effective date. You may also be subject to civil or criminal penalties.
- (b) You must pay the difference in royalty between the manipulated rate and the unmanipulated rate as well as any interest and underpayment charges.

§ 3106.92 How long will the heavy oil property royalty reduction program be in effect?

- (a) BLM may suspend or terminate your heavy oil property royalty reductions if—
 - (1) The average oil price has remained above \$24 per barrel over a period of six consecutive months (based on the WTI Crude average posted prices and adjusted for inflation using the implicit price deflator for gross national product with 1991 as the base year); or
 - (2) After September 10, 1999, the Secretary determines that the heavy oil royalty reductions are not reducing the loss of otherwise recoverable reserves, the Secretary may terminate heavy oil royalty reductions granted under the program.
- (b) BLM must give you six months notice of the termination of the program by publishing a notice in the **Federal Register**.

Subpart 3107—Lease, Surety and Personal Bonds

General Information

§ 3107.10 Who may file an oil and gas lease bond?

Either the record title owner, operating rights owner or operator may file a bond. The bond must guarantee the compliance of all record title owners, operating rights owners and operators for the lease.

§ 3107.11 Who must a bond cover?

The bond must cover all record title owners (lessees), operating rights owners and operators and anyone who conducts operations on your lease, unless any one of those persons provides its own bond.

§ 3107.12 When must I file a bond?

BLM must have a bond, under this subpart, before it will approve—

- (a) An Application for Permit to Drill;
- (b) Surface disturbing activities; or
- (c) A transfer of record title or operating rights on a lease which has outstanding obligations, including reclamation.

§ 3107.13 What must my bond cover?

Your bond must guarantee performance and compliance with the lease terms and cover all liabilities arising from or related to drilling operations on a Federal lease including the following obligations—

- (a) Complete and timely plugging of well(s);
- (b) Reclamation of the lease area;
- (c) Restoration of any lands or surface waters adversely affected by lease development;
- (d) Payments owed to the United States Government such as royalties, rentals, civil penalties, fines and assessments;
- (e) Compensatory royalties assessed to compensate for drainage; and
- (f) Other requirements related to operations and compliance with all lease terms and conditions, regulations, orders and notices to lessees.

§ 3107.14 What are the dollar amounts for bonds?

- (a) Bonds covering a single lease must be \$20,000;
- (b) Bonds covering all of your leases in one State must be \$75,000;
- (c) Bonds covering all of your leases in all States must be \$150,000; and
- (d) BLM may adjust the bond amounts in paragraphs (a) through (c) under § 3107.50.

§ 3107.15 What kinds of bonds will BLM accept?

BLM will accept—

- (a) Surety bonds, provided that the surety company is approved by the Department of Treasury (See Department of the Treasury Circular No. 570); and
- (b) Personal bonds, which are pledges of cashier's checks, certified checks, certificates of deposit, irrevocable letters of credit, or negotiable Treasury securities.

§ 3107.16 Will BLM accept cash for personal bonds?

BLM will not accept cash for personal bonds.

§ 3107.17 Is there a special bond form I must use?

You must use a current bond form (Form 3000-4 or 3000-4a) approved by BLM's Director.

§ 3107.18 Is there any other documentation that I must file with a surety bond?

You must include a power of attorney or other proof of an agent's authority to sign on behalf of the surety. BLM will accept copies of powers of attorney.

§ 3107.19 Where must I file my bond?

- (a) File a signed original of the bond instrument in the BLM State Office with jurisdiction over your lease or operations. BLM will not accept copies.
- (b) File your nationwide bond in any BLM State Office.

§ 3107.20 How do I modify the terms and conditions of my bond?

- (a) Modify the terms and conditions of your bond or adjust the bond amount by filing a rider with BLM. No special form is required;
- (b) If your bond is a surety bond, any rider must also be signed by your surety's agent and filed with a power of attorney for that agent; and
- (c) You must file bond riders for BLM approval in the BLM State Office where your bond is located.

Certificates of Deposit, Letters of Credit and Negotiable Treasury Securities**§ 3107.30 What may I use to back my personal bond?**

BLM accepts negotiable treasury securities, certificates of deposit and irrevocable letters of credit issued by Federally-insured financial institutions authorized to do business in the United States to back a personal bond.

§ 3107.31 Are there special terms that must be included in a certificate of deposit to use it to back my bond?

If you use a certificate of deposit to back your bond, it must indicate on its face that Secretarial approval is required prior to redemption by any party.

§ 3107.32 Are there special terms that must be included in an irrevocable letter of credit to use it to back my bond?

Your irrevocable letter of credit (LOC) used to back a bond must include a clause that grants the Secretary authority to demand immediate payment if you default or fail to replace the LOC within 30 calendar days from its expiration date. The LOC must be—

- (a) Payable to the Department of the Interior, BLM;
- (b) Irrevocable during its term and have an initial expiration date of not less than one year following the date BLM receives it; and
- (c) Automatically renewable for a period of not less than one year, unless the issuing financial institution provides BLM with written notice at least 90 calendar days before the letter

of credit's expiration date that it will not be renewed.

§ 3107.33 What special requirements are there for negotiable treasury securities?

(a) Negotiable treasury securities used to back a bond must—

- (1) Have a market value equal to the bond amount; and
- (2) Be accompanied by a statement granting full authority to the Secretary to sell such securities in case of a default of the terms of the lease.

(b) You must monitor their value and provide additional security if their market value falls below the required bond amount.

Bonding and Lease Transfers or Operations**§ 3107.40 What are BLM's bonding requirements when a lease interest is transferred to another party?**

(a) If the existing operator is providing the bond and there will be no change in operator, BLM will not require the transferee of a lease interest to file a bond. BLM may require a statement confirming there will be no change in operator.

(b) If lease interests are transferred and there will be a change in operator, the new operator must provide a bond or furnish evidence that the new lessee will cover the operator with a bond.

Bond Adjustments**§ 3107.50 May BLM adjust my bond amount?**

- (a) BLM may increase your bond amount.
- (b) BLM may decrease your bond amount if it determines that your obligations under your bond are less than the existing bond amount.

§ 3107.51 What factors will BLM use to determine whether my bond will be adjusted?

Factors BLM uses to determine your bond amount include, but are not limited to, your—

- (a) Record of previous violations;
- (b) Uncollected royalties; and
- (c) Plugging and reclamation costs.

§ 3107.52 When will BLM increase my bond amount?

BLM will increase your bond amount if—

- (a) You file an Application for Permit to Drill and within the five previous years BLM has made a claim against your bond because you failed to properly plug a well or completely reclaim any areas of surface associated with lease operations;
- (b) You have a well classified as inactive under § 3107.55; or

(c) It determines an increase is necessary to satisfy your obligations under the bond.

§ 3107.53 When will BLM decrease my bond amount?

BLM will decrease your bond amount if—

- (a) You apply to BLM and request a decrease in bond amount; and
- (b) BLM approves your application.

§ 3107.54 To what amount may BLM adjust my bond?

BLM may adjust your bond to an amount that does not exceed the total of—

- (a) Estimated costs to have BLM plug and reclaim all wells and areas of surface use associated with lease operations;
- (b) Uncollected royalties due; and
- (c) Outstanding monies due from previous violations.

§ 3107.55 What is an inactive well?

For the purposes of §§ 3107.52 and 3107.56 only, an inactive well is any well that for the last 12 months has not—

- (a) Produced oil or gas;
- (b) Been actively used as a service or water source well; or
- (c) Been actively drilled or reworked.

§ 3107.56 What additional security must I provide for an inactive well?

Within 30 calendar days after your well becomes inactive you must—

- (a) Submit to BLM additional bonding, either as a rider to your existing BLM bond or as a separate bond, in an amount equal to \$2.00 per foot of total depth or plugged-back total depth of your inactive well. Each inactive well you maintain is subject to a bond increase unless you demonstrate to BLM that your existing bond exceeds the maximum bond amount under § 3107.51;

(b) Submit to BLM a \$100 nonrefundable payment for each inactive well. You must submit the \$100 payment for each 12-consecutive month period that your well remains inactive. This option is available to you only for the first six years your well is inactive. After six years of inactive status, you must file the additional bonding set out in paragraph (a) of this section, in lieu of this payment; or

- (c) Comply with the requirements of § 3145.23.

Bond Collection After you Default

§ 3107.60 Under what circumstances will BLM demand performance or payment under my bond?

BLM will demand performance or payment under your bond for

noncompliance with the lease terms, governing regulations or BLM orders including—

- (a) Well plugging and abandonment;
- (b) Reclamation of the lease area;
- (c) Royalty payments and related interest or penalties that have accrued;
- (d) Assessed royalties to compensate for drainage; or
- (e) Payment of penalties or assessments for violations.

§ 3107.61 As the principal on the bond, may BLM require me to restore the face amount of my bond or require me to replace my bond after BLM makes demand against it?

After the bond is reduced by the amount required to remedy noncompliance, you must either—

- (a) Post a new bond of equal value to the original bond within 60 calendar days after BLM notified you that the bond is deficient; or
- (b) Restore the existing bond(s) to the amount previously held within 60 calendar days after BLM notifies you that the bond is deficient.

§ 3107.62 What if I do not restore the face amount or file a new bond within 60 calendar days after BLM notifies me?

If you do not restore the face amount of the bond on file, or file a new bond after BLM notifies you that your bond is deficient—

- (a) BLM will require you to shut down operations; or
- (b) Your leases covered by the bond are subject to cancellation under subpart 3144.

Bond Cancellation

§ 3107.70 After I fulfill all of the lease terms and conditions, will BLM cancel my bond?

BLM will cancel your bond after you have—

- (a) Fulfilled all of the lease terms and conditions;
- (b) Completed all plugging and reclamation requirements of subpart 3159 for the wells covered by your bond; and
- (c) Paid all outstanding rents, royalties, interest, assessments, or penalties due to noncompliance.

§ 3107.71 Will BLM cancel my bond if I transferred all of my lease interests or operations to another bonded party?

BLM will cancel your bond following approval of the transfer of your lease interests or a change of operator if that party provides a bond that assumes all of your existing liabilities.

§ 3107.72 When will BLM release the collateral backing my personal bond?

BLM will release the collateral backing your personal bond when we cancel it.

Subpart 3108—Geophysical Exploration Bond Requirements

Geophysical Exploration Bonds

§ 3108.10 Must I file a bond before starting an exploration project?

You must file a bond with the BLM State office with jurisdiction over the lands before each planned exploration project.

§ 3108.11 What are the dollar amounts for geophysical bonds?

Bonds covering—

- (a) A single exploration operation must be \$5,000.
- (b) Your exploration operations in one State must be \$25,000;
- (c) Your exploration operations in all States must be \$50,000; and
- (d) BLM may adjust the bond amounts under § 3108.14.

§ 3108.12 Is there a special bond form I must use?

You must use a current bond form approved by BLM's Director for either a surety bond or a personal bond.

§ 3108.13 May I use an oil and gas lease bond to cover exploration operations?

- (a) If you hold an individual, statewide or nationwide oil and gas lease bond, you may conduct exploration on leases in which you hold an interest without further bonding.
- (b) If you hold a statewide or nationwide bond and intend to conduct exploration on lands that you do not have under lease, you must obtain a rider, subject to BLM approval, to include such oil and gas exploration operations under the bond.

§ 3108.14 Will BLM increase my bond amount?

BLM may increase your bond amount if it determines that additional coverage is necessary to protect the lands or resources.

§ 3108.15 When will BLM cancel my geophysical bond?

If you request it, BLM will cancel your bond after you—

- (a) Satisfy the terms and conditions of your notice(s) of intent or permit(s) to conduct geophysical exploration operations; and
- (b) Complete any additional reclamation BLM or the surface management agency requires after you file a notice of completion.

§ 3108.16 What will happen if I do not complete additional reclamation that BLM requests?

If you do not complete reclamation, BLM will—

(a) Demand performance or payment under your bond to cover the costs of reclamation; and

(b) Initiate judicial action to compel performance or to recover the costs of reclamation.

2. Revise part 3110—Noncompetitive Leases to read as follows:

PART 3110—OIL AND GAS GEOPHYSICAL EXPLORATION**Subpart 3110—Onshore Oil and Gas Geophysical Exploration****General Provisions**

Sec.

3110.10 When must I have BLM authorization to conduct geophysical exploration operations?

3110.11 When would the requirements of this subpart not apply to my activities?

3110.12 When may BLM suspend or cancel my right to conduct geophysical exploration?

3110.13 What is the fee to use BLM lands to conduct geophysical exploration operations?

Subpart 3112—Geophysical Exploration Outside of Alaska**Notice of Intent**

3112.10 What must I file to conduct oil and gas geophysical exploration operations?

3112.11 When must I file my NOI and what action will BLM take?

3112.12 May BLM require that I participate in a field review as a part of the filing process?

Notice of Completion

3112.20 When must I file a notice of completion of operations?

3112.21 What action will BLM take on my notice of completion?

Subpart 3113—Geophysical Exploration In Alaska (Outside the Arctic National Wildlife Refuge)**Exploration Permit Application**

3113.10 How do I apply for an oil and gas geophysical exploration permit?

3113.11 What action will BLM take on my permit application?

3113.12 What terms and conditions will BLM include in my permit?

Exploration Permit

3113.20 When is my exploration permit effective and what is its duration?

3113.21 May I relinquish my exploration permit?

3113.22 When can my exploration permit be modified?

Data and Information Obligations

3113.30 Must I collect and submit all data which I obtain while performing exploration operations under the permit?

3113.31 When may BLM disclose such data?

Completion Report

3113.40 What does BLM require after I complete operations under my exploration permit?

3113.50 What if my exploration operation is on unleased lands managed by the Department of Defense (DOD)?

Authority: 16 U.S.C. 3150(b) and 668dd; 30 U.S.C. 189 and 359; 42 U.S.C. 6508; and 43 U.S.C. 1201, 1732(b), 1733, 1734 and 1740.

Subpart 3110—Onshore Oil and Gas Geophysical Exploration**General Provisions****§ 3110.10 When must I have BLM authorization to conduct geophysical exploration operations?**

(a) You must obtain BLM authorization before you conduct geophysical exploration—

(1) On public lands, if BLM manages the surface;

(2) On unleased public lands managed by another agency, if that agency and BLM agree for BLM to process your application to conduct geophysical exploration operations according to the regulations in this part; and

(3) Under the rights granted by any Federal oil and gas lease, unless the Forest Service manages the surface.

(b) If you conduct geophysical exploration outside of the rights granted by a Federal oil and gas lease on lands where BLM does not manage the surface, you may need authorization from the surface management agency or surface owner.

§ 3110.11 When would the requirements of this subpart not apply to my activities?

The requirements of this subpart do not apply to—

(a) Casual use activities. Gravity or magnetic surveys, the placement of recording equipment, and activities that do not involve vehicle operations that would cause significant compaction or rutting are generally considered casual use; and

(b) Operations you conduct on private surface overlying Federal minerals, unless you conduct operations under the rights granted by a Federal oil and gas lease.

§ 3110.12 When may BLM suspend or cancel my right to conduct geophysical exploration?

(a) If BLM determines that you have violated any of the terms or conditions of your subpart 3112 Notice of Intent to conduct oil and gas geophysical operations or of your exploration permit in Alaska under subpart 3113, BLM may suspend or cancel your right to conduct exploration. BLM will provide notice to

you before it suspends or cancels your right to conduct exploration.

(b) BLM may order an immediate temporary suspension of your geophysical activities until a hearing or final administrative finding, if it determines that a suspension is necessary to protect public health and safety or the environment.

§ 3110.13 What is the fee to use BLM lands to conduct geophysical exploration operations?

BLM will—

(a) Determine the fair market value fee (FMV) for your use of public lands for each notice of intent or exploration permit, if BLM manages the surface;

(b) Base the FMV on the size of the area physically affected; and

(c) Not charge a FMV for portions of your geophysical exploration operation you are conducting on your Federal lease or on behalf of the Federal lessee.

Subpart 3112—Geophysical Exploration Outside of Alaska**Notice of Intent****§ 3112.10 What must I file to conduct oil and gas geophysical exploration operations?**

Before you conduct oil and gas geophysical exploration, you must submit a Notice of Intent (NOI) to Conduct Oil and Gas Geophysical Exploration Operations, Form 3150-4, and provide BLM information to determine a FMV according to § 3110.13.

§ 3112.11 When must I file my NOI and what action will BLM take?

(a) You must file a NOI at least 14 business days before you plan to start operations and BLM will review and process it according to—

(1) BLM land use planning decisions for geophysical exploration in the area where you plan to conduct operations; or

(2) Your lease terms, if you conduct geophysical exploration under the rights granted by your lease and the lease was issued before the effective date of the applicable land use plan.

(b) BLM will give you a copy of the Terms and Conditions for Notice of Intent to Conduct Geophysical Exploration, Form 3150-4a, and other conditions which you must sign and follow to—

(1) Protect the public lands from unnecessary and undue degradation; and

(2) Assure compliance with applicable laws for the protection of the environment;

(c) BLM will notify you—

(1) If it cannot process your NOI and why; or

(2) Why processing will be delayed and when you can expect BLM to complete processing.

(d) BLM will not authorize your NOI until you pay the required FMV.

§ 3112.12 May BLM require that I participate in a field review as a part of the filing process?

BLM may require you to participate in a field review of your proposal to conduct geophysical operations. The purpose of this review is to complete development of the terms and conditions of your NOI.

Notice of Completion

§ 3112.20 When must I file a notice of completion of operations?

You must submit a Notice of Completion of Oil and Gas Exploration Operations, Form 3150-5, to BLM 30 calendar days after completing operations, including reclamation activities.

§ 3112.21 What action will BLM take on my notice of completion?

After you file Form 3150-5, BLM will notify you whether your reclamation is satisfactory or whether you must perform additional reclamation, specifying the nature and extent of further actions you must take.

Subpart 3113—Geophysical Exploration In Alaska (Outside the Arctic National Wildlife Refuge)

Exploration Permit Application

§ 3113.10 How do I apply for an oil and gas geophysical exploration permit?

If you plan to conduct oil and gas geophysical exploration operations in Alaska, you must—

(a) Complete an application for an oil and gas geophysical exploration permit that fully describes and illustrates your plans for conducting exploration operations;

(b) Provide evidence that you have bond coverage according to the requirements of subpart 3108; and

(c) Provide BLM information to determine a FMV according to § 3110.13. BLM will not approve your permit until you pay the required FMV.

§ 3113.11 What action will BLM take on my permit application?

(a) BLM will—

(1) Review your application and approve or disapprove it; or

(2) Notify you if processing will be delayed, why it will be delayed, and when BLM will complete processing.

(b) BLM will only authorize exploration for lands subject to section 1008 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3148), after it determines that you can conduct exploration activities in a manner consistent with BLM's management of the affected area.

§ 3113.12 What terms and conditions will BLM include in my permit?

BLM will include—

(a) Terms and conditions necessary to protect mineral and nonmineral resources;

(b) Terms to insure that your operations are consistent with BLM's management of the affected area, if your proposal occurs on lands subject to section 1008 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3148); and

(c) Reasonable conditions, restrictions and prohibitions, if you plan to conduct geophysical operations within the National Petroleum Reserve in Alaska, to—

(1) Mitigate adverse effects upon the surface resources of the reserve; and

(2) Satisfy the requirement of section 104(b) of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6504).

Exploration Permit

§ 3113.20 When is my exploration permit effective and what is its duration?

(a) An exploration permit is valid for one year after the effective date specified by BLM; and

(b) BLM may renew your exploration permit for an additional year if you submit a written request.

§ 3113.21 May I relinquish my exploration permit?

You may relinquish all or part of your exploration permit by filing a request for relinquishment with BLM. BLM will approve the relinquishment, provided you and your surety comply with the terms and conditions of your exploration permit and the regulations in this part.

§ 3113.22 Can my exploration permit be modified?

(a) BLM may approve your proposal to modify your exploration permit; and

(b) BLM may, after consulting with you, require you to modify your exploration permit.

Data and Information Obligations

§ 3113.30 Must I collect and submit all data which I obtain while performing exploration operations under the permit?

You must collect and submit to BLM all data which you obtain while conducting exploration operations.

§ 3113.31 When may BLM disclose such data?

BLM will manage this data according to the Freedom of Information Act and 43 CFR part 2.

Completion Report

§ 3113.40 What does BLM require after I complete operations under my exploration permit?

Within 30 calendar days after completing all operations under the permit you must submit a completion report that describes and illustrates the work that you performed and any reclamation activity completed or planned. BLM will review the completion report and notify you of any additional measures which you must perform to correct damage to the lands and resources.

§ 3113.50 What if my exploration operation is on unleased lands managed by the Department of Defense (DOD)?

If the DOD refers your geophysical exploration permit application to BLM for issuance—

(a) BLM will follow the provisions of subpart 3113 to process your permit; and

(b) DOD must consent to BLM issuance of your permit and may impose terms and conditions on your permit.

3. Revise part 3120—Competitive Leases to read as follows:

PART 3120—OIL AND GAS LEASING

Subpart 3120—Leasing (General)

Leasing: General

Sec.

3120.10 What public lands may BLM lease for oil and gas under this subpart?

3120.11 What units of the National Park System are subject to oil and gas leasing?

3120.12 May BLM lease minerals under the jurisdiction of an agency outside of the Department of the Interior?

National Wildlife Refuge System Lands

3120.20 What are National Wildlife Refuge System lands?

3120.21 May BLM lease lands that are within the National Wildlife Refuge System?

Coordination Lands

3120.30 What are coordination lands?

3120.31 May BLM lease coordination lands?

3120.32 May BLM lease lands within a wildlife refuge in Alaska?

3120.33 May BLM lease lands within Recreation and Public Purposes leases or patents?

3120.34 May a lease contain both acquired and public domain minerals?

Oil and Gas Lease Administration

3120.40 For Federal lands, what types of leases does BLM issue or administer?

3120.41 For each type of lease, what is the primary lease term, maximum lease size, administrative filing fee, and advance annual rental rate?

Subpart 3121—Competitive Leasing

Notice of Competitive Lease Sale

3121.10 How does BLM provide notice of what lands are available for competitive oil and gas leasing?

3121.11 What information will BLM include in the Notice of Competitive Lease Sale?

3121.12 How does BLM decide which lands to include in a Notice of Competitive Lease Sale?

3121.13 What types of lands may I include in my letter of nomination?

Legal Descriptions

3121.20 How should I describe the lands in my letter of nomination?

3121.21 What other rules must I follow when I submit my nomination letter?

Future Interest Leasing

3121.30 May I submit a nomination letter for mineral interests that will vest in the United States in the future and how will BLM offer them?

Subpart 3122—Competitive Lease Sale

General

3122.10 How often must each BLM State Office hold competitive lease sales?

3122.11 How are competitive oil and gas lease sales conducted?

3122.12 Is there a minimum per-acre amount that I must bid on a parcel?

3122.13 If the United States owns a fractional interest (less than 100 percent of the mineral interest in a parcel), is the minimum bid per acre prorated?

3122.14 How does BLM determine the winning bid?

3122.15 What documents must I submit on the day of the sale if I am the winning bidder of a parcel?

3122.16 May I withdraw my bid?

3122.17 What must I pay per parcel at the sale if I am the winning bidder?

3122.18 If I am the winning bidder for a future interest lease, what payments must I make on the day of the sale?

Balance of Bonus Bid

3122.20 When is the balance of my bonus bid due?

3122.21 What happens if BLM does not receive the balance of my bonus bid within 10 business days following the date of the sale?

Rejection of Bid

3122.30 Under what circumstances will BLM reject my bid?

3122.31 Are parcels for which BLM rejected bids available for noncompetitive leasing during the two years after the sale?

Parcels That Receive No Bid at Oral Auction

3122.40 If a parcel receives no bid at the competitive lease sale, is it available for noncompetitive leasing?

Subpart 3123—Noncompetitive Leasing

Parcels Available for Noncompetitive Lease Offers

3123.10 What parcels are available for noncompetitive lease offers?

3123.11 When do parcels that received no bid at the competitive sale become available for noncompetitive leasing?

Priority of Noncompetitive Lease Offers

3123.20 What if more than one noncompetitive offer is filed for the same parcel?

3123.21 If my noncompetitive offer requires a correction, under what circumstances does it retain priority?

Descriptions of Lands in Noncompetitive Lease Offers

3123.30 How do I describe the lands in my offer I file the day after the competitive lease sale?

3123.31 How do I describe the lands in my noncompetitive offer for public domain or acquired minerals that I file within the two years after the sale?

Requirements of a Noncompetitive Lease Offer

3123.40 How do I file a noncompetitive offer?

3123.41 If I file a noncompetitive future interest offer, when must I pay the first year's advance rental?

3123.42 What happens to my noncompetitive offer if an earlier offeror is entitled to a lease, either as a result of priority of the offer, or a pending lease reinstatement?

3123.43 May I amend my noncompetitive lease offer before BLM issues the lease?

3123.44 May I withdraw my noncompetitive lease offer?

Subpart 3124—Lease Administration and Renewals

Dating of Leases

3124.10 What is the effective date of my lease?

Leases Within Unit Agreements

3124.20 What if the lands I am leasing are within an existing unit agreement?

3124.21 What effect does the commitment to a unit have on my lease offer or lease?

Lease Consolidation

3124.30 May I consolidate leases?

3124.31 What information must I include in my application for lease consolidation?

3124.32 How many copies of my application must I file and where must I file it?

Lease Renewals

3124.40 For how many years will BLM renew my lease?

3124.41 For how many years will BLM renew my lease if it wasn't issued under Section 14 of the Mineral Leasing Act?

3124.42 If my lease is committed to a unit agreement may I file a renewal lease application?

3124.43 Who may file a renewal lease application?

3124.44 How must I file my renewal lease application?

Subpart 3125—Exchange Leases

Exchange Leases

3125.10 May I exchange my existing oil and gas lease for a new lease?

3125.11 How must I file an exchange lease application?

Subpart 3126—Railroad Right-of-Way Leases

Railroad Right-of-Way Leases

3126.10 To which rights of way does this subpart apply?

3126.11 Who may lease the oil or gas deposits underlying a railroad right-of-way?

3126.12 How must I file a lease application under this subpart?

3126.13 What information must my application include?

3126.14 Who must BLM notify that I filed an application to lease the oil and gas under the right-of-way?

3126.15 Who may submit a bid for compensation?

3126.16 What must I include in my bid for compensation?

3126.17 Who must BLM notify that I have filed an application for compensation?

3126.18 May BLM request offers to lease or for compensation?

3126.19 Who will receive the rights to the oil and gas underlying the right-of-way?

3126.20 What is the term of my lease or agreement?

Subpart 3129—Record Title, Operating Rights and Estate Transfers, Name Changes and Mergers

General

3129.10 What is a transfer?

3129.11 When must I file a transfer with BLM?

3129.12 Who may receive a transfer of lease interests?

3129.13 What must I include in my transfer application?

3129.14 When is my transfer effective?

3129.15 May I withdraw my transfer?

3129.16 May I file a record title transfer limited to a specific depth, formation, zone or defined deposit or fluid mineral?

3129.17 May I file my operating rights transfer to a specific depth?

3129.18 How do transfers of interest affect future transfers?

3129.19 When will BLM segregate a lease as a result of a transfer?

3129.20 What is a mass transfer?

3129.21 May I file a mass transfer?

3129.22 Does BLM's approval of a transfer certify that title is clear?

Forms, Fees and Filing Requirements

- 3129.30 What forms must I use to transfer lease interests, how many copies must I file, what is the filing fee per lease or document, and where must I file them?
- 3129.31 Are filing fees refundable?
- 3129.32 How do I describe the lands on Form 3000-3 for my record title transfer?
- 3129.33 May I transfer less than a legal subdivision?
- 3129.34 May I file a record title transfer containing less than 640 acres?
- 3129.35 What must I submit to BLM to transfer the rights or interests of a decedent to its heir, devisee or estate?
- 3129.36 What must I submit to BLM for a merger or name change?
- 3129.37 Where must I file documentation of estate, merger and name changes?
- 3129.38 As the transferee, what should I file to show I am qualified to hold Federal lease interests?
- 3129.39 When must I file transfers with BLM?
- 3129.40 May I transfer an interest before BLM issues the lease?

Bonding, Obligations and Liabilities

- 3129.50 When will BLM require a new bond for a transfer?
- 3129.51 If I transfer my lease, when do my obligations under the lease end?
- 3129.52 If I acquire a lease by an assignment or transfer, what obligations do I agree to assume?

Denial/Disapproval

- 3129.60 When will BLM deny or disapprove a transfer to me?
- 3129.61 Must I file assignments of rights to production with BLM?
- 3129.62 May I file a lien against a lease for monies owed me?
- 3129.63 Must I file transfers of overriding royalty interest, net profit or production payments with BLM?

Authority: 16 U.S.C. 3150(b) and 668dd; 30 U.S.C. 189, 306 and 359; 43 U.S.C. 1733, 1734 and 1740; and 10 U.S.C.A. 7439.

Subpart 3120—Leasing (General)**Leasing: General****§ 3120.10 What public lands may BLM lease for oil and gas under this subpart?**

This subpart applies to public domain and acquired minerals subject to leasing under the Mineral Leasing Act, as amended (30 U.S.C. 181 *et seq.*) and the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 *et seq.*). This subpart does not apply to leasing minerals in—

- (a) National Parks and the following units of the National Park System except as provided at § 3120.11;
- (b) National monuments;
- (c) Incorporated cities, towns and villages;
- (d) National Petroleum Reserve-Alaska and Naval petroleum and oil shale reserves, except Naval Oil Shale Reserves 1 and 3;

(e) Lands recommended for wilderness allocation by the surface management agency;

(f) Lands within BLM wilderness study areas;

(g) Lands designated by Congress as wilderness study areas, except where oil and gas leasing is specifically allowed to continue by the statute designating the study area;

(h) Lands within areas allocated for wilderness or further planning in Executive Communication 1504, Ninety-Sixth Congress (House Document numbered 96-119), unless the lands are allocated to uses other than wilderness by a land and resource management plan or have been released to uses other than wilderness by an Act of Congress;

(i) Lands within the National Wilderness Preservation System, subject to valid existing rights under section 4(d)(3) of the Wilderness Act established before midnight, December 31, 1983;

(j) Lands north of 68 degrees north latitude and east of the western boundary of the National Petroleum Reserve-Alaska;

(k) Arctic National Wildlife Refuge in Alaska;

(l) Any other lands withdrawn from leasing;

(m) Tidelands or submerged coastal lands within the continental shelf adjacent or littoral to lands within the jurisdiction of the United States; and

(n) Lands acquired by the United States for development of helium, fissionable material deposits or other minerals essential to the defense of the country, except oil, gas, and other minerals subject to leasing under the Act.

§ 3120.11 What units of the National Park System are subject to oil and gas leasing?

(a) The Secretary may allow oil and gas leasing in units of the National Park System listed in paragraph (b) of this section if leasing those lands would not have significant adverse effects on the administration of the area and if lease operations can be conducted in a manner that will preserve the scenic, scientific and historic features contributing to public enjoyment of the area;

(b) BLM may lease oil and gas in—

(1) Lake Mead National Recreation Area as portrayed on the map identified as "boundary map" 8360-80013B, revised February 1986;

(2) Whiskeytown Unit of the Whiskeytown-Shasta-Trinity National Recreation Area as portrayed on the map identified as "Proposed Whiskeytown-Shasta-Trinity National Recreation Area," numbered BOR-WST

1004, dated July 1963. BLM may lease lands within the recreation area under the jurisdiction of the Secretary of Agriculture under the Mineral Leasing Act of 1920, as amended, or the Acquired Lands Mineral Leasing Act of 1947, if disposition would not have significant adverse effects on the purpose of the Central Valley Project or the administration of the recreation area;

(3) Glen Canyon National Recreation Areas as portrayed on the map identified as "boundary map, Glen Canyon National Recreation Area," numbered GLC-91,006, dated August 1972; and

(4) Any other units of the National Park Service where Congress authorizes leasing;

(c) BLM may not lease oil and gas in the—

(1) Lake Mead National Recreation Area—

(i) All waters of Lakes Mead and Mohave and all lands within 300 feet of those lakes measured horizontally from the shoreline at maximum surface elevation; and

(ii) All lands within the unit of supervision of the Bureau of Reclamation around Hoover and Davis Dams and all lands outside of resource utilization zones as designated by the Superintendent on the map (602-2291B., dated October 1987) of Lake Mead National Recreation Area which is available for inspection in the Office of the Superintendent;

(2) Whiskeytown Unit of the Whiskeytown-Shasta-Trinity National Recreation Area—

(i) All waters of the Whiskeytown Lake and all lands within 1 mile of that lake measured from the shoreline at maximum surface elevation;

(ii) All lands classified as high density recreation, general outdoor recreation, outstanding natural and historic, as shown on the map numbered 611-20,004B, dated April 1979, entitled "Land Classification, Whiskeytown Unit, Whiskeytown-Shasta-Trinity National Recreation Area." This map is available for public inspection in the Office of the Superintendent; and

(iii) All lands within section 34 of Township 33 North, Range 7 West, Mt. Diablo Meridian; or

(3) Glen Canyon National Recreation Area—Those units closed to mineral disposition within the natural zone, development zone, cultural zone and portions of the recreation and resource utilization zone as shown on the map numbered 80,022A, dated March 1980, entitled "Mineral Management Plan—Glen Canyon National Recreation Area." This map is available for public

inspection in the Office of the Superintendent and the offices of the State Directors, Bureau of Land Management, Arizona and Utah.

§ 3120.12 May BLM lease minerals under the jurisdiction of an agency outside of the Department of the Interior?

If minerals are under the jurisdiction of an agency outside the Department of the Interior, BLM may lease—

(a) Acquired lands only after BLM receives consent from the surface management agency;

(b) Public domain lands only after BLM has consulted with the surface management agency; and

(c) National Forest System lands and lands withdrawn for use by the Department of Defense, whether acquired or public domain, only with the written consent of the surface management agency.

National Wildlife Refuge System Lands

§ 3120.20 What are National Wildlife Refuge System lands?

National Wildlife Refuge System lands are those lands under the jurisdiction of the United States Fish and Wildlife Service included within a withdrawal of public domain and acquired lands for the protection of all species of wildlife within a particular area.

§ 3120.21 May BLM lease lands that are within the National Wildlife Refuge System?

BLM may lease National Wildlife Refuge System lands only—

(a) If it is necessary to protect those lands from drainage; or

(b) Where there are valid existing rights.

Coordination Lands

§ 3120.30 What are coordination lands?

Coordination lands are those lands withdrawn or acquired by the United States and made available to the States by—

(a) Cooperative agreements entered into between the Fish and Wildlife Service and the game commissions of the various States, in accordance with the Act of March 10, 1934 (48 Stat. 401), as amended by the Act of August 14, 1946 (60 Stat. 1080); or

(b) Long-term leases or agreements between the Department of Agriculture and the game commissions of the various States pursuant to the Bankhead-Jones Farm Tenant Act (50 Stat. 525), as amended, where such lands were subsequently transferred to the Department of the Interior, with the Fish and Wildlife Service as the custodial agency of the United States.

§ 3120.31 May BLM lease coordination lands?

BLM may lease coordination lands (not closed to oil and gas leasing) only after it has—

(a) Consulted with the applicable State Game Commission and the Fish and Wildlife Service; and

(b) Obtained any lease stipulations necessary to protect the lands proposed for lease.

§ 3120.32 May BLM lease lands within a wildlife refuge in Alaska?

Lands within a wildlife refuge in Alaska, except the Arctic National

Wildlife Refuge, are open to oil and gas leasing after the Fish and Wildlife Service has completed a favorable compatibility determination.

§ 3120.33 May BLM lease lands within Recreation and Public Purposes leases or patents?

Recreation and Public Purposes Act leases and patents authorized under 43 U.S.C. 869 *et seq.* are subject to oil and gas leasing under the regulations in this part, subject to any conditions or stipulations that the Secretary considers appropriate.

§ 3120.34 May a lease contain both acquired and public domain minerals?

A lease may not contain both public domain and acquired minerals.

Oil and Gas Lease Administration

§ 3120.40 For Federal lands, what types of leases does BLM issue or administer?

BLM issues or administers the following types of leases—

- (a) Competitive;
- (b) Noncompetitive;
- (c) Future Interest (Competitive/Noncompetitive);
- (d) Right-of-Way;
- (e) Renewal;
- (f) Exchange;
- (g) Combined Hydrocarbon; and
- (h) Private.

§ 3120.41 For each type of lease, what is the primary lease term, maximum lease size, administrative filing fee, and advance annual rental rate?

The following chart describes the terms for each type of lease BLM issues—

Type of lease	Primary lease term	Maximum lease size	Administrative filing fee	Rental rate per acre or fraction of an acre
(a) Competitive	10 years	2,560 acres for lower 48 States and 5,760 acres in Alaska.	\$75	\$1.50 for the first five years; \$2.00 the sixth and succeeding years.
(b) Noncompetitive	10 years	2,560 acres for lower 48 States and 5,760 acres in Alaska.	75	See Competitive.
(c) Future Interest	10 years	2,560 acres for lower 48 States and 5,760 acres in Alaska.	75	See Competitive.
(d) Right-of-Way Leasing	20 years	N/A	75	See Competitive.
(e) Renewal Leases	20 years	N/A	75	\$2.
(f) Exchange Leases	5 years	N/A	75	\$2.
(g) Combined Hydrocarbon Leases	10 years	5,120 acres	75	\$2.
(h) Private Leases	Subject to private lease terms.	N/A	None	Subject to private lease terms.

Subpart 3121—Competitive Leasing

Notice of Competitive Lease Sale

§ 3121.10 How does BLM provide notice of what lands are available for competitive oil and gas leasing?

BLM will—

(a) Post a Notice of Competitive Lease Sale in the public room of the BLM State Office with jurisdiction over the lands available for lease for a minimum of 45 calendar days before the sale date; and

(b) Make the notice available for posting at the offices of all appropriate

surface management agencies with jurisdiction over any of the parcels included in the sale notice for at least 45 calendar days before the sale date.

§ 3121.11 What information will BLM include in the Notice of Competitive Lease Sale?

In the Notice of Competitive Lease Sale, BLM will include—

- (a) The time, date, and place of the sale;
- (b) A description of the lands available for sale;
- (c) Stipulations or lease conditions that apply to each sale parcel; and
- (d) Any special requirements that apply to a parcel such as communitization or unit agreement joinder requirements, or any plugging, bonding, or surface reclamation requirements for existing wells.

§ 3121.12 How does BLM decide which lands to include in a Notice of Competitive Lease Sale?

BLM includes lands in a Notice of Competitive Lease Sale as a result of a—

- (a) Letter of nomination from the public;
- (b) BLM recommendation; or
- (c) Request from a surface management agency.

§ 3121.13 What types of lands may I include in my letter of nomination?

You may include the following types of lands in your letter of nomination for competitive leasing—

- (a) Lands available for leasing under § 3120.10, including—

(1) Lands in oil and gas leases that have terminated, expired, been canceled or relinquished;

(2) Interests forfeited to the United States;

(3) Lands that have never been leased;

(b) Lands which are otherwise unavailable for leasing but are subject to drainage (protective leasing); and

(c) Lands in gas storage agreements that also meet the requirements of paragraph (a) or (b) of this section.

Legal Descriptions

§ 3121.20 How should I describe the lands in my letter of nomination?

If—	Then you must describe the lands—
(a) The public lands have been surveyed under the public land rectangular survey system or the acquired lands lie within and conform to the rectangular system of public land surveys and constitute either all or a portion of the tract acquired by the United States.	By township, range, meridian, section and legal subdivision.
(b) The public lands have <i>not</i> been surveyed under the public land rectangular survey system or the acquired lands do not conform to the rectangular system of public land surveys, but lie within an area of the public land surveys and constitute the entire tract acquired by the United States.	By metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, and connected by courses and distances connected to an official corner of the public land surveys, or furnish a copy of the deed or other conveyance document by which the United States acquired title to the lands.
(c) The acquired lands do not conform to the rectangular system of public land surveys, but lie within an area of the public land surveys and constitute less than the entire tract acquired by the United States.	By metes and bounds, giving courses and distances between the successive angle points with appropriate ties to the nearest official survey corner. If a portion of the boundary of the lands requested coincides with the boundary in the deed or other conveyance document, you don't have to redescribe the boundary if a copy of the deed or other conveyance document is attached to your nomination. Any portion of the lands nominated that does not coincide with the boundary in the deed or other conveyance document must be tied by courses and distances between successive angle points into the description in the deed or other conveyance document.
(d) The acquired lands lie outside an area of the public land surveys and constitute the entire tract acquired by the United States.	Either as shown in the deed or other conveyance document by which the United States acquired title to the lands, or attach a copy of the document to your nomination.
(e) The acquired lands lie outside an area of the public land surveys and constitute less than the entire tract acquired by the United States.	By metes and bounds, giving courses and distances between successive angle points tying by courses and distances into the description in the deed or other conveyance document. If a portion of the boundary of the lands requested coincides with the boundary in the deed or other conveyance document, you don't have to redescribe the boundary if a copy of the deed or other conveyance document is attached to your nomination. Any portion of the lands nominated that does not coincide with the boundary in the deed or other conveyance document must be tied by courses and distances between successive angle points into the description in the deed or other conveyance document.
(f) The acquired lands do not conform to the rectangular survey system of public land surveys.	By filing three copies of a map upon which the location of the lands are clearly marked with respect to the administrative unit or project of which they are a part.
(g) The acquired lands have been assigned an acquisition or tract number by the acquiring agency.	By the acquisition or tract number together with the identity of the State and county where the lands are located.
(h) The public lands have a protracted survey that has been approved and the effective date published in the FEDERAL REGISTER.	By legal subdivision, section, township, range and meridian. However, the smallest legal subdivision for which you may apply is a full section for the lower 48 states and four full contiguous sections for Alaska.
(i) The lands are accreted	By metes and bounds giving courses and distances between the successive angle points on the boundary of the tract, and connected by courses and distances to an angle point on the perimeter of the tract to which the accretions apply.

§ 3121.21 What other rules must I follow when I submit my nomination letter?

- (a) You must not combine public domain and acquired minerals in the same parcel nominated.

(b) Each parcel nominated must not exceed 2,560 acres for the lower 48 states or 5,760 acres for Alaska.

(c) The lands within each parcel nominated must be within a six square

mile area, unless you show BLM that a larger area is necessary.

Future Interest Leasing

§ 3121.30 May I submit a nomination letter for mineral interests that will vest in the United States in the future and how will BLM offer them?

- (a) You may submit a nomination letter for future mineral interests; and
 (b) BLM will offer eligible future mineral interests at a competitive lease sale.

Subpart 3122—Competitive Lease Sale General

§ 3122.10 How often must each BLM State Office hold competitive lease sales?

Each BLM State Office must hold competitive lease sales at least quarterly if lands are eligible and available for competitive leasing.

§ 3122.11 How are competitive oil and gas lease sales conducted?

- (a) Competitive lease sales are conducted by oral bidding.
 (b) If you make the highest bid at the sale, you are committed to execute the lease under § 3122.15 and to pay the amounts required under §§ 3122.17 and 3122.20.
 (c) If you are the highest bidder and you fail to complete the requirements to obtain your lease under this subpart, BLM considers your bid rejected.

§ 3122.12 Is there a minimum per-acre amount that I must bid on a parcel?

The minimum acceptable bid is \$2.00 per acre or fraction of an acre, calculated on the gross acreage in the parcel.

§ 3122.13 If the United States owns a fractional interest (less than 100 percent of the mineral interest in a parcel) is the minimum bid per acre prorated?

The minimum acceptable bid will not be prorated for any lands in which the United States owns a fractional interest. Your bid per acre must be calculated on the gross acreage in the parcel.

§ 3122.14 How does BLM determine the winning bid?

The winning bid is the highest oral bid on a parcel that equals or exceeds the minimum acceptable bid.

§ 3122.15 What documents must I submit on the day of the sale if I am the winning bidder of a parcel?

- (a) On the day of the sale, you must submit a signed BLM-approved lease bid form for each parcel on which BLM determines you are the winning bidder.
 (b) Your signature on a BLM-approved lease bid form binds you to the lease agreement and constitutes acceptance of the lease terms and conditions.

§ 3122.16 May I withdraw my bid?

You may not withdraw your bid.

§ 3122.17 What must I pay per parcel at the sale if I am the winning bidder?

- (a) If you are the winning bidder of a parcel, on the day of the sale you must pay—
 (1) A nonrefundable \$75 administrative fee;
 (2) The first year's advance annual rental of \$1.50 per acre or fraction of an acre calculated on the gross acreage in the parcel; and
 (3) The minimum bonus bid of \$2.00 per acre or fraction of an acre calculated on the gross acreage in the parcel.
 (b) The BLM State Office with jurisdiction over the parcels in the sale notice must receive your payment by the close of official business hours on the day of the sale, or other time specified in the Notice of Competitive Lease Sale, or BLM considers your bid rejected.

§ 3122.18 If I am the winning bidder for a future interest lease, what payments must I make on the day of the sale?

If you are the winning bidder on a future interest lease, you do not have to pay the first year's advance rental until the mineral interest vests in the United States. Other payments are due in accordance with § 3122.17.

Balance of Bonus Bid

§ 3122.20 When is the balance of my bonus bid due?

You must submit the balance of your bonus bid within 10 business days after the date of the sale.

§ 3122.21 What happens if BLM does not receive the balance of my bonus bid within 10 business days following the date of the sale?

If BLM does not receive your bonus bid within 10 business days following the date of the sale, you forfeit all monies paid on the day of the sale and you lose all rights to the lease, unless the envelope containing your payment is postmarked by the United States Postal Service, or is dated as received at a courier or other delivery service, on or before the tenth business day.

Rejection of Bid

§ 3122.30 Under what circumstances will BLM reject my bid?

- BLM will reject your bid if—
 (a) You do not submit the balance of bonus bid within 10 business days from the date of the sale as provided in § 3122.21;
 (b) You do not comply with the requirements of this part, such as furnishing BLM with evidence required

under subpart 3130 that you will commit your lease to the unit;

(c) BLM determines you are not qualified to hold Federal mineral leases; or

(d) Your payment is returned to BLM by your bank for insufficient funds.

§ 3122.31 Are parcels for which BLM rejected bids available for noncompetitive leasing during the two years after the sale?

Parcels for which BLM rejected bids are not available for noncompetitive leasing. BLM will offer the parcels at a future competitive sale.

Parcels That Receive No Bid at Oral Auction

§ 3122.40 If a parcel receives no bid at the competitive lease sale, is it available for noncompetitive leasing?

(a) Except as provided in paragraph (b) of this section, a parcel for which BLM receives no bid at the competitive lease sale is available for noncompetitive leasing.

(b) BLM may withdraw the following parcels from noncompetitive leasing and lease those parcels through a process BLM considers appropriate—

(1) Land reported as excess under the Federal Property and Administrative Services Act of 1949. BLM leases these General Services Administration surplus lands only through the competitive process.

(2) An interest in an existing lease that has been canceled or forfeited. The specific lease interest in the parcel will be available for lease beginning the first day after the sale to the first qualified applicant that submits a bonus bid of \$75.

(3) An area closed to leasing that is subject to drainage (protective leasing). BLM leases these lands only through the competitive process.

(c) Notwithstanding the provisions of subpart 3123, BLM may reject any noncompetitive lease offer under paragraph (b) of this section that is not as favorable to the United States as any other offer BLM receives for a parcel. Also, for parcels subject to paragraph (b)(2), the noncompetitive offer may not be less than required under § 3122.12.

Subpart 3123—Noncompetitive Leasing**Parcels Available for Noncompetitive Lease Offers**

§ 3123.10 What parcels are available for noncompetitive lease offers?

The only parcels available for noncompetitive lease offers are parcels that received no bid at the competitive sale.

§ 3123.11 When do parcels that received no bid at the competitive sale become available for noncompetitive leasing?

Parcels offered for bid that received no bid at the competitive lease sale are available for noncompetitive leasing on the first business day after the sale. These parcels are available for noncompetitive bid for a period of two years, unless they are withdrawn.

Priority of Noncompetitive Lease Offers

§ 3123.20 What if more than one noncompetitive offer is filed for the same parcel?

(a) If more than one noncompetitive offer is filed for the same parcel on the day after the sale, BLM considers the offers simultaneously filed and holds a public drawing to determine priority.

(b) If BLM receives more than one noncompetitive offer for the same parcel after the first day, your noncompetitive offer will receive priority according to the date and time you filed it in the BLM State Office with jurisdiction over the parcel for which you applied.

(c) If you properly filed your noncompetitive offer the day after the sale, but BLM erroneously excluded the offer from the drawing for priority, BLM will hold a new public drawing to include your offer.

§ 3123.21 If my noncompetitive offer requires a correction, under what circumstances does it retain priority?

(a) Your noncompetitive offer must be complete when you file it or BLM will reject it. However, BLM will accept your noncompetitive offer and allow it to retain its priority under § 3123.20 if —

- (1) You filed your noncompetitive offer on an obsolete form;
- (2) You submitted only one copy of your noncompetitive offer form;
- (3) You failed to sign or date your noncompetitive offer form;
- (4) Your bank erroneously returned your remittance for the first year's advance rental, required under § 3123.41, for insufficient funds;
- (5) You submitted copies of the offer which were not exact reproductions, except where BLM cannot determine which parcels you included;
- (6) Someone other than yourself signed your offer and, in response to BLM's request, you timely provide BLM a description of your relationship to the person who signed the offer;
- (7) Your rental payment, under § 3123.40, is deficient by not more than 10 percent or \$200, whichever is less, and you make your payment to correct the deficiency to BLM within 30 calendar days from your receipt of the notification of deficiency; or
- (8) Your offer contains public domain and acquired mineral parcels. Your offer

retains priority for the type of lands you have indicated in the upper portion of the offer form. Your offer for the other lands will be rejected.

(b) You must correct the errors in paragraphs (a)(1) through (a)(6) of this section within 10 business days after BLM's notice.

Description of Lands in Noncompetitive Lease Offer

§ 3123.30 How do I describe the lands in my offer I file the day after the competitive lease sale?

Your noncompetitive lease offer must describe the lands by the parcel number indicated in the Notice of Competitive Lease Sale.

§ 3123.31 How do I describe the lands in my noncompetitive offer for public domain or acquired minerals that I file within the two years after the sale?

(a) Your noncompetitive lease offer must describe the lands by the parcel number indicated in the Notice of Competitive Lease Sale.

(b) You may combine more than one parcel from more than one sale notice on an offer, but your lease offer must—

- (1) Include entire parcels;
- (2) Be within a six square mile area, unless you show BLM that a larger area is necessary; and
- (3) Not exceed 2,560 acres for the lower 48 states and 5,760 acres for Alaska.

Requirements of a Noncompetitive Lease Offer

§ 3123.40 How do I file a noncompetitive offer?

To file a noncompetitive lease offer—

- (a) File it in duplicate (an original and one copy) on a form approved by the Director. BLM will accept a reproduction of the form if it includes no additions, omissions, other changes, or advertising;
- (b) File a form that is typewritten or printed plainly in ink, signed in ink and dated by you or your authorized agent;
- (c) Include a nonrefundable \$75 filing fee; and
- (d) Except for noncompetitive future interest lease offers, include the first year's advance rental at \$1.50 per acre or fraction of an acre.

§ 3123.41 If I file a noncompetitive future interest offer, when must I pay the first year's advance rental?

You must pay the first year's advance rental when the mineral interest vests in the United States.

§ 3123.42 What happens to my noncompetitive offer if an earlier offeror is entitled to a lease, either as a result of priority of the offer, or a pending lease reinstatement?

BLM will not reject your noncompetitive offer until we take final action on the earlier offer or pending reinstatement.

§ 3123.43 May I amend my noncompetitive lease offer before BLM issues the lease?

You may not amend your noncompetitive lease offer. However, you should notify BLM of any insignificant errors in your offer that BLM should correct before it issues your lease.

§ 3123.44 May I withdraw my noncompetitive lease offer?

You may not withdraw your noncompetitive offer in whole or in part until 60 calendar days have elapsed from the date the offer was filed in the BLM State Office with jurisdiction over the lands. BLM will refund only your first year's advance rental. You may not withdraw your offer under any circumstance after BLM issues the lease.

Subpart 3124—Lease Administration and Renewals

Dating of Leases

§ 3124.10 What is the effective date of my lease?

(a) Your lease is effective the first day of the month following the date BLM signs it. BLM will issue the lease effective the first day of the month in which it is signed if you request it in writing.

(b) BLM will issue your future interest lease effective the date the mineral interest vests in the United States.

(c) If the United States owns both a present fractional interest and a future fractional interest of the minerals in the same parcel, BLM will issue your lease to cover both the present fractional interest and future fractional interest. The effective date and primary term of your present fractional interest lease is unaffected by the vesting of the future fractional interest in the United States.

(d) Your renewal lease is effective the first day of the month following the month the original lease expired.

(e) The effective date of your consolidated lease is that of the oldest lease in the consolidation.

Leases Within Unit Agreements

§ 3124.20 What if the lands I am leasing are within an existing unit agreement?

If the lands you are leasing are within an existing unit agreement, before BLM issues your lease, you must file—

(a) Evidence that you will commit your lease to the unit; or

(b) Your reasons for not joining the unit. If BLM accepts the reasons, you will be permitted to operate independently. If BLM rejects the reasons, you must commit the lease to the unit, or BLM will reject your lease offer.

§ 3124.21 What effect does the commitment to a unit have on my lease offer or lease?

(a) If your lease offer contains lands partly within and partly outside the unit boundary, BLM will issue separate leases, one for the lands within the unit boundary and one for the lands outside the unit boundary.

(b) BLM will segregate the lease and issue a new lease for the lands outside the unit, which is effective on the effective date of unitization. See § 3137.16, which explains when a unit is effective.

Lease Consolidation

§ 3124.30 May I consolidate leases?

(a) BLM may approve your request to consolidate your leases if they are producing, have the same lease terms and rental and royalty rates, and record title owners of all the lands are the same. You may only consolidate leases, with BLM's approval, that have at least one point as a common boundary and that were issued under the same statutory authority.

(b) The effective date of the consolidated leases is the earliest effective date of the several leases that were consolidated.

§ 3124.31 What information must I include in my application for lease consolidation?

As record title owner(s), your application for lease consolidation must show, in addition to the requirements in § 3124.30—

(a) That the lease consolidation promotes conservation of the oil or gas resource that cannot be achieved through either unitization or communitization;

(b) The location of the leases you plan to consolidate;

(c) That the leases you plan to consolidate are in a producing status;

(d) What nonproducing acreage within the leases you plan to consolidate and that which you will relinquish;

(e) How record title to the leases you plan to consolidate is held; and

(f) That the proposed consolidated lease would not exceed the maximum lease size under § 3120.41.

§ 3124.32 How many copies of my application must I file and where must I file it?

You must file an original and a duplicate of your application for lease consolidation in the BLM State Office with jurisdiction over the lands in your application. Consolidation is not effective until the date BLM approves the application.

Lease Renewals

§ 3124.40 For how many years will BLM renew my lease?

If you have a lease issued under Section 14 of the Mineral Leasing Act (MLA) (30 U.S.C. 223), it will continue in effect for so long as you produce oil or gas in paying quantities or your lease is committed to a producing communitization agreement. If your lease was committed to a unit after August 8, 1946, then only the portion of your lease in the unit is extended by commitment to the unit. If any portion of your lease was committed to the unit before that date, your entire lease is extended by commitment.

§ 3124.41 For how many years will BLM renew my lease if it was not issued under Section 14 of the Mineral Leasing Act?

(a) If you have a lease that BLM originally issued with an initial 20 year lease term under any section of the MLA other than section 14, BLM will automatically renew it for successive 10 year periods.

(b) All other leases BLM issues are not subject to renewal. However, the original lease term may be extended under the provisions of subpart 3140.

§ 3124.42 If my lease is committed to a unit agreement may I file a renewal lease application?

If your 20-year lease is—

(a) Committed to a unit agreement, BLM will not renew it, except as provided in paragraph (b). Your lease continues in force until it expires, the unit terminates, or your lease is eliminated from the unit, whichever occurs last.

(b) In a 10-year renewal term, and is committed to and then eliminated from a unit before the renewal term expires, BLM will renew it.

§ 3124.43 Who may file a renewal lease application?

The lessees of record or the operating rights owners may file a lease renewal application.

§ 3124.44 How must I file my renewal lease application?

You must file your renewal lease application—

(a) In the BLM State Office with jurisdiction over the lands;

(b) At least 90 calendar days before your lease expires; and

(c) With a nonrefundable \$75 filing fee.

Subpart 3125—Exchange Leases

Exchange Leases

§ 3125.10 May I exchange my existing oil and gas lease for a new lease?

If the existing lease is a renewal of a twenty-year lease, the lessee of record, with the concurrence of the operating rights owner, may exchange it for a new lease for the same lands with a primary term of five years. See §§ 3106.30 and 3120.41 for the royalty and rental rates that apply to your exchange lease.

§ 3125.11 How must I file an exchange lease application?

The lessee of record or operating rights owner must—

(a) File the exchange lease application in duplicate in the BLM State Office with jurisdiction over the lands in the application; and

(b) Include a nonrefundable \$75 filing fee.

Subpart 3126—Railroad Right-of-Way Leases

Railroad Right-of-Way Leases

§ 3126.10 To which rights of way does this subpart apply?

(a) This subpart applies to—

(1) Railroad rights-of-way and easements issued under the Act of March 3, 1875 (43 U.S.C. 934 *et seq.*) and earlier right-of-way statutes; or

(2) Rights-of-way and easements issued under the Act of March 3, 1891 (43 U.S.C. 946 *et seq.*).

(b) Oil and gas leases for other rights-of-ways are leased under subparts 3121 and 3122.

§ 3126.11 Who may lease the oil or gas deposits underlying a railroad right-of-way?

(a) You may file an application to lease the oil and gas underlying a right-of-way subject to this subpart if you—

(1) Own the right-of-way; or

(2) Acquired the right to apply for a lease from the owner of the right-of-way.

(b) If you are an owner or lessee of the oil or gas rights adjoining the right-of-way (see § 3126.15(b)), you may enter into an agreement with the United States under which you agree to compensate the United States for any drainage of the oil or gas underlying the right-of-way.

§ 3126.12 How must I file a lease application under this subpart?

(a) No approved form is required for a right-of-way lease, but you must—

(1) File an application to lease in duplicate in the BLM State Office with jurisdiction over the lands; and

(2) Include a nonrefundable \$75 filing fee.

(b) If you are not the owner of the right-of-way, but acquired the right to file for a lease from the owner, you must submit a copy of the document granting you that right.

§ 3126.13 What information must my application include?

In your application, you must—

(a) Show that you have the right to lease the oil and gas under the right-of-way;

(b) Describe the development of oil or gas on adjacent or nearby lands, the location and depth of the well, and the production and probability of drainage of the deposits in the right-of-way;

(c) Describe each legal subdivision through which the right-of-way extends in the area you propose to lease. You are not required to describe the lands by metes and bounds;

(d) Furnish a plat or map of the area showing the location and acreage of the right-of-way in the area you propose to lease;

(e) Provide the names and addresses of all mineral owners or lessees of oil and gas interests in the lands adjoining the right-of-way in the area you propose to lease; and

(f) Include the amount of compensation (not less than 12½ percent of the value of production) you are willing to pay.

§ 3126.14 Who must BLM notify that I filed an application to lease the oil and gas under the right-of-way?

BLM must—

(a) Notify the owner or lessee of the oil and gas interests in lands adjoining the area you propose to lease; and

(b) Tell the persons notified how long they have to submit a bid for the amount of compensation they are willing to pay the Federal Government for extracting the oil and gas underlying the right-of-way through wells on its adjoining lands, under § 3126.15.

§ 3126.15 Who may submit a bid for compensation?

If you are the owner or lessee of oil and gas interests adjoining the right-of-way, you may submit a proposal to enter into an agreement with the United States under which you agree to compensate the United States for draining of oil or gas underlying the right-of-way.

§ 3126.16 What must I include in my bid for compensation?

(a) Provide the same information required for a lease application in § 3126.13(b), (c), (d) and (e). Also provide the amount of compensation you are offering to pay the United States, including at least 12½ percent in the amount or value of production; and

(b) File the bid for compensation in the BLM office with jurisdiction over the right-of-way.

§ 3126.17 Who must BLM notify that I have filed an application for compensation?

(a) BLM will notify the holder of the right-of-way that a bid for compensation has been filed. BLM also will require the holder to either provide notice to any person who acquired the owner's right to lease the oil and gas underlying the right-of-way, or tell BLM who that person is, so BLM may provide notice.

(b) BLM will also notify all other owners or lessees of oil and gas interest in lands adjoining the right-of-way in the area subject to your bid.

(c) BLM will tell the persons notified how long they have to submit a lease application or a bid for compensation under this subpart.

§ 3126.18 May BLM request offers to lease or for compensation?

BLM may request offers to lease or offer compensation for oil and gas underlying a right-of-way subject to this subpart. BLM will provide notice under §§ 3126.14 and 3126.17(a).

§ 3126.19 Who will receive the rights to the oil and gas underlying the right-of-way?

BLM will evaluate all lease applications and compensation agreements it receives. BLM will issue a lease or enter into a compensation agreement with the person whose offer is most advantageous to the United States.

§ 3126.20 What is the term of my lease or agreement?

The term of your lease or agreement is 20 years.

Subpart 3129—Record Title, Operating Rights and Estate Transfers, Name Changes and Mergers**General****§ 3129.10 What is a transfer?**

A transfer is a conveyance of either record title or operating rights in a lease.

§ 3129.11 When must I file a transfer with BLM?

You must file a transfer with BLM when—

- (a) You convey a lease interest;
- (b) An interest holder dies;

(c) There is a corporate merger or name change; or

(d) A court orders a transfer.

§ 3129.12 Who may receive a transfer of lease interests?

You may receive a transfer of lease interests only if you are qualified to hold a lease under subpart 3105.

§ 3129.13 What must I include in my transfer application?

Your transfer application must be complete. See § 3129.30 for the form you need.

§ 3129.14 When is my transfer effective?

BLM approves transfers effective the first day of the month following the date—

(a) BLM determines your transfer had no defects; or

(b) BLM determines you cured all defects in the transfer. Common examples of defects are—

- (1) No signature;
- (2) No original signatures;
- (3) No date(s);
- (4) Insufficient number of copies;
- (5) Incorrect legal descriptions;
- (6) Legal descriptions of less than a legal subdivision;
- (7) Incorrect description of the lease interest(s);

(8) The transferor has no interest in the lease or the incorrect interest is shown on the transfer because an intervening transfer has not been filed;

(9) The transfer conveys only oil or only gas; and

(10) The transfer of record title attempts to convey only specific formations.

§ 3129.15 May I withdraw my transfer?

You may withdraw your transfer if BLM has not approved it. Your request to withdraw the transfer must be in writing and signed by both the transferor and transferee.

§ 3129.16 May I file a record title transfer limited to a specific depth, formation, zone or defined deposit or fluid mineral?

Unless your lease was issued limited horizontally, you may not file a record title transfer limited to a specific depth, formation, zone or defined deposit or limited to only oil or only gas.

§ 3129.17 May I file my operating rights transfer to a specific depth?

You may convey operating rights limited to a specific depth. For example, you may convey a 100 percent operating rights interest from the surface to 2,000 feet and retain the interest in the depths below 2,000 feet.

§ 3129.18 How do transfers of interest affect future transfers?

When BLM issues you a lease, you receive both the record title and operating rights interest in the lease. As the lessee, you may transfer the operating rights without assigning record title interest in the lease. If you transfer only operating rights interests in the lease, the record title and operating rights are split. After those rights are split, the respective owners of such rights must file transfers of operating rights separately from transfers of record title.

§ 3129.19 When will BLM segregate a lease as a result of a transfer?

(a) If you transfer 100 percent record title interest in a described portion of

the lands in the lease, BLM will segregate the lease into two separate leases (see § 3140.70).

(b) If you transfer 100 percent operating rights interest in a described portion of the lands in the lease, BLM will not segregate the lease.

§ 3129.20 What is a mass transfer?

A mass transfer occurs when a transferor transfers interests of any type in multiple Federal leases to the same transferee.

§ 3129.21 May I file a mass transfer?

You may file a mass transfer. However, you must file three signed originals of the record title or operating rights transfer forms for each affected lease. Each lease is a separate transfer.

BLM will not accept copies of these signed documents.

§ 3129.22 Does BLM's approval of a transfer certify that title is clear?

BLM's approval of a transfer does not warrant or certify that parties to a transfer hold legal or equitable title to a lease.

Forms, Fees and Filing Requirements

§ 3129.30 What forms must I use to transfer lease interests, how many copies must I file, what is the filing fee per lease or document, and where must I file them?

To transfer an interest, you must file in each BLM State Office with jurisdiction over the lands involved (except as provided in § 3129.37) according to the following chart—

Type of transfer	Form required	Form number	Number of copies required	Filing fee
(a) Record Title	Yes	3000-3	Three	\$25 per interest transferred.
(b) Operating Rights ...	Yes	3000-3a	Three	\$25 per interest transferred.
(c) Estate	No	N/A	One (Include a list of all leases affected)	None.
(d) Mergers	No	N/A	One (Include a list of all leases affected)	None.
(e) Name Changes	No	N/A	One (Include a list of all leases affected)	None.

§ 3129.31 Are filing fees refundable?

Filing fees are not refundable. However BLM will refund filing fees that exceed the amount required by the regulations in parts 3100 through 3190.

§ 3129.32 How do I describe the lands on Form 3000-3 for my record title transfer?

If you are transferring—
 (a) All of the lands in a lease, you do not need to include a legal land description; or
 (b) A portion of the lands in a lease, you must describe those lands in the same manner as described in the lease document.

§ 3129.33 May I transfer less than a legal subdivision?

You may transfer less than a legal subdivision if those lands were originally described that way in the lease.

§ 3129.34 May I file a record title transfer containing less than 640 acres?

BLM will approve a record title transfer of less than 640 acres outside Alaska or 2,560 acres within Alaska only if—
 (a) The transfer constitutes the entire lease; or
 (b) You demonstrate that the transfer will further the development of oil or gas. Your signature on the transfer form certifies that the transfer will further the development of oil or gas. However, BLM may request additional information before approving the transfer.

§ 3129.35 What must I submit to BLM to transfer the rights or interests of a decedent to its heir, devisee or estate?

(a) To transfer the rights or interests of a decedent to its heir, devisee or estate, you must submit—
 (1) If probate of the estate has been completed—
 (i) A copy of the will or decree of distribution; and
 (ii) A statement as to citizenship and acreage holdings in Federal oil and gas leases signed by each heir;
 (2) If probate of the estate has not been completed, a statement signed by each heir as to citizenship and acreage holdings in Federal oil and gas leases and evidence—
 (i) Of the authority of the executor or administrator to act on behalf of the estate; or
 (ii) That the heirs or devisees are the only heirs or devisees of the deceased;
 (3) If there is no will, and State law does not require probate proceedings, a statement signed by —
 (i) The heirs that they are the only heirs of the deceased; and
 (ii) Each heir as to citizenship and acreage holdings in Federal oil and gas leases.

(b) You must file a bond rider or a replacement bond under subpart 3107 for any bonds the decedent previously furnished.

§ 3129.36 What must I submit to BLM for a merger or name change?

For a merger or name change, you must file—

(a) Evidence that the State has acted on your request for a name change or merger;
 (b) A list of all of the Federal lease serial numbers affected by the merger or name change; and
 (c) Any bond rider or a replacement bond required under subpart 3107.

§ 3129.37 Where must I file documentation of estate, merger and name changes?

(a) If you maintain a bond, you must file documentation of estate, merger and name changes in the BLM State Office(s) that accepted your bond(s); or
 (b) If you don't maintain a bond, you must file documentation of estate, merger and name changes in the BLM State Office with jurisdiction over any of the affected leases.

§ 3129.38 As the transferee, what should I file to show I am qualified to hold Federal lease interests?

By signing the Certification and Request for Approval, on Forms 3000-3 or 3000-3a, you certify that you meet the qualification requirements of subpart 3105.

§ 3129.39 When must I file transfers with BLM?

(a) You must file record title and operating rights transfers within 90 calendar days from the date the transferor signs the document. If you file a transfer more than 90 calendar days after the transferor signed the document, BLM will require the transferor to

certify that it still intends to transfer its interest.

(b) There is no timeframe for filing estate, merger and name change documents.

§ 3129.40 May I transfer an interest before BLM issues the lease?

You may file a transfer before a lease is issued, but BLM will not approve your transfer until we issue the lease.

Bonding, Obligations and Liabilities

§ 3129.50 When will BLM require a new bond for a transfer?

If the person that provided the existing bond no longer has responsibility for performance on the lease, the transferee or other person with an interest in the lease, or the operator, must provide a new bond before BLM will approve the transfer.

§ 3129.51 If I transfer my lease, when do my obligations under the lease end?

You are responsible for the performance of all obligations under the lease until the date BLM approves an assignment of your record title or transfer of your operating rights. You will continue to be responsible for obligations that accrued prior to the approval date, whether or not they were identified at the time of the assignment or transfer, including the payment of compensatory royalties for drainage. As the assignor or transferor, you remain responsible for plugging wells you drilled and abandoning facilities installed or used prior to the effective date of the assignment or transfer.

§ 3129.52 If I acquire a lease by an assignment or transfer, what obligations do I agree to assume?

If you acquire a Federal lease interest by assignment or transfer, you agree to comply with the terms of the original lease during your lease tenure, notwithstanding any terms of your assignment or sublease. Also, you must plug and abandon all unplugged wells, reclaim the lease site, and remedy all environmental problems in existence and knowable to a purchaser exercising reasonable diligence at the time you receive the assignment or transfer. You are also liable for any obligations you agreed to assume from the transferor as part of the transfer agreement. You must also maintain an adequate bond to ensure performance of these responsibilities.

Denial/Disapproval

§ 3129.60 When will BLM deny or disapprove a transfer to me?

(a) BLM will deny a transfer to you if you—

(1) Do not furnish a bond if one is required;

(2) Are not qualified to hold Federal lease interests;

(3) Are in violation of the reclamation requirements or other standards established under Section 17(g) of the Mineral Leasing Act, as amended; or

(4) Do not correct a defect in your transfer document.

(b) BLM will return your transfer unapproved if—

(1) The lease is no longer in effect (i.e., the lease has terminated, expired, been canceled or relinquished);

(2) The transfer is a duplicate of one which has already been filed; or

(3) The interest has previously been conveyed.

§ 3129.61 Must I file assignments of rights to production with BLM?

BLM will not accept assignments of rights to production that do not transfer record title or operating rights interests.

§ 3129.62 May I file a lien against a lease for monies owed me?

BLM will not accept liens against Federal leases. If you attempt to file a lien with BLM, we will return it and retain any filing fee you submitted.

§ 3129.63 Must I file transfers of overriding royalty interest, net profit or production payments with BLM?

BLM will not accept transfers of overriding royalty interest, net profit, or production payments. If you file any of these transfers with BLM, we will return them and retain any filing fee you submitted.

PART 3180—[REMOVED]

4. Remove part 3180.

5. Revise the authority citation for part 3130 as follows:

PART 3130—[AMENDED]

Authority: 42 U.S.C. 6508 and 43 U.S.C. 1732(b).

PART 3130—[REDESIGNATED AS PART 3180]

6. Redesignate part 3130—Oil and Gas Leasing: National Petroleum Reserve, Alaska as part 3180.

7. Add new part 3130 to read as follows:

Part 3130—Oil and Gas Agreements

Subpart 3130—Reservoir Management

Well Spacing

Sec.

3130.10 Who establishes well spacing for Federal and Indian minerals?

3130.11 Must I follow a spacing program when I drill a well on Federal or Indian lands?

3130.12 What setback applies to a well I drill on a Federal or Indian lease or agreement?

3130.13 Must I follow State producing restrictions?

Subpart 3132—Oil and Gas Agreements: General

General

3132.10 What agreements require BLM approval?

3132.11 What is BLM's role in agreements on Indian lands?

3132.12 What benefits will I or my lease receive when I enter into an approved agreement?

3132.13 Must I obtain rights-of-ways for roads, facilities, or other surface uses, for Federal lands excluded from an agreement by contraction or termination?

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Authority: 30 U.S.C. 189 and 226.

Subpart 3130—Reservoir Management

Well Spacing

§ 3130.10 Who establishes well spacing for Federal and Indian minerals?

BLM establishes well spacing to protect Federal or Indian mineral interests, promote orderly development, conserve oil and gas, and assure that each Federal or Indian tract and its lessees have the opportunity to participate in reservoir development. State spacing orders do not necessarily apply to Federal or Indian minerals. However—

(a) For Federal minerals, after independent review and evaluation, BLM will either—

(1) Concur with spacing set by an appropriate State authority, if the proposed spacing protects Federal interests; or

(2) Issue its own spacing order for the Federal minerals;

(b) For Indian minerals, BLM must approve spacing, except for Osage leases. In the case of Oklahoma Indian leases subject to district court approval, spacing orders of the Oklahoma Corporation Commission apply when approved by the Secretary.

§ 3130.11 Must I follow a spacing program when I drill a well on Federal or Indian lands?

(a) You must locate your well to conform with well spacing established under § 3130.10.

(b) BLM may waive spacing requirements on Federal and Indian lands.

§ 3130.12 What setback applies to a well I drill on a Federal or Indian lease or agreement?

(a) If your lease is not in an agreement, you must locate your wells so that the bottom hole location is not closer than 200 feet from the boundary of the lease, or if subject to spacing, then 200 feet from the spacing unit boundary.

(b) If your lease is in an agreement, you must locate your well so that the bottom hole location is not closer than 200 feet from an agreement boundary.

(c) BLM may approve a different location requirement in your Application for Permit to Drill or Reenter.

§ 3130.13 Must I follow State producing restrictions?

State producing restrictions do not apply to Federal or Indian minerals. However, on Federal or Indian lands, after independent review and evaluation, BLM may decide to apply production restrictions set by an appropriate State authority if the proposed restrictions protect or conserve Federal or Indian interests.

Subpart 3132—Oil and Gas Agreements: General

General

§ 3132.10 What agreements require BLM approval?

These agreements require BLM approval if they include one or more Federal leases—

(a) A communitization agreement when you want to join tracts within a single drilling or spacing unit. (See subpart 3133.)

(b) A subsurface storage agreement if you want to use a formation to store gas or oil for later production and sale. (See subpart 3134.)

(c) A development contract with an agreed rate or amount of exploration and development for areas that you may not otherwise explore or to provide for large scale development. (See subpart 3135.)

(d) A drainage compensation agreement where wells on adjacent lands are draining leased or unleased minerals. (See subpart 3136.)

(e) An exploratory unit agreement, so that drilling and production may proceed in an entire area or structure in the most efficient and economical manner. (See subpart 3137.)

(f) An enhanced recovery unit agreement, to produce hydrocarbons that cannot be recovered by primary methods. (See subpart 3137.)

§ 3132.11 What is BLM's role in agreements on Indian lands?

The Bureau of Indian Affairs (BIA) approves agreements that include Indian minerals but not Federal minerals. See 25 CFR 211.28 and 212.28. BLM approval is not required. In agreements covering both Federal and Indian minerals, BLM approves the agreement following BIA approval of the commitment of the Indian mineral

interests. BLM regulates operations under the terms of agreements that include Indian minerals.

§ 3132.12 What benefits will I or my lease receive when I enter into an approved agreement?

The benefits of your agreement include those items in the following list that are checked in the table in this section for your specific type of agreement—

(a) The acreage committed to agreements is exempt from statewide statutory acreage limitations;

(b) Development or production on one tract within the agreement is considered full performance of obligations to develop and produce on each individual tract committed to the agreement;

(c) Production in paying quantities from any part of the lands committed to an agreement will extend all leases committed to the agreement. Production is not required to extend Federal leases in subsurface storage agreements;

(d) During the term of an agreement, and while Federal leases remain committed to the agreement, you do not need to obtain rights-of-way for roads, facilities, or other surface uses, on those Federal leases committed to the agreement;

(e) You may choose a drilling location without regard to certain lease restrictions, such as lease boundaries within the unit or spacing offsets, unless BLM has adopted State spacing restrictions for that area;

(f) You may consolidate operations and reporting requirements;

(g) You have no obligation to protect your lease from drainage resulting from production on committed tracts; or

(h) When Federal lease(s) are eliminated from the agreement, you are eligible for lease extensions. (See subpart 3140.)

Type of agreement	a	b	c	d	e	f	g	h
Communitization Agreements		✓	✓	✓		✓	✓	✓
Subsurface Storage Agreements		✓	✓	✓	✓	✓		
Development Contracts	✓							
Drainage Compensation Agreements			✓					✓
Exploratory and Enhanced Recovery Unit Agreements	✓	✓	✓	✓	✓	✓	✓	✓

§ 3132.13 Must I obtain rights-of-ways for roads, facilities, or other surface uses, for Federal lands excluded from an agreement by contraction or termination?

You must obtain a right-of-way for those roads and facilities located on Federal surface located outside the agreement boundaries after contraction or termination of the agreement.

§ 3132.14 May I include non-Federal oil and gas interests in an agreement?

You may include Indian, State or private minerals in an agreement with Federal minerals.

Subpart 3133—Communitization Agreements

Communitization Agreements

§ 3133.10 When will BLM approve my request to communitize oil and gas leases?

BLM will approve your request for a communitization agreement (CA) if—

(a) Your Federal lease or a portion of your Federal lease cannot be independently developed and operated within a single well spacing unit that includes other leased or unleased tracts; and

(b) You demonstrate that communitization is in the public interest under § 3133.13.

§ 3133.11 How do I apply for a CA?

You must—

(a) Submit a request to communitize to BLM and in it—

(1) Describe the separate tracts comprising the drilling or spacing unit and formation(s) you intend to commit to the CA;

(2) Identify the well(s) you drilled or plan to drill within the communitized area;

(3) Certify that all owners of mineral rights (leased or unleased) and lease interests (record title and operating rights) have committed or consented to the commitment of their interest in writing;

(4) Name who will be responsible for operations under the CA;

(5) Specify the date you propose to make the CA effective; and

(6) Include a schedule allocating production for each committed tract on a surface acreage basis.

(b) If BLM requests it, submit—

(1) A copy of any operating agreements between working interest owners; or

(2) Evidence of commitment required in paragraph (a)(3) of this section.

§ 3133.12 When is a CA effective and what is its term?

(a) BLM must approve a CA. Its effective date is the date BLM specifies in the approval which will be the earlier of—

(1) The completion date of a well drilled to a communitized formation;

(2) The effective date of a State pooling order involving lands you are communitizing; or

(3) A date specified by all parties to the agreement.

(b) All CA approvals under paragraph (a) of this section are provisional and become final only after you meet the public interest requirement under § 3133.13.

(c) The term of a CA is two years from the effective date. The term of the CA extends as long as there is a paying well within the communitized area, or you meet the requirements under § 3140.10.

§ 3133.13 When does a CA meet the public interest requirement?

A CA meets the public interest requirement when you—

(a) Test a communitized formation; or
(b) BLM agrees that further drilling of a well you began under paragraph (a) of this section is unwarranted or impracticable.

§ 3133.14 When does a CA terminate?

(a) A CA automatically terminates at the end of its fixed term unless you qualify for extension under § 3133.12(c).

(b) During the two-year term of the CA, you may apply for a termination. The CA terminates when BLM approves your request.

§ 3133.15 What is the effect of a CA on my lease term?

(a) If there is production from a well on the CA on the date your lease would have expired, your lease term extends until the CA terminates.

(b) Drilling on the CA over the expiration date of your lease will extend your lease term. (See § 3140.10.)

(c) If the CA terminates and you met the public interest requirement under § 3133.13, your lease continues until the later of—

(1) The expiration date of your lease; or

(2) Two years after the date the CA terminates.

(d) If you fail to meet the public interest requirement, the CA is invalid from the beginning and any Federal lease that was a part of the agreement is ineligible for any benefits of communitization. Therefore, if the expiration date of your lease has passed, your lease is terminated.

§ 3133.16 Will BLM allow more than one operator for a CA?

BLM will allow more than one operator for a CA if an application defines—

(a) Responsibilities of respective persons, including obtaining approvals, reporting, paying royalties and conducting operations;

(b) Which CA operator(s) is obligated to provide bond coverage; and

(c) The consequences if one or more CA operator defaults.

§ 3133.17 What are the requirements to change the CA operator?

(a) BLM will accept a new CA operator when the new operator—

(1) Furnishes BLM with evidence of bonding;

(2) States in writing to BLM that it accepts its CA obligations; and

(3) Certifies that all owners of mineral rights (leased or unleased) and lease interests (record title and operating rights) have consented to the change in CA operator.

(b) The effective date of the change is the date BLM accepts the new CA operator.

§ 3133.18 Who will BLM notify about requirements for the CA?

BLM will notify the person you named as responsible for operations, and will communicate directly with this party for any requirements related to the CA.

Subpart 3134—Subsurface Storage Agreements

Subsurface Storage Agreements

§ 3134.10 Will BLM allow subsurface storage agreements covering Federally-owned lands?

BLM will allow you to use either leased or unleased Federally-owned lands for the subsurface storage of oil and gas, whether or not the oil or gas you intend to store is produced from Federally-owned lands, if you demonstrate that storage is necessary to—

(a) Avoid waste; or

(b) Promote conservation of natural resources.

§ 3134.11 How do I apply for a subsurface storage agreement?

(a) You must submit an application to BLM for a subsurface storage agreement that includes—

(1) The reason for forming a subsurface storage agreement;

(2) A description of the area you plan to include in the subsurface storage agreement;

(3) A description of the formation you plan to use for storage;

(4) Proposed storage fees or rentals.

The fees or rentals must be based on the appraised value of the subsurface storage, injection and withdrawal volumes, and rental income or other income generated by the operator for letting or subletting the storage facilities;

(5) The payment of royalty for native oil or gas (oil or gas that exists in the formation before injection and that is produced when the stored oil or gas is withdrawn);

(6) A description of how often and under what circumstances you and BLM intend to renegotiate fees and payments;

(7) The proposed effective date and term of the subsurface storage agreement;

(8) Certification that all owners of mineral rights (leased or unleased) and lease interests (record title and operating rights) have committed or consented to the commitment of their interest in writing;

(9) An ownership schedule showing lease or land status;

(10) A schedule showing the participation factor for all parties to the subsurface storage agreement; and

(11) Supporting data (geologic maps showing the storage formation, reservoir data, etc.) demonstrating the capability of the reservoir for storage.

(b) BLM will negotiate the terms of a subsurface storage agreement with you for the subsurface storage of oil and gas.

(c) BLM may request additional documentation.

§ 3134.12 What must I pay for storage?

You must pay any combination of storage fees, rentals or royalties to which you and BLM agree. The royalty you pay on production of native oil and gas from leased lands will be the royalty required by the underlying lease(s).

Subpart 3135—Development Contracts

Development Contracts

§ 3135.10 What is a development contract?

A development contract is an agreement among two or more persons, at least one of whom must be a Federal lessee. Under the contract, the parties agree to jointly explore and develop a large area when the cost of discovery, development, production and transportation would not justify the development of the resources on a lease or unit basis. BLM may not approve a development contract if it is more appropriate to unitize.

§ 3135.11 When will BLM approve a development contract?

(a) BLM will approve a development contract on Federal lands for exploration in areas that are less likely than other areas to be explored due to geologic or other factors, or to provide for large scale development. These contracts must—

- (1) Promote conservation of natural resources;
- (2) Serve Federal interests; or
- (3) Be for the public convenience or necessity.

(b) In return for a commitment from the operator to explore and develop these leases at an agreed rate or cost, BLM will exempt this acreage from chargeability.

§ 3135.12 What lands may I include in a development contract?

Development contracts must be of sufficient size to justify the costs of exploration, development, production, or transportation of oil or gas. Boundaries of one development contract may overlap the boundaries of another development contract. Producing fields are excluded from development contracts, unless you are—

(a) Testing a new technology that can be applied to discover resources which are otherwise hidden; or

(b) Conducting operations based on a new geologic model which is untested within or below all other production.

§ 3135.13 How do I apply for a development contract?

Submit to BLM an application for a development contract and in it include—

- (a) A map showing the total area subject to the contract;
- (b) A list of all owners of mineral rights (leased or unleased) and lease interests (record title and operating rights) for all areas and leases in the contract;
- (c) Your plan for exploration with timetables and the financial investment you will dedicate to that exploration. BLM will accept carryover provisions allowing the expenditures made in excess of the contract commitment for any year to be applied against the contract in any succeeding year or years;
- (d) The effective date and term of the contract; and
- (e) Penalty provisions for failure to adhere to the contract.

§ 3135.14 How many Federal lessees must enter into a development contract?

At least one Federal lessee must enter into the contract and provisions must be made to address performance obligations should any party default or withdraw from the contract.

§ 3135.15 May BLM be a party to the development contract?

BLM approves the development contract but may not be a party to it.

§ 3135.16 May existing development contracts be renegotiated?

Existing development contracts may be renegotiated if conditions warrant a change.

§ 3135.17 What must I do to satisfy my obligations under a development contract?

You must—

- (a) Commit promised financial resources toward the exploration and development of an area;
- (b) Explore the area in your exploration plan; and
- (c) Provide BLM annually with information obtained from exploration and development during the preceding contract year.

§ 3135.18 What information in my proposal will be held confidentially?

A development contract proposal is public information as of the date you submit your application. However, your work and dollar commitments are considered financial information and BLM will hold them confidentially to the extent authorized by the Freedom of

Information Act, as implemented by 43 CFR part 2.

§ 3135.19 When does a development contract terminate?

(a) A development contract terminates—

(1) Under the terms of the agreement; or

(2) At the end of any contract year, if the parties have not fulfilled their contract commitments, through work performed in that year together with carryover credits from prior years;

(b) Termination of a development contract triggers the provisions of § 3105.28(a)(1), which requires you to reduce your acreage holdings to the prescribed limitations within 90 calendar days after termination of the development contract.

Subpart 3136—Drainage Compensation Agreements

Drainage Compensation Agreements

§ 3136.10 What is a drainage compensation agreement?

A drainage compensation agreement is an agreement between BLM and any other person to pay BLM for oil and gas drained. If the—

(a) Federal oil or gas is drained from a Federal lease, the—

(1) Holders of record title or operating rights must be parties to the agreement;

(2) Lease term is extended for the period during which payments are received plus one year; and

(3) Payment to the United States cannot be less than what the lessee would owe as compensatory royalty under § [to be specified in the final rule].

(b) Oil and gas is drained from an unleased Federal tract—

(1) BLM and the person causing the drainage are the only parties to the agreement; and

(2) The payment to the United States for drainage will be negotiated between the parties; or

(c) BLM orders you to pay compensatory royalty under your lease terms, and you pay in accordance with that order, or if BLM makes any other determination that you owe compensatory royalty under your lease, your payment constitutes a drainage compensation agreement for the purposes of paragraph (a) of this section.

§ 3136.11 How are the terms of a drainage compensation agreement determined?

(a) BLM will negotiate the agreement with the other parties. The terms must include—

(1) A statement that identifies the well that is causing drainage;

(2) A map and legal description of the lands to be included; and

(3) The terms for compensation the United States will receive for the drainage.

(b) If the oil and gas is drained from a Federal lease, all record title owners and operating rights owners must consent to the agreement.

Subpart 3137—Unit Agreements

Application

§ 3137.10 What agreements does this subpart cover?

This subpart covers exploratory and enhanced recovery unit agreements.

(a) An exploratory unit agreement is a BLM-approved agreement—

(1) Among interest owners of Federal leases and owners of non-Federal mineral interests;

(2) That provides for orderly and cooperative development of all or part of an oil or gas pool, field or like area;

(3) That allocates production from wells in participating areas to all tracts in the participating area without regard to well location; and

(4) That provides Federal lessees with the benefits listed in § 3132.12.

(b) An enhanced recovery unit is a BLM approved agreement that—

(1) Has the same characteristics as paragraphs (a)(1), (a)(3) and (a)(4) of this section; and

(2) Provides for the introduction of an artificial drive or displacement mechanism into a reservoir underlying several tracts to produce hydrocarbons that cannot be recovered by primary methods.

§ 3137.11 How are the terms of an exploratory unit agreement determined?

BLM will negotiate with you on all terms of the proposed unit agreement before you submit an application. BLM will accept any unit agreement format as long as it protects the public interest and conforms with all applicable laws and regulations. BLM will determine whether the agreement protects the public interest and includes only terms permitted by this subpart.

§ 3137.12 How are the terms of an enhanced recovery unit agreement determined?

BLM will participate in the negotiation of terms in the proposed unit agreement before you submit an application. BLM will accept any unit agreement format as long as it protects the public interest and conforms with all applicable laws and regulations. Including BLM as part of the group you form to negotiate the participation and allocation formulae will expedite the approval process.

§ 3137.13 What must I include in a unitization application?

(a) Submit three copies of the unitization application and in it include—

(1) The proposed unit agreement;

(2) A map showing the unit area and committed leases and other tracts;

(3) A list of committed leases and other tracts;

(4) An allocation schedule for—

(i) A proposed exploratory unit that has existing production; or

(ii) A proposed enhanced recovery unit that identifies the basis for the allocation.

(b) You must also include a description of the lands you plan to include in the unit agreement. When you describe the lands, follow the principles of § 3121.20.

(c) Do not submit any other material with the application unless BLM requests it.

§ 3137.14 As the unit operator, what must I certify in my unitization application?

In the unitization application, as the unit operator you must certify—

(a) That you invited all owners of mineral rights (leased or unleased) and lease interests (record title and operating rights) for the area described in the application to join the unit;

(b) That there are sufficient leases or other tracts committed to the unit agreement for reasonable control of the unit area;

(c) The commitment status of all leases and other tracts within the area proposed for unitization; and

(d) That you accept unit obligations under § 3137.81.

§ 3137.15 As the unit operator, must I provide BLM with evidence of commitment status in my unitization application?

Do not submit documentation of commitment status with your unitization application. However, you or your designated agent must maintain documentation of results of invitations to join the unit. You must make the documentation available to BLM when we request it. The Bureau of Indian Affairs may require documentation of commitment status of Indian lands.

§ 3137.16 When is a unit agreement effective?

(a) BLM will provisionally approve exploratory and enhanced recovery unit agreements effective the date your application is complete.

(b) Final BLM approval is effective retroactive to the date of provisional approval, after you have fulfilled the public interest requirements in § 3137.51 or § 3137.53, as appropriate. If you do not meet the requirements of

these sections, your unit agreement is not approved.

§ 3137.17 How will the parties to the unit know if BLM provisionally approves the unit agreement?

BLM will notify the unit operator in writing when we approve or disapprove the proposed unit agreement. The unit operator must notify all parties to the unit agreement.

§ 3137.18 Why would BLM reject a unitization application?

BLM will reject a unitization application that does not meet all of the requirements of this subpart.

Mandatory Provisions

§ 3137.20 What must an exploratory unit agreement include?

(a) An exploratory unit agreement must define the—

(1) Unit area;

(2) Initial and continuing development obligations; and

(3) Productivity criteria and participating areas.

(b) The exploratory unit agreement must include—

(1) A provision which grants BLM the ability to set or modify the quantity, rate and location of development and production; and

(2) Modifications to any or all terms and conditions of the proposed unit agreement to which the parties agreed during negotiations with BLM.

§ 3137.21 What must an enhanced recovery unit agreement include?

(a) The area in an enhanced recovery unit agreement must be fully developed at the time you propose the unit agreement. Fully developed means that the proposed unit area has been adequately drilled to reasonably delineate the boundaries of the reservoir(s). Therefore, an enhanced recovery unit agreement should not include terms related to initial and continuing development obligations and productivity criteria and participating area size. An enhanced recovery unit agreement must define—

(1) The unit area;

(2) Enhancement obligations;

(3) A formula allocating production throughout the entire unit area that may consider factors other than surface acreage; and

(4) The producing intervals covered.

(b) The enhanced recovery unit must include—

(1) A provision which grants BLM the ability to set or modify the quantity, rate and location of development and production; and

(2) Modifications to any or all terms and conditions of the proposed unit

agreement to which the parties agreed during negotiations with BLM.

§ 3137.22 Will BLM accept or approve other terms?

A unit agreement may include only terms identified in § 3137.20, § 3137.21 or § 3137.30. BLM will not approve an agreement including any other terms or provisions. Provisions not included in this subpart may be set out under separate agreements by the affected parties.

Optional Provisions

§ 3137.30 Are there any optional provisions that I may include in a unit agreement?

(a) Except as provided in paragraphs (b) and (c) of this section, the agreement covers all producing intervals, requires unanimous consent for modification, and allows for only one operator at a time.

(b) Your agreement may include provisions for multiple unit operators, limiting coverage to certain producing intervals, and authorizing modifications not requiring approval of all of the original parties to the unit agreement. BLM will approve these optional topics if they promote additional development or enhance production potential.

(c) You must specify the producing interval(s) covered by an enhanced recovery unit.

§ 3137.31 What are the requirements for multiple unit operators?

BLM permits multiple unit operators for exploratory units only if the unit agreement defines—

(a) The conditions under which additional unit operators are acceptable;

(b) The responsibilities of each operator, including obtaining approvals, reporting, paying royalties and conducting operations;

(c) The bonds covering the operations of each operator;

(d) The consequences if one or more unit operators default; and

(e) Which unit operator is responsible for unit obligations not specifically assigned in the unit agreement.

§ 3137.32 How can parties modify their unit agreement?

(a) The parties may modify their unit agreement if—

(1) All of the original parties to the unit agreement (or their successors) agree to the modification; or

(2) They meet the requirements of the modification provision in the unit agreement which specifies who is authorized to modify the unit agreement. That provision must identify which parties, and what percentage of

each class of parties, must consent to each type of modification.

(b) The operator must certify that the necessary parties have agreed to the change.

(c) BLM must approve any proposed modifications to the unit agreement. BLM's approval is effective retroactive to the date your application for modification was complete. However, BLM may approve a different effective date if you request it and provide acceptable justification.

§ 3137.33 What must I submit to BLM if I propose to modify a unit area or change the commitment status of a lease?

If you propose to modify the unit area or change the commitment status of any lease under § 3137.32, you must submit to BLM a revised—

(a) Map showing the unit area and committed leases;

(b) List of committed leases; and

(c) Allocation schedule, including any change in the basis for allocation.

§ 3137.34 What effect do other BLM oil and gas agreements have on the unit agreement?

(a) No other BLM oil and gas agreement modifies any of the inconsistent terms and conditions of the unit agreement or relieves the unit operator of any right or obligation established under the unit agreement.

(b) In case of any inconsistency or conflict between the unit agreement and any other agreement, the unit agreement governs.

Size and Shape

§ 3137.40 What are the size and configuration requirements for a unit area?

(a) The unit area must consist of tracts that are contiguous at least at one point.

(b) Areas of noncommitted tracts totally within the exterior boundary of the unit (windows) are allowed.

(c) BLM may limit the size and shape of the unit considering the type, amount, rate, and location of the proposed development.

Development

§ 3137.50 What initial unit obligations must I define in an exploratory unit agreement?

In an exploratory unit agreement you must define—

(a) The number of wells necessary to determine the existence of oil and gas resources in the area of the proposed unit;

(b) A primary target(s) for each well to a depth necessary to penetrate anticipated producing intervals; and

(c) The time between the drilling of necessary wells to interpret drilling

results and comply with lease restrictions.

§ 3137.51 What must I do to meet initial unit obligations and fulfill the public interest requirement in an exploratory unit?

On or before the time specified in your exploratory unit agreement, you must—

(a) Diligently drill the required well(s) to the primary target(s); or

(b) Have commenced drilling to a target and BLM agrees that further drilling of the well(s) you began under paragraph (a) of this section, or future well(s), is unwarranted or impracticable.

§ 3137.52 What enhancement obligations must I define in an enhanced recovery unit agreement?

Your enhanced recovery unit agreement must define as enhancement obligations—

(a) The amount and type of enhanced recovery operations; and

(b) The timeframe for completing the operations in paragraph (a) of this section.

§ 3137.53 What must I do to meet enhancement obligations and fulfill the public interest requirement in an enhanced recovery unit?

On or before the time specified in your enhanced recovery unit agreement to meet the enhancement obligations and fulfill the public interest requirement, you must—

(a) Diligently complete the work you defined as your enhancement obligation in § 3137.52; or

(b) Demonstrate to BLM's satisfaction that—

(1) Enhanced recovery operations have increased reservoir performance; or

(2) Further enhanced recovery operations are unwarranted, impracticable or uneconomical.

§ 3137.54 What happens if I do not meet initial unit obligations in an exploratory unit or enhancement obligations in an enhanced recovery unit?

If you do not meet the requirements of § 3137.51 or § 3137.53, the unit agreement is invalid from the beginning, will not receive final approval, and any Federal lease that was a part of the unit agreement is ineligible for any benefits from unitization described in § 3132.12. Therefore, for example, if the expiration date of your lease has passed, your lease is terminated.

§ 3137.55 What are continuing development obligations?

Continuing development obligations for an exploratory unit are a program of development or operations you must conduct—

(a) That exceeds the rate of development and operation that would have occurred in the area without unitization; and

(b) Which represents an investment commensurate with the size of the area of the unit agreement.

§ 3137.56 How must I define continuing development obligations in the unit agreement?

(a) Once you meet initial unit obligations prescribed in this subpart, you must perform additional development or operations (see § 3137.80) in the amount and frequency specified in your unit agreement. BLM will not consider work you did before unitization as meeting continuing development obligations.

(b) You must define in the agreement the time between when you start your first development or operations to the start of the next development or operation. You must define the same time-frames for subsequent development or operations.

§ 3137.57 Must I perform additional development outside established participating areas to fulfill continuing development obligations?

Your additional development may be either inside or outside of a participating area to fulfill your continuing development obligations, depending on the terms of the unit agreement.

§ 3137.58 What happens if I do not meet a continuing development obligation?

(a) The unit contracts when you do not meet a continuing development obligation. Only established participating areas, whether they are still productive or not, remain in the unit. BLM will eliminate all portions of the unit outside participating areas at the time of contraction. Contraction is effective the first day of the month in which the unit agreement required the operations to begin.

(b) BLM may suspend or extend a development obligation under §§ 3137.90 and 3137.91. BLM may also modify your development obligations under § 3137.32.

§ 3137.59 What must I submit to BLM after I meet a continuing development obligation?

Within 60 calendar days after you meet a continuing development obligation, you must certify to BLM that you met the obligation. BLM may require you to supply documentation supporting your certification. If you establish production in a well that does not meet the productivity criteria set out in the unit agreement, you must also

certify to BLM that you will operate, produce and report the well on a lease basis, rather than as part of the unit.

Productivity Criteria and Participating Area

§ 3137.60 What are productivity criteria?

(a) Productivity criteria are characteristics of a well in an exploratory unit that warrant including a defined area surrounding the well in a participating area. The unit agreement must define these criteria for each separate producing interval. You must be able to determine whether you met the criteria when the well has been drilled and well testing completed.

(b) To meet the productivity criteria the well must—

(1) Indicate future production potential sufficient to pay for the costs of drilling, completing and operating the well on a unit basis; and

(2) Be physically ready to produce unitized substances.

§ 3137.61 What is a participating area and what is its function?

(a) A participating area is the area which shares in the production of unitized substances. Allocation to each committed lease or tract within the participating area is in the same proportion as that lease's surface acreage within the participating area.

(b) The approximate size and shape of all participating areas and revisions must be defined in the unit agreement.

§ 3137.62 What establishes a participating area?

The first well you drill after unitization that meets the productivity criteria establishes an initial participating area. When you establish that initial participating area, lands which contain previously existing wells that meet the productivity criteria will, in accordance with § 3137.63,—

(a) Be added to that initial participating area as a revision; or

(b) Become a separate participating area.

§ 3137.63 What happens to the participating area when new wells are drilled that meet the productivity criteria?

If a new well is—

(a) Inside a participating area boundary and completed in the same producing interval, the participating area will remain the same;

(b) Outside a participating area boundary and completed in the same producing interval as the well in an existing participating area, the participating area expands to include the new area; or

(c) In a different producing interval, inside or outside a participating area, a

new participating area is established for the well. Participating areas for different producing intervals can overlap each other.

§ 3137.64 What must I submit to BLM when I establish a participating area or add to an existing participating area?

(a) When you establish a participating area under § 3137.62 or add to an existing participating area under § 3137.63, within 60 calendar days after you establish unitized production, you must submit to BLM—

(1) Certification that you established unitized production;

(2) A map showing the participating area and total acreage;

(3) A schedule showing the production allocation for each tract participating in production; and

(4) Any other information BLM may require.

(b) BLM will review your submission and determine if you have met the unit agreement terms for establishing a participating area.

§ 3137.65 Must additions to an existing participating area be the same size as the initial participating area?

Additions to an existing participating area involving the same producing interval must be approximately the same size as the initial participating area for that producing interval.

§ 3137.66 Must participating areas for different producing intervals be the same size?

Participating areas (both initial and additions) for different producing intervals may be different sizes (see § 3137.61) and may overlay or underlie other participating areas.

§ 3137.67 How do I allocate participating area production when there are unleased Federal lands in the participating area?

(a) For royalty purposes only, you must allocate production to unleased Federal lands in the participating area as if the acreage were committed to the participating area under § 3137.61. You must pay royalty in accordance with § 3137.111.

(b) For purposes other than royalty, apply § 3137.61, excluding unleased Federal lands.

§ 3137.68 What if unleased Federal lands are leased after the effective date of the unit agreement?

You must admit Federal tracts leased after the effective date of the unit agreement into the agreement on the date the lease is effective.

§ 3137.69 What happens when a well outside any participating area does not meet the productivity criteria?

If a well outside any of the established participating areas does not meet the productivity criteria, all operations on that well are non-unit operations. No participating area is expanded and you must notify BLM that non-unit operations have occurred. You must conduct non-unit operations under the terms of the underlying lease, CA, or drainage compensation agreement.

§ 3137.70 How does allocation of production occur from wells that do not meet the productivity criteria?

(a) If a well that does not meet the productivity criteria was drilled before the unit was formed, the production is allocated on a lease, communitization or drainage compensation agreement basis. Production from the well is not considered unitized substances and you must pay and report the royalties from any such well as specified in the underlying lease, CA or drainage compensation agreement.

(b) If a well was drilled after the unit was formed and the well is completed within an existing participating area, the production is added to and becomes a part of that participating area production. This paragraph applies whether or not the well meets the productivity criteria.

(c) If a well that does not meet the productivity criteria is outside a participating area, the production is allocated the same as under paragraph (a).

§ 3137.71 Who must operate wells that do not meet the productivity criteria?

(a) If a well that does not meet the productivity criteria was drilled before the unit was formed, the operator of the well at the time the unit was formed continues as operator. The unit operator is not required to operate the wells, but it may do so.

(b) As unit operator, you must operate wells drilled after unit formation that do not meet the established productivity criteria, until you change operators for that well.

§ 3137.72 May a well BLM previously determined to be a non-unit well establish or revise a participating area?

If you, as the unit operator, complete sufficient work so that a well BLM previously determined to be a non-unit well now meets the productivity criteria and you demonstrate this to BLM, you must then revise or establish a new participating area. When this occurs, you must notify BLM (see § 3137.64).

§ 3137.73 What is the effective date of an initial participating area or revision to an existing participating area?

The effective date of a participating area or its revision is the first day of the month in which a well is completed that causes the participating area to be formed or revised, but no earlier than the effective date of the unit.

§ 3137.74 How long does a participating area remain in effect?

(a) Until the unit contracts under § 3137.58, all participating areas remain in effect.

(b) After unit contraction, a participating area remains in effect until BLM notifies you that there is insufficient production to meet operating costs of the participating area. However, your participating area will not terminate if, after you receive notice, you demonstrate to BLM that—

(1) Operations to restore production or establish new production are—

(i) In progress within 60 calendar days of BLM notification;

(ii) Being diligently carried out to completion; and

(iii) Successful in restoring or establishing production sufficient to meet operating costs; or

(2) One or more wells within the participating area are capable of producing in quantities sufficient to meet operating costs.

Unit Operations**§ 3137.80 What is unit development or operations?**

Any of the following are unit development or operations—

(a) Drilling additional wells that test the primary target or enhance production;

(b) Drilling additional wells that establish production of unitized substances;

(c) Well recompletions or operations that establish new unitized production or enhance existing production;

(d) Drilling existing wells to a deeper target; or

(e) Drilling, completing or recompleting wells that contribute to the productivity of the unit.

§ 3137.81 As unit operator, what are my obligations?

(a) As a unit operator, you must comply with the terms and conditions of the unit agreement, Federal laws and regulations, applicable lease terms and stipulations not expressly waived by BLM, and BLM orders.

(b) Once a unit is formed, you are responsible for all wells drilled on lands committed to the unit unless—

(1) BLM approves multiple unit operators under § 3137.31 and another unit operator drills that well; or

(2) A well does not meet the productivity criteria and is not operated as a unit well (see § 3137.71).

§ 3137.82 What must I file with BLM to change the unit operator?

To change unit operators, the new unit operator must file—

(a) Statements that—

(1) It accepts unit obligations; and

(2) The percentage of interest owners required by the agreement consented to a change of unit operator; and

(b) Evidence of acceptable bonding under subpart 3107.

§ 3137.83 When does my liability as unit operator end?

You are responsible for all duties and obligations of the unit agreement until BLM approves a new unit operator. The change of the unit operator does not release you from any liability for noncompliance with obligations that accrued before the effective date of the change.

§ 3137.84 As a unit operator, what must I do to prevent or compensate for drainage?

(a) You must take measures to prevent, or compensate for, drainage of oil and gas from unitized land by wells—

(1) On tracts not committed to the unit; or

(2) Not operated as unit wells.

(b) Acceptable measures to prevent, or compensate for, drainage include, but are not limited to, drilling a protective well, entering into a CA, or paying drainage compensation.

Suspensions and Extensions of Development**§ 3137.90 As the unit operator, what happens if I cannot meet unit requirements for reasons outside of my control?**

BLM will suspend development obligations under the unit agreement if you are prevented from complying with unit requirements, despite the exercise of due care and diligence. BLM may approve suspensions of drilling operations for all unitized lands or specific lands within the unit.

§ 3137.91 Will BLM grant an extension of time to meet the initial or continuing development obligations?

Under limited circumstances, such as inclement weather, rig unavailability, or litigation, BLM may grant reasonable extensions of time to meet the development obligations of your unit agreement. This extension does not toll the running of any individual lease term. See subpart 3141 for Federal lease suspensions.

Unit Termination**§ 3137.100 Under what circumstances will BLM approve a voluntary unit termination?**

BLM may approve the voluntary termination of the unit at any time—

(a) Before the unit operator discovers production sufficient to establish a participating area; and

(b) The unit operator certifies that at least 75 percent of the operating rights owners in the unit agreement, on a surface acreage basis, agree to the termination.

§ 3137.101 What if I do not meet a continuing development obligation before any participating area has been established in the unit?

If you do not meet a continuing development obligation before any participating area is established, the unit terminates automatically. Termination is effective the day after you failed to meet a continuing development obligation.

§ 3137.102 After participating areas are established, when does the unit terminate?

After participating areas are established, the unit terminates when the last participating area of the unit terminates.

Royalties**§ 3137.110 How is unit production from an exploratory unit agreement allocated?**

Allocate production within participating areas of an exploratory unit agreement in proportion to each tract's share of the surface acreage within the participating area.

§ 3137.111 What is the royalty rate for unleased Federal lands in a participating area?

Whenever a participating area or enhanced recovery unit includes unleased Federal lands, you must pay a royalty to the United States based on a royalty rate not less than the highest royalty rate for any Federal lease committed to the unit. Payment accrues from the later of the dates—

(a) Committed leases in the participating area or enhanced recovery receive a production allocation; or

(b) The Federal lands become unleased.

§ 3137.112 What is average daily production for a Federal lease committed to a unit where the royalty rate depends on average daily production?

For a Federal lease on which the royalty rate depends on the average daily production per well (for example, sliding-scale or step-scale leases), the unit operator must determine average production according to subpart 3106,

as though the participating area, or in the case of an enhanced recovery unit, the entire unit area, were a single Federal lease.

§ 3137.113 May the United States take an in-kind royalty share of unit production?

(a) For a Federal lease committed to a unit agreement, the United States may take its royalty in-kind at its election.

(b) The operator of the well from which the royalty is taken in-kind must store and make deliveries of such production according to applicable laws, lease terms and regulations.

Leases and Contracts Conformed and Extended**§ 3137.120 As the unit operator, must I develop and operate on every tract in the unit to comply with the development obligations of the underlying leases, contracts or agreements (other than unit agreements)?**

When BLM approves a unit agreement, the terms, conditions and provisions of all committed Federal leases, subleases and other contracts are amended to the extent necessary to conform to the provisions of the unit agreement until the lease no longer is committed to the unit. In all other respects they remain in full force and effect. If you fully perform initial unit and continuing development obligations, you have fully performed the development obligations of the committed leases.

Change in Ownership**§ 3137.130 As a transferee of an interest in a unitized Federal lease, am I subject to the terms and conditions of the unit agreement?**

Any interest in a Federal lease committed to a unit agreement that you acquire by transfer is subject to the terms and conditions of the unit agreement.

PART 3140—[AMENDED]

8. Revise the authority citation for part 3140 to read as follows:

Authority: 30 U.S.C. 189, 351–359 and 43 U.S.C. 1732(b).

PART 3140—[REDESIGNATED as 3170]

9. Redesignate part 3140—Combined Hydrocarbon Leasing as part 3170.

10. Add new part 3140 to read as follows:

PART 3140—OIL AND GAS LEASE ADMINISTRATION**Subpart 3140—Extensions****Lease Extensions and Drilling Extensions**

Sec.

3140.10 Will BLM extend my lease if I drill before the lease expires?

3140.11 What are actual drilling operations?

Continuation by Production

3140.20 Does my lease continue in effect if I establish production before the primary term expires?

3140.21 If my lease is in its extended term and I stop producing, will it terminate?

3140.22 If my lease is in its extended term and capable of production, and is shut-in, will it terminate?

Unit or Communitization Agreement Production

3140.30 Does my lease continue beyond its primary term if it is committed to a CA or unit agreement under which production in paying quantities has been established?

Unit Segregations

3140.40 What is the status of my lease if only part of it is committed to a unit agreement?

3140.41 What is the effective date of the segregation?

3140.42 If my lease is segregated into two leases, is my segregated lease extended?

Elimination from Agreements

3140.50 Will BLM extend my lease if it is eliminated from an agreement?

Leases Segregated by Assignment

3140.60 What is the term of my lease if it is segregated into two or more leases by a partial transfer?

Payment of Compensatory Royalty

3140.70 Will BLM extend my lease if I am paying compensatory royalty on the lease?

Leases Used for Surface Storage of Oil or Gas

3140.80 Will BLM extend my lease if I am using it to store oil or gas?

Subpart 3141—Suspensions**Suspensions of Operations For Production**

3141.10 Under what circumstances will BLM suspend operations or suspend production on my lease under 30 U.S.C. 226(i)?

3141.11 Under what circumstances will BLM approve my request under 30 U.S.C. 209 for a suspension of operations and production for my lease?

3141.12 How do I apply for a suspension?

3141.13 When is a suspension effective?

3141.14 When is my next rental or minimum royalty payment due after the effective date of my suspension of operations and production?

3141.15 When will my suspension terminate?

3141.16 What happens when my suspension terminates?

Suspension or Waiver of Lease Rights

- 3141.20 When may a suspension of my lease rights occur?
 3141.21 How do I request a suspension of lease rights?
 3141.22 How will suspension under this subpart affect my lease?
 3141.23 When will my lease suspension end?

Subpart 3142—Terminations and Reinstatements

Lease Terminations and Reinstatements

- 3142.10 What happens if the Minerals Management Service (MMS) does not receive my advance annual rental payment on or before the anniversary date of my lease?
 3142.11 Will my lease terminate if my rental payment is deficient?

Class I Reinstatements

- 3142.20 Under what circumstances will BLM reinstate my lease without an increase in royalties and rentals (Class I)?
 3142.21 What must I do before BLM will reinstate my lease under Class I?

Class II Reinstatements

- 3142.30 Under what circumstances will BLM reinstate my lease with an increase in royalty rate and rentals (Class II)?
 3142.31 What must happen before BLM will reinstate my lease under Class II?
 3142.32 How much are the rentals or royalties under a Class II reinstatement?
 3142.33 Are there circumstances under which BLM will not consider my petition for reinstatement?
 3142.34 Will BLM extend the term of my lease if I do not have a reasonable opportunity to begin or continue operations following a reinstatement?

Class III Conversions from Unpatented Mining Claims

- 3142.40 Under what circumstances will BLM convert my unpatented oil placer mining claim to an oil and gas lease?
 3142.41 What must I include with my Class III petition for issuance of a noncompetitive oil and gas lease?

Subpart 3143—Relinquishments

Relinquishments

- 3143.10 May I relinquish all or part of my lease?
 3143.11 Where do I file a lease relinquishment?
 3143.12 Is there a filing fee or official form I must use?
 3143.13 Does a relinquishment entitle me to a return of any rental payment on a pro rata monthly basis?
 3143.14 Who must sign the relinquishment application?
 3143.15 If I own only part of the record title (a co-lessee), may I relinquish only my interest?
 3143.16 If I own all or part of the operating rights in a lease, but no record title, may I relinquish my operating rights to BLM?

3143.17 When is a relinquishment effective?

3143.18 What are my obligations after I file the relinquishment?

Subpart 3144—Cancellations

Cancellations

- 3144.10 Under what circumstances will BLM cancel my lease?
 3144.11 May BLM cancel my lease if it issued it improperly?
 3144.12 If I own or control an interest in a lease in violation of the provisions of the Act, what will BLM do?

Bona Fide Purchasers

- 3144.20 Will BLM cancel my lease if I am a bona fide purchaser and I purchased it from someone who acquired it in violation of the Act?
 3144.21 What is a bona fide purchaser?
Authority: 16 U.S.C. 3150(b) and 668dd; 30 U.S.C. 189, 306 and 359; 43 U.S.C. 1733, 1734 and 1740; and 10 U.S.C.A. 7439.

Subpart 3140—Extensions

Lease Extensions and Drilling Extensions

§ 3140.10 Will BLM extend my lease if I drill before the lease expires?

(a) BLM will extend the primary term of your lease for two years if you are diligently conducting actual drilling operations described in § 3140.11 on the last day of the primary lease term and continue thereafter to a depth sufficient to penetrate at least one formation recognized in the area as potentially able to produce oil or gas. To meet this obligation if you are reentering a well, you must either drill it to a depth sufficient to penetrate at least one new and deeper formation recognized in the area as potentially able to produce, or use horizontal drilling to test any formation that is recognized as having a potential for oil and gas production.

(b) If BLM determines that you were unable to conduct actual drilling operations on the last day of your primary lease term, due to severe weather or other justifiable cause, your lease is extended under paragraph (a) of this section if you promptly resume and diligently continue your drilling operations to completion when the reason for the drilling cessation no longer exists.

(c) This section applies to leases committed to a unit or communitization agreement if you conduct actual drilling operations in the agreement area.

§ 3140.11 What are actual drilling operations?

Actual drilling operations are operations you conduct that are similar to those that anyone looking for oil or gas could be expected to conduct in that

particular area, given the existing knowledge of geologic and other facts pertinent to drilling for oil and gas. The term includes the testing, completing, or equipping of the drill hole (casing, tubing, packers, pumps, etc.) so that it is capable of producing hydrocarbons.

Continuation by Production

§ 3140.20 Does my lease continue in effect if I establish production before the primary term expires?

If you establish production in paying quantities before the end of the primary lease term, your lease continues in effect for as long as you produce oil or gas in paying quantities.

§ 3140.21 If my lease is in its extended term and I stop producing, will it terminate?

Except as provided in § 3140.22, if your lease is in its extended term, it terminates when you stop producing unless, within 60 calendar days after you stop production, you restart production or you conduct reworking or commence drilling operations with reasonable diligence and restore the lease to production.

§ 3140.22 If my lease is in its extended term and capable of production, and is shut-in, will it terminate?

If your lease is in its extended term and is capable of production, but it is shut-in, your lease will not automatically terminate when you stop producing. However, if BLM notifies you in writing by registered or certified mail that you must resume production, you have 60 calendar days from receipt of the notification to resume production or your lease will terminate.

Unit or Communitization Agreement Production

§ 3140.30 Does my lease continue beyond its primary term if it is committed to a CA or unit agreement under which production in paying quantities has been established?

(a) If your lease is committed to a CA or unit agreement, your lease continues beyond its primary term by production established within the agreement area if—

(1) The CA or unit agreement contains a general provision for allocation of oil or gas; and

(2) You established production in paying quantities under the agreement before your lease expired.

(b) This section also applies to 20-year leases.

Unit Segregations

§ 3140.40 What is the status of my lease if only part of it is committed to a unit agreement?

BLM will segregate any lease committed to a unit agreement if part of the lands in the lease are outside the area covered by the agreement. BLM will segregate your lease into two leases, one covering lands committed to the agreement and the other covering lands outside the unit area.

§ 3140.41 What is the effective date of the segregation?

The effective date of lease segregation is the effective date of the unit agreement to which part of the lease is committed.

§ 3140.42 If my lease is segregated into two leases, is my segregated lease extended?

If your lease is segregated under § 3140.40, BLM will grant a two-year lease term extension for the lands outside the unit, if the original lease is due to expire less than two years from the effective date of segregation. The two-year extension begins with the effective date of segregation.

Elimination From Agreements

§ 3140.50 Will BLM extend my lease if it is eliminated from an agreement?

If your lease is eliminated from a unit agreement or CA, and if the term remaining in your lease is less than two years, BLM will grant a two-year lease term extension from the effective date of—

- (a) Termination of an agreement to which your lease was committed; or
- (b) Elimination of your lease from a unit agreement when it contracts.

Leases Segregated by Assignment

§ 3140.60 What is the term of my lease if it is segregated into two or more leases by a partial transfer?

(a) If a lease in its primary term is segregated into two or more leases as a result of a partial transfer of record title, the term of the original lease and the newly-designated leases is the term of the original lease, except as provided in paragraph (b) of this section.

(b) If BLM determines after segregation that oil and gas is discovered in paying quantities on either the original lease or the newly-designated leases, the term of the leases in paragraph (a) of this section cannot be less than two years after the date of BLM's determination.

(c) If a lease issued—

- (1) After September 2, 1960, in its extended term under § 3140.20 is

segregated into two or more leases as a result of a partial transfer of record title, the original lease and any newly-designated leases not held by production on the date of transfer are extended for two years after that date; or

(2) On or before September 2, 1960, is in its extended term for any reason, paragraph (c)(1) of this section applies.

(d) If BLM extends your lease and you establish production, your lease will continue so long as it is capable of production in paying quantities.

Payment of Compensatory Royalty

§ 3140.70 Will BLM extend my lease if I am paying compensatory royalty on the lease?

BLM will extend your lease for the period that BLM receives compensatory royalty under § 3136.10. Your lease also will be extended for one year from the date BLM determines you are no longer required to pay compensatory royalty.

Leases Used for Subsurface Storage of Oil or Gas

§ 3140.80 Will BLM extend my lease if I am using it to store oil or gas?

BLM will extend your lease during the period of storage under an approved subsurface oil or gas storage agreement. You must continue to pay rental for your lease during the extended period.

Subpart 3141—Suspensions

Suspensions of Operations or Production

§ 3141.10 Under what circumstances will BLM suspend operations or suspend production on my lease under 30 U.S.C. 226(i)?

(a) BLM will suspend operations or suspend production for your lease under 30 U.S.C. 226(i) if, despite the exercise of due care and diligence, you are prevented from operating or producing your lease due to circumstances beyond your control. BLM either may direct a suspension under this section or approve your request for a suspension.

(b) If BLM issues a suspension under paragraph (a) of this section, the suspension stops the running of your lease term and thereby extends it by the length of time the suspension is in effect. However, while the suspension is in effect, you are not relieved of your obligation to pay rent, royalty, or minimum royalty.

§ 3141.11 Under what circumstances will BLM approve my request under 30 U.S.C. 209 for a suspension of operations and production for my lease?

BLM will suspend operations and production for your lease under 30 U.S.C. 209, if BLM determines that it is

in the interest of conservation. BLM either may direct a suspension under this section or approve your request for a suspension. If BLM suspends operations and production under this section, the suspension—

(a) Stops the running of your lease term and thereby extends it by the length of time the suspension is in effect;

(b) Relieves you of your obligation to pay rent or minimum royalty during the suspension; and

(c) Does not allow you to operate on, produce from, or have any other beneficial use of your lease during the suspension.

§ 3141.12 How do I apply for a suspension?

(a) To apply for a suspension, you must submit to BLM an application that—

(1) States what type of suspension you are applying for (whether you are applying for a suspension under § 3141.10 or § 3141.11); and

(2) Identifies the circumstances that prevent you from operating or producing your lease that are beyond your reasonable control or that justify a suspension in the interest of conservation.

(b) Your suspension application must be signed by—

- (1) All operating rights owners; or
- (2) The operator on behalf of the operating rights owners of the leases committed to an approved agreement.

(c) You must submit your application to BLM before your lease expires.

(d) Your application must be for your entire lease.

(e) If your suspension application relates to your ability to timely drill a new well or reenter an existing well, BLM will approve your application only if you submitted an Application for Permit to Drill or Reenter or Notice of Staking at least 31 calendar days before the lease expires.

§ 3141.13 When is a suspension effective?

A suspension is effective—

(a) The date BLM specifies in a directed suspension; or

(b) The first day of the month in which you file an application for suspension, unless BLM specifies a different date on the approval document.

§ 3141.14 When is my next rental or minimum royalty payment due after the effective date of my suspension of operations and production?

After BLM approves your suspension of operations and production under § 3141.11, the date your next rental or minimum royalty payment is due is

extended by the length of the suspension.

§ 3141.15 When will my suspension terminate?

Your suspension under § 3141.10 or § 3141.11 terminates the earlier of —

(a) The first day of the month in which you begin to produce on your lease in the case of a suspension of production;

(b) The first day of the month in which actual operations begin in the case of a suspension of operations; or

(c) A date BLM specifies.

§ 3141.16 What happens when my suspension terminates?

(a) Your lease term is extended by the length of time the suspension was in effect.

(b) Your obligation to pay rental, royalty or minimum royalty resumes the first day the termination of the suspension is effective.

Suspension or Waiver of Lease Rights

§ 3141.20 When may a suspension of my lease rights occur?

BLM may suspend your lease during a legal proceeding to cancel your lease or to require forfeiture or divestiture of your interests as a result of a violation of any of the provisions of the regulations in this title or the lease terms. This suspension may occur when BLM directs it or when you request it.

§ 3141.21 How do I request a suspension of lease rights?

(a) When you request a suspension of lease rights, you must file in the BLM State Office with jurisdiction over the lands, a waiver of your rights to—

- (1) Drill under the lease; and
- (2) Transfer your lease interests.

(b) All interest owners for a lease must sign the waiver request.

§ 3141.22 How will suspension under this subpart affect my lease?

A suspension under this subpart—

(a) Stops the running of your lease term. If your lease is not canceled, your lease term is extended by the length of the suspension;

(b) Suspends your obligation to pay rental or minimum royalties beginning the date the suspension is effective. The date your next rental or minimum royalty payment is due is extended by the length of the suspension;

(c) Prevents you from conducting any operations on the lease; and

(d) Prevents you from transferring your interest.

§ 3141.23 When will my lease suspension end?

The suspension of your lease under this subpart ends the first day of the month following—

(a) The final decision in the legal proceeding described in § 3141.20; or

(b) When BLM revokes your suspension.

Subpart 3142—Terminations and Reinstatements

Lease Terminations and Reinstatements

§ 3142.10 What happens if the Minerals Management Service (MMS) does not receive my advance annual rental payment on or before the anniversary date of my lease?

If MMS does not receive your rental payment on or before the anniversary date of your lease, your lease automatically terminates by operation of law unless the lease is committed to a producing unit agreement.

§ 3142.11 Will my lease terminate if my rental payment is deficient?

(a) Your lease will terminate if your rental payment to MMS is deficient unless—

(1) You paid your rental on or before its anniversary date, but the amount you paid is deficient by not more than 10 percent or \$200, whichever is less;

(2) Your deficient payment was due to an incorrect billing statement; or

(3) Your deficient payment was due to a decision from BLM that contained an incorrect acreage or payment figure.

(b) You must submit the full balance due to MMS within 15 business days from the date you receive notice to correct the deficiency. If you do not correct the deficiency within the time allowed, your lease automatically terminates as of the anniversary date of the lease.

Class I Reinstatements

§ 3142.20 Under what circumstances will BLM reinstate my lease without an increase in royalties and rentals (Class I)?

(a) If MMS receives your rental payment after the due date, but the envelope MMS receives containing your payment is postmarked by the United States Postal Service, or is dated as received at a courier or other delivery service on or before the lease anniversary date, you may request BLM to reinstate your lease under the Class I reinstatement provisions.

(b) If your rental is not paid by the lease anniversary date, but is paid within 20 calendar days of the anniversary date, BLM may decide to reinstate your lease. You must provide BLM with documentation showing the

late payment was justified or not due to a lack of reasonable diligence. Reasons include, but are not limited to —

- (1) An Act of God or natural disaster;
- (2) A documented illness, hospitalization, or death which caused the delay in payment; or
- (3) A statement from your bank that nonpayment was due to bank error.

§ 3142.21 What must I do before BLM will reinstate my lease under Class I?

To request a lease reinstatement from BLM, submit to BLM a petition for reinstatement and a \$25 filing fee. When petitioning under § 3142.20, you must provide BLM with documentation supporting your request for reinstatement.

Class II Reinstatements

§ 3142.30 Under what circumstances will BLM reinstate my lease with an increase in royalty rate and rentals (Class II)?

(a) BLM will grant a Class II reinstatement with an increased rental and royalty rate if you did not pay your rental within 20 calendar days of the anniversary date and your failure to pay was—

- (1) Justifiable or not due to lack of reasonable diligence; or
- (2) Due to inadvertence.

(b) Under paragraph (a) of this section, you must pay your rental within 60 calendar days from receipt of BLM's Termination Notice issued under § 3106.23, or if BLM does not send you a Termination Notice, you must pay within 15 months from the date of lease termination.

§ 3142.31 What must happen before BLM will reinstate my lease under Class II?

(a) You must submit to BLM by the dates required for payment under § 3142.30(b)—

- (1) A petition for reinstatement along with a \$500 nonrefundable administrative fee;
- (2) Payment of back rentals and royalties and BLM's cost of publishing the proposed reinstatement in the **Federal Register** under § 3142.30(a); and
- (3) An agreement to the new lease terms signed by all record title owners.

(b) BLM will publish in the **Federal Register** a notice that we propose to reinstate your lease under § 3142.30 at least 30 calendar days before we reinstate it.

§ 3142.32 How much are the rentals or royalties under a Class II reinstatement?

(a) After your first Class II reinstatement, rental for a noncompetitive lease is \$5 per acre or fraction of an acre and for a competitive lease it is \$10 per acre or fraction of an acre.

(b) For each subsequent reinstatement, BLM will increase rentals by an additional \$5 per acre or fraction of an acre for noncompetitive leases and an additional \$10 an acre or fraction of an acre for competitive leases.

(c) BLM will increase the royalty rate to 16 $\frac{2}{3}$ percent on noncompetitive leases for the first reinstatement and two additional percentage points for each succeeding reinstatement.

(d) BLM will increase your royalty rate no less than four percentage points above the rate in the terms of competitive leases (i.e., not less than 16 $\frac{1}{2}$ percent), and will add two percentage points for each succeeding reinstatement.

(e) The royalty rates required for reinstated leases under this section do not affect your right to a royalty rate reduction under subpart 3106.

§ 3142.33 Are there circumstances under which BLM will not consider my petition for reinstatement?

BLM will not consider your petition for reinstatement if—

(a) You do not file your petition timely under § 3142.30;

(b) BLM issues a valid lease to another person before you file a petition for reinstatement; or

(c) The oil and gas interests in the lands have been disposed of or are not available for leasing.

§ 3142.34 Will BLM extend the term of my lease if I do not have a reasonable opportunity to begin or continue operations following a reinstatement?

If BLM finds that the time remaining in your lease term after reinstatement will not give you a reasonable opportunity to begin or continue operations, BLM may extend the term. The extension will not exceed the greater of—

(a) The period equal to the unexpired portion of the lease, or any extension, remaining at the date of termination; or

(b) Two years beyond the date BLM reinstated the lease, if BLM granted the reinstatement after the lease expired.

Class III Conversions from Unpatented Mining Claims

§ 3142.40 Under what circumstances will BLM convert my unpatented oil placer mining claim to an oil and gas lease?

BLM will convert your unpatented oil placer mining claim to an oil and gas lease for the lands covered by the claim if—

(a) Your placer mining claim is currently producing or is capable of producing oil or gas;

(b) BLM determined that your placer mining claim was conclusively

abandoned for failure to timely file the required instruments to record your claim as required by section 314 of the Federal Land Policy and Management Act (43 U.S.C. 1744, as amended and supplemented);

(c) You file a Class III conversion petition within 120 calendar days of receiving BLM's, or a court of competent jurisdiction's, final notification that the oil placer mining claim has been determined to be abandoned;

(d) You show to BLM's satisfaction that failure to timely file the required instruments was inadvertent, justifiable, or not due to lack of reasonable diligence on the part of the owner of the claim; and

(e) There is not a valid oil and gas lease affecting any of the covered lands.

§ 3142.41 What must I include with my Class III petition for issuance of a noncompetitive oil and gas lease?

Your petition for issuance of a noncompetitive oil and gas lease to replace your unpatented oil placer mining claim must include—

(a) A nonrefundable administrative fee of \$500;

(b) The location notices of all unpatented oil placer mining claims and, if the petitioner is not the owner(s) of unpatented mining claims, a copy of a power of attorney on behalf of the owner(s);

(c) The required annual rental of \$5 per acre or royalty of 12 $\frac{1}{2}$ percent, or both, including any back rental or royalty, or both, accruing from the statutory date of abandonment of your claim; and

(d) A statement agreeing to reimburse BLM for the full costs incurred for publishing the notice of the proposed conversion of the oil placer mining claim to a noncompetitive oil and gas lease in the **Federal Register**.

Subpart 3143—Relinquishments

Relinquishments

§ 3143.10 May I relinquish all or part of my lease?

You may relinquish all of your lease or any legal subdivision of your lease. Identify the lands you do not want to retain by legal land description as in § 3121.20.

§ 3143.11 Where do I file a lease relinquishment?

You must file a lease relinquishment in the BLM State Office with jurisdiction over the lands in your lease.

§ 3143.12 Is there a filing fee or official form I must use?

There is no filing fee or official form for a relinquishment.

§ 3143.13 Does a relinquishment entitle me to a return of any rental payment on a pro rata monthly basis?

If you file your relinquishment—

(a) Before the next anniversary date of your lease, the Minerals Management Service (MMS) will refund any rental you paid for the next lease year; or

(b) After the anniversary date, MMS will not refund any rental for the current year.

§ 3143.14 Who must sign the relinquishment application?

All record title owners must sign the relinquishment. BLM requires original signatures.

§ 3143.15 If I own only part of the record title (a co-lessee), may I relinquish only my interest?

BLM will not approve relinquishment of part of the record title interest.

§ 3143.16 If I own all or part of the operating rights in a lease, but no record title, may I relinquish my operating rights to BLM?

You may not relinquish operating rights interests to BLM.

§ 3143.17 When is a relinquishment effective?

(a) If there are no defects in your relinquishment request, it is effective the date you file it at the BLM office with jurisdiction over the lands in your lease.

(b) If there are defects in your relinquishment request, it will be effective on the date you correct the defects.

§ 3143.18 What are my obligations after I file the relinquishment?

You must fulfill all obligations which accrued before you filed the relinquishment, other than an obligation to drill, including the obligations to—

(a) Pay all accrued rentals and royalties;

(b) Permanently plug and abandon all wells on the relinquished lands, unless BLM approves otherwise; and

(c) Complete reclamation of the relinquished lands and any other areas adversely affected by lease operations in a timely manner.

Subpart 3144—Cancellations

Cancellations

§ 3144.10 Under what circumstances will BLM cancel my lease?

BLM will cancel your lease if you do not comply with applicable law, regulations, or lease terms. If your lease is—

(a) Not producing, or does not contain a well capable of production in paying

quantities, or is not committed to an approved unit agreement or communitization agreement that contains a well capable of production in paying quantities, BLM will notify you in writing of the default or violation and give you 30 calendar days to comply. If you do not comply within the 30 calendar days, your lease is subject to cancellation under 30 U.S.C. 188(b); or

(b) Producing, or contains a well capable of producing oil or gas in paying quantities, or is committed to an approved unit agreement or communitization agreement that contains a well capable of production in paying quantities, BLM will initiate cancellation through judicial proceedings under 30 U.S.C. 188(a).

§ 3144.11 May BLM cancel my lease if it issued it improperly?

BLM may administratively cancel your lease if we issued it improperly.

§ 3144.12 If I own or control an interest in a lease in violation of the provisions of the Act, what will BLM do?

If you own or control any lease interests in violation of the Act, BLM may initiate judicial proceedings under 30 U.S.C. 184 to—

(a) Cancel or forfeit your lease interest; or

(b) Compel you to dispose of your lease interest.

Bona Fide Purchasers

§ 3144.20 What is a bona fide purchaser?

(a) A bona fide purchaser is a person who acquires a lease interest in good faith, for valuable consideration, and without notice that a violation of the regulations in parts 3100 through 3190 existed. To receive protection from cancellation, you must have paid the valuable consideration before you had notice of the violation.

(b) You do not qualify as a bona fide purchaser if you reasonably could have determined from BLM records that your seller held its lease interest in violation of the Act.

§ 3144.21 Will BLM cancel my lease if I am a bona fide purchaser and I purchased it from someone who acquired it in violation of the Act?

BLM will not cancel your lease interest if you are a bona fide purchaser who bought it from someone who held the lease interest in violation of the Act.

11. Add new part 3145—Oil and Gas Drilling to read as follows:

PART 3145—OIL AND GAS DRILLING

Subpart 3145—Drilling and Additional Well Operations

Application for Permit to Drill or Reenter

Sec.

3145.5 To what operations do the standards of this subpart apply?

3145.10 What approval must I obtain from BLM to begin developing Federal or Indian leases or to drill through Federal or Indian mineral interests?

3145.11 What other approvals do I need for drilling or additional well operations that occur on lands managed by an agency other than BLM?

3145.12 What must I submit to BLM in my Application for Permit to Drill or Reenter (APD)?

3145.13 What requirements must I comply with during operations?

3145.14 What additional requirements apply to a well I propose to drill on privately-owned surface?

3145.15 What additional requirements apply to a well I propose to drill on a Federal oil and gas lease if the surface is held in trust for an Indian tribe or an individual Indian?

3145.16 May I file a single plan for more than one well?

3145.17 Must I submit an APD to BLM to start the APD process and the 30-day public posting period?

3145.18 What is a Notice of Staking (NOS) and what must I do under the NOS process?

3145.19 What actions will BLM take after receiving my APD or NOS?

3145.20 When will my approved APD expire and may I extend the term of an approved APD?

3145.21 Must my APD describe all of my proposed operations connected to the well I intend to drill?

3145.22 What must I submit after I drill a well or suspend drilling operations?

3145.23 What must I do when my well is an inactive well?

Technical Drilling Standards

3145.30 What are the design and operational requirements for well control?

3145.31 What additional requirements apply when I drill using gas, air, or mist?

3145.32 How must I design and drill my well?

3145.33 What integrity tests and corrective measures must I perform on my well?

3145.34 When may I conduct drill stem testing?

Drilling Operations in a Hydrogen Sulfide (H₂S) Environment

3145.40 When must I follow BLM hydrogen sulfide (H₂S) requirements?

3145.41 What additional requirements apply when I drill in an H₂S environment?

3145.42 How do I calculate the radius of exposure?

3145.43 What if I encounter H₂S in concentrations of 100 ppm or more in the gas stream that was not anticipated at the time BLM approved my APD?

3145.44 What training and equipment must I provide personnel at the wellsite for H₂S operations?

Additional Well Operations

3145.50 What requirements must I satisfy for additional well operations?

3145.51 What additional well operations require BLM approval?

3145.52 What additional well operations do not require BLM approval?

3145.53 What happens when BLM receives my application for additional well operations?

3145.54 What reports must I submit after I complete additional well operations?

3145.55 What must I do to reclaim surface disturbance that results from operations on my well or lease?

Authority: 25 U.S.C. 396d and 2107; 30 U.S.C. 189, 306, 359 and 1751; and 43 U.S.C. 1732(b), 1733 and 1740.

Subpart 3145—Drilling and Additional Well Operations

Application for Permit To Drill or Reenter

§ 3145.5 To what operations do the standards of this subpart apply?

You must conduct all operations on Federal and Indian leases, including those that do not require BLM approval, according to the surface use and drilling standards of this subpart.

§ 3145.10 What approval must I obtain from BLM to begin developing Federal or Indian leases or to drill through Federal or Indian mineral interests?

(a) For each new well you drill or abandoned well you reenter to develop Federal or Indian minerals, before you disturb the surface or begin drilling operations, BLM must approve your Application for Permit to Drill or Reenter (APD). For additional well operations that an APD does not cover, you must receive BLM approval under § 3145.53.

(b) You must file your APD in the BLM field office with jurisdiction over the lands. Forest Service (FS) requirements must be satisfied before BLM will approve your application for National Forest System lands.

§ 3145.11 What other approvals do I need for drilling or additional well operations that occur on lands managed by an agency other than BLM?

(a) On National Forest System (NFS) lands—

(1) The FS must approve surface use operations on lands it administers before BLM will approve your APD. You must obtain information on processing and requirements for your surface use

proposals on NFS lands from the FS (see 36 CFR part 228, subpart E). Submit surface use plans directly to the FS, along with an informational copy to BLM. On NFS lands, the FS will schedule and conduct predrill and other site inspections.

(2) The surface use plan is not part of the APD or application for additional well operations. The FS will make a decision on your surface use plans. The FS will determine when an approved surface use plan for NFS lands expires or whether it may be extended. BLM will make a decision on your APD and the portions of additional well operations that affect down-hole concerns.

(b) If the proposed well or additional well operations are on lands managed by an agency other than the FS, include a surface use plan with your APD or your application for other well operations. BLM will approve your surface use plan after we coordinate our review of your proposal with the surface management agency.

(c) You must obtain approval from the U.S. Fish and Wildlife Service (FWS) for surface use on land the FWS manages in Alaska. The FWS must approve the surface use plan before BLM makes a decision on your APD.

§ 3145.12 What must I submit to BLM in my APD?

In your APD, you must describe the procedures, equipment, and materials you will use in the proposed operations in sufficient detail to permit a complete review of the surface and subsurface effects associated with the proposed project, including—

(a) Form 3160-3, APD, for each new well you drill or abandoned well you reenter;

(b) Topographic maps and well plats that show the surveyed and staked areas of proposed construction activity, access routes, and areas of surface use. Well plats must be certified by a registered surveyor;

(c) A surface use plan, or on FS lands, an informational copy of the surface use plan you submitted to the FS, that completely describes the—

(1) Road and drill pad and production facility (if known);

(2) Construction methods and interim and final reclamation measures; and

(3) How you will contain and dispose of all waste material;

(d) A drilling plan that completely describes—

(1) Pressure control systems (including casing weights and grades and cement types and additives) and circulation mediums (including additives);

(2) Pertinent geologic data including usable water zones, hydrocarbon bearing zones, anticipated maximum pressures, and other potential hazards; and

(3) Testing and evaluation programs; and

(e) The bond coverage for your proposed activity.

§ 3145.13 What requirements must I comply with during operations?

During operations you must comply with lease terms, stipulations, and applicable Federal, State and local laws and regulations. Your APD (or your surface use plan for NFS lands) must show how you will—

(a) Provide adequate safeguards for surface and subsurface resources and uses, including impacts to adjacent lands and waters;

(b) Properly reclaim disturbed lands to a stable, revegetated state similar to adjacent undisturbed land;

(c) Complete recontouring and seedbed preparation in time to plant approved seed mixtures by the next available period for establishing vegetation;

(d) Protect and prevent waste of valuable hydrocarbons and other minerals;

(e) Protect riparian areas, flood plains and wetlands;

(f) Prevent degradation of surface waters and subsurface usable waters;

(g) Protect public health and safety, threatened, endangered, and sensitive species and their habitats, and cultural and historic resources, according to existing laws and regulations;

(h) Minimize the generation of wastes; and

(i) Properly contain, handle and dispose of solid and fluid wastes and hazardous materials.

§ 3145.14 What additional requirements apply to a well I propose to drill on privately-owned surface?

(a) If you propose to drill on privately-owned surface, you must certify that the surface owner agrees to your use of the surface as proposed in your APD and provide a copy of the surface owners agreement if BLM requests it; or

(b) If you are unable to reach an agreement with a private surface owner, BLM will make a final determination on surface use, considering the views of the surface owner. BLM will only approve the permit if—

(1) You demonstrate that you made a good faith effort to reach an agreement with the surface owner;

(2) Your bond is adequate to pay for required reclamation and damage to surface improvements, crops and other surface uses; and

(3) You certify that there are no legal obstacles to conducting operations without surface owner consent, including, but not limited to, restraining orders or pending lawsuits.

§ 3145.15 What additional requirements apply to a well I propose to drill on a Federal oil and gas lease if the surface is held in trust for an Indian tribe or an individual Indian?

If the wellsite or access road is proposed on split-estate lands where the surface is held in trust for an Indian tribe or an individual Indian and the mineral estate is Federal, you must obtain a surface use agreement with the tribe or an individual Indian surface owner(s). However—

(a) A surface use agreement is not necessary for allotted lands in Alaska under the Native Allotment Act of May 17, 1906, as amended (34 Stat. 197);

(b) You do not need a surface use agreement if your lease predates the transfer to Indian ownership or the land transfer document or legislation affords the United States access rights to exercise its mineral rights; or

(c) Except as provided in paragraph (b) of this section, if you are unable to reach an agreement with the surface owner(s), BLM will not approve your APD.

§ 3145.16 May I file a single plan for more than one well?

Your drilling plan or surface use plan may cover an individual well or multiple wells within areas of geological and environmental similarity. If you combine plans for multiple wells, you must submit Form 3160-3 to BLM for each well you propose to drill.

§ 3145.17 Must I submit an APD to BLM to start the APD process and the 30-day public posting period?

To start the APD process and the 30-day public posting period, you may file either an APD or a NOS under § 3145.18.

§ 3145.18 What is a Notice of Staking (NOS) and what must I do under the NOS process?

(a) A Notice of Staking (NOS) is a way you and BLM select an acceptable drilling location before you submit an APD. Under the NOS process, you must submit to BLM—

(1) Your, or your designated contact's, name, address, and telephone number;

(2) A topographical or other acceptable map showing location, access road, and lease boundaries;

(3) The name of the surface management agency, Indian or private surface owner;

(4) The well name and number, lease number, and legal description of the well location; and

(5) The well type, estimated well depth, and formation objectives.

(b) You must stake your well location and flag the access route before the predrill inspection required in § 3145.19(a)(4).

(c) You must submit an APD within 90 calendar days after the date of the predrill inspection.

§ 3145.19 What actions will BLM take after receiving my APD or NOS?

(a) BLM will—

(1) For Federal leases, post the NOS or APD for public inspection for 30 calendar days;

(2) Provide a copy of the NOS or APD to the appropriate Federal or State surface management agency, if other than BLM;

(3) Notify you whether—

(i) BLM will process your NOS or APD or whether BLM needs additional information to process your application; or

(ii) Whether you must contact another surface management agency; and

(4) Schedule and conduct an on-site predrill inspection. The purpose of the predrill inspection is to resolve on-site resource concerns that may affect size, location, or design of the pad, access road or facility. If necessary, BLM will recommend additional measures that you must address in your APD.

(b) BLM will return your NOS or your incomplete APD if you do not submit a complete APD within 90 calendar days of either the date of predrill inspection or the date you receive BLM's notice under paragraph (a)(3) of this section, whichever occurs last.

(c) Following receipt of a complete APD, and the posting period for Federal lands, BLM will either—

(1) Approve the APD as submitted or with appropriate modifications or conditions;

(2) Reject the APD and advise you in writing of the reasons; or

(3) Advise you in writing of the reasons why BLM will delay the decision and when you can expect a final decision.

§ 3145.20 When will my approved APD expire and may I extend the term of an approved APD?

(a) Your approved APD is valid for one year from the date of BLM's approval, or your lease expiration date, whichever is sooner.

(b) BLM may extend a drilling permit for up to two additional 12 month periods, if you request an extension before each approval expires, but not beyond the termination of the lease.

§ 3145.21 Must my APD describe all of my proposed operations connected to the well I intend to drill?

(a) You must include with your APD plans for access roads and other drilling, completion and production related activities, if known, that are on the same lease as your well proposal; and

(b) You must obtain a right-of-way (R/W) authorization for the use of BLM lands located off of your lease according to part 2800 of this chapter. You have the option of using the APD package to furnish the information BLM requires to process an R/W instead of filing a separate R/W plan of development. If you choose this option, the APD will serve as an R/W application, even though BLM will issue two separate approval documents (APD and R/W grant).

(c) If your proposal involves off-lease activities on surface managed by an agency other than BLM, or on private or Indian surface, you must include this information with your APD and contact the appropriate agency and/or surface owner for additional surface use authorization.

(d) If you do not include plans for production activities, including pipelines, storage facilities and measurement sites, with your APD, you must submit plans before construction and installation of these facilities, according to §§ 3145.50 through 3145.55.

§ 3145.22 What must I submit after I drill a well or suspend drilling operations?

Within 30 calendar days after you drill a well or suspend drilling operations, you must submit to BLM—

(a) Reports, well logs, and test data;

(b) A Well Completion Report, Form 3160-4; and

(c) Other information BLM requires.

§ 3145.23 What must I do when my well is an inactive well?

Within 30 calendar days after your well becomes inactive (see § 3107.52), you must—

(a) Put the well into production or service;

(b) Submit to BLM plans to conduct well-work to restore production or service;

(c) Submit plans to plug and abandon the well and reclaim areas disturbed or contaminated by your well operations; or

(d) Comply with the requirements of § 3107.56.

Technical Drilling Standards

§ 3145.30 What are the design and operational requirements for well control?

You must—

(a) Design your blowout prevention equipment system (BOP) to control known or anticipated pressures, taking into account the geologic conditions, accepted engineering practices, and the surface environment;

(b) Use a BOP with a working pressure that exceeds the maximum anticipated surface pressure, assuming a pressure gradient of 0.22 psi/foot for a wildcat well or the appropriate pressure gradient for known geologic environments;

(c) Configure and maintain your BOP according to the guidelines in the "American Petroleum Institute (API) Recommended Practice 53, Recommended Practice for Blowout Prevention Equipment Systems for Drilling Wells", Third Edition, March 1997 (RP 53);

(d) Use a BOP that can completely close the wellbore;

(e) Install and pressure test the BOP before you drill the surface casing shoe (unless BLM specifies otherwise) and before you perform other post-drilling well operations that require control of known or anticipated pressures;

(f) Unless BLM approves otherwise, pressure test the BOP to the recommended high pressure test standards in Section 17 of API RP 53, except you must not—

(1) Test the annular preventer in excess of 50 percent of its working pressure; or

(2) Expose the casing to pressures exceeding 70 percent of its minimum internal yield;

(g) Functionally test the pipe rams daily and the blind rams each time you pull the drill string to change the drill bit, but not more than once per day;

(h) Document all tests in the driller's log;

(i) Ensure that the wellbore is closed when it is unattended; and

(j) Take immediate steps to restore control of your well, when necessary.

§ 3145.31 What additional requirements apply when I drill using gas, air, or mist?

You must follow the standards for gas, air, or mist drilling operations contained in Section 17 of "American Petroleum Institute (API) Recommended Practice 54, Recommended Practices for Occupational Safety for Oil and Gas Well Drilling and Servicing Operations", Second Edition, May 1, 1992 (RP 54).

§ 3145.32 How must I design and drill my well?

Design and drill your well so that—

(a) The collapse, burst, and tensile strengths of the casing(s) are sufficient to withstand anticipated pressures;

(b) The surface casing is cemented along its entire length with centralizers located on at least the bottom three joints;

(c) The casing(s) is set in a competent formation(s) that will withstand anticipated pressure and is cemented so that all useable water and other minerals are protected;

(d) Cement placement procedures minimize contamination and maximize cement bonding;

(e) Cement is uniformly distributed around the casing(s) to ensure an adequate casing-to-formation bond;

(f) Cement curing time is adequate to ensure a minimum compressive strength of 500 psi or to maintain well bore integrity;

(g) The tubular steel properties are appropriate for the type of conditions (e.g., hydrogen sulfide, corrosives, temperature) in which it is used;

(h) Any geologic formations of concern are adequately isolated to prevent fluid or gas migration;

(i) The drilling circulation system is monitored and ensures well control; and

(j) Liners overlap at least 100 feet.

§ 3145.33 What integrity tests and corrective measures must I perform on my well?

(a) During drilling operations you must—

(1) Conduct a pressure test of all casing strings, including liner overlaps, below the conductor pipe before you set the next string of casing;

(2) Perform a mud weight equivalency test of each casing shoe before you drill 20 feet of new hole on all exploratory wells and on part of any well approved for a 5K BOP (as defined in Section 6, API RP 53) system or greater; and

(3) Correct pressure loss problems before you continue drilling operations, unless drilling ahead is necessary for well control.

(b) You must test all repairs and alterations of your wellbore to demonstrate mechanical integrity.

§ 3145.34 When may I conduct drill stem testing?

(a) You may initiate and conduct drill stem testing (DST) without BLM's prior approval only during daylight hours. You must follow the recommended practices of Section 14, API RP 54.

(b) If you start the DST during daylight hours, you may continue testing at night if—

(1) The rate of flow is stabilized; and
(2) You provide safe, adequate lighting.

(c) You may release packers, but must not begin tripping before daylight, unless you have BLM's approval.

(d) You may conduct closed chamber DST's day or night.

Drilling Operations in a Hydrogen Sulfide (H₂S) Environment

§ 3145.40 When must I follow BLM hydrogen sulfide (H₂S) requirements?

You must follow BLM H₂S requirements when you drill, complete, test, or rework in zones known, or reasonably expected, to contain H₂S in concentrations of 100 parts per million (ppm) or more in the gas stream.

§ 3145.41 What additional requirements apply when I drill in an H₂S environment?

When you drill in an H₂S environment—

(a) Your plans and operations must follow the standards contained in API "Recommended Practice 49, Recommended Practices for Safe Drilling of Wells Containing Hydrogen Sulfide", Second Edition, April 15, 1987 (RP 49);

(b) You must submit an H₂S plan as part of your APD that shows how you will—

(1) Provide for safety of personnel that are essential to maintain control of the well;

(2) Conduct general rig operations and drill stem testing;

(3) Handle special rig problems in an H₂S environment; and

(4) Alert and protect the public if a potentially hazardous volume of H₂S is released from your operation when—

(i) The 500 parts per million (ppm) radius of exposure is greater than 50 feet and includes any part of a road or highway principally maintained for public use;

(ii) The 100 ppm radius of exposure is greater than 50 feet and includes any occupied residence, school, church, park, school bus stop, place of business, or other area where the public could reasonably be expected to frequent; or

(iii) The 100 ppm radius of exposure is equal to or greater than 3,000 feet where facilities or roads are principally maintained for public use.

(c) You may submit a single plan for multiple wells within a single field.

§ 3145.42 How do I calculate the radius of exposure?

(a) You must use one of the following methods to calculate the radius of exposure, as appropriate—

(1) If the H₂S concentration in the gas stream is less than 10 percent, calculate—

(i) The 100 ppm radius of exposure using the formula—

$$X = [(1.589)(H_2S \text{ concentration})(Q)]^{(0.6258)}; \text{ or}$$

(ii) The 500 ppm radius of exposure using the formula—

$$X = [(0.4546)(H_2S \text{ concentration})(Q)]^{(0.6258)}$$

Where—

X=radius of exposure in feet.

H₂S Concentration = decimal equivalent of the mole or volume fractions of H₂S in the gaseous mixture.

Q=maximum volume of gas determined to be available for escape in cubic feet per day (at standard condition of 14.73 pounds per square inch absolute (psia) and 60° Fahrenheit).

(2) If the H₂S concentration in the gas stream is 10 percent or greater, you must calculate the 100 ppm or the 500 ppm radius of exposure using a dispersion technique that takes into account atmospheric stability, complex terrain, wind speed and direction, and other dispersion features. You may use one of the computer models outlined in the Environmental Protection Agency's "Guidelines on Air Quality Models (Revised) (EPA-450/2-78-027R)", July 1986; or

(3) Another method if BLM approved it.

(b) You must assume a radius of at least 3,000 feet for a well you are drilling in an area where you have insufficient data to calculate a radius of exposure, but where you could reasonably expect H₂S to be present in concentrations of 100 ppm or more.

(c) Use a field-wide radius of exposure or calculate the radius of exposure for each component part of the drilling, completion, workover, and production system where multiple H₂S sources (i.e., wells, treatment equipment, flowlines, etc.) are present.

§ 3145.43 What if I encounter H₂S in concentrations of 100 ppm or more in the gas stream that was not anticipated at the time BLM approved my APD?

(a) If you encounter H₂S in concentrations of 100 ppm or more in the gas stream that was not anticipated at the time BLM approved your APD, you must immediately ensure control of the well, suspend drilling ahead (unless you need it for well control), and obtain materials and safety equipment so that your operations comply with the regulations in this part; and

(b) You must notify BLM within 24 hours of encountering H₂S in concentrations of 100 ppm and describe the steps you took, or are taking, to control the situation.

§ 3145.44 What training and equipment must I provide personnel at the wellsite for H₂S operations?

(a) You must train all personnel working at the wellsite with the general training requirements outlined in Section 2 of API RP 49.

(b) For drilling operations, you must complete the initial training session either—

(1) Three business days before drilling into known or probable H₂S zones; or

(2) Before reaching a depth 500 feet above known or probable H₂S zones.

(c) On a drilling, completion, or workover site, all personnel (including service company personnel) essential to maintain or regain control of the well, and visitors, must have, or have access to, escape or pressure-demand type breathing apparatus. You must not allow anyone onto the location without the proper equipment.

(d) Your respiratory protection equipment program must follow the standards of Section 3 of API RP 49.

Additional Well Operations

§ 3145.50 What requirements must I satisfy for additional well operations?

For additional well operations that require BLM approval under § 3145.51, you must submit Sundry Notice, Form 3160–5, or other filing instrument acceptable to BLM, that describes the proposed surface use and downhole procedures. You must include details similar to those required when filing an APD (e.g., maps, construction methods, pressure control systems, and when BLM does not manage the surface, resource protection measures, standards for occupancy of the surface, and reclamation measures).

§ 3145.51 What additional well operations require BLM approval?

(a) You must request and receive BLM approval, before you—

(1) Plug, plug back, squeeze, deepen, complete in a different zone, temporarily abandon a well, convert a well to injection, dispose of produced water or commingle production;

(2) Conduct downhole operations that affect valuable hydrocarbons and other mineral deposits, oil and gas resource recovery, production accountability, subsurface usable waters, or public health and safety;

(3) Use bioremediation methods or other measures to reclaim lands contaminated by spills and accidents;

(4) Disturb the surface off the existing access road, wellpad, or approved facility sites, or disturb areas previously reclaimed; or

(5) Construct new pits or enlarge existing pits except for those constructed for routine well maintenance on the existing well pad or approved facility sites, or on sites that are not reclaimed.

(b) BLM may give oral approval whenever the regulations in this part require you to obtain BLM approval

before starting operations. BLM may require you to file a written request on Sundry Notices and Reports on Wells (SN), Form 3160–5, within five business days of the oral approval.

§ 3145.52 What additional well operations do not require BLM approval?

You do not need BLM approval to—

(a) Perform only surface disturbing activities on NFS lands;

(b) Perform operations that are included in a plan BLM previously approved;

(c) Return fluids from the well bore to a closed system for transport and disposal according to existing laws and regulations;

(d) Take actions to correct or contain an emergency situation. However, you must notify BLM no later than 48 hours after the occurrence; or

(e) Perform activities that will not disturb the surface off the existing access road, wellpad, facility sites or disturb areas previously reclaimed, when you perform—

(1) Routine well maintenance;

(2) Any modification to surface production equipment not covered under § 3151.10; or

(3) Downhole operations that will not affect valuable hydrocarbons and other mineral deposits, oil and gas resource recovery, subsurface usable waters, or public health and safety.

§ 3145.53 What happens when BLM receives my application for additional well operations?

(a) When BLM receives your application for additional well operations, SN, Form 3160–5, BLM will—

(1) Schedule and conduct a site inspection, if needed to evaluate your proposal; and

(2) Notify you whether—

(i) BLM will process your application, or whether BLM needs additional information to process your application; or

(ii) Whether you must contact another surface management agency;

(b) After we receive a complete application, BLM will —

(1) Approve the application as submitted or with appropriate modifications or conditions;

(2) Reject the application and advise you of the reasons why; or

(3) Advise you of the reasons why BLM will delay the decision and when you can expect a final BLM decision.

§ 3145.54 What reports must I submit after I complete additional well operations?

Within 30 calendar days after you complete additional well operations, you must submit to BLM—

(a) A Well Completion Report, Form 3160–4, if you complete your well in a new formation;

(b) Reports, well logs, and test data;

(c) A SN, Form 3160–5, if—

(1) You alter the existing wellbore configuration; or

(2) BLM requests it; and

(d) Other information BLM requires.

§ 3145.55 What must I do to reclaim surface disturbance that results from operations on my well or lease?

To reclaim surface disturbance that results from operations on your well or lease, you must—

(a) Complete recontouring and seedbed preparation in time to plant approved seed mixtures by the next available period for establishing vegetation;

(b) Reclaim all of the excess pad, facility, and road areas, pipeline or utility corridors, pits, contaminated areas, and areas disturbed during emergencies, to a stable, revegetated state similar to adjacent undisturbed land; and

(c) Comply with any reclamation conditions of your approved permit or lease.

11. Revise part 3150—Onshore Oil and Gas Geophysical Exploration to read as follows:

PART 3150—OIL AND GAS MEASUREMENT AND OPERATIONS

Subpart 3151—Production, Storage and Measurement

Production, Storage and Measurement—General

Sec.

3151.10 What Federal and Indian oil or gas production activities require BLM approval?

3151.11 How do I get BLM approval for production activities involving Federal and Indian oil or gas?

3151.12 What are the standards for lease production operations?

3151.13 How must I handle Federal royalty-in-kind oil?

3151.14 On what oil and gas must I pay royalty?

3151.15 On what oil and gas am I not required to pay royalty?

3151.16 When may I vent or flare Federal or Indian gas without BLM approval without paying royalty?

Production Operations With Hydrogen Sulfide (H₂S)

3151.20 What precautions must I take if there is any possibility for H₂S at my production facility or storage tank?

3151.21 When must I take additional precautions?

3151.22 What precautions must I take if my storage tank has a vapor accumulation with an H₂S concentration greater than 500 ppm?

- 3151.23 What precautions must I take if my production facility has an H₂S concentration of 100 ppm or more in the gas stream?
- 3151.24 What precautions must I take when the sustained ambient concentration of H₂S exceeds acceptable limits?

Subpart 3152—Site Security

General

- 3152.10 What are BLM's site security requirements for production facilities?

Storage and Sales Facilities—Seals

- 3152.20 What oil and condensate measurement system components must I seal for site security?
- 3152.21 When must I seal a valve?

Oil and Gas Meters

- 3152.30 How must I secure metering systems?

Federal Seals

- 3152.40 What will BLM do if I do not seal a valve or component of a measurement system where BLM requires a seal?

Plans and Facility Diagrams

- 3152.50 What is a site security plan?
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Well and Facility Identification

- 3152.60 How must I identify wells and production facilities?

Transporter Documentation

- 3152.70 What information must I have when transporting oil and gas production that is produced from or allocated to my lease?

Theft

- 3152.80 What if I discover theft or mishandling of oil, condensate or gas produced from my wells?

Subpart 3153—Oil Measurement

General

- 3153.10 How must I measure Federal and Indian oil?

Tank Gauging

- 3153.20 How do I determine the quantity and quality of oil that I sell by tank gauging?

Leasing Automatic Custody Transfer

- 3153.30 How must I install and operate my Lease Automatic Custody Transfer (LACT) unit?
- 3153.31 How do I determine oil gravity and sediment and water content of oil measured through my LACT?
- 3153.32 How do I determine the composite meter factor for my LACT meter?
- 3153.33 What requirements apply to the meter prover I use to determine the LACT composite meter factor?

- 3153.34 When must I determine the composite meter factor for my LACT meter?
- 3153.35 What tolerance does BLM require for the LACT composite meter factor?
- 3153.36 What if the LACT composite meter factor changes more than ± 0.0025 between provings?
- 3153.37 What notices and reports must I provide to BLM about operation of my LACT system?
- 3153.38 How do I correct volumes if my composite meter factor changes between LACT provings?

Measurement Tickets

- 3153.40 How must I document the sale or removal of oil from my production facility?

Subpart 3154—Gas Measurement

Gas Measurement

- 3154.10 How do I measure and report gas production from Federal and Indian lands?

Orifice Meter—Primary Element

- 3154.20 How must I install, operate, and maintain an orifice meter?
- 3154.21 How must I determine the volume of gas that passes through my orifice meter?

Orifice Meter—Secondary Element

- 3154.30 How must I record the differential and static pressures on a chart recorder?
- 3154.31 What additional requirements must I follow when using electronic flow computers?
- 3154.32 How must I calibrate the secondary element of an orifice meter?
- 3154.33 When must I calibrate the secondary element?

Orifice Meters—Low Volume Exemptions

- 3154.40 What measurement standards apply if I use an orifice meter and measure an average of 100 Mcf of gas, or less, per producing day on a monthly basis?

Other Metering Systems

- 3154.50 What standards must I follow if I measure gas by a metering system other than an orifice meter?

Volume Corrections

- 3154.60 How do I correct volumes if my meter did not measure accurately?

Gas Quality Measurements

- 3154.70 How do I determine the quality of my gas stream?

Subpart 3155—Produced Water Disposal

Produced Water Disposal

- 3155.10 Why must I obtain approval from BLM to dispose of water produced from my lease?
- 3155.11 When do I need BLM approval to dispose of produced water?

- 3155.12 When may I dispose of produced water without BLM approval?
- 3155.13 What type of water disposal will BLM allow?
- 3155.14 What BLM forms and Environmental Protection Agency, State or Indian Tribe permits must I submit to BLM if I plan to dispose of produced water?
- 3155.15 What additional requirements must I follow for water disposal into pits?
- 3155.16 When may I use an unlined pit for produced water disposal?
- 3155.17 If the quantity and quality of my produced water changes, do I need a new approval from BLM to continue using an unlined pit?
- 3155.18 What must I submit to BLM for surface discharge that requires a National Pollution Discharge Elimination System permit?
- 3155.19 What if the EPA, State, or Indian Tribe cancels or suspends the permit for a disposal facility I am using?

Subpart 3156—Spills and Accidents

Spills and Accidents

- 3156.10 What action must I take after an accident or spill that involves Federal or Indian production?
- 3156.11 How soon after a spill or accident must I report it to BLM?
- 3156.12 When must I submit a written report on spills and accidents to BLM?
- 3156.13 What must I include in my report of a spill or accident?
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Subpart 3159—Well Abandonment

Temporary Abandonment

- 3159.10 How do I obtain BLM approval to temporarily abandon all or a portion of a Federal or Indian well?
- 3159.11 How do I temporarily abandon a well?

Permanent Abandonment

- 3159.20 When must I permanently plug and abandon my well?
- 3159.21 How do I obtain BLM approval to permanently plug and abandon my well?
- 3159.22 How must I permanently plug and abandon a well?
- 3159.23 When must I test plug placement?
- 3159.24 What must I do if the surface owner or surface management agency requests that I convert a well I plan to plug and abandon into a water well?
- 3159.25 What if my approved plans for well abandonment change after I receive BLM approval?
- 3159.26 What must I submit to BLM after I permanently abandon my well and complete reclamation measures?

Authority: 25 U.S.C. 396d and 2107; 30 U.S.C. 189, 306, 359 and 1751; and 43 U.S.C. 1732(b), 1733 and 1740.

Subpart 3151—Production, Storage and Measurement

Production, Storage and Measurement—General

§ 3151.10 What Federal and Indian oil or gas production activities require BLM approval?

Before you begin production activities involving Federal or Indian oil or gas, you must have BLM approval to —

- (a) Measure gas by a method other than that authorized under subpart 3154;
- (b) Measure oil by a method other than tank gauging or positive displacement metering system, or by a method that you can demonstrate to BLM is equivalent in accuracy and accountability to either of those two systems;
- (c) Measure oil and gas at a location off your lease;
- (d) Commingle production; or

(e) Vent or flare gas, unless § 3151.16 applies.

§ 3151.11 How do I get BLM approval for production activities involving Federal and Indian oil or gas?

The following table lists application requirements for those production activities for Federal or Indian oil or gas that require BLM approval. For each of the listed activities, request approval from the BLM using Sundry Notice, Form 3160–5, and provide the documentation indicated—

Activity	Documentation—
(a) Measure gas by a method other than that authorized in subpart 3154.	Show that your method of measuring will not adversely affect royalty income or production accountability.
(b) Measure oil by a method other than tank gauging or positive displacement metering system.	Show that your method of measuring will not adversely affect royalty income or production accountability.
(c) Measure oil and gas at a location off your lease.	Identify where you want to measure production; and Why you must measure off-lease; and Show that your proposed location will not adversely affect surface resources, royalty income or production accountability.
(d) Commingle Federal or Indian oil or gas	Indicate the volume, quality, and source of the products you want to commingle; and Show how you will allocate production back to the source; and Show that commingling will not adversely affect royalty income or production accountability.
(e) Vent or flare gas in situations other than those described in § 3151.16.	Identify the volume, composition and source of the gas you want to vent or flare; and Show why it is not economical for you to market the gas at the time of application or use it on lease.

§ 3151.12 What are the standards for lease production operations?

(a) You must conduct production operations in accordance with accepted industry practices to—

- (1) Put all oil, other hydrocarbons, gas and sulphur that you produce into a marketable condition, if economically feasible;
- (2) Prevent any oil going to a pit or open tank except in an emergency. If oil goes to a pit, you must remove it within 48 hours, unless BLM directs otherwise;
- (3) Prevent avoidable loss of oil and gas; and
- (4) Protect the mineral resource, other natural resources and environmental quality.

(b) You must report to BLM not later than the fifth business day after a well first begins production or resumes production after being shut-in for 90 calendar days or more under § 3103.10(r). For purposes of this paragraph, production begins or resumes—

- (1) For an oil well, on the date on which you first sell or ship liquid hydrocarbons from a temporary storage facility, such as test tanks, or the date on which you first produce liquid hydrocarbons into a permanent storage facility, whichever occurs first; or
- (2) For a gas well, on the date on which you first measure gas through a sales metering facility or the date on which you first sell or ship associated

liquid hydrocarbons from a temporary storage facility, whichever occurs first. For purposes of this paragraph, a gas well is shut-in only if it is incapable of production.

§ 3151.13 How must I handle Federal royalty-in-kind oil?

If the lessor elects to take its royalty in-kind, you must store the amount of oil equal to the royalty volume from or allocated to your Federal lease at a location agreed to by you and BLM for up to 30 calendar days at no cost to the lessor.

§ 3151.14 On what oil and gas must I pay royalty?

- You must pay royalty on—
- (a) Oil and gas produced from or allocated to your lease that you sell or remove from your lease;
 - (b) Gas you vent or flare without BLM approval, or that exceeds an amount exempted under § 3151.16; or
 - (c) Oil and gas which is avoidably lost.

§ 3151.15 On what oil and gas am I not required to pay royalty?

- You are not required to pay royalty on—
- (a) Oil and gas used for beneficial purposes;
 - (b) Waste oil;
 - (c) Gas you vent or flare with BLM approval or as provided in § 3151.16; or

(d) Oil and gas which is unavoidably lost.

§ 3151.16 When may I vent or flare Federal or Indian gas without BLM approval without paying royalty?

(a) You are not required to have BLM approval or pay royalty when you vent or flare gas during—

- (1) Emergency situations (e.g., equipment failures or relief of abnormal system pressures) that do not exceed 24 hours per incident or 144 hours total for a lease during any calendar month;
- (2) Initial production tests, provided you do not test for more than 30 calendar days or produce more than 50,000 Mcf of gas;
- (3) Unloading or clean up of your well, up to 24 hours per event;
- (4) Drill stem testing up to 24 hours or special well evaluation tests up to 72 hours;
- (5) Routine preventive maintenance of production equipment, up to 24 hours per month; or
- (6) Routine well maintenance operations.

(b) BLM may approve requests for longer periods for any of the situations listed in paragraph (a) of this section.

(c) You are not required to obtain approval to vent or flare gas from Federal oil wells which produce less than 10 Mcf of gas per day as part of normal oil production, unless it is economic to capture that gas. You must flare or vent gas in a safe manner

according to applicable laws, regulations, and accepted industry practice.

Production Operations With Hydrogen Sulfide (H₂S)

§ 3151.20 What precautions must I take if there is any possibility for Hydrogen Sulfide (H₂S) at my production facility or storage tank?

If there is any possibility for H₂S at your production facility or storage tank, you must—

(a) Test each production facility and tank for H₂S concentration in the gas stream, tank vapors, and sustained ambient air when you install a new facility or modify your production or operation method;

(b) Notify BLM within five calendar days whenever concentrations of 20 parts per million (ppm) or greater are encountered. You do not need to notify BLM if your modification(s) to your production or operation method changes the previously reported H₂S concentration by 5 percent or less; and

(c) Design and maintain your facility to keep the sustained ambient concentration below 10 ppm H₂S or 2 ppm sulphur dioxide (SO₂) within a 50-foot radius and at any occupied residence, school, church, park, playground, school bus stop, place of business, or other area that the public could reasonably be expected to frequent.

§ 3151.21 When must I take additional precautions?

You must take the additional precautions described in §§ 3151.22, 3151.23, and 3151.24 at your well or production facility when—

(a) Your storage tank(s) operates at or near atmospheric pressure and contains produced fluids which accumulate vapor resulting in an H₂S concentration greater than 500 ppm in the tank;

(b) You have an H₂S concentration of 100 ppm or more in the gas stream; or

(c) The sustained ambient H₂S concentration is more than 10 ppm at 50 feet from the production facility or storage tank(s), as measured at ground level under calm (1 mph) conditions.

§ 3151.22 What precautions must I take if my storage tank has a vapor accumulation with an H₂S concentration greater than 500 ppm?

If your storage tank has a vapor accumulation with an H₂S concentration greater than 500 ppm you must—

(a) Restrict entry to all stairs or ladders leading to the top of storage tank;

(b) Post danger signs on or within 50 feet of each storage tank to alert the public of the potential H₂S hazard;

(c) Install at least one permanent wind direction indicator so someone at, or approaching, the storage tank(s) can easily determine wind direction; and

(d) Install a fence and gate(s), and lock all gates when you are not at the site, to restrict public access if storage tanks are located—

(1) Within ¼ mile of, or inside, a city or incorporated limits of a town;

(2) Within ¼ mile of an occupied residence, school, church, park, playground, school bus stop, place of business; or

(3) Where the public could reasonably be expected to frequent.

§ 3151.23 What precautions must I take if my production facility has an H₂S concentration of 100 ppm or more in the gas stream?

If your production facility has an H₂S concentration of 100 ppm or more in the gas stream, you must—

(a) Take all the precautions required by § 3151.22 for storage tanks. If your tank is next to your facility, you do not need to duplicate precautions;

(b) Design and construct your facility in conformance with American Petroleum Institute (API) RP 55, "Recommended Practices for Conducting Oil and Gas Producing and Gas Processing Plant Operations Involving Hydrogen Sulfide", Second Edition, February 15, 1995 (API RP 55, 1995);

(c) Calculate your 100 and 500 ppm radii of exposures using the formulae or methods listed in § 3145.42;

(d) Develop, implement, and update at least annually, a public protection plan that details how you will alert and protect the potentially affected public in the event of a potentially hazardous release of H₂S and SO₂. The plan must follow the contingency planning procedures of the API RP 55 1995, if—

(1) The 500 ppm radius of exposure is greater than 50 feet and includes any part of a road or highway principally maintained for public use;

(2) The 100 ppm radius of exposure is greater than 50 feet and includes any occupied residence, school, church, park, school bus stop, place of business, or other area which the public could reasonably be expected to frequent; or

(3) The 100 ppm radius of exposure is equal to or greater than 3,000 feet where facilities or roads are principally maintained for public use.

(e) Post danger signs at locations where well flowlines and lease gathering lines that carry H₂S gas cross public or lease roads. You are not

required to install fencing or wind direction indicators around your flowlines;

(f) Install on all wells, except for those you produce by artificial lift, a secondary means of immediate well control that allows you to reenter under pressure for permanent well control operations; and

(g) For wells you produce by artificial lift, and where the 100 ppm radius of exposure for H₂S includes any occupied residence, place of business, school, other inhabited structure or any area that the public may reasonably be expected to frequent, install automatic shut-in controls that are set to activate in the event of a potentially hazardous release of H₂S.

§ 3151.24 What precautions must I take when the sustained ambient concentration of H₂S exceeds acceptable limits?

If the sustained ambient concentration exceeds the limit specified in § 3151.20(c), you must collect or reduce vapors from the system. All vapor you collect must be—

(a) Sold;

(b) Used on the lease;

(c) Rejected; or

(d) Flared, if terrain and conditions permit and will not result in SO₂ concentrations that exceed 2 ppm within a 50-foot radius.

Subpart 3152—Site Security

General

§ 3152.10 What are BLM's site security requirements for production facilities?

You must configure and secure all production facilities where Federal and Indian production or allocable production is produced or stored to ensure production accountability for that oil and gas.

Storage and Sales Facilities—Seals

§ 3152.20 What oil and condensate measurement system components must I seal for site security?

(a) You must seal each valve, combination of valves and measurement system component(s) that, if altered, could substantially and adversely affect royalty income or production accountability. You must use a uniquely numbered seal to detect unauthorized or undocumented access to oil or condensate;

(b) For each valve requiring a seal, you must place the seal so that it would be destroyed if the position of the valve changes; and

(c) For each component in a measuring system requiring a seal, you must place the seal so that it would be destroyed if a component is accessed.

§ 3152.21 When must I seal a valve?

(a) During the production phase, you must seal closed all valves that provide access to oil or condensate production; and

(b) Before taking the top gauge for sale, you must seal closed all valves that would allow unmeasured production to enter or leave the sales tank.

Oil and Gas Meters**§ 3152.30 How must I secure metering systems?**

(a) During normal operation of your Lease Automatic Custody Transfer system (LACT), you must seal all components that could affect the volume or quality determination of the oil passing through the LACT;

(b) You must seal LACT components by following the requirements of § 3152.20; and

(c) You must not have bypasses around meters that could permit any person to remove oil or gas from the lease or facility without measuring it, unless BLM approved a bypass.

Federal Seals**§ 3152.40 What will BLM do if I do not seal a valve or component of a measurement system where BLM requires a seal?**

If BLM discovers a missing seal, BLM will require you to place a seal or BLM will place a Federal seal on the valve or component to secure production if you are not at the site when BLM makes the discovery.

Plans and Facility Diagrams**§ 3152.50 What is a site security plan?**

(a) A site security plan is a document that details how you will secure your production facilities. Your site security plan must specify which leases and production facilities are covered by your plan and describe how you will—

(1) Implement a self-inspection program to periodically monitor production volumes, and production and measurement equipment;

(2) Seal appropriate valves at storage and production facilities;

(3) Prepare and maintain records of sales;

(4) Prepare and maintain records of seals;

(5) Identify and report potential theft or mishandling of production; and

(6) Update your plan when you change or add production facilities.

(b) You must maintain all of your production facilities to comply with your site security plan.

(c) You must provide BLM a copy of the plan when we request it.

§ 3152.51 What is a site facility diagram?

A site facility diagram is a schematic of your production facility that—

(a) Accurately reflects the conditions at the site;

(b) Commencing with the header (if applicable), clearly identifies the vessels, piping, metering system, and pits, if any, which apply to the handling and disposal of oil, gas, and water;

(c) Indicates which valves you must seal and the position of the valve during the production and sales phases;

(d) Identifies where your production facility is located and the lease it serves; and

(e) States where you keep the site security plan that applies to your production facility.

§ 3152.52 For what production facilities must I prepare a site facility diagram?

(a) You must prepare and submit to BLM a site facility diagram for all production facilities you use to handle or to store oil or condensate produced from, or allocable to, Federal or Indian lands.

(b) You do not need a site facility diagram for—

(1) A dry gas production facility where you do not produce or store oil or condensate; or

(2) A production facility where a single tank is used for collecting 15 barrels a day or less of oil or condensate produced from a single well.

Well and Facility Identification**§ 3152.60 How must I identify wells and production facilities?**

(a) For every unplugged well on a Federal or Indian lease or within an agreement BLM approved, you must place a legible sign in a noticeable place, that identifies the well name or number, ownership, legal description of the location, and lease name or number;

(b) On every production facility you use to store Federal or Indian production, you must place a legible sign in a noticeable place that identifies the facility name or number, ownership, legal description of the location, and lease name or number. You also must place a unique number on each storage tank; and

(c) If you have one tank battery servicing one well at a common location, you may use one sign for both, if it includes the information required for both wells and production facilities.

Transporter Documentation**§ 3152.70 What information must I have when transporting oil and gas production that is produced from or allocated to my lease?**

(a) If you transport oil from your lease by motor vehicle or pipeline, the driver or transporter must have a measurement ticket, trip log or other documentation showing—

(1) The quantity and quality of oil transported;

(2) The property and production facility identification number from which the oil came; and

(3) The intended first purchaser of the oil.

(b) If you transport gas by pipeline, it must be reported according to the requirements in subpart 3154.

Theft**§ 3152.80 What if I discover theft or mishandling of oil, condensate or gas produced from my wells?**

If you discover theft or mishandling of oil, condensate or gas produced from your wells—

(a) You must provide BLM a written or oral report of the incident no later than the next business day after you discover the apparent theft or mishandling; and

(b) If you report the incident orally, you must follow up the oral notice with a written report to BLM describing the details of the incident within 10 business days.

Subpart 3153—Oil Measurement**General****§ 3153.10 How must I measure Federal and Indian oil?**

You must measure Federal and Indian oil by tank gauging, a positive displacement metering system such as a lease automatic custody transfer system (LACT), or a method that you can demonstrate to BLM to be equivalent in accuracy and accountability to tank gauging or a LACT.

Tank Gauging**§ 3153.20 How do I determine the quantity and quality of oil that I sell by tank gauging?**

The following table lists the American Petroleum Institute (API) standards and practices that you must follow to achieve accurate oil measurement by tank gauging—

When you—	You must follow the standards and practices of—
(a) Set and equip storage tanks	API RP 12R1, "Recommended Practice for Setting, Maintenance, Inspection, Operation and Repair of Tanks in Production Service", Fifth Edition, October 1, 1997.
(b) Calibrate a storage tank	API MPMS Chapter 2.2A, "Measurement and Calibration of Upright Cylindrical tanks by the Manual Tank Strapping Method", First Edition, dated February 1995; or API MPMS Chapter 2.2B, "Calibration of Upright Cylindrical Tanks Using the Optical Reference Line Method", First Edition, March 1989 (Reaffirmed May 1996).
(c) Transfer custody of oil	API MPMS Chapter 18.1, "Measurement Procedures for Crude Oil Gathered from Small Tanks by Truck", Second Edition, April 1997.
(d) Sample oil from a tank	API MPMS Chapter 8.1, "Standard Practice for Manual Sampling of Petroleum and Petroleum Products", Third Edition, October 1995 (ASTM D4057) or Chapter 8.2, "Sampling of Liquid Petroleum and Petroleum Products", Second Edition, October 1995 (ANSI/ASTM D4177).
(e) Gauge a tank	API MPMS Chapter 3.1A, "Standard Practice for the Manual Gauging of Petroleum and Petroleum Products", First Edition, December 1994 or API MPMS Chapter 3.1 B, "Standard Practice for Level Measurement of Liquid Hydrocarbons in Stationary Tanks by Automatic Tank Gauging", First Edition, April 1992 (Reaffirmed January 1997).
(f) Determine oil gravity	API MPMS Chapter 9.1, "Hydrometer Test Method for Density, Relative Density (Specific Gravity) or API Gravity of Crude Petroleum and Liquid Petroleum Products" (ANSI/ASTM D 1298), June 1981 (Reaffirmed October 1992) (API MPMS Chapter 9.1 1992).
(g) Determine oil temperature	API MPMS Chapter 7.1, "Static Temperature Determination Using Mercury-in-Glass Tank Thermometers", First Edition, February 1991 (Reaffirmed November 1996).
(h) Determine sediment and water in oil	API MPMS Chapter 10.4, "Determination of Sediment and Water in Crude Oil by the Centrifuge Method (Field Procedure)" Second Edition, May 1988 (ASTM D96-88) (Reaffirmed December 1993) (API MPMS Chapter 10.4 1993).

Lease Automatic Custody Transfer

§ 3153.30 How must I install and operate my LACT unit?

(a) Your LACT unit must be installed with all of the non-optional primary components shown in Figure 1 of API MPMS Chapter 6.1, "Lease Automatic Custody Transfer (LACT) Systems", Second Edition, May 1991 (Reaffirmed July 1996) (API MPMS Chapter 6.1, July 1996) and include the following optional equipment—

- (1) A positive displacement meter;
- (2) An air/gas eliminator; and
- (3) An automatic temperature/gravity compensator (ATC or ATG) or electronic temperature averaging device.

(b) For all LACT units installed after [effective date of the final rule], you must design, install, operate, and maintain your LACT system to meet the specifications and requirements of—

- (1) API Specification 11N, "Specification for Lease Automatic Custody Transfer (LACT) Equipment", Fourth Edition, November 1, 1994; and
- (2) API MPMS Chapter 6.1, July 1996.

(c) If you installed your LACT system before [effective date of the final rule] according to earlier versions of API references, you are not required to retrofit to meet the API standards of this section.

§ 3153.31 How do I determine oil gravity and sediment and water content of oil measured through my LACT?

You must determine oil gravity and sediment and water for the sample obtained from the LACT sample container by following API MPMS Chapter 9.1, 1992 (oil gravity) and API

MPMS Chapter 10.4, 1993 (sediment and water).

§ 3153.32 How do I determine the composite meter factor for my LACT meter?

(a) Prove your LACT meter with a pipe or tank prover, master meter, or other API recognized meter prover so that you—

- (1) Follow the applicable proving procedures of API MPMS Chapter 6.1, July 1996; and
- (2) Make at least six proving runs when proving your meter, with five consecutive proving runs within a span of 0.0005 (0.05 percent) and compute the average of the five consecutive runs.

(b) If you cannot achieve five consecutive runs within 0.05 percent during proving, you must—

- (1) Use five consecutive runs that most accurately reflect operation of your meter;
- (2) Determine a malfunction meter factor using the procedures in paragraph (d) of this section; and
- (3) Immediately remove the meter from service and have it repaired.

(c) If your LACT system is equipped with an electronic temperature averaging device, check its accuracy during the meter proving at operating conditions with a mercury thermometer and adjust it if a discrepancy in excess of 0.5° F is observed.

(d) Calculate the composite meter factor using the procedures and correction factors from—

- (1) API MPMS Chapter 12.2, "Calculation of Liquid Petroleum Quantities Measured by Turbine or Displacement Meters", First Edition, September 1981 (Reaffirmed May 1996);

(2) API MPMS Chapter 11.1, Volume I, "Table 5A—Generalized Crude Oils and JP-4, Correction of Observed API Gravity to API Gravity at 60°F" and "Table 6A—Generalized Crude Oils and JP-4, Correction of Volume to 60°F Against API Gravity at 60°F" (ANSI/ASTM D 1250-80) (IP 200) (API Standard 2540), August 1980 (Reaffirmed October 1993); and

(3) API MPMS Chapter 11.2.1, "Compressibility Factors for Hydrocarbons: 0-90° API Gravity Range", First Edition, August 1984 (Reaffirmed November 1995).

§ 3153.33 What requirements apply to the meter prover I use to determine the LACT composite meter factor?

You must ensure that the meter prover you use to determine the LACT composite meter factor has a certificate of calibration available for review on site that shows—

(a) It was calibrated according to API standards within the last—

- (1) 90 calendar days for master meters;
- (2) 36 months for portable tank and pipe provers; or
- (3) 60 months for stationary tank and pipe provers.

(b) The certified volume, as determined by the water draw method, if the meter prover is a pipe or tank prover; or

(c) It is a master meter and has an operating factor within 0.9900 to 1.0100 and had five consecutive prover runs within 0.0002.

§ 3153.34 When must I determine the composite meter factor for my LACT meter?

You must determine the composite meter factor for your LACT meter—

- (a) Immediately after you install or repair it;
- (b) Monthly, if more than 100,000 barrels of oil per month are measured through the LACT;
- (c) Quarterly, if between 10,000 and 100,000 barrels of oil per month are measured through the LACT; or
- (d) Semiannually, if less than 10,000 barrels of oil per month are measured through the LACT.

§ 3153.35 What tolerance does BLM require for the LACT composite meter factor?

Your composite meter factor must not change more than ± 0.0025 between provings.

§ 3153.36 What if the LACT composite meter factor changes more than ± 0.0025 between provings?

If the LACT composite meter factor changes more than ± 0.0025 between provings, you must repair or replace the meter unless you can justify to BLM that the composite meter factor change will not affect accurate oil measurement.

§ 3153.37 What notices and reports must I provide to BLM about operation of my LACT system?

(a) You must notify BLM, orally or in writing, within five business days—

- (1) Prior to proving your LACT meter; and
- (2) After you discover failure or malfunction of a LACT system component that adversely affects accurate oil measurement.

(b) Within 10 business days after a required proving, you must submit to BLM a completed meter proving report that contains—

- (1) The information shown in one of the model forms of API MPMS Chapter 12.2, 1996; and
- (2) Information for BLM to identify the lease(s) and facility your LACT meter services.

§ 3153.38 How do I correct volumes if my composite meter factor changes between LACT provings?

(a) If your composite meter factor changes between LACT provings, you must—

- (1) Calculate an arithmetic average of the new and previous composite meter factors and apply it to the volume metered between provings; and
 - (2) Report volume corrections as required by MMS on the Monthly Report of Operations, Form MMS-3160.
- (b) If you conduct monthly LACT proving, you must make the required

volume correction and report on Form MMS-3160 for that month.

Measurement Tickets**§ 3153.40 How must I document the sale or removal of oil from my production facility?**

(a) Before oil is removed from your production facility, you must complete a uniquely numbered measurement ticket with the following information—

- (1) Information to identify the seller and facility from which you are selling;
- (2) Start and stop totalizer readings (for LACT units) or opening and closing gauge readings, oil temperatures, quality test results, and the total volume of the oil sold (for tank gauging);
- (3) Names and signatures of the gauger and the operator's representative (for tank gauging); and
- (4) Numbers of seals removed and installed.

(b) Maintain measurement tickets and provide them to BLM when requested.

Subpart 3154—Gas Measurement**Gas Measurement****§ 3154.10 How do I measure and report gas production from Federal and Indian lands?**

(a) To measure and report gas production from Federal and Indian lands, you must use a measurement system that—

- (1) Has an established industry standard (i.e., American Petroleum Institute (API), American Gas Association (AGA), American Society of Testing and Materials (ASTM), American National Standard Institute (ANSI)) for the accuracy, installation, operation, and maintenance of the meter;
- (2) Is designed, installed, operated, and maintained to—

- (i) Follow the manufacturer's specifications and the applicable industry standard;
- (ii) Achieve an overall uncertainty of ± 3 percent of reading, or better, over the normal operating range of the meter; and
- (iii) Provide either a continuous mechanical recording or an electronic record of the measured parameters at a sampling interval of one hour or less;

(3) Displays all measured parameters in a location accessible to BLM during normal working hours; and

- (4) Is capable of being calibrated or proved using equipment traceable to national standards.

(b) You must report the volume of gas that you produce to the Minerals Management Service (MMS) on Form MMS-3160 under the regulations in 30 CFR part 210. For reporting purposes,

you must use a base pressure of 14.73 psia and a base temperature of 60° F; and

(c) You may estimate the amount of gas used for beneficial purposes using—

- (1) The equipment manufacturer's specification for consumption;
- (2) The allocation based on the gas/oil ratio; or
- (3) Other methods acceptable to BLM.

Orifice Meter—Primary Element**§ 3154.20 How must I install, operate, and maintain an orifice meter?**

(a) Your orifice meter must meet the specification and installation requirements of—

- (1) API Manual of Petroleum Measurement Standards (MPMS) Chapter 14.3, "Orifice Metering of Natural Gas and Other Related Hydrocarbon Fluids", Second Edition, September 1985 (ANSI/API 2530), if it was installed before [effective date of final rule]; and
- (2) API MPMS Chapter 14.3, Part 2, "Specification and Installation Requirements", Third Edition, February 1991 (ANSI/API 2530, Part 2, 1991) if it was installed after [effective date of final rule].

(b) If your orifice meter measures more than 100 Mcf of gas per actual producing day on a monthly basis you must—

- (1) Remove and inspect, and replace, if necessary, the orifice plate at least once every six months; and
- (2) Use a continuous temperature recorder to measure the flowing gas temperature.

(c) If your orifice meter measures less than 100 Mcf of gas per actual producing day on a monthly basis, some requirements in this subpart may be different (see § 3154.40).

§ 3154.21 How must I determine the volume of gas that passes through my orifice meter?

You must calculate gas volumes that pass through your orifice meter using the flow equations specified in API MPMS Chapter 14.3, Part 3, "Natural Gas Applications", Third Edition, August 1992.

Orifice Meter—Secondary Element**§ 3154.30 How must I record the differential and static pressures on a chart recorder?**

If your meter measures more than an average of 100 Mcf per actual producing day, on a monthly basis, you must—

- (a) Maintain the differential pressure in the upper 80 percent of the chart, measured from zero, for the majority of the flowing periods, unless well

conditions (e.g., erratic flow patterns) will not permit you to do so; and

(b) Maintain the static pressure in the upper two thirds of the physical distance on the chart, measured from zero, for the majority of the flowing periods.

§ 3154.31 What additional requirements must I follow when using electronic flow computers (EFC)?

Your EFC must—

(a) Display the instantaneous values of the static pressure, differential pressure, and temperature; and

(b) Have a back up power device to allow the EFC to retain collected data for a minimum of 35 calendar days.

§ 3154.32 How must I calibrate the secondary element of an orifice meter?

(a) Follow the recommended practices for on-site calibrations of orifice meters in Section 1.14 of the API MPMS, Chapter 20.1, "Allocation Measurement", First Edition, September 1993 (API MPMS Chapter 20.1, 1993);

(b) In addition to the recommended test points in Section 1.14 of API MPMS Chapter 20.1, 1993, test the differential and static elements at 100 percent of the element range; and

(c) Document the calibration/inspection with a complete report of station and meter data, test procedures, test results, corrective actions, involved persons, dates, and signatures.

§ 3154.33 When must I calibrate the secondary element?

(a) You must calibrate the secondary element when—

(1) You install it;

(2) After you make any repairs to it; and

(3) Quarterly, if your meter measures more than an average of 100 Mcf per actual producing day, on a monthly basis.

(b) Submit a copy of the calibration report to BLM within five business days after we request it.

Orifice Meters—Low Volume Exemptions

§ 3154.40 What measurement standards apply if I use an orifice meter and measure an average of 100 Mcf of gas, or less, per producing day on a monthly basis?

If you use an orifice meter and measure an average of 100 Mcf of gas, or less, per producing day on a monthly basis—

(a) You are not required to maintain your beta ratio within the range specified in ANSI/API 2530, Part 2, 1991;

(b) You are not required to measure flowing gas temperature with a continuous temperature recorder.

Instead, you must use a temperature that reasonably represents the average flowing temperature of the gas stream in your volume calculations;

(c) You may record the differential pressure on any portion of the chart range if you use a chart recorder;

(d) You may record the static pressure on any portion of the chart range for the majority of the flowing periods if you use a chart recorder;

(e) You are not required to inspect your meter tube more than once every six years; and

(f) You are not required to calibrate your meter and inspect your orifice plate more than annually unless BLM requires more frequent calibration or inspection.

Other Metering Systems

§ 3154.50 What standards must I follow if I measure gas by a metering system other than an orifice meter?

If you measure gas by a metering system other than an orifice meter, you must—

(a) Meet the requirements of § 3154.10;

(b) Use a system that either directly measures the temperature of the gas stream or compensates for temperature; and

(c) Calibrate or prove your system semiannually or at such times as BLM otherwise requires.

Volume Corrections

§ 3154.60 How do I correct volumes if my meter did not measure accurately?

(a) If a meter calibration or proving shows that a volume error occurred, you must correct the volume back to when the error occurred, if known. If you do not know when the error occurred, correct the volume for the last half of the time period that elapsed since the last calibration or proving;

(b) If your measuring equipment is out of service or malfunctions so that you do not know the quantity of gas delivered, you must estimate the volume by the most accurate method available; and

(c) You must report volume corrections under this section as required by MMS on Form MMS-3160.

Gas Quality Measurements

§ 3154.70 How do I determine the quality of my gas stream?

(a) Conduct a test to determine the specific gravity and the heating value of the gas stream at least annually, or as otherwise required by BLM. Testing procedures and results must be provided to BLM upon request.

(b) Collect a gas sample at the measurement point on the lease or at another location BLM approved.

(c) Follow the sample collection and handling procedures in API MPMS Chapter 14.1, "Collecting and Handling of Natural Gas Samples for Custody Transfer", Fourth Edition, August 1993.

(d) Determine the specific gravity of your sample by—

(1) Continuous recording gravimeter; or

(2) Compositional analysis through at least the normal hexane (C⁶H¹⁴) component of a spot or cumulative gas sample.

(e) Determine the heating value of your sample by—

(1) A recording calorimeter; or

(2) Compositional analysis through at least the normal C⁶H¹⁴ component of a spot or cumulative gas sample.

Subpart 3155—Produced Water Disposal

Produced Water Disposal

§ 3155.10 Why must I obtain approval from BLM to dispose of water produced from my lease?

You must obtain BLM's approval to dispose of water produced from your lease to ensure that—

(a) Disposal of produced water does not adversely affect Federal or Indian lands and resources, or public health and safety;

(b) Removal of produced water from a Federal or Indian oil and gas lease does not adversely affect Federal or Indian lands and resources, or public health and safety; and

(c) Facilities used for the disposal of produced water are authorized and operating in compliance with the terms of their permits.

§ 3155.11 When do I need BLM approval to dispose of produced water?

Except for the conditions described in § 3155.12, you must obtain BLM's approval before you—

(a) Dispose of produced water from a Federal or Indian well on a Federal or Indian lease;

(b) Remove produced water from a Federal or Indian well for disposal—

(1) Off of the lease it is produced from, regardless of the physical location of the disposal facility; or

(2) On State or privately owned land within the same communitized or unitized area; or

(c) Remove produced water from a communitized or unitized private or State well, if disposal occurs on Federal or Indian land within the same communitized or unitized area.

§ 3155.12 When may I dispose of produced water without BLM approval?

BLM approval is not required to dispose of produced water if you—

- (a) Inject it into the same formation from which it is produced as part of an enhanced recovery project approved by BLM or Bureau of Indian Affairs;
- (b) Inject it into an approved disposal well on the same Federal or Indian lease; or
- (c) Inject it or dispose of it in the same well bore and formation from which it is produced.

§ 3155.13 What type of water disposal will BLM allow?

BLM will allow water disposal by methods including, but not limited to—

- (a) Injection into the subsurface;
- (b) Discharge into lined or unlined pits;
- (c) Surface discharge under a National Pollution Discharge Elimination System (NPDES) permit;
- (d) Discharge to commercial pits or open top tanks designed for containing produced water; or
- (e) Disposal to facilities designed to reuse or treat produced water.

§ 3155.14 What BLM forms and Environmental Protection Agency, State or Indian Tribe permits must I submit to BLM if I plan to dispose of produced water?

(a) When BLM approval for produced water disposal is necessary under § 3155.11, you must submit a Sundry Notice and Report on Wells (SN), Form 3160–5, or other filing instrument acceptable to BLM, that describes your disposal method and location of disposal facilities.

(b) If you intend to dispose of produced water within the same Federal or Indian lease or communitized or unitized area, in conjunction with construction of disposal facilities on a Federal or Indian lease, your SN must include your construction plans following the additional well operation requirements of subpart 3145, if you intend to—

- (1) Convert an existing well to an injection well;
 - (2) Construct an earthen pit or an NPDES facility; or
 - (3) Construct roads or pipelines.
- (c) If you intend to dispose of produced water within the same Federal or Indian lease or communitized or unitized area, in conjunction with drilling a new well or reentering an abandoned well on a Federal or Indian lease, you must submit an Application for Permit to Drill or Reenter (APD), Form 3160–3, following the requirements of subpart 3145.

(d) You must obtain a right-of-way (R/W) authorization for the use of BLM

lands according to part 2800 of this chapter if you—

(1) Drill, convert, construct or operate disposal facilities, or construct roads and pipelines off of your lease but on BLM managed surface; or

(2) Operate disposal facilities on your lease where you dispose of produced water from operations off of your lease.

(e) You may attach to your APD, SN or R/W application the information that you prepare to obtain an Underground Injection Control Permit (UIC), earthen pit disposal, or NPDES permit(s) in its original form. BLM will accept this information toward fulfilling the requirements of subpart 3145 and this subpart.

(f) Include with your SN, APD or R/W either—

(1) Copies of UIC, earthen pit, or NPDES permits you have received for the disposal facilities you intend to use; or

(2) The location of these existing or proposed disposal facilities and their permit name/number.

(g) You may use the APD or SN package to furnish the information BLM requires to process a R/W instead of filing a R/W plan of development. If you choose this option, the APD or SN will serve as a R/W application even though BLM will issue two separate approval documents (APD or SN and R/W grant).

(h) If your proposal involves off-lease activities on surface BLM does not manage, you must contact the appropriate surface management agency or surface owner for surface use permits.

(i) Follow the requirements of subpart 3145 for drilling and additional well operations if you drill or convert a well under a BLM R/W grant.

§ 3155.15 What additional requirements must I follow for water disposal into pits?

(a) For produced water disposal into lined and unlined pits, you must submit to BLM information on the—

- (1) Daily quantity of water you plan to dispose of;
- (2) Quality of the produced water, unless specifically waived by BLM for lined pits. If the volume of produced water disposed of does not exceed more than an average of five barrels of produced water per day, based on the amount of produced water expected per month, you are not required to submit a water quality analysis unless BLM requests it;
- (3) Source of your produced water; and
- (4) How you intend to handle emergencies, if BLM requests it.

(b) Your use of a lined pit must follow the standards in this paragraph and your application must show how you will—

(1) Ensure adequate storage capacity considering climatic factors that affect fluid levels;

(2) Ensure stability of the pit and its levees;

(3) Include periodic and proper disposal of precipitated solids;

(4) Use an impermeable liner that will withstand the effects of weather, contained liquids and solids, and other characteristics of your site;

(5) Provide safe containment of produced water, and associated liquids and solids, to prevent pit leakage and contamination of soils, surface waters, groundwater and intermittent drainage;

(6) Prevent discharges of liquid hydrocarbons to the pit;

(7) Prevent access by livestock and wildlife, unless otherwise approved by BLM, the surface management agency, Indian, or private surface owner;

(8) Deter entry by birds, if liquid hydrocarbons discharge to the pit or if water contained in the pit could injure birds; and

(9) Include a leak detection system that adequately detects leakage, and plans to monitor it.

(c) Your use of unlined pits must follow all of the objectives for lined pits except for paragraphs (b)(3), (b)(4), and (b)(9) of this section, and your application must show how you will meet these conditions.

§ 3155.16 When may I use an unlined pit for produced water disposal?

You may use an unlined pit for produced water disposal, if you can meet the requirements of § 3155.15(c), and you can demonstrate to BLM in your application that your produced water—

(a) Is of equal or better quality than existing surface and subsurface water sources, and State or Federal water quality standards, including standards for toxic constituents;

(b) Will primarily be used for beneficial purposes, such as irrigation, livestock, or wildlife, and meets minimum water quality standards for such uses;

(c) Will not exceed an average of five barrels of produced water per day based on the amount of produced water expected per month; or

(d) Will not degrade the quality of surface or subsurface waters, and soils in the area.

§ 3155.17 If the quantity and quality of my produced water changes, do I need a new approval from BLM to continue using an unlined pit?

You must submit an amended proposal for BLM's approval if your produced water does not satisfy the

standard used to obtain the original approval to use an unlined pit.

§ 3155.18 What must I submit to BLM for surface discharge that requires NPDES permit?

For surface discharge that requires a NPDES permit you must submit to BLM—

- (a) A SN, Form 3160–5, including a description of site facilities;
- (b) A current water quality analysis;
- (c) Your plans for surface use from the origin of the produced water to the point of discharge;
- (d) A copy of the NPDES permit or the location of the existing or proposed NPDES facility and its permit name or number; and
- (e) Information that supported obtaining the NPDES permit, if BLM requests it.

§ 3155.19 What if the EPA, State, or Indian Tribe cancels or suspends the permit for a disposal facility I am using?

If the EPA, State, or Indian Tribe cancels or suspends the permit for a disposal facility you are using, BLM will terminate your water disposal permit immediately and you must submit a new proposal to BLM.

Subpart 3156—Spills and Accidents

Spills and Accidents

§ 3156.10 What action must I take after an accident or spill that involves Federal or Indian production?

After an accident or spill that involves Federal or Indian production—

- (a) Take immediate corrective actions to control the spill or accident; and
- (b) Report spills and accidents to BLM that could affect the public health and safety or adversely affect lease or off-lease resources to—
 - (1) Allow BLM to determine if—
 - (i) Your loss of oil or gas is subject to royalty collection;
 - (ii) Corrective orders are needed; or
 - (iii) A contingency plan is needed to address potential future events.
 - (2) Provide BLM the opportunity to approve your reclamation and remediation plans and monitor the results of these operations.

§ 3156.11 How soon after a spill or accident must I report it to BLM?

You must notify BLM within 24 hours of—

- (a) Oil and saltwater spills that individually or in combination result in the discharge of 100 or more barrels of liquid during a single event;
- (b) Equipment failures or other accidents that release 500 Mcf or more of gas;

(c) Any fire that consumes volumes in the ranges described in paragraphs (a) or (b) of this section;

(d) Any spill, venting, or fire, regardless of the volume involved, which occurs in or near a sensitive area, such as parks, recreation sites, threatened and endangered species habitat, riparian areas, water bodies, or urban or suburban areas;

(e) Each accident that involves a major, life-threatening, or fatal injury;

(f) Every time loss of well control occurs; or

(g) Releases of hazardous substances of a quantity that is reportable under Environmental Protection Agency regulations at 40 CFR part 302.

§ 3156.12 When must I submit a written report on spills and accidents to BLM?

You must submit a written report to BLM within 10 business days, or such longer period BLM may approve, for events listed in § 3156.11 and for—

- (a) Spills that individually or collectively involve between 10 and 100 barrels of liquid during a single event;
- (b) Releases that involve between 50 and 500 Mcf of gas; and
- (c) Fires that consume volumes in the ranges described in paragraphs (a) and (b) of this section.

§ 3156.13 What must I include in my report of a spill or accident?

(a) In addition to a description of the facility involved, the applicable lease name or number and your official contact for the event, your report to BLM of a spill or accident must include—

- (1) When and where the spill or accident occurred;
- (2) Whether sensitive areas are affected;
- (3) The direct and indirect causes of the event;
- (4) An estimate of volumes of material discharged and lost;
- (5) A description of any injuries, damage, or contamination;
- (6) What you or response teams are doing to control and clean up the spill or accident, including using emergency pits;
- (7) Your plans for reclaiming or remediating areas affected by the spill or accident; and
- (8) Your plans to prevent a repeat of the incident.

(b) If BLM requests it, you must also submit a—

- (1) Copy of the Spill Prevention Control and Countermeasure Plan required by the Environmental Protection Agency according to the regulations at 40 CFR part 112, or a contingency plan that completely

describes your plans to prevent and control future occurrences; and

(2) Reclamation or remediation plan that follows the requirements for additional well operations in subpart 3145.

§ 3156.14 When must I submit follow-up written reports to BLM about a spill or accident?

You must submit follow-up written reports of a spill or accident if—

- (a) You do not document clean up in the first report you submit;
- (b) BLM requests additional reports to monitor ongoing efforts to control or investigate a spill or an accident; or
- (c) BLM requests additional reports to document progress and completion of reclamation or remediation.

Subpart 3159—Well Abandonment

Temporary Abandonment

§ 3159.10 How do I obtain BLM approval to temporarily abandon all or a portion of a Federal or Indian well?

You must—

- (a) Receive BLM approval before you temporarily abandon all or a portion of a well for more than 30 calendar days;
- (b) Submit an application for temporary abandonment of a well to BLM on Sundry Notices and Reports on Wells (SN) Form 3160–5. In it you must—

- (1) Explain the reasons for temporarily abandoning, rather than permanently abandoning, utilizing, or producing your well or zone; and
- (2) Describe your plans for securing the wellbore and describe any additional surface disturbance or partial reclamation not previously approved in your Application for Permit to Drill or Deepen (APD); and
- (c) If your well is located on Forest System lands, follow the requirements of § 3145.11(a).

§ 3159.11 How do I temporarily abandon a well?

You must design and perform your temporary abandonment using acceptable industry practices so that—

- (a) It does not prevent proper permanent abandonment;
- (b) The well bore or zone(s) is secured to prevent fluid migration within or out of the well bore; and
- (c) The wellhead is secured at the surface, as appropriate.

Permanent Abandonment

§ 3159.20 When must I permanently plug and abandon my well?

- (a) You must promptly plug and abandon each well you operate in which oil or gas is no longer capable of being

produced in paying quantities, unless BLM approves your well for some other use or delays your permanent abandonment.

(b) You must have BLM approval before you begin plugging operations on your well.

(c) BLM may approve temporary abandonment and delay the permanent abandonment of your well for up to 12 months.

(d) BLM may approve additional delays, up to 12 months for each delay approved, if BLM determines that additional delays are in the interest of conservation.

(e) BLM will require you to post additional bond in accordance with §§ 3107.55 and 3107.56, as a condition of delaying permanent abandonment of your well.

§ 3159.21 How do I obtain BLM approval to permanently plug and abandon my well?

(a) You must submit to BLM a Notice of Intent to Abandon (NIA) on a SN, that describes the—

(1) Current downhole condition of your well, if you have not already provided it to BLM;

(2) Type, size, and placement of plugs you proposed for use in your well to isolate zones of concern and protect surface and subsurface useable waters;

(3) Casing you will recover from your well;

(4) Cement slurry design, including necessary additives for specific downhole conditions; and

(5) Methods you will use to maintain well control of your well when you anticipate high pressure or hydrogen sulfide.

(b) Unless BLM previously approved the following activities in your APD, your NIA must also describe—

(1) How you will handle and dispose of pit and other wastes;

(2) When and how you will remove structures, equipment, and other materials;

(3) When you will schedule dirtwork and seeding; and

(4) How you will address any special aspect of reclamation, such as recontouring and requirements of surface management agencies or private surface owners.

(c) If the well you propose to plug and abandon is located on National Forest System lands, you must comply with applicable Forest Service requirements; and

(d) BLM may orally approve a request to begin plugging dry holes or drilling failures in emergency situations. You must submit an NIA to BLM within five business days to confirm the oral approval.

§ 3159.22 How must I permanently plug and abandon a well?

To permanently plug and abandon a well, you must—

(a) Design and perform your plugging operations according to the standards in Section 2 of American Petroleum Institute's (API) Bulletin E3, "Well Abandonment and Inactive Well Practices for U.S. Exploration and Production Operations, Environmental Guidance Document", First Edition, January 1993, to—

(1) Protect or isolate all formations containing useable quality water;

(2) Prevent fluid and gas migration within and out of the well bore; and

(3) Protect all prospectively valuable deposits of oil, gas, geothermal resources, or other minerals;

(b) Use a minimum of 10 percent excess cement per 1000 feet of depth for each plug placed in the well;

(c) Use a minimum of 25 sacks of cement for any plug placed through tubing, except for the surface plug;

(d) Fill each of the intervals between plugs with a fluid of sufficient density to prevent formation fluid from entering the wellbore and to prevent plug movement;

(e) Test for placement of critical plugs;

(f) Reclaim the disturbed surface in a timely manner according to your approved reclamation plan and comply with §§ 3145.11, 3145.13, 3145.14, 3145.15, and 3145.55; and

(g) Permanently inscribe the operator name, lease identification, well name/number and legal location on the permanent well marker (for wells cut off below ground level only the lease identification and well name/number must be inscribed on the cover plate). The well marker should be of size and design so as not to be visually intrusive and must be securely attached to the well.

§ 3159.23 When must I test plug placement?

You must perform a plug placement test by tagging the plug with the working pipe string or other method BLM approved when—

(a) The cement plug(s) is the only isolating medium for a usable water zone or a prospectively valuable mineral deposit and the fluid level will not remain static; or

(b) Plug integrity is questionable.

§ 3159.24 What must I do if the surface owner or surface management agency requests that I convert a well I plan to plug and abandon into a water well?

If the surface owner or surface management agency requests that you

convert a well you plan to plug and abandon into a water well—

(a) The surface owner or surface managing agency must notify BLM in writing that it will assume responsibility for the portion of the well bore used for the water well;

(b) You must not begin any action to convert to a water well until BLM approves your NIA application; and

(c) You may perform the additional work needed to complete the conversion to a water well by an agreement between you and the surface owner or surface managing agency, but at a minimum you must—

(1) Plug your well from total depth to the base of the usable water zone; and

(2) Complete reclamation of the disturbed area as approved.

§ 3159.25 What if my approved plans for well abandonment change after I receive BLM approval?

You must request approval, either orally or by SN, before performing any changes from your approved plan. If BLM gives you oral approval, you must document the changes on the Subsequent Report of Abandonment (SRA), SN Form 3160-5, as required in § 3159.26(a).

§ 3159.26 What must I submit to BLM after I permanently abandon my well and complete reclamation measures?

After you permanently abandon your well and complete reclamation measures, you must—

(a) Submit the SRA to BLM within 30 calendar days after you complete well plugging operations. The SRA must document in detail the plugging process, including any changes BLM approved orally;

(b) Document the estimated timetable for completing recontouring and reclamation procedures on the SRA; or

(c) Submit a separate Final Abandonment Notice (FAN) on a SN when you complete all reclamation and the site is ready for final inspection.

12. Revise part 3160—Onshore Oil and Gas Operations to read as follows:

PART 3160—OIL AND GAS INSPECTION AND ENFORCEMENT

Subpart 3161—Inspections

Inspections

Sec.

3161.10 Will BLM inspect my operations on Federal and Indian leases?

3161.11 Who may inspect my lease operations?

3161.12 Can BLM inspect motor vehicles that transport oil produced from or allocated to my Federal or Indian lease?

Subpart 3162—Enforcement**Enforcement**

- 3162.10 What action will BLM take if I do not comply with applicable laws, the regulations in this part, the terms of any lease or permit, or the requirements of any notice or order?
- 3162.11 How will BLM notify me of violations and enforcement actions?
- 3162.12 May BLM shut down my operations for any violation?

Subpart 3163—Assessments**Assessments**

- 3163.10 Will BLM assess me if I do not correct a violation?
- 3163.11 What violations will subject me to an immediate assessment?
- 3163.12 May BLM reduce assessments?
- 3163.13 Under what circumstances will BLM enter my lease to correct violations?
- 3163.14 May BLM charge me for any loss or damage that results from my noncompliance?

Subpart 3164—Civil Penalties**Civil Penalties**

- 3164.10 What civil penalties may BLM assess?
- 3164.11 Will BLM notify me if I do not comply with any statute, regulation, order, Notice to Lessee, lease, or permit relating to my obligations under this part?
- 3164.12 What must I do after I receive an Incident of Noncompliance notice (INC)?
- 3164.13 Are there any violations for which I will be subject to an immediate penalty?
- 3164.14 What action will BLM take if I do not correct the violations listed in § 3164.13?
- 3164.15 May BLM reduce the amount of proposed civil penalties?
- 3164.16 May I request a hearing on the record if I am served with an INC for a serious violation?
- 3164.17 If I request a hearing on the record, do penalties accrue?
- 3164.18 If I requested a hearing on the record under § 3164.12(a)(3) or § 3164.16, may I appeal that decision?
- 3164.19 If I requested a hearing under § 3164.12 or § 3164.16, may I appeal a final order to a U.S. District Court?

Payment of Assessments and Civil Penalties

- 3164.20 When must I pay assessments and civil penalties under the regulations in this subpart?
- 3164.21 What if I do not pay, or I underpay, an assessment or civil penalty?
- 3164.22 Will BLM require me to pay both assessments and civil penalties?
- 3164.30 If I violate the regulations in this part, am I liable for both civil and criminal penalties?

Authority: 25 U.S.C. 396d and 2107; 30 U.S.C. 189, 306, 359, and 1751; and 43 U.S.C. 1732(b), 1733 and 1740.

Subpart 3161—Inspections**Inspections****§ 3161.10 Will BLM inspect my operations on Federal and Indian leases?**

BLM will inspect your lease to ensure your operations comply with—

- (a) Applicable laws and regulations;
- (b) Terms of the lease;
- (c) Terms and conditions of permits and other approvals;
- (d) Notices to Lessees; and (e) Written orders or other BLM instructions.

§ 3161.11 Who may inspect my lease operations?

(a) You must allow authorized, properly identified representatives of the Secretary and BLM access to your lease sites, secured facilities, and records, without advance notice, to conduct inspections and investigations.

(b) For the purpose of making any inspection or investigation, authorized, properly identified representatives of the Secretary and BLM may have access to any site where you store oil and gas that was produced from or allocated to Federal or Indian leases.

§ 3161.12 Can BLM inspect motor vehicles that transport oil produced from or allocated to my Federal or Indian lease?

(a) On any lease site on Federal or Indian lands, an authorized, properly identified representative of the Secretary or BLM may stop and inspect any motor vehicle (see 30 U.S.C. 1718), which he or she has probable cause to believe is carrying oil either produced from or allocable to a Federal or Indian lease, to determine whether the driver has the documentation required by § 3152.70.

(b) Off your lease site, an authorized, properly identified representative of the Secretary or BLM, accompanied by a law enforcement officer, or a law enforcement officer alone, may stop and inspect any motor vehicle (see 30 U.S.C. 1718), which he or she has probable cause to believe is carrying oil either produced from or allocable to a Federal or Indian lease, to determine whether the driver has the documentation required by § 3152.70.

Subpart 3162—Enforcement**Enforcement****§ 3162.10 What action will BLM take if I do not comply with applicable laws, the regulations in this part, the terms of any lease or permit, or the requirements of any notice or order?**

(a) If you failed to comply with applicable laws, the regulations in this part, the terms of any lease or permit, or the requirements of any notice or order, BLM will—

(1) Notify you of the violation unless immediate action is warranted under § 3162.12

(2) Give you a reasonable period to correct the violation. The period BLM allows you to comply will depend on the seriousness of the violation; and

(3) Take other enforcement actions as described in this part to ensure you correct the violation.

(b) If you discover and report a violation to BLM, we will confirm your report in writing and establish a reasonable period to correct it.

(c) BLM will extend the compliance period if you provide acceptable justification for an extension before the end of the compliance period.

§ 3162.11 How will BLM notify me of violations and enforcement actions?

(a) BLM will notify you of any requirements or enforcement actions—

- (1) Verbally, followed in writing; or
- (2) In writing, delivered by registered mail or by personal service.

(b) You are served with notice on the date you receive written notice from BLM, or within seven business days after BLM mails it to your last known address in BLM records, whichever is earlier.

§ 3162.12 May BLM shut down my operations for any violation?

(a) BLM may require you to shut down your operations if—

- (1) You are not in compliance with any requirements of § 3163.11 (a) through (e); or
- (2) Continued operations could have an immediate, substantial and adverse impact on public health and safety, the environment, production accountability, or royalty income.

(b) BLM may require you to shut down your operations only after giving you written notice under § 3162.11, except in emergencies, in which case BLM may require you to shut down your operations immediately without notice.

(c) You must not resume operations without BLM approval.

Subpart 3163—Assessments**Assessments****§ 3163.10 Will BLM assess me if I do not correct a violation?**

Except as provided in § 3163.11, if you do not correct a violation within the time BLM gives you to correct it under § 3162.10—

- (a) BLM will assess you up to \$250 per day for each day each violation continues, beginning on the first day after the end of the compliance period and ending when the violation(s) is corrected; and

(b) You may be liable for proposed civil penalties under subpart 3164.

§ 3163.11 What violations will subject me to an immediate assessment?

BLM will immediately charge you the indicated assessment upon discovery of

each of the following violations, regardless of when the violation actually occurred and whether you subsequently correct the violation—

If you—	The assessment amount is—
(a) Fail to install blowout preventer or equivalent well control equipment, as required by the approved drilling or operating plan.	\$5,000.
(b) Begin drilling operations without approval	10,000.
(c) Disturb the surface, regardless of surface ownership, without approval to conduct operations for Federal or Indian wells.	5,000.
(d) Begin plugging and abandonment operations without approval	2,500.
(e) Commingle production from different formations, leases, communitized areas, units, and/or unit participating areas without BLM approval.	500.
(f) Have been cited for the same type of violation four times on the same lease within a 12 month period.	500 for the fifth and each subsequent violation within 12 months.
(g) Destroy or remove a Federal seal without approval	500.
(h) Fail to notify BLM of H ₂ S concentrations as required by § 3151.20.	500.

§ 3163.12 May BLM reduce assessments?

BLM may waive or reduce assessments authorized under this subpart. You must submit to BLM written justification why your assessment should be reduced within 30 calendar days after you receive notice of the assessment.

§ 3163.13 Under what circumstances will BLM enter my lease to correct violations?

(a) When necessary for compliance, BLM may occupy your lease and perform, or have performed, operations that you were directed in writing to perform, at your risk and expense.

(b) BLM will charge you for the actual cost of performing the work, plus an additional 25 percent for administrative costs.

§ 3163.14 May BLM charge me for any loss or damage that results from my noncompliance?

BLM will charge you the value of any actual loss or damage that results from your noncompliance.

Subpart 3164—Civil Penalties

Civil Penalties

§ 3164.10 What civil penalties may BLM assess?

BLM may assess civil penalties under the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719). These civil penalties are in addition to any assessment you may be liable for under subpart 3163.

§ 3164.11 Will BLM notify me if I do not comply with any statute, regulation, order, Notice to Lessee, lease term, or permit relating to my obligations under this part?

(a) If you do not comply with any statute, regulation, order, Notice to Lessee, lease term, or permit relating to your obligations under this part, BLM may issue a Notice of Incident of Noncompliance, Form 3160-9 (INC).

(b) BLM must serve the INC by personal service by an authorized BLM representative or by registered mail. Service by registered mail occurs when received or seven business days after the date it is mailed, whichever is earlier.

(c) The notice will set out the—

(1) Violation and the remedial action required;

(2) Amount of the penalty applicable for each day the violation continues; and

(3) Length of time for which the penalty will be assessed.

§ 3164.12 What must I do after I receive an Notice of Incident of Noncompliance (INC)?

(a) When BLM issues you an INC under this subpart—

(1) You must correct the violation within 20 calendar days (or such longer time as the notice specifies) from the date that the notice is served, or you are liable for a penalty of up to \$500 per violation for each day the violation continues, dating from the date you were served notice;

(2) You must correct the violation within 40 calendar days (or such longer

time as the notice specifies) from the date that the notice is served, or you are liable for a penalty of up to \$5,000 per violation for each day the violation continues, dating from the date you were served notice; or

(3) If you do not correct the violation within 20 calendar days (or such longer time as the notice specifies) from the date that the notice is served, you may, by that date, request a hearing on the record by filing a written request with the Hearings Division (Departmental), Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203.

(b) If you correct the violation within 20 calendar days (or such longer time as the notice specifies) from the date that the notice is served, BLM will not assess penalties under this subpart and you are not entitled to a hearing on the record provided for in paragraph (a)(3) of this section. You may appeal the INC or other disputed BLM decision or order under § 3101.22.

§ 3164.13 Are there any violations for which I will be subject to an immediate penalty?

BLM may issue you an INC for a serious violation. You will receive notice in the same manner as § 3164.11. Penalties for serious violations begin to accrue on the date the violation occurred according to the following table—

Violation	Civil penalty amount
(a) Any person transporting oil from your lease who does not permit BLM to review the documentation required under § 3152.70.	Up to \$500 per violation per day.
(b) You or your representative fails or refuses to allow lawful entry or inspection	Up to \$10,000 per violation per day.
(c) You knowingly or willfully fail to notify BLM before the fifth business day after your well begins production or resumes production after being off production for more than 90 calendar days.	Up to \$10,000 per violation per day.