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## § 3140.1

the operator, including bonding, and reservoir management.

(c) The BLM may request documentation in addition to that which the operator provides under paragraph (a) of this section.

[89 FR 30987, Apr. 23, 2024]

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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).

## PART 3140—LEASING IN SPECIAL TAR SAND AREAS

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AUTHORITY: 30 U.S.C. 181 *et seq.*; 30 U.S.C. 351–359; 43 U.S.C. 1701 *et seq.*; Pub. L. 97–78, 95 Stat. 1070; 42 U.S.C. 15801, unless otherwise noted.

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### Subpart 3140—Conversion of Existing Oil and Gas Leases and Valid Claims Based on Mineral Locations

#### § 3140.1 Purpose.

The purpose of this subpart is to provide for the conversion of existing oil and gas leases and valid claims based on mineral locations within Special Tar Sand Areas to combined hydrocarbon leases.

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#### § 3140.3 Authority.

These regulations are issued under the authority of the Mineral Lands Leasing Act of February 25, 1920 (30 U.S.C. 181 *et seq.*), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 *et seq.*), and the Combined Hydrocarbon Leasing Act of 1981 (Pub. L. 97–78).

#### § 3140.5 Definitions.

As used in this subpart, the term:

*Combined hydrocarbon lease* means a lease issued in a Special Tar Sand Area for the removal of gas and nongaseous hydrocarbon substances other than coal, oil shale or gilsonite.

*Complete plan of operations* means a plan of operations that is in substantial compliance with the information requirements of 43 CFR part 3592 for both exploration plans and mining plans, as well as any additional information required in this part and under 43 CFR part 3593, as may be appropriate.

*Owner of an oil and gas lease* means all of the record title holders of an oil and gas lease.

*Owner of a valid claim based on a mineral location* means all parties appearing on the title records recognized as official under State law as having the right to sell or transfer any part of the mining claim, which was located within a Special Tar Sand Area prior to January 21, 1926, for any hydrocarbon resource, except coal, oil shale or gilsonite, leasable under the Combined Hydrocarbon Leasing Act.

*Special Tar Sand Area* means an area designated by the Department of the Interior's orders of November 20, 1980 (45 FR 76800), and January 21, 1981 (46 FR 6077) referred to in those orders as Designated Tar Sand Areas, as containing substantial deposits of tar sand.

*Unitization* means unitization as that term is defined in 43 CFR part 3180.

#### GENERAL PROVISIONS

#### § 3140.11 Existing rights.

(a) The owner of an oil and gas lease issued prior to November 16, 1981, or the owner of a valid claim based on a mineral location situated within a Special Tar Sand Area may convert that portion of the lease or claim so situ-

ated to a combined hydrocarbon lease, provided that such conversion is consistent with the provisions of this subpart. The application time period ended on November 15, 1983.

(b) Owners of oil and gas leases in Special Tar Sand Areas who elect not to convert their leases to a combined hydrocarbon lease do not acquire the rights to any hydrocarbon resource except oil and gas as those terms were defined prior to the enactment of the Combined Hydrocarbon Leasing Act of 1981. The failure to file an application to convert a valid claim based on a mineral location within the time herein provided will have no effect on the validity of the mining claim nor the right to maintain that claim.

#### § 3140.12 Notice of intent to convert.

(a) Owners of oil and gas leases in Special Tar Sand Areas which were scheduled to expire prior to November 15, 1983, could have preserved the right to convert their leases to combined hydrocarbon leases by filing a Notice of Intent to Convert with the BLM Utah State Office.

(b) A letter, submitted by the lessee, notifying the BLM of the lessee's intention to submit a plan of operations constituted a notice of intent to convert a lease. The Notice of Intent must have contained the lease number.

(c) The Notice of Intent must have been filed prior to the expiration date of the lease. The notice would have preserved the lessee's conversion rights only until November 15, 1983.

#### § 3140.13 Exploration plans.

(a) The authorized officer may grant permission to holders of existing oil and gas leases to gather information to develop, perfect, complete or amend a plan of operations required for conversion upon the approval of the authorized officer of an exploration plan developed in accordance with 43 CFR 3592.1.

(b) The approval of an exploration plan in units of the National Park System requires the consent of the Regional Director of the National Park Service in accordance with § 3140.70.

(c) The filing of an exploration plan alone will be insufficient to meet the

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requirements of a complete plan of operations as set forth in § 3140.23.

### § 3140.14 Other provisions.

(a) A combined hydrocarbon lease will be for no more than 5,760 acres. Acreage held under a combined hydrocarbon lease in a Special Tar Sand Area is not chargeable to State oil and gas limitations allowable in 43 CFR 3101.21 or 3101.22.

(b) The annual rental rate for all combined hydrocarbon leases will be as stated in the lease, and the annual rental for all new leases will be as specified in 43 CFR 3103.1. The rental rate for a combined hydrocarbon lease will be payable upon conversion and annually, in advance, thereafter.

(c)(1) The royalty rate for a combined hydrocarbon lease converted from an oil and gas lease will be that provided for in the original oil and gas lease.

(2) The royalty rate for a combined hydrocarbon lease converted from a valid claim based on a mineral location will be 16.67 percent.

(3) A reduction of royalties may be granted either as provided in § 3103.40 or, at the request of the lessee and upon a review of information provided by the lessee, prior to commencement of commercial operations if the purpose of the request is to promote development and the maximum production of tar sand. A reduction of royalties for the tar sand will not apply to the oil and gas resource. A reduction of royalties for the oil and gas will not apply to the tar sand resource.

(d)(1) Existing oil and gas leases and valid claims based on mineral locations may be unitized prior to or after the lease or claim has been converted to a combined hydrocarbon lease. The requirements of 43 CFR part 3180 will provide the procedures and general guidelines for unitization of combined hydrocarbon leases. For leases within units of the National Park System, unitization requires the consent of the Regional Director of the National Park Service in accordance with § 3140.41(b).

(2) If the plan of operations submitted for conversion is designed to cover a unit, a fully executed unit agreement will be approved before the plan of operations applicable to the unit may be approved under § 3140.20.

The proposed plan of operations and the proposed unit agreement may be reviewed concurrently. The approved unit agreement will be effective after the leases or claims subject to it are converted to combined hydrocarbon leases. The plan of operations will explain how and when each lease included in the unit operation will be developed.

(e) Except as provided for in this subpart, the regulations set out in 43 CFR part 3100 are applicable, as appropriate, to all combined hydrocarbon leases issued under this subpart.

### APPLICATIONS

### § 3140.21 Forms.

No special form is required for a conversion application.

### § 3140.22 Who may apply.

Only owners of oil and gas leases issued within Special Tar Sands Areas, on or before November 16, 1981, and owners of valid claims based on mineral locations within Special Tar Sands Areas, are eligible to convert leases or claims to combined hydrocarbon leases in Special Tar Sands Areas.

### § 3140.23 Application requirements.

(a) The BLM stopped accepting conversion applications on November 15, 1983. The applicant must have submitted to the BLM Utah State Office, a written request for a combined hydrocarbon lease signed by the owner of the lease or valid claim which must be accompanied by three copies of a plan of operations which must meet the requirements of 43 CFR 3592.1 and which must have provided for reasonable protection of the environment and diligent development of the resources requiring enhanced recovery methods of development or mining.

(b) A plan of operations may be modified or amended before or after conversion of a lease or valid claim to reflect changes in technology, slippages in schedule beyond the control of the lessee, new information about the resource or the economic or environmental aspects of its development, changes to or initiation of applicable unit agreements or for other purposes. To obtain approval of a modification or

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amended plan, the applicant must submit a written statement of the proposed changes or supplements and the justification for the changes proposed. Any modifications will be in accordance with 43 CFR 3592.1(c). The approval of the modification or amendment is the responsibility of the authorized officer. Changes or modification to the plan of operations will have no effect on the primary term of the lease. The authorized officer will, prior to approving any amendment or modification, review the modification or amendment with the appropriate surface management agency. For leases within units of the National Park System, no amendment or modification will be approved without the consent of the Regional Director of the National Park Service in accordance with § 3140.70.

(c) The plan of operations may be for a single existing oil and gas lease or valid claim or for an area of proposed unit operation.

(d) The plan of operations must identify by lease number all Federal oil and gas leases proposed for conversion and identify valid claims proposed for conversion by the recordation number of the mining claim.

(e) The plan of operations must include any proposed designation of operator or proposed operating agreement.

(f) The plan of operations may include an exploration phase, if necessary, but it must include a development phase. Such a plan can be approved even though it may indicate work under the exploration phase is necessary to perfect the proposed plan for the development phase as long as the overall plan demonstrates reasonable protection of the environment and diligent development of the resources requiring enhanced recovery methods of mining.

(g)(1) Upon determination that the plan of operations is complete, the authorized officer will suspend the term of the Federal oil and gas lease(s) as of the date that the complete plan was filed until the plan is finally approved or rejected. Only the term of the oil and gas lease will be suspended, not any operation and production requirements thereunder.

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(2) If the authorized officer determines that the plan of operations is not complete, the applicant will be notified that the plan is subject to rejection if not completed within the period specified in the notice.

(3) The authorized officer may request additional data after the plan of operations has been determined to be complete. This request for additional information will have no effect on the suspension of the running of the oil and gas lease.

#### TIME LIMITATIONS

#### § 3140.31 Conversion applications.

A plan of operations to convert an existing oil and gas lease or valid claim based on a mineral location to a combined hydrocarbon lease must have been filed on or before November 15, 1983, or prior to the expiration of the oil and gas lease, whichever was earlier, except as provided in § 3140.12.

#### § 3140.32 Action on an application.

The authorized officer will take action on an application for conversion within 15 months of receipt of a proposed plan of operations.

#### CONVERSION

#### § 3140.41 Approval of plan of operations (and unit and operating agreements).

(a) The owner of an oil and gas lease, or the owner of a valid claim based on a mineral location will have such lease or claim converted to a combined hydrocarbon lease when the plan of operations, filed under § 3140.23, is deemed acceptable and is approved by the authorized officer.

(b) The conversion of a lease within a unit of the National Park System will be approved only with the consent of the Regional Director of the National Park Service in accordance with § 3140.70.

(c) A plan of operations may not be approved in part but may be approved where it contains an appropriately staged plan of exploration and development operations.

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### § 3140.42 Issuance of the combined hydrocarbon lease.

(a) After a plan of operations is found acceptable, and is approved, the authorized officer will prepare and submit to the owner, for execution, a combined hydrocarbon lease containing all appropriate terms and conditions, including any necessary stipulations that were part of the oil and gas lease being converted, as well as any additional stipulations, such as those required to ensure compliance with the plan of operations.

(b) The authorized officer will not sign the combined hydrocarbon lease until it has been executed by the conversion applicant and the lease or claim to be converted has been formally relinquished to the United States.

(c) The effective date of the combined hydrocarbon lease will be the first day of the month following the date that the authorized officer signs the lease.

(d) The authorized officer will issue one combined hydrocarbon lease to cover the existing contiguous oil and gas leases or valid claims based on mineral locations which have been approved for conversion within the special tar sand area.

### § 3140.50 Duration of the lease.

A combined hydrocarbon lease will be for a primary term of 10 years and for so long thereafter as oil or gas is produced in paying quantities. If the applicant withdraws the combined hydrocarbon lease application or the BLM denies the conversion application, the suspension on the oil and gas lease will be lifted and the term will be extended by the time remaining on the term of the lease.

### § 3140.60 Use of additional lands.

(a) The authorized officer may non-competitively lease additional lands for ancillary facilities in a Special Tar Sand Area that are needed to support any operations necessary for the recovery of tar sand. Such uses include, but are not limited to, mill site or waste disposal. Application for a lease or permit to use additional lands must be filed under the provisions of 43 CFR part 2920 with the proper BLM office having jurisdiction of the lands. The

application for additional lands may be filed at the time a plan of operations is filed.

(b) A lease for the use of additional lands will not be issued when the use can be authorized under 43 CFR parts 2800 and 2880. Such uses include, but are not limited to, reservoirs, pipelines, electrical generation systems, transmission lines, roads, and railroads.

(c) Within units of the National Park System, permits or leases for additional lands will only be issued by the National Park Service. Applications for such permits or leases must be filed with the Regional Director of the National Park Service.

### § 3140.70 Lands within the National Park System.

The BLM stopped accepting conversion applications on November 15, 1983. Conversions of existing oil and gas leases and valid claims based on mineral locations to combined hydrocarbon leases within units of the National Park System will be allowed only where mineral leasing is permitted by law and where the lands covered by the lease or claim proposed for conversion are open to mineral resource disposition in accordance with any applicable minerals management plan. (See 43 CFR 3100.3(h)(4)). In order to consent to any conversion or any subsequent development under a combined hydrocarbon lease requiring further approval, the Regional Director of the National Park Service must find that there will be no resulting significant adverse impacts on the resources and administration of such areas or on other contiguous units of the National Park System in accordance with 43 CFR 3109.20(b).

## Subpart 3141—Leasing in Special Tar Sand Areas

### § 3141.1 Purpose.

The purpose of this subpart is to provide for the competitive leasing of lands and issuance of combined hydrocarbon leases, oil and gas leases, or tar sand leases within special tar sand areas.

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#### § 3141.3 Authority.

The regulations in this subpart are issued under the authority of the Mineral Leasing Act of February 25, 1920 (30 U.S.C. 181 *et seq.*), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 *et seq.*), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), the Combined Hydrocarbon Leasing Act of 1981 (95 Stat. 1070), and the Energy Policy Act of 2005 (Pub. L. 109–58).

#### § 3141.5 Definitions.

As used in this subpart, the term:

*Combined hydrocarbon lease* means a lease issued in a Special Tar Sand Area for the removal of any gas and nongaseous hydrocarbon substance other than coal, oil shale or gilsonite.

*Oil and gas lease* means a lease issued in a Special Tar Sand Area for the exploration and development of oil and gas resources other than tar sand.

*Special Tar Sand Area* means an area designated by the Department of the Interior's Orders of November 20, 1980 (45 FR 76800), and January 21, 1981 (46 FR 6077), and referred to in those orders as Designated Tar Sand Areas, as containing substantial deposits of tar sand.

*Tar sand* means any consolidated or unconsolidated rock (other than coal, oil shale or gilsonite) that either:

(1) Contains a hydrocarbonaceous material with a gas-free viscosity, at original reservoir temperature greater than 10,000 centipoise, or

(2) contains a hydrocarbonaceous material and is produced by mining or quarrying.

*Tar sand lease* means a lease issued in a Special Tar Sand area exclusively for the exploration for and extraction of tar sand.

#### § 3141.8 Other applicable regulations.

(a) *Combined hydrocarbon leases.* (1) The following provisions of 43 CFR part 3100, as they relate to competitive leasing, apply to the issuance and administration of combined hydrocarbon leases issued under this part.

(i) All of 43 CFR subpart 3100;

(ii) All of 43 CFR subpart 3101, with the exception of §§ 3101.21, 3101.22, 3101.23, 3101.24, and 3101.25;

(iii) All of 43 CFR subpart 3102;

(iv) All of 43 CFR subpart 3103, with the exception of §§ 3103.21, and 3103.31(a), (b), and (c);

(v) All of 43 CFR subpart 3104;

(vi) All of 43 CFR subpart 3105;

(vii) All of 43 CFR subpart 3106, with the exception of § 3106.10(j);

(viii) All of 43 CFR subpart 3107;

(ix) All of 43 CFR subpart 3108; and

(x) All of 43 CFR subpart 3109, with special emphasis on § 3109.20(b).

(2) Prior to commencement of operations, the lessee must develop either a plan of operations as described in 43 CFR 3592.1 which ensures reasonable protection of the environment or file an application for a permit to drill as described in 43 CFR part 3160, whichever is appropriate.

(3) The provisions of 43 CFR part 3180 will serve as general guidance to the administration of combined hydrocarbon leases issued under this part to the extent they may be included in unit or cooperative agreements.

(b) *Oil and gas leases.* (1) All of the provisions of 43 CFR parts 3100, and 3120 apply to the issuance and administration of oil and gas leases issued under this part.

(2) All of the provisions of 43 CFR parts 3160 and 3170 apply to operations on an oil and gas lease issued under this part.

(3) The provisions of 43 CFR part 3180 apply to the administration of oil and gas leases issued under this part.

(c) *Tar sand leases.* (1) The following provisions of 43 CFR part 3100, as they relate to competitive leasing, apply to the issuance of tar sand leases issued under this part.

(i) All of 43 CFR subpart 3102;

(ii) All of 43 CFR subpart 3103 with the exception of §§ 3103.21, 3103.22(d), 3103.31, and 3103.32;

(iii) All of 43 CFR 3120.50; and

(iv) All of 43 CFR 3120.60.

(2) Prior to commencement of operations, the lessee must develop a plan of operations as described in 43 CFR 3592.1 which ensures reasonable protection of the environment.

#### § 3141.10 General.

(a) Combined hydrocarbons or tar sands within a Special Tar Sand Area will be leased only by competitive bonus bidding.

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(b) Oil and gas within a Special Tar Sand Area will be leased by competitive bonus bidding as described in 43 CFR part 3120.

(c) The authorized officer may issue either combined hydrocarbon leases, or oil and gas leases for oil and gas within such areas.

(d) The rights to explore for or develop tar sand deposits in a Special Tar Sand Area may be acquired through either a combined hydrocarbon lease or a tar sand lease.

(e) An oil and gas lease in a Special Tar Sand Area does not include the rights to explore for or develop tar sand.

(f) A tar sand lease in a Special Tar Sand Area does not include the rights to explore for or develop oil and gas.

(g) The minimum acceptable bid for a lease issued for tar sand will be as specified in §3103.1 of this chapter.

(h) The acreage of combined hydrocarbon leases or tar sand leases held within a Special Tar Sand Area will not be charged against acreage limitations for the holding of oil and gas leases as provided in 43 CFR 3101.21.

(i)(1) The authorized officer may non-competitively lease additional lands for ancillary facilities in a Special Tar Sand Area that are shown by an applicant to be needed to support any operations necessary for the recovery of tar sand. Such uses include, but are not limited to, mill siting or waste disposal. An application for a lease or permit to use additional lands must be filed under the provisions of 43 CFR part 2920 with the proper BLM office having jurisdiction of the lands. The application for additional lands may be filed at the time a plan of operations is filed.

(2) A lease for the use of additional lands will not be issued under this part when the use can be authorized under 43 CFR part 2800. Such uses include, but are not limited to, reservoirs, pipelines, electrical generation systems, transmission lines, roads and railroads.

(3) Within units of the National Park System, permits or leases for additional lands for any purpose will be issued only by the National Park Service. Applications for such permits or leases must be filed with the Regional Director of the National Park Service.

### PRELEASE EXPLORATION WITHIN SPECIAL TAR SAND AREAS

#### §3141.21 Geophysical exploration.

Geophysical exploration in Special Tar Sand Areas will be governed by 43 CFR part 3150. Information obtained under a permit must be made available to the BLM upon request.

#### §3141.22 Exploration licenses.

(a) Any person(s) responsible and qualified to hold a lease under the provisions of 43 CFR subpart 3102 and this subpart may obtain an exploration license to conduct core drilling and other exploration activities to collect geologic, environmental and other data concerning tar sand resources only on lands, the surface of which are under the jurisdiction of the BLM, within or adjacent to a Special Tar Sand Area. The application for such a license must be submitted to the proper BLM office having jurisdiction over the lands. No drilling for oil or gas will be allowed under an exploration license issued under this subpart. No specific form is required for an application for an exploration license.

(b) The application for an exploration license will be subject to the following requirements:

(1) Each application must contain the name and address of the applicant(s);

(2) Each application must be accompanied by a nonrefundable filing fee based on the coal exploration license application fee found in the fee schedule in §3000.120 of this chapter;

(3) Each application must contain a description of the lands covered by the application according to section, township and range in accordance with the official survey;

(4) Each application must include an exploration plan which complies with the requirements of 43 CFR 4392.1(a); and

(5) An application must cover no more than 5,760 acres, which will be as compact as possible. The authorized officer may grant an exploration license covering more than 5,760 acres only if the application contains a justification for an exception to the normal limitation.

(c) The authorized officer may, if the authorized officer determines it necessary to avoid impacts resulting from duplication of exploration activities, require applicants for exploration licenses to provide an opportunity for other parties to participate in exploration under the license on a pro rata cost sharing basis. If joint participation is determined necessary, it will be conducted according to the following:

(1) Immediately upon the notification of a determination that parties will be given an opportunity to participate in the exploration license, the applicant must publish a “Notice of Invitation,” approved by the authorized officer, once every week for 2 consecutive weeks in at least one newspaper of general circulation in the area where the lands covered by the exploration license are situated. This notice must contain an invitation to the public to participate in the exploration license on a pro rata cost sharing basis. Copies of the “Notice of Invitation” must be filed with the authorized officer at the time of publication by the applicant for posting in the proper BLM office having jurisdiction over the lands covered by the application for at least 30 days prior to the issuance of the exploration license.

(2) Any person seeking to participate in the exploration program described in the Notice of Invitation must notify the authorized officer and the applicant in writing of such intention within 30 days after posting in the proper BLM office having jurisdiction over the lands covered by the Notice of Invitation. The authorized officer may require modification of the original exploration plan to accommodate the legitimate exploration needs of the person(s) seeking to participate and to avoid the duplication of exploration activities in the same area, or that the person(s) should file a separate application for an exploration license.

(3) An application to conduct exploration which could have been conducted under an existing or recent exploration license issued under this paragraph may be rejected.

(d) The authorized officer may accept or reject an exploration license application. An exploration license will become effective on the date specified by

the authorized officer as the date when exploration activities may begin. The exploration plan approved by the BLM will be attached and made a part of each exploration license.

(e) An exploration license will be subject to these terms and conditions:

(1) The license will be for a term of not more than 2 years;

(2) The annual rental rate for an exploration license will be as stated in the license;

(3) The licensee must provide a bond in an amount determined by the authorized officer, but not less than \$5,000. The authorized officer may accept bonds furnished under 43 CFR subpart 3104, if adequate. The period of liability under the bond will be terminated only after the authorized officer determines that the terms and conditions of the license, the exploration plan and the regulations have been met;

(4) The licensee must provide to the BLM, upon request, all required information obtained under the license. Any information provided will be treated as confidential and proprietary, if appropriate, at the request of the licensee, and will not be made public until the areas involved have been leased or if the BLM determines that public access to the data will not damage the competitive position of the licensee.

(5) Operations conducted under a license will not unreasonably interfere with or endanger any other lawful activity on the same lands, must not damage any improvements on the lands, and will not result in any substantial disturbance to the surface of the lands and their resources;

(6) The authorized officer will include in each license requirements and stipulations to protect the environment and associated natural resources, and to ensure reclamation of the land disturbed by exploration operations;

(7) When unforeseen conditions are encountered that could result in an action prohibited by paragraph (e)(5) of this section, or when warranted by geologic or other physical conditions, the authorized officer may adjust the terms and conditions of the exploration license and may direct adjustment in the exploration plan;



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(8) The licensee may submit a request for modification of the exploration plan to the authorized officer. Any modification will be subject to the regulations in this section and the terms and conditions of the license. The authorized officer may approve the modification after any necessary adjustments to the terms and conditions of the license that are accepted in writing by the licensee; and

(9) The license will be subject to termination or suspension as provided in 43 CFR 2920.9–3.

### § 3141.30 Land use plans.

No lease will be issued under this subpart unless the lands have been included in a land use plan which meets the requirements under 43 CFR part 1600 or an approved Minerals Management Plan of the National Park Service. The decision to hold a lease sale and issue leases will be in conformance with the appropriate plan.

#### CONSULTATION

### § 3141.41 Consultation with the Governor.

The Secretary will consult with the Governor of the State in which any tract proposed for sale is located. The Secretary will give the Governor 30 days to comment before determining whether to conduct a lease sale. The Secretary will seek the recommendations of the Governor of the State in which the lands proposed for lease are located as to whether or not to lease such lands and what alternative actions are available and what special conditions could be added to the proposed lease(s) to mitigate impacts. The Secretary will accept the recommendations of the Governor if the Secretary determines that they provide for a reasonable balance between the national interest and the State's interest. The Secretary will communicate to the Governor in writing and publish in the FEDERAL REGISTER the reasons for his/her determination to accept or reject such Governor's recommendations.

### § 3141.42 Consultation with others.

(a) Where the surface is administered by an agency other than the BLM, including lands patented or leased under

the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*), all leasing under this subpart will be in accordance with the consultation requirements of 43 CFR subpart 3100.

(b) The issuance of combined hydrocarbon leases, oil and gas leases, and tar sand leases within special tar sand areas in units of the National Park System will be allowed only where mineral leasing is permitted by law and where the lands are open to mineral resource disposition in accordance with any applicable Minerals Management Plan. In order to consent to any issuance of a combined hydrocarbon lease, oil and gas lease, tar sand lease, or subsequent development of hydrocarbon resources within a unit of the National Park System, the Regional Director of the National Park Service will find that there will be no resulting significant adverse impacts to the resources and administration of the unit or other contiguous units of the National Park System in accordance with 43 CFR 3109.20(b).

#### LEASING PROCEDURES

### § 3141.51 Economic evaluation.

Prior to any lease sale for a combined hydrocarbon lease, the authorized officer will request an economic evaluation of the total hydrocarbon resource on each proposed lease tract exclusive of coal, oil shale, or gilsonite.

### § 3141.52 Term of lease.

(a) Oil and gas leases in special tar sand areas will have a primary term of 10 years and will remain in effect so long thereafter as oil or gas is produced in paying quantities.

(b) Tar Sand leases will have a primary term of 10 years and will remain in effect so long thereafter as tar sand is produced in paying quantities.

### § 3141.53 Royalties and rentals.

(a) The royalty rate on all combined hydrocarbon leases or tar sand leases is 16.67 percent of the value of production removed or sold from a lease. The ONRR will be responsible for collecting and administering royalties.

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(b) The lessee may request the Secretary to reduce the royalty rate applicable to a tar sand lease prior to commencement of commercial operations in order to promote development and maximum production of the tar sand resource in accordance with procedures established by the BLM for oil shale leases and may request a reduction in the royalty after commencement of commercial operations in accordance with 43 CFR 3103.41.

(c) The annual rental rate for a combined hydrocarbon lease will be as stated in the lease.

(d) The annual rental rate for a tar sand lease will be as stated in the lease.

(e) Except as explained in paragraphs (a) through (c) of this section, all other provisions of 43 CFR 3103.20 and 3103.30 apply to combined hydrocarbon leasing.

## § 3141.54 Lease size.

Combined hydrocarbon leases or tar sand leases in Special Tar Sand Areas will not exceed 5,760 acres.

## § 3141.55 Dating of lease.

A combined hydrocarbon lease will be effective as of the first day of the month following the date the lease is signed on behalf of the United States, except where a prior written request is made, a lease may be made effective on the first of the month in which the lease is signed.

### SALE PROCEDURES

## § 3141.61 Initiation of competitive lease offering.

The BLM may, on its own motion, offer lands through competitive bidding. A request or expression(s) of interest in tract(s) for competitive lease offerings must be submitted in writing to the proper BLM office.

## § 3141.62 Publication of a notice of competitive lease offering.

*Combined Hydrocarbon Leases, Tar Sand Leases or Oil and Gas Leases.* At least 45 days prior to conducting a competitive auction, lands to be offered for a competitive lease sale, as in a Notice of Competitive Lease Sale, will be made available to the public.

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The notice will specify the time and place of sale; the manner in which the bids may be submitted; the description of the lands; the terms and conditions of the lease, including the royalty and rental rates; the amount of the minimum bid; and will state that the terms and conditions of the leases are available for inspection and designate the proper BLM office where bid forms may be obtained.

## § 3141.63 Conduct of sales.

(a) *Oil and gas leases.* Lease sales for oil and gas leases will be conducted using the procedures for oil and gas leases in 43 CFR 3120.60.

(b) *Combined hydrocarbon leases and tar sand leases.* (1) Parcels will be offered by competitive auction.

(2) The winning bid will be the highest bid by a responsible and qualified bidder, equal to the minimum bonus bid amount as specified in § 3103.1 of this chapter or for hydrocarbon leases, the minimum bonus bid amount determined under § 3141.51, whichever is larger.

(3) Payments must be made as provided in 43 CFR 3120.62.

## § 3141.64 Qualifications.

Each bidder must submit with the bid a statement over the bidder's signature with respect to compliance with 43 CFR subpart 3102.

## § 3141.65 Rejection of bid.

If the high bid is rejected for failure by the successful bidder to execute the lease forms and pay the balance of the bonus bid, or otherwise to comply with the regulations of this subpart, the minimum bonus payment accompanying the bid will be forfeited.

## § 3141.66 Consideration of next highest bid.

The Department reserves the right to accept the next highest bid if the highest bid is rejected. In no event will an offer be made to the next highest bidder if the difference between that bid and the bid of the rejected successful bidder is greater than the minimum bonus payment forfeited by the rejected successful bidder.

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### § 3141.70 Award of lease.

After determining the highest responsible and qualified bidder, the authorized officer will send the lease on a form approved by the Director, and any necessary stipulations, to the successful bidder. The successful bidder must, not later than the 30th calendar day after receipt of the lease, execute the lease, pay the balance of the bid and the first year's rental, and file a bond as required in 43 CFR subpart 3104. Failure to comply with this section will result in rejection of the lease.

### Subpart 3142—Paying Quantities/ Diligent Development for Combined Hydrocarbon and Tar Sand Leases

#### § 3142.1 Purpose.

This subpart provides definitions and procedures for meeting the production in paying quantities and the diligent development requirements for tar sand in all combined hydrocarbon leases and tar sand leases.

#### § 3142.3 Authority.

These regulations are issued under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351–359), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*) and the Combined Hydrocarbon Leasing Act of 1981 (95 Stat. 1070).

#### § 3142.5 Definitions.

As used in this subpart, the term:

*Production in paying quantities for combined hydrocarbon leases* means:

(1) Production, in compliance with an approved plan of operations and by nonconventional methods, of oil and gas which can be marketed; or

(2) Production of oil or gas by conventional methods as the term is currently used in 43 CFR part 3160.

*Production in paying quantities for oil and gas leases* means production of oil or gas by conventional methods that meets the definition of “production in paying quantities” in 43 CFR 3160.0–5.

*Production in paying quantities for tar sand leases* means production of shale

oil quantities that provide a positive return after all costs of production have been met, including the amortized costs of the capital investment.

### § 3142.10 Diligent development.

A lessee will have met its diligent development obligation if:

(a) The lessee is conducting activity on the lease in accordance with an approved plan of operations; and

(b) The lessee files with the authorized officer, not later than the end of the eighth lease year, a supplement to the approved plan of operations which must include the estimated recoverable tar sand reserves and a detailed development plan for the next stage of operations;

(c) The lessee has achieved production in paying quantities, as that term is defined in § 3142.5(a), by the end of the primary term; and

(d) The lessee annually produces the minimum amount of tar sand established by the authorized officer under the lease in the minimum production schedule which will be made part of the plan of operations or pays annually advance royalty in lieu of this minimum production.

#### MINIMUM PRODUCTION LEVELS

### § 3142.21 Minimum production schedule.

(a) Upon receipt of the supplement to the plan of operations described in § 3142.10(b), the authorized officer will examine the information furnished by the lessee and determine if the estimate of the recoverable tar sand reserves is adequate and reasonable. In making this determination, the authorized officer may request, and the lessee must furnish, any information that is the basis of the lessee's estimate of the recoverable tar sand reserves. As part of the authorized officer's determination that the estimate of the recoverable tar sand reserves is adequate and reasonable, the authorized officer may consider, but is not limited to, the following: ore grade, strip ratio, vertical and horizontal continuity, extract process recoverability,

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and proven or unproven status of extraction technology, terrain, environmental mitigation factors, marketability of products and capital operations costs. The authorized officer will then establish as soon as possible, but prior to the beginning of the eleventh year, based upon the estimate of the recoverable tar sand reserves, a minimum annual tar sand production schedule for the lease or unit operations which will start in the eleventh year of the lease. This minimum production level will escalate in equal annual increments to a maximum of 1 percent of the estimated recoverable tar sand reserves in the twentieth year of the lease and remain at 1 percent each year thereafter.

(b) The minimum annual tar sand production schedule for the lease or unit operations will be set at a level for paying quantities. If the operator or lessee cannot establish production in paying quantities, the lease will terminate at the end of the lease's primary term.

## § 3142.22 Advance royalties in lieu of production.

(a) Failure to meet the minimum annual tar sand production schedule level in any year will result in the assessment of an advance royalty in lieu of production which will be credited to future production royalty assessments applicable to the lease or unit.

(b) If there is no production during the lease year, and the lessee has reason to believe that there will be no production during the remainder of the lease year, the lessee must submit to the authorized officer a request for suspension of production at least 90 days prior to the end of that lease year and a payment sufficient to cover any advance royalty due and owing as a result of the failure to produce. Upon receipt of the request for suspension of production and the accompanying payment, the authorized officer may approve a suspension of production for that lease year and the lease will not expire during that year for lack of production.

(c) If there is production on the lease or unit during the lease year, but such production fails to meet the minimum production schedule required by the

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plan of operations for that lease or unit, the lessee must pay an advance royalty within 60 days of the end of the lease year in an amount sufficient to cover the difference between such actual production and the production schedule required by the plan of operations for that lease or unit and the authorized officer may direct a suspension of production for those periods during which no production occurred.

## § 3142.30 Expiration.

Failure of the lessee to pay advance royalty within the time prescribed by the authorized officer, or failure of the lessee to comply with any other provisions of this subpart following the end of the primary term of the lease, will result in the automatic expiration of the lease as of the first of the month following notice to the lessee of its failure to comply. The lessee will remain subject to the requirement of applicable laws, regulations and lease terms which have not been met at the expiration of the lease.

## PART 3150—ONSHORE OIL AND GAS GEOPHYSICAL EXPLORATION

### Subpart 3150—Onshore Oil and Gas Geophysical Exploration; General

#### Sec.

3150.0–1 Purpose.

3150.0–3 Authority.

3150.0–5 Definitions.

3150.1 Suspension, revocation or cancellation.

3150.2 Appeals.

### Subpart 3151—Exploration Outside of Alaska

3151.10 Notice of intent to conduct oil and gas geophysical exploration operations.

3151.20 Notice of completion of operations.

3151.30 Collection and submission of data.

### Subpart 3152—Exploration in Alaska

3152.1 Application for oil and gas geophysical exploration permit.

3152.2 Action on application.

3152.3 Renewal of exploration permit.

3152.4 Relinquishment of exploration permit.

3152.5 Modification of exploration permit.

3152.6 Collection and submission of data.